

## Environment and Human Rights

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**ABSTRACT** *Wolfgang Sachs argues for environmental human rights as a fundamental prerequisite to end the violence of development. He outlines the numerous conflicts over natural resources in the struggle for livelihoods and argues for a transition to sustainability in the more affluent economies, in both the North and South, as a necessary condition for the safeguarding of the subsistence rights of those whose livelihood depends on direct access to nature.*

**KEYWORDS** *conflict; subsistence; biodiversity; climate change; water; genetic engineering; ecosystems; poverty*

### **The struggle over environmental human rights**

In October 2000, murmurs of horror began to do the rounds of the world's press when the Indian writer Arundhati Roy, author of *The God of Small Things*, had to serve a day in prison for contempt of court. A few weeks earlier, with righteous anger she had appeared before the media and publicly scolded India's Supreme Court. Her outrage was directed at a judgement that had spelt disaster for the country's largest ecological movement, India's holiest river and tens of thousands of small farmers: green light for the giant Narmada River dam project to go ahead! In the eyes of Roy and large sections of the Indian public, this raised to new heights the state's arrogant contempt for ordinary people as well as for economic rationality.

She wrote:

In India over the last ten years the fight against the Sardar Sarovar Dam has come to represent far more than the fight for one river. ... From being a fight over the fate of a river valley it began to raise doubts about an entire political system. What is at issue now is the very nature of our democracy. Who owns this land? Who owns its rivers? Its forests? Its fish? These are huge questions. They are being taken hugely seriously by the State. They are being answered in one voice by every institution at its command — the army, the police, the bureaucracy, the courts. And not just answered, but answered unambiguously, in bitter, brutal ways (Roy, 1999).

Who has the advantages and who the disadvantages in the use of nature? This is the key question of environmental justice. It starts from the observation that often benefits and burdens of resource use do not accrue to one and the same social player, but are

unevenly spread across different social groups. What economists like to call 'the externalization of negative consequences' has not only a biophysical but also a social profile: that is to say, the mechanism whereby benefits are internalized and costs externalized structures societies into winners and losers. It is a mechanism driven by an asymmetry of power. Power relations establish a social differential, which ensures that positive consequences crystallize at the top end and negative consequences at the bottom end. This shifting of costs may take place in a temporal, spatial or social dimension: that is, costs may be shifted temporally from present to future, spatially from centre to periphery, and socially from upper classes to lower classes.

The mass demonstrations in the Narmada valley, with Arundhati Roy in the middle, can be considered as a struggle over environmental human rights. For at a certain degree of vulnerability, burdens tip over into injustice and threaten the basic rights of the people involved. When injustice of this kind arises out of ecological disadvantages, it throws up a number of human rights issues. For resource flows do not come only with an ecological baggage in the form of an indirect consumption of materials. In some circumstances, they also come with a social baggage in the form of human rights violations.

### **Resources and subsistence rights**

If people do not have the basic capabilities to support themselves in dignity, their human rights are under threat. In particular, nourishment, health, housing and livelihood may be thought of as subsistence rights (Shue, 1980): that is, as requirements for a minimum degree of economic security. Subsistence rights, then, are part of human rights; they form the core rights of the International Covenant on Economic, Social and Cultural Rights.

Environmental human rights come into play when subsistence is dependent on the right to use

natural spaces. For in addition to income and community ties, nature is another important source of livelihood, especially for the third of humanity who rely on direct access to its fields, forests, pastures and waters (UNDP, 1998: 80). For people who live in a process of unmediated exchange with nature, the fate of ecosystems in the area they inhabit is a question of vital importance. Their subsistence rights depend to a considerable extent upon the availability of natural resources. Therefore, any degradation of the natural spaces on which they depend for a living undermines their subsistence rights (Table 1).

Again and again, however, the natural living space of the poor comes into the firing line of the international resource economy. The peripheries dotted around the globe, in both rural and urban areas, are not beyond the reach of the world economy, but have many different ties to the core states precisely in respect of natural resources. They may serve as: (1) a hinterland for the extraction of raw materials, (2) a source of agricultural produce, or (3) a deployment area for genetically modified organisms. And they may prove to be (4) danger zones because of climate change, (5) foci of disease because of pollution or (6) an arena of marginalization because of the evolution of resource prices.

Generally, geographical distance and/or huge societal differences separate the peripheries from the core zones that place their resource situation under strain; the locations of enrichment are mostly at a safe remove from the locations of impoverishment. And yet investment-flows, atmospheric chemistry or the pull of higher purchasing power create bonds within a power gradient that ensures a stable asymmetry of advantages and disadvantages. Resource conflicts therefore break out in the poor countries of the periphery, where the struggle centres, if only at the local level, on nothing less than rights to the biosphere. By virtue of man's biological nature, some of these rights are inalienable. If they cannot be guaranteed, a conflict over resources turns into a conflict over human rights.

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Causes of Conflict	Manifestations	Locations	Effect of Globalization	Ecological Consequences	Consequences for Subsistence Rights
Extraction of raw materials	Mining, oil, deforestation, overfishing	Rainforest, mountainous areas, coastal areas	Easier cross-border investment, and also more efficient extraction technologies, and pressure to export because of debt	Loss of biodiversity, poisoning of soil and water	Displacement from living space, loss of livelihood, pollution of living space
Alteration of ecosystems	Plantations, dams, prawn farms	Farmland, river valleys, coastal areas	Easier foreign investment in agriculture & agribusiness; production of animal food and luxury goods for North	Monoculture, pesticides, loss of biodiversity, increased water consumption	Displacement from living space, loss of livelihood
Reprogramming of nature	Hybrid plants, genetic seeds, optimized livestock	Monocultures	Enforcement of worldwide patent rights via TRIPS	Water consumption, loss of species	Loss of free access to cultivated plants and animals, dependence on money and corporations, concentration in agricultural sector
Destabilization due to climate change	Changes in sea level, precipitation, temperature	Arid and semi-arid regions; low-lying coastal areas	Rising CO <sub>2</sub> emissions due to growth, but also spread of CO <sub>2</sub> -efficient technologies	Decreased fertility, diseases, species loss, floods	Displacement, diseases, loss of livelihood and income
Pollution of urban living space	Harmful chemicals in drinking water, air and soil, unregulated waste water	Urban slums	Urbanization through growth; competition among cities for investment; greater weight of elites and lesser weight of social policies	Poisoning of environment	Diseases, especially among women and children
Changing prices of natural resources	Falling producer prices; rising consumer prices	Small-scale agriculture, urban slums	Easier agricultural exports to South; privatization of services, water and electricity	Decline of agrobiodiversity	Decline of small farmers, less food security, disconnection of water and electricity

**Table 1.** Resources and subsistence rights: a typology of conflicts

## **Conflicts over the extraction of raw material**

Ever since the age of Pizarro, the 'New World' has been combed for valuable raw materials. But today the exploration and exploitation of new sources stretches into the remotest parts of the world's sea and land masses. Oil is extracted from deep inside the tropical forest and deep beneath the ocean waves; timber is carried from faraway Patagonia and Siberia; and floating fish factories plough the seas from the Arctic to the Antarctic. The opening of frontiers to foreign corporations has intensified the pressure to move forward the front line of exploitation. However, oil and mineral extraction often damages not only plant and animal biotopes but human communities as well, especially those of indigenous peoples. In fact, it is the lands of the original inhabitants that are now being caught up in the worldwide flow of resources. Their landscapes are often degraded, ravaged and subject to sacrilege. Gold mines in Romania, Ghana or South Africa, as well as silver and tin mines in Peru or Chile, have extensively poisoned the rivers. And the development of oil fields has come at a price for the forest biotopes of Colombia, Brazil, Peru and Ecuador, in the Niger delta as well as the Siberian tundra.

## **Conflicts over the alteration of ecosystems**

The extraction of raw materials is only one of the ways in which humans help themselves to resources from the biosphere; the conversion of ecosystems into production machines is the other. For this, the land, climate and range of species in the southern hemisphere often provide a combination of local conditions that are scarcely to be found anywhere in the North. The history of colonization, up to and including the age of globalization, is therefore also a history of the occupation and settlement of land. From tea and sugar cane through cotton and eucalyptus trees to kiwi fruit and prawns, agrarian systems have been constructed to fill the tables of distant consumers. The resource conflict between subsistence econo-

mies and market economies is one of the roots of the present clashes over the modification of nature for plantations, aquaculture and water reservoirs.

## **Conflicts over genetic engineering**

Along with extraction and colonization, a third way of using nature as a resource has recently made its appearance: namely, the reprogramming of nature itself. The spread of biotech corporations into the agricultural regions of the South poses a new threat to subsistence rights. From now on, certain kinds of seeds and economically useful plants and animals may come with a hefty price-tag attached, since patent-protected property rights cover genetically modified life-forms. Once, however, a growing number of economically useful life-forms come under the ownership of corporations, access to the means of gaining a livelihood becomes restricted: farmers who previously exchanged seeds, collected shoots or reproduced livestock free of charge now have to pay license fees to use the patrimony of nature.

## **Climate change and livelihood rights**

This time, colonial destruction comes without imperial power and without an army of occupation. Instead it advances through the air, invisible and insidious, transported over long distances by the chemistry of the atmosphere. When the earth's atmosphere grows warmer, nature becomes unstable. Many biotopes thus become less inhabitable or, in extreme cases, actually uninhabitable for certain kinds of plants, animals and even humans. Obviously, a rise in sea level will make some of the most densely populated areas of the globe impossible to live in. Less evident is the fact that changes in humidity and temperature will trigger changes in vegetation, species diversity, soil fertility and water deposits – not to speak of possible natural disasters. But the risks from global warming are by no means evenly distributed across the world's population; they dis-

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proportionately affect the socially weak and powerless, who already scrape a bare existence on marginal lands and in impoverished city outskirts.

### **Environmental degradation in cities**

Whereas the rural poor are often denied access to the natural resources needed for their survival, urban slum-dwellers are more physically threatened by the decay of their immediate environment. They cannot rely upon the services of nature that are essential to them as biological beings. Non-monetary goods such as clean air, water, shelter and security are less available in cities than in the countryside. Along with their lack of money, the urban poor have to contend with polluted water, unsafe housing, dirty air and a high crime-rate. They almost never have access to safe, healthy and spacious accommodation, to legally watertight rental contracts or property deeds or to dependable services and facilities; they frequently live in parts of town where the first cloudburst may trigger a mudslide. It is therefore not surprising that a close correlation can be established between income level and environmental risk.

### **Conflicts over resource prices**

The fate of a household with too little money may be related to natural resources in one of two ways: either through production prices or through consumption prices. In the first case, very small-scale farmers are only just able to scrape a living by selling their produce on the local or national market. Their vulnerability is based on the instability of market prices, so that an unexpected collapse of the price for their beans, oil crops, nuts, etc. (perhaps due to cheaper imports from abroad) may plunge them into an existential crisis. In the second case, price rises cut off poor sections of the population (mostly living in shanty towns) from a number of essential environmental goods. Recent conflicts in this field have mainly centred on water or

electricity, since the privatization of public services in the big cities of the South means that these goods too have become commodities to be sold at a profit. This threatens the subsistence rights of the poor. As events in Cochabamba, Soweto and Jakarta have shown, a huge potential for conflict builds up when unjust access to resources deprives sections of the population of the source of all life: water.

### **Subsistence rights and human rights**

Before the Second World War, it was only states that could claim rights. The rights of persons were first recognized at the international level only with the Universal Declaration of Human Rights in 1948. This may be seen as the juridical revolution in human rights (Ignatieff, 2001), which went together with a revolution in their advocacy and enforcement. For a long time, however, people's economic, social and cultural rights played a subordinate role in this growing legal awareness. This was also due to the Cold War: for the Western bloc inscribed civil and political rights on its banner, while the Eastern bloc did the same with economic and social rights. The two sets of human rights were ritually played off against each other, with the result that social rights were taken no more seriously in the West than democratic rights were in the East. Meanwhile, this confrontation has resolved itself, and the inseparability and interdependence of human rights has been largely accepted (Steiner and Alston, 1996). Indeed, it would be hard to understand why disease or inadequate nourishment should be less important than press censorship or religious persecution in affecting people's ability to act. Without social and economic rights, the minimum basis is lacking for equality of civil and political rights – and, conversely, social and economic rights without civil and political rights are robbed of the motive power of freedom. A minimalist conception of human rights that refers only to negative freedoms therefore discriminates against the have-nots and those whose liveli-

hood is threatened; recognition of their dignity requires the protection of subsistence rights.

Now and then it has been claimed that civil and political rights only create a duty to refrain from certain actions, whereas economic and social rights require positive action with the help of appropriate resources. This distinction between negative and positive rights may be overcome (Steiner and Alston, 1996: 282). For negative rights also sometimes require positive action if their validity is to be ensured: for example, freedom from censorship is meaningful only if press pluralism is guaranteed. Conversely, a policy of refraining from certain actions is important in relation to positive rights: for example, the right to adequate food implies that action will not be taken that leads to the expropriation of land on which the food is grown. In the case of all rights, therefore, it is meaningful to distinguish three levels of obligation on a scale from negative to positive: the obligation to respect, to protect and to guarantee.

A human rights policy, therefore, involves not only negative but also positive rights, not only checks on the state but also deployment of the state; and that human rights may be not only violated but also withheld. On the other hand, a maximalist conception of human rights is also misleading. Everyone has a right to drinking water, but not to a heart operation. The desirable must be distinguished from the necessary, and the successful from the legally recoverable. 'Human rights is an account of what is right, not of what is good' (Ignatieff, 2001: 55). Political goals do not constitute rights; one may have no obligation to the former but a definite obligation to the latter. But the more that political goals are claimed to be obligations, the closer becomes a collision between everyone's livelihood right and everyone's right to freedom and cultural diversity. For this reason it is advisable, as in the liberal tradition, to formulate respect for subsistence rights first of all in terms of negative right, social institutions should be shaped in such a way that they do not structurally and permanently undermine fundamental rights (Pogge, 2002).

### **Environmental policy in the service of human rights**

There can be no question, however, that the safeguarding of human rights is more urgent than the achievement of fairer distribution – especially at the level of the world. Survival comes before a better life. The unconditionality of human rights may therefore serve as the basis for the setting of priorities: the realization of fundamental rights must take precedence over all other activities, including the realization of non-fundamental rights. Applied to ecological subsistence rights, this means that the right to a living must take precedence over the non-fundamental resource needs of other agents. Subsistence needs come before luxury needs. This formula indicates the basic duty that a recognition of subsistence rights implies for national and international institutions. Since everything depends on progress in closing the power scissors, we might speak here of a dual strategy: to increase the room for manoeuvre available to the poor, and to limit the power of the well to do.

For the poor to achieve greater room for manoeuvre, local community rights over resources must be recognized and strengthened in cases of conflict. After all, pasture and forest, fields and seeds, fresh water and clean air are valuable sources of nourishment, health, materials and medicine. This is why a policy that protects livelihood rights overlaps with the interest in environmental conservation. Since intact ecosystems mean that the poor are less vulnerable, conservation of nature and the environment is the core of any serious policy to overcome poverty. And, conversely, since effective rights for local inhabitants are the best guarantee that the resources of the poor will not be easily diverted to the rich, a policy of protecting people's right to a decent living is a central plank of natural and environmental conservation. Ecology and subsistence rights are thus very closely intertwined.

The aim of limiting the power of the well-off may be based upon elementary principles of fairness. We should not think here of redistribution between rich and poor, but rather of

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what we might call the minimum principle of justice: that is, all national and international regulations should be crafted in such a way that they do not worsen the lot of the most disadvantaged. It appears to be a modest principle but is actually quite tough. For the cross-border economic and ecological consequences of production processes, foreign investment, protectionist measures or financial transactions are so enormous that such a principle would bring about a major change of priorities in economics and politics. Both investment decisions and multilateral policy negotiations are characterized by efforts to gain an advantage over rivals – without much heed to the costs for the most disadvantaged sections of the population, who usually have no place at all at the decision-making table.

Finally, a transition to sustainability in the more affluent economies, in both the North and South, is a necessary condition for the safeguarding of the subsistence rights of those whose livelihood depends on direct access to nature. In the short term, more efficient fuel use and agricultural production can ease the pressure on life-serving ecosystems and local communities; greater bargaining-power can also enable local communities to get more compensation and a larger share of

the profits. In the longer term, however, the conflicts over environmental human rights can only become sharper if the global class of high consumers continues to maintain its demand for natural resources. Only if demand for oil falls will it no longer be worth launching drillings in the primeval forest. Only if the thirst of agriculture and industry abates will enough ground water remain to supply the village wells. Only if the burning of fossil fuels is restricted will insidious climate change no longer threaten the existential rights of the poor. In sum, resource-light models of production and consumption in affluent economies are called for by a respect for human rights. For the statistical fact that a minority of prosperous countries overburden the global environment is now becoming a palpable reality as it leads to the degradation of other societies. Far from conserving only whales and yellow water-lilies, environmental policy is one way of ensuring that our finite world remains hospitable to a growing number of people. It is in this sense that the Narmada Valley demonstrations have been pointers for a future where environmental human rights are protected against the resource hunger of high consumers in North and South.

### Note

This text is a synthesis of a larger paper, entitled *Environment and Human Rights*, which can be downloaded at <http://www.wupperinst.org/globalisation>.

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