

The Position of the Right to a Healthy Environment in the Human Rights System: Classical Rights Theory and Debates on Rights Inflation

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Abstract

This research critically examines the place of the right to a healthy environment within the human rights system in the context of classical rights theory criteria and the debate on rights inflation. Over the last fifty years, the right to a healthy environment has become increasingly prominent in constitutional arrangements, international texts, and court decisions, particularly under the heading of third-generation “solidarity rights.” Significant conceptual ambiguities exist in the literature regarding the extent to which the right to a healthy environment aligns with the classical subjective rights model. This article evaluates the right to a healthy environment based on four criteria: the identifiability of the right holder, the determinability of those obligated, the clarity of the nature of the right, and its applicability in the judicial process. By examining climate cases such as Urgenda, Neubauer, and KlimaSeniorinnen, it is shown that courts often provide environmental protection by broadly interpreting existing fundamental rights from an environmental perspective, rather than establishing an independent right to a healthy environment. The study argues that the right to a healthy environment should be understood more meaningfully within a multi-layered framework encompassing a constitutional principle, procedural environmental safeguards, and environmental interpretations of existing rights, rather than as a directly claimable subjective right.

Key words: Classical Rights Theory, Governance, Rights Inflation, Right to A Healthy Environment

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1. Introduction

The scope and consequences of environmental degradation are constantly growing; events such as climate change, biodiversity loss, air and water pollution, soil erosion, and the reduction of ecosystem services have transformed the environmental problem from a matter limited to administrative regulations or specific policies into a subject of discussion within the framework of human rights law. This trend has gained strength for two main reasons. First, it is becoming increasingly clear that environmental damage directly affects the exercise of fundamental rights, such as the protection of life, health, property, and privacy (Mardikian, 2023; Chalabi, 2023). Second, the persistence and intergenerational impact of environmental issues have led to social demands increasingly expressed in terms of "rights"; the human rights approach has become an important tool for normative acceptance of environmental protection (Alston, 1984; Clément, 2018; Anton and Shelton, 2011).

Over the last 50 years, the right to a healthy environment has gained increasing visibility in international conventions, constitutional provisions, and court decisions. However, there is considerable uncertainty in the literature regarding what the concept of "environmental rights" means, how it should be defined, and how it should be placed within the human rights system. Environmental rights are sometimes presented as individuals' desire to "live in a healthy environment," sometimes as legal guarantees such as access to information, participation in decision-making processes, and recourse to justice, and sometimes as responsibilities incumbent upon the state. This diversity demonstrates the variety of normative goals in the struggle for environmental protection; however, it can also blur the analytical boundaries of the concept of rights. This study addresses environmental rights from a human-centered perspective, defining them as individuals' demands and expectations for environmental standards necessary to maintain dignified living conditions. Views that nature or ecosystems possess rights are excluded from this study.

In this context, the research focuses on two fundamental questions: Should environmental rights be considered a subjective human right that can be directly claimed in accordance with the criteria of classical rights theory, or should they be understood more as a constitutional principle, a governance responsibility, and an interpretive framework? To answer this question, the article employs a three-stage review process. The first stage observes the historical and institutional development of the right to a healthy environment through international documents, constitutional regulations, and court decisions. The second stage examines the right to a healthy environment in terms of the fundamental criteria of classical rights theory: universality, clarity, identifiability of the obligor, and adjudication. The third stage evaluates the right to a healthy environment within the context of "rights inflation," a concept increasingly discussed in the human rights literature, and examines the conceptual and institutional consequences of expanding the rights discourse. The aim of the article is not to disregard the normative importance of environmental protection, but to contribute to a more consistent conceptual

reassessment of the place of the right to a healthy environment within the human rights system. In this framework, the study contributes to the literature by redefining the right to a healthy environment not as a singular, directly claimable subjective right, but as a three-layered normative framework comprising a constitutional principle, legal guarantees, and environmental interpretations of existing fundamental rights.

2. Historical and Institutional Development of Environmental Rights

The contemporary understanding of human rights has largely revolved around protecting the individual against the state. First-generation rights, such as life, liberty, and property, are closely linked to negative obligations, meaning the state should not interfere in the individual's sphere of life (Barry, 2004:272; Yayla, 2018: 216-217). With the advancement of second-generation rights, the view emerged that the state should assume positive responsibilities in areas such as social welfare, education, and health; and third-generation rights brought to the forefront concepts such as social benefit, international solidarity, and intergenerational justice (Shestack, 2006:87; Anton & Shelton, 2011: 138; Louka, 2006: 7). The emergence and increasing visibility of environmental rights can be considered one of the most striking examples of this expansion process in the field of human rights.

The institutionalization of the relationship between the environment and human rights has primarily occurred through international treaties. The Stockholm Declaration of 1972 established a clear link between the environment and human rights by emphasizing the necessity of a suitable environment for people to live with dignity and well-being. This perspective was further developed by the Rio Declaration of 1992, which made sustainable development a fundamental element of environmental policy. The Rio process argued that environmental protection and economic growth are not conflicting goals; rather, they constitute a governance area where they must be addressed together. This development took on a new dimension with Resolution 76/300 of the United Nations General Assembly, adopted on July 28, 2022. The General Assembly defined a "clean, healthy and sustainable environment" as a human right and invited states to cooperate at national and international levels to realize this right (United Nations General Assembly, 2022). Although this decision is not legally binding, it is seen as an important step that enhances the normative value of the right to a healthy environment in international human rights negotiations. However, the majority of these documents offer guiding principles and objectives for states rather than recognizing a directly implementable right.

Another significant development in the institutionalization of the right to a healthy environment is the emergence of procedural mechanisms for environmental assurance. In particular, the Aarhus Convention, signed in 1998, enhanced the democratic legitimacy of environmental governance by establishing principles such as access to information, participation in decision-making, and access to justice. This regulation broadened the scope of institutional tools for environmental

protection by allowing individuals to oversee management in environmental decision-making processes (Hayward, 2005: 178). This emphasis on procedural rights suggests that the right to a healthy environment focuses not on achieving a specific quality, but rather on ensuring that environmental decisions are made in an open, participatory, and accountable manner (Çakan, 2024). Thus, the right to a healthy environment becomes more than just a demand for a specific environmental outcome; it becomes a normative framework that shapes environmental management processes.

The constitutional recognition of the right to a healthy environment constitutes an important aspect of this development. In many countries, environmental protection is entrusted to the state through constitutional norms, or individuals are granted the right to live in a healthy environment. Boyd's study on global constitutions reveals that the right to a healthy environment has been included in many constitutions over the past forty years, and that these provisions have, in some cases, had measurable effects on environmental performance (Boyd, 2012). However, the practical impact of constitutional recognition largely depends on court interpretations and institutional capacity. Indeed, many constitutional provisions are considered not to directly recognize the right to a healthy environment as an individual right, but rather to be programmatic provisions that guide the legislative and executive branches. It is noted that the impact of constitutional environmental rights is closely linked to how these provisions are handled by the courts and the nature of the institutional structures (Pennington, 2014: 397; Stroup, 2014; Richman, 2007; Downie & Levy, 2000). The Turkish example provides a concrete representation of this structure. Article 56 of the Constitution of the Republic of Turkey refers to the goal of living in a healthy and balanced environment. It imposes on the state the obligation to improve, protect, and safeguard the environment and environmental health. While this provision reveals that the right to a healthy environment has a strong normative dimension, it does not constitute an individual right that fully defines its content or can be directly claimed. In practice, environmental protection is largely implemented through tools such as administrative permit mechanisms, planning processes, and environmental impact assessment (EIA) (Turgut, 2009). This situation shows that the right to a healthy environment is often realized through specific procedural guarantees and management principles.

Recently, environmental issues have gained new legal momentum, particularly through climate-related lawsuits. Since the 2000s, United Nations human rights systems have also begun to emphasize the direct impact of climate change on fundamental rights such as life, health, and housing (Knox, 2009). This trend is clearly observed in both national and international court decisions. In the *Urgenda* case, the Dutch Supreme Court held that the state's failure to take adequate measures to address climate change may be incompatible with Articles 2 and 8 of the European Convention on Human Rights, concerning the right to life and the protection of private life (Supreme Court of the Netherlands, 2019). Similarly, the *Neubauer* decision of the German Federal Constitutional Court indicated that current climate policies could disproportionately restrict the freedoms of future generations (German Federal Constitutional Court, 2021). In the *KlimaSeniorinnen* decision, the European Court of Human Rights assessed environmental threats

within the framework of the Convention's provisions on the protection of private life (European Court of Human Rights, 2024). A common thread in these legal decisions is that courts often protect fundamental rights by broadly interpreting existing rights in the context of environmental threats, rather than establishing an independent environmental right (Çakan, 2024; Mejía-Lemos, 2022). Indeed, assessments within the Inter-American human rights system show that the court addresses the impact of environmental damage on human rights, particularly within the framework of the rights to life and personal integrity; in this context, it underlines the obligations of states to prevent transboundary environmental damage and to conduct environmental impact assessments when significant environmental risks are involved (Mejía-Lemos, 2022). Therefore, the institutional development of the environmental right largely proceeds through a reassessment of existing rights in terms of their environmental aspects.

The institutionalization of the right to a healthy environment has also brought to the forefront the conflict between development and environmental protection. Following the Stockholm Process, developing countries, in particular, have expressed concern that environmental constraints could negatively affect their economic development goals. This debate remains relevant today because the way environmental standards are implemented can yield different outcomes depending on countries' economic potential and cost structures (Downie & Levy, 2000; Pennington, 2014:372). This demonstrates that framing the right to a healthy environment as a definitive, immediately enforceable right can create practical difficulties. Environmental obligations generally need to be managed within the framework of incremental implementation, prioritization, and balancing principles. These elements cause the right to a healthy environment to differ, to some extent, from the traditional model of rights and its enforcement system.

Debates concerning the right to a healthy environment are directly linked to the question of how environmental policies should be implemented. The choice of policy tools, such as emission taxes, market-oriented permitting systems, regulatory standards, and incentive mechanisms, often involves not only a normative but also an economic debate (Stroup, 2014; Richman, 2007). While liberal critical literature affirms the legitimacy of the goal of environmental protection, it has expressed caution about the extent and effectiveness of state intervention (Sanera & Shaw, 1999; Hamowy, 2003; Singer, 2007; Richman, 2007). These debates reveal that the right to a healthy environment encompasses not only which environmental goals are to be achieved, but also which policy tools are to be used to achieve them.

This historical and institutional development process demonstrates that the right to a healthy environment is gaining increasing importance within human rights debates. However, the fact that environmental protection is often achieved through broad interpretations of existing rights raises the question of whether the right to a healthy environment should be considered as an independent right in the traditional sense, or more as a principle of governance. This issue will be discussed in more detail in the following section, in light of the standards of classical rights theory.

3. Evaluation of Environmental Rights in Light of Classical Rights Theory

To address the position of environmental rights within the human rights system, it is first necessary to clarify the characteristics of the term "right" in classical theory. According to the traditional perspective, a right is a claim structure defined for a specific right holder, directed at a specific obligor, and legally defensible (Kaboğlu, 1992:124). In this context, "right" is not merely an ethical ideal; it is a constructible, normative order with specific boundaries. Therefore, the analytical weight of environmental rights claims should be evaluated based on how well they meet the elements of this claim structure, independently of the normative importance of environmental protection.

Universality and the Problem of Minimum Content

Classical rights theory states that individual rights are universal, but it also emphasizes that they must contain a minimum level that must be met. According to Cranston, discussing rights without establishing a "level of fulfillability" can amount to little more than a desire (Cranston, 1983:13). Ashford, on the other hand, argues that true human rights should be clearly distinguished from characteristics such as universality and inalienability (Ashford, 2016:70-72). The right to a healthy environment presents a strong claim to universality, as most people are affected by at least a minimum environmental standard. However, the debate focuses on the point of what "minimum content" this claim will gain meaning through: What is the lower limit in the definition of a "healthy environment," and below what limit will it be considered a violation of rights? The answers to these questions are often intertwined with scientific uncertainties and political choices. Determining threshold values requires expertise; Standards can vary depending on time, context, and risk analysis (Mickwitz, 2003: 415; Hayward, 2005: 169; Louka, 2006: 51; Sanera ve Shaw, 1999: 16; Singer, 2007; Hamowy, 2003; Michaels, 2007). Therefore, while the universal nature of the right to a healthy environment is theoretically convincing, defining it in terms of a clear, legally predictable "minimum content" can be difficult.

Determining the Right Holder and the Intergenerational Dimension

In classical rights theory, the right holder is generally considered to be the "present individual." However, environmental rights are often regulated to include future generations, reinforcing the concept of intergenerational justice (Sands, 2003; Oskamp, 2000). However, recognizing future generations as rights holders poses practical challenges regarding representation and legal personality. Hiskes argues that the inadequacy of institutional structures for representing future generations makes it difficult to implement intergenerational rights (Hiskes, 2009:134).

At this stage, two main strategies emerge. The first strategy is to recognize future generations as "right holders" and to be able to file lawsuits in their name today. The second strategy is to defend the protection of future generations as an

extension of the rights of present individuals; for example, evaluating the risks to the future living conditions of today's children through the lens of existing rights (such as life, health, and privacy). The second approach, while seemingly more compatible with the classical framework by keeping the rights holder within the context of the "existing individual," also risks narrowing the scope of intergenerational responsibility. In both cases, the boundaries of environmental rights in relation to the rights holder are based on a more debatable foundation than the classical rights model.

Determinability of the Obligor and Multi-Centered Responsibility

From the perspective of classical rights theory, one of the distinguishing elements of a right is the identifiability of the obligor. According to Barry, classical rights generally entail negative obligations: the state should not intervene, and the individual's rights should not be violated (Barry, 2004). Yayla emphasizes that rights should have a general, abstract, and directly applicable structure; he argues that accepting vague, unclearly bounded positive actions as "rights" will create conceptual difficulties (Yayla, 2018).

Discussions on environmental rights mostly highlight positive obligations: issues such as emission reduction, control and monitoring, infrastructure and investment decisions, disaster preparedness, the creation of a regulatory framework, and long-term planning are addressed. Many of these obligations are shaped not only by the state but also by local governments, the private sector, international actors, and individuals through environmental impacts (Louka, 2006). This multi-layered structure makes it difficult to direct a singular claim of rights to a specific obligor. Therefore, in the context of the right to a healthy environment, the question of "to whom and how much responsibility should be assigned" becomes crucial. When the source of risk is numerous actors, the distribution of responsibilities is often determined by political economy and public policy choices rather than legal techniques (Pennington, 2014; Downie & Levy, 2000). This means that the right to a healthy environment may not always coincide with the "specific obligor-specific action" understanding in the classical rights model. Here, the discussion of the right-duty relationship and types of rights comes to the fore. The elements in Kaboğlu's definition of rights (right holder, subject, obligor, and sanction) reveal the technical dimension of the concept of rights (Kaboğlu, 1992:124). When we define the right to a healthy environment as a "claim-right," it becomes clear that a specific obligor must perform a specific action; however, since environmental risks are multifaceted and responsibility is distributed, this design often encounters difficulties in practice. Considering the right to a healthy environment solely as a "right to freedom" is not a convincing approach, given the fact that the environment cannot be protected without intervention. Therefore, the functional aspect of the right to a healthy environment is often made visible through procedural powers and participation rights: powers such as the right to request information, to challenge administrative decisions, and to access justice enable the institutional implementation of environmental protection as rights.

Clarity, Scientific Uncertainty and Judicial Capability

For a claim to be considered a "right," its boundaries must be clearly defined, and it must be justiciable (Kaboğlu, 1992: 124; Barry, 2004: 272). This is one of Cranston's suggestions: claims must have the characteristic of being demands that can be asserted in the judicial process (Cranston, 1983:13). When it comes to the right to a healthy environment, this requirement becomes even more difficult due to the technical nature of environmental standards. Threshold values vary; risks are based on probabilities; damages occur with a delay; the cause-and-effect relationship is affected by numerous factors (Mickwitz, 2003:413; Hayward, 2005:169). This makes it difficult to clarify the definition of the right to a healthy environment and to determine the state of "legal violation." This difficulty is further increased when the right to a healthy environment is defined as a "right to consequences"; That is, in cases where a certain level of environmental quality emerges as a directly demandable right. On the other hand, when the right to a healthy environment is established through procedural safeguards (access to information, participation, oversight), uncertainty can become more manageable. Indeed, the Aarhus-type procedural approach, while not eliminating technical uncertainty in environmental standards, makes environmental decision-making processes more amenable to judicial review from a perspective of transparency and accountability (Hayward, 2005).

The debate on judicial review is also related to the separation of powers. Since environmental policies involve resource allocation and complex technical choices, the extent to which the judiciary can intervene in the "political choice area" is a debatable issue. For this reason, judicial practices generally seek a balance between two extremes: while courts refrain from determining general policies, they oversee the state's duty of care, justification standards, whether scientific data has been evaluated, and whether minimum protection measures have been provided. This approach can strengthen the perception of the right to a healthy environment, not as a right demanding direct results, but as a normative framework that produces governance standards. In this context, the debate on minimum core and phased implementation also gains importance. In rights requiring positive action, full realization may take time due to capacity differences among states; therefore, it is advisable to separate the right to a healthy environment into an immediately applicable "core" (e.g., protection from severe pollution, management of life-threatening risks, emergency preparedness) and a gradually expanding standard of environmental quality. However, this separation may also risk moving away from the classic "absolute right" model of the right to a healthy environment and transforming it into a complex norm intertwined with policy objectives.

Conflicts of Rights and Distributive Justice

Discussions concerning the right to a healthy environment often raise the issue of conflicts between rights. Conflicts can arise between environmental protection and property rights, free enterprise, energy supply security, or social welfare goals. When the right to a healthy environment is defined as an "extremely superior" right, overcoming these conflicts becomes more difficult because the

means needed to balance different values and interests are limited. However, if the right to a healthy environment is considered as a principle of interpretation or a standard of governance, conflicts can be managed through balanced criteria of proportionality and good justification (Boyd, 2012). This does not diminish the importance of environmental protection; it also ensures the preservation of the analytical balance of the list of rights. The question of which standard to apply in cases of scientific uncertainty in judicial review is also related to these conflicts. The probable existence of risks and the delayed or irreversible nature of damages lead to the application of principles such as the "precautionary principle"; however, this can increase the risk of the court shifting into a policy-making role (Peel & Osofsky, 2020). Therefore, the proportionality analysis should be conducted in two ways: a balanced approach is needed to monitor both inadequate policies that ignore environmental risks and regulations that may create excessive pressure.

Finally, environmental policies have an important distributional dimension. The groups most affected by pollution may not be the same as the groups bearing the cost of transformation; environmental risks may be distributed socially unevenly (Boyd, 2012). For this reason, when the right to a healthy environment is used as a principle of interpretation that reveals inequalities, it can contribute to the protection of classical rights (life, health, privacy) (Shelton, 2006). However, defining the right to a healthy environment solely as a right to an outcome does not automatically resolve issues such as which group will be protected, to what extent, and how costs will be shared; these issues still depend on policy design and resource allocation. In this context, the equality and justice dimension of the right to a healthy environment requires considering rights discourse alongside institutional policy tools. This assessment shows that the right to a healthy environment, when compared with the criteria of traditional rights theory, is difficult to function as a "complete" subjective right, particularly in terms of identifiability of those obligated, clarity of content, and admissibility (Knox, 2020; Boyd, 2012; Shelton, 2006). However, environmental protection holds a strong normative position within the human rights system. This tension will be addressed more systematically in the next section within the framework of the rights inflation debate.

4. Evaluating the Right to a Clean Environment in the Context of Rights Inflation

FCI The discussions surrounding the right to a clean environment are rooted in a broader issue: the expansion of the understanding of human rights and the resulting concern about "rights inflation." The United Nations General Assembly's recognition of a clean, healthy, and sustainable environment as an explicit human right in 2022 (United Nations General Assembly, 2022) significantly strengthened the international normative position of the right to a clean environment. However, this development has brought back to the forefront discussions about the conceptual consequences of including environmental protection among rights. The rights inflation view suggests that the uncontrolled expansion of the rights category may

diminish the characteristic normative impact of the concept of rights (Cranston, 1983: 12; Alston, 1984:614; Clément, 2018; Theilen, 2021:832; Ashford, 2016: 70-72; Barry, 2004:272). In this context, the right to a healthy environment is considered one example that highlights the conflict between the expansion of the human rights discourse and the need to preserve the analytical boundaries of the concept of rights.

The Content of the Rights Inflation Debate

The discourse of rights is a significant source of legitimacy in politics and law. Therefore, various social movements and political demands are often expressed in the language of "rights" (Alston, 1984: 614; Clement, 2018: 157). Alston suggests that the absence of any "quality control" mechanism in defining new rights can weaken the normative weight of human rights discourse (Alston, 1984). Cranston holds a similar view, stating that defining unfulfilled demands as rights can reduce the concept of rights to merely a wish list (Cranston, 1983).

This concern generally manifests itself in three dimensions. Firstly, at the conceptual level, there is a blurring of the lines between rights and political goals, rights and principles, or rights and political demands. Secondly, at the institutional level, there is a risk that new demands for rights will expand the judiciary's role and sharpen debates over the separation of powers. Thirdly, at the normative level, the expansion of the catalog of rights may diminish the seriousness and prioritization capacity of each right. Therefore, the literature on rights inflation emphasizes that the recognition of new rights is not merely a normative choice but also a matter of institutional design.

The Place of Environmental Rights in the Debate on Rights Inflation

Environmental rights are frequently cited as examples in discussions of expanding rights. The most important reason for this is that environmental protection is a broad, socially oriented, and uncertain field. Firstly, environmental rights generally prioritize the goal of benefiting society. On the other hand, classical rights theory is based on individual ownership. Environmental quality is often a "public good," which can lead to tension between individual rights and collective benefits. Secondly, environmental rights have a dimension related to future generations. Environmental decisions made today can directly affect the living conditions of future generations. This raises questions about who the rights holders are and how they will be represented. Thirdly, environmental rights involve technical uncertainties; determining environmental standards often involves scientific findings and risk analyses. Finally, environmental protection can often require expensive policies. Steps such as emission reductions, energy transitions, or infrastructure investments may require significant resource allocation and conflict with development priorities (Downie & Levy, 2000; Pennington, 2014). These characteristics cause the right to a healthy environment to differ to some extent from the traditional model of rights.

Counter-Arguments to the Criticism of Rights Inflation

Criticisms of rights inflation are strong, but the arguments offered in response should not be neglected. One view holds that the human rights system has evolved and expanded over time. Issues such as social rights, prohibitions of discrimination, or social equality were initially considered controversial; however, over time, they have become established components of the human rights system. In this respect, the right to a healthy environment is a logical part of a flexible human rights system designed to adapt to societal risks.

Another perspective argues that environmental degradation directly affects the exercise of other rights. This view argues that serious environmental damage can render the realization of fundamental rights, such as the rights to life and health, impossible. Therefore, environmental protection should be considered a necessary condition for the functioning of human rights (Malé Declaration, 2007; Mardikian, 2023; Chalabi, 2023). However, defining the right to a healthy environment as a "precondition" for all other rights can pose conceptual difficulties. Such an approach could create a hierarchical structure among rights and risks, grouping environmental protection under a single "overarching right." Therefore, adopting a more balanced approach would entail addressing environmental damage that infringes on specific rights from an environmental perspective and strengthening environmental safeguards.

The Strategic Use of Rights Language and Institutional Risks

The adoption of rights language by environmental movements is both a conceptual and strategic choice. Rights language creates a strong demand against the state, facilitates the mobilization of public support, and gains international validity. As Heywood points out, one of the most effective ways to express political commitments at the principle level is to present them as rights (Heywood, 2012: 179). Therefore, the development of environmental rights is closely linked to the ability of rights discourse to create legitimacy. However, the strategic impact of rights language can also create institutional risks. When a demand is expressed as a "right," expectations rise, making it easier to claim violations. This can increase the judiciary's role in a complex, multifaceted field such as environmental policy. This is where the concern about rights inflation arises. If rights discourse extends beyond democratic policy-making processes, both the analytical impact of rights and democratic decision-making can be jeopardized. Therefore, the concept of "quality control" is often suggested in the literature on rights inflation. Considering certain criteria when expressing environmental demands as rights can help preserve the analytical boundaries of the concept of rights. In this context, it is suggested that the right to a healthy environment should have a specific basis, that those obligated should be identifiable, that measurable indicators and reporting processes should be developed, and that the role of the judiciary should be limited to the management of the process and due diligence control.

Furthermore, strengthening the right to a healthy environment through procedural rights is likely to reduce the risk of rights inflation. Procedural rights such as access to information, participation in decision-making processes, and access to justice

create more specific obligations and are more amenable to judicial review. This approach aims to ensure that environmental decisions are made in a transparent, scientific, and accountable manner, rather than seeking to enforce environmental quality through the courts directly.

Finally, it is important to remember that while environmental policies are based on scientific data, this information is often controversial and variable. Public debates surrounding climate change and environmental risks affect the social legitimacy of environmental policies. While some authors argue that exaggerating or using environmental risks for political purposes can undermine public trust, others maintain that risk management should not be delayed even in the face of uncertainty. This tension highlights the importance of striking a balance between scientific knowledge and democratic debate in the implementation of the right to a healthy environment. These discussions demonstrate that, without denying the importance of environmental protection, the analytical limits of the concept of rights must be preserved. Therefore, addressing the right to a healthy environment not merely as an individual and directly claimable right, but within a more layered normative framework encompassing constitutional principles, procedural rights, and an environmental interpretation of existing fundamental rights, is considered an appropriate approach to preserve both the normative impact of environmental protection and the theoretical consistency of the concept of rights.

5. Conclusions

This research has shown that, despite the growing importance of the right to a healthy environment in human rights literature and international practice, classical rights theory contains certain structural tensions stemming from its fundamental criteria. These tensions are mainly focused on four main points: the scope of the rights holder and its intergenerational impact, the dispersed and multi-centered nature of the obligors, the technical ambiguity of environmental standards, and the link between the judicial process and the separation of powers regarding environmental claims (Cranston, 1983; Hayward, 2005; Yayla, 2018). This situation makes it difficult for the right to a healthy environment to fully align with the clear claim-obligor relationship defined by classical rights theory. However, current judicial practice shows that environmental protection is largely achieved not by creating an independent "right to a healthy environment," but by broadly interpreting existing fundamental rights in relation to environmental risks. The International Court of Justice's 2024 advisory opinion emphasized the importance of assessing environmental obligations within the framework of existing international law and human rights. It stated that environmental protection could be achieved not by creating an independent category of rights, but by expanding the existing normative structure (ICJ, 2024). These developments show that the environment is not excluded from the human rights system; on the contrary, it plays a decisive role in the effective protection of many fundamental rights. Furthermore, defining the right to a healthy environment as a directly attainable individual right risks creating normative ambiguity by broadening the boundaries of the concept of rights (Alston, 1984; Clément, 2018; Theilen, 2021).

This study proposes that environmental protection be addressed within a three-layered normative structure to overcome this tension. In the first layer, the environment should be included as a principle defined by the constitution and as a state responsibility for governance. At this stage, the state's obligation to reduce environmental risks, develop policies based on scientific data, justify decision-making processes, and be accountable to society comes to the forefront. In the second layer, it is necessary to strengthen procedural safeguards for environmental rights. Guarantees such as access to environmental information, participation in decision-making processes, and effective access to justice will enhance the democratic legitimacy and institutional accountability of environmental governance. At the third level, individual protection continues to be ensured by evaluating the existing fundamental rights—the right to life, health, property, and privacy—in their environmental dimensions. The main advantage of this model is that it preserves the analytical integrity of the concept of rights without weakening environmental protection. Within this framework, the right to a healthy environment functions not as a single, all-encompassing right, but as a high-level normative framework guiding constitutional interpretations, procedural safeguards, and public policy design. Such an approach offers a more balanced solution that considers both the conceptual concerns of classical rights theory and the urgent need for protection posed by the environmental crisis. This framework has some concrete consequences at the institutional level. Firstly, data collection and reporting systems in environmental management need to be strengthened; the regular and accessible publication of environmental indicators will facilitate public oversight (Mickwitz, 2003). Secondly, making participation mechanisms in decision-making processes effective is crucial. The participation process should not be limited to formal consultation; The administration must provide clarity on how societal views are reflected in the reasoning behind its decisions. Thirdly, judicial review should be conducted within a framework that oversees the administration's duty of care, standards of scientific justification, and the principle of proportionality, rather than directly defining the objectives of environmental policies. This approach limits the state's inaction in the face of environmental threats while preventing the democratic political sphere from being entirely subjugated by the judicial process. If the right to a healthy environment is to continue to be articulated as a "right" in the public sphere, a better definition of its fundamental elements is of paramount importance. Issues such as protection from life-threatening serious pollution, mitigation of fundamental health hazards, disaster preparedness, and access to environmental information offer greater clarity and applicability. On the other hand, ideal environmental standards inevitably involve political choices and should be addressed progressively. This distinction can make the concept of a right both more realistic and more functional at the institutional level.

Finally, the institutional success of the right to a healthy environment is not limited solely to constitutional amendments or court decisions. The effectiveness of environmental governance is closely linked to public oversight, civil society capacity, and access to information. Therefore, the practical importance of the right to a healthy environment must be supported by transparency, environmental

education, and the capabilities of independent expert bodies. Such an institutional structure can transform the right to a healthy environment from a mere normative demand into a continuously functioning mechanism of oversight and learning, and move environmental policy from a matter of words to an accountable sphere of governance.

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