Promoting Political Rights

to Protect the Environment

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I. INTRODUCTION

Worldwide efforts to protect the environment and the international struggle for human rights have much in common. Both movements have deep societal roots and have received increasing political support since World War II.1 The modern human rights movement began in 1948 when the U.N. General Assembly passed the Universal Declaration of Human Rights. The modern environmental movement began shortly thereafter, when scientific and public awareness of the effects of economic development on the biosphere increased substantially. Although these movements have developed independently since

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the war, they are beginning to intertwine in ways that should prove mutually beneficial.

In 1981, Richard Falk predicted that environmental issues would become a human rights concern in the coming years:

Human dependence on environmental quality is becoming so evident that it seems assured that it will begin to be treated as a dimension of human rights in the 1980s... The notion of human rights is incomplete to the extent that it fails to encompass those forms of deliberate behavior that produce serious environmental damage. This set of concerns is not an exotic or marginal category. In an increasingly interdependent global setting, where elaborate technology is used and where even higher levels of industrialization are contemplated, environmental quality is a critical dimension of human dignity that may have a significant impact on the development, and even survival, of mankind.²

To a certain extent, Falk's observation has already been realized. Today, politicians and activists in both the environmental and human rights movements are beginning to recognize that governments that deny or abuse human rights are likely to cause environmental problems as well.³ President Bill Clinton noted during the Presidential election campaign in October 1992, "It is no accident that in those countries where the environment has been most devastated, human suffering is the most severe; where there is freedom of expression and economic pursuit, there is also determination to use natural resources more wisely."⁴ Vice President Al Gore concurs that people must have political rights in order to fight for remedies to ecological problems.⁵

Fang Lizhi, a Chinese democratic activist who took refuge in the U.S. Embassy after the Tiananmen Square demonstrations in 1989, cogently emphasized the connection between human rights and the environment in the context of particularly repressive regimes:

Right now humanity increasingly faces problems of a global nature: population, energy, environment, atmospheric warming, deforestation, and so on. But as long as there are governments in the world that can hold up the slaughter in Tiananmen Square as a glorious achievement, as long as there are dictators who refuse to be constrained by universal standards, it is hard to imagine that there could be the necessary understanding and cooperation to solve global problems. On the contrary,

² RICHARD FALK, HUMAN RIGHTS AND STATE SOVEREIGNTY 167 (1981).
⁴ Bill Clinton, Democracy in America, Remarks at the University of Wisconsin, Milwaukee 3 & 4 (Oct. 1, 1992) (transcript on file with author).
⁵ ALBERT GORE, EARTH IN THE BALANCE: ECOLOGY AND THE HUMAN SPIRIT 179 (1992) ("freedom is a necessary condition for an effective stewardship of the environment").
there have long been precedents demonstrating that the appeasement of governments which revel in slaughter is an invitation to worldwide catastrophe. Because of this, human rights are a global problem, maybe even the most important one. Without steady progress in the human rights environment all over the world, it will be very difficult to find serious solutions for other environmental problems in the global village.  

Clearly, human rights problems and environmental problems are both global concerns. Neither set of problems will be solved independently of the other.

This article describes the relationships between efforts to promote human rights and efforts to protect the environment. Part II illustrates how the exercise of political rights is crucial for individuals and communities who seek to protect the environment. Part III describes selected national and international policy initiatives that have begun or that should begin to link human rights and environmental concerns.

II. POLITICAL RIGHTS AFFECTING ENVIRONMENTAL PROTECTION

A. The Right to Freedom of Expression and Political Participation

The right to political participation, codified in the International Covenant on Civil and Political Rights, provides that "Every citizen shall have the right and the opportunity . . . [t]o take part in the conduct of public affairs, directly or through freely chosen representatives."  

The right "to take part in the conduct of public affairs" certainly encompasses the rights of indigenous communities and others to influence government policies affecting their environments. This right is bolstered by the Universal Declaration of Human Rights. Article 19 of the Universal Declaration guarantees to all persons "the right to freedom of opinion and expression," including "the right to seek, receive, and impart information and ideas through any media and regardless of frontiers." Article 19 implicitly supports the right to participate in the political process. Without these rights, the voices of both indigenous communities and individual activists will be stifled.

1. Indigenous Communities

National governments control the use of their natural resources. Unfortunately, many nations have squandered their natural heritage by making


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decisions for short-term gain that inevitably lead to long-term loss. For example, forests that once protected downstream floodplains are cut, arid lands are overgrazed and abandoned, and water supplies are polluted. Governments that allow or adopt such practices frequently deny the communities most directly affected their right to express meaningful opposition to government policies. Within these disenfranchised groups lies the will to apply pressure to governments and, therefore, to effect change that will be the most beneficial for the environment.

South Africa provides a striking example. In recent years, South Africa has taken the first steps toward dismantling its system of apartheid. If and when apartheid becomes a relic of the past, its legacy will include significant environmental harm. In May 1990, the Worldwatch Institute issued a report entitled Apartheid's Environmental Toll. This report documents the environmental devastation directly attributable to South Africa's apartheid system. Because South Africa cannot rely on oil imports from countries that oppose apartheid, coal accounts for eighty-five percent of South Africa's energy consumption.

This extensive use of coal has created severe air pollution and acid rain that threaten South Africa's remaining forests. Furthermore, South Africa's exports of cheap, soft coal, subsidized by underpaid black labor, encourage the use of coal in other countries and increase carbon dioxide emissions into the atmosphere. Because apartheid silences those South Africans most directly affected by hazardous mining practices and the over-exploitation of natural resources, the South African government has failed to monitor or report the levels of water pollution or hazardous waste that result from mining. Political oppression has thus generated environmental harm and impeded its mitigation.

The U.N. Conference on Environment and Development (UNCED) recognized the relationship between the right to influence decision-making and the protection of the environment. UNCED's statement on forest policy affirms that "[g]overnments should promote and provide opportunities for the participation of interested parties . . . in the development, implementation and planning of national forest policies." It also affirms that forest policies must recognize the rights of indigenous peoples and respect their culture and identity. Finally, it states that governments should harness local knowledge

10. Id. at 21.
11. Id. at 23.
12. Id. at 21.
13. Id. at 15-16.
15. Id. art. 5(a).
"regarding the conservation and sustainable development of forests" and should respectfully collaborate with indigenous communities in the development of forest policy. Although these principles have not yet been codified in a convention, the drafters of this document show promising understanding of the intricate relationship between the rights of indigenous populations and the preservation of natural resources.

2. Individual Activists

The plight of environmental activists demonstrates quite clearly that humanity cannot protect the environment without exercising political rights. The following paragraphs briefly recount the stories of four activists whose environmental efforts were either halted or seriously limited by regimes and other forces that constrained political rights.

Andrei Sakharov is best known for his heroic efforts to reform the government of the Soviet Union. Less well-known are his efforts to protect the public from radiation and to protect his nation’s natural resources, including Lake Baikal. Sakharov’s concern with the environment developed from and was closely linked to his advocacy of political rights.

In his Memoirs, Sakharov explicitly defined a "humanitarian society" as one that fosters environmental protection. In Moscow and Beyond, he further described the relationship between political rights and the environment by noting that experts working on environmental impact statements in the former Soviet Union had "no rights." Sakharov clearly recognized that environmental protection and human rights are mutually reinforcing.

Sakharov lived to see the Soviet Union embrace some of the ideas for which he fought. In January 1990, President Gorbachev described recent changes in Soviet environmental policy, linking political rights to protection of the environment, when he said, "The right to a healthy environment is a human right. But the right for an individual or for a group of people to take part in developing an ecological policy must also be guaranteed." The next year, the Congress of People’s Deputies declared, "A person has the right to a favorable natural environment, and to compensation of damage incurred to his health or property by ecological violations.

16. Id. at 12(d).
17. ANDREI D. SAKHAROV, MEMOIRS 197 (1990) [hereinafter SAKHAROV, MEMOIRS].
18. Id. at 277.
19. Sakharov’s concern for the environment is already evident in his early works. See, e.g., ANDREI D. SAKHAROV, PROGRESS, COEXISTENCE & INTELLECTUAL FREEDOM 48, 88 (1968).
20. SAKHAROV, MEMOIRS, supra note 17, at 282.
23. Congress of People’s Deputies, Declaration of Human Rights and Freedoms, art. 29, reprinted
Sakharov's vision was thus realized in the words of other leaders who undertook to reform his country's government. As one of the great advocates of political and human rights, Sakharov's interest in and approach to environmental issues is illustrative of the link between human rights and environmental protection: protection of the environment and protection of individual rights are mutually reinforcing, but without individual rights, attempts to protect the environment are inefficient and, sometimes, impossible. The following three stories illustrate this relationship even more sharply, for they tell of environmental activists who were murdered because of their work.

Hundreds of Brazilians have been killed in conflicts over land reform and protection of the rain forests.\textsuperscript{24} Although the Brazilian government is not perpetrating this violence, its inaction provides implicit authorization. By far the most publicized incident involved the December 22, 1988 murder of Francisco (Chico) Mendes as a result of his efforts to organize local rubber tappers and indigenous populations to fight for protection of the Amazon rain forest.\textsuperscript{25} His work was recognized around the world as vital to the efforts to protect the Amazon.\textsuperscript{26} Fortunately, Mendes' popularity continues to focus attention on the causes for which he fought. However, until all governments support political rights for those espousing environmental views, the work of environmental activists will be constrained.

A similar story occurred in Peru. On May 31, 1989, Shining Path guerrillas murdered Barbara d'Achille, Peru's best-known environmental journalist.\textsuperscript{27} D'Achille was a prolific journalist, writing about the detrimental effects of coca cultivation on Bolivian and Peruvian rain forests.\textsuperscript{28} She also expressed concern that drug profits were used to clear rain forest lands for cattle ranching.\textsuperscript{29} Furthermore d'Achille recognized that protection of the environment necessitates the exercise of political rights, such as the right to influence government decision making.\textsuperscript{30}

\textsuperscript{24} AMNESTY INT'L, BRAZIL BRIEFING 1 (1988).
\textsuperscript{25} Marlise Simons, Brazilian Who Fought to Protect Amazon is Killed, N.Y. TIMES, Dec. 24, 1988, at A1, A4. On December 15, 1990, Darci Alves da Silva and his father Darly Alves da Silva were convicted of murdering Chico Mendes and were sentenced to 19 years in prison. However, a retrial was ordered. Reuters, Brazilian Court Orders Retrial in Mendes Case, N.Y. TIMES, Feb. 29, 1992, at A4.
\textsuperscript{26} For background on Chico Mendes, see generally ADRIAN COWELL, THE DECADE OF DESTRUCTION: THE CRUSADE TO SAVE THE AMAZON RAIN FOREST 169-200 (1990); ALEX SHOUmatOFF, THE WORLD IS BURNING (1990); Stephan Schwartzman & Osmarino Rodrigues, Democracy in the Rain Forest, CHRISTIAN SCI. MON., Jan. 18, 1990, at 19.
\textsuperscript{28} Brooke, supra note 27, at A1, A12.
\textsuperscript{29} Forsyth, supra note 27, at 6.
\textsuperscript{30} Id.
Although the Shining Path guerrillas are not the recognized government of Peru, they enjoy de facto control of much of Peru, including the Andean region. Their terrorist activities have led to the loss of more than 25,000 lives and an estimated $20 billion in economic harm since 1980. As a result of their blatant disregard for human rights, coupled with the inability of the Peruvian government to protect its citizens from the Shining Path, Barbara d’Achille is dead, and her environmental causes lie dormant.

On July 10, 1985, Fernando Pereira, a photographer for Greenpeace, died when two military agents of the French Directorate General of External Security sank the Rainbow Warrior in New Zealand’s Auckland harbor. Greenpeace had intended to use the ship to oppose French nuclear tests in the South Pacific. The French government admitted on September 22, 1985 that the ship was sunk by its agents acting "upon instructions." After months of diplomatic discussions, the governments of France and New Zealand agreed that U.N. Secretary-General Javier Pérez de Cuellar should arbitrate the dispute. The Secretary-General demanded that France send an unqualified apology recognizing that the attack was contrary to international law, pay New Zealand $7 million, detain the two agents on an island in the South Pacific, and pay compensation to the deceased’s family and to Greenpeace. A year later, on October 2, 1987, an arbitration tribunal required France to pay Greenpeace more than $8.1 million. In April 1992, France suspended its nuclear weapons testing in the South Pacific until the end of 1992 and promised to extend its moratorium if other nations followed its example. Pereira’s murder illustrates that the political rights of environmentalists are deprived not only by their home governments, but also by foreign governments whose policies may be threatened by the international environmental movement. Precisely for this reason, policies to protect the environment must be coordinated on both the national and international levels.

Andrei Sakharov recognized that protection of the physical environment necessitates a political environment respectful of fundamental human rights. Chico Mendes, Barbara d’Achille, and Fernando Pereira were victims of regimes that disregarded fundamental human rights. Mendes, d’Achille, and Pereira, therefore, provide examples of the relationship between human rights and the environment: to protect the environment, it is necessary to call upon
various political and human rights. In countries that do not respect human rights, activists are silenced in blatant disregard of their right to life as well as their right to express opinions. To effect change, environmental activists must be allowed to live and profess their ideas. They must enjoy the full range of human rights.

B. The Right to Know of Environmental Hazards

Although the right to know of environmental hazards is not yet accepted by the international community, commentators have argued that people should have the right to full and accurate information about the environment in which they live.\(^3\) The following examples support the argument for a right to know by describing citizens of various countries who, along with the environment, suffered harm because governments withheld information about environmental threats. Had these people been aware of and apprised of the events occurring in their surroundings, they may have exerted political pressure to avert or curtail the human and environmental harm by evoking their rights to freedom of expression and to political participation.

1. The Soviet Union

On September 29, 1957, an explosion occurred at Kyshtym, a plutonium producing nuclear weapons facility in the Ural Mountains.\(^3\) The disaster resulted from unsafe storage of reprocessed nuclear waste from military reactors and reprocessing plants in operation since 1948.\(^0\) The total amount of radiation released into the environment from the Kyshtym explosion exceeded that from the Chernobyl disaster.\(^4\) Soviet scientists estimated that hundreds died after the Kyshtym explosion and that thousands more were injured.\(^4\)

Despite, or perhaps because of, the severity of the disaster, the government did not disclose the accident to the public. In 1979, Zhores Medvedev, a former Soviet scientist working in London, published *Nuclear Disaster in the Urals* after examining published ecological effects in the region.\(^4\) The Soviet government did not respond to Medvedev’s findings until December

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\(^0\) ZHORES MEDVEDEV, THE LEGACY OF CHERNOBYL 280 (1990) [hereinafter MEDVEDEV, LEGACY].

\(^1\) Id. at 279.

\(^2\) Id. at 281.


\(^5\) ZHORES MEDVEDEV, NUCLEAR DISASTER IN THE URALS (1979).
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In June 1989, the Soviet government issued an official report acknowledging that more than 1,000 square kilometers were contaminated by the Kyshtym explosion and that more than 10,000 people had been evacuated, only 600 of whom were evacuated immediately after the disaster.44

A similar incident occurred in April 1979, when an accidental release of anthrax occurred at the Microbiology and Virology Institute in Sverdlovsk. Reports indicated that several hundred people died and that a thousand or more may have been injured.45 Thirteen years after the accident, Russian President Boris Yeltsin admitted that a 1979 anthrax epidemic at a biological warfare facility located in Sverdlovsk was caused by a military accident and not, as repeatedly claimed since 1980, by contaminated meat.46

The best known incident in which the Soviet government withheld information from the public occurred in 1986. On the morning of April 26, 1986, a series of explosions began at a reactor at the Chernobyl nuclear power plant in the Ukraine, leading to another human rights and environmental disaster and releasing roughly ten times more radiation than the bomb dropped on Hiroshima.47 The number of deaths and injuries resulting from the Chernobyl disaster increased significantly because plant officials withheld information from the public. Not only did the Soviet government fail to warn the population of the health threats at the time of the accident, but it assured residents that nothing unusual had occurred.48 Although the people of Pripyat, a town two miles from the reactors, could see and smell the disaster, they were not evacuated until thirty-six hours later, after radiation had permeated their surroundings.49

Not only was information withheld from the public, but top Soviet leaders were also denied accurate information. One and a half hours after the explosions, the Secretary of the Communist Party Central Committee informed President Gorbachev that an accident had happened at Chernobyl but that the reactor was not harmed. Soviet leaders in Moscow did not receive full and accurate information about the scale of the disaster until approximately twenty-nine hours after the explosion.50

The government continued to violate the right to full and accurate information during the next several years. After the disaster, the government claimed that thirty-one people died and that several hundred people suffered radiation poisoning.51 In April 1990, the Soviet press acknowledged that

44. MEDVEDEV, LEGACY, supra note 39, at 284.
48. MEDVEDEV, LEGACY, supra note 39, at 144.
49. Id. at 145.
50. Id. at 53.
51. Felicity Barringer, Four Years Later, Kremlin Speaks Candidly of Chernobyl's Horrors, N.Y.
more than 300 people died from Chernobyl radiation. Not until four years after the incident did the Soviet Government admit that more than 150,000 people suffered serious injuries from radioactive iodine and that more than four million people near Chernobyl are still exposed to contaminated soil and food. In April 1991, the Soviet government announced that it would evacuate another 120,000 people from the area around Chernobyl, bringing the total number of people evacuated to about 325,000.

These brief examples illustrate the high human and environmental costs of withholding information about environmental disasters. By the time the public, or even the Soviet leaders, knew the full ramifications of these disasters, the damage was severe and irreversible.

2. The United States

In some significant cases, the United States has also failed to provide full and accurate information to its citizens concerning environmental harm and health risks. From the end of 1944 to 1955, the Hanford nuclear weapons plant in the State of Washington released radiation into the atmosphere, contaminating the surrounding countryside and exposing the population to health risks. On July 11, 1990, the U.S. Department of Energy finally released a report that for the first time admitted Hanford's radiation releases and documented the likely health effects. The public was understandably disturbed by the government's withholding of information.

In another example, even though the Atomic Energy Commission possessed information in the early 1950s about the health hazards of uranium mining, neither government officials nor employers warned uranium miners for years. To remedy this inaction, Congress passed the Radiation Exposure Compensation Act in 1990 to provide compensation to individuals injured because of government policies toward radiation exposure, including those persons exposed to radiation from nuclear testing and miners exposed to uranium ore radiation from 1947 to 1971.
In 1986, Congress took a positive step to prevent future occurrences of such incidents by passing the Emergency Planning and Community Right-to-Know Act. The Act establishes state and local planning committees and requires that information on hazardous substances be made available to the public. The passage of this Act indicates that Congress has finally acknowledged that communities have a right to know about the hazards that exist in their environment.

The preceding examples demonstrate the link between protecting the environment and protecting the right to full and accurate information about environmental harm. If accurate and timely information about these incidents had been available, citizen reactions may have prompted responsive action that would have reduced the environmental harm. Moreover, with accurate and timely information about potential threats to the environment, citizens may have prevented these incidents altogether by utilizing the related political right to influence government decisions discussed in the previous section.

III. INSTITUTIONS, POLICIES, AND PROGRAMS

The previous part described rights that protect individuals, communities, and, through their efforts, the environment. This part describes selected national and international initiatives that explicitly or implicitly recognize the connection between the environment and the political rights described in part II. It also describes areas where untapped potential exists to harness the relationship between protection of the environment and political rights.

A. The United Nations

The United Nations has been in the forefront in adopting policies recognizing the relationship between human rights and the environment. Its agencies have made many explicit and implicit statements that link human rights and the environment. Hopefully its leadership in this area will encourage nations and other organizations to recognize and act upon the connection between human rights and environmental protection.


60. 100 Stat. at 1733.
1. U.N. Bodies

A number of U.N. agencies address human rights and the environment. For example, the U.N. Environment Programme (UNEP), created at the 1972 Stockholm Conference on the Human Environment, covers virtually all major areas of international environmental work, including climate change, forests, oceans and water resources, human settlements, human health, environmental monitoring, chemical and hazardous waste management, law, institution building, education, and public participation.\(^6\) UNEP has led international efforts to establish guidelines on environmental assessments, marine pollution, and the ozone layer.\(^6\) UNEP works closely with other U.N. agencies, other international organizations, national governments, and non-governmental organizations.\(^6\) These close institutional relationships and UNEP’s belief that institution building and public participation are integral to the success of its environmental programs make it uniquely poised to serve as a strong advocate of human rights in conjunction with environmental protection.

The U.N. Working Group on Indigenous Populations is currently drafting a declaration that addresses issues such as the preservation of ethnic and cultural identities, ownership of indigenous lands and natural resources, maintenance of traditional economic ways of life, protection of the environment, self-governance, and the honoring of treaties between national governments and indigenous peoples.\(^6\) Through this declaration, the Working Group is explicitly confronting the environmental problems that emerge when nations deprive indigenous populations of a voice over the destiny of natural resources. Hopefully, the Working Group’s work will not only forge links between human rights and the environment in the indigenous peoples field but will also serve as an example for other similarly situated working groups.

The U.N. Commission on Human Rights is also addressing the relationship between human rights and the environment. After receiving petitions in 1989 from Friends of the Earth, the Sierra Club Legal Defense Fund, the Association of Humanitarian Lawyers, and from members of its Sub-Commission on Prevention of Discrimination and Protection of Minorities, the Commission called for a study of the relationship between human rights and the environment.\(^6\) The research will soon be presented to the Commission, with recommendations for action.

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63. Id. at 32, 39.
2. The International Labor Organization

The International Labour Organization (ILO), a specialized agency of the U.N., has recently harnessed its advocacy of political rights to encourage protection of the environment. In 1989, the ILO amended a 1957 convention by adopting the Convention Concerning Indigenous and Tribal Peoples in Independent Countries. This convention links the right to political participation in indigenous communities to protection of the environment. For example, Article 6 demands that governments consult with indigenous peoples and "establish means by which these peoples can freely participate . . . at all levels of decision-making." Article 7 states that governments, in conjunction with indigenous communities, shall take measures to protect the environment. Finally, Article 15 safeguards indigenous communities' right "to participate in the use, management and conservation of [natural] resources." This convention recognizes that the communities most intimately linked to the environment are best positioned to make decisions and, therefore, must actively participate in political processes that affect the environment.

3. U.N.-Sponsored Conferences

In 1968, the U.N. General Assembly expressed concern about the effects of pollution and other environmental problems on "the condition of man, his physical, mental and social well-being, his dignity and his enjoyment of basic human rights" and called for a U.N. Conference on the Human Environment. The U.N. Conference on the Human Environment convened in Stockholm in 1972. The Conference embraced the relationship between human rights and the environment as an overarching, guiding theme. The Stockholm Conference...
Declaration states,

Man is both creature and molder of his environment, which gives him physical sus-
tenance and affords him the opportunity for intellectual, moral, social and spiritual
growth. . . . Both aspects of man's environment, the natural and the man-made,
are essential to his well-being and to the enjoyment of basic human rights — even
the right to life itself.\textsuperscript{71}

In accordance with this theme, Principle 1 of the Declaration reiterates that
"[m]an has the fundamental right to freedom, equality and adequate conditions
of life, in an environment of a quality that permits a life of dignity and well-
being, and he bears a solemn responsibility to protect and improve the
environment for present and future generations."\textsuperscript{72} Similarly, Principle 2
emphasizes the importance of safeguarding natural resources.\textsuperscript{73} The Stock-
holm Declaration thus linked human rights, such as the right to freedom and
equality, with environmental quality.\textsuperscript{74}

Twenty years later, another U.N.-sponsored conference also linked human
rights and the environment. The U.N. Conference on Environment and
Development (UNCED), held in Rio de Janeiro, Brazil, in June 1992, covered
virtually all environmental and developmental issues, including issues related
to political rights, such as the right of individuals and groups to influence their
governments. Five key documents were adopted by most countries at the Rio
Conference: Agenda 21, a detailed work plan for the 21st century;\textsuperscript{75} the Rio
Declaration on Environment and Development, a statement of twenty-seven
guiding principles;\textsuperscript{76} a statement of principles on sustainable management of
forests;\textsuperscript{77} and treaties on climate change\textsuperscript{78} and biological diversity.\textsuperscript{79}

Political rights, and their relationship to environmental protection, were
part of the Conference discussion. Noting the significance of political rights
in protecting the environment, President Bush remarked that freedom "makes
concerted action on the environment possible as never before."\textsuperscript{80} The United
States strongly advocated inclusion of political rights in the Rio Declara-
tion.\textsuperscript{81} Although the Conference ultimately rejected specific U.S. proposals

\textsuperscript{72} Id. princ. 1.
\textsuperscript{73} Id. princ. 2.
\textsuperscript{74} See generally Caldwell, supra note 61, at 55-93.
\textsuperscript{75} See UNCED, June 3-14, 1992, 31 I.L.M. 814, 814-815; see also Gareth Porter, Environmental and Energy Study Institute, The Road from Rio 3-6 (1992).
\textsuperscript{77} UNCED, Statement on Forests, supra note 14.
\textsuperscript{78} United Nations Framework Convention on Climate Change, May 9, 1992, 31 I.L.M. 849.
\textsuperscript{79} Convention on Biological Diversity, June 5, 1992, 31 I.L.M. 818.
\textsuperscript{80} George Bush, Address to the U.N. Conference on Environment and Development (June 12, 1992), reprinted in U.S. Dep't of State, Dispatch, July 1992, at 1.
\textsuperscript{81} Preparations for the Rio Conference began in 1989 and included four preparatory conferences (prepcoms). The third UNCED preparatory committee meeting was held in Geneva from August 12 to September 4, 1991. The prepcom produced the first draft text for a declaration of principles. The United
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for a statement on political rights, Article 10 of the Rio Declaration includes provisions on public participation. 82

4. Recommendations

The United Nations has recognized the relationship between human rights and the environment and has formulated policies between the two fields. In many areas the United Nations has succeeded at forging this link; in other areas, the potential to link human rights and the environment exists but remains unutilized. For example, the U.N. Human Rights Centre does not have a program on human rights and the environment, but is well-suited to explore the subject because of its role in developing educational materials and its broad involvement with national and international organizations.

Furthermore, the United Nations has not yet linked its refugee policy to the environment. In 1985, the U.N. Environment Programme issued a report entitled Environmental Refugees that addressed the treatment of people displaced by environmental problems. 83 The U.N. Convention Relating to the Status of Refugees does not allow refugee status for individuals fleeing economic conditions or natural hazards. 84 The UNEP report suggests

States introduced a detailed section on political rights that began:

In accordance with the Universal Declaration of Human Rights, individuals, groups and organizations concerned with the environment and development have the right to participate in the government of their country at a local and national level. This right includes the rights to express ideas freely, to assemble peacefully, to seek and disseminate information, and to participate in public debate.


The final preparatory meeting was held in New York from March 2 to April 4, 1992. At that meeting the United States proposed a draft declaration of principles that included a section on human rights:

Respect for human rights is fundamental to sustainable development, in particular the rights to:

Associate with others and freely express views;
Publish and distribute information;
Participate in public debates;
Have fair and effective access to legal and administrative redress and remedy of grievances.


82. Rio Declaration, supra note 76, at art. 10.
83. The UNEP's executive director has described the increasing problem of environmental refugees as follows:

People have fled turmoil since the beginning of time. But now increasing numbers are on the move, seeking sanctuary from the turmoil created by use and abuse of their land and by natural disasters.

... These people are the millions fleeing the droughts of northern Africa, the victims of Bhopal and the thousands made homeless by the Mexico earthquake. They are environmental refugees.

UNEP, ENVIRONMENTAL REFUGEES, at i (1985) [hereinafter UNEP, ENVIRONMENTAL REFUGEES].
84. Convention Relating to the Status of Refugees, July 28, 1951, art. 1, 189 U.N.T.S. 137. The Convention defines refugees as those individuals, "owing to well-founded fear of being persecuted for
defining "environmental refugees" as those individuals who have been temporarily displaced because of natural hazards or industrial accidents, who have been permanently displaced by large economic development projects, or who have been forced to migrate because of wasteful dissipation of natural resources. Environmental refugees probably should not receive the same status as refugees who fear persecution, but the large number of environmental refugees calls for public recognition of their plight.

B. Organization of American States

The Organization of American States (OAS) was established in 1948 with the adoption of the Charter for the Americas. The thirty-two member intergovernmental organization consists of the general assembly, the Inter-American Commission on Human Rights, the Inter-American Court of Human Rights, and councils for economic development, education, and international law. The OAS promotes democratic pluralism and respect for human rights, although national sovereignty frequently hinders it from meeting its stated goals. The OAS nations signed the American Convention on Human Rights on November 22, 1969. The convention, which entered into force in 1978, reiterated and expanded upon the rights guaranteed in the U.N. Declaration of Human Rights and created the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights. The Protocol to the American Convention focused on economic, social, and cultural rights. The Protocol states that "[e]veryone shall have the right to live in a healthy environment and to have access to basic public services." It further requires that "[t]he States Parties shall promote the protection, preservation and improvement of the environment." With this provision, an organization primarily concerned with human rights consciously addressed environmental concerns as well.

85. UNEP, ENVIRONMENTAL REFUGEES, supra note 83, at 4-5.
91. Id. art. 11.
92. Id. art. 11.
C. Organization of African Unity

Thirty-two African countries founded the Organization of African Unity on May 25, 1963 at a conference in Addis Ababa, Ethiopia.93 In 1981, the OAU adopted the African Charter on Human and Peoples' Rights which states that "all people shall have the right to a generally satisfactory environment favorable to their development."94 The OAU also established a human rights commission, based in Banjul, Gambia, which meets at least once a year.95

In addition to the OAU's commitment to human rights, the OAU has acted to protect the environment. For example, in the mid-1980s, several African countries considered allowing, with little or no oversight, the establishment of nuclear or hazardous waste sites.96 The obvious danger to human health and the environment prompted OAU reaction, and in 1988, the OAU declared that the dumping of nuclear or hazardous waste in Africa would be considered a "crime against Africa and the African people."97 The declaration further called for the clean up of contaminated areas, an end to any negotiations for future waste sites, and close cooperation with U.N. agencies to monitor and control shipping and disposal of wastes in Africa.98

The OAU has reiterated its concern with the relationship between human rights and the environment. At the completion of its July 1990 annual meeting, the OAU issued a communique that revealed its appreciation of the relationship between human rights and the environment and conveyed the OAU's commitment to promote "sound population and environmental policies" and "popular participation of our peoples in the processes of government and development."99 At the OAU's annual summit meeting in June 1991, where African leaders stressed political reform and accountability, OAU members issued a declaration that proclaimed that their "development strategy in Africa during the 1990s and beyond, will be more human centered, promote a democratic and participatory approach, and be more environmentally sustainable."100

95. Id. at 63-68.
97. Id. at 568.
98. Id. at 569.
D. Organization for Economic Cooperation and Development

While the Organization for Economic Cooperation and Development (OECD) has not yet developed an active program for human rights,\(^1\) it has had an extensive environmental program for twenty years\(^2\) and, in recent years, has shown a greater awareness of the relationships between human rights and the environment. The OECD enunciated a commitment to human rights at the OECD's Council of Ministers meeting held in June 1991 in Paris. The ministers agreed to promote "human rights, democratisation, open and accountable government institutions and the rule of law,"\(^3\) and further agreed to emphasize "environmental sustainability, and slowing population growth where it is too high for sustainable development."\(^4\) As these statements reveal, the OECD has yet to integrate its environmental and human rights policies, but the fact that both concerns appear in the same statement suggests potential for further integration.

The OECD's development policy is ripe to harness the relationship between environmental policy and human rights. For example, in 1985, the OECD's Development Assistance Committee issued a report that recommended protection and restoration of natural resources,\(^5\) while singling out inept political leadership and decision making as a cause for problems pertaining to natural resources.\(^6\) In this instance, emphasizing the importance of broad participation in decision-making processes would serve both environmental and democratic political goals. In addition, the OECD is currently considering a policy for involuntary resettlement in development projects, based on resettlement guidelines of the World Bank.\(^7\) In these and other areas, the OECD could use various political rights, including the right to participate in decision-making processes, to set standards to implement this environmentally sound policy.

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\(^1\) Although the OECD Convention states that economic strength and prosperity are essential to attain the purposes of the United Nations and to preserve individual liberty, the OECD lacks an explicit human rights policy. Convention on the Organization for Economic Cooperation and Development, Dec. 14, 1960, 888 U.N.T.S. 179, 181 [hereinafter OECD Convention].

\(^2\) In 1970, the OECD established an Environment Committee which, in recent years, has developed projects on energy, technology assessment, and economics. OECD, ENVIRONMENT POLICY: ACTIVITIES OF OECD IN 1989: REPORT BY THE SECRETARY-GENERAL 45-50 (1990).

\(^3\) OECD Communiqué, June 5, 1991 (on file with author).

\(^4\) Id.


\(^6\) Id. at 20.

E. Group of Seven

In 1991, the Group of Seven (G-7) nations\textsuperscript{108} declared its intention to "underpin democracy, human rights, the rule of law and sound economic management, which together provide the key to prosperity."\textsuperscript{109} It also declared that international economic policy must take account of "environmental challenges."\textsuperscript{110} Although the G-7 expressed concern over both human rights and the environment, it was not until the next year, at the 1992 summit, that the G-7 recognized the relationship between human rights and the environment. The 1992 G-7 Communiqué proclaimed, "Rarely have conditions been so favorable for . . . guaranteeing respect for human rights, carrying through the principles of democracy, ensuring free markets, overcoming poverty and safeguarding the environment."\textsuperscript{111} Hopefully the G-7 will build on this statement and seize upon the mutually beneficial relationship between the two fields.

F. Multilateral Development Banks

Multilateral lending institutions, which provide economic support for development programs, could use their financial clout to promote both political rights and protection of the environment.\textsuperscript{112} Given their financial influence, they are well suited not only to promote political rights, but to do so in a manner that stresses the confluence of political rights and environmental protection.

The World Bank, for example, considers the environment and, to a lesser extent, human rights, in making lending decisions. The Bank normally factors environmental protection into all bank activities.\textsuperscript{113} In 1990, it emphasized its concern with the environment by establishing the Global Environmental Facility, in cooperation with the U.N. Environment Programme and the U.N. Development Programme, to fund projects to protect biodiversity, the oceans, the ozone layer, and natural resources related to climate change, such as

\textsuperscript{108} The G-7 consists of Canada, France, Germany, Italy, Japan, the United Kingdom, and the United States.


\textsuperscript{110} Id., paras. 47-57.

\textsuperscript{111} G-7 Summit Communiqué, para. 2 (July 8, 1992) (on file with author).

\textsuperscript{112} Multilateral banks are highly influential for several reasons: they affect basic policies for national and regional investments, they are often the first to invest in new projects, they have the ability to finance large-scale projects, their investments are usually made conditional upon further investments by national or commercial banking sources, and they can make sensitive investments that individual donor countries may prefer not to make on their own. The World Bank, along with the European Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, and the African Development Bank, constitute the multilateral lending system.

That same year, the World Bank decided to factor human rights into its lending decisions as well. Although the Bank's charter includes a general prohibition against interfering in the political affairs of its member countries, a report undertaken by the Bank in 1990 concluded that the Bank may consider political rights that could affect economic conditions or the Bank's ability to supervise a loan. In November 1990 the Bank did, in fact, consider such political rights in conjunction with a loan when a senior World Bank official encouraged Kenya to move toward democratic reforms.

Given these initiatives, the World Bank is poised to draw upon the relationship between political rights and protection of the environment. For example, the Global Environment Facility could also promote public participation. Furthermore, the Bank could justify broader intervention to promote political rights by stressing its environmental concerns and linking these concerns to economic conditions.

Like the World Bank, the European Bank for Reconstruction and Development (EBRD) links both environmental and human rights concerns to its financial assistance. The EBRD, founded on May 29, 1990, is the first multilateral bank to have explicit human rights and environmental mandates in its charter.

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The preamble to the EBRD's charter advocates multiparty democracy, the rule of law, respect for human rights, and market econom-

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117. Memorandum from Ibrahim Shihata, Vice President and General Counsel of the World Bank, Issues of 'Governance' in Borrowing Members — The Extent of Their Relevance Under the Bank's Articles of Agreement (Dec. 21, 1990). This report reviewed the scope of the Charter's constraint on its ability to get involved in borrowing countries' governmental affairs. It concluded that the Bank must be able "to acquire relevant knowledge of the political situation in its borrowing members," id. at 38, that the Bank can encourage the rule of law in borrowing countries, id. at 43-44, and that the Bank can support institutional reforms, such as civil service reform, legal reform, and budget discipline, necessary for effective government, id. at 47-53.
118. Neil Henry, More Democracy Urged for Kenya, WASH. POST, Nov. 17, 1990, at A10. In 1991, the Bank reiterated its concern about the political situation in Kenya. World Bank, Meeting of the Consultative Group for Kenya, para. 6 (Nov. 26, 1991) (press release available from the Office of External Affairs). The consultative group of donors included Canada, Denmark, Finland, France, Germany, Italy, Japan, the Netherlands, Sweden, Switzerland, the United Kingdom, the United States, the African Development Bank, the Commission of the European Communities, the European Investment Bank, the International Monetary Fund, and the U.N. Development Programme. Belgium, Saudi Arabia, and the OECD attended as observers.
Promoting Political Rights

One of the basic functions of the EBRD is "to promote in the full range of its activities environmentally sound and sustainable development." The EBRD also prepares an annual report on its environmental activities. The EBRD's strong mandate to promote human rights and to improve environmental conditions provides an opportunity for the bank to develop both policies in conjunction with each other.

Multilateral lending institutions are not wholly autonomous. Donors retain significant leverage over the policies and direction of multilateral lending institutions and, therefore, remain in a position to guide environmental and human rights policies. The International Financial Institutions Act requires U.S. representatives at the multilateral banks to consider human rights practices of recipient countries and to oppose loans to governments engaged in "gross violations of internationally recognized human rights," unless a loan will "directly benefit the needy." Congress also asks multilateral lending institutions to act with sensitivity to environmental concerns. For example, Congress requires preparation of environmental assessments in conjunction with multilateral loans. Finally, monitoring from environmental organizations in donor countries has also prompted the multilateral development banks to improve their environmental performance.

Despite progress, the multilateral banks have untapped potential in both the environmental and human rights fields. They have yet to fully integrate environmental planning with economic planning. Moreover, project plans typically are not updated during the sometimes lengthy planning and construction process to conform with updated environmental standards. The World Bank does not make environmental and economic planning documents available to the public. Although all five development banks have established environmental policies and programs in recent years, the banks have not made the same type of comprehensive efforts to promote political rights. Donor countries should consider following the lead of the U.S.

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120. EBRD Charter, supra note 119, at 1083.
121. Id. at 1084.
122. Id. at 1095.
127. Id. at 322.
128. Id. at 323.
International Financial Institutions Act and link their contributions to human rights performance, as well as to environmental performance.

G. The United States

International environmental issues have occupied a prominent place on the United States' public agenda in recent years. The National Environmental Policy Act (NEPA) requires all U.S. agencies to "recognize the worldwide and long-range character of environmental problems and, where consistent with the foreign policy of the United States, lend appropriate support to initiatives, resolutions, and programs designed to maximize international cooperation in anticipating and preventing a decline in the quality of mankind's world environment." 130 NEPA does not specifically mention human rights, but rather emphasizes the importance of considering the "quality of the human environment" when addressing environmental issues. 131

An environmental impact statement conducted by the Federal Highway Administration demonstrates that NEPA's public review requirements can and should be used to accomplish important human rights goals. In 1976, the Federal Highway Administration prepared an environmental impact statement on a proposal to help Colombia and Panama to fund the construction of a highway through a remote area known as the Darien Gap. 132 The proposal was controversial in part because it would have intruded on the lands of the Choco and Cuna tribes. In 1978, the D.C. Court of Appeals held that NEPA required the Federal Highway Administration to consider the potential effects of the proposal on the local Indian tribes. 133 In 1979, the Department of Transportation decided not to request funding for the project. 134 Thus, NEPA clearly has the potential to incorporate human rights concerns into its environmental program.

The U.S. Department of State recently began to incorporate environmental policy into all major facets of U.S. foreign policy, including human rights. In 1990, Secretary Baker discussed the new environmental priority in U.S. foreign policy. Baker argued that democracies afford the greatest scope for responsible environmental action; that sustained growth and a healthy environment go together; that security concerns include environmental problems; and that global environmental problems require greater international

131. Id., § 101.
133. Id. at 396.
cooperation. An active human rights program has been part of U.S. foreign policy since the Carter administration. The State Department has ample opportunities to harness the relationship between human rights and the environment.

NEPA and the State Department’s recent policy on the environment suggest a trend in national approaches to human rights and the environment: As various institutions develop an expertise in one of the two fields, they will, over time, learn the advantages of jointly addressing environmental and human rights policies.

IV. CONCLUSION

Efforts to promote human rights and to protect the environment rely on common principles of the dignity of life, the enforcement of political rights, and the rule of law. People must have political rights in order to protect the environment. Furthermore, countries that abuse political rights will inevitably cause serious environmental problems that can precipitate related long-term economic problems. For these reasons, human rights and environmental activists should work together to achieve their complementary goals. By employing the resources of institutions that are best suited to address human rights and environmental goals, activists in both fields will improve their chances of both promoting political rights and protecting the environment.
