

Human Rights in an Evolving Environment

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The *quality of the environment*, specifically the escalating global frenzy over the implications of global climate change, have carved out a unique and *uneraseable* space in our collective psyche critically shaping our understanding of *who we are, what is happening to us at a local and global scale, and where we want to be some day in the not too distant future*. This growing individual and collective “environmental” identity translates into a demand on society focusing on the evolving relationship people have with their surroundings as those surroundings are placed at risk by anthropogenic forces. This tendency has far-reaching implications for *how* we understand our rights and individuals and communities, and even as States, and particularly our “Human Rights”.

The 1980s and 1990s saw an important consolidation of political democracies around the world. The so called “pendulum” swinging from dictatorships to democracies swung strongly towards the later after the end of the cold war, during which many persistent dictatorships collapsed and gave way to newborn fledgling but ever-consolidating democratic forms of government. This tendency provided an ideal stage for a surge in political expression, of individuals, of communities, of interest groups of non-governmental organization, and independent institution of all sorts. *The environment* for many reasons which will only be summarily noted here, would become one of the principles concerns of millions, and now, even billions of people.

Fortuitously the democratic wave was accompanied by a technological revolution, the information age, the internet, multimedia, and other forms of advanced communication, which catalyzed the democratization process, placing the individual and his/her civil rights at center stage. Society underwent a massive explosion of information, communications and ubiquitous access to these, beginning in the mid 1980s, and into the 2000s, creating an unprecedented platform extremely conducive to foster the expression of political freedom and opinion.

With respect to the environment, the more recent past (the past 18 months or so), have seen unprecedented global attention to the issue of climate change. Just about everyone, be it because of highly noticeable changes to local climate, or because of highly visible significant natural disasters (such as Hurricane Katrina in 2005 or the Indian Tsunami of 2004), or natural phenomenon like the detachment from the Arctic regions of massive pieces of ice due to temperature hikes, or because of the alarm caused by the conclusions of reports like that of the IPCC¹ clearly showing that the climate is being unduly and perhaps irreversibly impacted by human activity, just about every dinner table discussion around the world has recently addressed climate change at one point or another. The environment, like never before, has become a central issue of concern for people and communities around the world.

The massive attention to climate problems is not circumstantial and in fact, corresponds to the dawning of a social global environmental consciousness, that can be understood as the individual and collective interest of our societies and our global community to engage in a discussion that involves what many understand to be life or death implications. The state of the environment is an issue that is already transforming the way we live, and its evolution risks negatively altering our lives in an irreversible manner.

Today we see a collective convergence around, and interest in, being “green” and being more aware, informed, and active about the environment we live in.

¹ See: <http://www.ipcc.ch/ipccreports/ar4-syr.htm>

The Dawning of an Environmental Era

All of these recent trends, transformations, and awakenings, relative to the environment, create a *new global society*, that adds to preexisting concerns over political freedom, peace, and poverty, the engagement and formation of an opinion on the state of the natural environment and our relationship to it.

In part this is due to the fact that individuals today have access to information about themselves and the world around them as never before. In the USA, through a non-governmental website you can type in your postal code and find out which industries contaminate in your neighborhood, with what toxins, and how much.²

Whereas once we relied on static and voluminous collections of knowledge like Encyclopedias to inform ourselves, today, through virtual platforms like *Wikipedia* we create our own knowledge base, catered to our own perspective and understanding about the world we observe, live in, and know. The registration of history and the presentation of human knowledge evolves by the minute. If one wants to know about the Amazon, or find out about a contaminated site, one can see it in real time (live) on the internet, find up to date comments about the present situation in the vicinities, or get the opinion of neighbors of the sites, without leaving one's desk. Today, the world, and our understanding of it is registered through a multiplicity of realtime multimedia and formats, and we are infinitely more actively engaged in its definition as ever before. This is fundamentally changing the world we live in, or at least, our perception of it as well as how we relate to it. The world is smaller, more manageable, and less mysterious than it has even been in the past.

"The environment", understood as part of a greater platform in which our lives evolve, is inextricably immersed in this phenomenal transformation and constantly changing interpretation and understanding of our lives and its evolution. As we think about the environment in this context, and how important the environment is to our daily lives, we inevitably come to a discussion about the environment in terms of rights, duties, and obligations.

Human Rights, borne largely out of the *Universal Declaration of Human Rights of 1948*³, but which have evolved through numerous subsequent treaties, declarations, conventions constitutions, local laws, etc. have also evolved in terms of how the individual and society more generally, understands how "the environment" plays a fundamental role in how individuals and communities realize (or fail to realize) such rights.

This recognition and the apparition of an "environmental" dimension to rights (or more specifically to "human rights", is understandable, as we began to feel tangible impacts to the environment in the wake of massive industrial evolution and uncontrolled use and exploitation of natural resources. The first whole image taken of the Earth in its entirety by Apollo 8⁴ in 1968 was a watershed moment for humanity, starkly showing the fragility of the planet as a single solitary object afloat in a vast black endless space, confined and limited by its physical insignificance, and more recently, and for the first time, vulnerable to the whims of man and his quest for power and earthly wealth.

The finiteness of natural resources, and of the Earth itself, already by that time threatened by nuclear power and now by environmental exploitation, set a new stage for human preoccupation with, and relation to, the environment. Environmental rights would soon follow, and the potentially disastrous relationship of people to the planet, began to consciously play out as never before.

² <http://gcmd.nasa.gov/records/Scorecard-00.html>

³ <http://www.un.org/Overview/rights.html>

⁴ See: http://history.nasa.gov/apollo_photo.html

The Human Rights Implications of Our Evolving Environment

The Stockholm Declaration on the Human Environment of 1972⁵, was one of the first and most significant international declarations to place the “environment” and “humans” in a single conceptual framework, forcing a *formal* and *rights-based* consideration of how people and their surroundings relate, and not only how the former can “transform” the latter, but how the environment is “essential” to human well being.

The Stockholm Declaration, an advanced text for its time, insightfully recognizes and forewarns of environmental dangers and issues that we are only fully coming to terms with today:

“through the rapid acceleration of science and technology, man has acquired the power to transform his environment in ... an unprecedented scale ... [the environment is] essential to his well-being and to the enjoyment of basic human rights the right to life itself.

The protection and improvement of the human environment is a major issue which affects the well-being of peoples and economic development throughout the world ... man's capability to transform his surroundings, ... can do incalculable harm to human beings ... we can do massive and irreversible harm to the earthly environment on which our life and well being depend ...

Man 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. In this respect, policies promoting or perpetuating apartheid, racial segregation, discrimination, colonial and other forms of oppression and foreign domination stand condemned and must be eliminated.”

These words were extremely revealing given the early year in which they were written. The unforeseeable tipping point of climate change, inequities of how environmental injustice occurs in most societies in terms of who most suffers environmental burdens, the importance of human dignity, and generational concerns all are present in the Stockholm document, which insightfully laid out much of the future of the environmental agenda, and more specifically, set the stage for a *human rights and environment* approach to the development debate, which is still evolving, and some might say, still in an infant stage today, nearly 35 years later.

It is no surprise that relatively soon after the Stockholm Declaration, “the right to a healthy environment” begins to appear in the legal realm, constituting for the first time, a right that would find itself into many new Constitutions in the 1990s and 2000s as new democracies were borne around the world. This new “right” begins to take center stage in global environmental development discourse, and amongst many environmentalists *even though* we have not necessarily yet found the appropriate or effective channels to exercise this right, nor have the actors appropriately engaged to protect it.

The environmental community latched on to Stockholm and set out on its advocacy agenda, something that the human rights community failed to do immediately. In fact, little came of the Human Rights community on environment for nearly 20 years after Stockholm, when finally the human rights actors of the UN led by personalities such as Mary Robinson and Fatma Zohra Vessely (formerly Ksentini⁶) forged a solid link between the concept of human rights and the environment. Yet some of the world's most prominent human rights activists and organizations failed to come to the agenda, remaining steadfastly fixated on the civil and political rights issues

⁵ See: <http://www.unep.org/Documents.Multilingual/Default.asp?DocumentID=97&ArticleID=1503>

⁶ See: <http://www.cedha.org.ar/docs/doc90-part1-eng.htm> and <http://www.cedha.org.ar/docs/doc90-part2-eng.htm>

they traditionally defended. While there are many possible reasons to this delay and systematic resistance to joining the environmental agenda to the human rights agenda, the fact remains that the environment was not, and has not been a priority of the human rights movement to date.

Civil and political rights, as enshrined in the International Covenant on Civil and Political Rights, were for some time, by far the more politically prioritized rights. The reasons for the prioritization of CPRs could be the subject of much debate and analysis, but it suffices to say that the place of the dictatorship/democracy pendulum (remaining in the dictatorial realm) merited political prioritization of CPRs for the decades following the Second World War, and particularly during the 1970s and early 80s, when many of today's human rights access systems were envisioned and created. The abuses perpetrated by dictatorships in Latin America, Africa and later Eastern Europe, were largely the focus of the world's principal human rights bodies and remain so today.

But as democracy consolidated around the world into the 1980s. As dictatorships in many countries vanished, a far more pressing concern took center stage, a concern affecting the lives of millions and even billions, poverty. In the emerging political priority to address poverty, Economic Social and Cultural Rights surfaced from obscurity and abandonment, and addressing them became a more important priority.

We have not yet fully shifted the human rights agenda to ESCRs, and may not do so for some time, but nonetheless, *poverty* is the rising issue in the development agenda, and the advent of targets and quantifiable objectives such as those enshrined in the Millennium Development Goals (MDGs), are clearly the sign that a shift is occurring in development debate, finance, and global politics. This shift was picked up by the UN human rights body, through the work of the Human Rights Commission and the Office of the High Commission for Human Rights, which understood quickly that more and more, the real human rights agenda was about poverty, human dignity and quality of life, central political priorities of the administration under Mary Robinson, when the Human Rights and Environment linkage saw some of its largest steps forward.

What should not be overlooked, however, is that while we can easily understand that poverty (and subsequently the deteriorated state of the environment that it usually entails) is clearly a human rights violation, the political and international financial implications of eliminating poverty is a phenomenally large problem to address. Reversing/correcting the human rights violations caused by poverty would require fundamental changes in how States assign budgetary expenditures, (for example, shifting armament expenditures to health, housing and education) which many are simply unwilling to make. And while we might envision a future world in which we agree to increase expenditures to reduce educational, health and housing gaps, it is far more difficult to imagine that we would do so under the aegis of "environmental" protection.

What we do see today are many rights beginning to take priority in the UN System, that have to do with what are fundamentally environmental issues (or issues greatly affected by environmental quality) such as: human health, water, housing, toxic wastes, desertification, etc.

The *environment*, which straddles both CPs and ESCRs, in a conceptual sense, is a perfect backdrop to analyze the persistent elements and sources of such an important global problem and challenge as poverty. A deteriorated environment causes illness, persistent limitations to health, deteriorates private property, hinders quality of life, violates the rights of the child, and many times can show the illegal inequities of urban planning and public budgetary assignments and investments, for example.

But what place does the "environment" or "environmental rights" have in this debate and evolution?

A "conceptual" or legal environmental analysis, while academically very sound, plays out very differently in real political and legal systems. While a first year law student will quickly make a convincing argument that a contaminated environment can lead to the violation of civil and

political rights, like the “right to life” (people die every day because of environmental contamination), our society has failed to effectively and systematically engage in such reasoning, and the political consequences that should result from recognizing that this is occurring. It is for this reason that we don’t see many “environmental” cases coming to the human rights bodies. Nor do we see the “right to a healthy environment” as the backdrop for legal or judicial action.

Why is this? Why isn’t the protection of “environmental rights” the catalyst for change? Many environmental problems evolve or worsen, or manifest themselves over time. This causes a delay and desensitization of the types of effects of environmental contamination. We don’t necessarily have a “smoking gun” with environmental degradation. Dying of cancer because of industrial chromium or arsenic spillage into a river can take several months, years, or even decades, and such drawn-out manifestation of environmental harm oftentimes mean back burner politics for environmental problems. The law and the judiciary, do not operate in a political vacuum. They are in fact influenced (more or less) by culture and politics, and until society does not see a smoking gun in environmental degradation, the judiciary is not likely to think of environmental problems as urgent.

Things like crime, political instability, pandemic health problems, or war are generally more visible (although maybe less deadly) than environmental problems, but can leverage greater attention on a national or international political priority lists, and subsequently, these have greater attention from the court systems, but also from the access to justice advocates (lawyers) that bring cases to the courts. Simply said, the politics and prioritization around the implications of environmental problems are still evolving and are not yet sufficiently prioritized. This has begun to change with the global climate change problem, which has seen unprecedented media coverage and reaction from politicians, States, academic and public policy actors/agencies, and even some substantial structural shifts in the corporate sector which are adjusting to the future implications for industry of climate change. This is bringing the courts, slowly, closer to environmental issues, and as this occurs, the likelihood that we will see more distinct, resolute action, is higher.

Another element that results in a lagging environmental agenda and the difficulty to bring environment under a human rights focus has do with the fact that we tend to compartmentalize our institutions, our approaches to development, our social advocacy, our politics and our legal thinking. So that “human rights” advocates, actors and institutions operate in one space, and environmentalists, environmental agencies, and politics, interact in another. This physical separation, very real in practice, can be the most difficult hurdle to overcome in gaining grounds on bringing human rights into the environmental debate, or vice verse.

In the Organization of American States (OAS), for example, when the first Human Rights and Environment Resolution for consideration appeared (and was later approved in 2001⁷) by the hemisphere’s States, most of the staff of the OAS’s environmental unit (which worked on the 5th floor at the time), had never taken the elevator to the 8th floor, which is where the OAS’s human rights staff worked. There had never been joint work by the Human Rights and Environment agencies of the OAS. There was no mandate to have these units work together, or budget for collaborative exercises of any kind. Many States at the time either doubted there was a linkage between human rights and the environment, or thought it was a waste of time and energy that any collaborative work be done between such units, as there was already enough work to do on the existing human rights case docket (mostly CPs cases involving abuses by egregious dictatorships).

When we take the issue to a local arena, such as how environmental or human rights advocacy groups address issues locally, how the legal systems are constructed to provide victims access to justice, how policy is devised and implemented, how police are trained, how judges perceive justice or how much they are willing to get involved in government policy or corporate behavior,

⁷ **Resolution 1819** of the Organization of American States on Human Rights and Environment (AG/RES. 1819 (XXXI-O/01));

how executive and legislative power politics play out in laws, in government programs, and in many other aspects of daily lives where environmental problems play out, we find similar compartmentalization occurring.

Societies generally do not conceive of environmental problems as human rights problems nor do they assign to environmental problems the seriousness and urgency which they might assign “people” problems that can result in imminent death or serious health risks. In the best of circumstances, they may see environmental problems as “people” problems (but not as rights related) to be addressed through policy instruments, or through corporate social responsibility programs borne from what are oftentimes the desks of the violators in the first place.

The difference of vision and approach to environmental problems is key, and extremely relevant to our discussion on the linkages between human rights and environment. By not thinking of environmental problems as human rights problems, and by seeking solutions through channels in CSR or public policy instruments, we lose the element of the obligatory “public duty to protect” which governs, at a much higher level, the legal responsibility of the State to ensure individual and community protection against human rights violations, and the “legal” responsibility of third parties not to harm. In such a scenario, for example, the *corporate responsibility* to immediately halt and address or redress the environmental contamination it has caused, is elevated from a *voluntary* initiative in a glossy CSR report handles by media relations personnel, to a *mandatory* or *legal* obligation addressed by a company's Board of Directors, in which consequences many times may involve criminal prosecution and possible imprisonment. Obviously, in such a latter scenario, the likelihood of environmental compliance by the actor is much higher, and hence the likelihood of providing a more just and equitable playing field for vulnerable communities is also increased.

Until our societies' legal systems bring environmental contamination under the aegis of human rights and human rights protection, we will continue to see that environmental problems are treated with minimal importance by the actors most responsible for their apparition in the first place. The good news is that we are witnessing change in local justice systems begin to happen and communities are finally getting their ‘environmental’ day in court. People and communities are claiming their rights, and collectively fighting against contamination.

The environment, seen from a human rights perspective is about thinking through how individuals and communities are affected in their capacity of realizing their human rights, in the context of a deteriorated environment. It is about identifying the culprits of contamination and their duty not to harm, it is about identifying the State duty to protect, and assigning legal and political responsibility to State and non-State actors to act accordingly, to protect, to clean up, to redress, compensate and ensure that the environment and the human rights that emanate from its quality, are duly protected.

The Individual in an Evolving Environmental Era

We've mentioned above, the evolving place of the *individual* in the transformation of modern societies, and how *individual opinion* plays a significantly different role today in the construction of our society and our understanding of our place in it, than it did just a short time ago.

Global communications and multimedia are having an unprecedented impact on the generation of global opinion and trends. Whether it is following international politics deriving from a western financed civil war in the middle east, whether it is the trials and tribulations of the Presidential elections of the USA, whether it is the launch of the IPHONE, whether it is the global collapse of the housing finance market, whether it is the handing off of the Olympic Torch and the politics of China in Tibet, people are massively engaged in global news and trends.

Over the past 18+ months, environment has taken center stage, with mounting news media coverage of the lead up to the Climate Change negotiations in Bali last December, the runup to the issuance of the Nobel Peace Prize and the campaign by Al Gore to promote his documentary "An Inconvenient Truth". People and the media around the world have willingly and actively engaged in the construction of an *environmental media platform*, to which most at least spiritually and in essence can relate in some form or fashion.

Everyone comments on the mood swings of local climate, and views in awe and fear the catastrophic dangers presented by large climate phenomenon. Even Hollywood has engaged in Climate Catastrophe movies such as *The Day After Tomorrow*. Each time we see images of environmental catastrophes like Katrina or Phuket on television, we think (however true or not) that such harm can and may imminently happen to us. This sensation coupled with ever increasing information about climate problems, contributes to the "climate frenzy" in our population that in turn contributes to further reflection, debate and definition of an individual and collective "climate opinion".

The threat of global nuclear holocaust which predominated in the 1960s-70s-80s, has given way to the idea that through anthropogenic activity we are causing a cataclysm of the worlds ecological balance. "The environment" is our new "atom bomb" which threatens to end humanity. We willingly buy into this idea and fear it because its implications are easily within our imagination and reach, and because we already may be experiencing parts of this scenario in our local environment. More rain, more flooding, more heat, more snow, more drought, these tendencies fuel our imagination and worst fears.

Individuals, in an information age constructed around the individual, and in which individuals are both powerful receptors *and creators* of information, are hence placed at the center stage of the environmental arena. We, as people and communities expect to bear the brunt of global climate change and other environmental impacts of present industrial evolution. Our reaction to this predicament is predictable. We are concerned and many of us want to give our opinion, to partake in a collective action to change the path of our future, or to take individual action, ... and in great difference to just a few years ago, today, we can. This is further magnified by the fact that we live in an age where democracies and democratic institutions are consolidating. The idea that we have rights and can exercise those rights has never been stronger at a global scale.

This "environmental concern" can be manifest at various levels and can have multiple channels of expression, whether it is through "green" purchasing of products which are more sustainable, whether it is through offsetting airline travel, boycotting an irresponsible company, or whether it is actively engaging in mobilization around a concerning issue in our community (to claim rights), such as the discovery of industrial contamination that affects the health, lives and property of ourselves and our communities.

Recently in Argentina, over a million people participated in an advocacy campaign to pressure congress to pass a forestry bill. A similar campaign led by a local NGO resulted in the adoption of commitments to phase out candescent light bulbs by 2011.

What we are seeing is that more and more communities in the developing world included, are taking initiative to engage on environmental problems affecting them. Some engage strictly in a process of political acclamation, while others channel their demands through more formalistic mechanisms (like a lawsuit) or a non-legal procedural request. Perhaps one of the most remarkable expressions we have seen in recent times, in such a direction is the reaction of the community of Gualaguaychú Argentina, against the construction of two paper pulp mills across the river from their locality.

A spontaneous march of 50,000 people in April of 2005 occurred when news broke that two giant pulp mills would be constructed on the shores of the Uruguay River-the border between Argentina and Uruguay, used mostly by the community for recreation and largely important to the eco-

tourism sector. That march topped 100,000 for two consecutive years on the anniversary of the first march. No NGO orchestrated the march or steered the community to decide to march or to oppose the mills. Considering the population of Gualeguaychú is merely 80,000, the turnout and the sustained protest are remarkable. An international bridge crossing the river at the site, has been blocked now for over 500 days, in protest to one the mills, which has since been built. The other chose to leave, because of the lack of what is now the term firmly rooted in the community, “social license”. The community has complained through a wide variety of channels, including through legal and non-legal complaints that have at times legally registered over 40,000 signatures, submitted to various complaint mechanisms.

The formulation of development policy, urban planning and investment decisions, corporate decisions about the evolution of certain environmentally sensitive sectors, such as mining, petroleum, paper pulp, tanneries, electricity generation (coal, dam or nuclear), and others, has never been more politically and “democratically” sensitive. The opinion of communities and the opportunity for communities and interest groups to participate in *go* or *no-go* decisions about the evolution of industry, and industry investments, is growing exponentially. Whereas most corporate and government actors could largely ignore public (community) opinion on such sensitive investments, just a few years ago, the knowledge that exists today about their environmental impacts and the development of an “environmental consciousness” of communities with a strong will to grant or reject “social license”, has resulted in the almost quintessential need for project designers and sponsors to face the issue of community consultation and in some cases, consent before they can move on with projects.

The growing tendency of communities to want to decide where and under what conditions environmentally sensitive industries will be located, is what some are calling “environmental democracy”. This is essentially a lens through which individuals and communities exercise rights and give a collective and very powerful opinion about how they see their own ability to exercise their “human rights” as a factor of the quality, state and evolution of the environment.

In some cases, we may be dealing with a “perceived” threat of a potential risk or impact and or maybe a “real” or “eventual” impact actually caused by a given activity. While these may or may not coincide, that is, while a perceived threat may be unsubstantiated, or very real in measurable terms, the impacts and implications of the complaint itself are nevertheless perfectly valid.

In the past, there were relatively few actors that channeled such complaints (generally a trained lawyer accompanied by a technical expert) and these limited themselves generally to formal legal channels of action to seek redress in the face of an environmental problem. This limited the number of complaints to those communities that had access to legal council; it also meant that legal complaints were slow, taking years in some cases, with little chance to halt contamination while the case was in the courts.

This has fundamentally changed today, as engaged and concerned non-legal actors who may be only minimally informed (as much information as they could obtain through an ephemeral and superficial medium such as the internet) are able to quickly acquire information and through creative communication, cause substantial pains to developers, State actors and corporations, based merely on the perception of environmental risks. This fast and easy access to critical information about a project’s potential impact, and to similar examples of other projects that have had similar impact on other communities, coupled with the proliferation of non-legal channels of redress for corporate compliance, for example, create an entirely new scenario for addressing environmental problems that have reached public awareness. It is also fostering the creation of a “rights claiming culture” in communities and amongst non-legal advocates, creating the *habit* of claiming and exercising rights, be they formally established in local or international law, or simply perceived rights on some moral or ethical level.

For the company or State actor involved on the receiving end of a complaint, the complaint, be it legal or non-legal (presented in a voluntary forum for example), is nonetheless very real, as are

the risks involved of not attending to it, or handling it inappropriately (such as ignoring it), which can have dire consequences on the viability or continuity of the project. Modern multimedia and free and easy access to it, will go a long way to bring attention to environmental risks of ill conceived and/or non transparent project, and are forcing actors that have generally been left to operate freely in terms of investments and policy decision, to address the exponentially growing concerns of hundreds, thousands, and sometimes even millions of people.

Active engagement of communities and individuals in environmental issues, in policy decisions, and in reaction to corporate behavior that affects the environment, is the purest expression of “environmental democracy”. Individuals are learning about the environment around them, associating this acquired knowledge consciously or subconsciously to their real or perceived rights, and many are demanding the realization of those rights through the available mechanisms established to exercise them. In some cases even, those mechanisms need not formally exist, since public perception that something about a project or company is environmentally unsound, may be enough to pressure the actor to change a given behavior to change that wrong. In the end, whether the change came from a legal process or otherwise, for the sake of the “perceived” or “real” right holder, is irrelevant.

The hindrance that we still find, however, in this emerging Environmental Democracy scenario, is that the various institutions, including executive, legislative, and judicial agencies of the government, as well as societal actors that work on access to justice (like NGOs, lawyers, academics) etc. have not necessarily engaged effectively in channeling public environmental expression. We are not yet fully trained or politically sensitized enough to properly defend the “right to a healthy environment” or those other human rights affected by environmental degradation.

This means, that while one individual or a whole community may be correctly demanding the exercise of a legitimate human right that is placed at risk or that is clearly violated by existing environmental contamination, the institutions that are established to guarantee that right (such as the local courts) may not be sufficiently sophisticated, educated or have the political will to guarantee it, or their may be some stronger political will with higher public and political priority, that hinders the realization of the right or impedes gaining access to justice in the face of its violation.

The Future of Human Rights in an Evolving Environment

What is certain is that the days of community ignorance and inaction about the potential or real impacts of industrial contamination are diminishing and public attention and validity to such claims are increasing. The days of free industrial reign or of uncontrolled corporate or State abuse of the environment are over. Individuals are taking an active role in scouting out, monitoring, and whistle-blowing abuse, and in many cases, taking active steps to claim their human rights, including the right to a healthy environment, but also other key rights such as the right to know, participate, the right of information, the right to health, to clean water, and even the right to life.

In this evolving society with an environmental awareness that is unprecedented, we will see human rights protection and environmental protection evolve together. We will see that State agencies that are entrusted with protecting the environment, devising policy, or actors such as judges and prosecutors will begin to taken on environmental cases with a different angle. We will see other non-state actors, academics, advocates, and community leaders begin to look at the environment through a different lens, a lens far more tinted with a rights-based view and approach, and this will inevitably result in a surge in claims by victims, and by actors entrusted in the protection of the public interest and public good, advocate for not only the “right to a healthy environment” but also for the various rights that have been historically, albeit until now largely ignored, human rights affected by environmental degradation.

What society is clearly in need of still are stronger enforcement mechanisms, which help to bring non-state actors into compliance with environmental law. We need to elevate the official concern over the impacts of environmental degradation on people and communities, so that their environmental predicament is treated appropriately through the channels that exist or that will need be created to provide effective protection of human rights that are violated by environmental degradation.

This begins with education but much also has to do with the mere recognition that environmental problems are in fact *people problems*, that they are urgent, and that they must be top priority.