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## ANALYSIS OF NATIONAL AND INTERNATIONAL NORMS ON ENVIRONMENTAL ISSUES

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### Abstract

Today, within the context of protecting human rights, the issue of the relationship between ecology and human rights is becoming increasingly relevant. Therefore, our efforts to protect human rights should be carried out in parallel with environmental protection. This article defines the legal essence of every individual's constitutional right to a healthy environment as established in Declarations adopted on environmental issues within international and national legal norms. Taking into account international and national legislation, the article clarifies the concept of a "healthy environment," analyzes its place within the system of constitutional rights and freedoms, and examines the forms of implementation and the system of guarantees of the right to a healthy environment.

**Keywords:** UN, declaration, environment, law, norm, analysis, article, ecology, convention.

### Introduction

To date, numerous international documents aimed at environmental protection have been adopted. Let us analyze the main documents that establish the obligations of states around the world in the field of environmental protection. Lawmaking in this area began with the legal norms set forth in the documents adopted at the United Nations Conference held in Stockholm in 1972<sup>1</sup>. Principle 21 of the Declaration adopted at the conference establishes the responsibility of states to "ensure that activities within their jurisdiction or control do not cause

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<sup>1</sup> I.A. Tsverianashvili. *The 1972 Stockholm Conference and Its Role in the Development of International Environmental Cooperation* // Bulletin of Nizhny Novgorod University. 2016, No. 1. – p. 89.



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damage to the environment of other states or to areas beyond the limits of national jurisdiction”<sup>2</sup>.

This adopted principle became part of customary international law and was subsequently reflected in many other documents; however, mechanisms for its practical implementation have not been sufficiently developed. In the same year, the United Nations Environment Programme (UNEP) was established, with the purpose of ensuring international cooperation in the field of environmental protection. The main goals and objectives of UNEP were закрепed by the resolution of the General Assembly dated December 15, 1972<sup>3</sup>, and were later reaffirmed in the 1997 Nairobi Declaration<sup>4</sup>.

According to the Nairobi Declaration, the role of the United Nations Environment Programme as the leading authority in environmental protection is defined as setting the global environmental agenda and safeguarding global environmental interests<sup>5</sup>. At the same time, the text repeatedly emphasizes the necessity of “taking action” and identifies four priority areas for the development of the international community: “energy efficiency and renewable energy resources,” “environmentally sound technologies worldwide,” “global actions in the field of water resources,” and “standardized information and integrated assessment”<sup>6</sup>. However, the essence of the provisions under consideration can be assessed as declarative in nature, since, while proclaiming the ideal goals that society should achieve, these provisions do not provide universal criteria such as what is meant by the term “favorable and healthy environment” or what specific methods exist to ensure it. The 1976 Geneva Convention on the Prohibition of Military or Any Other Hostile Use of Environmental Modification Techniques imposes an obligation on the participating states not to resort to military or any other hostile use of environmental modification techniques that have widespread, long-lasting,

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<sup>2</sup> Declaration of the United Nations Conference on the Human Environment // United Nations [website]. URL: [http://www.un.org/ru/documents/decl\\_conv/declarations/declarathenv.shtml](http://www.un.org/ru/documents/decl_conv/declarations/declarathenv.shtml)

<sup>3</sup> General Assembly Resolution “Institutional and Financial Arrangements for International Environmental Cooperation” of 15 December 1972, A/RES/2997 (XXVII) // United Nations [website]. URL: <https://undocs.org/ru/A/S-19/5>Nairobi Declaration on the Role and Mandate of the United Nations Environment Programme, 7 February 1997 // United Nations [website]. A/S-19/5. URL: <https://undocs.org/ru/A/S-19/5>

<sup>4</sup> Nairobi Declaration on the Role and Mandate of the United Nations Environment Programme, 7 February 1997 // United Nations [website]. A/S-19/5. URL: <https://undocs.org/ru/A/S-19/5>

<sup>5</sup> Ibid.

<sup>6</sup> Ibid., paras. 33–36.



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or severe effects, aimed at causing destruction or damage to the environment of another participating state (Article 1)<sup>7</sup>. Unlike earlier instruments, Article 2 of the Convention clarifies the term “means of environmental modification techniques.” However, according to David R. Boyd, in order to apply this provision in practice, it is also necessary to define the concepts of “widespread, long-lasting or severe effects.” The 1982 World Charter for Nature emphasizes that “man must fully recognize that he is capable of altering nature and exhausting its resources through his actions or their consequences, and therefore the balance and quality of nature and natural resources must be preserved.” It also sets out a set of nature conservation principles aimed at ensuring the preservation of the future functioning and productivity of atmospheric, terrestrial, and marine resources<sup>8</sup>. It is noteworthy that, alongside evaluative concepts (such as “harmful impact,” “irreversible damage,” “increasing risk,” etc.), the substance of the established principles is also clarified. The Charter states: “The genetic basis of life on Earth shall not be endangered; the population levels of all life forms, whether wild or domesticated, must be maintained at a level sufficient to ensure their survival; and the habitats necessary for this purpose shall be safeguarded”. From the above, it can be concluded that any form of life can be considered safe as long as it exists, at least in one or another habitat.

In the 1987 report “*Our Common Future*”, prepared by the International Commission on Environment and Development established by the United Nations General Assembly in 1983, the concept of sustainable development was proposed for the first time. According to this concept, the present generation should use natural resources in a limited way so as not to deprive future generations of the ability to use them in the same manner to meet their own needs<sup>9</sup>.

The 1985 Vienna Convention for the Protection of the Ozone Layer and the 1987 Montreal Protocol on Substances that Deplete the Ozone Layer were also adopted on the basis of this Convention. These instruments are aimed, through research

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<sup>7</sup> Convention on the Prohibition of Military or Any Other Hostile Use of Environmental Modification Techniques, 10 December 1976 // United Nations [website]. URL: [https://www.un.org/ru/documents/decl\\_conv/conventions/hostenv.shtml](https://www.un.org/ru/documents/decl_conv/conventions/hostenv.shtml)

<sup>8</sup> General Assembly Resolution “World Charter for Nature”, 28 October 1982, A/RES/37/7 // United Nations [website]. URL: <https://undocs.org/ru/A/RES/37/7>

<sup>9</sup> Report of the World Commission on Environment and Development “Our Common Future”: Annex to the General Assembly resolution of 4 August 1987. A/42/427 // UN [website]. – URL: <https://undocs.org/ru/A/42/427>.



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and monitoring (primarily of a scientific nature), at “protecting human health and the environment from adverse effects resulting or likely to result from human activities that modify or may modify the state of the ozone layer” (Article 2)<sup>10</sup>. The Montreal Protocol obliges the participating states to control the calculated levels of production and consumption of certain substances that affect the state of the ozone layer (Article 2)<sup>11</sup>. At the same time, the Protocol uses very precise categories, in particular identifying controlled substances with ozone-depleting properties that are subject to periodic review and revision<sup>12</sup>.

In 1991, the Convention on Environmental Impact Assessment in a Transboundary Context was signed in the city of Espoo, Finland. According to this Convention, a Party intending to carry out an activity that requires authorization from a competent authority is obliged to assess its potential impact on the environment under the jurisdiction of another Party. This includes effects on human health and safety, flora and fauna, soil, air, water, climate, landscape, historical monuments, and other material assets, as well as the interactions between these factors. It also covers the impacts resulting from changes in these factors on cultural heritage and socio-economic conditions (Article 1)<sup>13</sup>. The Convention under consideration is notable for its structured and detailed nature. For example, it defines activities that may cause significant transboundary environmental harm (Annex I), specifies the detailed content of environmental impact assessment documentation (Annex II), and establishes general criteria for determining the environmental significance of activities not included in Annex I (Annex III)<sup>14</sup>.

According to the 1992 Convention on Biological Diversity, States are responsible for ensuring that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond national jurisdiction (Article 3)<sup>15</sup>.

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<sup>10</sup> 1985 Vienna Convention for the Protection of the Ozone Layer of 22 March 1985 // UN [website]. – URL: [https://www.un.org/ru/documents/decl\\_conv/conventions/ozone.shtml](https://www.un.org/ru/documents/decl_conv/conventions/ozone.shtml).

<sup>11</sup> 1987 Montreal Protocol on Substances that Deplete the Ozone Layer of 16 September 1987 // UN [website]. – URL: [https://www.un.org/ru/documents/decl\\_conv/conventions/montreal\\_prot.shtml](https://www.un.org/ru/documents/decl_conv/conventions/montreal_prot.shtml).

<sup>12</sup> Ibid., Annex A.

<sup>13</sup> Convention on Environmental Impact Assessment in a Transboundary Context of 25 February 1991 // UN [website] – URL: [https://www.un.org/ru/documents/decl\\_conv/conventions/env\\_assessment.shtml](https://www.un.org/ru/documents/decl_conv/conventions/env_assessment.shtml).

<sup>14</sup> Ibid.

<sup>15</sup> Convention on Biological Diversity of 1992 // UN [website] – URL:



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The Rio Declaration on Environment and Development, adopted at the 1992 United Nations Conference in Rio de Janeiro, establishes key principles of environmental law, among which the care for human beings and ensuring a healthy life in harmony with nature occupy a central place<sup>16</sup>. The Declaration also emphasizes, based on the provisions of the UN Charter and principles of international law, the obligation of States to ensure environmental protection<sup>17</sup>. At the same time, the Declaration does not provide a detailed explanation of the content of these principles.

Another important international instrument in the field of environmental protection is the programme *Agenda 21*, developed at the 1992 United Nations Conference. One of its main objectives is defined as “the conservation and rational use of development resources,” as well as the integration of environmental, economic, and social factors of development in order to protect human rights. In subsequent years, several UN conferences were held again in Rio de Janeiro. In particular, at the 2012 “Rio+20” Summit, the outcome document of the United Nations Conference on Sustainable Development entitled “*The Future We Want*” was adopted, which once again emphasized the necessity of international cooperation for environmental, social, and economic development, as well as the responsibility of each state.

In 2015, the Summit held in New York resulted in the adoption of a General Assembly resolution, which set out an action plan to transform the planet by 2030 from the perspective of sustainable development. It should also be noted that, although the national legislation of the Republic of Uzbekistan contains provisions ensuring citizens’ right to a healthy environment, the concepts of “environment,” “favorable environment,” “healthy environment,” “the right to a healthy and favorable environment,” as well as the guarantees for ensuring this right, are not clearly defined.

The Constitution of the Republic of Uzbekistan establishes one of the six duties of citizens as “to treat the natural environment with care” (Article 50). However,

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[https://www.un.org/ru/documents/decl\\_conv/conventions/biodiv.shtml](https://www.un.org/ru/documents/decl_conv/conventions/biodiv.shtml).

<sup>16</sup> Rio Declaration on Environment and Development (adopted by the UN Conference on Environment and Development, 3–14 June 1992) // UN [website] – URL: [https://www.un.org/ru/documents/decl\\_conv/declarations/riodecl.shtml](https://www.un.org/ru/documents/decl_conv/declarations/riodecl.shtml).

<sup>17</sup> Ibid.



as mentioned above, the issues of the right to a healthy and favorable environment and the guarantees for its implementation remain open and insufficiently regulated. In conclusion, when analyzing normative legal acts in national legislation, it is stated—after the title of the Law “On Nature Protection” and before the beginning of its provisions—that: “This Law establishes the legal, economic, and organizational basis for preserving natural environmental conditions and for the rational use of natural resources. The purpose of the Law is to ensure the harmonious development of relations between humans and nature, the protection of ecological systems, natural complexes, and individual objects, as well as to guarantee citizens’ right to a favorable environment”<sup>18</sup>. Thus, although the Constitution does not explicitly define citizens’ right to a healthy environment, the existence of legislative acts aimed at guaranteeing this right serves as evidence of its recognition and protection within the legal system.

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