



THE RIGHT TO A CLEAN ENVIRONMENT

in the United States



The Right to a Clean Environment Includes:

Clean Air: Protection of humans and their environment against air pollution.¹

Clean Water: The availability of quality drinking water, sufficient to meet human need for improved health and sustainable development.²

Wildlife and Habitat: The safeguarding and wise management of wildlife and its habitat in order to maintain population levels necessary for the survival of all life forms.³

Pollution Prevention: Ending the discharge of toxic substances in order to ensure that serious or irreversible damage is not inflicted upon ecosystems.⁴

Development and Cooperation: The handling of international matters concerning the protection and improvement of the environment in a cooperative spirit by all countries equally for the benefit of their populations.⁵

Education and Participation: The right to free access to environmental information and broad dissemination of the knowledge of nature.⁶ The right to public participation in decision-making regarding issues directly affecting a person's environment.⁷

Sustainability: Promotion of development that meets the needs of the present without compromising the ability of future generations to meet their own needs.⁸

Climate Change Reversal: Protecting the planet from the effects of global warming caused by human activity.⁹

Scientific Research/Innovation: The necessity of scientific and technological research, dialogue, and exchange intended to further understanding and reduce or eliminate the remaining uncertainties regarding the causes, effects, magnitude, and timing of climate change.¹⁰

Healthy Living and Quality of Life: An environment that safeguards health and well-being necessary to a life of dignity.¹¹

Effective Remedy: The access to justice and means of redress when a person's environment has suffered damage or degradation,¹² including access to fair, open, transparent, and equitable administrative and judicial proceedings.¹³

WHAT IS THE RIGHT TO A CLEAN ENVIRONMENT?

The right to a clean environment is fundamental. It is both dependent upon and a precondition to a number of other human rights, including civil, political, economic, social, and cultural rights. For example, the preservation, conservation, and restoration of the environment are necessary for the enjoyment of the rights to health, to food, and to a decent, dignified life.

The right to a clean environment is not a purely individual right. Rather, it has a collective facet, belonging equally to such groups as future generations and indigenous peoples whose cultures depend on the environment for their existence and perpetuation.¹⁴

DOES U.S. LAW RECOGNIZE THE RIGHT TO A CLEAN ENVIRONMENT?

While the U.S. has some of the world's most comprehensive laws regarding environmental protection,¹⁵ it does not officially recognize an individual's human right to a clean environment. The U.S. supported the adoption of the Rio Declaration on Environment and Development, which recognizes the right to a clean environment and provides over-arching principles for environmental protection and sustainable development, but the declaration is not legally binding.¹⁶ The U.S. has ratified some international environmental treaties,¹⁷ but refused to ratify the Kyoto Protocol, the key international environmental treaty requiring reduced greenhouse gas emissions by 2010.¹⁸ Meanwhile, the U.S. remains among the top polluters in the world.¹⁹ In the absence of national recognition, some states recognize the right to a clean environment.²⁰

IS THE U.S. FULFILLING THE RIGHT TO A CLEAN ENVIRONMENT?

Serious environmental problems persist in the United States. There are over 1,100 domestic endangered plant and animal species listed by the U.S. Fish and Wildlife Service,²¹ more than 1,300 designated hazardous sites listed on the National Priorities List,²² and ongoing environmental discrimination in which environmental hazards disproportionately affect poor and minority communities.²³

Clean Air

Despite drastic improvements in air quality since the passage of the Clean Air Act in 1970,²⁴ over 40% of Americans still live in places where the air quality received at least one F from the American Lung Association, which estimates that up to 34,000 deaths could be prevented yearly by stronger health standards for particle pollution.²⁵ Toxic air pollution is also inadequately controlled, but the Environmental Protection Agency (EPA) has imposed regulations on nitrogen oxide and sulfur dioxide emissions.²⁶ Still, the U.S. consumes about a fifth of the fossil fuels used worldwide,²⁷ despite having nowhere near one fifth of the population.

Clean Water

The Clean Water Act, passed in 1972, is the primary law that protects our nation's water resources. However, recent Supreme Court decisions have challenged the law's scope and compromised the protection of 20 million acres of wetlands.²⁸ Agricultural pesticides, animal waste, industrial pollution, mining, and sewage are some of the biggest threats to U.S. waterways,²⁹ and in 2010, industry poured 226 million pounds of waste into water in all 50 states.³⁰ As a result of these different forms of pollution, the latest data shows 53% of assessed rivers and streams, 68% of lakes, reservoirs, and ponds, and 66% of estuaries are polluted.³¹ In addition, as the demand for clean drinking water grows, the available supply is shrinking. Water shortage by the mid-21st century is a



Clean Water (continued)

major risk for over one third of U.S. counties.³² Its corollary, polluted drinking water, disproportionately affects minorities and the poor.³³

The American Recovery and Reinvestment Act contributed about \$6 billion to the EPA's Clean Water and Drinking Water State Revolving Funds. These funds are intended to be used and repaid repeatedly to improve water in all 50 states.³⁴

Wildlife and Habitat

Habitat loss and degradation pose the greatest threat to United States wildlife, particularly through processes such as introduction of non-native species, disease, over-exploitation, pollution, and climate change.³⁵ Although there is no U.S. legislation that specifically protects environmental ecosystems, the Endangered Species Act (ESA) of 1973 provides protection for the habitats of species that are threatened with extinction by human activity. Since the ESA passed, only 1% of protected species have gone extinct.³⁶ However, delays in adding endangered species to the list may have led to the extinction of many other species.³⁷ Due to the interconnectedness of organisms living in the same environment, species extinction has a domino effect that could destroy large segments of ecosystems.³⁸

Pollution Prevention

Toxic chemicals in our air, land, and water have a profound impact on the environment and human health. Environmental toxins in children cause up to 35% of asthma cases, 10% of cancer cases, and 20% of neurobehavioral disorders.³⁹ Americans consume more than their body weight daily in different products,⁴⁰ and many of these products create waste in their production and use. The U.S. has two primary laws to regulate hazardous waste and hold polluters accountable for their actions: the Resource Conservation and Recovery Act (RCRA) and the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA).⁴¹ The RCRA set up a system of tracking hazardous materials throughout their life cycle, and the CERCLA set up a "Superfund" to clean up America's most toxic sites, paid for by the polluters.⁴² Although these laws have made significant strides in the reduction and remediation of toxic pollution, industry lobbying and underfunding are barriers to cleaning up many of America's most toxic sites.⁴³

Development and Cooperation

In 1992, the U.S. signed on to Agenda 21 at the United Nations Conference on Environment and Development.⁴⁴ Acknowledging the correlation between poverty and environmental degradation, Agenda 21 seeks to bring poor countries into environmental agreements while simultaneously supporting economic development in those countries.⁴⁵ The United Nations would like the 22 richest nations in the world to donate .7% of their overall wealth to foreign aid. However, the U.S. donated only .2% of its GNI in 2005, ranking it 20th of 22 listed donor states.⁴⁶

Education and Participation

Effective public participation is not possible without equal and open access to information. In 1990, the U.S. passed the National Environmental Education Act, establishing a policy of support for environmental education in schools and institutions of higher education. Thirty million students and 1.2 million teachers annually are involved in environmental programs.⁴⁷ However, environmental education has been hurt by the No Child Left Behind Act and a focus on standardized testing. The law's requirements have diverted instruction time from environmental education programs.⁴⁸

The EPA partners with a variety of groups to produce curricula and resources for public and community education.⁴⁹ It also has grants available specifically for education initiatives that combine information and involvement in educational issues.⁵⁰

U.S. Government Obligations⁷¹

Clean Air:

Endeavor to limit and gradually reduce air pollution, including long-range transboundary air pollution.

Clean Water:

Sustainably manage water resources, promote effective use of water, and provide access to information and public participation in decision-making concerning water issues.

Wildlife and Habitat:

Regulate and manage biological resources for the conservation of biological diversity. Promote and encourage understanding of the importance of, and the measures necessary to, ensure the conservation of biological diversity.

Pollution:

Take all possible steps to prevent pollution of natural systems.

Development and Cooperation:

Provide international assistance to further sustainable development worldwide.

Education and Participation:

Promote environmental education and training for the general public, as well as specified target groups. Facilitate and promote public participation in environmental decision-making processes.

Sustainability:

Promote and increase use of renewable forms of energy, as well as sustainable patterns of production and consumption.

Climate Change:

Take precautionary measures to anticipate, prevent, or minimize the causes of climate change and mitigate its adverse effects.

Scientific Research/Innovation:

Adequately fund and promote innovation of environmentally sound technologies to address current environmental challenges.

Healthy Living and Quality of Life:

Ensure that environmental degradation does not threaten people's health and well-being.

Effective Remedy:

Develop national and international laws regarding liability and compensation for victims of environmental damage.

For more information, visit:

DiscoverHumanRights.org



Quotes from International Human Rights Documents

“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.”⁷²

Declaration of the United Nations Conference on the Human Environment, Preface

“Man has the fundamental right to freedom, equality and adequate conditions of life, in an environment 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.”⁷³

Declaration of the United Nations Conference on the Human Environment, Principle I

“Human beings are at the centre of concerns for sustainable development. They are entitled to a healthy and productive life in harmony with nature.”⁷⁴

Rio Declaration on Environment and Development, Principle I

“Peace, development and environmental protection are interdependent and indivisible.”⁷⁵

Rio Declaration on Environment and Development, Principle 25

Sustainability

Though the federal government has policies on making government operations more environmentally sustainable, there is no official policy or plan governing environmental sustainability for the country as a whole. Production and consumption in the U.S. exceed sustainable levels. The U.S. consumes more water⁵¹ and produces more municipal waste than any other population⁵² – including other developed nations. The per capita oil consumption in the U.S. is over twice that of the European Union.⁵³ Furthermore, the U.S. population growth rate is higher than those of the European Union, Japan, Canada, and most other developed countries, and more people necessarily use more resources.⁵⁴

Climate Change Reversal

Scientists agree that human-made climate change is underway and represents a significant threat to public health and our quality of life. The combustion of fossil fuels represents the largest source of greenhouse gases, followed by deforestation and agriculture.⁵⁵ Climate change has been linked to increased extreme weather events, rising temperatures and sea levels, rapidly retreating glaciers, and alterations in river flows.⁵⁶ Crops have already been affected by higher temperatures,⁵⁷ and climate change has shortened millions of human lives worldwide through disease, malnutrition, and natural disasters.⁵⁸ The U.S. is the second-highest emitter of carbon dioxide, per capita and in absolute tons.⁵⁹ Despite this fact, the U.S. has not ratified the Kyoto Protocol,⁶⁰ which is the most recent international agreement seeking to regulate carbon dioxide. Over thirty U.S. states⁶¹ and over 850 cities⁶² have agreed to some form of climate change policy, and the EPA has recently established some emissions regulations under the Clean Air Act.⁶³

Scientific Research/Innovation in Environmentally Sound Technologies

For many years, advancements in science and technology related to the environment were stunted by a lack of funding and political interference.⁶⁴ There have been both positive and negative signs lately, on this front. The American Recovery and Reinvestment Act allotted some funds to climate research, establishing some technologies for long-term use.⁶⁵ However, while there is interest among scientists in expanding climate research, the funding is limited.⁶⁶

Healthy Living and Quality of Life

When the environment is harmed, our basic human right to health is compromised. Cancer, heart disease, asthma, birth defects, behavioral disorders, and infertility are all either caused or exacerbated by environmental hazards.⁶⁷ The negative health impacts of environmental pollution and degradation fall most heavily on poor and minority communities. For example, 3 of every 5 African-Americans and Latinos in the United States have toxic waste sites in their communities.⁶⁸

Right to an Effective Remedy

The EPA practices three different types of enforcement to ensure that regulations are respected: civil, cleanup, and criminal. Several environmental acts, including the Clean Water Act and the Clean Air Act, contain citizen lawsuit provisions. Despite the many successful environmental lawsuits over the years, several obstacles remain in terms of access to an effective remedy. The most obvious flaws in the U.S. environmental regulatory system include the failure to remedy past and future actions, the failure to protect against the impact of pollutants, and the requirement for emissions limits and technological control on only a fraction of pollutants.^{69,70}



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