

THE CONFLICT BETWEEN ENVIRONMENTAL RIGHTS AND HUMAN RIGHTS: A PANACEA

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Abstract

Man often laid claim to different kinds of rights. These rights vary from his rights to life, bodily integrity, freedom of speech, freedom of association and right to own properties. The right to own properties is extended to own land, animals and dominate one's environment. In fact, man is always quick to use the biblical injunction in Genesis 1: 28 to corroborate his position. Here, God told man to "be fruitful, and multiply, and replenish the earth, and subdue it; and have dominion over the flesh of the sea, and over the fowl of the air, and over every living thing that moveth upon the earth". With this in mind, man believes that he has the unrestricted right to subdue his environment in the process of eking out a living and making economic interest forgetting the fact that his sustainability does not have to necessarily lead to the degradation of his environment as Numbers 35: 33 commands us thus: "you shall not pollute the land wherein you live". In this paper, an attempt is made to re-orientate man in his dealings with his natural environment. It shows that the relationship between man and environment is a symbiotic one. Also, it shows that "human beings are part of nature and occupy no special space" (Hussen, 2000: 81) hence man needs to respect the rights of environment just as he cherishes his own rights.

Key Words: Environment, Rights, Environmental Rights, Human Rights, Panacea

Introduction

In his relationship to nature, man sees all non human living beings as means to end. The intrinsic values of these organisms are often neglected. Man finds it easy to degrade his environment mainly to satisfy his vested economic interest and sustainability. Through this, the environment is being treated as having no right at all, that the environment must always be treated as subservient to the whims and caprices of man. Environmental rights are sacrificed on the altar of human rights.

Man is always ignorant of the very important fact that we should have a clear way of doing things so that we do not degrade the environment, because environment is the most important aspect of our everyday lives and degrading it will amount to harming ourselves. In essence, we have a moral responsibility to protect the environment especially in our respect for the integrity of natural ecosystem, preservation of the endangered species and prevention of environmental pollution. That is why Taylor says, "from the perspective of a life-centred theory, we have *prima-facie* moral obligation that are owed to wild plants and animals, themselves as members of the earth's biotic community" (Taylor, 1986: 147). It is true that human beings have many rights of which include economic, cleanliness of the environment, the use of the natural resources and the improvement of the standards of living.

However, these human rights do not necessarily have to lead to the degradation of the environment. Apart from the fact that man's survival depends on the survival of the non-human organisms, environment also has its own rights of which man has to respect. The environmental rights include the protection of the natural resources, renewable and non-renewable, the sustainable use of the natural resources and the protection of all the nonhuman organisms. So, in this paper, we will consider how the environment has been treated by human beings and its effects on the survival of man himself. The rights of man in relation to the environment would be considered too while the expected relationship between the environment and human beings would be examined. This is to be done as a way of showing clearly that the relationship would best be beneficial when it is

symbiotic than being parasitic.

Man's View of His Environment

Environment can be best described as the totality of surroundings that people, animals and plant live. There are two major approaches to the conception of environment. The first one is the anthropocentric approach. This approach is human centred and it holds that "human beings have moral obligations towards fellow human beings and never towards nonhuman organisms" (Warren, 2001: 370). The adherents of this view do not see nonhuman organisms as moral agents which are more like disabled people in the community. This view can be expressed as saying that nonhuman organism's lives have no intrinsic value. The second one is the biocentric approach. This is life centred and it holds that "all living organisms, either human or nonhuman hold an equal moral status in the environment" (Ibid.). This view considers all living organism as having the same intrinsic value. Here, both human and nonhuman living organisms have equal value and the survival of one depends on the existence of others. No one is a master of the other and no one is meant to serve others. So it is wrong for human beings to consider themselves as the master of the environment. If the truth is to be told, the lives of human beings depend much on nonhuman organisms and their survival.

Arising from the above, one would have expected human beings to have a biocentric view of the environment where man behaves responsibly in his interaction with the environment, when both the environmental rights and human rights could be harmonised and integrated for sustainable development. However, man has been treating the environment as a pawn in the chess board to satisfy his selfish end. Man has been so much concerned with economic growth turning blind eye to the fact that economic growth entails environmental degradation. For quite a long time, while the economic growth of the world remains the main concern of everybody, little or no attention is paid to the accompanied degradation of the environment. For instance, in many parts of the world, governments embark on deforestation exercise so as to have enough lands to build industries which emit carbon-dioxide into the atmosphere that cause long term effects like global warming.

The environment is being confronted by problems on many fronts and these are man made problems while trying to make their lives easy at the expense of the environment. The irony of the situation is that in the long run, man harms the environment much as he unknowingly harms himself. There has been the problem of emission of exhaust fumes from automobiles to the atmosphere. This is the direct consequence of the much coveted industrialisation. Industrial wastes of no small measure are discharged most commonly into the air and water. The dangerous chemical substances in these wastes are better imagined. Singer has this in mind when he submits that "when our industries and automobiles pour noxious fumes into the atmosphere, we find a displeasing smell in the air, the long term results of which may be every bit as deadly as cadmium poisoning" (Singer, 2003: 772). This problem has resulted into several problems like acid rain and other problems that are caused by chemical reactions that affect mostly nonhumans and their habitats. There is also a problem of emission of pollutants into waterways and the atmosphere, and this has resulted in the imposition of costs upon others without their consent. Even though the Environmental Protection Agency in some countries permits a certain degree of emission of the pollutants into the atmosphere, this does not mean it has issued a right to pollute. The deep ecologists maintain that metaphysically they reject the idea of humans as separate from their environment. This means that human beings are by far part of nature as espoused by the advocates of biocentric approach to environment. Naess was more concerned about the adverse effects of the recent crave for technological innovation when he argued that "technology seeks to purify air and water to spread pollution more evenly" (Naess, 2003: 266). This means that pollution that is spread more evenly is not concentrated.

This affects more of the nonhuman organisms and their habitats to large extent. Hussen also advises that explicit consideration should be given to ethical concerns for the environment because the “performance of an economy should be judged by efficiency consideration alone” (Hussen, 2000: 156). This is a way of corroborating the fact that in order to ensure that the well-being of non-human beings is protected, resource values should not be assessed on the basis of human preferences alone.

The effects of man's thoughtless treatment of the environment have brought about many adverse effects on the environment and the quest for sustainability development in the society. The environment has been degraded and there is a problem of the ozone layer depletion. This is as a result of burning of recyclable materials which ought to be recycled. This problem and its attendant unfavourable consequences have persisted because of the conflict between human rights and the rights of the environment. The natural ecosystem is not being respected by man in the process of exercising his right, forgetting the fact that man has a moral obligation to the environment in which he inhabits. Man has the moral responsibility to take into consideration the state of the environment if man is to fit properly into the evolutionary processes of biological conservation.

Human Rights

Rights are justified claims or entitlements to the carrying out of correlative duties, positive or negative. A duty here is a requirement that some action be performed or not be performed. It is on this ground that Joel Feinberg defines right as a “claim to something and against someone ...” (Feinberg, 1970: 190). Following the same trend, Raphael distinguishes between two senses of viewing the word *right*. In explaining the correlative duties attached to any claim to a right, Raphael distinguishes between right of action and right of recipience. Raphael's distinction between “rights of action” and “rights of recipience” is suggestive of a more general and more useful distinction that between rights that can be exercised and rights that cannot be. For example, the right to defend oneself against an aggressor, the right to free speech, and the right to practise the religion of one's choice are exercisable whereas the right not to be killed or injured and the right to receive a fair wage are not exercisable.

Raphael reemphasized the fact that rights and duties are correlative terms because one implies the other. For both of them are derivatives of law which imposes duties and at the same time grants rights. He says that “a system of duties which all men have is at the same time a system of rights which all men have against others” (Raphael, 1977: 57).

Omoregbe was in support of the above when he defined right as “a justifiable claim to anything any privilege or immunity to which one is entitled” (Omoregbe, 1994: 95). In essence, one important thing for us to note here is that a claim to any right presupposes carrying out a duty as well. So a right implies a duty. Also, no claim can be laid to a right without reference to the law that grants such right. Consequently, “every right can be traced to a law that grants it” [Ibid]. Drawing from this, then a law that grants a right to an individual would simultaneously impose an obligation on such an individual.

There are some terms associated with the concept of right which must be explained. For when right is said to be *fulfilled* or *infringed* or *overridden* or *absolute*, what does it really mean? A right is *fulfilled* when the correlative duty is carried out i.e. when the required action is performed or the prohibited action is not performed. A right is *infringed* when the correlative duty is not carried out i.e. when the required action is not performed or the prohibited action is performed. Thus someone's right to life is infringed when the prohibited action of killing him is performed. Someone's right to medical care is infringed when the required action of providing him with medical care is infringed, when the required action unjustifiably not performed or the prohibited action is unjustifiably

performed. Also, a right is *overridden* when it is justifiably infringed, so that there is sufficient justification for not carrying out the correlative duty, and the required action is justifiably not performed or the prohibited action is justifiably performed. A right is *absolute* when it cannot be overridden in any circumstances, so that it can never be justifiably infringed and it must be fulfilled without any exceptions. We have different types of rights but all of them are broadly grouped into two namely: Civil rights and Fundamental human rights which are also called natural right.

Civil Rights

These are also called legal rights. They are those rights that have been conferred upon man by virtue of his maintaining citizenship in a particular nation or state. These rights are not universal or natural since such rights exist as the consequence of political or contractual agreements which can be amended or abandoned. That is why they are being referred to as political or constitutional rights. They are usually expressed in constitutions and law books. Since they are expressed in law books, civil rights are then at the whims and caprices of the government officials who can cancel or enact any law at will. Within civil rights come the public and private rights. This had to do with how one's rights are being exercised. In this sense, the public exercise of rights is expressed in the right of the people to associate freely and organize public spaces and governments, and therefore, they agree to alter or temper their exercise of their rights and to make rules so as to allow, the fullest possible exercise of public rights through mutual consent regulation. People agree both to restrain themselves in the exercise of certain rights and also not to restrain other's exercise, except as a defensive action to prevent a trespass, but to respect others' freedom to exercise their rights in a responsible way without prior restraint.

On the other hand, private rights mean the right as an individual that one chooses in private as an individual or together with others who have consented in any way that one chooses as long as it is not imposed on others or interferes with others' ability to freely exercise their rights. The point must be stressed here that public rights are the extension and exercise of private rights in forming consensual public spaces, and in that way they are both the same thing in nature, though they create somewhat different conditions. According to Ndubuisi and Nathaniel, "there are also rights that are conferred on people on the basis of customs or conventions, which can be justified by history as values, embedded in the cultural practices of such a people" [Ndubuisi and Nathaniel, 2002: 170]. Here, these rights are predicated on the belief of the people in doing things in certain ways that could only be justified by folklore "handed over from one generation to another or through the process of socialization [Ibid.]".

Fundamental Human Rights

Fundamental human rights have come to be understood as the rights which are universally attributable to man regardless of his social and political antecedents and also, his biological and psychological limitations. These rights are variously referred to by different scholars as *universal* rights, *basic* rights, *moral* rights et cetera. The fundamental issue regarding rights as it is understood by most recent scholars is the location of a philosophically valid conception of human right that can serve as a moral, rather than, as a merely political principle. We shall now consider in details the meaning, contents and features of fundamental human rights. When we talk of fundamental human rights, we mean the rights conferred on man by nature. These are the rights of individuals to live according to their natural condition. According to Nickel, human rights are "basic moral guarantees that people in all countries and cultures allegedly have simply because they are people" (Nickel, 1987: 561). So, fundamental human rights are those rights which are inherent in our nature and without which we cannot live as human beings. These are the rights that are indispensably necessary for man to fulfill his potential on this earth. They are called natural rights because they derive from the nature of man and the nature of existence itself.

Fundamental human rights allow us to fully develop and use our human qualities, our intelligence, our talents and our conscience and to satisfy our spiritual and other needs. They are based on mankind's increasing demand for a life in which the inherent dignity and worth of each human being will receive respect and protection. These are the rights that every human being, irrespective of race, creed, sex,

political leaning or religion ought to enjoy simply because he is human, rational and moral. The fundamental human rights an individual has are always retained. They are based on the right to own oneself, to think for oneself and to act on one's choices. A society can only be said to be free if it has respects for fundamental human rights. In this case, the society would allow people the total freedom to act provided the exercising of one's right does not constitute hindrance to the rights of others. No one loses an element of one's rights or surrenders them because of coercion but the person still retains one's natural rights. In essence, fundamental human rights are self-evident. They are based on self ownership and the free will. There can be no true rights other than those which are in nature. For while a person may try to deny these fundamental human rights, their natural rights remain undiminished. These rights can't be granted, taken away or transferred.

On the whole, the point must be made at this juncture that the main objective of fundamental human rights is to secure for individuals the necessary conditions for leading a minimally good life. It aims at identifying the fundamental prerequisites for each human being leading a minimally good life. Human rights aim to identify both the necessary negative and positive prerequisites for leading a minimally good life, such as rights against torture and rights to health care. This aspiration has been enshrined in various declarations and legal conventions issued during the past fifty years, initiated by the Universal Declaration of Human Rights (1948) and perpetuated by, most importantly, the International Covenant on Civil and Economic Rights (1966). So, the doctrine of human rights aspires to provide the contemporary geo-political order with a common framework for determining the basic economic, political, and social conditions required for all individuals to lead a minimally good life. Human rights are rights that attach to human beings and function as moral guarantees in support of our claims towards the enjoyment of a minimally good life. Fundamental human rights are basic to human existence and necessary for man's self-fulfillment and happiness. These rights among others include the following:

- i. The right to live i.e. the right to exist.
- ii. The right to peace
- iii. The right to self determination i.e. the right to freedom
- iv. The right to self-expression i.e. freedom of speech.
- v. The right to own private property within certain limits, without infringing on the rights of others to their own fair share of the goods of the community.
- vi. The right to education.
- vii. The right to form, or belong to, any association as long as such an association does not infringe on the rights of other people and is not a threat to the peace and security of the society.
- viii. The right of a people to choose their rulers (Omeregbe, 1994).

The United Nations in their 1948 Universal Declaration of Human Rights held these rights sacred and regarded them as the foundation upon which the edifice of world peace could be built. So the violation of these rights is a threat to world peace because these rights are based on human nature. These rights constitute the foundation of peaceful co-existence and happiness of mankind. In short, wars, conflicts and social unrests are always traceable to the violation of these rights. Even

Governments have no right to violate these rights by legislation. No wonder, Paton submitted that Fundamental Human Rights “are beyond the powers of the state” (Paton, 1951: 221). So, these rights “are more intrinsic and more fundamental than legal rights that are superficial, which, may exist today and disappear tomorrow” (Ndubuisi and Nathaniel, 2002: 170). It is based on the above that some scholars refer to human rights as the right of nature. The pertinent question at this juncture is, how does man exercise his human rights in his daily interaction with nature?

Human beings exercise their rights especially in their interaction with environment as if the environment does not have any rights. This assumption is wrong because the environment has rights which need to be respected by human beings. While the right view theory only recognizes the right of man to life as sacrosanct, there is need to emphasize the fact that the non-humans also have rights which require protection. Against the position of the right view, Regan argues that “the reason we ought to save the members of the endangered species of animals is not because the species is endangered but because the individual animals have valid claims and thus rights against those who would destroy their natural habitat” (Regan, 2003: 71). So, the interpretation of environmental right should primarily concern “the right to ecological benefits, which means there should be no discrimination, intervention or exploitation” (Zarsky, 2002: 203). In agreement with this line of thought, Singer again maintains that in cases like this “our actions on non-human animals could be taken into account in two quite different occasions: directly; giving the lives and welfare of non-human animals an intrinsic significance which must count in any moral calculation; or indirectly, so that the effects of our actions on non-humans are morally significant only if they have consequences for humans” (Singer, 2003: 223).

The underlying current message in this paper is that there has been unending conflict between the rights of the environment and that of man. This conflict is caused by the environment but by man as a result of the egoistic tendencies in man. Man thinks of himself alone and how life could be easier for him. Man regards the environment as tool in his hand which he can treat in any manner provided it does not affect man's desire for comfortable life even though the environment suffers for it. All things that have to do with nature such as land, plants, animals, water and the totality of the environment are treated with levity. They are only given consideration provided they are useful in helping man to satisfy his selfish end. Such is the egoistic nature of man in his treatment of his environment. Man cherishes and covets his rights so much that he could do anything to protect and defend it. Man thinks that he is the only being that has rights and even if any other beings have rights, these should always be subsumed under human rights. This posture of man has in no small way, contributed to the environment problems in our society which invariably affects the all round sustainable development which every nation loves and deserves. The fact of the matter is that if the environment is not secure, man is not secure as his continued existence as a living being could not be guaranteed due to the destruction of the ecological support system for a continued life. So, the best thing to do is to put up programmes to secure the environment which would in turn secure human lives and rights.

Panacea to Conflict between Environmental and Human Rights

Securing the environment for the much sought after sustainable development is very important. Many people are quite aware of this crucial task however the previous approaches to this problem have been wrong hence little or no results have been achieved. Their approaches have been the use of technology and politics. These approaches were ineffective because “environmental problems are a manifestation of a more profound problem: that of a fundamentally wrong perception of our relation to others, to nature and to the ecosystem” (Izibili, 2005: 386). So the technological approach which has been so popular cannot solve the present world environmental crisis, neither could environmental issues be treated primarily as political matters. Instead, environmental issues are ethical issues because they raise fundamental questions about ethics and man's moral interaction with his environment (Des Jardins, 1993: 4). It raises “questions about the place of human beings

among other living organisms and about their relationships to nature and environment" (Nnamani, 2005: 393). Environmental problems pose moral challenge to man than the use of technology and politics. This is one of the main reasons why the establishment of the Federal Environmental Protection Agency (FEPA) in 1988 by the Federal Government of Nigeria has not been able to solve the environmental problems plaguing the nation. In the same breadth, the setting up of Ecological Fund being managed by the political leaders have yielded nothing in alleviating environmental problems in Nigeria. In fact, the recent cases of misuse of the ecological fund for other reasons by the political leadership could be traced to lack of good foundation for moral regeneration in the body polity. So, the panacea to environmental problem tilts in favour of moral consideration than technological approach and or the use of political approach.

According to Beatley and Manning (1997: 43), "sustainability is fundamentally about the adoption of new ethics of living on the planet". This ethic expands considerably the moral community to which respect and duties are owed. Consequently, it is morally binding on man to adopt this new ethic of living since sustainable development should put into consideration future generations. All hands must be put on deck to have a well managed environment and biodiversity for the better living conditions for all in the society. Furthermore, man should seek ways in which his rights and those of the environment are respected and protected. It is a fact that "environmental goods have long been assumed as the nature's gift" (Rolston, 2001: 352) and as a result of this man started to extract the nature's gift such as petroleum, gold, uranium, kaolin, bitumen et cetera and could not give the environment a chance to heal and take itself back to natural aesthetical value. However, this perception and treatment meted out to the environment has to change. The environment needs proper management so that the environment would not continue to suffer what man tends to call the means and ways of making a proper life. Man should not regard himself as the superior specie while he regards other biological species as inferiors (Sterba, 2001). This point is very important because man usually regards the other biological species as part of nature forgetting that man is part of nature to the same extent to which non-human organisms are.

Attfield submits that "population policies are important, so that we do not get into the dilemmas such as choosing between exterminating wild species and / or allowing their extinction, and failing to make provision for an increased human population" (Attfield, 2003: 466). This means there is a need for a proactive action on the part of government to evolve and implement good population policies. Population growth should be well managed so that people cannot find themselves bringing about the conflict with the environment by colonizing the wild place and causing the preservation of such places to be fewer. Available resources should be well managed and respect should accorded man's rights in the sense that every person is entitled to a fair share of resources distribution. "Population growth should be in accordance with the availability of the arable land for the growth of the agricultural products and the total amount of food available for subsistence" (Hussen, 2000: 116). This should not be construed to mean that there should not be reproduction at all but rather it should be controlled. Population growth is exerting enormous pressure on the carrying capacity of the ecosystem, and producing widespread desertification and deforestation. Economists have been concerned about the increase in the growth of the economy and they say little about the environment. The question here is, if little has been said about environment to what extent is continued economic growth consistent with the maintenance of healthy environmental quality? This means that population growth will have to increase if we maintain the economic growth thus the environment will have to suffer. In essence, there is a need for population control.

Conclusion

Every country requires sustainable development and this can only be achieved in the presence of economy, politics, social and environmental structures which are stable and friendly. Also, “biodiversity conservation is one of the indispensable factors of sustainable development in agriculture and the industries. The amelioration of the effects of programmes that degrade the environment would ensure the capacity of the agricultural ecosystems to produce and maintain their vital renewable resources” (Izibili, 2005: 389). From the above, we could see that the protection of the environment invariably impacts positively on the well beings of a nation and its all round development. To this end, moral consideration can be the only panacea to the conflict between man's claim to his rights and that of the environment. This is in the sense that nature is the source of the basic needs for human beings. Environment itself is the thin layer of life and life-supports called the biosphere including earth's soil, air, water, and all living organisms including man. The former are the basic needs of man from the environment, and if the environment is not considered as a moral agent, then human beings are continually harming themselves. Animals, plants and other non-human organisms have to be given moral consideration because “people have to imagine all the possible fair methods for assessing the best sense of the interests of animals, even though they may not be able to communicate their interests to us” (Light and Rolston, 2003: 6). Based on the above reasoning, Light and Rolston argues further that animals and plants as well as other non-human organisms have to be treated in the same way as human infants, because they are the moral agents that have not matured. The overall message in this paper is that there must be a degree of moral relationship between man and his environment, and this

must be a symbiotic one.

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