

Policy Paper

Introducing environmental rights

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HUMAN RIGHTS
AND THE ENVIRONMENT
IN THE EU // TOWARDS AN INCLUSIVE DEBATE

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Human Rights and the environment in the EU. Towards an inclusive debate

Introducing Environmental Rights – Policy Paper 1

The first seminar focused on introducing the notion of environmental rights. Human rights and environmental sustainability are inextricably linked in a double knot. Not only a healthy, safe and productive environment is a necessary precondition for the enjoyment of most human rights, but, simultaneously, human rights can be an invaluable ally on the path towards achieving environmental sustainability.



Figure 1. Seminar's poster

The first part of the event showcased the dynamic character of human rights via their evolution and development, which led to the recent incorporation of environmental rights. The second delved into environmental rights, introducing the current legal and policy framework, including international, regional and domestic developments.

Asterios Tsioumanis, Transdisciplinary Institute on Environmental and Social Studies (TIESS), addressed the historical development of the current human rights framework, noting that its central positioning in international affairs has been a rather recent development. The human rights framework has been at the forefront of multilateral policymaking for a bit more than 70 years, using the signing of the Universal Declaration of Human Rights in the aftermath of the Second World War as a benchmark. The notion of rights inherently belonging to humans and the building blocks of such a theory have been around long before then, arguably for millennia. The first part of the event focused on these building blocks.

Tsioumanis focused on the dynamic character of human rights, providing a narrative on their evolution and development. Embarking from ancient sources and philosophy, he discussed the introduction of the notion of Stoic cosmopolitanism and the development of ideas on human dignity, moral equity, freedom and justice.

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He addressed codification of rights and freedoms in the Middle Ages and discussed the transition from an older doctrine of natural law that imposed obligations towards a modern concept of rights that focused on the self-assertion of the individual. He dived into early classical natural rights theories during the Enlightenment, and presented the evolution of ideas over time, which led to the development of a language on rights during the American and French Revolutions. He presented on the American Declaration of Independence, the Bill of Rights, and the French Declaration of the Rights of Man and the Citizen. He highlighted the social struggles that followed for racial and gender equality, and universal application of the human rights framework.



Figure 2. Asterios Tsioumanis addressing his speech.

He concluded the narrative with the developments during the 20th century. He discussed the unsuccessful efforts for peaceful settlement of international disputes between the two world wars with the creation of the League of Nations and focused on the aftermath of the Second World War, which led to the establishment of the United Nations. He addressed the UN Charter and the creation of the UN Commission on Human Rights and focused on efforts towards drafting the Universal Declaration of Human Rights. He delved into intellectual history, providing details on those involved in the drafting and the successful adoption of the Universal Declaration.

Tsioumanis discussed the content of the Universal Declaration, providing details on the development of the articles, and the challenges prior to the voting process. He concluded noting that this narrative presented the first part of a research report titled "An introduction to the evolution of human rights – Celebrating the inclusion of environmental rights," which will be concluded with the second part at the end of the project.

Elsa Tsioumani, University of Trento, Italy, presented on the global law and policy of environmental rights, examining all possible levels of action, both national, regional, and international, and potential interactions. She highlighted environmental rights provisions in national constitutions or other high-level domestic legislation, provisions in human rights instruments at the regional and international levels, and the case law of judicial bodies.

She categorized environmental rights into:

- procedural rights which involve access to information, participation to decision making, and access to justice; and

- substantive rights which concern the state of the environment and natural resources as such, in the sense that environmental deterioration implies a violation of certain "traditional" human rights such as the rights to life and health both for current and future generations. Substantive environmental rights may include more novel, collective rights of particular groups of peoples that enjoy a special relationship with the land and natural resources, such as territorial rights of Indigenous Peoples, and rights to land and seeds for peasants and small holder farmers.

She highlighted the right to free prior and informed consent as a particular right that links procedural and substantive rights. She underscored the development towards a new generation of environmental laws that moves beyond granting rights to humans and grants legal rights to nature itself together with enforcement rights to affected communities towards a more eco-centric approach to environmental law and policy.

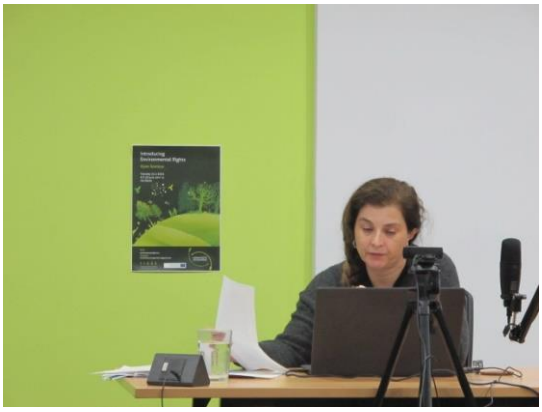


Figure 3. Elsa Tsioumani addressing her speech.

Tsioumani presented the development of the environmental rights framework since the UN Conference on the Human Environment held in 1972 and the Stockholm Declaration Principle 1, which recognized the link between fundamental human rights and environmental protection. She noted that, 20 years later, the 1992 Rio Declaration contained the first explicit recognition of procedural environmental rights, which guided the development of procedural environmental rights and influenced certain provisions in multilateral environmental agreements, such as the Convention on Biological Diversity (CBD) and the Cartagena Protocol of Biosafety, and the United Nations Economic Commission for Europe (UNECE) Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention).

She analyzed the pillars of the Aarhus Convention and the Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean (Escazú Agreement) and their significance to the development of the environmental rights framework. She further highlighted regional instruments, including the European Convention on Human Rights and the developments linking human rights with environmental rights through cases of the European Court and the proposal by the Parliamentary Assembly of the Council of Europe in September 2021

for an additional protocol to the European Convention on Human Rights on a right to the environment. She underscored frameworks addressing collective rights for Indigenous Peoples as well as rights of peasants and other rural populations.

Tsioumani concluded highlighting the 2021 UN Human Rights Council Resolution on the human right to a clean, healthy and sustainable environment, which provides an additional tool towards needed action to address the triple planetary crisis of climate change, biodiversity loss and pollution. In general future trends, she emphasized increased societal awareness on environmental risk, which is expressed through increased participation and is partially reflected in environmental law and policy.





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