

Environmental Rights in Mongolia and Beyond - A Comparative Analysis

**Эрүүл орчинд амьдрах эрх Монгол ба дэлхийн дахинд:
Харьцуулсан судлал**

Dirk Hanschel

Professor Dr.

*Holds the Chair of German, European and International Public Law,
Martin Luther University of Halle-Wittenberg,
Halle (Saale), Germany;
Fellow, Max Planck Institute for Social Anthropology
dirk.hanschel@jura.uni-halle.de*

Bayar Dashpurev

*Doctoral Candidate in the ERCC (Environmental
Rights in Cultural Context) Project,
Max Planck Institute for Social Anthropology,
supervised by Dr. Hanschel
Ulaanbaatar, Mongolia
dashpurev@eth.mpg.de*

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[Abstract]

This article investigates the global trend of incorporating environmental rights into constitutions, with a specific focus on Mongolia's constitutional framework. It analyses the revolution of environmental rights on a global scale while highlighting Mongolia's unique approach to integrating substantive and procedural environmental rights, as well as an individual environmental duty, into the 1992 constitution. The authors argue that while constitutional environmental rights offer a powerful framework and legal mechanism for environmental protection, their effectiveness depends on consistent application and enforcement and on genuinely reflecting the context in which the rights are addressed. Thus, the article concludes by suggesting in-depth, context-sensitive studies to understand the practical impact of environmental rights in Mongolia and elsewhere, ultimately aiming to enhance the lives of those most vulnerable to environmental degradation.

[Keywords]

Environmental Rights, Cultural Context, Environmental Duty, Implementation.

I. The Proliferation of Environmental Rights in Constitutions and Beyond

This contribution concentrates on environmental rights in constitutions, with a particular focus on the Mongolian Constitution and its substantive guarantees. It builds on research that the authors have undertaken in the framework of the Max Planck Fellow group “Environmental Rights in Cultural Context” in Halle, Germany.¹ It looks at the so-called “environmental rights revolution” which shows how constitutions and statutory provisions in many countries around the world combine environmental protection with rights by stipulating individual or collective guarantees relating to a sound environment.²

Conceptually speaking, the right to a healthy environment enjoys direct constitutional protection in around 100 countries.³ It constitutes an important pillar of the environmental rule of law.⁴ One prominent very early example is the Constitution of the Portuguese Republic (1976). Article 66 (Environment and quality of life) states: “(1) Everyone shall possess the right to a healthy and ecologically balanced human living environment and the duty to defend it.”⁵ Another example is the Constitution of Norway that

¹ For the following see Hanschel, D.(2019). Environmental Rights in Cultural Context (ERCC) 2019-2023: A conceptual outline, https://www.eth.mpg.de/ERCC_outline [accessed on 16 March 2025]. See furthermore: Hanschel, D., Bravo, M. G. A., Dashpurev, B., & Idris, A. K. (2022). Environmental Rights Between Constitutional Law and Local Context: Reflections on a Moving Target. *German Law Journal*, 23(7), p. 1012.

² See Boyd, D.R. (2011). *The environmental rights revolution: a global study of constitutions, human rights, and the environment*. University of British Columbia Press, where he uses the term “environmental rights revolution”. See also Boyd, D.R. (2012). The implicit constitutional right to live in a healthy environment. *Review of European Community & International Environmental Law*, 20(2), p. 171. Apart from the substantive environmental rights, such as the right to a healthy environment, there are also procedural environmental rights such as the rights to information, participation and access to justice, see United Nation Environmental Program (2025), What are environmental rights? <https://www.unep.org/explore-topics/environmental-rights-and-governance/what-we-do/advancing-environmental-rights/what> [accessed on 15 March 2025].

³ Boyd, D. R. (2018). Catalyst for change: Evaluating forty years of experience in implementing the right to a healthy environment. *The human right to a healthy environment*, p. 17; see furthermore UNEP (2025), What are environmental rights? <https://www.unep.org/explore-topics/environmental-rights-and-governance/what-we-do/advancing-environmental-rights/what> [accessed on 15 March 2025]

⁴ United Nation Environmental Program (2023). Environmental rule of law: Tracking progress and charting future directions, see <https://www.unep.org/resources/publication/environmental-rule-law-tracking-progress-and-charting-future-directions> [accessed on 15 March 2025].

⁵ For the Constitution of the Portuguese Republic see <https://www.parlamento.pt/sites/EN/Parliament/Documents/Constitution7th.pdf> [accessed on 16 March 2025].

states in section 112: “Every person has the right to an environment that is conducive to health and to a natural environment whose productivity and diversity are maintained”.⁶ Since then the number of constitutional guarantees of environmental rights has multiplied. The right to a healthy environment has also been incorporated in ordinary legislation in many countries.⁷ Additionally, there are many cases where courts have ruled that the right to a healthy environment is an implicit but essential part of the right to life.⁸

Similar stipulations of substantive environmental rights can increasingly be found in a number of international documents.⁹ The first formal acknowledgment appeared in the 1972 Stockholm Declaration.¹⁰ Despite its soft law status, the Declaration has heavily impacted environmental law, constitutional law, and human rights law. Most recently, the right to a clean, healthy and sustainable environment has been endorsed by the international community, both in the UN Human Rights Council and by the General Assembly.¹¹ The right is also reflected in Art. 1 of the Global Pact for the Environment, a document currently under consideration at the UN level, which, despite not having been formally

⁶ For the Constitution of the Kingdom of Norway see <https://lovdata.no/dokument/NLE/lov/1814-05-17?q=grunnloven> [accessed on 16 March 2025].

⁷ Knox, J. H. (2021). Human rights. In *The Oxford Handbook of International Environmental Law*. Oxford University Press, p. 784. Knox, J. H. (2020). Constructing the human right to a healthy environment. *Annual Review of Law and Social Science*, 16(1), p.79. Boyd. (2018), p. 17. May, J. R., & Daly, E. (2015). *Global environmental constitutionalism*. Cambridge University Press.

⁸ Boyd, (2012), p. 171. See for example on India, Kaushish, L. (2023). Analysis of the judicial trends on the right to a clean and healthy environment in India. *Indian J. Integrated Rsch. L.*, 3, 1. Kumar, A. and Ahirwar, A., 2022. Right to clean environment and right to life under Article 21. *Issue 4 Indian JL & Legal Rsch.*, 4, p.1.

⁹ For an overview of environmental rights at the international level, see Boyd. (2011), Chapter IV. Such rights have already been included in the 1988 Protocol of San Salvador as well as the 1981 African Charter on Human and Peoples’ Rights, see Merrills, J. G. (2007). Environmental rights. In *The Oxford handbook of international environmental law*. Oxford University Press, p. 664. For an overview of compliance mechanisms at the international level, see OHCHR, <http://www.ohchr.org/EN/HRBodies/Pages/HumanRightsBodies.aspx> [accessed on 13 March 2025]. Ebbesson, J. 2022. Getting it right: Advances of human rights and the environment from Stockholm 1972 to Stockholm 2022, *Environmental Policy and Law*, 52(2), p. 79. Limon, M., 2022. United Nations recognition of the universal right to a clean, healthy and sustainable environment: An eyewitness account. *Review of European, Comparative & International Environmental Law*, 31(2), p. 155.

¹⁰ Declaration of the United Nation Conference on the Human Environment, United Nation Doc. A/Conf.48/14/Rev.1 (1972), Principle 1. “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”.

¹¹ Boluarte, K. U., & Lopez, J. L. O. (2023). The development and recognition of the human right to a clean, healthy and sustainable environment. *LEX*, p. 133.

adopted, is highly regarded and reflects ongoing efforts towards its implementation.¹² Environmental human rights also appear in the regional Covenants, including the African

Charter on Human and People's Rights, the San Salvador Protocol to the Inter-American Convention on Human Rights, the Aarhus Convention, and, at least indirectly, the Arab Charter on Human Rights.¹³ In addition, they were inferred by international courts, such as the Inter-American Court on Human Rights in the case *Lhaka Honhat*, and the African Commission on Human and People's Rights in the case of *SERAC v. Nigeria*, and so forth.¹⁴ With regard to procedural environmental rights, the development was spurred in particular by Principle 10 of the Rio Declaration 1992, as well as the Aarhus Convention and the Escazú Agreement, which stipulate rights of access to information, participation and access to justice.¹⁵

Legal scholars, especially environmental lawyers, insist and advocate for a human rights-based approach to environmental protection as essential for achieving positive environmental outcomes.¹⁶ Tim Hayward has highlighted the benefits of constitutionalizing environmental rights, noting that it strengthens environmental protection rules, establishes a comprehensive legal framework, and ensures meaningful access to

¹² Knox, J. H. (2019). *The Global Pact for the Environment: At the crossroads of human rights and the environment*. *Review of European, Comparative & International Environmental Law*, 28(1), p. 40; for the draft of the International Group of Experts see <https://globalpactenvironment.org/uploads/EN.pdf> [accessed on 15 March 2025].

¹³ Organization of African Unity (OAU), *African Charter on Human and Peoples' Rights* ("Banjul Charter"), CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982), 27 June 1981, <https://www.refworld.org/legal/agreements/oau/1981/en/17306> [accessed 13 March 2025]; Organization of American States (OAS), *Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights* ("Protocol of San Salvador"), A-52, 16 November 1999, <https://www.refworld.org/legal/agreements/oas/1999/en/17768> [accessed 13 March 2025]; League of Arab States, *Arab Charter on Human Rights*, -, 15 September 1994, <https://www.refworld.org/legal/agreements/las/1994/en/10672> [accessed 13 March 2025]; Aarhus Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters, Aarhus, Denmark, 25 June 1998, UN Treaty Series, vol. 2161, p. 447.

¹⁴ See Inter-American Court of Human Rights (IACtHR), *Caso Comunidades Indígenas Miembros de la Asociación Lhaka Honhat (Nuestra Tierra) vs. Argentina* (Feb 6, 2020), and the *Social and Economic Rights Action Center (SERAC) v. Nigeria*, Decision, Comm. 155/96 (ACmHPR, Oct. 27, 2001).

¹⁵ See Jendroska, J./Bar, M. (2018). *Procedural environmental rights; for the Aarhus Convention* see <https://unece.org/DAM/env/pp/documents/cep43e.pdf> [accessed on 15 March 2025]; for the Escazu Agreement see <https://treaties.un.org/doc/Treaties/2018/03/20180312%2003-04%20PM/CTC-XXVII-18.pdf> [accessed on 15 March 2025].

¹⁶ Merrills. (2007), p. 664. Knox, J. H. (2016). *Human rights principles and climate change*. *The Oxford handbook of international climate change law*, Oxford University Press, p. 213.

justice for environmental issues.¹⁷ Similarly, David Boyd's extensive empirical research across 193 nation-states has shown that constitutional environmental rights lead to positive environmental outcomes in practice.¹⁸ Comparative studies further support the effectiveness and efficiency of a human rights-based approach to environmental protection.¹⁹

That being said, merely embedding environmental rights into the Constitution and safeguarding them in subsequent legislation will not effectively ensure environmental protection. David Boyd stated that the successful enforcement of environmental rights depends on both internal and external factors. Internal factors refer to explicit guarantees or limits within the text of a constitution, while external factors encompass a broad range of legal, social, political, economic, and cultural considerations.²⁰ He highlighted that conditions such as widespread poverty, civil wars, and authoritarian or unstable governments can play a decisive role in determining the influence of constitutional provisions.²¹ Therefore, regardless of whether human rights language appears in legal texts such as constitutions, legislation, or case law, the context is crucial for enforcement and its positive effects. Environmental rights as human rights may constitute a powerful tool of protection. At the same time, such rights cannot be an end in themselves, but depend on effective implementation.

The value of environmental rights as human rights depends on the extent to which they correspond to fundamental experiences of injustice not yet addressed by other existing guarantees. Otherwise, they may look good on paper, but distract from the fact that there are so many other guarantees that deserve proper implementation in the first place. Since the 1993 Vienna Conference on Human Rights, it should be clear that implementation is paramount, not the creation of many new substantive guarantees, even though a few, such as the human right to water, still have been missing.²² Otherwise, there is a risk of a human rights inflation that allows States to engage in window-dressing by transplanting new rights into their Constitution, hence redirecting attention away from actual deficits when it comes to implementation of the existing guarantees. There is a lot to say in favour of the fact that environmental rights, in light of the existing crises, do cover new ground, but their operation in concrete circumstances

¹⁷ Hayward, T. (2004). *Constitutional environmental rights*. OUP Oxford.

¹⁸ Boyd. (2011), p.117.

¹⁹ May. & Daly. (2015).

²⁰ Boyd (2012), p. 121.

²¹ *Ibid.*

²² The World Conference on Human Rights, Vienna Declaration and Programme of Action, A/CONF.157/23, United Nation General Assembly, 12 July 1993, <https://www.refworld.org/legal/resolution/unga/1993/en/14730> [accessed 13 March 2025].

merits more attention than it has so far attracted.

First of all, it is important to understand how environmental rights relate to other existing guarantees in the Constitution. This shows that in-depth studies on individual constitutions and their functioning in practice are necessary, so that legal orders can learn from each other. Since the Mongolian Constitution has, indeed, taken a bold step by introducing such rights at an early stage, the subsequent section focuses on environmental rights in this country. The aim is to generate deeper insights into whether it is justified to reformulate environmental concerns as rights claims,²³ and what consequences ensue from that in a very practical sense. The question is whether environmental rights, whatever their source and whether they are of a more substantive or more procedural character, are sensitive to specific local circumstances and may help communities protect and stabilize their ways of life whilst experiencing multiple challenges to their local environment.²⁴ This becomes particularly important when challenged by climate change, economic pressure, competing claims for land, etc., as is increasingly the case, hence showing interconnections to topics such as climate justice, sovereignty over natural resources, minority rights, and related issues.

II. Environmental Rights in the Mongolian Constitution

Mongolia's path to its liberal 1992 Constitution was a complex journey marked by political and economic reforms that began in the late 1980ies.²⁵ Initially, the communist party favoured a gradual transition, proposing amendments to the existing 1960 Constitution. However, this approach faced resistance, leading to the enactment of a transitional constitution in 1990.²⁶

The period between 1990 and 1992 witnessed a surge in constitutional activity, with various drafts and proposals circulating before the final version was adopted in January 1992.²⁷ This challenging process culminated in a

²³ Boyle, A. (2012). Human rights and the environment – Where next?, *European Journal of International Law* 2012, p. 613.

²⁴ Hanschel et al. (2022).

²⁵ Heaton, W. R. (1987). Mongolia in 1986: New plan, new situation. *Asian Survey*, 27(1), p. 75.

²⁶ Amarsanaa J., Bayarsaikhan B., Batbayar B., et al., (2010). Historical collection of Mongolian legislations [Mongolyn Khuuli Togtoomjiin Tuukhen Emkhtgel]. Volume VII, 1985- 1992, p. 308.

²⁷ Sanders, A. J. (1992). Mongolia's new constitution: blueprint for democracy. *Asian Survey*, p. 506. In addition to the official draft constitution, Mongol Ulsyn Töriin Ikh Tsaaz (The Great Code of the Mongolian State), several draft constitutions were proposed by various scholars and politicians, including (1) Chimid Byaraa's 'the Constitution of the People's Republic of Mongolia'; (2)

constitution that, notably, included environmental rights, making Mongolia one of 47 countries to constitutionalize such rights in the early 1990s.²⁸ This inclusion has had a profound impact on Mongolia's legal landscape, providing a crucial framework for environmental protection laws, policies, and standards, and influencing the ratification of numerous international environmental agreements.

Environmental protection provisions in constitutions can be categorized into five main groups: the substantive right to environmental quality, procedural environmental rights, the government's duty to protect the environment, individual responsibility for environmental protection, and other less prevalent provisions.²⁹ Mongolia stands out as one of the few nations that incorporates nearly all of these categories within its Constitution. The Constitution of Mongolia prescribes the substantive environmental rights in Article 16.2. "Mongolian citizens have the right to a healthy and safe environment, and to be protected against environmental pollution and ecological imbalance."³⁰

According to the Constitution, substantive environmental rights consist of four integral parts, including the right to a healthy environment, a safe environment, a free-of-pollution environment, and rights to a balanced environment. In practice, however, the first two parts, i.e. the right to a healthy and safe environment, characterize the whole article and are often referred to as environmental rights in the Mongolian context. For example, the citizens' rights to a healthy and safe environment appear twice in Article 6 of the Constitution: On the one hand, environmental rights are prescribed as a justification for accessing environmental impact information. On the other hand, environmental rights are employed as a consideration for balancing economic development and environmental protection.

Importantly, constitutional environmental rights often associate with other fundamental rights, including citizens' right to health, the right to file a complaint against the Government, the right to be a member of non-government organizations, the right to property, the right to access to

Orkhon D.'s 'the Constitution of the People's Republic of Mongolia'; (3) Baasanjav's the draft Constitution, (4) Batbayar B's 'The Constitution of Mongolia'; and (5) Enkhbaatar Ch., Lundeeljantsan D., Mandakhbilig B., et al's 'Mongol Ulsyn Tulgar Tsaaz' (the Basic Law of Mongolia).

²⁸ Boyd. (2011), p. 52.

²⁹ Boyd. (2011), p. 52.

³⁰ The Constitution of Mongolia [Mongol Ulsyn Üндсэн Khuuli], Chapter II., Art. 16.2., see informal translation here: <https://legalinfo.mn/mn/edtl/16532180497951>. [Accessed on 13 March 2025].

the courts, etc.³¹ Moreover, the environmental rights often resonate with other constitutional provisions concerning property rights, the State's constitutional responsibility to protect human rights and freedoms, the supremacy clauses, the fundamental principle of State activities, and so forth, in legal practice.³²

In terms of procedural environmental rights, the Constitution recently provided their recognition with a minimal and limited scope through the 2019 constitutional amendment. This amendment states in Article 6.2. that “a citizen has the right to know about the impact on the environment from the exploitation of subsoil resources within the framework of the right to live in a healthy and safe environment.”³³ It is most likely that the Constitution recognizes procedural environmental rights only to the extent that they deal with resource extraction.

In addition, the Constitution accepted partly that a citizen has the right to access environmental information. In other words, the Constitution is silent on other integral parts of environmental procedural rights, namely the right to participate in decision-making and access to justice in environmental matters. Instead, as we can see from the practices of environmental rights, parties have utilized a range of general and substantive rights from the human rights framework to address procedural environmental rights gaps. This includes, but is not limited to, the right to join or leave groups (Article 16.10), the right to submit complaints to the State bodies (Article 16.12), the right to appeal to courts (Article 16.14), among others. Regardless, because of recognition of environmental rights in the Constitution, the State of Mongolia has passed many of the procedural rules concerning environmental matters through environmental and administrative legislation.

The Mongolian Constitution attempts to reconcile two seemingly contrasting approaches to environmental protection: individual rights and duties. Regardless of the fact that Mongolia was moving toward the form of a liberal state, the constitutional drafters from the earliest proposal have never lost sight to include an individual duty in the Constitution. In fact, a duty to protect the environment and nature has been preserved with each update, and the convention members have emphasized the importance to entrench the environmental duty in the Constitution. While guaranteeing citizens the right to a healthy environment, the Constitution also places a duty on individuals to protect that environment.

Article 17.2 states that protecting nature and the environment is

³¹ CONST. of Mongolia, Art. 16.3., Art. 16.6., Art. 16.10. & Art. 16.14., etc.

³² CONST. of Mongolia, Art. 5., Art. 6., Art 19.1., Art. 70.1., & Art. 1.2.

³³ CONST. of Mongolia, Art. 6.2.

deemed a sacred duty for every citizen.³⁴ Interestingly, the Constitution categorizes duties into fundamental and sacred ones. Alongside the sacred duty to protect the environment and nature, citizens are also entrusted with other sacred responsibilities such as working, safeguarding their health, and raising and educating their children.

Chimid Byaraa, the principal architect of the democratic Constitution, once explained that the concept of sacred duty is deeply ingrained in the consciousness of citizens and is intrinsic to their essence.³⁵ Although many legal scholars in Mongolia agree that sacred duties do not carry legal consequences, they are seen as fostering goodwill among individuals. However, Lundendorj N. emphasizes that the term ‘sacred’ encompasses what is considered proper and morally right and what is deemed essential and necessary.³⁶ He further emphasized that working for oneself, safeguarding one’s health, and providing education for one’s children are fundamental measures that humans ought to undertake and that are necessary for their survival. Therefore, he said that the sacred duty encompasses both moral and legal dimensions, and failure to uphold this sacred environmental duty may also lead to legal sanctions. This leads to an apparently contradictory conclusion: While the sacred duty at the constitutional level may not technically carry direct legal consequences, it exerts significant legal implications in everyday legislation and enforcement within Mongolia.

The juxtaposition of rights and duties reflects the integration of international human rights law into Mongolia’s rich cultural heritage of environmental stewardship. The concept of environmental rights, including the right to a healthy and safe environment, emerged from the expansion of human rights law on the global stage. While this concept has been adopted by constitutions worldwide, its integration into legal systems with strong traditions of duty-based environmental protection, such as Mongolia’s, presents unique challenges³⁷. Mongolia’s historical commitment to a duty-based approach to environmental protection stems from its pastoralist mode of economy, its nomadic political system, and unique perspectives on the role of human beings in nature.

³⁴ CONST. of Mongolia, Art. 17.2.

³⁵ Chimid Byaraa. (2008), *Mongolian Constitutional law: Knowledge and practices* [Mongol Ulsyn Ündsen Khuuliin Medleg], p. 102.

³⁶ Lundendorj Nanzaddorj. (2023). *The Constitution of Mongolia - Scientific interpretation*. [Mongol Ulsyn Ündsen Khuuliin Shinjlekh Ukhaany Tailbar], p. 315.

³⁷ Even though some international documents have already indicated that duties may correspond to rights, such as the Principle 1 of the Stockholm Declaration or Art. 2 of the Global Pact for the Environment. Interestingly, duties are also in some way a part of the environmental guarantees in Art. 66 of the Portuguese Constitution.

The constitutional drafters eventually moved to ensure the logical conformity within constitutional texts concerning environmental rights and duties. They anticipated that citizens could not be the holders of the rights and duties at the same time. They have clearly seen the incompatibility of juxtaposing fundamental environmental rights and fundamental environmental duties in the Constitution. At the same time, the drafters and the convention members also refused to abandon the environmental duty from the Constitution. Therefore, to ensure the Constitution's logical flow and to promote the rights-based approach to environmental protection, the drafters disarmed the fundamental duty to protect the environment and nature by reinventing the duty as the sacred duty (*juramt үүрег*).

When it comes to the environmental rights in the Mongolian constitution, there are, however, issues of implementation that need to be pointed out and discussed. During his visit to Mongolia, John Knox, the Special Rapporteur on environmental rights, identified significant challenges in the effective implementation of the right to a safe, clean, healthy, and sustainable environment.³⁸ His report detailed a range of environmental issues facing Mongolia, including overgrazing, desertification, air and water pollution, water scarcity, and the loss of biodiversity and vegetation. Notably, he acknowledged the substantial pressure exerted on the environment by mining activities, which threatens the traditional harmonious relationship between nomadic herders and their surroundings. Knox also concluded that the government's responses to this environmental degradation had been largely ineffective.

Knox attributed the government's ineffective response to corruption, a weak rule of law, poor institutional capacity, and a lack of meaningful protection for human rights defenders and environmental activists. He recommended that Mongolia allocate the necessary resources to protect its environment, ensuring that these protections are implemented in practice, not just in legal documents. This includes providing robust legal protection for human rights defenders and environmental activists.

As a result, Mongolia has enacted laws to protect human rights defenders and environmental activists.³⁹ Yet, the various challenges as pointed out by John Knox seem to remain. They extend beyond environmental rights, affecting all human rights within the country.⁴⁰ As a result, the

³⁸ Knox, J.H. (2017). Report of the special rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment: biodiversity report. United Nations Human Rights Council, A/HRC/34/49, Wake Forest Univ. Legal Studies Paper.

³⁹ Law on Legal Status of Human Rights Defenders [*Khünii erkх khamgaalagchiin erkх zuin baidlyn tukhai*]. 02 April 2021. Find here: <https://legalinfo.mn/mn/detail?lawId=16207226850601>. [accessed on 13 March 2025].

⁴⁰ A poor practice of human rights is noted here: Ch.Enkhbaatar, Tom Ginsburg,

broader global criticisms of human rights,⁴¹ combined with the domestic challenges, significantly influence Mongolia's attitude toward the human rights system. Many Mongolians find the human rights-based approach to environmental protection ineffective and negate human rights law and institutions altogether. Therefore, effectively defending human rights law requires moving beyond legal interpretations and institutional adjustments. Instead, it necessitates a thorough examination of the fundamental socio-political and cultural contexts that shape its effectiveness and interpretation. In light of the energy that the environmental rights movement has injected into the debate, it seems appropriate for Mongolia to enhance its efforts to making these rights work in practice, whilst being mindful of local circumstances. The focus should be on protection for those who are most vulnerable and on finding societal solutions for sustainable development. Environmental rights can help to achieve this if they are implemented in a meaningful way.

P.Amarjargal, O.Mönkhsaikhán and et al. (2016). Assessment of the performance of the 1992 Constitution of Mongolia. United Nation Development Program Mongolia. Since 2002, the national human rights council has consistently highlighted inadequate protection of environmental human rights in their reports. Refer to the relevant reports for more details: The National Human Rights Commission of Mongolia (Mongol Ulsyn Khünii Erkhiiin Ündesnii Komiss) 2004. Human Rights and Freedom Report in Mongolia. Volume 3. p. 25. See the report here: <https://nhrcm.gov.mn/#/page/29/journal/list/29>. The National Human Rights Commission of Mongolia (Mongol Ulsyn Khünii Erkhiiin Ündesnii Komiss) 2005. Human Rights and Freedom Report in Mongolia. Volume 4, p. 45. The National Human Rights Commission of Mongolia (Mongol Ulsyn Khünii Erkhiiin Ündesnii Komiss) 2013. Human Rights and Freedom Report in Mongolia. Volume 12, p. 7. The National Human Rights Commission of Mongolia (Mongol Ulsyn Khünii Erkhiiin Ündesnii Komiss) 2018. Human Rights and Freedom Report in Mongolia. Volume 17, p. 5. The National Human Rights Commission of Mongolia (Mongol Ulsyn Khünii Erkhiiin Ündesnii Komiss) 2020. Human Rights and Freedom Report in Mongolia. Volume 19, p. 161. The National Human Rights Commission of Mongolia (Mongol Ulsyn Khünii Erkhiiin Ündesnii Komiss) 2023. Human Rights and Freedom Report in Mongolia. Volume 23, p. 8.

⁴¹ Some legal scholars have highlighted several practical inefficiencies in the human rights framework, noting that an excessive reliance on human rights can undermine democratic processes, lead to over-juridification, and cause the neglect of more fundamental rights. Furthermore, they express skepticism towards newly established rights, arguing that many of these rights are largely symbolic, lack real-world impact, and are difficult to enforce. Additionally, they point out the misuse of human rights by certain regimes, which often prioritize some rights over others, manipulating the human rights framework to undermine individual autonomy. Hirschl, R., 2009. *Towards juristocracy: the origins and consequences of the new constitutionalism*. Harvard University Press. Tasioulas, J., 2019. Saving human rights from human rights law. *Vand. J. Transnat'l L.*, 52, p.1167; Bennoune, K., 2019. In *Defense of Human Rights*. *Vand. J. Transnat'l L.*, 52, p.1209. Baxi, U., 2001. Too many, or too few, human rights. *Hum. Rts. L. Rev.* 1, p.1.

III. Conclusion

The analysis shows that environmental rights are a concept that is increasingly used both at constitutional and international levels. It stems from the hope that new human rights may contribute to tackling the multiple environmental crisis that we are currently facing. This hope is also expressed in the Mongolian Constitution in the ways we have outlined above. Our analysis has shown how important it is to look at environmental rights in the concrete constitutional and factual context. Simple legal transplantation and analysis without such context does not work. Many aspects matter in this regard: What other guarantees exist with regard to the environment, whether they are individual or collective rights or even duties, let alone duties by the state or state aims for environmental protection? Second, what matters is how the rule of law operates, i.e. what opportunities for effective enforcement and invocation are in place.

Finally, the question is how environmental rights operate in practice and to what extent they improve the lives of those most affected by environmental degradation. More research needs to be undertaken in this regard, looking at both achievements and remaining deficits. This may help to make the promises more effective that so many rely on, without running the risk of a human rights inflation. At the same time, it is clear that law, even in its most pronounced form, i.e. constitutionally guaranteed environmental human rights, cannot fully solve the grave environmental problems by itself. Whilst such rights provide important novel contributions and should not be underestimated, they need to be part of broader societal endeavors towards sustainable development. Balancing all of this is challenging, as we can see in many parts of the world. However, it is what we need if we are to tackle the multiple environmental crises effectively, whilst respecting legitimate interests of countries to seek welfare and prosperity. Mongolia's Constitution offers a rich field for study in this regard, and important lessons can be learned from it.

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