

Contents

List of Abbreviations	vii
Author's Declaration.....	viii
Acknowledgments.....	ix
Introduction.....	11
Chapter 1 The Right to a Healthy Environment: contextualization of a multi-disciplinary topic.....	15
1. 1 Uneven rights context.....	15
1. 2 Contextualization of the topic: why the RHE.....	17
1. 3 Political context.....	18
1. 4 Approaching RHE: a complex multi-disciplinary topic	19
1. 5 Structure of the Thesis	32
Chapter 2 Research Methodology	34
2. 5 Research question	34
2. 2 What is methodology, purpose and scope of methodology chapter	35
2. 3 Methodology chosen, underlying assumptions and multidisciplinary approach 36	
2. 4 Hybrid approaches to human rights practice	37
2. 5 Conclusion	46
Chapter 3 Legal Provisions and Normative Principles for Environmental Protection	47
3. 1 The emergence of environmental protection as a human rights issue	48
3. 1. 1 Conclusion	56
3. 2 Environment as a legal standard within existing human rights instruments	59
3. 2. 1 Regional Systems, National constitutions and other laws	60
3. 2. 2 American Convention on Human Rights.....	61
3. 2. 3 African Charter on Human and Peoples' Rights	65
3. 2. 4 European Convention on Human Rights and Aarhus Convention	67
3. 2. 5 Conclusion	75
3. 3 National Constitutions and Law	77
3. 3. 1 Bolivia.....	77
3. 3. 2 South Africa.....	79
3. 3. 3 Portugal.....	79
3. 3. 4 Conclusion	80

3. 4	Human Rights Mechanisms: Universal Periodic Review.....	80
3. 5	Conclusion	83
Chapter 4 The Right to a Healthy Environment.....		86
4. 1	The Right to a Healthy Environment: a ‘new’ human right?	86
4. 1. 2	An alternative view: collective and solidarity concerns	90
4. 1. 3	Enforceability of the RHE	92
4. 1. 4	Advantages and limitations of a universal RHE.....	92
4. 2	Approaching environmental protection through non-rights-based approaches – public regulation and market mechanisms.....	94
4. 3	Rights Based approaches: an introduction.....	96
4. 3. 1	RBAs: channelling human rights principles for processes and outcomes	97
4. 4	Reactive and corrective character of RBAs.....	100
4. 5	Interpreting economic, social and cultural to address environmental issues..	102
4. 5. 1	Right to health.....	103
4. 5. 2	Right to life	103
4. 5. 3	Indigenous rights.....	105
4. 5. 4	Right to respect for private and family life: the ECtHR jurisprudence	107
4. 5. 5	Other rights and their environmental dimensions.....	109
4. 5. 6	Summary of ESC RBAs	110
4. 6	Procedural rights.....	112
4. 6. 1	Access to Information	113
4. 6. 2	Public participation	114
4. 6. 3	Access to justice.....	116
4. 6. 4	Summing up procedural rights.....	118
4. 7	International principles of environmental Law informing the RHE.....	121
4. 8	Conclusion	126
Chapter 5 Cases of environmental procedural rights: Panama and the sustainable development challenge.....		129
5. 1	Background to the Panama case-study	130
5. 2	The environmental legislative framework.....	142
5. 2. 1	Constitutional RHE.....	144
5. 3	Environmental Procedural rights	147
5. 3. 1	Access to Information.....	147
5. 3. 3	International human rights mechanisms to enhance domestic RBAs to environmental issues.....	153

5. 3. 4	Legal precedents in Panama	154
5. 4	Development Projects and Environmental Contestation	159
5. 4. 1	Extractive Industries: Panama and copper mining	161
5. 4. 2	Renewable energies: Hydropower and Indigenous peoples	168
5. 6	Conclusion	184
Chapter 6	From the procedural approach to access rights	187
6. 1	Human rights, environment and development: new meanings within the Latin American regional framework	190
a.	The Latin American process for the implementation of Rio Principle 10	192
b.	NGO Guidelines to improve Environmental Impact Assessment of Mining Projects.....	194
c.	Innovations in environmental assessment to align RHE and SD.....	196
6. 2	Meaningful Participation. The substantive quality of participation	197
6. 2. 1	Content of the RHE through participation	206
6. 2. 2	Four A's criteria of ESC rights applied to Public Participation	206
6. 2. 3	Defining a 4As approach to make RHE meaningful	210
6. 2. 4	Comparing procedural good practices in environmental policy making and 4 A's criteria for the RHE.....	218
6. 2. 5	Substantive interpretation of RHE	220
6. 3	Recovering human rights indivisibility: the Right to a Healthy Environment as a vector of development and solidarity rights	222
6. 3. 1	Indivisibility and futurity of rights: drawing complementarities between the RHE, the Right to Development and Sustainable Development	222
6. 3. 2	RHE and SDGs: relevant implications on the process of participation....	227
Chapter 7	Why the RHE matters. Concluding Remarks	232
References	239

List of Boxes

Box 1 The Access Initiative (TAI) Methodology.....	113
Box 2 The Human Dependency on Nature (HDN).....	231
Box 3 The Environmental Democracy Index (EDI).....	231

List of Tables

Table 1 Summary of Environmental Soft Law Instruments.....	58
Table 2 EIA provisions for high impact development projects.	152
Table 3 4 A's criteria for procedural rights.	215
Table 4 Identification of 4 A's criteria for 'meaningful participation'.....	217

List of Figures

Figure 1 Flow chart environmental legal framework in Panama... ..	130
Figure 2 Flow chart regulations of environmental procedural rights	143

List of Maps

Map 1 Panama: Human Development Index.....	133
Map 2 Panama: Indigenous population, demarcated territories and protected areas	140
Map 3 Panama: awarded mineral concessions and reserves.	141
Map 4 Panama: case studies locations	160