International Legal Protection of the Right to a Clean, Healthy and Sustainable Environment

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Abstract

The thesis analyses the international legal protection of the right to a clean, healthy and sustainable environment. It examines the formation of the right, its recognition in United Nations instruments, regional treaties and the case law of international courts. The study identifies the uncertain content of the right, the absence of a universal binding instrument and differences in the level of protection. Recommendations are made for improving the legislation of Uzbekistan in line with its international obligations.

Keywords

clean and healthy environment, human rights, international law, Aarhus Convention, case law, Uzbekistan.

Toza, sog‘lom va barqaror atrof-muhitga bo‘lgan huquqning xalqaro-huquqiy himoyasi

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Annotatsiya. *Tezisda toza, sog‘lom va barqaror atrof-muhitga bo‘lgan huquqning xalqaro-huquqiy himoyasi tahlil qilinadi. Huquqning shakllanishi, BMT hujjatlarida tan olinishi, mintaqaviy shartnomalar va xalqaro sud amaliyoti ko‘rib chiqiladi. Huquq mazmunining noaniqligi, majburiy kuchga ega universal hujjatning yo‘qligi va himoya darajasidagi tafovutlar aniqlanadi. O‘zbekiston qonunchiligi va xalqaro majburiyatlari doirasida takomillashtirish bo‘yicha takliflar beriladi.*

Kalit so‘zlar: *toza va sog‘lom atrof-muhit, inson huquqlari, xalqaro huquq, Orxus konvensiyasi, sud amaliyoti, O‘zbekiston.*

Международно-правовая защита права на чистую, здоровую и устойчивую окружающую среду

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Аннотация. В тезисах анализируется международно-правовая защита права на чистую, здоровую и устойчивую окружающую среду. Рассматриваются формирование этого права, его признание в документах ООН, региональные договоры и практика международных судов. Выявляются неопределённость содержания права, отсутствие универсального обязательного документа и различия в уровне защиты. Предлагаются рекомендации по совершенствованию законодательства Узбекистана с учётом его международных обязательств.

Ключевые слова: *чистая и здоровая окружающая среда, права человека, международное право, Орхусская конвенция, судебная практика, Узбекистан.*

Kirish

Havoning ifloslanishi, suv tanqisligi, yerlarning degradatsiyasi va iqlim o‘zgarishi bugun insonning hayoti va salomatligiga bevosita ta’sir ko‘rsatmoqda. Shu sababli atrof-muhit masalasi tobora ko‘proq inson huquqlari nuqtayi nazaridan muhokama qilinmoqda. Uzoq vaqt davomida toza, sog‘lom va barqaror atrof-muhitga bo‘lgan huquq alohida inson huquqi sifatida tan olinmadi. Faqat so‘nggi yillarda BMT organlari, mintaqaviy sudlar va Xalqaro sud bu borada aniq qadamlar tashladi. Shunga qaramay, huquqning mazmuni, huquqiy kuchi va uni ta’minlash mexanizmlari hali to‘liq oydinlashmagan.

Tezisning maqsadi toza, sog‘lom va barqaror atrof-muhitga bo‘lgan huquqning xalqaro-huquqiy himoyasini tahlil qilish, mavjud muammolarni aniqlash va O‘zbekiston uchun tavsiyalar ishlab chiqishdir.

Maqsadga erishish uchun quyidagi vazifalar belgilandi: huquqning shakllanish bosqichlarini ko‘rsatish, shartnoma asoslari va sud amaliyotini tahlil qilish, asosiy

muammolarni aniqlash hamda milliy qonunchilikni takomillashtirish bo‘yicha takliflar berish.

Huquqning shakllanishi va BMT tomonidan tan olinishi

Atrof-muhit sifati bilan inson huquqlari o‘rtasidagi bog‘liqlik xalqaro hujjatlarda birinchi marta 1972-yilgi Stokgolm deklaratsiyasida aniq ifodalangan. Uning 1-tamoyilida inson qadr-qimmat va farovonlikka imkon beradigan sifatdagi muhitda erkinlik, tenglik va yetarli hayot sharoitlariga asosiy huquqqa ega ekani, shu bilan birga bu muhitni himoya qilish va yaxshilash mas’uliyatini ham o‘z zimmasiga olishi aytilgan.[1] Biroq deklaratsiya shartnoma emas edi, shuning uchun u davlatlarga majburiy talablar yuklamadi. Oradan yarim asrdan ko‘proq vaqt o‘tib, bu huquq global darajada rasman tan olindi. 2021-yil 8-oktyabrda BMT Inson huquqlari kengashi 48/13-sonli rezolyutsiyada toza, sog‘lom va barqaror atrof-muhitga bo‘lgan huquqni inson huquqi sifatida e’tirof etdi. Hujjat 43 ovoz bilan qabul qilindi, qarshi ovoz berilmadi, to‘rt davlat betaraf qoldi.[2] 2022-yil 28-iyulda BMT Bosh Assambleyasi ham 76/300-sonli rezolyutsiya orqali shu huquqni tan oldi va davlatlarni uni ta’minlash bo‘yicha sa’y-harakatlarni kuchaytirishga chaqirdi. Rezolyutsiyaga 161 davlat ovoz berdi, qarshi chiqqan bo‘lmadi, sakkiz davlat, jumladan Markaziy Osiyodan Qirg‘iziston, betaraf qoldi.[3] Ikkala rezolyutsiya ham yuridik majburiy emas, ammo ular davlatlarning bu masaladagi keng qo‘llab-quvvatlashini ko‘rsatadi.

Universal darajada bu huquq hozircha alohida shartnoma moddasi sifatida mustahkamlanmagan. Masalan, Iqtisodiy, ijtimoiy va madaniy huquqlar to‘g‘risidagi xalqaro pakt sog‘liq huquqini ta’minlash choralari qatorida atrof-muhit gigiyenasini

[1] UN Conference on the Human Environment. Declaration of the United Nations Conference on the Human Environment (Stockholm Declaration), Principle 1. Stockholm, 5–16 June 1972. UN Doc. A/CONF.48/14/Rev.1.
[2] UN Human Rights Council. Resolution 48/13, The human right to a clean, healthy and sustainable environment. A/HRC/RES/48/13, 8 October 2021 (43 votes in favour, none against, 4 abstentions). https://www.ungeneva.org/ar/news-media/news/2021/10/access-healthy-environment-declared-human-right-un-rights-council
[3] UN General Assembly. Resolution 76/300, The human right to a clean, healthy and sustainable environment. A/RES/76/300, 28 July 2022 (161 votes in favour, none against, 8 abstentions). https://digitallibrary.un.org/record/3982659

yaxshilashni ham ko‘rsatadi, ammo atrof-muhitga alohida huquq belgilamaydi.[4] Shu sababli asosiy rivojlanish mintaqaviy darajada kechdi.

1998-yilgi Orxus konvensiyasi bu sohadagi eng mashhur hujjatlardan biri. U har bir insonning, hozirgi va kelajak avlod vakillarining, sog‘lig‘i va farovonligi uchun yetarli bo‘lgan muhitda yashash huquqini himoya qilishga hissa qo‘shishni maqsad qiladi. Buning uchun konvensiya uchta kafolatni belgilaydi: ekologik ma’lumotga kirish, qarorlar qabul qilishda ishtirok etish va sudga murojaat qilish.[5] Demak, u ko‘proq protsessual huquqlar orqali ishlaydi. Lotin Amerikasi va Karib havzasida 2018-yilda qabul qilingan Eskasu kelishuvi (Escazú) shu yo‘nalishni davom ettirdi. U 2021-yil 22-aprelda kuchga kirgan va sog‘lom atrof-muhitda yashash huquqini himoya qilishga qaratilgan.[6] Afrikada 1981-yilgi Banjul xartiyasining 24-moddasi barcha xalqlarning o‘z rivojlanishiga qulay bo‘lgan umumiy qoniqarli muhitga huquqini mustahkamlaydi. Bu moddaga birinchi marta SERAC Nigeriyaga qarshi ishida (2001) Afrika komissiyasi mazmun berdi.[7] Amerikaaro tizimda esa 1988-yilgi San-Salvador protokolining 11-moddasi har kimning sog‘lom muhitda yashash huquqini nazarda tutadi.[8] Yevropa inson huquqlari konvensiyasida bunday alohida modda yo‘q, shuning uchun bu huquq Yevropada sud talqini orqali himoyalanadi.

Xalqaro sud amaliyoti

Sud amaliyoti bu huquqning mazmunini aniqlashda muhim rol o‘ynamoqda. Amerikaaro inson huquqlari sudi 2017-yil noyabrdagi 23/17-sonli maslahat xulosasida

[4] International Covenant on Economic, Social and Cultural Rights, 16 December 1966, Art. 12(2)(b). United Nations Treaty Series, vol. 993, p. 3.
[5] Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters, Aarhus, 25 June 1998, Art. 1. United Nations Treaty Series, vol. 2161, No. I-37770.
[6] Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean (Escazú Agreement), Escazú, 4 March 2018; entered into force on 22 April 2021. https://repositorio.cepal.org/bitstream/handle/11362/43583/1/S1800428_en.pdf
[7] African Charter on Human and Peoples’ Rights, 27 June 1981, Art. 24; African Commission on Human and Peoples’ Rights. Social and Economic Rights Action Center and Center for Economic and Social Rights v. Nigeria, Communication No. 155/96 (2001).
[8] Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights (Protocol of San Salvador), 17 November 1988, Art. 11(1).

sog‘lom atrof-muhit huquqini Amerika konvensiyasining 26-moddasi asosida mustaqil huquq sifatida tan oldi. 2025-yil 3-iyuldagi 32/25-sonli xulosada esa sog‘lom iqlim huquqini ham alohida ajratib ko‘rsatdi.[9] Yevropa inson huquqlari sudi 2024-yil 9-aprelda «KlimaSeniorinnen» ishida Konvensiyaning 8-moddasi shaxsning iqlim o‘zgarishining jiddiy salbiy oqibatlaridan davlat organlari tomonidan samarali himoyalanish huquqini ham o‘z ichiga olishini bildirdi va Shveytsariya bu majburiyatni bajarmaganini aniqladi.[10] Eng muhim qadam Xalqaro sudning 2025-yil 23-iyuldagi maslahat xulosasi bo‘ldi. Sud toza, sog‘lom va barqaror atrof-muhit hayot huquqi, sog‘liq huquqi va munosib turmush darajasi kabi ko‘plab huquqlardan foydalanishning old sharti ekanini, shu sababli bu huquq boshqa inson huquqlaridan foydalanish uchun zarur ekanini ta’kidladi. Shu bilan birga, tahlilchilar xulosada huquqning mazmuni batafsil ochib berilmaganini qayd etadi.[11]

Asosiy muammolar

Birinchi muammo, huquqning mazmuni va huquqiy maqomi hali bahsli. BMT Bosh Assambleyasida bir qator delegatsiyalar bu huquqning mazmuni va ko‘lami bo‘yicha umumiy kelishilgan tushuncha yo‘qligini ta’kidladi. Rossiya vakili huquqni faqat xalqaro shartnomalarda tan olingandan keyingina huquqiy deb atash mumkinligini bildirdi, Pokiston esa rezolyutsiyani huquqiy tasdiq emas, siyosiy matn deb atadi.[12]

Ikkinchi muammo, majburiy kuchga ega universal hujjatning yo‘qligi. Rezolyutsiyalar siyosiy ahamiyatga ega, lekin davlatlarni yuridik jihatdan bog‘lamaydi.

[9] Inter-American Court of Human Rights. Advisory Opinion OC-23/17, The Environment and Human Rights, 15 November 2017; Advisory Opinion OC-32/25, Climate Emergency and Human Rights, 3 July 2025.
[10] European Court of Human Rights (Grand Chamber). Verein KlimaSeniorinnen Schweiz and Others v. Switzerland, application no. 53600/20, judgment of 9 April 2024.
[11] International Court of Justice. Obligations of States in Respect of Climate Change, Advisory Opinion of 23 July 2025, paras 387–393. https://www.icj-cij.org/sites/default/files/case-related/187/187-20250723-adv-01-00-en.pdf; see also Sabin Center for Climate Change Law, Columbia Law School. World’s Highest Court Embraces the Right to a Healthy Environment, 29 July 2025. https://blogs.law.columbia.edu/climatechange/2025/07/29/worlds-highest-court-embraces-the-right-to-a-healthy-environment
[12] IISD SDG Knowledge Hub. UNGA Recognizes Human Right to Clean, Healthy, and Sustainable Environment, 2022. https://sdg.iisd.org/news/unga-recognizes-human-right-to-clean-healthy-and-sustainable-environment/

Sudlarning maslahat xulosalari ham majburiy emas, garchi huquqning qanday talqin qilinishini ko‘rsatsa-da.

Uchinchi muammo, himoyaning notekisligi. Afrika va Amerikada huquq shartnomalarda mustahkamlangan, Yevropada u asosan sud talqini orqali himoyalanadi, Osiyoda esa mintaqaviy inson huquqlari sudi mavjud emas. Natijada bir xil huquqning himoya darajasi odamning yashash joyiga bog‘liq bo‘lib qoladi.

O‘zbekiston uchun ahamiyati va takliflar

O‘zbekistonda bu huquq konstitutsiya darajasida mustahkamlangan. Konstitutsiyaning 49-moddasiga ko‘ra, har kim qulay atrof-muhitga va uning holati haqida ishonchli ma’lumotga ega bo‘lish huquqiga ega. Davlat esa Orol bo‘yining ekologik tizimini himoya qilish va tiklash, hududni ijtimoiy-iqtisodiy rivojlantirish bo‘yicha chora ko‘radi.[13] Shuni ham qayd etish kerakki, Konstitutsiyada «qulay atrof-muhit» iborasi ishlatilgan, BMT rezolyutsiyalarida esa «toza, sog‘lom va barqaror atrof-muhit» deyiladi. Amaliyotda bu iboralarni o‘zaro moslashtirib talqin qilishga to‘g‘ri keladi.

2025-yilda O‘zbekiston Orxus konvensiyasiga qo‘shildi: qo‘shilish hujjati 25-martda topshirildi, konvensiya mamlakat uchun 23-iyundan kuchga kirdi.[14] Shu yili ekologik ekspertiza, atrof-muhitga ta’sirni baholash va strategik ekologik baholash to‘g‘risidagi qonun ham qabul qilindi. Unda ta’sirni baholash birinchi marta qonun darajasida mustahkamlandi.[15] Amaliy qiyinchiliklarga mahalliy olimlar ham e’tibor qaratmoqda. D. Nodirbekova Orxus konvensiyasini joriy etish muammolarini tahlil qilib, ekologik ma’lumotni mustaqil huquqiy kategoriya sifatida rivojlantirish, davlat

[13] Constitution of the Republic of Uzbekistan (2023 edition), Art. 49. https://gov.uz/en/eco/news/view/25454
[14] UN Secretary-General (depositary). Aarhus Convention. Uzbekistan: Accession. Depositary Notification C.N.152.2025.TREATIES-XXVII.13, 25 March 2025. https://treaties.un.org/doc/Publication/CN/2025/CN.152.2025-Eng.pdf
[15] Official portal of the Republic of Uzbekistan (gov.uz). Uzbekistan Presented Measures to Strengthen Capacity in Environmental Governance and the Implementation of the Aarhus Convention Principles, 25 June 2026. https://gov.uz/en/ecoekspertiza/news/view/183902

organlari uni o‘z tashabbusi bilan ochiq e’lon qilishi hamda sud va ma’muriy himoya mexanizmlarini kuchaytirish zarurligini ko‘rsatadi.[16] Bu huquqning amaliy ahamiyati ayniqsa Orol bo‘yida seziladi. Ekologiya vaziri 2025-yilda dengizning qurishi mintaqadagi qariyb bir million kishining salomatligi va tirikchiligiga xavf solayotganini ta’kidlagan. 2021-yil 18-mayda esa BMT Bosh Assambleyasi O‘zbekiston tashabbusi bilan Orol bo‘yini ekologik innovatsiyalar va texnologiyalar zonasi deb e’lon qildi.[17]

Shundan kelib chiqib, quyidagilar tavsiya etiladi: qonunchilikda toza, sog‘lom va barqaror atrof-muhit tushunchasini aniqlashtirish; Orxus konvensiyasi talablarini sud va ma’muriy amaliyotda to‘liq joriy etish; xalqaro va mintaqaviy sudlar amaliyotini milliy huquqni qo‘llashda inobatga olish.

Xulosa

Tadqiqot shuni ko‘rsatdiki, toza, sog‘lom va barqaror atrof-muhitga bo‘lgan huquq so‘nggi yillarda xalqaro darajada tan olindi. BMT Inson huquqlari kengashi va Bosh Assambleyasining rezolyutsiyalari, mintaqaviy shartnomalar hamda sud amaliyoti bu huquqning huquqiy asoslarini mustahkamlamoqda. Xalqaro sudning 2025-yilgi maslahat xulosasi bu jarayonda alohida ahamiyatga ega.

Shu bilan birga, huquqning mazmuni bahsli, universal majburiy hujjat yo‘q, himoya darajasi esa mintaqalar bo‘yicha farq qiladi. O‘zbekiston uchun Konstitutsiyaning 49-moddasi va Orxus konvensiyasi muhim tayanch bo‘lib xizmat qiladi. Bu huquqni amalda ta’minlash uchun milliy qonunchilikda tushunchalarni aniqlashtirish, ekologik ma’lumotga kirish va sudga murojaat qilish mexanizmlarini kuchaytirish hamda xalqaro sud amaliyotini inobatga olish maqsadga muvofiq.

[16] Nodirbekova, D.A. The Right to Access Environmental Information: Problems of Implementing the Aarhus Convention in Uzbekistan. TSUL Legal Report, 2026, vol. 7, no. 2, pp. 12–21. https://legalreport.tsul.uz/index.php/legalreport/article/view/117

[17] Ministry of Ecology, Environmental Protection and Climate Change of the Republic of Uzbekistan. Uzbekistan Highlights Climate Efforts at the Third UN Conference, 7 August 2025. https://gov.uz/en/eco/news/view/76248; UN General Assembly. Resolution 75/278, Declaring the Aral Sea region a zone of ecological innovations and technologies. A/RES/75/278, 18 May 2021.

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