



The Connection Between Sustainability and the International Court of Justice through the case of Cellulose Plants

Case study: Pulp Mills on the River Uruguay (Argentina V. Uruguay)

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Abstract

Aim: To relate the International Court of Justice with sustainability. To highlight the importance of fulfilling the Economic, Social and Cultural rights and the Rights of Third Generation for all human beings.

Methodology: The paper contains the definition of sustainability and doctrine about the International Court of Justice and human rights. To conduct the research, the methodological technique of documental investigation is applied. Furthermore, there is a deep analysis of the case of the ICJ about Pulp Mills on the River Uruguay of Argentina V. Uruguay, where the concepts mentioned before come together and relate between each other.

Findings: It was revised how the definition of sustainability is related with the decision taken by the International Court of Justice in the case Pulp Mills on the River Uruguay Argentina V. Uruguay. The question about how the ICJ relates to sustainability in this case study, can be answered by discovering if the economic, cultural and social rights are considered, as well as the Rights of Third Generation, when the Court decides in the case example. In the judgment of Argentina V. Uruguay, the Court did not have enough proof from the environmental report to check if there was contamination and if the plants were harming the environment.

Value: It is important to determine how the juridical organ of the United Nations substantiates the importance of sustainability, Rights of Third generation and economic, social and cultural rights. Moreover, this is relevant in a world that it so contaminated and with the big alarm of global warming threatening humanity.

Keywords: sustainability-contamination, International Court of Justice, Rights of Third Generation, integral view of human rights

This article is the result of the final work of a subject related to my thesis that I prepared for my Master in Conflict, Cooperation and Negotiation in International Relations and Diplomacy at the University Alfonso X, el Sabio in Madrid, Spain.

Introduction

In this work, the idea of sustainability through a case of the International Court of Justice will be revised. First, the definition of sustainability, through a concept of the Brundtland Report will be introduced. Then, relevant works of other authors, who are related to the subject of the International Court of Justice and human rights will be presented. Later, it will be shown how the idea of sustainability is linked to the subject of this article. This will be done through the example of the case Pulp Mills on the River Uruguay about of the company Botnia over the Uruguay River, where the applicant was Argentina and the defendant was Uruguay. Finally, in the conclusion the ideas that have been presented before will be summarized.

I seek the answer to the question of how the International Court of Justice relates to sustainability in the case study mentioned above.

The concept of Sustainability

The concept of sustainable development is taken from the Brundtland Report: *‘Humanity has the ability to make development sustainable to ensure that it meets the needs of the present without compromising the ability of future generations to meet their own needs. The concept of sustainable development does imply limits - not absolute limits but limitations, imposed by the present State of technology and social organization on environmental resources, and by the ability of the biosphere to absorb the effects of human activities. But technology and social organization can be both managed and improved to make a way for a new era of economic growth...’* (World Commission of Environment and Development of United Nations, 1987).

This report was named ‘Our common future’, and it was prepared in 1987 for the World Commission of Environment and Development of the United Nations. The key of this definition is the idea of not compromising the future of the

new generations of the planet and make difficult to them to satisfy their needs. The aim would be that the current generations can use the natural resources to meet their basic needs, without ruining the possibility of future generations of achieving the fulfilment of their basic essentials with the same amount of natural resources.

Sustainability can be summarized as *'a process for maintaining an economic, social and environmental friendly mechanism that can be preserve for a long-term, with the goal of achieving a better care, productive, protect and equal environment for the human beings to live in'* (World Commission of Environment and Development of United Nations, 1987).

The aim is that sustainability is related with a long-term plan to seize the natural resources that the human being has available to satisfy their basic needs but without ruining the possibility of reaching these natural resources for the future generations.

Furthermore, the article 29.3 of the Brundtland report determines: *'Sustainable global development requires that those who are more affluent adopt lifestyles within the planet's ecological means - in their use of energy, for example. Further, rapidly growing populations can increase the pressure on resources and slow any rise in living standards; thus sustainable development can only be pursued if population size and growth are in harmony with the changing productive potential of the ecosystem.'* (World Commission of Environment and Development of United Nations, 1987).

It is relevant to understand that sustainability is an everyday practice, a learning process, a strategy, a way of living, but also an objective and a goal.

Moreover, an important concept to take into account is the Rights of Third Generation that are established to achieve this concept of sustainability. Some of this are: the rights to development, to a healthy environment, or to share in the exploitation of the common heritage of mankind.

Brief Historical Reference of the International Court of Justice

The International Court of Justice was established in 1945 by the United Nations Charter. It is the jurisdictional organ of the United Nations, which was the replacement of the Permanent Court of Justice, that have been established in 1920, under the League of Nations. The ICJ has its own statute that it is in concordance with the U.N. Charter. The seat of the Court is in The Hague (United Nations, 2000).

The main objectives of the Court are: 1- Resolve in concordance with International Law, the juridical controversies that the States present before it. 2- Dictate Consultative Opinions about juridical questions that are asked by the specialized organs of the United Nations, which are authorized for this. (United Nations, 2000).

The creation of the International Court of Justice; was the culmination of a long process, in which there were gradually developed the alternative and pacific methods of resolution of controversies. (United Nations, 2000).

The success of the Arbitration lead to the idea of the creation of an International Court of Justice. In spite of this, first the Permanent Court of Arbitrage was founded; in 1902 and after that the Permanent Court of International Justice by the League of the Nations was created. Then, in 1945, this Court was replaced by the International Court of Justice (United Nations, 2000).

The jurisdiction of the International Court of Justice depends on the will of the States of taking a controversy in front of this court. This worked in the same way at the Permanent Court of Arbitrage. The novelty of the International Court of Justice is that a State can recognize beforehand the mandatory jurisdiction of this court in any controversy that could appear in the future with other signatory State. One State can bring another one unilaterally to the Court without signing a previous agreement with that State (United Nations, 2000).

The International Court of Justice is a civil tribunal with a concrete competence: the solution of disputes between States and the emission of consultative opinions. It does not have any subsidiary organs. This Court does not have criminal jurisdiction and it can't prosecute individuals. For that purpose, the International Criminal Court exists. (United Nations, 2000).

A glance at the doctrine of Human Rights

International Human Rights are now an integral part of the Public International Law. All States profess to respect certain international human rights. But while their existence in a legally form such as treaties or covenants is out of discussion, their content remains hotly disputed. Every State claims to promote respect for key human rights and fundamental freedoms within its territory but not all of them apply these human rights and fundamental freedoms in practice (Smith, 2012). This is where the International Court of Justice comes in. Although it is not a human rights exclusive tribunal as the Jurisdictional Organ of the United Nations has to guarantee the protection of these kind of rights in order to maintain peace and security.

Even when a State accepts a particular human rights treaty it can still avoid full legal responsibility by a variety of legal means. These are important as they impact on the extent of State's obligations (Smith, 2012)

The fight during the Cold War, that tried to define if civil and political rights were more important than economic, social and cultural rights, did not add value to the defense of human rights. The first category of rights was defended by the United States and the second by the Soviet Union in relation with their ideologies and politics. In the end, they are all human rights that must be fulfilled. Currently, the nine core treaties of human rights, that will be mentioned later in this article, are the key for the legislation of human rights including the International Declaration of Human Rights.

The International Court of Justice and its development on Human Rights

Not much has been written this subject with this approach. This may have to do with the fact that the International Court of Justice it is not an exclusive human rights tribunal. Yet, it is relevant to observe how the jurisdictional organ of the most important international organization of the world resolves the issues related to human rights and which is the path in which the ICJ decides about this category of rights.

Furthermore, José María Ruda wrote an article entitled: *'The development of the International Public Law by the International Court of Justice'*. In this text, the author addresses about the political and jurisdictional character of the judgments of the Court. He documents about how despite the fact that the solutions of the tribunal are only binding for the parties the Court created a doctrine which is an important base for the International Law. Perhaps the most interesting part of the text of Ruda for this research is his arguments about the publication of the former judge of the International Court, Hersch Lauterpach. The text of this latter is called *'The development of international Law by the international Court of Justice'* and it documents several subjects related to this Court. Also, describes some cases of the ICJ (Ruda, 1958).

Another important study about the International Court of Justice, is the *'Jurisprudential Developments and the recent practice in the contentious Jurisdiction of the International Court of Justice'* of Carlos Espadiú Berdú. This author arguments about the revitalization of the tribunal since the end of the Cold War and analyze the reasons for this. The author considers extensive material about the voluntary decision of submitting a controversy to the Court

and the duty of being obliged to comply a sentence established for this one (Espadiú, 1996).

In the branch of the International law of Human rights, there is an interesting article for this investigation, wrote by Monica Pinto, that is called '*Human Rights in the Jurisprudence of the International Court of Justice*'. She documents that human rights are a creation of a juridical and political order.

Pinto establishes a chronology of the history of human rights in the International Court of Justice. She chose the judgments according if they marked a tendency in this category of rights. Pinto highlights these resolutions and explains why they are important. Furthermore, this author establishes that the competence is not only referred to the State, but also to other important factors that have made contributions to the suffering of some populations (Pinto, 2007).

There is an article of Augusto Cancado Trindade, about the justifiability of the economic, social and cultural rights in the International context. He was a judge in the ICJ. This may be the most interesting text for the part of sustainability for my study. The author substantiates about the universality of human rights, and the importance of these in the deterioration of the conditions of life in several segments of the world population (Trindade & Augusto, 1998).

Cancado Trindade documents in his text the dichotomy and the different treatment of two categories of human rights: civil and politics and economic, social and cultural rights. He determines that the expansion and generalization of these rights made possible to focus on the prerogatives of several groups of people that were unprotected and needed a special safeguard such as refugees, workers, stateless people, women, children, elderly people, indigenous or people with disabilities. The author determines the importance of the equality of all human rights and reject the dichotomy between the two categories mentioned before. He grounds that there is a core of fundamental rights that has a non-derogable character (Trindade & Augusto, 1998).

Continuing with this author, he states that the conception of Welfare Rights had a lot to do with the new perspective over the economic, social and cultural rights. Trindade documents a chronology of the universal character of human rights. He establishes the antecedents for the abandonment of the dichotomy between civil and political rights and economic, social and cultural rights. The author documents that the extreme poverty is a violation of the economic, social and cultural rights, and this shows the necessity of the universalization of human rights and the justifiability of these ones in the regional and global context. An integral focus of human rights, could lead to a more efficient protection (Trindade & Augusto, 1998).

Furthermore, Cancado Trindade grounds that it is necessary to give to the economic, social and cultural rights the same protection given to the civil and political rights, in concordance with the idea of the indivisibility of human rights. In spite of the diversity of the means of protection there is a consecration of a universal core of non-derogable rights. Also, the aim is to get to a more efficient protection and to perfect a processual way of all human rights. The international mechanisms of protection of these rights need deep modifications starting off the aim that every human being can benefit of the social progress (Trindade & Augusto, 1998).

The core of international rights are observed in these documents that conform the core of international treaties of human rights: International Covenant on Civil and Political rights, International Covenant of Economic, Social and Cultural rights, Convention on the Elimination of All Forms of Discrimination Against Women, International Convention on the Elimination of All Forms of Racial Discrimination, Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment and Punishment, Convention on the Rights of the Child, International Convention on the Protection of the rights of All Migrant Workers and Members of their Families, The Convention on the Rights of Persons with Disabilities, International Convention for the Protection of All Persons from Enforced Disappearance, and The International Declaration of Human Rights of 1948.

Background and context

What is a pulp mill? It is a plant that which is dedicated to the process of the wood for obtaining the raw material; to produce paper: the paste or the pulp. The problem with this plant, as it was explained in the decision of the Court, is that it would pollute the air and water. Therefore, this contamination would get to the city of Gualeguaychu that is located in Argentina just in front of the factory established in the neighbor country with the Uruguay River in the middle. The applicant documented that the pulp mill would cause air contamination because this one would be full of the CO₂ that produce smog. Also, Argentina stated that the factory would cause water contamination because the rests that the plant produced would be throw into the river.

This case of the pulp mills between Uruguay and Argentina had also a political background. Both countries were in difficult economic and political situation. Argentina was having elections in 2007, a year later that they presented the demand.

Uruguay and Argentina were recovering of the socioeconomics effects of the crisis of the year 2001. They were not in situation of doing any economic steps backward. Botnia was a very important pulp mill of a Dutch group. It was the most famous private investment in Uruguay's history. Currently, the group is called UPM.

In May of 2005 the two presidents at the time, Nestor Kirchner and Tabaré Vasquez, agreed in the formation of a high level technique but the people of Gualeguaychu, the city which was affected by this pulp mill. The inhabitants of this city saw a political strategy that only would calm momentarily their complaints.

The protests in Gualeguaychu continued because they thought that governments wanted to low the tone of the fight. The plant was established in Fray Bentos in Uruguay, just in front of Gualeguaychu on the other side of the river.

What is called 'Presidential diplomacy' was left out of the conflict. Several important figures of both countries tried to keep a dialogue, such as Eduardo Galeano, the well-known writer from Uruguay, who died a few years later. There were several reunions planned which in the end have not taken place between the two presidents.

Although the conflict took relevance in 2005 for the media exposure it had existed for many years before. The population of Gualeguaychu had presented the 'democratization' of their protests because they felt that the external politics of the country was not taking the matter into account. This process is known as accountability and is one of the characteristics of human rights based approach (Colacrai, 2013).

This conflict showed the lack of environmental politics and laws in both countries. Neither knew how to deal with the situation and there was a lack of legislation and many legal loopholes in the Statute of the Río Uruguay. The case displayed the weakness of the bilateral organs. Also, brought to the light the need of structures of negotiation adequate to the current days and with a strategic vision. Moreover, showed the lack of dialogue between the national government and the provinces in Argentina (Colacrai, 2013).

This would have been a great opportunity to create conscience about the environmental situations of these kinds of factories. Especially considering that the rights to a healthy environment of the International Covenant of Economic, Social and Cultural Rights and other important international treaties were being violated.

Maybe if there had been an adequate environmental legislation the conflict could have been avoided. Until today, not only Argentina and Uruguay, but also the Mercosur (a regional integration process that also includes Brazil and

Paraguay) has not achieved a coherent and necessary environmental legislation for these cases.

The problem with the pulp mill was a political, legal and economic one. Political, because both countries needed a good image in relation with their upcoming elections, but they did not want to fight with each other. The good image was more important than the healthy environment of the people of Gualeguaychu. Also, in Argentina, there was a bad communication between the city and the national government. The conflict was not given that much attention after elections. Economic, mostly for Uruguay because they were doing a great business with this Plant. Finally, it was a legal problem because the necessary environmental legislation was missing and until today is was never achieve.

A case example of sustainability of the International Court of Justice

It is relevant to highlight the sustainable part of the decisions of the ICJ about the respect for rights such as a healthy environment for the people and future generations, among other matters. This has to do with what was presented in the Cancado Trindade text and the respect for economic, social and cultural Rights and the rights that have been called of "Third Generation Rights". Also, it relates with the idea of development and the concept of Amartya Zen of this word. The Nobel Prize winner said that *'development is referred to the capacities of every human being of living a life that worth living'* (Cunego, 2016).

All of this is related with the idea that Cancado Trindade documents that economic, cultural and social rights, are not only the rights of subsistence or of satisfaction of basic needs. They are also the rights that assured a good environment for the people to live in a context where they can develop the life that worth living (Trindade & Augusto, 1998).

The case that was chosen is the one of Argentina against Uruguay in 2010. The case was called "Pulp Mills on the River Uruguay" Argentina V. Uruguay. The sentence said that Argentina presented a demand against Uruguay, on the 4th May of the year 2006. This demand was about an alleged violation of Uruguay of the statute of the Uruguay River, signed for both countries and in force since 1976. According to the lawsuit, this violation would be the result of *"the authorization for the construction and eventual opening and functioning of two Cellulose Plants over the Uruguay River"*. Argentina claimed to be concerned of the effects of these activities over the river and their zones of influences

(International Court of Justice ‘Pulp Mills on the River Uruguay’. Argentina vs Uruguay, 20th April 2010).

Argentina substantiated on its demand, that Uruguay had broken their obligations according to the Statute of the Uruguay River. The demand included the obligation of taking the necessary measures to preserve the aquatic environment, avoid contamination and the duty of protect the biodiversity and the fisheries. The lawsuit also included the obligation to proceed a complete and objective environmental study, before establishing the Pulp Mills. Furthermore, it was established the violation of the obligation in cooperation for preventing contamination (International Court of Justice ‘Pulp Mills on the River Uruguay’. Argentina vs Uruguay, 20th April 2010).

For all the mentioned above, Argentina claimed that Uruguay had compromised its international responsibility. Also, it stated that the defendant was obliged to end its illicitly conduct that it has to respect the obligations and that it has the commitment to repair the damage caused for the lack of respect of his obligations. Furthermore, Argentina asked the dismantling of the pulp mill.

Uruguay answered the lawsuit. The country said that the dismantling of the plant would cause a great damage to the economy of Uruguay regarding the loss of jobs and incomes. Also, stated that demolishing the plant would lead to a cost highly disproportionate. Uruguay claimed that if the Court considered that the plant did not satisfy fully the obligation of this country of protecting the river or the aquatic space it was able to take the necessary measures to oblige the plant to observe these commitments documented by the statute. Moreover, if the Court considered that Uruguay has caused a harm to Argentina, it can oblige the country to pay a compensation for the damage. (International Court of Justice ‘Pulp Mills on the River Uruguay’. Argentina vs Uruguay, 20th April 2010).

The legal framework for this case was the statute of the Uruguay River. This legal document determines in its Article 1 that: “...*With the end of stablishing common mechanisms for the better and rational use of the river; in observance with the rights and obligations that emerge from treaties and other international agreements that are in force for the parties...*”¹ (International Court of Justice ‘Pulp Mills on the River Uruguay’. Argentina vs Uruguay, 20th April 2010).

Among the obligations that resulted from this treaty, there are several concerning to the environmental impact. First, the Article 35 documents the obligation of assuring that the way that soil and woods are handled, is not damaging the river regime or the quality of the waters. Also, the obligation to coordinate

1 Estatuto del Río Uruguay. Law 21.413. Buenos Aires, 9 September de 1976. Boletín Oficial, 17 September de 1976. Article 1.

measures to avoid changes in the ecological balance, in Article 36. Furthermore, in the Article 41 the obligation of preventing contamination and preserving the aquatic space is also stated. Argentina claimed that Uruguay had violated all of these obligations in a greater or a lesser extent (International Court of Justice ‘Pulp Mills on the River Uruguay’. Argentina vs Uruguay, 20th April 2010).

Both parties agreed in a study about the environmental impact of the pulp mill. But they had some disagreements according to certain subjects. The first one was about the place where the plants would be located. The problem was because Argentina said that the place that have been chosen was sensitive from the ecological point of view and Uruguay has no other possible alternative place for the plants. Furthermore, Uruguay argued that this place was designated because of the great volume of water that would serve to dilute the effluent (International Court of Justice “Pulp Mills on the River Uruguay”. Argentina vs Uruguay, 20th April 2010).

Another disagreement was the question of the technology used for the production of the pulp mill, called “Orion”. Argentina claimed that Uruguay has not adopted all the necessary measures to prevent the contamination and has stated that the pulp mills should have use the “best technologies available”. According to this country and the reports of experts, the functioning of the plant was not reaching what the international standards required. Uruguay responded by saying that, also according to experts, Orion is one of the best plants thanks to the techniques that they use, and that it complies the standards established for the European Union, among others. (International Court of Justice “Pulp Mills on the River Uruguay”. Argentina vs Uruguay, 20th April 2010).

Furthermore, both parties presented a report about the environmental conditions of the river before the establishment of the plants and the measures of the waters and gas emissions since the plants started its activity. According to Argentina in these reports the implementation of the pulp mills made that levels of oxygen in the air gets reduced for under the limit, that constituted a violation the violation of the obligation of preserving the aquatic environment and avoiding contamination. Uruguay claimed that a fall in the level of the demand of oxygen shows an improvement in the quality of the water, given that the level of demand should be the lowest possible.

About the effects on the biodiversity, Argentina accused Uruguay for ‘*not taking all the necessary measures to protect the biodiversity of the Uruguay River and their areas of influences*’, as the statute established. Argentina also claimed that the Orion plant had caused air, sound and visual contamination that negatively impacted the aquatic space. Uruguay rejected all these accusations. In the end the Court decided that there was not enough evidence to determine that Uruguay

has violated the Article 41 of the Statute of the Uruguay River, that substantiates the obligation of preserving the environment and preventing contamination.

The Court decided that Uruguay violated the processual obligations but had not infringed the obligations of the Articles 35, 36 and 41 of the Statute of Uruguay River. These were the obligations of assuring that the way in which the woods and the soil are managed do not damage the regime of the river and the quality of waters, the obligation of coordinate measures to avoid changes in the ecological balance and the obligation of preserving the aquatic environment and preventing contamination.

Although the Court ruled against the reclaim of Argentina that defended a friendly environmental approach and tried to avoid contamination, this case was paradigmatic for sustainability. The case showed a country fighting for the right of their citizens to a healthy environment, to protect the water of their river and avoid contamination. For this, it is interesting to see some ideas and rights of different treaties.

First is important to have a look to the International Covenant of Economic, Social and Cultural Rights and the rights it proclaimed. The Article 11 determines that: *'1. The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.'* Furthermore, the Article 12 says: *'1. The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. 2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for: ... (b) The improvement of all aspects of environmental and industrial hygiene; (c) The prevention, treatment and control of epidemic, endemic, occupational and other diseases ...'*²

This covenant is one of the core elements of the human rights documents. In these articles it is substantiating the protection of a healthy environment and the right of the individual to enjoy the best conditions for life. Also, it says that the States parties are obliged to comply with the respect, protection and fulfilment of these human rights. The idea of showing this case as an example is that there is a current movement towards the defense of these rights that were

2 General Assembly Resolution 2200A (XXI). *'International Covenant on Economic, Social and Cultural Rights.'* Adopted 16 December 1966. Entry into force 3 January 1976. Articles 11 and 12.

mentioned before. It is important that organs, such as the International Court of Justice, continue receiving these kinds of cases.

How the International Court of Justice relate with sustainability in this case study?

The idea of sustainable development is a process that has as a goal that present generations, as well as the future ones are, would be able to live in the best possible quality of life with a healthy environment and all their basic needs cover. For this to happen, it is necessary to make some changes in the present. The case of Argentina V. Uruguay for the pulp mills was a precedent for people to fight for their right of protecting the environment to avoid contamination of water and air and assure to maintain a good planet for the future generations.

The Brundtland Report documents that: *'Poverty is not only an evil in itself, but sustainable development requires meeting the basic needs of all and extending to all the opportunity to fulfil their aspirations for a better life.'* The aim is that people achieve a better quality of lifetime, a life that worth living. As the Brundtland report states: *'...rapidly growing populations can increase the pressure on resources and slow any rise in living standards; thus, sustainable development can only be pursued if population size and growth are in harmony with the changing productive potential of the ecosystem.'* (World Commission of Environment and Development of United Nations, 1987).

It was with these aims that the Kyoto Protocol and the Paris agreement on Climate change established measures to help the environment. The reason of this is that the actions that we take today as humanity will have an outcome in the next years and for the future generations.

The question about how the ICJ relate with sustainability in this case study can be answered by discovering if the economic, cultural and social rights are considered, when the Court decides as well as the Rights of Third Generation. In the case of Argentina V. Uruguay, the Court did not have enough proofs from the environmental report to check if there was contamination and if the Pulp Mills were harming the environment.

The Economic, Social and Cultural rights, that includes the right to development, to a healthy environment, to the satisfaction of basic needs and the right of having a good quality of life, were observed by the Court at the time of deciding. Despite this fact, the judgment was in favor of Uruguay, for not having enough proofs to condemn it, but these juridical institutes and rights were considered by the Court to decide.

Nowadays with global warming and an extended contamination all over the world the concept of sustainability is more important than ever. Not even the Courts can scape to help in the achievement of a better world with the necessary environment for present and future generations to fulfilled a best quality of life.

Conclusion

The right to a healthy environment, to breath pure air, to be able to get non-contaminant food and clean water, are not observed in the Universal Declaration of Human rights of 1948. In that year the ecological environment sensibility was mostly inexistent. For this these rights were not considerate at the time as an essential measure for guarantying the right to health that it is observed in the Article 25 of this Declaration.³

The Universal Declaration of Human Rights was a product of that time and for that it must be in constant evolution and modification. This evolution is done with several treaties and covenants that complements the Declaration of 1948. Some examples, related with sustainability are: The Agenda 21 that is a plan of action with environment and development goals, The declaration of Río about environment and development, the Kyoto Protocol or the Paris agreement on climate change. The recognition of the right to development together with the right to environment gave place in documents such as the Declaration about the Right to Development of 1986.⁴

These are rights that can be implicit included if it is consider the preamble of the International Declaration of Human Rights when it determines: *'The people of the United Nations has reaffirmed their faith in the fundamental rights of the human being...'* *'they have resolved to promote the social progress and elevate the level of life inside of a wider concept of freedom'*.⁵ The deterioration of the environment does not favor the social progress or contribute to elevate the level of life.⁶

Moreover, the right to a healthy environment and the idea of rising living standards is starting to achieve importance and to be accepted more and more

3 Amnesty International Catalunya, 'Derechos de tercera generación', Declaración Universal de Derechos Humanos 1948.

4 Amnesty International Catalunya, 'Derechos de tercera generación', Declaración Universal de Derechos Humanos 1948.

5 United Nations General Assembly. 'Universal Declaration on Human Rights'. General Assembly Resolution 217 A. Paris, 10 December 1948. Preamble.

6 Amnesty International Catalunya, 'Derechos de tercera generación', Declaración Universal de Derechos Humanos 1948.

as a human right. In the case of the ICJ that it was presented there was an observation of these rights involved in the International Covenant of Economic, Social and Cultural rights.

It is probed that the planet is suffering from our actions. If we do not do nothing to prevent this, it would keep its course of action. The legislation is the first step and it is not that difficult to achieve.

References

- Amnisty International Catalunya (1948). *Derechos de tercera generación*. Declaración Universal de Derechos Humanos.
- Brundtland Report (1987). *Our Common Future*. World Commission of Environment and Development of United Nations.
- Colacrai, M. (2013). Las plantas de celulosa sobre el río Uruguay y el rol de los actores subnacionales gubernamentales en la proyección de la Política Exterior del lado argentino. Acciones, tensiones políticas y negociaciones diplomáticas, 2003-2007. *Temas Y Debates*, 7(15), 9–33. <https://doi.org/10.35305/tyd.v0i15.124>
- Cunego, A. (2016). *Development Policies evaluation under human rights-based approach*. Bogotá-Otzenhausen-Madrid, Berg Institute, Human Rights Library.
- Espadiú, C. B. (1976). *Desarrollos Jurisprudenciales y prácticas recientes en la Jurisdicción Contenciosa de la Corte Internacional de Justicia*
- Naciones Unidas (2000). *La Corte Internacional de Justicia*. Naciones Unidas.
- Pinto, M. (2008). Los derechos humanos en la jurisprudencia de la Corte Internacional de Justicia. In *Revista Jurídica de Buenos Aires 2007* (pp. 9–31). National University of de Buenos Aires.
- Ruda, J. M. (1958). El desarrollo del Derecho Internacional Público por la Corte Internacional de Justicia. Facultad de Derecho y Ciencias Sociales de la Universidad de Buenos Aires. *Revista Jurídica de Buenos Aires*, 4(10-12), 97–108.
- Smith, R. K. M. (2012). Human Rights in International Law. *Human Rights: Policies and Practices*, 4(3), 60–178.
- Trindade, C. & Augusto, A. (1997). La Justiciabilidad de los derechos económicos, sociales y culturales en el plano internacional. *Revista Lecciones y Ensayos*, 69(71), 53–103.

Laws and Regulations

- Estatuto del Río Uruguay. Law 21.413. Buenos Aires, 9 September de 1976. Boletín Oficial, 17 September de 1976.
- General Assembly Resolution 2200A (XXI). ‘International Covenant on Economic, Social and Cultural Rights.’ Adopted 16 December 1966. Entry into force 3 January 1976.

International Court of Justice, "Pulp Mills on the River Uruguay". Argentina vs Uruguay, 20th April 2010.

Naciones Unidas, 'La Corte Internacional de Justicia', New York, Naciones Unidas, 2000. 1-79.
'Our Common Future', World Commission of Environment and Development of United Nations.
Brundtland Report. 1987.

United Nations General Assembly. 'Universal Declaration on Human Rights'. General Assembly Resolution 217 A. Paris, 10 December 1948.

Reference of the article according to APA regulation

Kaliman. S. J., (2023). The Connection Between Sustainability and the International Court of Justice through the case of Cellulose Plants Case study: Pulp Mills on the River Uruguay (Argentina V. Uruguay). *Belügyi Szemle*, 71(S11), 84–99. <https://doi.org/10.38146/BSZ.SPEC.2023.1.5>