

In spite of the view that attempts to recognise an international environmental right have little prospect of success, at least at this juncture, the future outlook is not absolutely bleak. Formulations of an environmental right in international agreements, albeit regionally, attest to the viability of furthering environmental protection as a fundamental right on an international level.³⁵⁹ Indeed as asserted by some scholars, there is strong evidence that an environmental right has attained the status of a rule of regional customary international law in Latin America and Africa. Furthermore, the growing number of states that have codified environmental rights in their constitutions suggest that an international environmental right is developing as a general principle of international law. Accordingly, the global environmental constitutionalism phenomenon, to the extent that it manifests consistent state practice, has the potential to grow into an influential field that shapes and influences the development and ultimate realisation of an international environmental right. Having said that, it is submitted that more still needs to be done, particularly in the area of defining the scope of the right, attracting sufficient political support, and resolving complex causal relationships linking the emissions of a particular country to a specific effect, in the context of climate change.

Finally, after careful consideration of scholarship and current status of an international environmental right, having regard to hard and soft law, theories of human rights, practical considerations, this thesis concludes that the notion of an international environmental right is not a viable option to be pursued, at least at this juncture, within the human rights law because it has limited prospects of achieving consensus in terms of its scope and implementation. International law already incorporates rules and principles for ensuring environmental quality, thus, it is not clear what would be added if such rules and principles were to be reformulated in the form of an explicit international environmental right.

³⁵⁹ Shelton D 'Human Rights, Environmental Rights, and the Right to Environment' (1991-1992) 28 *Stan. J. Int'L.* 103, 138.

Unpublished Papers/Articles/Thesis

Lewis B *The Human Right to a Good Environment in International Law and the Implications of Climate Change* (Unpublished PHD thesis, Monash University), 2014.

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Inter-American Commission on Human Rights, *Indigenous and Tribal Peoples' Rights over their Ancestral Lands and Natural Resources: Norms and Jurisprudence of the Inter-American Human Rights System*, OEA/Ser.LN/II Doc 56/09/(30 December 2009)[193].