



Faculty of Legal Sciences

Career in International Studies

United Nations regulations on the human right to a
healthy environment

**Degree dissertation prior to obtaining the degree
of Bachelor of Arts in International Studies.**

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DEDICATION

I dedicate this work to my parents, my sister and my mom chita.

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I thank Dr. Ana María Bustos for guiding me on this path and supporting me to carry out this work.

I thank my mom Chita for giving me the strength to get up every day, all this is thanks to her.

I thank my mom Jhyna for always supporting me in every stage of my life.

To my dad Ruben for always supporting me to achieve my dreams and for always making me laugh with his witticisms.

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SUMMARY

This article analyzed the dispositions and resolutions generated by the United Nations Organization on the human right to a healthy environment: concepts, elements, principles, etc. It also develops and deepens the scope they have. The UN has proposed resolutions and declarations, which, although not binding, are key points to generate environmental awareness and understand how they can be applied at the national level. Also, the article will identify how these international declarations are regulated and applied in Ecuador, taking into account that the 2008 Constitution already has norms on the human right to a healthy environment, and even recognizes the environment as a subject of rights. In this way, the article analyzes the existing problems in Ecuador, focusing on the "Mirador" open-pit project to identify whether the international and national provisions on the right to a healthy environment were applied in this project.

Keywords: Environmentally Sound, Ecuador, Mining, United Nations (UN), Project "Mirador".

ABSTRACT

This article analyzed the dispositions and resolutions generated by the United Nations Organization on the human right to a healthy environment: concepts, elements, principles, etc. It also develops and deepens the scope they have. The UN has proposed resolutions and declarations, which, although not binding, are key points to generate environmental awareness and understand how they can be applied at the national level. Also, the article will identify how these international declarations are regulated and applied in Ecuador, taking into account that the 2008 Constitution already has norms on the human right to a healthy environment, and even recognizes the environment as a subject of rights. In this way, the article analyzes the existing problems in Ecuador, focusing on the "Mirador" open-pit project to identify whether the international and national provisions on the right to a healthy environment were applied in this project.

Keywords: Ecuador, Healthy Environment, Mining, United Nations (UN), "Mirador" Project.



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UNITED NATIONS REGULATIONS ON THE HUMAN RIGHT TO A HEALTHY ENVIRONMENT

Analysis of the provisions and their application in Ecuador in the last 10 years.

1. Introduction

The United Nations Organization has approved different resolutions in favor of the human right to a healthy environment and justifies its enjoyment for humanity, giving vitality to the essential human rights through a healthy, safe and clean environment, even when these international instruments are not mandatory for the States, they have adopted certain obligatory nature thanks to the custom and internal decisions of the different States.

The human right to a healthy environment, which not only involves nature itself, but is also linked to the right to health, education, integrity and life, must be implemented in a responsible manner. According to Maldonado and Yáñez (2020), since the 2008 Constitution in Ecuador, there has been a change in environmental regulation. The Constitution of Ecuador establishes regulations with the objective of:

Preserve, protect, enrich and recover the environment and natural resources, guaranteeing their use in a sustainable manner, the problem covered by this article is that even with environmental regulations in force at national and international level, we still have cases where nature has not been able to avoid exploitation practices or damage to it. (2008)

Although we have constitutional norms in force in the country that recognize the right to a healthy environment, these have not been applied in all cases of environmental damage that occur in Ecuador, for example: the "Mirador" open-pit project, in which the exploitation of resources, felling of trees and the removal of animals from their natural habitat is evident. For its part, the Ecuadorian government should have foreseen the foreseeable effects that the implementation of the Mirador project could have on the different environmental aspects and although this was done, the Mirador project was still approved. (Garbay, 2011).

1.1. Objectives

1.1.1 General objective

Determine whether in the case of the "Mirador" open-pit project located in Zamora Chinchipe, international provisions regarding the human right to a healthy environment have been complied with.

1.1.2 Specific objectives

- Recognize and analyze the provisions generated by the United Nations on the human right to a healthy environment.
- Identify how the right to a healthy environment is regulated and applied in Ecuador.
- Identify whether international and national provisions on the human right to a healthy environment were applied in the "Mirador" open-pit project.

1.2 Theoretical framework

1.2.1 The human right to a healthy environment

In 1960 the first sightings of environmental problems began to appear, for example, the increase in the number of inhabitants of the world or the creation of transboundary industries (Vaquero Pérez, 2011). However, these, although generating concern, were dealt with from an economic rather than an ecological point of view. It was in the 1970s when nature generated a legal concern because it was not responding favorably to human needs. This led several scientists and academics to start conducting research on why this was happening to the planet, among the most important research is "The Limits of Growth" by Meadows et al. which talks about the problem of the exponential growth of the world population, due to the excessive use of the resources that the

earth offers us, causing irreparable damage to the environment and endangering the conservation of flora and fauna. (1972).

Some of the points analyzed in this report refer to that, the States with the largest industries exceed the consumption of natural resources prioritizing their economic balance, resulting in future generations moving away from acceptable living conditions, thus generating an environmental crisis. The Limits to Growth was one of the first studies to emphasize the environmental crisis, stating that, if humans continue to spend resources irrationally and endanger the global ecological balance, the earth would collapse completely in 100 years. (Meadows et al., 1972).

In addition to the above, the environmental crisis is a global problem that was caused mainly by human activity by causing an overexploitation of resources on the planet, altering the ecological balance and affecting biodiversity. Consequently, this would generate a global environmental crisis that increases year after year. For Reynosa (2015), states the environmental crisis is a problem that needs urgent attention from the states and also from the population so that they can create environmental awareness, since all humans in one way or another alter nature generating consequences such as the disappearance of various species of plants and animals, and the worsening of biodiversity in ecosystems.

In order to offer a solution to environmental problems and try to counteract or reduce the harmful effects produced by human beings on the earth, the first United Nations Conference on the Human Environment was held in 1972 in Stockholm, from which the Stockholm Declaration emerged, in which more than 120 countries participated, with the objective of focusing the attention of the States on environmental issues, especially on pollution and environmental degradation. This Declaration has its origin due to the growing concern of an imminent environmental crisis that was already being detrimental to all people, fauna and flora and even entire ecosystems, thus violating the rights of human beings to a dignified life and a balanced and clean environment.

The 1972 Stockholm Declaration recognizes the human right to a healthy environment and proclaims that "(...) human beings have the right to freedom, equality and the enjoyment of adequate living conditions in a quality environment in such a way that they can lead a life of dignity" (Cuadrado, 2009). This document has non-binding principles, which promote the protection and improvement of the environment, seeking that the States provide solutions to try to contain the environmental crisis, which is a persistent problem that affects the welfare of all human communities and the economic development of countries. With this in mind, States should take precautions to try to prevail essential human rights, for example, the human right to a dignified life.

From the proposal of the Stockholm Declaration, we can highlight that the human right to a healthy environment arises from the need to ensure a clean environment for the enjoyment of essential human rights. In the Stockholm Declaration, the term human right to a healthy environment was first introduced. In its first principle, it emphasized that:

Man has the fundamental right to freedom, equality and the enjoyment of adequate living conditions in an environment of a quality that permits a life of dignity and well-being, and has a solemn obligation to protect and improve the environment for present and future generations. In this regard, policies which promote or perpetuate apartheid, racial segregation, discrimination, colonial and other forms of oppression and alien domination are condemned and must be eliminated. (Stockholm Declaration on the Human Environment, 1972, p. 1).

Considering the above, we can analyze that principle number 1 directly links the right to the environment and its protection with essential human rights such as the right to an adequate standard of living, to equality of conditions and to non-discrimination between communities (Stockholm Declaration on the Human Environment, 1972).

Within this framework, the human right to a healthy environment refers to the fact that the environment must be ecologically balanced. The term ecologically balanced means that there must be a balance in the sustainability of nature in conjunction with all its elements and the good living of human beings, this is necessary for the full enjoyment of essential human rights such as the right to life, health, food, water, housing, etc. (United Nations General Assembly, 2020). Therefore, the human right to a healthy environment promotes that humans live in adequate living conditions preserving human dignity, one of their basic needs. Thus, the human right to a healthy environment is the right of humans to a safe, clean, free, healthy and sustainable human environment. To highlight, the human right to a healthy environment is the right to live in an environment that does not cause repercussions on our health or alter our quality of life, where we can aim to improve environmental conditions for future generations by promoting sustainability (Bustos Cordero, 2019).

The Stockholm Declaration was not the only one that developed the human right to a healthy environment; after it, more conventions, declarations, summits, etc. were generated with the objective of safeguarding nature and the species that inhabit it. Generating a timeline with the most important international documents, in relation to the human right to a healthy environment we have is:

- The World Charter for Nature was proclaimed by the United Nations General Assembly in 1982, declaring the importance of respecting nature and all living beings, as well as biodiversity. This Charter has five fundamental principles that are a guide for man to act in favor of nature and its protection (United Nations General Assembly, 1982).
- In 1984, the World Commission on Environment and Development was established to create a global agenda for the shift to sustainable development in order to build a just future (United Nations General Assembly, 1987).
- In 1987, the United Nations World Commission on Environment and Development published the Brundtland Report or also called "Our Common Future". In the report is where the term Sustainable Development is born for the first time, which implies: meeting the needs of the present generation without compromising the ability of future generations to do the same (United Nations General Assembly, 1987).
- The Brundtland Report not only addresses issues of sustainable development and the environment but also addresses issues of international economics, industry, energy and legal principles of protection for the environment (United Nations General Assembly, 1987).
- In 1992, the United Nations Conference on Environment and Development was held with the objective of developing strategies among States to achieve sustainable development and protect environmental integrity in conjunction with global development (United Nations, 1992). As a result of the Conference, the Rio Declaration on Environment and Development was generated, which has fundamental principles that ensure the protection of the human environment, for the right to the development of people in such a way that allows them to satisfy vital needs, cooperation between States to restore the integrity and ecological balance on Earth (United Nations, 1992).

As stated in Principle 1 of the international document, humans have the right to a healthy life and the right to be in balance with the environment (United Nations, 1992), considering this, the Rio Declaration proposes partnerships between the States and the community to achieve a sustainable and harmonious environment. For Cuadrado (2009), in this Declaration, humans constitute and originate the center of problems to achieve a healthy environment and these are the same that have the right to a healthy environment. It also states that all States should cooperate to achieve

sustainable development so that in the future inequalities can be reduced and future generations can meet their vital needs based on a sustainable environment (Cuadrado, 2009).

Due to the favorable impact of the 1992 Rio Declaration on Environment and Development, twenty years later the United Nations Conference on Sustainable Development (Rio + 20) took place in 2012. The Conference proposed measures for the realization of Sustainable Development focusing on issues that are much more advanced at present and are of importance to the community, such as the implementation of the green economy and the elimination of poverty (United Nations, 2012). It is in this Conference where the development of the Sustainable Development Goals (SDGs) begins, with the objective that human beings can assimilate that Sustainable Development is a goal that can be achieved for the whole world at all levels, both international and national (United Nations, 2012).

The multiple conferences, treaties, reports and declarations mentioned above resulted in resolutions proposed by international organizations, among them the most important, the United Nations. The objective of the resolutions proposed by the UN is that humanity can fully enjoy the environment that surrounds us in order to achieve a dignified life, considering that a healthy and ecologically balanced environment is largely achieved through the work of the State and the environmental awareness of individuals.

Within this document are the resolutions of the United Nations General Assembly, which emerged as decisions adopted by the States within an international organization that determines how to act in relation to existing environmental problems. Due to the nature of these resolutions, they do not generate legally binding obligations, but they try to echo the fulfillment of human rights related to environmental rights.

Resolutions of the United Nations Environment Organization:

- (a) Report of the Special Rapporteur on the issue of human rights obligations related to the enjoyment of a safe, clean, healthy and sustainable environment (2018).

Considering the above, Resolution 37 proposed by the United Nations General Assembly refers to the important role of the State in environmental issues, since it states that one of the tasks of the State is to make environmental services available to all under the same conditions; it also has the obligation to protect the environment against environmental damage. It is the responsibility of countries to educate and raise awareness of environmental issues in order to generate environmental awareness. In doing so, they must make members of society aware of the specific environmental risks that affect them and keep themselves informed about the risks they may face so that they can protect themselves against them and collaborate with each other to create, maintain and implement effective international legal frameworks that seek to prevent, diminish and remedy negative environmental effects globally and across borders (United Nations General Assembly, 2018).

Resolution 37, adopted in 2018, recognizes the importance of States working together to achieve environmental goals, and stresses that it is the responsibility of States to ensure equitable access to environmental services and resources, while at the same time protecting the environment from damage caused by human activities. In this way, it recognizes the crucial role that States play in protecting the environment for present and future generations.

Although United Nations (UN) Resolution 37 was adopted in 2018, Ecuador had already established a solid foundation in environmental matters since 1979. The country has demonstrated a commitment to a level environmental playing field, as set forth in Article 60 of the 1979 Constitution, which proclaims that the State must protect the flora, fauna and natural ecosystems, and promote their rational use. In this sense, Ecuador adopted environmental laws in a timely

manner and was concerned with environmental conservation long before the UN resolutions were proposed. This commitment is fundamental to guarantee the preservation and conservation of the environment for existing and future generations.

Therefore, we can clarify that a healthy environment requires States to comply with and implement international environmental agreements, in accordance with the principles of international environmental law and in compliance with the objectives of sustainable development, in order to try to stop a global climate catastrophe. Considering also that the human right to a healthy environment has become a universal right according to the United Nations, States would not only be stopping the imminent climatic end of planet Earth, but would also be preventing environmental damage and even the possibility of recovering natural spaces that have been exploited and degraded by humans, protecting the diversity and conservation of ecosystems.

(b) Human rights obligations related to the enjoyment of a safe, clean, healthy and sustainable environment (2018).

The Report suggests that the General Assembly recognize the right of every human being to a safe, healthy, clean and sustainable environment. Based on extensive experience with these rights at the national and regional levels, it explains why it is time for the UN to recognize these rights by promoting measures and best practices in the implementation of environmental obligations.

Similarly, United Nations General Assembly Resolution 73 states that if the environmental crisis continues to grow at an accelerated rate it will have a significant negative impact on the enjoyment of essential human rights and likewise on the livelihoods of all people harming much more marginalized or surrounding communities that are close to areas where direct environmental damage occurs, the report proposes that environmental standards be established at the state level that prevent human-caused environmental damage, with the objective of ensuring a healthy, safe, clean and sustainable environment (United Nations General Assembly, 2018).

Resolution 73 declares the importance of the essential human rights related to the human right to a healthy, safe and healthy environment. The Resolution states that human rights and the environment are interdependent, meaning that they have a reciprocal relationship of dependence, and that a healthy environment is necessary to fulfill the principal human rights such as the human right to life, health, food, water and human development.

There have been multiple cases where human rights have been violated by environmental damage, therefore, the Resolution stresses the important role of the State and how it has the obligation to protect its inhabitants against such damage, for the same reason the State should provide vital information on how to generate environmental awareness and should facilitate the procurement of artificial resources in order to reach this result (United Nations General Assembly, 2018).

(c) Resolution adopted by the Human Rights Council on October 7, 2020: Rights of the Child, realizing children's rights through a healthy environment. The United Nations Organization reaffirms in Resolution 45, that States have the obligation to:

The resolution states that the State must respect, protect and fulfill human rights in all activities aimed at addressing environmental harm, such as biodiversity loss, climate change, pollution and exposure to hazardous substances and wastes, and to take measures to protect the rights of all persons and that additional measures should be taken with respect to persons particularly vulnerable to the effects of environmental harm, Recalling the obligations and commitments undertaken by States under multilateral environmental instruments and agreements, in particular in the area of climate change. (United Nations General Assembly, 2020, p. 7)

Emphasizing the above mentioned in Resolution 45 and other resolutions proposed by the United Nations, we can conclude that the responsibility of the States falls on their rulers, who have the duty to promote activities and best practices for the enjoyment of a healthy environment, considering that a healthy environment is a human right for all countries without any discrimination, not all countries have environmental legal standards to enforce the rights of nature.

(d) Resolution adopted by the Human Rights Council on October 8, 2021:
Human rights and indigenous peoples.

The resolution focuses on the implementation of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and notes the importance of ensuring the protection and promotion of the human rights of indigenous peoples worldwide.

The resolution calls on member states to take concrete measures to respect and protect the rights of indigenous peoples by promoting their rights to land, natural resources and biodiversity, as well as their right to participate in decision-making that affects their lives and communities.

We can conclude that human beings need to foster a dignified life for all, where indigenous peoples can have the relevant information to face environmental problems in their surroundings and have knowledge about the environmental crisis, which was already a matter of concern in 1972 with the Stockholm Declaration, therefore, Resolution 48 of the United Nations General Assembly is a call to action to protect and promote the human rights of indigenous peoples around the world.

The Resolution emphasizes the importance of respecting the right to a healthy human environment and that indigenous peoples can implement policies that promote equality and non-discrimination (United Nations General Assembly, 2021).

1.2.2 The human right to a healthy environment in Ecuador

Despite the fact that the resolutions generated by the United Nations for a healthy environment are not binding for the States, most countries do not have constitutional environmental regulations that promote environmental protection.

This is not the case of Ecuador, which since its 1979 Constitution already had the intention of laying the foundations for the Ecuadorian population of a right to live in an environment free of contamination for humans; and with the objective that the Ecuadorian State must ensure that this right is not affected or perpetuated in any bad way. However, in the Political Constitution of 1998 these environmental norms were expanded to enact the responsible use of resources, so that Ecuador already had vestiges to protect the environment and guarantee sustainable development before its last Constitution.

The Stockholm Declaration, adopted in 1972, was an important milestone in the history of global environmental protection, as it was the first document to recognize the importance of environmental protection and to establish basic principles for international environmental management (Stockholm Declaration on the Human Environment, 1972).

In the case of Ecuador, after the Stockholm Declaration, the country took various measures to improve its environmental management. The country has been present at multiple conferences on the environment, such as the aforementioned Stockholm Declaration and the Rio Declaration, among others. The Stockholm Declaration of 1972 and the Rio Declaration of 1992 state that human beings are the most important creation of nature and must be protected, but also that nature is where human beings live and cannot be unwittingly harmed. Ecuador has taken several actions in environmental matters.

Ecuador began with the creation of environmental laws and regulations to protect its natural environment. In 1976, the Forestry and Conservation of Natural Areas and Wildlife Law was passed, which established the legal basis for the protection of the country's natural resources (Fernando and Gómez, 2010).

Similarly, the 1979 Constitution of the Republic of Ecuador, although it does not contain a specific chapter dedicated to environmental law, presents some articles related to environmental issues, and establishes some important principles and obligations for the protection and conservation of the environment. Article 66 establishes the right of the country's inhabitants to enjoy a healthy environment and obliges the State to protect biodiversity, natural resources and the quality of the environment. Although the 1979 Constitution was not specific on environmental matters, it laid some important foundations for environmental protection in Ecuador (Constitución política de Ecuador, 1979).

After Ecuador's 1979 Constitution, there were some important environmental advances in the country. In 1989, the Environmental Management Law was passed, which established the principles and norms for environmental management in the country, including the environmental evaluation of projects and the protection of biodiversity. In 1992, Ecuador participated in the Rio de Janeiro Earth Summit, where Agenda 21, a global action plan for sustainable development, was adopted. In 1996, the then president Abdala Bucaram created Ecuador's Ministry of the Environment, the objective was to ensure that Ecuador preserved and made reasonable use of its biodiversity, maintaining and improving its environmental quality, to achieve a healthy and ecologically balanced environment (Subía and Cabrera, 2022).

The 1998 Constitution of the Republic of Ecuador marked a milestone in the protection and recognition of environmental rights as part of Human Rights, in its article 23 numeral 6 states: "The right to live in a healthy environment, ecologically balanced and free of contamination. The law shall establish restrictions to the exercise of certain rights and freedoms, in order to protect the environment" (Constitution of Ecuador, 1998, p. 7).

In addition, the Ecuadorian Constitution establishes that the environment is a natural and cultural heritage that must be protected and cared for by society and the State. It also recognizes the Rights of Nature, giving nature the recognition of a subject of rights and not only as an object of exploitation and consumption.

Thanks to the 1998 Constitution, Ecuador was one of the first countries to recognize the Human Right to a Healthy Environment, which has allowed for progress in the implementation of public policies and environmental protection measures in the country. In addition, Ecuador has been one of the leading countries in the struggle for international recognition of these environmental rights as universal and indivisible human rights.

In 1998, the National Environmental Fund (FAN) was created to finance environmental conservation projects and promote environmental research and education. In 2000, the Water Resources Law was approved, establishing a legal framework for the integrated management of water resources in the country. Taking all of the above into account, in 2008 the new Constitution of Ecuador was approved, which recognizes the rights of nature and establishes that nature has the right to integral restoration (Subía and Cabrera, 2022).

The 2008 Constitution of the Republic of Ecuador establishes the fundamental norms and principles for the functioning of the State and Ecuadorian society. This was approved on September 28, 2008 and entered into force on October 20 of the same year (Constitución de La República Del Ecuador, 2008).

Among the main innovations of the 2008 Constitution are the recognition of the rights of nature, the establishment of a good life as the goal of human development, the creation of a plurinational and intercultural state, and the expansion of the social, economic and cultural rights of the population.

Currently, the 2008 Constitution of Ecuador, which replaced the 1998 Constitution, has a specific chapter on the environment and the rights of nature, reflecting the growing importance of environmental protection in the country's political and social agenda. (Subía and Cabrera, 2022).

The 2008 Constitution is known to be one of the most advanced in terms of environmental rights and environmental protection. In the Constitution of Ecuador, the rights of the environment are recognized, which according to the 2008 Constitution are the right to the integral reparation of the environment and the right to its restoration, among others (Art. 71 to 74):

- The precautionary principle: Where the actions carried out in environmental projects are evaluated, if in the evaluation there is no scientific evidence of harm, but there is a potential or real risk, the precautionary principle is used.
- Precautionary principle: Where the actions carried out in environmental projects are evaluated and, in the evaluation, if there is scientific evidence of damage.
- Polluter pays principle: Anyone who generates environmental damage or impact is obliged to pay the consequences.
- Source correction principle: Identify environmental problems and try to correct.

Therefore, with the new Constitution of Ecuador present in environmental matters, Article 71 recognizes the environment as a subject of rights, which means that it has the right to an existence free of contamination, to the restoration and regeneration of its ecological processes, and to receive compensation for environmental damages (2008).

Thus, the Constitution of Ecuador will ensure the rights of nature so that human beings can live in a healthy and ecologically balanced environment and will also ensure that this right is not violated to guarantee the preservation of nature and all its elements, it also establishes the responsibility of individuals and companies for the environmental damage caused, and sanctions are established for those who fail to comply with environmental regulations.

On the other hand, Article 14 defines and recognizes the community's right to live in a healthy environment that guarantees sustainability and good living between people, nature and the elements it possesses, enforcing the most important human rights (Constitution of the Republic of Ecuador, 2008).

The Constitution of the Republic of Ecuador has multiple constitutional norms in favor of the protection of nature. Likewise, Article 66 guarantees and recognizes personal integrity and the same Article 66 numeral 27 the integrity of the environment and this includes all its elements including soil and water (Constitution of the Republic of Ecuador, 2008).

In this sense, this Constitution marks a before and after in terms of environmental regulations in Latin America, since it proclaims for Ecuador the importance of living in a balanced environment that allows a dignified life. The Ecuadorian State recognizes nature as a reproducer of life, demonstrating that all humans are part of it and that it is important for our existence (Constitution of the Republic of Ecuador, 2008).

In summary, the 2008 Constitution of Ecuador establishes a solid basis for environmental protection and sustainable development, recognizing the rights of nature and establishing measures for its protection and restoration (Constitución de La República Del Ecuador, 2008). In the American regional scenario, there has also been a great contribution to the development of environmental law and the protection of the environment and nature. This is the case of the Advisory Opinion of the Inter-American Court of Human Rights.

An advisory opinion is a legal instrument that allows member states of the Organization of American States (OAS) to request a binding opinion from the Inter-American Court of Human Rights (IACHR) regarding interpretations or applications of the American Convention on Human Rights or other treaties related to the protection of human rights. To date, there is no specific OAS advisory opinion for Ecuador on the environment. However, in advisory opinion OC-23/17, the IACHR established that States, including Ecuador, have the obligation to protect the human right to a healthy and balanced environment, and that they must take effective measures to prevent, mitigate and remedy environmental damage (Martínez-Moscoso & Alvarez Nugra, 2021).

In addition, in advisory opinion OC-21/14, it refers to the right to citizen participation in environmental decision-making and is applicable to all OAS member states, including Ecuador. The IACHR recognized the relationship between human rights and the protection of biodiversity and ecosystems (Martínez-Moscoso & Alvarez Nugra, 2021).

Although the resolutions of the United Nations (UN) were adopted after the events mentioned above, it is important to highlight the relevance given to the States in environmental matters. However, although Ecuador has constitutional environmental regulations, they are not always favorable in all cases. In most of the cases where nature has been violated, the environmental constitutional norms have not been enforced, because not in all cases it has benefited since in certain occasions, they have not been able to be applied to prevent impacts, which has resulted in environmental damage.

In order to identify how environmental regulations are applied, guaranteed and complied with in Ecuador and to determine if the human right to a healthy environment is effectively achieved, we will analyze the case of the open-pit project "Mirador", located in Zamora Chinchipe.

Where there is the presence of indigenous peoples who depend on natural resources for their day to day life, was initially proposed by the mining company Ecuacorriente S. A. (ECSA), owned by the Chinese consortium CRCC-Tongguan Investment Co. Ltd. (Amazon Conservation Team & Amazon Conservation and EcoCiencia, 2018) This project has been the subject of controversy due to its potential environmental and social impact because of the exploitation of non-renewable resources, logging and the mobilization of animals from their natural habitat. According to Garbay: "(...) the Ecuadorian government should have foreseen the foreseeable notable effects that the implementation of the Mirador project would produce on the different environmental aspects and although the corresponding evaluations were carried out, the Mirador project still had its approval" (2011).

2. Methods

The elaboration of this work and with the objective of answering the research question posed, will present a qualitative methodology, since qualitative research presents a great diversity of research currents and different approaches, studies descriptive data and collects a great variety of research material (Rodríguez et al., 1996).

In the case of this empirical article, the qualitative research is inductive, which is a type of methodology that consists of obtaining generalizable knowledge from specific knowledge, the inductive methodology leads to an extensive reasoning. This inductive method is used to draw conclusions and make predictions about events or resolutions similar to those studied. Thus, it goes from the observation of particular documents or events to the formulation of general conclusions, which in this case would be the perception of the resolutions proposed by international organizations, such as the United Nations, and how they should be applied in Ecuador (Rodríguez et al., 1996).

Within qualitative studies, grounded theory is essential for the development of this article, since, according to Rodríguez et al. (1996), grounded theory is a methodology that is based on data collection, based on research in the case of this thesis, on the investigation of documents and resolutions proposed by different international organizations. We can say that grounded theory is oriented to analyze points of view and evaluate processes to generate grounded theories with the perspectives of the resolutions that are being presented in this article (Rodríguez et al., 1996).

This article will focus on analyzing what are the foundations for the existence of resolutions concerning the human right to a healthy environment and, based on this, analyze the case of the open-pit project "Mirador" located in Zamora Chinchipe. For this, the case study method will be used, which will focus on collecting information on the case of the open sky project "Mirador", as it began, what evidence was presented before the judge for the impediment of the project and, what was resolved the case study is necessary to identify whether in practice the international provisions are complied with (Hernández Sampieri et al., 2014).

3. Results

3.1 Case "Mirador" Open Pit Project

The "Mirador" Open Pit Project in Zamora Chinchipe, Ecuador, is a mining project that is in the exploration and development stage. The project is located in the province of Zamora Chinchipe, in southern Ecuador, and is estimated to have copper and gold reserves. It was first owned in 2000 by the Canadian mining company Aurelian Resources. However, the project was acquired by Lundin Gold in 2014 (Colectivo de Geografía Crítica del Ecuador, 2019).

The Ecuadorian mining company Ecuacorriente S.A. (ECSA) in 1997 acquired the mining concession rights for the Mirador project in the province of Zamora Chinchipe, in southeastern Ecuador, to later give way to the Canadian company Aurelian Resources. In 2001, Aurelian Resources began feasibility and exploration studies in the Mirador area, carrying out mineral sampling and geological evaluations. In 2004, Aurelian Resources announces the discovery of high-grade copper and gold deposits at the Mirador project, generating great interest in the region's mining potential. In 2006, the Chinese mining company Tongling Nonferrous Metals Group acquires Aurelian Resources and becomes the main shareholder of the Mirador project (Colectivo de Geografía Crítica del Ecuador, 2019). In 2008, the Environmental Impact Assessment (EIA) for the Mirador project is submitted to the Ecuadorian Ministry of Environment as part of the procedures to obtain environmental approval. In 2009 the Ministry of Environment approves the EIA submitted by Aurelian Resources and issues the environmental license for the development of the Mirador project (Sentencia, 2013). In 2012, construction of the Mirador open-pit mine began. During this stage, site preparation works, infrastructure construction and development of the mineral processing plant are carried out. In 2019, the first production of copper and gold concentrates at Mirador was announced. The mine reaches significant production capacity and a full-scale operation is expected in the coming years.

Over the years, the Project's objective has been to extract copper and gold resources from the area where it is located, specifically in the province of Zamora Chinchipe, in southern Ecuador. To carry out this exploitation, the company Lundin Gold has conducted geological, geochemical and geophysical studies to determine the feasibility of the project and its economic profitability (Colectivo de Geografía Crítica del Ecuador, 2019). The extraction of minerals is carried out using open-pit mining techniques, which involves the removal of large amounts of earth and rock to reach the layers where the minerals are found. This technique can generate significant environmental impacts, such as the alteration of the landscape, the generation of large amounts of waste, and the contamination of water and soil with toxic substances (Alvarez, 2019).

The project has the potential to generate economic benefits for the company and for the country, in terms of employment generation, tax revenues and infrastructure development. However, it has also generated concern in some local communities and environmental groups due to the potential environmental and social impacts of the project (Toledo, 2018).

It has been subject to the provisions of the 2008 Constitution, as well as the country's environmental and mining legislation, and has gone through an environmental and social assessment process before obtaining the necessary permits for its operation from the Ecuadorian government. However, the potential consequences of the project include: alteration of the

landscape, due to the extraction of large quantities of earth and rock; water and soil contamination, due to the use of chemicals; and the generation of large quantities of waste. In addition, the construction of infrastructure necessary for mining may have social impacts, such as the relocation of local communities and the disruption of their way of life. Therefore, we can deduce that the Mirador Open Pit Project does not comply with the resolutions proposed by the United Nations Assembly as it violates the human right to a healthy environment and a dignified life (Colectivo de Geografía Crítica del Ecuador, 2019).

Ruling 1711/2013/0317 on Protective Action was issued on July 11, 2013 by the Constitutional Court of Ecuador in response to a lawsuit filed by the Shuar and Kichwa communities in the area of Influence of the Mirador Open Pit project, who were opposed to the implementation of said mining project (Ruling, 2013).

The lawsuit was based on the alleged violation of their rights, including the right to participate freely and effectively in the prior consultation process and the right to a balanced and healthy environment. The Constitutional Court ruling demanded an immediate halt to the mining project until the prior consultation process established by the Constitution and international treaties signed by Ecuador was complied with (Judgment, 2013).

In addition, the judgment reiterated the State's duty to protect the rights of the affected communities and to guarantee the conservation and preservation of the region's cultural and natural heritage. Despite the 2013 ruling, the "Mirador" open-pit project was halted for a while and then continued with its routine activities. From the interviews conducted on the analysis of the case and from the review of interviews conducted by other researchers on the "Mirador" open-pit project in Zamora Chinchipe, the impacts generated by the project have been identified.

3.1.1. Categories on environmental and social impacts due to the "Mirador" open-pit project”

Table 1

Social Impact

Social problems	Gender problems
<ul style="list-style-type: none"> ● "Forced displacement of peasant families and Shuar population, land conflicts between the community and the company" (Colectivo de Geografía Crítica del Ecuador, 2019, p. 2). ● "Families were not relocated and their belongings were not returned to them in some cases" (Colectivo de Geografía Crítica del Ecuador, 2019). ● "Population of Tundayme, "violence, alcoholism, and drug addiction have increased considerably."(Granizo, 2019) ● "Much heavier traffic"(Toledo, 2018, p. 56). ● "People and children experienced traumatic events" (Toledo, 2023). ● "Affected by exposure to chemicals and particulate matter" (Trejo, 2012, p. 78). ● "There was family separation, as some people from the houses sold their part of the territory and started working on the project" (Toledo, 2023). ● "Separation of the community, they were divided for and against, for the jobs and against because of the contamination of the land" (Toledo, 2023). 	<ul style="list-style-type: none"> ● "Masculinization of the region due to the presence of armed forces, state and mining company workers, and currently with more presence of male workers. This has led to an increase in gender and intergender violence" (Colectivo de Geografía Crítica del Ecuador, 2019, p. 2). ● "It promotes human trafficking, especially for sexual exploitation, where the most affected are minors" (Trejo, 2012, p.79).
Lack of respect for indigenous communities	Affecting the economy

<ul style="list-style-type: none"> • "The Mirador project erodes the health practices of the indigenous population, prevents their access to widely used and marketed medicinal plants such as sangre de drago" (Granizo, 2019). • "Confusion of culture, when you went along the road you could see signs in Chinese and the people of Tundayme were confused" (Toledo, 2023). • "There was no prior consultation by the project people" (Toledo, 2023). • "Invasion of national parks and indigenous lands" (Trejo, 2012, p. 79). 	<ul style="list-style-type: none"> • Affects local agriculture and livestock. • "There were stores for Chinese use, replacing local stores" (Toledo, 2023).
Health effects	
<ul style="list-style-type: none"> • "Air pollution, due to the construction of infrastructure and access roads to transport materials to the camp (Acción Ecológica, 2017)" • "Affectation in the health of elderly people, since they are the main owners of the territories" (Toledo, 2018, p. 56). • "The emotional health of the evictees has been severely affected, as they allege that they have had to be involved in situations alien to their past lives" (Toledo, 2018, p. 56). • For the children, seeing their parents evicted from left a traumatic experience (Toledo, 2023). • "The presence of mercury in mining affects health" (Alvarez, 2019). 	

Source: table based on different authors that are specified in the table of contents.

Table 2

Environmental Impacts

Water pollution	Deforestation
<ul style="list-style-type: none"> • "The water quality of the rivers is deteriorated due to the discharge of sediments and sewage since the company started its construction works"(Paz, 2018). • "You can notice the turbid waters and according to testimonies the water cannot be used" (Toledo, 2023). • "Pollution of the Wawayme and Tundayme rivers"(Toledo, 2018, p. 55). • "The most valuable resource, water, is at risk due to its exposure when refining the ore and being in contact with aquifers, rivers, which are close to the mine location."(Trejo, 2012, p. 80) • "Water is brought into contact with heavy metals, sulfates, dissolved solids even radioactive elements" (Trejo, 2012, p. 80). • "Waste was falling into the river, it looked polluted, the water was black and thick" (Toledo, 2023). • "The residual sands that are discharged into rivers would be contaminating them due to their high content of metals, sulfides and sulfates"(Trejo, 2012). 	<ul style="list-style-type: none"> • "Hay más de 1300 hectáreas deforestadas relacionadas con la apertura de las vías y con las escombreras"(Granizo, 2019) • "Según información del GAD Parroquial se han destrozado 300 hectáreas del bosque para ubicar la mina" (Toledo, 2018, p. 55) • "Las riberas en las zonas donde existe minería ilegal, están deforestadas y contaminadas con depósitos de relaves"(Trejo, 2012, p. 79)
<p>Air pollution</p> <ul style="list-style-type: none"> • Regarding air quality; the "degradation of air quality caused by particles generated during earth movement, vehicle traffic, machinery, wind erosion, etc." is expected, which can "affect populated areas" (Trejo, 2012, p. 87). • "Air pollution, due to the construction of infrastructure and access roads to transport materials to the camp (Acción Ecológica, 2017)" 	<p>Effects on nutrition</p> <ul style="list-style-type: none"> • "The emission of dust, product of the permanent circulation of dump trucks and high-capacity vehicles, affects the orchards of the mestizo communities that are closer or on the road leading to the mining facilities. Due to this dust, people can no longer have natural remedies" (Granizo, 2019). • "The community because the land was no longer fertile, they could not grow food on

<p>Flora</p> <ul style="list-style-type: none"> • "Plant species in the area are no longer available to people" (Toledo, 2018). • Plant species native to the site were no longer growing in the project area (Toledo, 2023). 	<p>Impacts on flora and fauna</p>	<p>the land that was important to them, for example: cassava and potato" (Toledo, 2023).</p> <ul style="list-style-type: none"> • "They stopped cultivating, since the land was no longer fertile" (Toledo, 2023). <p>Fauna</p> <ul style="list-style-type: none"> • "Fauna of the place dispersed by noise and lack of trees"(Toledo, 2018, p. 55). • "Species migration" (Toledo, 2023). • "The villagers stated that when they came to evict them at 4 am, the mine's lawyers together with their workers released the animals such as cows, guinea pigs, chickens, etc., into the street" (Toledo,2023). • "Many animals were buried under the rubble" (Toledo, 2023).
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Note: The "Mirador" open-pit project presents environmental, economic and social problems despite various regulations that support nature and essential human rights.

Source: table based on different authors that are specified in the table of contents.

4. Discussion

As mentioned above, the Stockholm Declaration of 1972 tells us that human beings have the right to a healthy environment and proclaims that they have the right to freedom, equality and the enjoyment of adequate living conditions (Stockholm Declaration on the Human Environment, 1972). This claim is included in Resolution 73 (Human Rights Obligations Related to the Enjoyment of a Safe, Clean, Healthy and Sustainable Environment, 2018), which confirms that human rights and the rights to a healthy environment are interdependent, this means that they are related, therefore, the human being has the right to a healthy environment and this implies that the human being has access to an environment free of pollution, healthy in its components, sustainable in the use and enjoyment and above all clean (Constitution of the Republic of Ecuador, 2008).

In addition to the above, in the case of Ecuador, the 2008 Constitution declares in Article 71 that nature is a subject of rights, which means that it has the right to an existence free of contamination, to the restoration and regeneration of its ecological processes, and to receive compensation for environmental damage that may be caused. All this, as a complement to the right to a healthy environment (Constitution of the Republic of Ecuador, 2008).

To understand the dimension and scope of the human right to a healthy environment, in this work an investigation has been carried out regarding the case of the "Mirador" open-pit project, with respect to which the aim is to determine whether or not the provisions of the human right to a healthy environment have been complied with. According to the doctrine, the "Mirador" open-pit mining project has generated a series of social, environmental and economic problems:

4.1 Social Scope

In the case of the "Mirador" open-pit project, there have been social problems such as: the displacement of the indigenous population from their homes, as well as the fact that some families were not relocated, thus generating family separation and not having a place to live, thus violating human rights, such as the right to housing and a dignified life as stated in the Constitution (Constitution of the Republic of Ecuador, 2008).

Following the social consequences of this project, the Stockholm Declaration promotes non-discrimination between communities (Stockholm Declaration on the Human Environment, 1972) and Resolution 48 adopted by the Human Rights Council on October 8, 2021 on human rights and indigenous peoples (United Nations General Assembly, 2021) urges states to take effective action to safeguard and respect the rights of indigenous peoples. This includes upholding their right to land, natural resources and biodiversity, as well as their right to be involved in decision-making that impacts their lives and communities (United Nations General Assembly, 2021).

Although Ecuador is a party to these instruments, the rights enshrined therein have been violated in the case of the "Mirador" open-pit project, since: the project erodes the health practices of the indigenous population, prevents their access to medicinal plants, violating the right to health (Constitution of the Republic of Ecuador, 2008).

Since the right to a dignified life is related to the primordial right to health, the population of Tundayme is affected by the contamination of the soil, air and rivers, the population has changed from a diet rich in vegetables grown by themselves, to no longer being able to plant their vegetables because the land is no longer fertile. Without leaving out the mental health, the people of Tundayme, especially the children, have lived traumatic moments, seeing how their families have been stripped from their homes, how the leaders of the place had to leave to work in the project, thus causing family separation. Resolution 48 promotes that:

Indigenous communities should have the necessary information about environmental problems around them as they are the first to face them, as well as promote that indigenous communities are involved in decision making on environmental issues (United Nations General Assembly, 2021).

However, in the case of the project, there was no prior consultation on the part of the project's people; moreover, the project's people arrived at 4am to evict people without prior notice, invading homes, national parks and indigenous lands. (Trejo, 2012, p. 79).

Likewise, the Stockholm Declaration, proclaims that:

Human beings have the right to a healthy environment and the right to live in adequate living conditions, which allow and guarantee their dignity.

Despite this, with the "Mirador" open sky project, violence, crime and drug addiction has increased in such a way that does not allow the inhabitants to live in adequate living conditions, due to the presence of weapons in the area, inter-gender violence has increased. (Colectivo de Geografía Crítica del Ecuador, 2019, p. 2).

Beyond what is established in the resolutions proposed by international organizations on the protection of indigenous peoples. The 2008 Constitution of Ecuador has direct norms that establish the protection of indigenous peoples and guarantee their non-displacement. Thus, Art. 42 establishes that:

All arbitrary displacement is prohibited. Persons who have been displaced shall have the right to receive protection and emergency humanitarian assistance from the authorities, ensuring access to food, shelter, housing and medical and health services. (Constitution of the Republic of Ecuador, 2008, p. 21).

In the case of the open pit project "Mirador" as mentioned before, there were forced displacements of the peasant families and the Shuar community, and the families were not relocated, more than that their belongings were not returned and the people of the project arrived without a previous consultation, not complying with the norms established in the Constitution of Ecuador.

Art 42, also mentions that people have the right to return to their place of origin safely, this action cannot be done by the people of Tundayme, since the open sky project "Mirador" has been there for more than 10 years and people had to look for a new place to live. (Colectivo de Geografía Crítica del Ecuador, 2019).

One of the articles that were not complied with by the "Mirador" open pit project within the rights of the communities, peoples and nationalities is Art. 57 numeral 4 which proclaims that:

Free, prior and informed consultation, within a reasonable period of time, on plans and programs for prospecting, exploitation and commercialization of non-renewable resources found on their lands that may affect them environmentally or culturally; to participate in the benefits of such projects and to receive compensation for the social, cultural and environmental damage they cause them. The consultation to be carried out by the competent authorities shall be mandatory and timely. If the consent of the consulted community is not obtained, they shall proceed in accordance with the Constitution and the law. (Constitution of the Republic of Ecuador, 2008, p. 26).

For the population of Tundayme there was no prior consultation, the population suffered displacement from their ancestral lands, as well as impacts to their most important rivers, air, flora and fauna. Although the Constitution proclaims that prior consultation must be mandatory, in this case there was no such thing. Therefore, we conclude that the "Mirador" open-pit project has not only failed to comply with the resolutions to a dignified life, but also with the country's Constitution.

4.2 Environmental

In the "Mirador" project, air quality is degraded due to particles generated during earth movement, vehicle traffic, machinery, and wind erosion, thus generating air pollution. As a result, the elderly, who are the main owners of the land, have been the most affected because the noise, debris, and even dust in the air affect their lungs.

The 2008 Constitution of Ecuador proclaims that it will ensure the rights of nature, which strengthen the right of human beings to live in a healthy and ecologically balanced environment, which means that there must be a balance in the sustainability of nature in conjunction with all its elements and the good living of human beings, this is necessary for the full enjoyment of human rights such as the right to life, health, food, water, housing, etc. Dust emissions from the permanent circulation of dump trucks and high-capacity vehicles generated by the project have affected the orchards of the mestizo communities located near or on the road leading to the mining facilities. Due to this dust, people can no longer have natural remedies, which affects the right to food and the scarcity of their medicinal plants, affecting the right to health of indigenous peoples.

The right to water has been one of the most affected, since the water quality of the rivers is deteriorated due to the discharge of sediments and sewage, the most affected rivers have been the Wawayme and Tundayme rivers, the water is cloudy with waste and cannot be used, this is because the residual sands that are discharged into the rivers are contaminating them due to their high content of metals, sulfides and sulfates (Trejo, 2012).

Some of the elements of nature that are protected under the 2008 Constitution are air, land, trees, flora and fauna. In the case of affecting nature, particularly trees, deforestation is palpable in the project, there are more than 1300 hectares deforested related to the opening of the roads and with the dumps, adding to this the 300 hectares deforested for the location of the mine (Granizo, 2019).

In the case of affecting the flora and fauna, some plant species of the area are no longer available to people, so the land is no longer fertile for planting, for the same reason native plant species of the place no longer grew in the project area, for example: medicinal plants (Toledo, 2018). The fauna of the region has been affected due to the presence of noise which has caused the migration of species native to the site. Not to mention that when the people from the project arrived in Tundayme, at the time of evicting the families they abandoned guinea pigs, chickens, etc. When the project started and continued to advance, many animals were buried under the rubble (Toledo, 2023).

As mentioned above, the "Mirador" open-pit project has not complied with the resolutions proposed by the UN and even less has it complied with the Constitution, Art. 395 numeral 4 proclaims that:

In case of doubt about the scope of legal provisions on environmental matters, these shall be applied in the sense most favorable to the protection of nature (Constitution of the Republic of Ecuador, 2008, p. 119).

In the case of the "Mirador" open-pit project, this principle was not applied because it did not favor nature, but rather favored the economic benefit of the mining company, damaging the environment around the project, the rivers became turbid waters, the air was filled with dust, there was deforestation, so the pro-nature principle was not applied.

Art 400 proclaims that:

The State shall exercise sovereignty over biodiversity, whose administration and management shall be carried out with intergenerational responsibility. The conservation of biodiversity and all its components, particularly agricultural and wild biodiversity and the genetic heritage of the country, is declared to be of public interest. (Constitution of the Republic of Ecuador, 2008, p. 121).

In the case of the "Mirador" open-pit project, as mentioned above, the biodiversity of species and ecosystems was not protected, since the project caused animals to disperse as a result of the noise from the project and the local flora ceased to produce because the soil was no longer fertile.

After this analysis, it is evident that in Ecuador, specifically in the "Mirador" open-pit project, the human right to a healthy environment is not being complied with, either constitutionally recognized or internationally as stated in the resolutions.

5. Conclusion:

The United Nations (UN) has played a significant role in promoting and protecting the human right to a healthy environment globally. It began with the Stockholm Declaration on the Human Environment in 1972, at this Conference, a Declaration on the Human Environment was issued establishing the fundamental right of people to a healthy and sustainable environment. Following this, the United Nations made the Convention on Climate Change in 1992, which recognizes the

importance of protecting the integrity of the global climate system for the survival of present and future generations.

These two being the most important, the United Nations has adopted several important provisions and resolutions to promote and protect the human right to a healthy environment. This article focuses on resolutions 37, 73, 45 and 48, which have in common the enjoyment of the human rights to health, housing, water and a dignified life through a healthy, sustainable and clean environment.

Ecuador has been one of the leading countries in the promotion and protection of the right to nature and a healthy environment, recognizing the importance of nature as a subject of rights and not only as an object of exploitation. Through the 2008 Constitution, Ecuador has committed to guaranteeing a healthy and sustainable environment for all its inhabitants, recognizing the interdependence between humans and nature and encouraging citizen participation in environmental decision-making. However, there are still challenges in implementing these provisions and policies, such as lack of resources and the influence of economic interests in environmental decision-making. Even if Ecuador has nature as a subject of rights, many of the cases of environmental exploitation have not been beneficial for nature, as in the case of the "Mirador" open-pit project located in Zamora Chinchipe.

Emphasizing the resolutions proposed in this article, the "Mirador" open-pit project does not fully comply with the resolutions that protect the environment and human rights, which are the following:

1. Resolution 48 calls on member states to take concrete measures to respect and protect the rights of indigenous peoples, through the promotion of their rights to land, natural resources and biodiversity, as well as their right to participate in decision-making that affects their lives and communities (United Nations General Assembly, 2021).
2. Resolution 45, that States have the obligation to:

Respect, protect and fulfil human rights in all activities designed to address environmental harm, such as biodiversity loss, climate change, pollution and exposure to hazardous substances and wastes, and to take measures to protect the rights of all persons and that additional measures should be taken with respect to persons particularly vulnerable to the effects of environmental harm, Recalling the obligations and commitments undertaken by States under multilateral environmental instruments and agreements, in particular in the area of climate change. (United Nations General Assembly, 2020, p. 7)

In conclusion, collecting all the information on the "Mirador" open-pit project located in Zamora Chinchipe, the project does not comply with the resolutions proposed by the United Nations on the human right to a healthy environment, since the project shows environmental, social and economic damages.

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7. Annex

Annex 1

Consentimiento Informado

Consentimiento Informado

Entrevista sobre el Derecho Humano al Ambiente Sano

Hoja informativa sobre el Trabajo de Titulación:

“NORMATIVA DE LA ORGANIZACIÓN DE LAS NACIONES UNIDAS SOBRE EL DERECHO HUMANO AL AMBIENTE SANO: ANÁLISIS DE LAS DISPOSICIONES Y SU APLICACIÓN EN ECUADOR EN LOS ÚLTIMOS 10 AÑOS”

Sinopsis

El presente Trabajo de Titulación es realizado por Emily Samantha Matute Armijos, estudiante de la carrera de Estudios Internacionales de la Universidad del Azuay y dirigido por la abogada Ana María Bustos Cordero.

El objetivo general del presente trabajo es determinar si en el caso del Proyecto de cielo abierto “Mirador” ubicado en Zamora Chinchipe, se han cumplido con las disposiciones internacionales referente al derecho humano al ambiente sano.

De la persona entrevistada individualmente se espera que brinde su opinión sobre el tema del derecho humano al ambiente sano, lo que la Constitución del Ecuador se encuentra realizando para la fomentación de este y cómo se puede mejorar en este aspecto. No será necesario que usted responda todas las preguntas, y puede retirarse de la entrevista en cualquier momento, sin necesidad de dar una explicación a la entrevistadora.

Se le pedirá autorización para grabar el audio de la entrevista. El propósito de la grabación es obtener un registro completo y preciso de la información que usted proporcione; sin embargo, usted puede solicitar que el dispositivo se apague en cualquier momento, o que no se utilice.

Fragmentos de la entrevista podrían citarse en el Trabajo de Titulación. La información no será utilizada de ninguna otra manera.

Cuestionario

- 1. ¿Cuál es su opinión sobre el derecho humano al ambiente sano?**
- 2. ¿Qué la motivo a visitar la parroquia Tundayme?**
- 3. ¿Qué problemas evidenció al visitar la parroquia Tundayme, los problemas eran sociales o ambientales?**
- 4. ¿Considera que se han cumplido los tratados internacionales y nacionales sobre los derechos humanos incluyendo el derecho humano a un ambiente sano?**
- 5. ¿Tiene noción sobre el caso de proyecto de cielo abierto “Mirador”?**

Consentimiento informado para entrevistados

Yo, Emily Samantha Matute Armijos, como autora de este Trabajo de Titulación, deseo asegurarme de que las personas entrevistadas estén completamente informadas sobre su participación en este proyecto. Por favor, indique se está de acuerdo con las siguientes afirmaciones y, de ser el caso, acéptelas. Si no está de acuerdo con alguna afirmación y/o requiere aclaraciones, hágalo saber.

- He leído y comprendido la hoja informativa del Trabajo de Titulación.
- Se me ha dado la oportunidad de hacer preguntas sobre el Trabajo de Titulación.
- Estoy de acuerdo en participar en una entrevista personal.
- Estoy participando de forma totalmente voluntaria.
- Entiendo que puedo negarme a responder cualquier pregunta, sin necesidad de explicar el motivo.
- Entiendo que puedo retirarme de la entrevista en cualquier momento, sin necesidad de explicar el motivo.
- Autorizo que se grabe el audio de mi entrevista.
- Autorizo que se tomen notas durante la entrevista.
- Entiendo que mis palabras pueden ser citadas en el Trabajo de Titulación.
- Entiendo que la información proporcionada será utilizada exclusivamente para fines académicos.

Nombre: _____

Firma: _____

• Fecha: _____

Entrevista a Kimberly Toledo