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## **THE HUMAN RIGHTS IMPLICATIONS OF GREEN DEMOCRACIES IN THE ERA OF DIGITALISATION**

### ***Abstract:***

Are democratic institutions resilient to global and local environmental change? This is the main question of our times in the midst of environmental degradation, climate change, habitat and biodiversity loss. In the 21st century, even regions and states with a long democratic history have to face the challenges posed by environmental urgency. In my paper and presentation, I would like to highlight the definition of green democracies and the human rights implications of such settlements. Digital solutions, including artificial intelligence, can hinder but also help achieve and support the green transition. Despite the challenges, there is hope in the potential of digital solutions to support the transition to green democracies. Green democracies and green cities have been receiving growing attention from NGOs, states, and the European Union, based on the realization that green decisions and successful solutions are easier to achieve locally and not globally. In the frame of the SDGs, EU and international programs, more and more settlements opt for environmental democracy. In the second part of my paper, I am concentrating on the role of digital solutions and AI, particularly how these solutions can support the tools of direct democracy, which has proved to be an essential and significant element of green democracies.

***Keywords:*** *human rights, environmental democracy, environmental rule of law, artificial intelligence, digitalisation, right to a healthy environment, direct democracy*

## **1. Introduction: the definition of a green democracy and the framework of sustainable cities**

In the summer of 2024, the Earth faces unprecedented warming again. Based on the European Union's Copernicus Climate Change Service data, May 2024 was warmer globally than any previous May in the ERA5<sup>1</sup> reanalysis dataset, returning to 1940. The twelfth month in a row was the warmest in the ERA5 record for the respective month of the year. 2023 was the hottest year on record, stretching back to 1850.<sup>2</sup> Droughts, heatwaves and unpredictable weather phenomena make millions of people's lives harder and sometimes even unbearable. For example, in India and Delhi, the temperature reached 49.9 degrees Celsius (121.8 degrees Fahrenheit) in late May, which is a record. Meanwhile, the international community is struggling to enforce the goals set by the Paris Agreement to keep the global temperature rise this century below 2 degrees Celsius above pre-industrial levels and to pursue efforts to limit the temperature increase even further to 1.5 degrees Celsius. Acting globally is an essential step in environmental sustainability, but as many other examples proved – such as environmental conservation efforts – local initiatives are as much as, if not more important. This underscores the power of local communities and individuals to drive environmental sustainability.

The United Nations has already accepted a framework for sustainable development, starting from the Millennium till 2015.<sup>3</sup> Later, the international community decided to continue the goals and, learning from possible problems and difficulties, defined the SDG program for another 15-year years. Building green, sustainable communities is a crucial element of the UN's Sustainable Development Goals (SDGs) for 2015-2030. The SDGs aim to make cities and human settlements inclusive, safe, resilient, and sustainable. I believe high-level enforcement of human rights, especially third-generation human rights, is essential to building green, sustainable cities. The eleventh goal explicitly focuses on sustainable cities and communities that “*create safe, affordable and resilient cities with green and culturally inspiring living conditions.*”

The 1970s were the beginning of environmental consciousness when biological discovery made human functioning understandable and highlighted

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<sup>1</sup> ERA5 is the fifth generation ECMWF reanalysis for the global climate and weather for the past eight decades, and data is available from 1940 onwards. (23 July 2024) Retrieved from <https://cds.climate.copernicus.eu/cdsapp#!/dataset/reanalysis-era5-single-levels?tab=overview>.

<sup>2</sup> Copernicus: 2023 is the hottest year on record, with global temperatures close to the 1.5°C limit (9 January 2024). Retrieved from <https://climate.copernicus.eu/copernicus-2023-hottest-year-record>.

<sup>3</sup> United Nations: Millennium Development Goals (23 July 2024) Retrieved from <https://www.un.org/millenniumgoals/>. The United Nations declared 8 goals for a 15-year timeframe, from 2000 to 2015, including goal 7, „Environmental Sustainability”.

nature's importance in human well-being. Green democracy has a long history in academic literature. Still, there is no universally accepted definition. Ecological democracy is also called environmental democracy or green democracy. The term 'Biocracy' was invented by physiologist *Walter Bradford Cannon* and has been "taken to represent the power of life science knowledge in modern society."<sup>4</sup> Sustainable human settlements play a vital role since "sustainable cities are communities where the citizens can fully enjoy the benefits of urbanisation without the drawbacks of a modern lifestyle. Moreover, sustainable cities provide a healthy environment for the residents, considering the interlinkages of energy – environment – social considerations."<sup>5</sup>

One of the definitional elements of the concept of green democracy is the protection of human rights, particularly environmental rights. In this study, I will focus on the third-generation human rights, which have an important connection with sustainable settlements. Due to the scope of this article, three substantive rights (fundamental rights) will be explained with special regard to the effect of digitalisation and artificial intelligence. Digitisation has fundamentally changed our lives; although artificial intelligence (AI) was unimaginable for most people a couple of years ago, it also has found its way to human interactions, work and communication. Digitisation can fundamentally contribute to the improvement of the quality of life and the expansion of available opportunities. Still, at the same time, there are also real dangers and challenges to be reckoned with, which is especially true concerning AI. Carefully applied digitisation can significantly contribute to several aspects of building green democracies. In particular, promoting human rights and tackling issues posed by environmental challenges, such as in the agricultural sector, food allocation systems, water supply and environmental degradation.

## 2. Human rights implications of a green democracy

Human rights are the embodiment of the active legal personality of the individual. Although the protection of human rights has a long history, the current system of protection results from the post-World War II evolution of law. Human rights can be classically divided into three generations. The first generation includes the rights that emerged during the English and French Revolutions and the American Revolutionary War: civil and political rights. These include fundamental rights such as the right to life, freedom of thought, conscience and religion, and the protection of family and private life. The second generation is the result of a later legal development. It includes civil, social, and cultural rights, such as the right to

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<sup>4</sup> Caldwell, L. K., (2018). *Biocracy: Public Policy and the Life Sciences*. New York: Routledge.

<sup>5</sup> Szalai, A. – Sziebig, O. J. – Tribl, N., (2023). Urban Climate Change Resilience (UCCR) in the Light of SDG11. *European Public Law*, 35(1), p. 267-276.

education, health, and social security. The third generation of human rights has emerged most recently and is much more vague than the first two categories. These include the right to development, the right to peace and the right to a healthy environment. Today, the third generation of rights has been extended to include the rights to water and food.<sup>6</sup> The third generation of human rights emerged in the 20th century, typically due to global challenges, specifically in the context of international law. Rights are generally collective in nature, and their enforcement requires global cooperation rather than a single state. Some rights are fundamental, but most of them, like the right to development, are aspirational, so their content, subject matter and enforceability are uncertain.<sup>7</sup>

It is worth remembering that the enjoyment of human rights is greatly affected and impeded by environmental degradation. The link between the enjoyment of human rights and the quality of the environment is now well established. As early as 1994, the *Report on Human Rights and the Environment* highlighted that environmental damage directly impacts the enjoyment of a range of human rights, including the right to life and health.<sup>8</sup>

The relationship between human well-being and environmental quality is complex and inextricable. Human rights have long provided an opportunity to approach the most serious injustices from a legal perspective, for example, in the fight against discriminatory treatment and poverty. At the same time, there is a growing demand within the international community for a similar approach to climate change, linking intergenerational equity, the rights of future generations and the right to a healthy, liveable environment.<sup>9</sup>

## 2.1. Right to a healthy environment

The right to the environment is a third-generation human right, with characteristics that differ in several respects from those of the first two generations. The right to the environment is global, i.e. it is not just for the survival of individuals or groups but for the survival of all humanity. The nature of environmental problems means that a single state's efforts are often insufficient to achieve environmental

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<sup>6</sup> Kovács, P. (2011). *Nemzetközi közjog [Public International Law]*. Budapest: Osiris Publishing, p. 315.

<sup>7</sup> Környei, Á. (2018). *Emberi jogok a nemzetközi kapcsolatokban (Human Rights in International Affairs)*. Budapest: Akadémiai Publishing. p. 19-24.

<sup>8</sup> Ksentini, F. Z. (1994). *Report on Human Rights and the Environment*. E/CN.4/Sub.2/1994/9. 6 July 1994. section 248.: „Environmental damage has direct effects on the enjoyment of a series of human rights, such as the right to life, to health, to a satisfactory standard of living, to sufficient food, to housing, to education, to work, to culture, to non-discrimination, to dignity and the harmonious development of one's personality, to security of person and family, to development, to peace, etc.”

<sup>9</sup> Adelman S. (2014).: Human Rights and Climate Change. *Legal Studies Research Papers*, University of Warwick School of Law, no. 4. p. 5.

goals. Violating the right to the environment is not usually immediate but takes longer to take effect. For example, a state-owned industrial plant's pollution of drinking water supplies is often discovered years later and can only be detected by instrumentation.<sup>10</sup> The right to the environment is not included in the "classical catalogues" of human rights, as they were adopted before the third generation of human rights. These conventions focus mainly on the first generation of human rights, and the amendments included social, economic and cultural rights. The so-called international "Bill of Rights" does not explicitly include the right to a healthy environment.<sup>11</sup>

Some regional international treaties establish a link between environmental and human rights concerning the rights of future generations and sustainable development. These treaties typically take the right to the environment as their starting point but tend to approach the issue from a procedural perspective. A classic example is the Aarhus Convention, adopted under the auspices of the UN Economic Commission for Europe, on access to information, public participation in decision-making and access to justice in environmental matters.<sup>12</sup> Finally, some "soft law" documents also set out the right to the environment as a "principle". This includes the 1992 Rio Declaration, which states that "*human beings are at the centre of the idea of sustainable development. They are entitled to live healthy and productive lives in harmony with nature.*"<sup>13</sup>

The European Convention on Human Rights (ECHR) was signed in Rome in 1950, so of course, it could not have included the right to the environment, which is a third generation of human rights. Since then, several Protocols to the ECHR have been adopted, but the right to the environment is still not explicitly guaranteed by the Convention system.<sup>14</sup> A case that stands out in the case law of the European Court of Human Rights is *López Ostra v Spain*, decided in December 1994. The facts of the case were that there were several tanneries in the Spanish town of Lorca, where a significant leather industry was concentrated. With State aid, a plant for treating liquid and solid waste was built only 12 metres from the future applicant's home. Almost immediately after the waste plant began operating, it caused health problems for the town's inhabitants. The applicant was *Gregoria López Ostra*, who lived in

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<sup>10</sup> Sári J. – Somodi B. (2008). *Alapjogok (Fundamental Rights)*. Budapest: Osiris Publishing. p. 317.

<sup>11</sup> 1946: Universal Declaration of Human Rights (UDHR), 1966: the International Covenant on Economic Social and Cultural Rights (ICESCR), and the International Covenant on Civil and Political Rights (ICCPR). Together, the UDHR and these two Covenants are known as the International Bill of Human Rights.

<sup>12</sup> *Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters Aarhus*, 1998. (2001.) UNTS 2161 447. p.

<sup>13</sup> Bándi, Gy. (2014). *Környezetjog (Environmental Law)*. Budapest: Szent István Assosiation. p. 95.

<sup>14</sup> *European Convention on Human Rights*. 1950 (1953) Rome, European Treaty Series, Nos 5, 9, 46, 114, 117, 155.

Lorca with her two children and husband. In this case, the Court examined the individual's right to freedom of choice of residence, the right to safety and security, and the right to privacy in the triple system. First, reference was made to Article 8 of the European Convention on Human Rights, which guarantees the right to respect for private and family life. In this context, the ECtHR found that the Spanish State had failed to strike the right balance between the economic well-being and interests of the city and the applicant's right to a family life. Thus, a violation of Article 8 was found. They also invoked Article 3, which states that no one shall be subjected to torture or inhuman or degrading treatment or punishment. However, the ECtHR shared the Spanish government's view in this respect, i.e., although it must have been very burdensome for the applicant and his family to live in such difficult conditions for many years, this does not violate Article 3. Finally, they claimed damages under Article 50 of the Convention, together with reimbursement of costs and expenses; finally, substantial damages were awarded to the applicant.<sup>15</sup>

Similar jurisprudence has been reported in other regional human rights regimes. Before the Inter-American Court of Human Rights, environmental cases are mainly examined under Articles 21 (right to property), 24 (principle of equal protection) and 25 (right to a fair trial) of the Inter-American Convention on Human Rights. A large percentage of cases arise concerning indigenous peoples living in the area, which is a specific issue in the practice of the Inter-American Court. Some notable cases from the Court's jurisprudence include *Mayagna (Sumo), Awas Tingni v. Nicaragua* (2001)<sup>16</sup> (where a violation of Article 21 was found), and *Saramaka People v. Suriname* (2007). The issue was also raised before the Inter-American Commission on Human Rights, such as in *Mary and Carrie Dann v. United States*.<sup>17</sup>

The right to the environment is secured in the international arena primarily through an evolutionary interpretation of regional human rights instruments through other rights. At the state level, however, the right to the environment is also protected at the constitutional level, as is also formulated in the Fundamental Law of Hungary: "*Hungary shall recognise and endorse the right of everyone to a healthy environment.*"<sup>18</sup> We cannot forget the EU aspect since the Charter of Fundamental Rights, which was given primacy by the Treaty of Lisbon, does not explicitly mention the right to the environment. Still, it does include an article on the environment: "*a high level of environmental protection and the improvement of the quality of the*

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<sup>15</sup> *López Ostra vs. Spain*, 1994. 41/1993/436/515

<sup>16</sup> *Case of the Mayagna (Sumo) Awas Tingni Community v. Nicaragua*, Petition No. 11577.

<sup>17</sup> *Case of the Saramaka People v. Suriname* Judgment of November 28, 2007.

<sup>18</sup> The Fundamental Law of Hungary (25 April 2011).

*environment must be integrated into the policies of the Union and ensured in accordance with the principle of sustainable development.*<sup>19</sup>

## 2.2. Right to food

The right to food is one of the latest achievements of third-generation rights. It is also linked to other third-generation rights, most closely to a safe and healthy environment, the right to water, and state objectives such as safeguarding the interests of future generations. The right to food is fundamental because, after a decade of improvement, the number of hungry people is now rising again, affecting almost 700 million. The eradication of hunger is already enshrined in the Millennium Development Goals, and the SDGs for 2030 include a primary commitment to eradicate hunger completely.

The UN family of agencies and programmes plays a major role in the history of the right to food: the FAO (Food and Agriculture Organization of the United Nations) and the WFP (World Food Programme). The enshrinement of the right to food in international conventions and the expansion of classic human rights catalogues are ongoing. However, it is important to note that the mere possibility of access to food does not solve the problem of quality hunger. We call it quality hunger when food is available in quantity, even in excess, but does not meet the nutritional requirements of a healthy diet. This is why the right to food has several components: availability, accessibility, adequacy and sustainability. As stated by the Council of Economic, Social and Cultural Rights, *“the right to adequate food is realised when every man, woman and child, alone or in community with others, has physical and economic access to adequate food or means of its procurement.”*<sup>20</sup>

## 2.3. Right to water

Water is essential for life; without clean water, there is no life, but the other side of human water management, sanitation and sewerage also have a major impact on living conditions and human health. The importance of water has also been highlighted by the UN’s “Water for Life” Decade, which runs from 2005 to 2015. In 2010, the UN General Assembly recognised the right to water and sanitation as essential for realising all human rights. In 2002, the Council of Economic, Social and Cultural Rights recognised the right to water: *“the human right to water is indispensable for the life of human dignity. It is a precondition for the realization of*

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<sup>19</sup> Charter of Fundamental Rights of the European Union, OJ C 326, 26.10.2012, p. 391–407. 391—407. CELEX: 12012P/TXT.

<sup>19</sup> Charter of Fundamental Rights of the European Union, Art. 37.

<sup>20</sup> About the right to food and human rights. Retrieved at: <https://www.ohchr.org/en/special-procedures/sr-food/about-right-food-and-human-rights>.

*other human rights.*<sup>21</sup> From a dogmatic point of view, the right to water is one of the most controversial human rights. Its concept takes several forms: the right to drinking water, the right to water, the right to access sufficient water, and the right to clean water. Its classification as a generational right is also uncertain, as many people associate it with the rights to life and dignity, health, food, adequate quality of life or education, the unquestioned fulfilment of which is nowadays associated with the right to water as a precondition. Although the right to water is implicit in several international human rights conventions, there is no explicit reference to it in the classic documents, such as the International Bill of Rights mentioned above.<sup>22</sup>

The provision of clean drinking water was already included in the MDGs, then as sub-goal 7. C: “*by 2015, halve the proportion of people without sustainable access to safe drinking water and basic sanitation.*” As a result of these programmes, between 1990 and 2015, around 2.6 billion people improved their access to safe drinking water, and 2.1 billion people improved their sanitation. With 3 out of 10 people today lacking access to safely managed drinking water services and 6 out of 10 people lacking access to adequate sanitation and hygiene facilities, the SDGs have set a specific target for water and sanitation. Goal 6 sets out a further six sub-goals to ensure that by 2030, everyone has access to the necessities of life. The outbreak of the coronavirus pandemic in 2020 has once again raised awareness of the importance of the right to water, as regular hand-washing and disinfection are essential tools for prevention. Furthermore, especially in developing countries, health facilities lack adequate water sources, affecting one in four facilities worldwide.<sup>23</sup>

### **3. The role of digitalisation and “smart solutions” in building sustainable cities**

The use of artificial intelligence has a great impact on our Planet, but there is a growing tendency to develop “*Earth-Friendly Artificial Intelligence*”. There are AI solutions where environmental protection is a primary goal, and ecological considerations are secondary in other cases. In the context of the right to a healthy environment, the considerations related to AI are twofold. Firstly, can the right to a healthy environment provide individual legal protection to those exposed to harmful

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<sup>21</sup> UN Water for Life Decade 2005-2015. Retrieved at: <https://www.un.org/waterforlifedecade/>.

<sup>21</sup> GA Resolution 64/292.

<sup>21</sup> Committee on Economic, Social and Cultural Rights, General Comment No. 15. E/C.12/2002/11.

<sup>22</sup> Raisz A. (2012). A vízhez való jog egyes aktuális kérdéseiről [About some current issues of the right to water]. In: Csák Cs. (Ed.) *Jogtudományi tanulmányok a fenntartható természeti erőforrások témakörében [Legal studies in the field of sustainable natural resources]*. Miskolc: University of Miskolc p. 151-159.

<sup>23</sup> Belay, D. (2021). COVID-19 Pandemic and Water, Sanitation, and Hygiene: Impacts, Challenges, and Mitigation Strategies. *Environ Health Insights*. Published online 2021 Jul 14. doi: 10.1177/11786302211029447.

emissions caused by AI? Second, what solutions can help ensure a healthy environment through technologies that aim to protect the environment?<sup>24</sup>

The main characteristic of the third generation of human rights is that they are highly complex composite rights, and none of them has solid legal foundations in a legal instrument of international law. Digital solutions and the use of artificial intelligence can help to evolve these rights. Firstly, in the context of the right to food, artificial intelligence will definitely have a significant role in achieving sustainable agriculture and food security, mitigating and limiting the impacts of climate change. With the help of analytical toolkits – already applied by the relevant organs of the United Nations – many food production and security areas can be developed by applying AI-based solutions, such as soil health and water availability, weather trends and pest control. In urbanised areas, digital solutions will create efficient connections between urban consumers and surrounding producers that will reduce transportation emissions and food waste.<sup>25</sup>

The right to water is receiving increasing attention worldwide, particularly given the worsening water shortage. “Smart solutions” can provide the necessary means to guarantee access to clean and safe drinking water for all, such as a new “drinking water chatbot” that exploits relevant legislation and information on water.<sup>26</sup> Interestingly, AI can also hinder the preservation of water sources since large data centres use clean water to cool and consume energy. Hot times of the day require more water because the data centres need to be cooled more. It is estimated that PT3 in Microsoft’s US data centres can directly consume 700,000 litres of clean freshwater, and in 2022, Microsoft withdrew 11.5 million gallons of water in Iowa to cool new data centres training AI.<sup>27</sup>

#### 4. Conclusion and closing remarks

Ensuring the human rights of the third generation is closely linked to the principles of good governance, democracy and, above all, building sustainable, liveable and inclusive communities. Digital solutions can significantly facilitate deploying solutions that help put rights into practice. As I have already mentioned,

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<sup>24</sup> Quintavalla, A. (2023). Artificial Intelligence and the Right to a Healthy Environment. In: *Artificial Intelligence and Human Rights* (Eds. Quintavalla, A. & Temperman, J.) Oxford: Oxford University Press. Part VIII: Artificial Intelligence & Third Generation Rights.

<sup>25</sup> United Nations (2024). Artificial Intelligence Can Transform Global Food Security and Climate Action. Retrieved at: <https://unu.edu/article/artificial-intelligence-can-transform-global-food-security-and-climate-action>.

<sup>26</sup> Leven, R. (25 April 2023) Safe drinking water is a right. Experts want AI to help make it a reality. Retrieved at: <https://cdss.berkeley.edu/news/safe-drinking-water-right-experts-want-ai-help-make-it-reality>.

<sup>27</sup> Ren, S. (2023) How much water does AI consume? The public deserves to know. Retrieved at: <https://oecd.ai/en/wonk/how-much-water-does-ai-consume>.

third-generation rights are complex. They cannot be secured at the individual level alone, but they often require a complete societal turnaround to ensure the rights of the individuals concerned. At the same time, we must not forget that the development and use of digital solutions contribute to greenhouse gas emissions and increase the amount of e-waste. For this reason, careful consideration must be given to using specific technological solutions. The legal basis for third-generation human rights is still to be established but is increasingly covered by soft law documents and international agreements. Establishing accountability will go a long way to ensuring that these rights are effectively guaranteed, thus contributing to building green democracies.

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## **IMPLIKACIJE ZELENIH DEMOKRATIJA NA LJUDSKA PRAVA U ERI DIGITALIZACIJE**

### ***Apstrakt:***

Da li su demokratske institucije otporne na globalne i lokalne promene životne sredine? Ovo je glavno pitanje našeg vremena usred degradacije životne sredine, klimatskih promena, gubitka staništa i biodiverziteta. U 21. veku, čak i regioni i države sa dugom demokratskom istorijom moraju da se suoče sa izazovima koje predstavlja hitnost životne sredine. U svom radu i prezentaciji, želeo bih da istaknem definiciju zelenih demokratija i implikacije takvih naselja na ljudska prava. Digitalna rešenja, uključujući veštačku inteligenciju, mogu da ometaju, ali i da pomognu u postizanju i podršci zelenoj tranziciji. Zelene demokratije i zeleni gradovi dobijaju sve veću pažnju nevladinih organizacija, država i Evropske unije, na osnovu spoznaje da je zelene odluke i uspešna rešenja lakše postići lokalno, a ne globalno. U okviru SDG, EU i međunarodnih programa, sve više naselja se opredeljuje za ekološku demokratiju. U drugom delu svog rada koncentrišem se na ulogu digitalnih rešenja i veštačke inteligencije, pre svega na to kako ova rešenja mogu da podrže alate direktne demokratije, koja se pokazala kao suštinski element zelenih demokratija.

***Cljučne reči:*** *ljudska prava, ekološka demokratija, ekološka vladavina prava, veštačka inteligencija, digitalizacija, pravo na zdravu životnu sredinu, direktna demokratija*

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