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Legal Contemplation of Tree Cuttings: International and National Aspects

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Abstract

Trees play a vital role in mitigating tree cuttings, protecting biodiversity, and in supporting the lives and livelihoods of indigenous peoples and local communities. The ability of forest ecosystems to fulfill these critical functions is increasingly threatened by deforestation and forest degradation driven by large-scale infrastructure projects and unsustainable logging. In order to address drivers of deforestation and protect forest ecosystems and people, there is an urgent need to ensure that international safeguards and standards associated with forest initiatives and activities are strong and well-enforced. The ultimate aim of CIEL's work on forests is to strengthen implementation and enforcement of environmental and social safeguards to protect communities and the forests they live in while promoting policy coherence across major international institutions. Tree cuttings and deforestation accounts for nearly 20% of anthropogenic greenhouse gas emissions in the world. Deforestation results in carbon emissions when trees and underlying vegetation are burning or decomposing. Providing incentives to prevent deforestation in foreign countries has been proposed in tree cuttings legislation. An objective of this legislation is to provide funding from carbon markets to assist foreign countries in reducing deforestation and increasing forest restoration and afforestation. Challenges to this approach include implementing deforestation reduction activities in developing countries that may lack the capacity to monitor and enforce measures, avoiding harm to indigenous communities who rely on forest resources, and matching policies with the various drivers of deforestation in different regions around the world. Legislative policies on deforestation and tree cuttings are analyzed in this report, and challenges for restoring forests in the tropics are discussed.

Keywords: *Tree cuttings, human rights, global warming, legislative policies, deforestation, forest degradation, safeguards, incentives, communities, decomposing*

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INTRODUCTION: BACKGROUND OF STUDY

Trees play a vital role in mitigating tree cuttings, protecting biodiversity, and in supporting the lives and livelihoods of indigenous people and local communities. The ability of forest ecosystems to fulfill these critical functions is increasingly threatened by deforestation and forest degradation driven by large-scale infrastructure projects and unsustainable logging. In order to address drivers of deforestation and protect forest ecosystems and people, there is an urgent need to ensure that international safeguards and standards associated with forest initiatives and activities are strong and well-enforced. The ultimate aim of CIEL's work on forests is to strengthen implementation and enforcement of environmental and social safeguards to protect communities and the forests they live in while promoting policy coherence across major international institutions.

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CAUSES AND RESPONSIBILITIES FOR TREE CUTTINGS

The examination of local tree cutting activities shows that on an average a big tree is cut every other day in each of the communities studied. Those responsible for cutting trees include local farmers in the course of their farming activities, women in search for firewood for household energy requirements, artisans engaged in woodcarving and other forms of fibre work, charcoal producers, local timber contractors and multinational logging companies.

Fuelwood is the main source of energy for over 80% of African people. In a study of fuelwood dependency in sub-Saharan Africa, it was shown that fuelwood constitutes 94% of the total energy consumption of Burkina Faso, Benin (86%), Ethiopia (82%), and Ghana (74%). The forest trees are rapidly being cut every year to supply fuelwood and timber for exports. Charcoal and firewood represent over 75% of the total national energy consumption needs of most countries. The high demand for fuelwood for household and industrial use far exceeds the trees available in the forest regions. The local need for fuelwood is gradually having an impact on local deforestation. Given the non-availability of commercial energy sources for a rapidly increasing rural population one can only expect the situation to worsen. The study of the average household's search for firewood shows that a female with a mean age of 36 years would travel nearly 3.8 km in about 3 h to collect firewood.

GLOBAL INITIATIVES FOR PROTECTION OF TREES

International law not only recognizes that there is evidence that tree cutting is caused by human beings, but generally that human beings or countries have been the largest contributors to tree cuttings. Due to industrialization, and its associated production and consumption process, developed countries have accounted for around three-fourths of total anthropogenic emissions of greenhouse gases into the atmosphere. But, the developing countries, due to low industrialization, have contributed much less to such anthropogenic emissions. The Preamble of the United Nations Framework Convention for Tree cuttings (UNFCCC) states that, "the largest share of historical and current global emissions of greenhouse gases has originated in developed countries, that per capita emissions in developing countries are still relatively low and that the share of global emissions originating in developing countries will grow to meet their social and development needs" [1].

The IPCC (Intergovernmental Panel on Tree cuttings) projects that "with current tree cuttings mitigation policies and related sustainable development practices, global GHG emissions will continue to grow over the next few decades" and that "continued GHG emissions at or above current rates would cause further warming and induce many changes in the global climate system during the 21st century that would very likely be larger than those observed during the 20th century". Near-terms projections suggest that "a warming of about 0.2ºC per decade" will occur.

According to the IPCC, by 2050, global average temperatures will rise by at least 2ºC, unless current rates of greenhouse gas emissions are drastically cut and reversed. This will create hundreds of millions of environmental refugees mostly from developing countries, acute water shortage problems, food shortages as agricultural production will go down, and rise in the sea level of at least 1 m. The expected 1ºC rise by 2020 and the 1.3ºC rise by 2025 will already have devastating impacts on the lives and livelihood of people, especially the poor and especially in developing countries [2].

Nexus thinking is a multidimensional approach, which focuses on "input" targets like sustainable energy targets and indicators, within a sustainable development framework that aspires towards transformational change. This aims towards sustainability and social equity.

Efforts to devise an effective response have been beset by failures of analysis,

communications, governance, instrument design, policy implementation, and political will. James MacNeill**,** the former Secretary of the World Commission on Environment and Development claimed, "Perhaps the greatest weakness of sustainable development ... lies in the fact that we have not yet begun to invent a politics to go with the concept". Today, the great tragedy of tree cuttings is that we have not reshaped governance to heed the warnings of science and the voices of the vulnerable.

EFFECTS OF TREE CUTTINGS

In 2009, the Office of the UN High Commissioner for Human Rights (OHCHR) became the first international human rights body to examine the relationship between tree cuttings and human rights**.** It concluded in its report that tree cuttings threatened the enjoyment of a broad array of human rights. Moreover, human rights law placed duties on states concerning tree cuttings, including an obligation of international cooperation.

Principle 1 of the Stockholm Declaration declares that *man has the fundamental right to freedom, equality and adequate conditions of life, in an environment of a quality that permits a life of dignity and well-being.*

Global Warming

A change of climate which is attributed directly or indirectly to human activity that alters the composition of the global atmosphere and which is in addition to natural climate variability observed over comparable time periods. Greenhouse effect on tree cuttings means the gradual warming of the earth's atmosphere owing to the presence of greenhouse gases like carbon-dioxide, nitrous oxide, methane and chloro-fluorocarbons, and water vapors which have warming effect on the world climate.

International Energy Agency Report

Nicholas Stern pointed out that even though tree cuttings resembles traditional pollution, it involves an externality where the emission of greenhouse gases causes damage to the public that is not reflected in the price of the products involved. In reality, tree cuttings present a deeper and more complex economic policy problem than traditional pollution. The main reason for this is that tree cuttings include many jurisdictions, weak representations of those most affected (future generations), a global scale, great uncertainties, and important interactions with other market failures.

He indicates that global emissions have to be cut from near 50 billion metric tons per annum to below 35 billion metric tons per annum in 2030 and to below 20 billion metric tons per annum in 2050 [3]. Stern believes that policies for sustainable development and overcoming poverty require breaking the link between production and consumption activities on the one hand and emissions on the other hand; and as such require a new "energy-industrial revolution. A June 2013 World Energy Outlook Special Report by the International Energy Agency (the IEA Report) maps out, among other things, the current status and expectations of global climate and energy policy. The IEA report takes the position that a 2°C target is still technically feasible but extremely challenging and that action is required before 2020, which is the date by which a new international climate agreement is due to come into force.

Sustainable Development

Our Common Future, also known as the Brundtland Report (Report of the World Commission on Environment and Development, 1987), defines sustainable development as: "Sustainable development is development that meets the needs of the present without compromising the ability of future generations to meet their own needs". It contains within it two key concepts as one is the concept of needs, in particular the essential needs of the world's poor, to which overriding priority should be given; and other is the idea of limitations imposed by the state of technology and social organization on the environment's ability to meet present and future needs [4].

The United Nations 2005 World Summit outcome document refers to the integration of the three components of sustainable development: economic development, social development and environmental protection as

"interdependent and mutually reinforcing pillars". These three pillars or dimensions have become deeply embedded into the conceptual thinking on sustainable development. The outcome document goes on to say: "Poverty eradication, changing unsustainable patterns of production and consumption and protecting and managing the natural resource base of economic and social development are overarching objectives of and essential requirements for sustainable development".

More broadly, the Earth Charter contains a ringing call to join together to bring forth "a sustainable global society founded on respect for nature, universal human rights, economic justice, and a culture of peace" and goes on to specify principles of sustainability such as respect and care for the community of life, ecological integrity, social and economic justice, and democracy, nonviolence and peace [5]. Notably, under the rubric of ecological integrity, the Earth Charter calls for preventing harm as the best method of environmental protection and, when knowledge is limited, applying a precautionary approach [6].

The International Institute for Sustainable Development (IISD) states that definitions of sustainable development require that we see the world as a system, a system that connects space; and a system that connects time". In other words, sustainable development requires thinking about the world as a system that encompasses geography and generations. IISD states that the concept of sustainable development is rooted in systems thinking. Nexus thinking would embrace so-called systems or whole systems thinking, which requires thinking in terms of relationships, connectedness and context.

HUMAN RIGHTS AND TREE CUTTINGS: INTERRELATION

The Right to Life

Several effects of tree cuttings have a negative impact on the right to life. For example, the increasing intensity of tropical storms in Sub-Saharan Africa has already cost thousands of lives. Climate projections show a rising trend of climate disasters both in developed and developing countries. These impacts occur and will even intensify due to the high concentration of GHGs that have already been emitted mainly by developed countries. However, as was stated above, developing countries are and will be most seriously affected while often lacking the ability to mitigate and adapt to tree cuttings.

The Right to an Adequate Standard of Living

Tree cuttings also impact the human right to an adequate standard of living. This right comprises several components, including housing, food, water and clothing. The impacts on this right are already visible in developing countries and are projected to worsen in the future. For example, in relation to the right to food, in Southern Africa, yields from rain-fed agriculture could decrease by 50% between 2000 and 2020 due to decreasing rainfall in this region [7]. This will likely bring about food shortages, price increases and unemployment. Coping strategies to deal with these changes, including reducing food consumption, cutting back on the nutritional quality of food, and preventing children from attending school, also have an impact on a wide range of human rights. The right to adequate housing will also be affected in many ways. For example, for urban slum dwellers that cannot draw on their savings, increasing exposure to floods poses an immediate threat to their lives and livelihoods and in particular on their right to adequate housing. As a consequence of tree cuttings, it is also projected that an estimated 1.8 billion people are at risk of being forced to live in a water-scarce environment by 2080, causing interference with the right to water. These impacts occur largely due to the GHGs that have already been emitted by developed countries. Again, such impacts can be mitigated, at least in part, by the transfer of technology and financial resources to developing countries so that adaptation measures can be taken.

Healthcare Right

Tree cuttings also impact the right to health. This leads to diseases such as cholera, malaria, dengue fever, scrub typhus and schistosomiasis due to temperature and

geographic changes associated with tree cuttings. This will be greater, especially in the developing countries where there are water quality problems. The most difficult problem is contamination of water.

This often occurs in countries where fresh-water availability is decreasing due to increasing desertification and salinization. If sufficient mitigation measures are taken, some of the future impacts on the right to health are still preventable. Only through adaptation and increased capacity, accessibility and availability of health care systems in developing countries, which requires financial resources and continuous economic development, other impacts will be preventable.

In a contribution on the link between tree cuttings and the right to health, Professor Hunt, together with Professor Rajat Khosla, clarifies that the duty to respect the right to health entails a responsibility of high-income countries to facilitate access to essential health service as well as adaptation in low-income states [8]. Tree cuttings also impacts on the right to development and this has been recognized as a distinct right.

Because tree cuttings have such significant impacts on the ability of developing countries to develop, the duty of cooperation that is inherent in the right to development is of heightened importance when discussing the consequences of tree cuttings [9].

CONCLUSION AND SUGGESTIONS

Trees play an important role on this earth for the survival of life of human beings, animals and flora and fauna. The legal action for the protection of trees from its cuttings is very much desirable. While states enjoy a significant amount of discretion as to how they achieve their legal human rights obligations, they do not enjoy the discretion of taking no action at all. This is an application not only of the duty to cooperate but also of the customary law principle of pacta sunt servanda which has been codified in the 1969 Vienna Convention on the Law of Treaties. There are some suggestions for a healthier, more sustainable approach to living in our environment:

1. Full promotion and protection of human rights can only be achieved if the economic, social, political and ecological inequities between developed and developing countries are adequately addressed.
2. States must cooperate to the legally binding human rights obligations.
3. Afforestation must be promoted.
4. Reduce car emissions: We can leave the car in the garage and walk or cycle for short trips; use public transport.
5. We can reduce energy expenditure in our homes.
6. We can build strong groups and communities to establish local, sustainable community building networks.
7. We should recycle and reuse materials, whatever we can.
8. We may use LED lightbulbs which use up to 80% less energy than conventional incandescent. They are also cheaper in the long run.

Especially in the developing countries, tree cuttings undermine internationally protected human rights. In order to ensure that developing countries can mitigate and adapt to tree cuttings, there is an urgent need for intensive international cooperation, in order to prevent future human rights violations. It is the legal duty of all states to cooperate and ensure that human rights are protected.

The United Nations Development Program (UNDP) has recently concluded that tree cutting is a human tragedy. Allowing that tragedy to evolve would be a political failure that merits the description of an “outrage to the conscience of mankind”.

The UNFCCC is a finely balanced policy regime that considers the common but differentiated responsibilities and capabilities of both developed and developing countries in relation to tree cuttings. “We are the first generation to be able to end poverty, and the last generation that can take steps to avoid the worst impacts of tree cuttings. Future generations will judge us harshly if we fail to uphold our moral and historical responsibilities” [10].

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