

THE RIGHT TO THE ENVIRONMENT IN MADAGASCAR: A NEW AND EXPANDING RIGHT

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ABSTRACT

The environment characterizes human life. Some human activities are based on the environment, while others modify it. So it's hardly surprising that the legal sciences are constantly focusing on the preservation of every individual's right to the environment, as it is inseparable from his or her survival. It is in this context that the present article prompts reflection on the effective enjoyment of the right to the environment in Madagascar, which is well known not only for its wealth of fauna and flora, exceptional in the world, but also and above all for the fact that the majority of its population lives by subsistence farming.

Keyword – *Environmental law; environment; new and expanding right*

INTRODUCTION

Environmental concerns have always attracted the attention of political leaders since Madagascar's first republic (1958-1975), especially in times of climatic disaster, pandemics or food insecurity. The Malagasy media, in their essential role of informing and educating, have always covered major events such as those relating to environmental migration in Madagascar's far south, the Androy region. Environmental migration is now a political issue par excellence, and one that also calls for the attention of legal experts.

It is important to note that even during the Malagasy revolutionary period from 1975 to 1991, the country had already adopted several texts on the preservation of the right to the environment, such as law n°90-033 on the Malagasy environmental charter of December 21, 1990, or law n°96-025 of September 30, 1996 on the local management of renewable natural resources.

Indeed, Malagasy leaders have always considered environmental preservation to be a new and growing right. The preservation of the environment is an equitable requirement throughout Madagascar, in line with the vision of regional balance espoused by President Didier Ratsiraka (1975-1993 and 1997-2002). As for President Andry Rajoelina (2009-2014 and 2019-), his merit lies in the adoption in 2021 of Madagascar's «Plan Emergence Grand Sud» (Greater South Emergence Plan [Our translation]), in which the fight against global warming and famine are particularly important.

In spite of this, there have been more debates, programs and projects than real achievements. Hence the interest of the present research, which consists in analyzing the promotion and preservation of the right to the environment in Madagascar. The promotion of this right requires attention to its genesis. As for its protection, this requires an examination of its recent evolution in the context of Madagascar.

RESEARCH METHOD

The present work was carried out using legal documentary research [1-4]. The legal data studied include the Stockholm Declaration of 1972, the Universal Declaration of Human Rights of December 10, 1948, the International

Covenant on Civil and Political Rights of December 16, 1966, the International Covenant on Social, Economic and Cultural Rights of December 16, 1966, the Constitution of the Fourth Republic of Madagascar of December 11, 2010, the Constitution of the Third Republic of Madagascar of September 18, 1992, the Charter of the Environment of 1990, amended by laws no. 97-012 of June 06, 1997 and no. 2004-015 of August 19, 2004, law no. 2015-003 on the updated environment charter, law no. 96-025 of September 30, 1996 on the local management of renewable natural resources, law no. 99-021 of August 19, 1999 on industrial pollution management and control policy, or decree no. 2017-566 setting the control and inspection missions of environmental technicians as well as the terms of transaction, of November 28, 2017. The article also includes a brief analysis of the United Nations Program for Sustainable Development to 2030, the National Policy to Combat Climate Change revised in 2021 and the environmental law manual for magistrates in Madagascar. It is used as a reference to illustrate the concept of the right to the environment as a new and exploding right.

RESULTS AND DISCUSSION

1. Genesis of environmental rights

It is in the genesis of environmental law that the true founding vision of this concept can be seen. The right to the environment results from the convergence of several sources of international law, namely international treaties, custom, general principles of law and case law [5]. We shall begin by elucidating how the right to the environment came to be enshrined, and then move on to the emergence of this right as a new human right.

1.1 Consecration of the right to environment

Among human rights, the right to the environment is becoming increasingly important in the implementation of the principle of sustainable development. It is the result of the thoughts, reflections and agitation of eminent political figures, international jurists and great thinkers in the international community. The Republic of Madagascar, like any other country in the world, enshrines this fundamental right because of its relevance. It is one of the pillars of respect for human dignity and Malagasy values. It should therefore be examined at both international and national levels.

1.1.1 International recognition of environmental law

It was at the 1972 Stockholm Summit on the Environment that the right to the environment was first enshrined by the international community. In its first principle, the Stockholm Declaration stresses in particular that « l'homme a un devoir solennel de protéger et d'améliorer l'environnement pour les générations présentes et futures. » (man has a solemn duty to protect and improve the environment for present and future generations [Our translation]).

It is important to emphasize that this consecration is inspired by public environmental law, private law and European Union law [6-7]. The environment has been established as a genuine right to which the individual can lay claim. Indeed, every individual must enjoy this right, by virtue of the very principle of equality between individuals recalled in Article 1 of the Universal Declaration of Human Rights of December 10, 1948, which states as follows « tous les êtres humains naissent égaux en dignité et en droit. Ils sont doués de raison et de conscience et doivent agir les uns envers les autres dans un esprit de fraternité » (all human beings are born equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood [Our translation]). Thus, the right to the environment must be recognized for the benefit of all individuals, without any form of discrimination. It is just as important as the right to housing, the right to food and the right to health.

The effectiveness of the right to the environment is part of the process of guaranteeing the achievement of the objectives of the United Nations Program for Sustainable Development to 2030. The preservation of this right cannot be achieved without invoking people's responsibility to prevent and repair damage to the environment.

Since the Stockholm Summit in 1972, the preservation of the right to the environment has always been enshrined, at least implicitly, or at best explicitly, in various international texts, starting with those adopted at the Rio Summit in 1992, the Johannesburg Summit in 2002, the Rio+20 Summit in 2012 and the Rio+40 Summit in 2022. Madagascar, having participated in all these summits and others, has given them a wide scope of reference in the design of its legal texts, regulatory measures and public policies.

In this context, it is not surprising that Madagascar is known internationally as a developing country, but one with great ambitions in terms of promoting and protecting the right to the environment. Proof of this is also provided by the fact that the country is no stranger to the fight against global warming, through its National Policy to Combat Climate Change, which will be revised in 2021. It is committed, at least verbatim, to implementing the right to the environment throughout the country, as in the extreme south of Madagascar, the Androy region, which is seriously exposed to environmental precariousness. It would now be wise to examine the right to the environment on a national level.

1.1.2 National recognition of environmental law

Article 37 of the Constitution of the Fourth Republic of Madagascar of December 11, 2010 enshrines the principle of environmental protection as the ultimate reference par excellence, and hence the right to the environment. It stipulates that « l'État garantit la liberté d'entreprise dans la limite du respect de l'intérêt général, de l'ordre public, des bonnes mœurs et de l'environnement » (the State guarantees freedom of enterprise within the limits of respect for the general interest, public order, morality and the environment [Our translation]). This means that individual or collective actions that infringe on the environmental rights of others, or on the general interest, are prohibited under positive law.

Article 37 of the Constitution of the Third Republic of Madagascar of September 18, 1992 is even more explicit in this respect, stating that « toute personne a l'obligation de respecter les valeurs culturelles, les biens publics et l'environnement » (everyone has an obligation to respect cultural values, public property and the environment [Our translation]).

All of which goes to show the extent to which Madagascar's leaders have always been concerned about how best to safeguard their citizens' right to the environment. Although Madagascar remains a developing country, known for its countless socio-economic problems, environmental concerns have never been neglected.

In the chronicle of sustainable development in Madagascar, 2015 was marked primarily by the adoption of Law n°2015-003 on the updated Environmental Charter. This 23-article text clearly and concisely explains the Malagasy government's vision of the preservation of the right to the environment. Article 6 of the charter states that « toute personne a le droit fondamental de vivre dans un environnement sain et équilibré » (everyone has the fundamental right to live in a healthy and balanced environment [Our translation]). The legislator implies that every Malagasy has the right to live in a productive environment in which he can meet his basic needs.

Article 8 of the 2015 charter states « il est du devoir de chacun de veiller à la protection du cadre dans lequel il vit, de prendre part à la gestion de l'environnement à travers la protection, la conservation, la valorisation, la restauration » (it is everyone's duty to protect the environment in which they live, and to take part in environmental management through protection, conservation, enhancement and restoration [Our translation]). In this case, preserving the environment is everyone's responsibility and, as such, now represents a common duty.

And in cases where environmental damage is caused to others or to the general interest, article 9 stipulates that « toute personne physique ou morale de droit public ou privé ayant causé un dommage à l'environnement, doit supporter la réparation du préjudice, le cas échéant, réhabiliter le milieu endommagé » (any natural person or legal entity under public or private law that has caused damage to the environment, must pay compensation for the damage and, where appropriate, rehabilitate the damaged environment (Our translation)). In this way, the right to the environment is amply sacralized for the benefit of every individual. The emergence of this right as a new human right in full expansion in Madagascar is still worth considering.

1.2 The right to the environment as a new human right

The right to the environment remains a new right on a par with other human rights. It has become a fundamental and inalienable human right, and has contributed to the emergence of the third generation. The emergence of this third generation should be briefly outlined, before going on to stress the importance of this right in the community.

1.2.1 The right to the environment and the third generation of human rights

The third generation of human rights dates back to the middle of the 20th century. It follows on from the aspirations of emerging and, above all, developing countries at major international conferences [8-9]. At the first Earth Summit in Stockholm in 1972, the emerging countries (formerly known as the countries of the North) raised the urgent need for a right to a healthy environment for all. Developing countries, such as the Republic of Madagascar, were more concerned with the right to development [10].

These two rights, along with the right to peace and the right to humanitarian aid, are often the most frequently mentioned in the third generation of human rights. All states, and developing countries in particular, are keen to ensure that these rights prevail, as part of the process of responding to their ever-increasing socio-economic precariousness [11].

It is important to emphasize that the holder of the first and second generations of human rights is the individual as a human being, while the holder of the third generation of human rights is a collective entity, namely the people. Only the third-generation right of peoples to self-determination is mentioned in the first two generations, by virtue of Article 1, paragraph 1, of the International Covenant on Social, Economic and Cultural Rights of December 16, 1966, and Article 1, paragraph 1, of the International Covenant on Civil and Political Rights of December 16, 1966. The first paragraph of Article 1 of the two covenants stipulates that « tous les peuples ont le droit de disposer d'eux-mêmes. En vertu de ce droit, ils déterminent librement leur statut politique et assurent librement leur développement économique, social et culturel » (all peoples have the right to self-determination. By virtue of that right, they freely determine their political status and freely pursue their economic, social and cultural development [Our translation]). More succinctly, this right protects people's self-determination in the civil, political, social, economic and cultural spheres.

The Republic of Madagascar is committed to promoting and preserving the third generation of human rights, and in particular the right to the environment for all, through the United Nations 2030 Agenda for Sustainable Development. The ultimate goal is to strengthen the enjoyment of these rights, particularly for the Antandroy populations, who represent the benchmark par excellence for environmental migration in Madagascar. This is a primordial right that lies at the heart of national development.

1.2.2 The importance of environmental law

The importance of the right to the environment is amply demonstrated by its indivisibility from all other fundamental rights [12]. Indeed, the environment conditions human life, and consequently influences our ability to enjoy all fundamental rights. In this sense, the right to the environment can in fact be placed first, in a coherent process to preserve other human rights.

This theoretical analysis is supported by the fact that environmental precariousness in a region greatly characterizes the way of life of its inhabitants. The nature of the environment influences human behavior in the exercise of all fundamental rights.

So, even though the third generation has not been the subject of a specific international covenant, it still requires a great deal of legal consideration because of this indivisibility. It is vital to emphasize that, although the right to the environment was not provided for in the first two generations, it does feature explicitly or implicitly in a number of United Nations conventions, such as the United Nations Framework Convention on Climate Change of May 9, 1992, which is essentially concerned with combating climate change, which is one of many causes of environmental precariousness.

The importance of the right to the environment can therefore be seen, on the one hand, in its indivisibility with other human rights and, on the other, in its undeniably remarkable enshrinement in United Nations conventions on the subject.

2. Recent developments in Madagascan environmental law

It's a well-known fact that in legal matters, it's the facts that create the law. Environmental law is no exception to this rule. Hence the need to reform Malagasy environmental law and, in this case, the right to the environment in recent years. This was particularly evident in 2015, with the updating of the Malagasy Environmental Charter, later

accompanied by other legal provisions which together form part of a common process to contextualize environmental law in the face of national reality.

2.1 The need to update Madagascar's environmental charter in 2015

It's about time the 1990 Environment Charter, amended by laws no. 97-012 of June 06, 1997 and no. 2004-015 of August 19, 2004, underwent another revision. This time, Malagasy legislators have taken into account national commitments under international conventions that have been duly ratified, but the emphasis is also on bringing all development projects into line with environmental law.

2.1.1 Taking account of international environmental conventions

The main reason for updating the 1990 Environment Charter in 2015 is that, at that time, it failed to take into account the principles and recent commitments of the Republic of Madagascar to work profusely for the preservation of environmental resources. These are essentially the United Nations conferences held in 1992, 2002 and 2012 respectively. With a view to mitigating the environmental degradation caused mainly by climate change, it emerged that the revision of the old charter could not be derogated from.

Thus, in 2015, a new charter was adopted. It reflects the Malagasy state's vision of preserving the right to the environment in all areas of intervention. Articles 7 to 14 provide a general overview of the new charter's foundation, with the ultimate aim of concretely combating the effects of climate change and protecting environmental resources in the process. Article 7 states that every individual has the right to access information likely to affect the environment, and to take part in the decision-making process. Another way of rephrasing Article 7 is to emphasize that all citizens are involved in preserving the right to the environment.

To be even more precise, article 8 adds that preserving the environment is everyone's responsibility and, as such, now represents a common duty. So the new charter makes it much clearer that preserving the environment is both a right that requires all the necessary measures to be taken, and a duty that forbids any individual to refrain from doing so. And in the event of environmental damage being caused to others or to the general interest, article 9 stipulates that the perpetrator must be obliged to repair or rehabilitate the damaged environment.

With regard to any individual who has perpetrated pollution of any kind on the environment, article 10 requires that the polluter-pays principle be applied, requiring the perpetrator to pay the costs of repair or compensation. It's worth pointing out that this "polluter pays" principle has already been mentioned in article 68 of law n°99-021 of August 19, 2021 on Madagascar's industrial pollution management and control policy. However, the fact that it is still included in the new charter is highly significant for the preservation of the right to the environment.

Article 11 of the 2015 charter lays down the obligation to take the necessary precautionary measures with regard to all activities that could cause damage to the environment, even in cases of uncertainty. This principle applies to all sectors of activity without distinction, and in this sense concerns employers of environmental migrants.

Article 12 continues with the principle of prevention, which particularly concerns known activities with a risk of damaging the environment. In this respect, the authors of such activities are required to take appropriate preventive and remedial measures.

And by virtue of the principle of public participation, instituted by Article 14, citizens are entitled to be informed about projects, actions or substances that could harm the environment. They must also participate in legislative or even political decision-making through a public inquiry procedure.

It should be emphasized that the principle of participation gives the target population the opportunity to propose its own solutions, with the inevitable emphasis on socio-cultural characteristics, and in this sense consolidates the chances of success of any intervention to preserve the right to the environment. It is now important to clarify how development projects comply with Malagasy environmental law.

2.1.2 Development projects that comply with environmental law

Malagasy legislators have deemed it necessary to legitimize any development project that complies with the provisions of Law n°2015-003, relating to the Environmental Charter. Article 2 states that this charter « a pour objet

de définir les principes et cadre général pour les acteurs environnementaux et les acteurs de développement, des principes et des orientations stratégiques de la politique environnementale du pays. » (aims to define the principles and general framework for environmental and development stakeholders, as well as the principles and strategic orientations of the country's environmental policy [Our translation]).

Henceforth, it remains the reference par excellence for development players in all their activities. Article 13 of the charter stipulates that « les projets d'investissements publics ou privés, qu'ils soient soumis ou non à autorisation ou à approbation d'une autorité administrative, ou qu'ils soient susceptibles de porter atteinte à l'environnement doivent faire l'objet d'une étude d'impact. Le Décret portant Mise en Compatibilité des Investissements avec l'Environnement (MECIE) fixe les règles et procédures applicables en la matière et précise la nature, les attributions respectives et le degré d'autorité des institutions ou organismes habilités à cet effet » (public or private investment projects, whether or not they require authorization or approval from an administrative authority, or are likely to harm the environment, must be subject to an impact assessment. The Decree on the environmental compatibility of investments (ECI) lays down the rules and procedures applicable in this respect, and specifies the nature, respective powers and degree of authority of the institutions or bodies empowered for this purpose ([Our translation]).

Once the impact study has been completed, the project may or may not receive official authorization to proceed. In other words, this study is synonymous with homogenizing the diversity of public and private projects according to the same procedural rules that respect everyone's right to the environment. In this context, even projects aimed at mitigating environmental migration must necessarily be subject to an impact study, in order to know with certainty that they will not generate new threats over time, which will be harmful to the environment.

It is important to emphasize that bringing development projects into line with Malagasy environmental law is also governed by public policies and action plans. Unlike the charter, these policies and action plans are designed to take into account the specific characteristics of each sector of intervention in a given region.

It is in this context that the Republic of Madagascar is striving to avoid any inadequacy of environmental law, and in this case of the right to the environment, in all development projects. The non-compliance of these projects with this charter highlights the existence of environmental offences. How does Malagasy law deal with these infringements?

2.2 Malagasy law and environmental offences

In recent years, Malagasy law has seen an expansion in the fundamental rules for identifying and punishing environmental offences. The aim of this development is to ensure that human activities comply with the law. This article looks at the promotion and application of environmental law in the competent jurisdictions, before moving on to the punishment of such offences.

2.2.1 The promotion and application of environmental law in Malagasy jurisdictions

International environmental law did not emerge until the 1970s. At that time, many political leaders, activists and eminent scientists were constantly sounding the global alarm about the rapid rate of environmental degradation [12-13]. It took 20 years for the same reaction to be observed in the Republic of Madagascar, and particularly in the extreme south of the country, the Androy, through the drafting of the first Environmental Charter, backed by law n°90-033 of December 21, 1990 [14].

It should be remembered that the Androy was already known as the perfect illustration of the ineffectiveness of the right to a healthy and productive environment. As for the environmental migration of the Antandroy, Malagasy leaders feared that it would become a major problem for development. In response to this potentially catastrophic situation, the competent authorities at the time decided to reinforce the preservation of the Malagasy environment through a series of legislative measures. These included this first charter, followed by Law no. 96-025 of September 30, 1996 on local management of renewable natural resources, and later by Law no. 99-021 of August 19, 1999 on industrial pollution management and control policy.

This series of legislative measures explicitly extended the power of magistrates to rule on environmental offences. There are three categories: contraventions, délits and crimes. But from a procedural point of view, magistrates are expected to use more analysis and interpretation to promote and apply these legislative provisions [14]. In other words, a perfect command of environmental law is required for better application of these laws.

Unfortunately, there is a lack of environmental law skills among magistrates, as environmental law remains a new and rapidly expanding field of law, which is not taught as an integral part of the training courses usually offered in Madagascan universities, or even at the « École Nationale de la Magistrature et des Greffes » (National School of Magistrates and Registrars [Our translation]) [14].

It is in this context that it was fundamental to consider the integration of this law among the training modules provided by the École Nationale de la Magistrature et des Greffes as of May 04, 2018. The first training session on environmental law took place from June 11 to 14, 2018, and brought together some seventy magistrates, a first in the history of the island's judiciary [14].

To consolidate this promotion of environmental law in Madagascan jurisdictions, the « École Nationale de la Magistrature et des Greffes » has drawn up the Manuel judiciaire du droit de l'environnement à l'usage des magistrats de Madagascar, published in 2020 with the support of the « Institut de la Francophonie pour le Développement Durable »

(French Institute for Sustainable Development [Our translation]). According to Anthony Ramarolahingoniraina, Director General of the National School for the Judiciary and Registries « rares sont les magistrats qui possèdent une bonne notion de droit de l'environnement » (few magistrates have a good understanding of environmental law [Our translation]) [14].

This is the main reason why this manual has been designed, to give magistrates in all Malagasy courts the skills they need to identify environmental offences, the legal texts relating to them and the extent to which they can interpret them. This is the only way to preserve environmental law, by enabling magistrates to properly apply the various legislative and regulatory measures in this field. It is also worth examining the way in which judges deal with environmental offences.

2.2.2 Cracking down on environmental offences

The regime of repression against environmental offenses is amply elucidated through Decree No. 2017-566 fixing the missions of control and inspection of environmental technicians as well as the modalities of transaction, of November 28, 2017. Article 5 of this decree states « constituent des infractions environnementales toutes violations aux dispositions des textes législatifs et réglementaires en matière d'environnement ainsi que celles des conventions internationales relatives à l'environnement ratifiées par Madagascar. » (all violations of environmental legislation and regulations, as well as international environmental conventions ratified by Madagascar, constitute environmental offences [Our translation]). This definition corroborates perfectly with that of article 21 of the 2015 updated Charter of the Environment, in the following terms.

The result, for example, is that the clearing of land by certain Antandroy environmental migrants in the host regions, under circumstances that contradict Ordinance no. 60-127 of October 3, 1960 setting the regime for land clearing and vegetation fires, as amended by Ordinances no. 62-127 of October 1, 1962 and no. 75-128 of October 22, 1975, now constitute environmental offences that can be severely punished.

It is important to emphasize that the system of penalties for environmental offences is designed to serve as a deterrent not to harm the environment, then as a preventive measure against the consequences of an environmental offence, and finally as a means of punishment once the offence has been established. In this sense, Decree n°2017-566 sets out a number of provisions that can be taken to preserve the right to the environment.

Article 12 of decree n°2017-566 stipulates that « selon la gravité des impacts de l'activité sur l'environnement et la santé humaine, le Ministre chargé de l'Environnement, sur la base du rapport établi par les OPJ de l'environnement peut ordonner à l'ONE de retirer le permis environnemental. » (depending on the seriousness of the impacts of the activity on the environment and human health, the Minister in charge of the Environment, on the basis of the report drawn up by the Environmental Judicial Police Officers, may order the National Environmental Organization to withdraw the environmental permit [Our translation]). This withdrawal will indirectly paralyze all the establishment's activities.

The same article also lists other forms of administrative repression that can be taken by the Minister for the Environment and the minister(s) responsible for the activity concerned, or the mayor of the commune in which the

activity is located. These include « la suspension ou le retrait de l'autorisation d'ouverture d'un établissement ; la fermeture temporaire ou définitive des établissements, magasins ou points de vente mis en cause ; la suspension ou le retrait définitif de l'autorisation à l'exercice d'une activité professionnelle» (suspension or withdrawal of authorization to open an establishment; temporary or permanent closure of the establishments, stores or sales outlets involved; suspension or permanent withdrawal of authorization to carry on a professional activity [Our translation]).

Article 13 of decree no. 217-566 states that « la fermeture provisoire, pour une durée ne dépassant pas deux (02) mois, peut être prononcée par le Ministre chargé de l'environnement sur saisine de l'OPJ ayant constaté l'infraction à l'encontre : 1) de l'établissement n'ayant pas respecté les dispositions des textes juridiques sur l'environnement; 2) de toute installation n'ayant pas reçu le permis environnemental accompagné d'un cahier des charges environnementales ou d'un programme d'engagement environnemental ; de toute installation ne respectant pas les dispositions du cahier des charges environnementales ou du plan de gestion environnemental et social. » (provisional closure, for a period not exceeding two (02) months, may be ordered by the Minister responsible for the environment, on referral from the OPJ who observed the infringement, against: 1) an establishment that has not complied with the provisions of environmental legislation; 2) any facility that has not received an environmental permit accompanied by environmental specifications or an environmental commitment program; any facility that has not complied with the provisions of environmental specifications or an environmental and social management plan [Our translation]).

And to further deter employers from committing environmental offenses, article 13 of decree no. 2017-566 also specifies that provisional closure does not preclude employers from providing their staff, the « paiement des salaires, indemnités et rémunérations » (payment of wages, allowances and remuneration [Our translation]). As can be seen, the measures taken by Articles 12 and 13 are firstly dissuasive, then become preventive before being repressive against employers.

Regarding individual sanctions adopted against perpetrators of environmental offenses, Article 26 of Decree no. 2017-566 requires that a procès-verbal be drawn up first to explicitly record the fault. Article 33 of decree n°2017-566 stipulates that this procès-verbal must be followed by the obligation of the perpetrators to repair the environmental damage by judicial or administrative means. But the form of reparation for environmental damage can take two forms.

The first, referred to in article 34 of decree no. 2017-566, consists of a monetary transaction emanating from the offender after sovereign authorization issued by the Ministry of the Environment. The second, provided for in article 35 of the same decree, requires public action to be taken against the offender if the transaction has not been effective within the agreed timeframe, or if the Ministry of the Environment has refused any form of reparation of the damage by transaction due to its seriousness.

The alarming rate of environmental offences in the Republic of Madagascar, for example in the context of the frequent environmental migration in the extreme south of Madagascar, and despite the innumerable legal and political provisions on the subject, can only underline the fact that environmental law is still a new law in full expansion.

CONCLUSIONS

The right to the environment is a fundamental right for all individuals, and is a new and growing right in Madagascar. It was with the 1972 Stockholm Declaration that it was first widely addressed by the member states of the United Nations, including the Republic of Madagascar. Analysis of the actual enjoyment of this right comes up against a number of difficulties, linked not only to the vulnerability of the population to the frequent environmental degradation caused by human activities, but also and above all to the vigilance of the competent authorities in repressing the environmental infractions of some, to the point of becoming more dissuasive to others.

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