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## The Right to a Healthy Climate as a Function of the Right to Life

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Temelko Risteski, Phd, assoc. prof., Elena Todorova, PhD, assoc. prof.,

Sejdefa Džafče, Msc, Anita Gligorova, Msc

FON University, Skopje, Macedonia

### Abstract

**Objective:** To define the concept of healthy climate and in this regard to determine the relationship between the right to healthy environment and right to life, as top human right, from a legal and ethical aspects.

**Results:** Analysis of international legislation on environment, climate and human rights, and laws on nature protection, environment and other environmental laws of the Republic of Macedonia and other countries of Southeast Europe, based on the facts of climate change, shows that these changes affect the quality of life and therefore the exercise of the right to a healthy life.

**Conclusion:** The right to life is top human right. All other human rights are subordinate to it. It is healthy climate in which the weather as a meteorological phenomenon is mostly compatible with the physiological states of human organisms, most of the average healthy people, and allows normal physiological functions. Normal physiological functions of the organism have a direct impact on human health. Human health is directly in function of life. It makes life healthy and happy. Only healthy and happy life is a real human life. All the troubles in life can be overcome if the person is healthy. It is a notorious fact. Thus, the right to a healthy climate is in function of the right to life.

**Keywords:** climate, change, human, right, environment, life, health, legislation, law.

**JEL Classification:** I180, Q540, K100, K320, K330.

### The right to a healthy climate as a function of the right to life!

#### 1. Introduction

The climate can be defined as the meteorological, geographical and biological concept. As a meteorological term climate is the average balance of meteorological elements and phenomena in a certain longer period of time over a point or part of the earth's surface. As a geographical term, climate is a set of atmospheric conditions over a certain part of the earth's surface during certain longer period of the time. Biological climate is a complex climatologically conditions which with other factors of some areas affects to the existence, development, reproduction and migration of living organisms<sup>1</sup>.

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<sup>1</sup> See definitions on climate: Vojna enciklopedija, tom, 4, Redakcija vojne enciklopedije, Beograd, 1972, p. 365 and Enciklopediski leksikon, Geografija, Interpress, Beograd, 1969. p.269.



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Elements that determine the climate of some area are air, temperature, humidity, air pressure, cloudiness, precipitation and wind. The existence of these elements or only some of them at one time or over a shorter or longer period of time: from several minutes to several hours or days it seems like weather as a meteorological phenomenon.

The climate is expressed through weather. It is basic and only its contents. Thus, if the weather in a certain area of the earth's surface mostly cold, the climate in the area is classified as cold, if warm, it is hot, if the weather is rainy and humid, the climate is moist or opposite: if the weather is dry, without precipitation or with little precipitation, that the climate is dry.

Besides the climatic elements for climate are important climatic factors, it is modeled, of course, through the weather. The climatic factors include solar radiation, latitude, distribution of land and sea, relief, altitude, soil composition and character and general circulation of the atmosphere.

Within the general concept of climate as meteorological or phisico-geografical phenomena and, we differ macroclimate, mezoklimate and microclimate.

Macroclimate is climate discussed in the continental or planetary scale. The climate in the regional or local scale such as the Pannonian Plain, Dinaric Alps, Shar Massif, Pelagonian Ravine and similar is called mezoclimate, and it in the surface air – up to 2 meters high, or in a small space: the hill, field, forest, town square, etc, is called the micro-climate.

Climate is not stable. It changes. Its changes can be radical or periodical. Radical changes in climate occur over geological periods of soil development of planet Earth. Thus, the Paleocene and Eocene climate was very warm. We conclude it from fossils which show that the north end has grown cypress, poplar and other plants that we see today in moderate latitudes. At moderate latitudes has grown tropical and subtropical vegetation. During the kwarter there were several ice epochs which are separated by warmer periods. After periods of ice has been completely re-increase of air temperature in the Earth's atmosphere.

Periodic changes in climate are occurring in shorter time periods and they are not as sharp as a radical change. They last for decades or even less. Examinations their periodicity has shown that dry periods with higher temperatures alternating with wet periods with lower temperatures.

The climate changes was coming and coming mostly because of the influence of natural factors. Besides them, there are climate changes caused by humans. Economic activities of the man releases into the atmosphere huge amounts of gas and dust. A man destroys huge amounts of forests in the earth's soil, barrages river valleys, changes river courses, drain wetlands, irrigate large areas of desert and semi desert soil making it cultivable and fertile, built huge cities and industrial complexes. All these activities affect the climate in certain regions of the world and beyond.



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Climate changes are legally defined by the United Nations Framework Convention on Climate Change. This Convention, in article 1 defines climate change as 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. Climate influences the whole life on planet earth - the people, animals and plant life.

The influence of climate on people's direct or indirect. Direct effect consists in the operation of the complex of meteorological elements and phenomena primarily temperature, wind, rainfall and sunshine to the soil and health, working ability, habits and way of life.

The bright regions are more frequent heat waves, sunstroke and sunburn caused by sunlight radiated. Cold climate leads to frostbite and freezing. Warm climate in the tropical and subtropical regions favors the emergence of malaria, yellow fever, plague and intestinal infections (cholera, dysentery and other). Cold and wet climate creates a fertile ground for the emergence and development of influenza, tuberculosis, pneumonia, diphtheria, scarlet fever and the like.

The indirect effect of climate on humans is carried out through the flora and fauna as a source of his food. Flora and fauna, in addition to food, provide the living ambience of the man in the environment in which he lives. The climate creating the flora and fauna of the environment affects human life. If the ambience is better and more pleasant, the quality of human life is better. Given that all in the Earth's biosphere is born, created, live and grow in a particular environment which in turn depends on climate, climate affects everyone, directly and indirectly, therefore all rights of the man, as a living being.

Besides the influence on man as an individual, climate affects the community. In history and in modern times (the African Sahel) are observed the migration of various social communities from adverse impact of climate on living conditions that make the conditions unbearable. In areas with favorable climate, working capacity of the people is greater and therefore social development is larger and faster. Conversely, in areas where the climate is very hot or cold is spending more energy on countering human unfavorable living conditions. It leads to the loss of pace and intensity of social development.

From the point of impact on human health climate can be healthy and unhealthy.

Healthy climate is that which does not affect adversely on human health. Thus a healthy climate allows for normal development of physiological and psychological functions of man. In contrast it is an unhealthy climate that adversely affects the function of the human organism.

## **2. Relationships between the right to healthy climate and right to life.**

*Impacting on human health, the climate influences on human life.*

In order to determine the relations between the right to healthy climate and right to life, one must proceed from the notion of healthy climate. The very climate without living organisms is objective natural phenomenon. It is neither healthy nor unhealthy.



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Impact on living environment, especially on living organisms in nature, and above all, on people, it is healthy or opposite, unhealthy. If it positive effect on human health, it is healthy. If, however, adversely affect it is unhealthy.

Health is the natural state of man as a creation of nature. Every human being aspires to be healthy because health is a function of life. Only healthy being can be held in life. Every living being strives to maintain as long as possible in life. In order to maintain tends to be healthy.

Health however, as the natural state of man's personality is substantive element of the right to life, understood in its fullest sense.

The man is a masterpiece of nature. It was created by the evolution of nature. Like all living beings on earth, a man as an individual is born, lives and dies. The period from birth to death is period of his life. He takes a short or longer until the disease or a fatal injury did not stop. Life is a favorite man's gift of nature and everyone wants to live out happy, in tranquility, free from harassment and hardship. As a gift of nature, human life is inalienable and no one can revoke it, except nature, after the natural course of its duration. Inviolability of human life includes, firstly his right to life. The human individual is the owner of his own life and nobody can decide on its duration and manner of its passing, except its owner. The right to life is not just recognition of the individuality of physical, biological and psychological human beings. The right to life is much more than that. It's right to exist, to existence worthy of man. Hence the sanctity of the right to life includes physical and psychological integrity of the human person as a biological creation of nature. From there, the right to life is the source of the requirement for a range of social, political, cultural and other rights and freedoms to which the man released, anthropological and social conditioning and becomes humanized, own and free human being<sup>2</sup>.

Impacting on the environment as a natural setting of human life, climate influence on human health and therefore on his life. This is best evidenced by the words of Hippocrates. According to him, nature has a tendency to maintain a continuous state of stability, and therefore continuously adapt and readapt its elements to maintain a balance. While the man is in such balance he is healthy. Different effects can lead to disorder of the balance and then disease occurs<sup>3</sup>. Climatic effects usually lead to imbalance between natural elements and human health as a natural state of man's personality.

The right to health is one of the existential rights of man as the formation of the nature. It most directly related to health as a natural state of man. Health however, as such, the substantive element of the right to life conceived in its fullest meaning, namely: a physical and mental health.

Hence, the theory of natural law, the right to health is the natural right of man, because it is the element of the essence of human being as creation of nature.

Health as the supreme value of human life is materially legal base for stipulation the right to health in international, as well as in national normative acts.

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<sup>2</sup> Ѓорѓевиќ Ј.: Уставно право, Завод за стопанство и општествени дејности, Скопје, 1979, р. 544

<sup>3</sup> Cucic V. i dr. Socijalna medicina, Savremena administracija, Beograd, 2000, p.19.



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Human life takes place in the environment. International documents of Human Rights and national normative regulations, regulating the right to life, regulate the right to a healthy environment. The right to a healthy environment is a function of the right to health and through him, indirectly, the function of the right to life.

The climate creates the environment with flora and fauna, soil, water and air. The environment with these elements affects the climate. Thus, climate and environment are in a dialectical unit. The quality of this dialectical unit affects the quality of life. Therefore, a healthy climate influence on the environment, making it healthy. Healthy environment affects human health, making it with good quality. Quality of life in a healthy environment also positively affects health. Dialectical unity between a healthy climate, healthy environment, human health and human life as top human values is obvious. So, if one has the right to a healthy environment in which he lives, he has the right to a healthy climate. Realization this right he realize a healthy life, or the right to health as the natural state of his personality that is a direct function of life, and therefore the right to life.

### **2.1. The right to healthy climate in the international human rights documents**

The international normative acts on human rights: Universal Declaration of Human Rights, International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the European Social Charter, the Convention on the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights) in any of the provisions do not provide for the right to a healthy environment as a human right. These documents provide for the right to life and right to health<sup>4</sup>. Their provisions on these rights represent the quality normative-legal basis for establishing a national regulatory framework to protect the lives and health of citizens based on legal and philosophical foundations of the theory of natural law.

Life and health, as we have just seen, depend on the natural environment in which man lives. Climate has a huge impact on the environment that a human environment. Therefore, the provisions on the right to life which must be worthy of man and the provisions on the right to health as the highest standard of physical and mental health of man could serve as international legal basis for further overregulation of human rights at the international level that would largely regulate environmental law and within it, the right to a healthy climate.

This option is obviously used for passing the Resolution of the Human Rights Council of the United Nations about climate changes since March 2008. The adoption of this resolution is imposed obviously by need to intensify efforts of the world countries and other international entities to find solutions for problems associated with climate changes that threaten man's environment on a global or world's level.

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<sup>4</sup> See article 3, and 25 of the Universal Declaration of Human Rights, article 12 of the International Covenant on Economic, Social and Cultural Rights, article 6 of the International Covenant on Civil and Political Rights, article 11, of the European Social Charter and article 2 of the Convention on the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights).



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This resolution preceded other international documents on climate and environmental changes such as: United Nations Framework Convention on Climate Change, Bali Action Plan from the 2007th Rio Declaration on Environment and Development, Johannesburg Declaration on Sustainable Development, Declaration of the United Nations Conference on the Human Environment (Stockholm Declaration from 1972) and other documents.

Among those documents, certainly the most important is the United Nations Framework Convention on Climate Change. According the provisions of this Convention, States have to cooperate and coordinate their activities for protection of the environment and for prevention of further pollution. This problem affect the whole humankind and cannot be efficiently solved unless state work together to combat climate change.

At the level of the European Union issued the following documents: Eco-Management and Audit Scheme EMAS, adopted in 1995 mode by the Council of the European Union, Environmental Impact Assessment) since 1997 ordering the mandatory environmental impact assessment of public and private projects on the environment; Council Directive Concerning Integrated Pollution, Prevention and Control, since 1999, The Sixth Community Environment Action Program adopted in 2002 as a continuation of the action plan that applied from 1992 to 2002.

None of these documents in any of the provisions stipulate the right to a healthy climate, but measures should be taken on the level of the international community to prevent climate changes and their negative impact on the environment. It is their lack of course because it is a healthy climate which is in direct function on human health, and health in function to the human life as the highest value of man.

Given that the highest value of human life, the right to life is a top human right. All other rights are in the function of exercising the right to life. Thus, the right to a healthy environment is a function of exercising this right. With this in mind, we cannot accept the fact that in the international normative regulations on human rights has no provisions for a healthy climate as a prerequisite of healthy living in the human environment. Therefore, there is a need for incorporating such provisions in the form of amendments to the existing international normative acts on climate change and the environment or to make a special international normative instrument for a healthy climate.

## **2.2. The right to healthy climate in the national normative regulations**

The protection of the environment and the obligation to provide healthy climate is responsibility of states- that have to adopt national legislation, to establish national institutions for improvement and implementation of regulations and agenda, to ratify the international instruments for the protection of the environment, and to harmonize their national legislation. States have to work together in order to protect the climate system and maintain it for the future generation.

Constitutions and laws of almost all countries of the world base their provisions on freedoms and rights of citizens to the provisions of international documents on Human Rights. Therefore, jurisprudence and logic that are based on these documents has been accepted in national constitutional systems and legislatures of the states. This is the reason that in them there are not provisions for a healthy climate, but the provisions of a healthy environment, healthy living, health as the most standard of physical and mental health of man, etc.



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Thus, the Basic Law for the Federal Republic of Germany (Constitution), in article 20-a, stipulate the responsibility of the German state toward future generations. According that, the state shall protect the natural bases of life by legislation and, in accordance with law and justice, by executive and judicial action, all within the framework of the constitutional order.

The Constitution of the Republic of France does not contain provisions for protection the human environment. Therefore, National Assembly of the Republic adopted in 2004 a special Constitutional Charter on the Environment, which contains more provisions to protect it.

The constitutions of the Balkan countries contain very short and concise provisions on the right to a healthy environment. In none of them does not mention the right to a healthy climate. There is no doubt that constitution makers went from the logic that this right is element of the right to a healthy environment, and therefore it is not necessary to stipulate it separately.

According the article 74 of the Constitution of the Republic of Serbia everyone has the right to a healthy environment and the timely and full information about her condition. The Republic of Serbia and autonomous provinces are responsible for environmental protection. Everyone is obliged to preserve and improve the environment.

The Constitutions of the Republic of Serbian and Republic of Montenegro are very short in stipulating the right to healthy environment. Man has the right to a healthy environment. Everyone, according to law shall, within its capabilities, protect and advances the environment, Constitution of the Republic of Serbian sad (article 35). Constitution of the Republic of Montenegro almost in the same way regulates this right. According to its article 19, everyone has the right to a healthy environment and the timely and full information about her condition. Everyone is obliged to preserve and enhance the environment.

The Constitution of the Republic of Bulgaria, in article 55 guarantees to the Bulgarian citizens the right on healthy and favorable environment in accordance with established standards and norms. They must protect the environment, which sounds very imperatively.

The Constitution of the Republic of Croatia under Article 69 is approaching the idea of a special stipulation the right to a healthy environment by stipulating the right to a healthy life, right to healthy environment and obliges each legal entity in the state, within their powers and competences to dedicate special attention to the protection of human health, natural and human environment.

The Constitution of the Republic of Macedonia<sup>5</sup>, not stipulate the right to a healthy life, but only the right to a healthy environment, which is slightly more than the constitutions of other Balkan states. According to the article 43 of the Constitution, everyone has the right to a healthy living environment. Everyone is obliged to promote and protect living environment. Republic provides the conditions for exercising the right of citizens to a healthy living environment.

Republic of Macedonia in its efforts to create a legal system that will be compatible with the legal systems of the European Union and based on the directives and other documents of the Union to regulate social relations in various spheres of social life, it seems that she went very forward in the normative regulation of the right to a healthy environment and within that the right to a healthy climate.

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<sup>5</sup> Службен весник на Република Македонија, н. 52/1991





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To conduct in the life the cited constitutional provisions related to a healthy environment and for implementation of the above-mentioned documents of the European Union on the environment, the Republic has passed several laws that directly and indirectly protect the environment and climate, and therefore the rights of citizens to a healthy environment and to a healthy climate. Among them, the most important are: The Law on Environment Protection<sup>6</sup>, The Law on Nature Protection<sup>7</sup>, and the Law on Quality Ambientaly Air<sup>8</sup>.

Among these laws certainly the most important is the Law on Nature Protection. This law, among numerous provisions dedicated to the numerous legal Institutes in the field of nature protection, contains provisions on the National Plan for Appeasement the Climate Changes. This plan is adopted for a period of six years. It is adopted by the Government of Macedonia. The plan is prepared by the Ministry of Environment and Spatial Planning in accordance with other ministries in whose jurisdiction there are activities related to climate changes such as: Ministry of Agriculture, Forestry and Water Management, Ministry of Economy, Ministry of Transportations and Communications, Ministry of Health and other bodies of the state administration. The plan, among other things, contains a national inventory of greenhouse gases, analysis and projections of greenhouse gases, and cartographic displays information about the activities of monitoring, research and systematic monitoring of climate change, action plan and measures to mitigate climate change, economic analysis of proposed measures to prevent causes and to mitigate climate change, information on the implementation of commitments undertaken by international treaties related to climate change and other measures and activities which are appointed by the Minister of Environment and Spatial Planning.

In addition to the adoption of national laws on environment and climate change, the Republic of Macedonia adopted a series of laws on ratification of international legal acts. So in 1997 the Republic has ratified the Convention on Climate Change adopted at the International Summit held in Rio de Janeiro in 1992, in the course of 2004, Macedonia has ratified the Protocol to this Convention in Kyoto.

Later, in 2010, the Republic of Macedonia has ratified a number of international documents adopted in the framework of United Nations Economic Commission for Europe (UNECE), as follows: Protocol for Long-term Financing Programs for Cooperation, Monitoring and Evaluation of Wide-ranging Transfer of air Pollutants in Europe to the UNECE Convention of 1979 for Long-range Transboundary Air Pollution; Protocol to Control Emissions of Volatile Compounds and their Cross-border Transmission since 1991, Protocol for Further Reductions in Sulfur Emissions since 1994; Protocol to Control Emissions of Nitrogen Oxides and their Transboundary Transfer and other documents.

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<sup>6</sup> Службен весник на Република Македонија, н. 53/2005, 81/2005, 24/2007, 159/2008, 83/2009, 48/10, 124/10 и 51/11.

<sup>7</sup> Службен весник на Република Македонија, н. 67/2004, 14/2006, 84/2007, 35/10 и 47/11.

<sup>8</sup> Службен весник на Република Македонија, н. 67/2004, 92/2907, 35/10 и 47/11.





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Among other things, in March of 2010, Parliament of the Republic of Macedonia has passed a resolution on the impacts of climate change in the Republic of Macedonia<sup>9</sup>.

This resolution is a general act of political-normative nature by which the Republic of Macedonia has clearly shown its determination to stand shoulder to shoulder with other countries of Europe and the world in the fight of the resistance against the climatic changes and their consequences.

There is no doubt that the Republic of Macedonia has achieved significant results in the normative regulation measures for resistance to climate changes and to prevent their consequences. From the point of our study subjects, Macedonian normative regulations may be objected that it has little bit of provisions on measures to prevent the consequences of climate changes to the health and lives of people aimed at realizing the right to a healthy climate within the framework of a healthy environment.

The same criticism can be made to the normative regulations of other Balkan countries and beyond. Life as the greatest human value must be the focus of the holders of all social activities, and of the authors of the normative acts. All rights whose exercise is a function of life, including the right to a healthy environment should take priority in the normative regulation of environmental protection and the living environment.

### 3. Conclusion

Climate change is a work of nature or the work of people. A man can not oppose to climate changes caused by nature. They are the result of the eternal movement of nature and everlasting changes that result from that movement.

A man can do much to prevent climate changes that are the result of his activities in nature. Human activities were and remained extremely selfish. He had been taking and taking from nature what he had been could and could. He returns to her more and very little or nothing. Nature does not tolerate selfishness and punishes it. Selfishness of people to nature is selfish for humanity, because the man is the work of nature and its integral part as a biological and social being with all the creations of his work: from the huge, wrapped of smog cities, industrial plants which emitted into the atmosphere huge amounts of greenhouse gases, power plant from which come complete clouds of smoke, dangerous nuclear power plants and vast artificial lakes, to tiny rural shacks and shepherds' tents.

In pursuit of profit, many members of the human race and their associations have forgotten the man and humanity. Money is not the biggest man's value. From it are more valuable health and life. It is true that money can buy all or nearly all that the man has created. But, money cannot buy gifts of nature: the life, the health, healthy environment and healthy climate. The money is buying mean among the people, not between them and nature. Nature does not recognize the most valuable money, or most valuable gold or diamond. It recognizes only respect for its laws. One of its laws is "All by measure" that spooked the famous Epicurus, so everything in moderation and without exaggeration, especially when it comes to nature.

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<sup>9</sup> Службен весник на РМ, бр. 31/.2010 година



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It punishes all excess, all greed, and excess and greed especially for her. Of the excess and greed to the people suffer individuals, and of the excess and greed to nature suffer the whole human race.

It is high time to put an end the excessive exploitation of natural resources. It will get in the way only by organized approach for the whole world community. This approach involves primarily the formation of transnational institutions with wide powers. Their decisions must be binding for all countries of the world. All countries in the world would have to carry out normative acts which they would adopt. The control of their execution by the national government also would be carried out by transnational control institutions. In such an organization of fighting for salvation of humanity from the excessive and irrational use of natural resources the national states would be converted to a kind of agencies of transnational institutions, responsible for the enforcement of their decisions and for the implementation in practice their normative acts.

In the normative regulation of relations of man to nature, the emphasis should be given to the right to life as the supreme human right and, after that, to other human rights that are in function of its implementation, among which, of course, first of all come the right to healthy living environment and within it, the right to healthy climate.

The right to life is a fundamental natural right of the man. It is supporting human right, because without life the man cannot exist. The right to life man gets with birth. It is his inherent right according the Article 6 of the International Covenant on Civil and Political Rights. The right to life is the ultimate human right, because in order to enjoy other rights, the man must be alive. At the time of birth it becomes a legal entity and the holder of the rights and obligations. In this moment hi becomes the bearer of the right to life. All other man's rights are a function of his right to life, some directly and some indirectly. The right to a healthy environment is the most direct in its function. The right to a healthy climate is an element of the right to a healthy environment.

It is healthy climate in which the weather as a meteorological phenomenon is mostly compatible with the physiological states of human organisms, most of the average healthy people, and allows normal physiological functions. Normal physiological functions of the organism have a direct impact on human health. Human health is directly in function of life. It makes life healthy and happy. Only healthy and happy life is a real human life. All the troubles in life can be overcome if the person is healthy. It is a notorious fact. Thus, the right to a healthy climate is in function of the right to life.



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