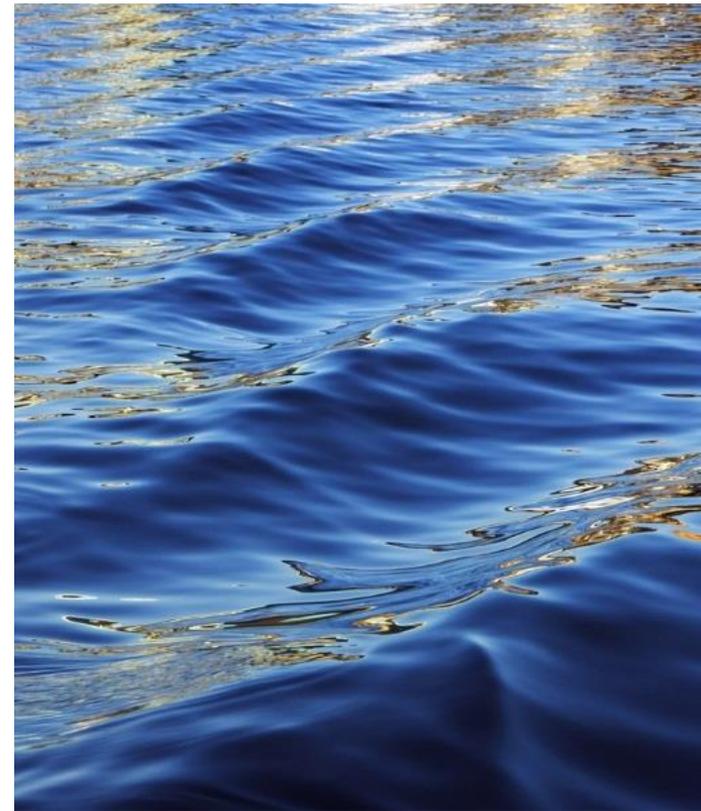




# The Right to a Clean Environment: An Employment Rights Perspective

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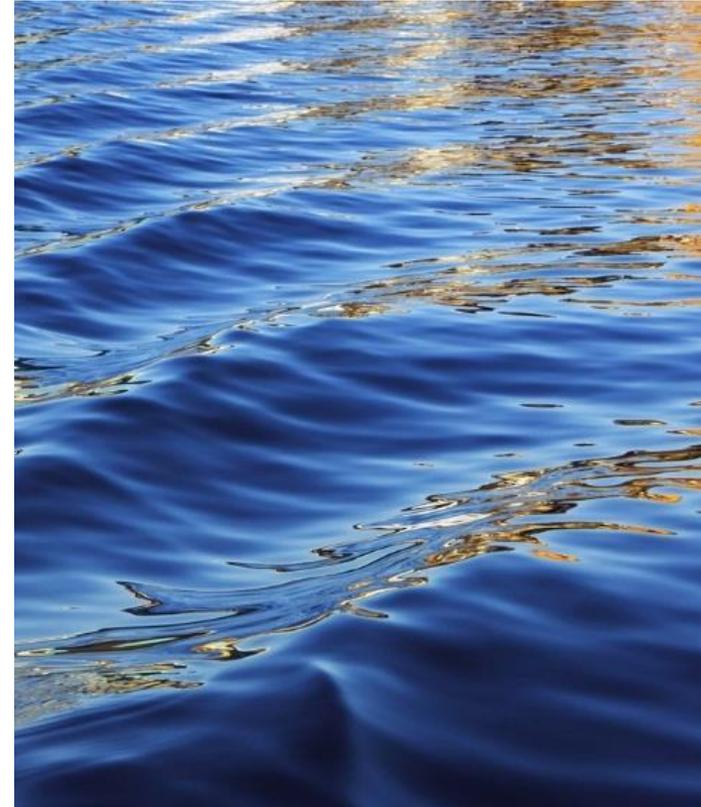


## Rights may be:

- Positive – right to be subjected to the action of another person or group; it imposes a duty on others to do something to ensure the rights of the right holder
- Negative – right not to be subjected to the action of another person or group; it imposes a negative duty on others, obligating them to do nothing that interferes with the rights of the right holder

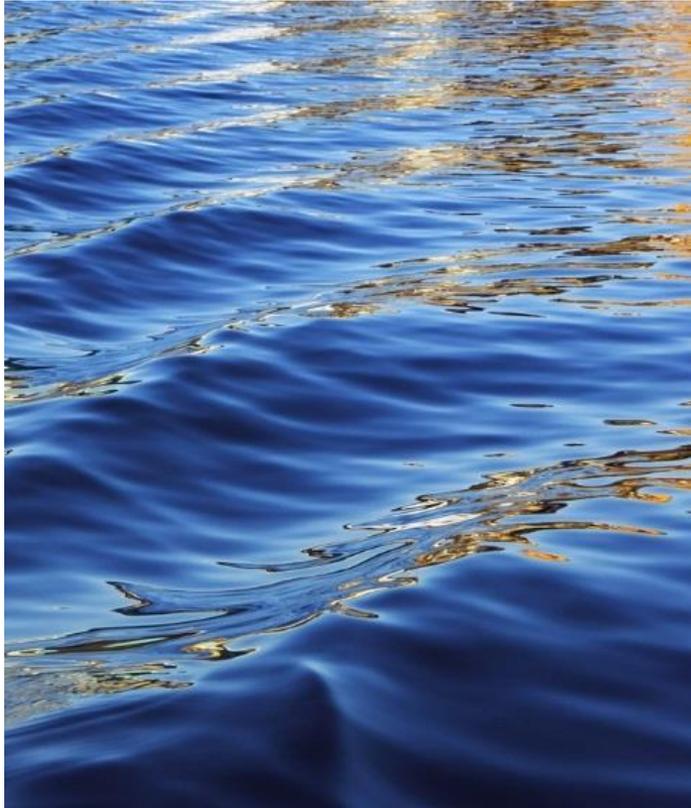


Is the right to a clean environment a positive or negative right?





**Who has the duty to ensure the  
right to a clean environment?**



# International Perspective

- ILO Constitution, (1919)

“Whereas universal and lasting peace can be established only if it is based upon social justice ; And whereas conditions of labour exist involving such injustice ; hardship and privation to large numbers of people as to produce unrest so great that the peace and harmony of the world are imperilled; and an improvement of those conditions is urgently required; as, for example, ... **the protection of the worker against sickness, disease and injury arising out of his employment.** ”

- ILO Declaration Of Philadelphia, (1944)

“ The principles which should inspire the policy of its Members in order to achieve :... **adequate protection for the life and health of workers in all occupations** ; the extension of social security measures to provide a basic income to all in need of such protection and comprehensive medical care. ”

- WHO Constitution, (1948)

“Health: A state of complete physical, mental and social well-being and not merely the absence of diseases or infirmity. ”

# International Perspective

- Universal Declaration On Human Rights (UN, 1948)

“Everyone has the right to life, to work, to free choice of employment, **to just and favourable conditions of work** and to protection against unemployment”.

- International Covenant On Economic, Social And Cultural Rights, (UN, 1976)

“Recognize the right of everyone to work; **the right of everyone to enjoyment of just and favourable conditions of work which ensure in particular, safe and healthy working conditions ; the right to the highest attainable standards of physical and mental health, in particular, the improvement of all aspects of environmental and industrial hygiene ;** the prevention, treatment and control of epidemic, endemic, occupational and other diseases ; the creation of conditions which would assure to all medical service and medical attention in the event of sickness. ”

- WHO Global Strategy For Occupational Health For All 1994-2000

“According to the principles of the United Nations, WHO and ILO, every citizen of the world has **a right to healthy and safe work and to a work environment** that enables him or her to live a socially and economically productive life. ”

# International Perspective

- ILO/WHO Committee On Occupational Health, (1995)
- “ Occupational health should aim at: the promotion and maintenance of the highest degree of physical, mental and social well-being of workers in all occupations ; **the prevention amongst workers of departures from health caused by their working conditions ; the protection of workers in their employment from risks resulting from factors adverse to health**; the placing and maintenance of the worker in an occupational environment adapted to his physiological and psycho- logical capabilities ; and, to summarize, the adaptation of work to man and of each man to his job. ”
- International Labour Standards - the ILO establishes international labour standards, in the form of Conventions and Recommendations with about 80 of them addressing the subject of occupational safety and health

# International Labour Standards

- The Occupational Safety And Health Convention, 1981 (No. 155)

“Employers shall be required to ensure that, so far as reasonably practicable, the workplaces, machinery, equipment and processes under their control are safe and without risk to health” (Art.16.1).

- The Promotional Framework For Occupational Safety And Health Convention, 2006 (No. 187)

“ Each Member shall promote and advance, at all relevant levels, the right of workers to a safe and healthy working environment ” (Art. 3.1).

- ILO Declaration On Social Justice For A Fair Globalization,(2008)

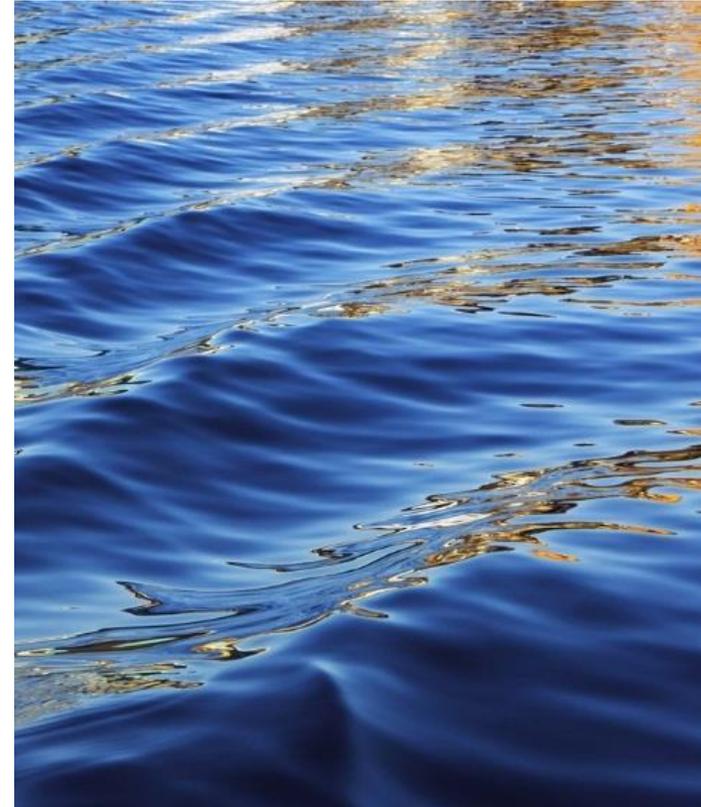
“ In the context of accelerated change, the commitments and efforts of Members to place full and productive employment and decent work at the centre of economic and social policies... through which the Decent Work Agenda is expressed... In particular, developing and enhancing measures of social protection – social security and labour protection – which are sustainable and adapted to national circumstances, including healthy and safe working conditions;... and adapting its scope and coverage to meet the new needs and uncertainties generated by the rapidity of technological, societal, demographic and economic changes. ”

# International Labour Standards

- Earlier this year, a global campaign by trade unions, backed by UN Human Rights experts and an ILO Global Commission on the Future of Work to have OSH recognised as a fundamental right in ILS has secured formal backing and has been included in the ILO Centenary Declaration
- The Declaration emphasises that “safe and healthy conditions are fundamental to decent work”
- This item is on the agenda of the March 2020 Governing Body and would mean, when a decision is finalised, that health and safety would be added to the list of Core Labour Standards.



**Should workers pay the price with  
their health for having a job?**



# National Perspective

- OSH is a tripartite responsibility
- Safety and Health at Work Act (SHAW) 2005

# National Perspective

- Occupiers must ensure the health, safety, and welfare of all their employees, and provide plant, equipment, and systems of work that lend to a safe and healthy workplace. Occupiers are also required to provide adequate job information, instruction, and; training and supervision for workers.

**Section 6 (5), 6 (6)**

- Every occupier must take reasonable precaution to ensure the safety of every person in the workplace.
- Every occupier should conduct his undertaking in such a manner that persons not in his employment, who may be affected, are not exposed to risks

**Section 7 (3)**

- Every employee must take reasonable care for the safety and health of himself and persons who may be affected by anything he does or neglects to do

**Section 9 (1) (a)**

# National Perspective

- Every air receiver should be properly maintained, cleaned, and examined once in every period of 12 months. Air receivers and their attachments must be examined by a Competent Person:
  - i. before being put into use, and
  - ii. once in every period of 12 months
- **Cleanliness** - Workrooms must be cleaned of accumulations of dirt and refuse, and a vector control program must be in place. Workrooms must be cleaned:
  - i. As often as the nature of the work requires.
  - ii. Accumulations of dirt and refuse shall be removed from the areas by suitable means not less than once a day.
  - iii. Sweeping and cleaning shall be done between work intervals where possible.

**(Section 49)**

# National Perspective

- The owner of a building is liable for the contravention of any of the provisions of the Act relevant to sanitary conveniences, where tenants share such facilities. The owner is, however, not liable to keep the sanitary conveniences in a clean state except where they are used by more than one workplace occupying the building. **Section 80 (2)**
- No employee should be dismissed or disciplined for requesting an inspection of his workplace by an inspector. **Section 102**
- When there's sufficient evidence to indicate that an employee's safety and health are in imminent danger, that employee may refuse to carry out the task assigned to him pending consultation with:
  - The safety and health committee;
  - The trade union;
  - The staff association
  - CLO

## Section 104

# Conclusion

- Decent work implies above all, safe and healthy work.
- “Even in a changing world, we must tolerate NO COMPROMISE on the right to safe and healthy work”
- For the right to a clean environment to be progressively realised, both government and employers must satisfy three (3) levels of obligation:
  - i. the obligation to respect a right
  - ii. the obligation to protect a right; and
  - iii. the obligation to fulfil a right.



Are we ready

