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Fakultas Hukum Universitas Airlangga, Jalan Dharmawangsa Dalam Selatan  
Surabaya, 60286 Indonesia, +6231-5023151/5023252  
Fax +6231-5020454, E-mail: yuridika@fh.unair.ac.id  
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## Eco-Anxiety: Right to Healthy Environment

Siti Hafsyah Idris and Norjannah Nasution

sitihafsyah@uitm.edu.my

Universiti Teknologi MARA

### Abstract

Eco-anxiety' as a concept is relatively new and has received media attention recently, even though the feeling has probably existed for some time. People who are depressed and lose control when thinking about the impact of human activity on the planet, such as climate change. Climate change is an actual dimension into their mental-health problems, which is not medically recognised or defined. This is normative legal research. The data were consolidated and examined using the legal norm method, which uses qualitative legal analysis, logic, and argumentation. This paper reviewed the literature on eco-anxiety and its legal implications. Environmental and health law continues to be separate bodies of international law, even though the right to health is intertwined with the right to a healthy environment. A right to a clean and healthy environment should explicitly include the right to health-physically and mentally. Priority should be given to greening public health infrastructure, such as mental health facilities, as part of eco-anxiety recovery plans to support the emergence of the environmental impact on mental health and the country's mental health promotion and prevention efforts to serve their needs better. **Keywords:** Eco-Anxiety; Climate Change; Regulatory Frameworks; Right to a Healthy Environment.

### Introduction

The American Psychological Association describes eco-anxiety as a «chronic fear of environmental doom.<sup>1</sup>

“While “eco-anxiety” is not a specific diagnosis in the Diagnostic and Statistical Manual of Mental Disorders (DSM-5), some people are experiencing high levels of stress due to climate change, with symptoms such as panic attacks, obsessive thinking, loss of appetite, and insomnia. According to Yale and George Mason University researchers, the percentage of Americans extremely

<sup>1</sup> Clayton, [et.al.], (2017). *Mental Health and Our Changing Climate: Impacts, Implications, and Guidance* (American Psychological Association, and ecoAmerica 2017) <<https://www.apa.org/news/press/releases/2017/03/mental-health-climate.pdf>>.

concerned about climate change has increased by more than half in the last five years, to 26%”.

There has been an increase in the number of patients seeking help with climate anxiety in recent years, according to Washington D.C.-based psychiatrist Dr Lise Van Susteren, who is also co-founder of the Climate Psychiatry Alliance, an organisation building a directory of climate-conscious therapists. According to some studies, eco-anxiety is now present in children as well as adults (2). In 2020, a survey done in England found about 57% of the child and adolescent psychiatrists are seeing distressed children and young people due to the climate crisis and the state of the environment. The mental health of younger generations is affected by global warming, and events like fires, drought, floods and harm to animals as a result of habitat destruction. The younger generation now face even more uncertainty about their future triggered by the pandemic (2).

Almost all districts in Kelantan, Malaysia was affected with flood in December 2014. It is estimated about 120,000 flood victims lose their homes and estimated economic loss of 1 billion Malaysian Ringgit. The psychological impact was profound when the Department of Social Welfare announced about 289 adults and 14,995 children were diagnosed with depression and trauma after going through the catastrophic event.<sup>2</sup>

Our study aimed to examine the law on the protection of eco-anxiety issues in Malaysia. This paper presents the existing regulatory frameworks on eco-anxiety, and the results of its analysis of the extend of the regulatory frameworks to address the issue. The study’s outcome will help us recommend improving the existing regulatory frameworks to address eco-anxiety issues as an intervention for those affected. In this research, the researcher uses the qualitative method, which is not numerical, that can be found from tapes or written materials such as regulations, books, journals, etc., in purpose to analyse existing regulatory frameworks on eco-anxiety in Malaysia. All data that is obtained within the research are be gathered and concluded to answer the research questions.

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<sup>2</sup> Akhir, [et.,al.], ‘Exploring Factors Influencing Resilience Among Flood Victims in Malaysia’ (2021) 11 *International Journal of Academic Research in Business and Social Sciences*. [969–981].

### Right to health and the environment

Through the research, it is found that hundreds of environmental treaties with health-related provisions. Nevertheless, most treaties primarily aimed at protecting natural resources do not include provisions for human health. As a result, environmental and health laws continue to be separate bodies of international law, even though the right to health is intertwined with the right to a healthy environment.

Human rights obligations to enjoy a safe, clean, healthy, and sustainable environment are stated in the 2018 Special Rapporteur Report (A/HRC/37/58, 2018) that “Climate change has many other harmful effects on human health, including increasing heatwave frequency and severity, compounding the toxicity of fossil-fuel pollutants such as ozone, and contributing to wildfires.” To put it another way, climate change poses a threat to our health.<sup>3</sup>

Human rights and environmental protection are intertwined, as stated in the Framework Principles on Human Rights and the Environment.<sup>4</sup> The right to life and the right to the best possible physical and mental health can only be fully realised in a safe, clean, healthy, and sustainable environment.

Human rights mechanisms have recognised environmental issues as having the potential to violate the right to health. For example, the African Commission on Human and Peoples’ Rights regarding the African Charter on Human and Peoples’ Rights<sup>5</sup> has affirmed that:

*“reduced to their most basic level, the rights to health... and a healthy environment (general satisfactory environment favourable to their development) serve to prohibit governments from directly threatening the health and environment of their citizens. The State is under the obligation to respect and this entails largely non-interventionist conduct from the State*

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<sup>3</sup> *ibid.*

<sup>4</sup> UN Human Rights Council : A/HRC/34/49, ‘Report of the Special Rapporteur on the Issue of Human Rights Obligations Relating to the Enjoyment of a Safe, Clean, Healthy and Sustainable Environment’ (Refworld, 2018) <<https://www.refworld.org/docid/58ad9dd44>> accessed 29 October 2021.

<sup>5</sup> United Nations Human Right, ‘Framework Principles on Human Rights and the Environment’ (United Nations Human Rights : Office of The High Commissioner, 2018) <<https://www.ohchr.org/Documents/Issues/Environment/SREnvironment/FrameworkPrinciplesUserFriendlyVersion.pdf>. 2> accessed 21 December 2021.

*for example ... from carrying out, sponsoring or tolerating any practise, policy or legal measures violating the integrity of the individual.”*

Living in a clean and healthy environment should be a fundamental right protected by the Constitution. While the Malaysian Federal Constitution does not expressly guarantee this right, it is implied in Article 5, which guarantees the right to life. A landmark 1996 legal decision in the case *Tan Teck Seng vs Suruhanjaya Perkhidmatan Pendidikan* <sup>6</sup> was heard by the country's Court of Appeal and involved the wrongful dismissal of a headmaster without a fair hearing. The case “incorporates all those aspects of life that are intrinsic to it and those that contribute to life's quality,” “[Among] these [is] the right to seek and maintain lawful and gainful employment, as well as the right to receive the benefits that our society has to offer its members. It includes the right to live in an environment that is reasonably healthy and pollution-free.”

The legal and regulatory framework for the protection, conservation and preservation of the environment in Malaysia consists of various pieces of legislation and supplemented by orders, rules and regulations issued by the relevant Ministers who are conferred with such powers to do so by the legislation. The Environmental Quality Act 1974 is considered the most comprehensive piece of legislation promulgated to deal with environmental protection and pollution control. In environmental protection, the Environmental Quality Act 1974 addresses the need to protect public health from the harms of pollution through the polluters pay principles and sustainable development.

As for the National Mental Health Policy, the general policy of Mental Health was developed in 1998 by the Ministry of Health (MOH) or National Mental Health Policy. The policy was then revised in 2012. In general, this mental health policy provides comprehensive strategies and guidelines to address issues in mental health. All programmes and activities related to mental health are subsumed under

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<sup>6</sup> African Commission on Human and Peoples' Rights, 'African Commission on Human and Peoples' Rights - The Right to Nationality in Africa' (*Refworld*, 2014) <<https://www.refworld.org/docid/54cb3c8f4.html>> accessed 29 October 2021.

the promotion of mental health, prevention of mental disorders, treatment of people with mental illnesses, and psychosocial rehabilitation. In addition, this policy is to promote community mental health care in Malaysia.

### **Eco-Anxiety and the Right to a Clean and Healthy Environment in Malaysia**

Environmental factors have a significant impact on one's health. Therefore, governments must use all available resources to protect citizens from the harmful effects of environmental degradation caused by the State or private entities to ensure the best possible level of physical and mental health.

As a result of the climate emergency, people's right to health may be violated in some ways. These include premature deaths, increased incidences of respiratory and cardiovascular disease and other diseases, malnutrition and stunting, allergies, injuries, and mental health issues.<sup>7</sup> Disturbances in physical health caused by climate change can have a direct effect on mental health due to chronic stress and vice versa.<sup>8</sup> The vicious cycle continues with no favourable ending to the wellbeing of both physical and mental health of the communities of young and old.

Sustainable environmental governance cannot exist without establishing and respecting human rights, and human rights cannot be enjoyed without a safe, clean and healthy environment. As the right to a healthy environment is enshrined in over 100 constitutions, this connection is becoming increasingly recognized.<sup>9</sup> In October 2021, the United Nations Human Rights Council recognised, for the first time, that having a clean, healthy and sustainable environment is a human right. It is the first time a global right to a healthy environment has been recognized.<sup>10</sup> Assuring a minimum standard of environmental quality for everyone is a right that states must protect against environmental harm to address the eco-anxiety issue.

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<sup>7</sup> *Tan Tek Seng v Suruhanjaya Perkhidmatan Pendidikan & Another* [1996] 1 MLJ 261.

<sup>8</sup> Clayton [*et.,al.*] (n 1).

<sup>9</sup> Akhir, [*et.,al.*] (n 2).

<sup>10</sup> P Pihkala, 'Eco-Anxiety and Environmental Education' (2020) 12 Sustainability: MDPI AG <<http://dx.doi.org/10.3390/su122310149>>.

The Ministry of Environment and Water (KASA) is revising the 1974 Environmental Quality Act to improve environmental protection.<sup>11</sup> The Act needs to be pro-active and flexible enough to accommodate new measures for facing challenging environmental problems, especially on eco-anxiety and mental health. The law requires changes to indicate the increasing complexities of environmental issues facing Malaysia. Documenting climate change cases is very hard. When it comes to disease-related matters, the affected parties must prove that the environmental harm affects their mental health that causes eco-anxiety. It will be challenging to argue that the environmental harm activity impacts the environment and mental health. So how can one prove that a specific activity affected the environment in a particular way and would justify people being compensated for their eco-anxiety by a specific company?

Hence, a right to a clean and healthy environment should be explicitly included in the Constitution, as is the case in many other modern constitutions worldwide. Last but not least, the environment and its preservation are ancient wisdom that has been an integral part of our culture and society for hundreds of years.<sup>12</sup> For this to change, laws must be applied and enforced consistently, regardless of the socioeconomic or political status of the offender. Therefore, judges must play a vital role in protecting Malaysia's environment by applying environmental laws persistently and without fear. A core duty is to safeguard and uphold our constitutional guarantees, including the right to a clean environment for the present generation and the future of unborn generations, without forgetting our wildlife and other living systems, which form part of our ecosystem.

On the mental health regulatory frameworks, it is suggested that the government of Malaysia should reassess its mental health policies. Malaysia must

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<sup>11</sup> United Nations, 'Access to a Healthy Environment, Declared a Human Right by UN Rights Council' (*UN News Global Perspective Human Stories*, 2021) <<https://news.un.org/en/story/2021/10/1102582>> accessed 1 January 2022.

<sup>12</sup> Datuk Seri Dr Zaini Ujang, 'Impact of Covid-19 on the Environment' (*New Straits Times*, 2021) <<https://www.nst.com.my/opinion/columnists/2021/01/657271/impact-covid-19-environment>> accessed 1 January 2022.

prioritise the health and well-being of its citizens in the post-Covid-19 recovery process, taking into consideration environmental impacts on mental health and other factors that contribute to the well-being and are necessary for long-term sustainable development in the country. Recognition of the pathways and mechanisms through which healthy natural environments can provide mental health benefits in urban environments allows for the achievement of both human health and environmental priorities and the strengthening of the resilience of urban systems in the face of future pandemics. Climate change and disasters are no longer a distant problem. Hence the community should be equipped with coping skills and resilience before any catastrophic event resulting from climate change were to take place. These should be part of the mental health preventive plans in order to reduce impacts of climate change on mental health.

Priority should be given to the greening of public health infrastructure, including mental health facilities, as part of eco-anxiety recovery plans to support the emergence of a green care economy that benefits all citizens and businesses. Using the input of stakeholders, Malaysian institutions should assess citizens' expectations with the environmental impact on mental health and the country's mental health promotion and prevention efforts to serve their needs better. In addition, politicians and policymakers should consider the more significant impact of the unequal social distribution of environmental determinants of mental ill-health and access to nature benefits, which is an important dimension exacerbated by Covid-19 social distancing/lockdown when developing policies and implementing measures.

## **Conclusion**

When the concept of "eco-anxiety" started to gain traction, business owners started to experience the same anxieties. The prospect of having to deal with claims based on climate change and the impact of human activity on the planet was their greatest concern. The challenge that we face is figuring out how to put our eco-anxiety to use in the fight against climate change without giving up any of our other environmental or societal goals in the process. Now is the time to make the difficult

choices that will determine how we would like the world to develop in the years to come. The challenge lies in determining how to channel our environmental anxiety into a fight against climate change while maintaining our other environmental and societal goals at the same time. Now that the time has come, it is up to each of us to make the tough choices that will determine the future of our world. Our economies are predicated on the idea that we can achieve all of our goals simultaneously. We toss around the word “sustainability” as if there were some sort of mystical sweet spot where we could simultaneously achieve our economic, environmental, and social goals, as if there were some kinds of mystical sweet spot where we could accomplish all of these things at once. However, it hasn’t been successful so far. While economic considerations continue to take precedence, environmental and social objectives appear to be getting further and further out of reach.

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*Tan Tek Seng v Suruhanjaya Perkhidmatan Pendidikan & Another [1996] 1 MLJ 261.*

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