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Environmental Degradation and Violations of Human Rights

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Abstract: ***Human rights not only in India but also around the world environment is intrinsically linked: safe, clean, healthy. A sustainable environment is essential to the enjoyment of our human rights; even though a polluted, dangerous and otherwise unhealthy environment potentially violates our human rights. Environmental rights are not abstract, distant and irrelevant concepts; are measurable, distinctive and functional aspects of society and its ecology. When environmental rights are violated, people and the planet suffer from reduced health and well-being. According to the Article 21 of the Indian Constitution that everyone on the country has the right to a healthy environment. This major decision is the result of decades of mobilization of various stakeholders. States must now meet their commitments and step up their efforts. This article aims to list relevant information, research, data and press releases and other institutions.***

Keywords: Climate Change, Environmental Problems, Degradation, Human Rights, Violation, Indian Constitution

I. INTRODUCTION

Environmental issues, particularly pollution and climate change, imply economic, social and cultural rights, including the right to health and water. Procedural rights such as the right to assembly, opinion and information are important to environmental protection. Many constitutions and many local human rights frameworks contain a separate right to an adequate and healthy environment and assert an indivisible link between human rights and the environment. In recent decades, human rights defenders have increasingly challenged environmental destruction as a human rights violation before national and international courts and commissions. The International Human Rights Clinic has intervened in human rights and the environment through litigation, documentation, investigation and advocacy in areas such as climate change, business practices and the aftermath of armed conflict.

The raw materials industry, which is often associated with gross human rights violations, is a particular focus of the clinic's work in this area. We have published an in-depth report on the human rights impacts of mining on communities outside Johannesburg in South Africa and on tribal people in Guyana. We investigated the company's activities and their impact on the environment and indigenous peoples, particularly in Burma, including the controversial Yadana and Shwe gas pipelines. Canada and Guyana.

We also take initiatives to advance work at the intersection of climate change and human rights, including hosting events for refugees fleeing the impacts of climate change. Bonnie Dorcherty, Deputy Director for Armed Conflict and Civil Protection, helped develop policies to help people internally displaced by climate change. Docherty and his HRP co-director Tyler Giannini proposed a convention on climate refugees. Similarly, Aminta Ossom, a clinical instructor at the International Human Rights Clinic, leads a team of students on how human rights can be used to contribute to climate change and address the social and economic inequalities it causes. I explored what I could do. As part of the Armed Conflict and Protection of Civilians initiative, the hospital has explored ways to address the environmental impact of war. Docherty and Crowe successfully worked to ensure that the 2017 Nuclear Weapons Convention would include provisions requiring states to clean up environments contaminated by previous use and testing of nuclear weapons. In recent years the relationship between human rights and environmental issues has become an issue of vigorous debate. The link between the two emphasizes that a decent physical environment is a precondition for living a life of dignity and worth. More concretely, a decent physical environment has to do with protection against, for instance, noise nuisance, air pollution, pollution of surface waters and the dumping of toxic substances. Environmental degradation and human rights were first placed on the international agenda in 1972, at the UN Conference on the Human Environment. Principle 1 of the 'Stockholm Declaration on the Human Environment' establishes a foundation for linking human rights and environmental protection, declaring that man has a 'fundamental right to freedom, equality and adequate conditions of life, in an environment of a quality that permits a life of dignity and well-being, and he bears a solemn responsibility to protect and improve the environment for present and future generations. As a result of the 1972 Conference, the United Nations Environment Programme (UNEP) was set up.

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In 1992, twenty years after the first global environment conference, the United Nations Conference on Environment and Development (UNCED), also known as the Earth Summit, took place from 3-14 June in Rio de Janeiro. The Conference aimed to help governments 'rethink economic development and find ways to halt the destruction of irreplaceable natural resources and pollution of the planet' as, despite international efforts, environmental degradation had accelerated at an alarming rate. Delegations from 178 countries, heads of state of 108 countries and representatives of more than 1,000 NGOs attended the meetings. In Rio, three major agreements were concluded of which the Rio Declaration on Environment and Development is the most pertinent in the context of human rights and the environment. Principle 1 sets out that 'Human beings are at the center of concerns for sustainable development. They are entitled to a healthy and productive life in harmony with nature' and Principle 4 establishes 'In order to achieve sustainable development, environmental protection shall constitute an integral part of the development process and cannot be considered in isolation from it'.

Principle 10 of the 1992 Rio Declaration was of great importance for the developments that led to the 1998 Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention) which entered into force in 2001.

The Aarhus Convention covers the three themes indicated by its title. Rather than using rights-oriented language the Convention requires states parties to 'ensure' that members of the public have access to information, are allowed to participate and have access to judicial review. Although the term "law" is not commonly used, the purpose, structure and context of the Aarhus Convention is rights-oriented and based on the concepts of international human rights law. The Convention aims to ensure the right to participation, information and due process in environmental issues.

In September 2002, the World Summit on Sustainable Development (WSSD) was held in Johannesburg. The WSSD Action Plan makes it clear that respect for human rights and fundamental freedoms is essential to achieving sustainable development. The plan highlights the importance of national action for successful development. Key components of the plan include good governance, the rule of law, gender equality and an overall commitment to a just and democratic society. Transparency, accountability and fair administrative and judicial institutions are considered essential for sound national policies to be carried out. The plan also emphasizes the importance of promoting public participation in environmental decision-making, including measures that provide access to information regarding legislation, regulations, activities, policies and programmers. The plan states that women must be involved fully and equally at all levels of the environmental and developmental process, including those of policy formulation and decision-making.

The human right to a healthy environment is controversial, inter alia, because it has individual as well as collective aspects. For example, if, after a period of foreign domination, the physical environment of the dependents proves to be badly damaged, it is generally considered logical to allow claims for protection of the environment (i.e., restoration) as well as the individual as well as the environment.

However, the same applies to the entire affected population. In this regard, reference may be made to Article 55 of Protocol I to the 1949 Geneva Conventions. This provision on the protection of the wartime environment provides:

Care must be taken to protect the natural environment from widespread, long-term and serious damage during hostilities. This protection includes a prohibition of the use of methods or means of warfare which are intended or may be expected to cause such damage to the natural environment and thereby to prejudice the health or survival of the population. The International Committee of the Red Cross and the UN Special Rapporteur on the Adverse Effects of the Illicit Movement and Dumping of Toxic Waste have observed that the article in question is one whose significance is becoming increasingly salient with the passage of time, and that efforts should be made to establish how it can be used in a strictly legal sense.

The mandate of the Special Rapporteur on the Adverse Effects of the Illicit Movement and Dumping of Toxic Waste was adopted with the increasing recognition that illicit traffic and dumping of toxic and dangerous products and wastes pose a serious threat not only to the environment, but also to the enjoyment of human rights, such as the right to life, the enjoyment of the highest attainable standard of physical and mental health, the rights to clean water, food, adequate housing and safe and healthy working conditions, the right to information, the right to participation and freedom of association, and other human rights enshrined in the UDHR and other international instruments. The mandate of the Special Rapporteur has three components: Firstly, outlining the elements of the problem and conducting a general survey of issues involving the human rights of the victims, with special emphasis on difficulties encountered by African and other developing countries; secondly, to identify, investigate and monitor actual situations, specific incidents and individual cases, including allegations received; and thirdly to produce annually a list of countries and transnational corporations engaged in the illicit traffic of toxic and dangerous products and wastes to developing countries.

Explicit provisions concerning the environment are limited in international human rights instruments. The UDHR protects the right to life and a standard of living adequate for health and well-being, rights from which the right to a healthy environment can be inferred. The right to life is protected in the ICCPR and the adequate standard of living and highest attainable standard of health in the ICESCR. Similar provisions are found in other UN treaties. The ESCR Committee has addressed the right to a healthy environment. In General Comment 14 on the highest attainable standard of health, the Committee established that: The right to health embraces a wide range of socio-economic factors that promote conditions in which people can lead a healthy life, and extends to the underlying determinants of health, such as food and nutrition, housing, access to safe and potable water and adequate sanitation, safe and healthy working conditions, and a healthy environment.

It further elaborated that the right should be interpreted as an 'inclusive right extending not only to timely and appropriate health care but also to the underlying determinants of health, such as access to safe and potable water and adequate sanitation, an adequate supply of safe food, nutrition and housing, healthy occupational and environmental conditions. In General Comment 15 on the right to water the Committee addressed 'environmental hygiene', an aspect of the right to health, as encompassing: taking steps on a non-discriminatory basis to prevent threats to health from unsafe and toxic water conditions. For example, States parties should ensure that natural water resources are protected from contamination by harmful substances and pathogenic microbes. Likewise, States parties should monitor and combat situations where aquatic eco-systems serve as a habitat for vectors of diseases wherever they pose a risk to human living environments.

ILO 169 (Indigenous and Tribal Peoples Convention) contains a provision on environmental protection, Article 7: [Indigenous peoples] shall have the right to decide their own priorities for the process of development as it affects their lives, beliefs, institutions and spiritual well-being and the lands they occupy or otherwise use, and to exercise control about economic, social and cultural development. Governments take action to protect and preserve the environment in the areas where they live.

In the regional system, Article 24 of the Charter of Africa and Article 11 of the San Salvador Protocol explicitly address the right to a healthy environment. Article 24 of the Charter of Africa states that "all peoples have the right to a common satisfactory environment conducive to development". The charter also states that "all peoples are free to dispose of their natural resources" (Article 21). Article 11 of the San Salvador Protocol refers to "the right to a healthy environment" and states that "everyone has the right to live in a healthy environment and has the right to access to basic public services", and states "to protect, conserve and improve the environment" ".

Although there are few environmental provisions, environmental human rights cases are referred to international and local oversight bodies. The Human Rights Commission considered several examples where the environment played a role. Bordes and Temejaro. It was argued that the nuclear test alleged in France would infringe the applicant's right to life and family. Others from HP. in. Canada. Claims of violation of the right to life due to the environmental impact of nuclear stockpiles located near settlements (unacceptable due to lack of domestic remedies).

Like the ICCPR, the European Convention does not contain provisions on the environment, but the European Court of Justice has ruled in some cases related to environmental protection. For example, López Ostra v. A Spanish court ruled that the state violated Article 8 of the ECHR because the state did not compensate the applicant for damage caused by environmental pollution. A similar problem, damage caused by mismanagement of municipal landfills, was reported by Oneryildiz v. Turkey. In Sander v. Sweden, water pollution was identified as a threat to human security, an important step in extending the concept of Article 6 (1) of ECHR to include environmental rights.

Tatar v. In Romania, the court found that Romanian authorities had violated the right to respect for privacy and family life by failing to protect the applicant's right to reside in the vicinity of a gold mine. healthy life. and protected environment. "Pollution can interfere with an individual's privacy and family life, and can harm his or her well-being," the court said. Operation, Safety and Control Hatton et al. The issue raised in the UK relates to violations of privacy and family rights due to noise pollution from night air traffic (see Moreno Gómez v. Spain). In Guerra et al. v. Italy, the country has been found to have violated the right to privacy and family by not providing information about environmental pollution that would allow applicants to assess the health risks they were exposed to while living in a particular area. Hammer vs. A Belgian court has ruled that ownership is legally limited for the legitimate purpose of protecting the environment.

In the Americas regime, the Inter-American Commission, taking into account the impact of environmental degradation on human rights, stated: being human. Respect for the inherent dignity of the human person is a principle underlying the fundamental protection of the right to life and the preservation of physical well-being. The conditions of environmental pollution that can cause serious physical illness, injury and suffering for local residents are incompatible with the right to respect as a human being.

(Report on the Situation of Human Rights in Ecuador, OEA/Ser. L/ V.II.96, 1997).

The majority of cases involving the right to a healthy environment in the Inter-American system are based in communal or indigenous rights rather than individual rights. The first environmental case was brought on behalf of the Yanomani Indians of Brazil (Case 7615), where the Commission found that the state had violated its responsibility to provide adequate protection for the health and safety of the Yanomani in the construction of a highway and by neglecting to address hostilities between mineral prospectors and the Indians. The Commission found violations of the right to life, liberty and security, the right to residence and movement and the right to health under the American Declaration. Mayagna (Sumo) Awas Tingni Community v. Nicaragua concerned government-sponsored logging on indigenous lands without prior consultation with the community. The Commission found a violation of the right to recourse and the right to protection of private property. Dann v. The United States (Case 11.140) concerned members of the Shoshone Tribe in Nevada who alleged that their rights to equal protection before the law, right to religious freedom and worship, right to family protection, right to work with fair remuneration, right to a fair trial and right to property under the American Declaration had been violated because of, inter alia, the state's appropriation of their lands through an unfair procedure and permitting gold prospecting on traditional lands. The Commission found a violation of the right to property, fair trial and equality before the law. Maya Indigenous Communities of the Toledo District.

Belize (Case 12.053) concerned lands traditionally used and occupied by the Maya people. They alleged that, by granting logging and oil concessions in and otherwise failing to adequately protect those lands, failing to recognize and secure their territorial rights in those lands, and failing to afford them judicial protection of their rights and interests in the lands on account of delays in court proceedings instituted by them, the state had violated several rights under the ACHR. According to the Petitioners, the state's contraventions had impacted negatively on the natural environment upon which they depended for subsistence, had jeopardized the Maya people and their culture and threatened to cause further damage in the future. The Commission held that the state had violated the communal property rights of the Maya people by, inter alia, failing to put into place adequate safeguards and mechanisms, to supervise, monitor and ensure that it had sufficient staff to oversee that the execution of the logging concessions would not cause further environmental damage to Maya lands and communities.

In Reyes et al. v. Chile, a US court held that Chile violated freedom of expression, including the right to seek, receive and communicate information by denying applicants information about government-approved forestry projects and potential environmental impacts. The court also found a violation of Article 25 because Chile did not guarantee an effective appeal to the courts. The Sara maca peoples v. Suriname incident involved dam projects that drove the Saramaka tribes out and destroyed sacred sites and mining rights that polluted traditional land and water resources. The Court held that Surinam had violated the right to property and procedural rights, along the same lines as the Commission in the Awas Tigni case.

Under the African system, the African Commission took a landmark decision in 2001 with regard to the right to a clean environment. In a case where it was alleged that the Nigerian government had contributed to gross violations of human rights through the actions of its military forces and unsound environmental management related to exploitation of the Niger Delta, the Commission found that the Nigerian government had violated, inter alia, the right to a clean environment by directly contaminating water, soil and air, which harmed the health of the Ogoni people living in the area, and by failing to protect the community from the harm caused by oil companies. The Commission emphasized that the right to a clean and safe environment is critical to the enjoyment of economic, social and cultural rights

This right, it was held, requires a state to take reasonable measures to prevent pollution and ecological degradation, to promote conservation and to secure an ecologically sustainable development and use of natural resources. The duty to respect the right to a clean environment largely entails non-interventionist conduct from the state, such as refraining from carrying out, sponsoring or tolerating any practice, policy or legal measures violating the integrity of the individual. The Commission stated that compliance with the right to a clean environment must include undertaking or at least permitting independent scientific monitoring of threatened environments, and requiring and publicizing environmental and social impact studies prior to any major industrial development. This right also requires that appropriate monitoring is undertaken, information is disseminated to the communities exposed to hazardous materials, and that meaningful opportunities are guaranteed for individuals to be heard and to participate in development decisions affecting their communities. The Nigerian government, it was held, had discharged none of these obligations (see The Social and Economic Rights Action Centre et al. v. Nigeria, Communications 155/96).

The environmental protection is not only the duty of the citizen, but also the duty of the state and all other state bodies, including the courts. To this extent, environmental law has succeeded in freeing the human right to life and personal liberty from the clutches of the common law theory of individual property. When examining the matter from the aforementioned constitutional point of view, it would be reasonable to believe that the enjoyment of life and its achievement and fulfillment guaranteed by Article 21 of the Constitution includes the protection and preservation of lifeless gifts of nature.

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There is no reason why the practice of forcibly extinguishing life itself should be considered a violation of Article 21 of the Constitution. Slow poisoning by polluted air caused by environmental pollution and degradation should also be considered a violation of Article 21 of the Constitution.

In R.L. and E. Kendra, Dehradun v. State of U.P., the Supreme Court heard environmental complaints alleging that the operation of limestone quarries in the Himalayan region of Mussoorie had led to environmental destruction affecting the ecological balance. In R.L. & E. Kendra, Dehradun v. State of U.P., the Supreme Court, in an application under Article 32, ordered the closure of some of these quarries on the ground that their operation was disturbing the ecological balance. Although article 21 is not referred to in these judgments of the Supreme Court, these judgments can only be understood on the basis that the Supreme Court dealt with these environmental complaints under Article 32 of the Constitution as a violation of Article 21 has the right to life. The right to leave in healthy environment is the part of Article 21 of the Indian constitution. Rural Litigation and Entitlement vs State of U.P. & Ors, (1985), Damodhar Rao and Ors. vs The Special Officer, Municipal, (1987), and M.C. Mehta vs Union of India & Ors. (2006).

II. SUMMERY AND CONCLUSION

A sustainable environment is essential for us to enjoy our human rights. However, polluted, unsafe or unhealthy environments can violate our human rights. Environmental rights are not an abstract, distant or irrelevant concept. When environmental rights are violated, people and the planet suffer from poor health and well-being. According to Article 21 and Article 32 of the Indian Constitution, everyone in India has the right to enjoy a healthy environment. This need to taken care of the of the polluters pay principle in India in future. That may reduce the level of pollution due to this kind of the activities etc.

III. ACKNOWLEDGMENT

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1) Declaration: The authors of this manuscript do not oppose the interest.

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[1] Aminta Ossom has led ongoing research focused on the relationship between climate change and inequality. For Earth Day 2021, student Cindy Wu JD'22 wrote about how the Yamuna River in India illuminates the relationship between climate change, economics, and human rights in a blog post for HRP.

[2] In Fall 2020, the Clinic released, "Confronting Conflict Pollution: Principles for Assisting Victims of Toxic Remnants of War," with the Conflict and Environment Observatory (CEOBS). The report establishes a new framework for addressing the human harm resulting from the environmental consequences of conflict.

[3] In October 2016, the Clinic released a report, "The Cost of Gold: Environmental, Health, and Human Rights Consequences of Gold Mining in South Africa's West and Central Rand," which documented the immediate and long-term effects of South African gold mining on surrounding communities and the environment.

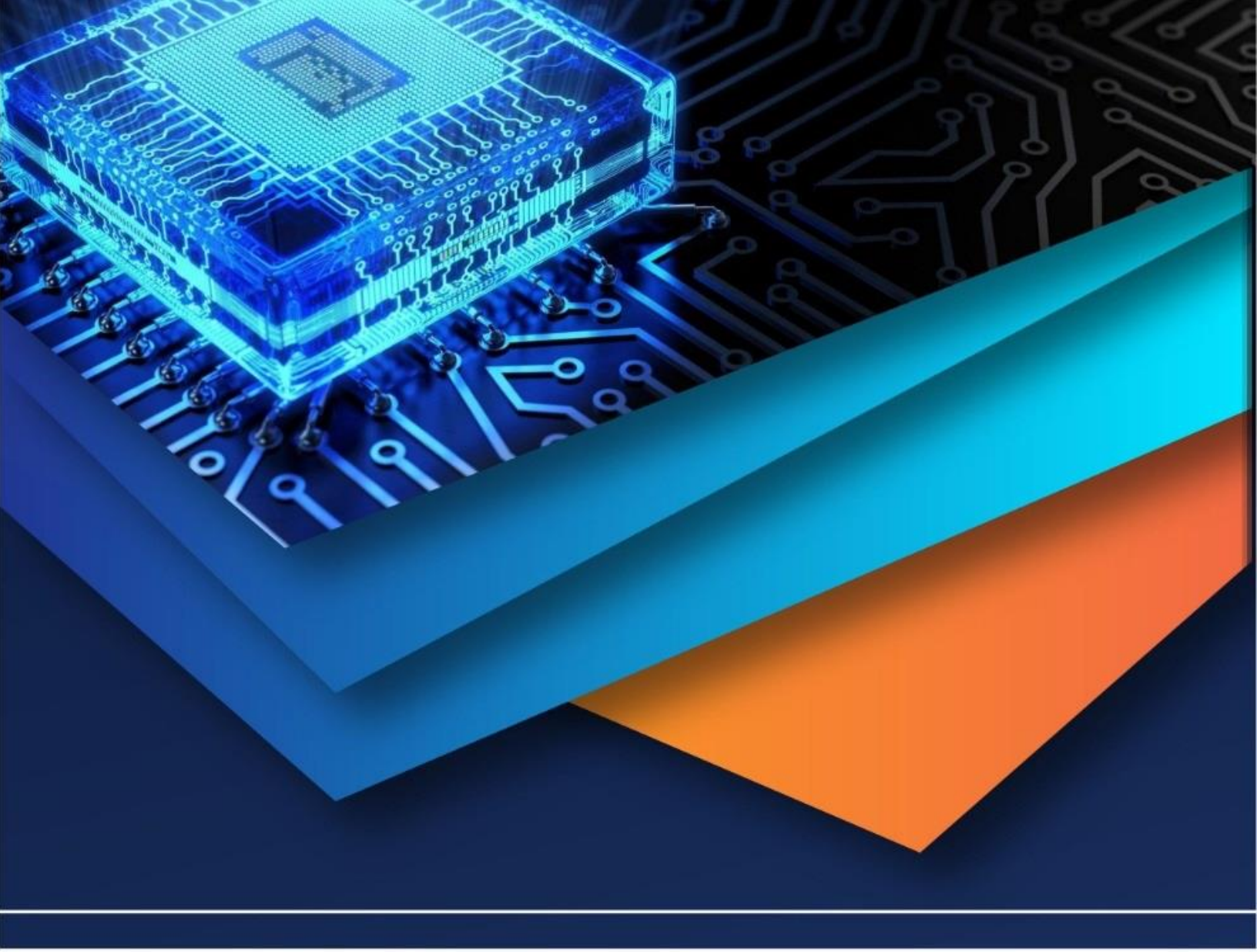
[4] In October 2016, the Clinic helped organize a three-day conference, "Climate Change Displacement: Finding Solutions to an Emerging Crisis, "which brought together experts from around the world to discuss the governance challenges that come with climate change displacement. Public events included a conversation between Mary Robinson, former President of Ireland, and HLS Dean Martha Minow, and a panel discussion examining governance challenges globally and locally. The conference was co-organized with the Emmett Environmental Law and Policy Clinic and the Harvard Immigration and Refugee Clinic.

[5] In November 2015, the Clinic released a joint report, "Righting Wrongs? "Which found that a controversial process created by one of the world's largest gold mining companies to compensate women for rapes and gang rapes in Papua New Guinea was deeply flawed. The report was co-authored by the Columbia Law School Human Rights Clinic and led by Tyler Giannini in the International Human Rights Clinic at Harvard Law School. Giannini has been working on monitoring the mine since 2006.

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