

Environmental Policy and Our Constitutions: Should They Be Kept Separate?

The air we breathe, the water we drink, and the environment we live in are all key factors to the quality of the life that we live. The worse the natural conditions we are forced to live in are, the more likely we are to develop health conditions that prevent us from living a life of liberty and happiness. Since both the United States and Minnesota constitutions grant a right to life and liberty, they can also be fairly read to grant the right to a healthy natural environment. Furthermore, although these rights are implicitly recognized within each constitution, the constitutions should still be amended to contain an explicit recognition of the right to a healthy natural environment because it sets the stage for future improvement of environmental conditions for both U.S. and Minnesotan citizens which is key to saving lives and reducing health risks.

Firstly, since both the U.S. Constitution and the Minnesota Constitution recognize a right to life and liberty for their citizens, they support a right to clean air, water, and a healthy natural environment by extension. According to the Fifth Amendment of the U.S. Constitution, “no person shall . . . be deprived of life, liberty, or property, without due process of law” (National Archives and Record Administration). Similarly, section 7 of the Bill of Rights in the Minnesota Constitution states that “no person shall be . . . deprived of life, liberty or property without due process of law” (Minnesota Legislature). Poor environmental quality ties directly to a citizen’s ability to live their life to the fullest, and to live their life at all. The United States ranked 7th in pollution-related death globally in 2017 with an estimated 196,930 Americans losing their lives prematurely (Constible and Knowlton). If the Federal Government and the Minnesota Government are capable of reducing these pollution-related deaths, then it is no stretch to argue that they are obligated to do so underneath their pledge to protect a citizen’s right to life. A recent court case, *Juliana v. United States*, also supports that the current language of the United

States Constitution can be read to include protecting a right to a healthy natural environment under the Fifth Amendment rights. During the court case, the district court held that the inadequacy of the current climate system in capability “of sustaining human life” was a violation of the Juliana v. United States’s plaintiffs Fifth Amendment Rights (LexisNexis). As the Fifth Amendment of the United States Constitution is almost identical to section 7 of the Bill of Rights in the Minnesota Constitution, this district court decisions also shows that the Minnesota Constitution, as it is currently written, can be read to include the right to a healthy natural environment. It is without question, then, that both constitutions can be easily interpreted to include a right to a healthy natural environment.

Yet even though these rights to a healthy natural environment are already implicitly included within both constitutions, they should still be amended to contain an explicit right to a healthy natural environment. This is important because openly recognizing such a right opens the door for greater environmental progress in the future by giving environmental advocates a constitutional basis for their movements and further encouraging governments to pay attention to detrimental environmental issues. Green Amendments For The Generations, a pro-Green Amendment organization, states how the current legal and legislative system has failed to effectively bring about a cleaner environment. The organization also notes how environmental justice efforts are hindered as well, even if better awareness about the disproportionate harms faced by minority groups due to environmental racism is increasing. The solution offered by the organization is to directly amend state and Federal constitutions in favor of acknowledging the right to a healthy natural environment. The benefits of such an amendment can be seen in the case of Delaware Riverkeeper Maya van Rossum. Using Pennsylvania’s right to a clean and healthy environment, Maya was able to win a legal victory that prevented fracking in

Pennsylvania communities. The benefits of green amendments can also be seen in Montana where 16 youths filed a climate lawsuit by relying on their state constitution's green amendment to "challenge Montana's state energy policy" (Krainin et al). While the lawsuit is still pending, this case shows how there will be greater opportunities for justified environmental movements when green amendments are present. Overall, the possible benefits of green amendments are not to be overlooked, especially when they can contribute to environmental policy change that can help ensure that governments remain conscious of the environmental effects of their actions at all times, saving lives and preventing premature deaths.

Finally, although critics of green amendments claim that they are pointless and even harmful, they are still better than the status quo. There is one main reason why critics believe that green amendments should not be implemented. While they agree that the right to a healthy natural environment is good in theory, they believe that the creation of green amendments will lead to countless litigations that will hinder court processes. Ruhl and Norris, two separate authors, both write that it would be difficult to determine brightlines for when the government is or is not responsible for allegedly unclean environments. More specifically, Ruhl brings up the idea of whether a person smoking could result in a lawsuit on the grounds they have violated the right of other citizens to clean air. When framed in this way, the potential for rampant litigations seems high and unreasonable. Yet overall, this is not a true concern. Green amendments don't have to be phrased so expansively that they fall prey to the drawback. Pennsylvania, Montana, and Massachusetts have implemented green amendments without it resulting in high amounts of litigation (Meigs). These are each real-world examples that show the plausibility of green amendments and outweigh the merely theoretical drawbacks stated by critics. Furthermore, some unnecessary litigations, even if they occur, are hardly as important as the need for governments

to protect the lives of their citizens. As Iwanowicz notes in his advocacy for why New York should implement a green amendment, “critics say” that courts will be “overrun with lawsuits even though that hasn’t been the case in other states that have environmental rights” and fail to take action against how, with the current way that society’s legal and constitutional system is set up, “more than 6,000 New Yorkers die prematurely each year due to air pollution”. This shows how the priority of critics appear to be skewed. While overwhelming amounts of unnecessary lawsuits is certainly unideal and preferably prevented, it is also insignificant compared to the lives of people lost due to environment-related concerns. This shows that, overall, it is still of utmost importance that the United States Constitution and the Minnesota Constitution be amended to include green amendments.

As part of the obligation of the United States Government and the Minnesota Government to protect their citizens’ rights to life and liberty, they each must also explicitly acknowledge their citizens’ right to clean air, water, and a healthy natural environment. This is significant because it gives environmental justice advocates better grounds for filing complaints against ineffective energy use and pollution, spurring environmental policy change that helps prevent premature deaths related to pollution and unhealthy living environments. The benefits of green amendments greatly outweigh the supposed costs, making it clear that, if the governments truly value their citizens’ right to life and liberty, green amendments should be added to both constitutions.

[Word Count: 1,248]

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