

The Right to a Healthy Environment

A USER'S GUIDE

BY DAVID R. BOYD

SPECIAL RAPPORTEUR ON THE
HUMAN RIGHT TO A CLEAN, HEALTHY
AND SUSTAINABLE ENVIRONMENT

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Antonio Guterres, Secretary-General of the United Nations

“The Secretary-General welcomes the adoption by the General Assembly of its historic resolution recognizing the right to a clean, healthy and sustainable environment. This landmark development demonstrates that Member States can come together in our collective fight against the triple planetary crises of climate change, biodiversity loss and pollution. The international community has given universal recognition to this right and brought us closer to making it a reality for all.

The resolution will help reduce environmental injustices, close protection gaps and empower people, especially those that are in vulnerable situations, including environmental human rights defenders, children, youth, women and indigenous peoples. The resolution will also help States accelerate the implementation of their environmental and human rights obligations and commitments.

However, the adoption of the resolution is only the beginning. The Secretary-General urges States to make the right to a clean, healthy and sustainable environment a reality for everyone, everywhere.”

Excerpt from Statement attributable to the Spokesperson for the Secretary-General – on the adoption of United Nations General Assembly resolution on the right to a healthy environment.¹

28 July 2022



Inger Andersen, Executive Director of the United Nations Environment Programme

“The UN General Assembly resolution recognizing the right to a clean, healthy and sustainable environment demonstrates that countries are in solidarity with billions of people suffering under the weight of the triple planetary crisis of climate change, nature and biodiversity loss, and pollution and waste. It will help people stand up for their right to a safe climate, their right to breathe clean air and their rights to access clean and safe water, adequate food, healthy ecosystems and nontoxic environments.

So, the recognition of this right is a victory we should celebrate. My thanks to Member States and to the thousands of civil society organizations and indigenous peoples’ groups, and tens of thousands of young people who advocated relentlessly for this right.

But now we must build on this victory and implement the right, because the triple planetary crisis is a huge threat to present and future generations. If nations implement this right fully, it will change so much – by empowering action on the triple planetary crisis, providing a more predictable and consistent global regulatory environment for businesses, and protecting those who defend nature.”

Excerpt from Statement by Inger Andersen on UN General Assembly resolution recognizing the right to a healthy environment.²

28 July 2022



Volker Türk, United Nations High Commissioner for Human Rights

“People everywhere have a fundamental right to a clean, healthy and sustainable environment. They have a right to the assurance that the air they breathe, the water they drink and the land they inhabit are free from contamination and degradation. Healthy ecosystems and biodiversity are the foundation of all life on our planet. But today we are in the midst of a climate crisis we ourselves have caused – and which threatens humanity itself.

Our universal right to a healthy environment needs to be at the core of all national, regional and global policy-making. It is crucial to saving lives; to preserving peace; to rescuing the Sustainable Development Agenda; and to upholding fundamental principles of justice and humanity, as environmental degradation unleashes ever greater chaos.

We need to bring people’s demands for climate justice to Parliaments, to multi-stakeholder fora, to the courts – and everywhere in between. I am committed to working with States to advance the right to a clean, healthy and sustainable environment, including for today’s children and future generations.

We must commit to an equitable phase-out of all fossil fuels.

We must commit to holding all actors to account when they violate the right to a clean, healthy and sustainable environment.

We must commit to supporting the free, meaningful, active, safe and informed participation in environmental decision-making of all people, including those who are disproportionately affected, such as Indigenous Peoples, people living in poverty and people with disabilities.

We must act to protect the rights of future generations.

Thanks for helping us to advance all human rights – including the right to a healthy environment, for all.”

Excerpt from Video Statement by Volker Türk, UN High Commissioner for Human Rights, at “Human Rights 75 Regional Dialogue for Europe and Central Asia”.³

20 October 2023



I. Preface

I am delighted to present this User's Guide, which represents the culmination of six years of work in my role as the United Nations (UN) Special Rapporteur on human rights and the environment. This Guide was inspired by the historic resolutions adopted by the Human Rights Council and the General Assembly in 2021 and 2022, recognizing—for the first time at the UN—the universal human right to a clean, healthy and sustainable environment. At the Human Rights Council, 43 States voted in favour, none opposed and four abstained.⁴ At the General Assembly, 161 States voted in favour, none opposed and eight abstained, with one of the abstainers belatedly shifting to support the resolution and two additional nations that missed the vote subsequently expressing their support.⁵ Rarely in the past 75 years has such a ground-breaking resolution received such an overwhelming level of State support, from all regions of the world.⁶

A number of key players came together to ensure successful outcomes. Civil society organizations played a key role in persuading States to support these resolutions, with more than 1,300 organizations joining forces between 2020 and 2022 to demand action. With relentless, timely and targeted advocacy, civil society succeeded in turning opponents into allies and fence-sitters into champions. For their extraordinary efforts, the Global Coalition of Civil Society, Indigenous Peoples, Social Movements and Local Communities for the Human Right to a Clean, Healthy and Sustainable Environment received an extraordinary honour, the UN Human Rights Award in 2023.⁷ Five States driving the landmark resolutions forward in

“Human rights are not things that are put on the table for people to enjoy. These are things you fight for and then you protect.”

Wangari Maathai

both Geneva and New York deserve an immense amount of credit for their outstanding diplomatic efforts: Costa Rica, the Maldives, Morocco, Slovenia and Switzerland. More than a dozen United Nations agencies came together to throw their weight behind this effort.

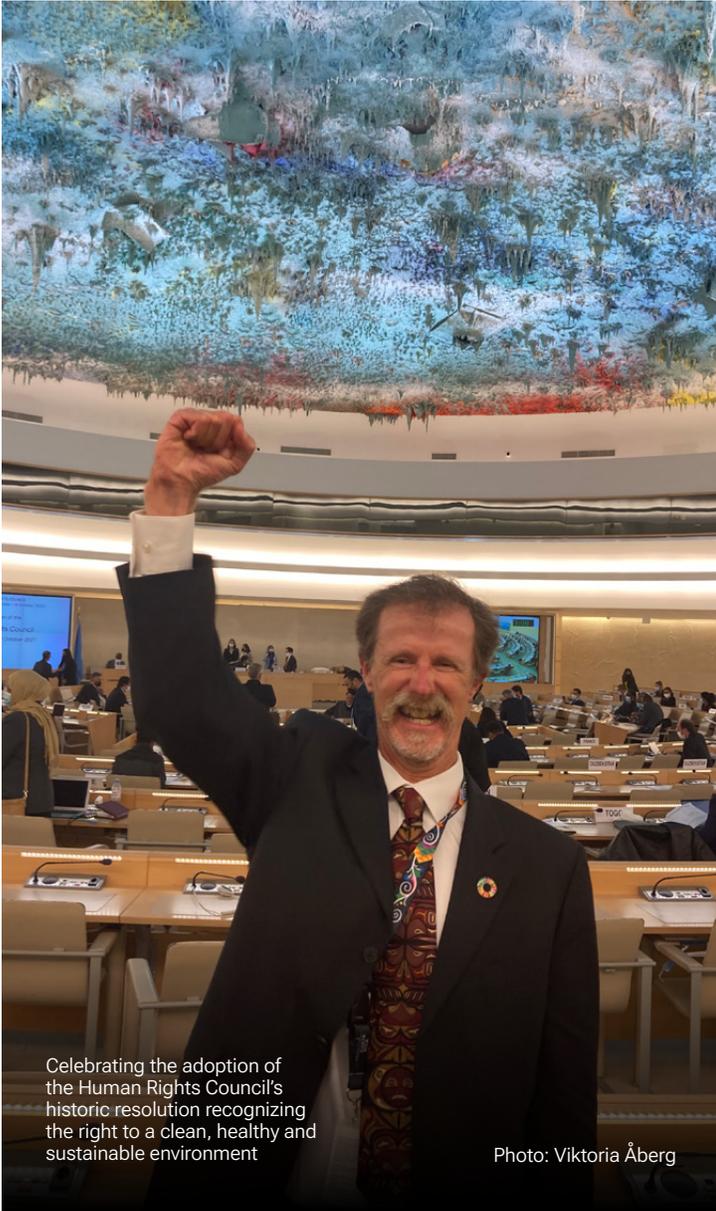
The UN resolutions on the right to a healthy environment provided a much-needed jolt of hope to a world struggling to cope with a devastating pandemic and a climate emergency. As soon as the resolutions were adopted, people began to ask: What next? How can we turn these inspiring words into tangible, concrete actions that will improve peoples' lives and protect this uniquely beautiful and biodiverse planet? How can we turbocharge the implementation of ambitious, effective and equitable solutions?

Through consultations hosted over the course of 2022 and 2023, feedback was gathered from representatives of civil society organizations regarding what types of information would be most helpful in answering these questions. Guidance about how to implement the right to a healthy environment was a unanimous request.

Thus, the goal of this User's Guide is to provide useful and inspiring advice to civil society, social movements and communities on how to accelerate implementation of the right to a clean, healthy and sustainable environment. What does this right mean? How can this right be used to prevent unsustainable and unjust laws, policies,



Meeting with children and youth in Fiji, December 2018, organized by UNICEF



Celebrating the adoption of the Human Rights Council's historic resolution recognizing the right to a clean, healthy and sustainable environment

Photo: Viktoria Åberg

projects and plans proposed by governments and businesses? How can this right be used to advance the transformative and systemic changes urgently needed to achieve a just and sustainable future? How can this right be used to catalyze a just transition away from fossil fuels?

The good news is that there is already plenty of experience to learn from and build upon. Some States have recognized the right to a healthy environment dating back to the 1970s, enabling civil society to work with this powerful tool. Some States, with advocacy and assistance from civil society, have used the right to a healthy environment to transform themselves into global environmental leaders. This User's Guide presents many inspiring good practices, including examples of individuals, communities, organizations and States using the right to a healthy environment in a variety of creative and progressive ways, as well as links to a wealth of online resources.

It is obvious that we have a long distance to travel and many mountains to climb before everyone, everywhere, fully enjoys their right to a clean, healthy and sustainable environment. But as I have said to countless amazing activists and environmental human rights defenders across the world that I've met along this journey: we are strongest when we use our voices together in global harmony.

The vast majority of people want clean air to breathe, safe water to drink, healthy food to eat, a safe climate for themselves and their children and flourishing biodiversity for present and future generations. Transforming today's economic systems, which are based on exploiting people and nature, is the biggest challenge facing humanity, but I believe that by working together we can achieve the just and sustainable future that so many people so deeply desire. I look forward to continued cooperation and collaboration with civil society, social movements, Indigenous Peoples, rightsholders, businesses and States to help the right to a healthy environment become a reality for all.

Thank you for everything you are doing to advance the recognition, realisation and enjoyment of our right to a clean, healthy and sustainable environment.



II. The planetary climate, environment and human rights crisis

“The future belongs to those who believe in the beauty of their dreams.”

Eleanor Roosevelt

If you are reading this User's Guide, you are probably already familiar with the planetary environmental crisis that humanity has created – the climate emergency, collapse of biodiversity, pervasive pollution of air, water and soil, worsening water scarcity, desertification and degradation of land, the unhealthy, unsustainable and exploitative food systems, and the surge in zoonotic diseases spilling over from animals into humans. Other threats are emerging, including microplastics and forever chemicals, both of which are found in our bodies with uncertain but undoubtedly adverse consequences.

These inter-connected catastrophes are undermining the life support system that humans and millions of other species depend upon. The planetary crisis has profound impacts on human health, ecosystem health and the ability of billions of people, both today and tomorrow, to enjoy a broad range of human rights. Among these rights are the rights to life, health, food, water, sanitation, cultural rights, the rights of the child and of course the right to a clean, healthy and sustainable environment. The adverse impacts fall disproportionately upon the shoulders of people in challenging

situations of poverty, vulnerability and marginalization, creating climate injustices and environmental injustices.

The root causes of these interconnected crises are economic, political, social, legal and cultural systems that prioritize extractivism, profit and economic growth over people, nature, human rights and community. It is shocking that the richest one per cent of humanity generates the same total amount of greenhouse gas emissions as the poorest 66 per cent! Business-driven overconsumption by wealthy nations and wealthy people combined with a global population that surpassed eight billion—on its way to ten billion by 2050—has created a situation in which the cumulative impacts of human activity exceed numerous planetary boundaries. By mid-August, our society is consuming more resources than the Earth can sustainably produce in a year, resulting in a grim situation called overshoot.⁸

The scientific evidence about the planetary climate and environmental crisis is clear, compelling and irrefutable (see Box 1).

BOX 1. SCIENTIFIC INFORMATION ON THE PLANETARY ENVIRONMENTAL CRISIS

The following are authoritative sources on the state of our planet:

- Intergovernmental Panel on Climate Change, including their 'Summaries for Policymakers': <https://www.ipcc.ch/>
- Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services: <https://www.ipbes.net/>
- United Nations Environment Programme, including the annual 'Emissions Gap' and 'Adaptation Gap' reports as well as many others: <https://www.unep.org/>
- UN Water, including the World Water Development Report: <https://www.unwater.org/>
- Food and Agriculture Organization of the UN, including the annual 'State of Food and Agriculture' and 'State of Food Security and Nutrition in the World' reports: <https://www.fao.org/home/en>
- UNICEF Healthy Environments for Healthy Children: <https://www.unicef.org/health/healthy-environments>
- World Health Organization, including their reports on the environmental burden of disease: https://www.who.int/health-topics/environmental-health#tab=tab_1
- World Meteorological Organization, including their annual 'State of the Climate' report: <https://wmo.int/>
- PubMed is a free search engine offering access to more than 35 million peer-reviewed articles, with many scientific studies related to human health and environmental degradation <https://pubmed.ncbi.nlm.nih.gov/>

The time for tinkering and incrementalism is past. Humanity needs to implement, on an urgent basis, systemic changes, such as redefining the goals of society away from endless economic growth towards living in harmony with nature, shifting from fossil fuels to renewable energy, ending discrimination, alleviating inequality, and creating a circular economy designed to avoid toxic substances and waste. Without urgent and transformative changes, financed by those most responsible for creating, perpetuating and exacerbating the planetary crisis, it will be impossible to respect, protect and fulfill all human rights.

The full range of actions needed to effectively and equitably implement the right to a clean, healthy and sustainable environment will vary from State to State, and from sector to sector. For example, what must be done in Norway and Japan will differ from what must be done in Bolivia and Liberia, although the objectives are similar and guiding principles are the same. The status of the rule of law is a fundamentally important factor that affects the extent to which human rights are enjoyed in a specific nation. The rule of law includes:

- Strong and independent institutions
- Open and transparent government
- Free and fair elections
- Absence of corruption
- Respect for human rights
- Equal treatment before the law for all persons and businesses
- Independent judiciary⁹

Rights are more difficult to protect and enjoy when elements of the rule of law are weak. The five States with the highest ranking on the World Justice Project rule of law index in 2023 were Denmark, Norway, Finland, Sweden and Germany, while the five States with the lowest ranking were Haiti, the Democratic Republic of the Congo, Afghanistan, Cambodia and Venezuela.¹⁰ Denmark, Norway, Finland, Sweden and Germany are consistently rated among the best States in rankings of environmental performance, while the Democratic Republic of the Congo, Haiti, Afghanistan, Cambodia and Venezuela rank among the worst.¹¹ Strong rule of law is positively correlated with good environmental quality.

Environmental rule of law connects environmental governance with rights and obligations. A country with strong environmental rule of law has comprehensive legislation and regulations to respect, protect and fulfil the right to a healthy environment, well-resourced environmental management institutions, specialized environmental courts and tribunals, open access to environmental information, high levels of public participation in environmental decision-making, and relatively easy access to justice and remedies. However, weak and unequal

enforcement of environmental laws is a common problem in many nations, which undermines the universal enjoyment of the right to a clean, healthy and sustainable environment.

A key challenge that States and courts are just beginning to address is the need to monitor and regulate the activities of transnational businesses that degrade the environment and violate human rights. These businesses are often based in the global North and their home States need to contribute to holding them accountable for their environmental crimes and human rights abuses in the global South. Encouraging signs are the increase in laws in Europe and North America requiring businesses to conduct human rights and environmental due diligence wherever they operate and across their supply chains, as well as court decisions holding businesses liable for failing to fulfill their human rights responsibilities.¹²

It is extraordinarily difficult to safeguard and advance any human rights, including the right to a healthy environment, in challenging circumstances such as nations enduring extreme poverty, civil war, military dictatorships and authoritarian leaders. People and communities in situations of increased vulnerability, such as women and girls, children, youth, older persons, Indigenous Peoples, Afro-descendant communities, rural communities, persons with disabilities, refugees, migrants and LGBTQ+ persons suffer disproportionately negative impacts of these multiple crises. It is also important to note that the difficult situations faced by many low- and middle-income nations are the ongoing by-product of centuries of brutal colonialism, perpetuated and exacerbated by various forms of contemporary economic colonialism. However, this does not relieve these States of their human rights obligations.

**Read more:

UNEP Environmental Rule of Law reports

<https://www.unep.org/resources/publication/environmental-rule-law-tracking-progress-and-charting-future-directions>**



III. What is the right to a clean, healthy and sustainable environment?

“We need more than a green transition. We need a new system where we put people and nature first.”

Helena Gualinga

In the face of the planetary environmental crisis, recognition and implementation of the right to a clean, healthy and sustainable environment is essential to protecting human life, well-being and dignity. While many human rights are linked to the quality of the environment (e.g. life, health and water), the right to a healthy environment is unique because it provides comprehensive protection against the full range of environmental harms, including damage to nature.

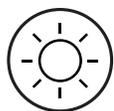
Based on decades of experience from more than 100 States, the right to a clean, healthy and sustainable environment includes—at a minimum—the right to enjoy clean air, safe and sufficient water, healthy and sustainably produced food, a safe climate, healthy biodiversity and ecosystems, and non-toxic environments where people can live, work, learn and play. The right to a healthy environment also guarantees access to environmental education and information, public participation in decision-making and access to justice with effective remedies, and is closely linked to freedom of expression, freedom of association and freedom of assembly (see Figure 1).

Other human rights have been used to address some environmental challenges but are incapable of adequately protecting all these elements. For example, because there is no right to a healthy environment in the European Convention on Human Rights, the

European Court of Human Rights has repeatedly stated “no right to nature preservation” is included among the rights and freedoms guaranteed by the Convention.¹³ In contrast, as the Inter-American Court of Human Rights has emphasized, “the right to a healthy environment, unlike other rights, protects the components of the environment, such as forests, rivers and seas.”¹⁴ This right also adds value by further empowering the millions of people working to protect the environment, adding invaluable credibility to their efforts. Environmental human rights defenders have been subjected to harassment, intimidation, violence, criminalization, disappearances and assassinations for too long and in too many countries. They are heroes for people and the planet, and should be celebrated as such.

After decades of debate, the human right to a clean, healthy and sustainable environment is now recognized in resolutions adopted by the UN General Assembly and the Human Rights Council. These resolutions have propelled the integration of environmental rights into multilateral environmental agreements, setting the stage for more comprehensive and interconnected approaches to addressing global environmental challenges. Notable examples include the **Sharm el-Sheikh Implementation Plan**, the **Kunming-Montreal Global Biodiversity Framework** and the **Bonn Declaration** for the Sustainable Management of Chemicals and Waste.

Substantive Elements



Safe climate



Safe and sufficient water



Clean air



Healthy and sustainable food



Healthy ecosystems and biodiversity



Non-toxic environment

Procedural Elements



Access to information



Public participation



Access to justice

Figure 1. Elements of the right to a clean, healthy and sustainable environment

The human right to a clean, healthy and sustainable environment is increasingly recognized by UN treaty bodies and experts, reflecting its contemporary importance. The UN Committee on the Rights of the Child, the UN Committee on Economic, Social and Cultural Rights, the UN Committee on the Elimination of All Forms of Discrimination Against Women, and the UN Working Group on People of African Descent have all referred to this right in their work.

The right to a healthy environment is now legally recognized in more than 80 per cent of UN Member States (161 out of 193 States) through constitutions, legislation and regional treaties (see Figure 2).¹⁵

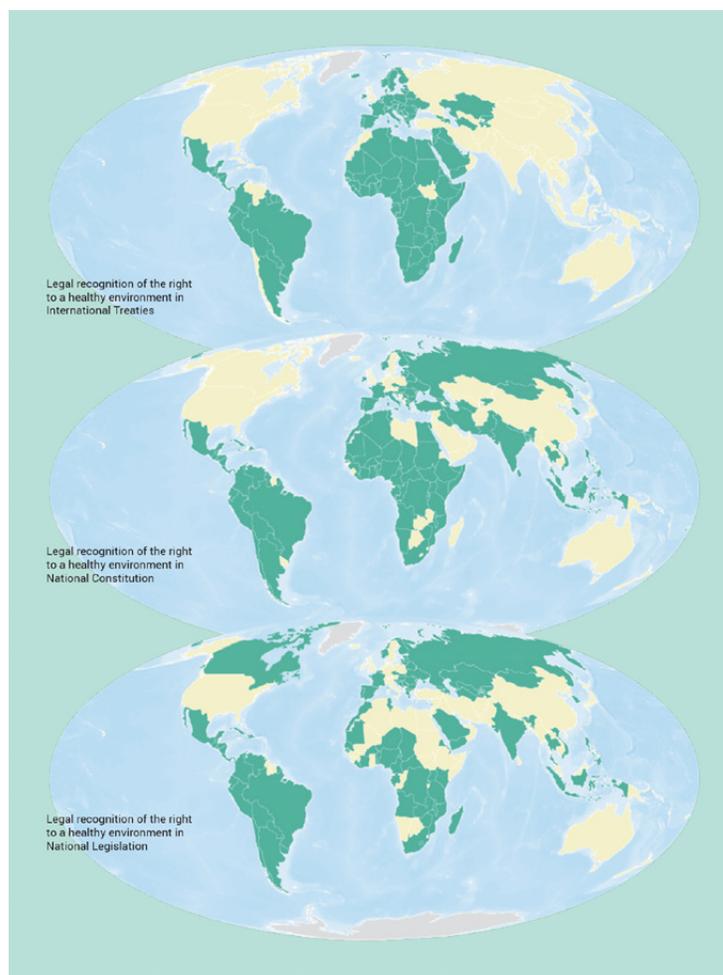


Figure 2. Legal recognition of the right to a healthy environment

The majority of States that do not yet legally recognize the right to a healthy environment are small island developing states, who strongly supported the UN resolutions recognizing this right but face capacity challenges when it comes to amending their constitutions and laws. Increasingly, the right to a healthy environment is viewed as part of customary international law.

A fascinating recent development is the eco-centric interpretation of the human right to a healthy environment by courts in Latin America. Inspired by a ground-breaking Advisory Opinion from the Inter-American Court of Human Rights, decisions have been issued by courts in Colombia, Costa Rica, Ecuador and Mexico explaining that the right to a healthy environment has two key elements.¹⁶

First, it includes environments that are healthy for humans, meaning clean air, safe water, a safe climate, sustainably produced food, and freedom from exposure to toxic chemicals. Second, the right also guarantees environments that are ecologically healthy, regardless of direct impacts on people.

In the words of the Supreme Court of Mexico, the human right to a healthy environment has two dimensions: “The first dimension considers the objective, intrinsic value of nature, regardless of the services it provides to society and human rights. The second recognizes the anthropocentric value of nature and its relationship to the realization of other human rights. Correspondingly, the transgression of either of the two dimensions of the human right to a healthy environment results in a violation of this right”.¹⁷ The Supreme Court of Colombia, in 2016, recognized the violation of the right to a healthy environment of Indigenous Peoples in the Atrato River basin, based on the lack of effective control of mining activities. The Court also recognized the Atrato river as a legal subject that possesses its own enforceable rights, that is, the rights of nature.¹⁸ Similar court decisions in Colombia have recognized the rights of the Cauca, Coello, Combeima, Cocora, La Plata, Magdalena, Otún, Pance y Quindío Rivers, two national parks and the Colombian portion of the Amazon rainforest. In 2023, the Constitutional Chamber of the Supreme Court of Costa Rica relied on the right to a healthy environment to overturn a regulation that permitted fishing for three species of hammerhead sharks because these sharks are an endangered species.¹⁹

The right to a clean, healthy and sustainable environment is not a closed book. Like other human rights, it will continue to evolve in the future to address new and emerging threats, such as impacts related to microplastics, nanotechnology and drones.



IV. Why is the right to a clean, healthy and sustainable environment a powerful lever for change?

Inspiring events of recent centuries demonstrate that human rights can be a catalyst for transformative changes in society. The abolitionists invoked freedom and equality in successfully ending slavery, using human rights arguments to change laws, change minds and win court cases. Women, the civil rights movement, the anti-apartheid movement, Indigenous Peoples, persons with disabilities and LGBTQ+ persons have all used human rights in creative and ingenious ways to catalyze societal transformations. In 1929, the USA National Association for the Advancement of Colored People developed a 25-year strategy based on human rights education and litigation to reduce racial discrimination and improve the well-being of Black Americans. That strategy culminated in the historic 1954 US Supreme Court decision *Brown v Board of Education* that struck down racially segregated schooling. Human rights are not an instant, easy or omnipotent solution, but history proves that rights can be powerful game changers.

This transformative potential makes it vital for civil society to advocate for rights based approaches to climate and environmental action, especially in light of evidence illustrating the ineffectiveness of actions taken to date that have failed to incorporate human rights. Evidence drawn from decades of national experience with the right to a healthy environment demonstrates that it serves as a catalyst for important benefits, including:²⁰

- stronger environmental laws and policies;
- improved implementation and enforcement of those laws and policies;
- increased levels of public participation in environmental decision-making;
- increased access to information and access to justice; and
- reduced environmental injustices.

These effects are reflected in the track records of global leaders including Costa Rica, France, Portugal and Slovenia, as documented in country reports following visits to these States by John Knox and me, the previous and current UN Special Rapporteurs on human rights and the environment.²¹

Perhaps the most important conclusion reached by researchers is that recognition of the right to a healthy environment contributes to improved environmental outcomes, including cleaner air, enhanced access to safe drinking water and reduced greenhouse gas emissions. Nations with constitutional protection for the environment: have smaller per capita ecological footprints; rank higher on comprehensive indices of environmental performance; are more likely to have ratified

“It is knowing what can be done that gives people the courage to fight.”

Jane Goodall

international environmental agreements; have been more successful in targeting greenhouse gas emissions; and have achieved deeper cuts in emissions of nitrogen oxides and sulphur dioxide.²²

A study published in 2016 by two economists determined that constitutional environmental rights have a positive causal influence on environmental performance, not merely a positive correlation.²³ Another study, also published in 2016, found that constitutional environmental rights are positively correlated with increases in the proportion of populations with access to safe drinking water.²⁴ In other words, as a result of the legal recognition of their right to a healthy environment, many millions of people are breathing cleaner air, have gained access to safe drinking water, have reduced their exposure to toxic substances and are living in healthier ecosystems.

A. Overcoming the weaknesses of international environmental law

The limited implementation of rights-based approaches in addressing the planetary crisis has undermined progress. In 1992, at the Earth Summit in Rio, governments negotiated the UN Framework Convention on Climate Change (UNFCCC), pledging to prevent dangerous anthropogenic interference with the Earth's climate system. At the same event, nations concluded the UN Convention on Biodiversity (CBD) and pledged to develop a UN Convention to Combat Desertification. None of these treaties mention human rights!

More than thirty years later, few commitments have been fulfilled under any of these multilateral environmental agreements. The burning of coal, gas and oil has skyrocketed. From 1990 to 2023, humans produced more carbon dioxide than in the previous 240 years, since the dawn of the Industrial Revolution. Global greenhouse gas emissions have jumped more than 65 per cent since 1992. Humanity is nowhere near achieving the promises of the Paris Agreement and is on path for at least 2.7 degrees Celsius of warming, which would be completely catastrophic for human rights, including the right to a healthy environment.²⁵

Similarly, States have repeatedly failed to fulfill their commitments to protect, conserve and restore biodiversity and stop desertification. None of the Aichi biodiversity targets created by Parties to the Convention on Biodiversity in 2010 was fully met by 2020. More than a million species are at risk of extinction, and wildlife populations have crashed roughly 70 per cent since 1970.²⁶ Between 2015 and 2019, the world lost at least 100 million hectares of healthy and productive land every year to desertification and land degradation, affecting food and water security globally.²⁷

The Achilles heel of international environmental law is a lack of effective compliance and enforcement mechanisms, resulting in a lack of accountability. Canada, for example, has not met a single target for reducing greenhouse gas emissions in the past thirty years, yet there have been no consequences for this failure—no government has ever been held accountable.

B. A dynamic duo: combining human rights law with environmental law

In recent years, however, the unprecedented combination of international environmental law with human rights law has sparked hope and action, enabling civil society, communities and Indigenous Peoples to hold governments and businesses accountable. One of the breakthrough cases was the *Urgenda* decision of the Supreme Court of the Netherlands, which ordered the Dutch government to reduce greenhouse gas emissions at least 25 per cent below 1990 levels by the end of 2020. The Netherlands responded by taking a range of immediate actions including closure of coal-fired power plants, lowering of speed limits and installation of solar panels on school roofs. A similar court decision in Germany forced the government to adopt a more ambitious target for emission reductions by 2030 to avoid human rights violations. In Colombia, several legal actions led by local movements have protected páramos—vital ecosystems for biodiversity and clean drinking water—from large scale mining. In 2022, the UN Human Rights Committee determined that Australia had

violated the human rights of Indigenous People living on the Torres Strait Islands by failing to take adequate adaptation action to protect against the impacts of the climate crisis.²⁸ A recent case in South Africa saw a court conclude that offshore oil and gas exploration permits violated the right to a healthy environment because of adverse impacts on fishing communities, whales and other marine mammals.²⁹ Transnational fossil fuel giant Shell has been held accountable for climate-related human rights abuses in a Dutch court, and ordered to reduce its greenhouse gas emissions 45 per cent by 2030.³⁰

2022 was a very big year for the right to a healthy environment. The right was finally recognized by the UN General Assembly and was also a key element of outcomes produced by climate COP27 in Egypt and biodiversity COP15 in Canada. The Sharm el-Sheikh Implementation Plan mentions that States should “when taking action to address climate change, respect, promote and consider their respective obligations on human rights, the right to a clean, healthy and sustainable environment, ...”. The Kunming-Montreal Global Biodiversity Framework says that “The implementation of the framework should follow a human rights-based approach respecting, protecting, promoting and fulfilling human rights. The framework acknowledges the human right to a clean, healthy and sustainable environment.” The mainstreaming of the right to a clean, healthy and sustainable environment in multilateral environmental governance is an important step forward.



Photo: Unsplash/ Alejandro Rugama

Progress continued in 2023, with the publication of ‘General Comment 26 on children’s rights and the environment with a special focus on climate change’ by the UN Committee on the Rights of the Child,³¹ as detailed in Box 2. This authoritative guidance marked the first time that the Committee acknowledged that every child, present and future, has the right to a clean, healthy and sustainable environment, despite the lack of any explicit reference to this right in the Convention on the Rights of the Child.

The 2023 Bonn Declaration for a Planet Free of Harm from Chemicals and Waste and the Global Stocktake that emerged from the climate conference in Dubai (COP28) also refer to the importance of the right to a healthy environment. There was another series of important victories made possible by the right to a healthy environment in 2023, with courts in Costa Rica using the right to protect endangered hammerhead sharks from fishing, Panama overturning a law that authorized a massive open pit mine for up to 40 years, and Montana (USA) challenging fossil fuel development. Also in 2023, the Supreme Court of Indonesia upheld a lower court decision concluding that the government violated the constitutional right to a healthy environment by failing to improve air quality in Jakarta, the capital city.

Already in 2024, a court in Norway overturned permits for offshore petroleum exploration because the government failed to do a comprehensive assessment of the anticipated greenhouse gas emissions, thus violating the constitutional right to a healthy environment.³² The Inter-American Court of Human Rights recently made a monumental judgment in a case with profound importance for the right to a healthy environment.³³ A group of residents of La Oroya in Peru successfully asserted that their rights to health and a healthy environment were violated over a period of decades by massive volumes of air pollution and toxic substances (including lead) from a metal smelter.

An intriguing development is that States are increasingly using the right to a healthy environment as a shield to defend themselves from industry lawsuits challenging climate and environmental actions. Courts have embraced this argument in cases involving industry challenges against plastic bag regulations (e.g. Kenya, Mexico and Uganda), regulations governing the cement industry (Nepal), a law protecting glaciers (Argentina) and restrictions on the import of heavily polluting used vehicles (Peru).

BOX 2. STATE OBLIGATIONS RELATED TO CHILDREN’S RIGHT TO A HEALTHY ENVIRONMENT

General Comment No. 26 (2023) on children’s rights and the environment with a special focus on climate change, published by the Committee on the Rights of the Child, outlines the immediate obligations of States to fulfill children and youth’s right to a healthy environment, including:

- (a) Improve air quality, by reducing both outdoor and household air pollution, to prevent child mortality, especially among children under five years of age;
- (b) Ensure access to safe and sufficient water and sanitation and healthy aquatic ecosystems to prevent the spread of waterborne illnesses among children;
- (c) Transform industrial agriculture and fisheries to produce healthy and sustainable food aimed at preventing malnutrition and promoting children’s growth and development;
- (d) Equitably phase out the use of coal, oil and natural gas, ensure a fair and just transition of energy sources and invest in renewable energy, energy storage and energy efficiency to address the climate crisis;
- (e) Conserve, protect and restore biodiversity;
- (f) Prevent marine pollution, by banning the direct or indirect introduction of substances into the marine environment that are hazardous to children’s health and marine ecosystems;
- (g) Closely regulate and eliminate, as appropriate, the production, sale, use and release of toxic substances that have disproportionate adverse health effects on children, in particular those substances that are developmental neurotoxins.



V. State obligations to respect, protect and fulfil the right to a clean, healthy and sustainable environment

As noted earlier, decades of experience at the regional and national levels demonstrate that the right to a clean, healthy and sustainable environment includes clean air, a safe climate, safe and sufficient water, adequate sanitation, healthy and sustainably produced food, non-toxic environments and healthy biodiversity and ecosystems.³⁴ The right also includes access to information, public participation and access to justice and is supported by the rights of freedom of assembly, freedom of expression, and freedom of association.

All human rights are accompanied by corresponding State obligations. In 2018, my predecessor John Knox published a set of Framework Principles on Human Rights and the Environment that summarized three categories of State obligations: procedural, substantive and special obligations towards those in vulnerable situations.³⁵ Civil society can use the Framework Principles to demand a wide range of actions by States, including additional measures to protect the rights of individuals and groups in situations of vulnerability or marginalization who are at particular risk from environmental harm, taking into account their needs, risks and capacities.³⁶

A. Guiding principles

The application and interpretation of the right to a clean, healthy and sustainable environment should always be guided by a series of principles drawn from international human rights law and international environmental law, including prevention, precaution, non-discrimination and equality, the polluter pays principle, best available science, non-regression, common but differentiated responsibilities, and international cooperation.

1. Prevention

Prevention of climate and environmental damage, as well as the associated human rights consequences, is paramount. States should enact, implement and enforce measures to achieve clean air, clean water, healthy and sustainably produced food, zero pollution, zero waste, healthy ecosystems and biodiversity and a safe climate, and avoid harm to the Earth's life support system. States should eliminate the production, use and release of toxic substances, except for essential uses in society. States must prevent exposure, by regulating industries, emissions, chemicals and waste management, and promote innovation and acceleration of safe substitutes.³⁷ The Inter-American Commission on Human Rights has found that for States to fulfil the right to a healthy environment, compliance with the duty of prevention is closely linked to the existence of a robust regulatory framework and a coherent system of supervision and oversight.³⁸ The UN Human Rights Committee reached a similar conclusion.³⁹

“Activists need to be in the room where the decisions are being made. We need the people in power to listen to us — the generation that will inherit their decisions.”

Xiye Bastida

The Inter-American Court of Human Rights has provided more detail on the legal basis and implications of this principle, explaining that “the principle of prevention of environmental harm forms part of customary international law and entails the State obligation to implement the necessary measures ex ante [before] damage is caused to the environment, taking into account that, owing to its particularities, after the damage has occurred, it will frequently not be possible to restore the previous situation.”⁴⁰ Based on the duty of prevention, the Court has pointed out that “States are bound to use all the means at their disposal to avoid activities under their jurisdiction causing significant harm to the environment.”⁴¹

2. Precaution

Knowledge about the adverse impacts of pollution and other forms of environmental degradation will never be complete, necessitating recourse to the precautionary principle, which holds that where there are threats of serious and irreversible harm to human health or the environment, lack of full scientific certainty must not be used as a reason for postponing preventive action.⁴² Application of the precautionary principle in the context of human rights obligations related to a healthy environment has been endorsed by the Inter-American Court of Human Rights and the European Court of Human Rights, as well as by many national courts.⁴³

3. Non-discrimination and equality

Non-discrimination and equality require States to avoid exacerbating and to actively improve existing situations of climate and environmental injustice. It is well established that groups in situations of vulnerability and marginalization bear a disproportionate share of environmental harms, while lacking equal access to environmental amenities. These groups include women and girls, children, youth, older persons, Indigenous Peoples, Afro-descendant communities, peasants, persons with disabilities, refugees, migrants and LGBTQ+ persons. Non-discrimination and equality apply with special urgency in sacrifice zones, areas of severe pollution or environmental degradation where profit and private interests have been prioritized over human rights, human health and nature. Civil society should push States to prioritize clean up, restoration and compensation for communities living in sacrifice zones.⁴⁴

4. Polluter pays

Prevention and precaution emphasize that climate and environmental harms (including transboundary harms) should be addressed before they occur. Where such harms do occur, the polluter pays principle requires that the cost of remedying such harms—through restoration, rehabilitation and compensation—should be borne by the polluter. The polluter pays principle has been recognized in international

jurisprudence since 1941, and is reflected in Principle 16 of the Rio Declaration on Environment and Development, which provides that “the polluter should, in principle, bear the cost of pollution.”⁴⁵

5. Best available science

State responses to the planetary environmental crisis should be informed by the best available science.⁴⁶ States must adopt science-based standards for pollution and toxic substances, based on international guidance from organizations including the World Health Organization (WHO), the Food and Agriculture Organization (FAO) of the United Nations and the UN Environment Programme (UNEP). Examples include air quality guidelines and drinking water quality guidelines from the WHO.

6. Non-regression

The principle of non-regression means that States cannot weaken environmental or human rights standards without compelling constitutional justification, and even then, any weakening must be minimized and proportionate to the objectives being targeted.⁴⁷ Non-regression prevents States from compromising their obligation to ensure the progressive development of human rights, including the right to a healthy environment. For example, the weakening by Peru of national air quality standards was identified by the Inter-American Commission on Human Rights as regressive, unjustified and inconsistent with its human rights obligations.⁴⁸ Similarly, courts have struck down government efforts to weaken protection for forests, eliminate requirements for environmental assessment, reduce the share of renewable energy in national electricity systems, and move backwards on legally mandated climate action.

7. International cooperation

Effectively addressing global environmental challenges such as the climate emergency, the biodiversity crisis and pervasive toxic pollution requires cooperation between States at the bilateral, regional and global levels.⁴⁹ The duty of international cooperation incorporates three interrelated obligations.⁵⁰ First, States should notify potentially-affected States of any significant environmental damage that might result from activity within a State’s jurisdiction. Second, States owe a duty to consult and negotiate in good faith with potentially-affected States. Third, States owe one another a duty to exchange information concerning risks of transboundary harm.

8. Common but differentiated responsibilities and respective capabilities

The principle of common but differentiated responsibilities and respective capabilities acknowledges that while all States have a shared obligation to address the climate emergency and

environmental destruction, the wealthy States that have caused the lion’s share of the planetary crisis need to take primary responsibility for financing and implementing solutions to the crisis. This principle was articulated in the 1992 Rio Declaration on Environment and Development (Principle 7) and incorporated in the UN Framework Convention on Climate Change [Articles 3(1) and 4(1)]. It is important to clarify that while States have differentiated climate and environmental responsibilities, this principle does not apply to their human rights obligations, where the relevant concepts are obligations of immediate effect and progressive realisation (for other obligations).

B. Procedural obligations

The procedural rights related to access to information, public participation and access to justice with effective remedies provide civil society with a powerful set of tools for engaging with governments. In addressing the climate and environmental crisis, States must comply with the following procedural obligations:⁵¹

- a. provide the public with accessible, timely, affordable and understandable information regarding the causes and consequences of the global climate and environmental crisis;⁵²
- b. ensure that all children and youth are taught about their right to a clean, healthy and sustainable environment as part of a comprehensive ecological education and human rights curriculum, from kindergarten through university;⁵³
- c. ensure meaningful, informed, inclusive and equitable public participation in all climate and environmental decision-making, with a particular emphasis on empowering directly affected and potentially vulnerable populations;⁵⁴
- d. prohibit discrimination and ensure equal and effective protection against discrimination in relation to the enjoyment of the right to a clean, healthy and sustainable environment;⁵⁵
- e. respect and protect the rights to freedom of expression, association and peaceful assembly in relation to climate and environmental matters;⁵⁶
- f. establish monitoring programmes, assess major sources of exposure and provide the public with accurate, accessible information about risks to human rights, human health and ecosystem integrity;
- g. use the best available scientific evidence to develop laws, regulations, standards and policies;⁵⁷
- h. assess the potential environmental, social, health, cultural and human rights impacts of all plans, policies, projects and proposals that could foreseeably exacerbate the climate and environmental crisis;⁵⁸
- i. enable affordable and timely access to justice and effective remedies for all, in order to hold States and businesses

accountable for complying with climate and environmental laws and fulfilling their human rights obligations and responsibilities;⁵⁹

- j. integrate gender equality into all climate and environmental plans and actions and empower women, girls and gender-diverse persons to play leadership roles at all levels;⁶⁰
- k. respect the rights (including land and tenure rights) of Indigenous Peoples and peasants in all actions that could cause environmental harm in their territories, ensure that they receive a fair share of the benefits from activities relating to their lands, territories, cultures or resources, and also respect traditional knowledge, customary practices and Indigenous Peoples' right to free, prior and informed consent;⁶¹

- l. ensure safe civic spaces in which individuals, groups and organizations can work on human rights or environmental issues, vigilantly protect environmental human rights defenders from intimidation, criminalization and violence, diligently investigate, prosecute and punish the perpetrators of these crimes, and address the root causes of social-environmental conflict.⁶²

These are obligations, not options. Civil society, communities and engaged individuals have vital roles to play in ensuring that governments comply with these obligations (see Box 3 for examples of good practices at the national level). This can be done using the full array of advocacy tools that you are familiar with, backed up by the power of the right to a healthy environment.

BOX 3. GOOD PRACTICES ON THE NATIONAL LEVEL

Some States have enacted legislation specifically authorizing affordable access to environmental information. For example, in Norway, the Environmental Information Act recognizes every person's right to obtain a broad range of environmental information from public and private entities, subject to specified exceptions that are to be narrowly interpreted. In Slovenia, the Environmental Act specifies that environmental information is public and everyone has the right to have access to environmental information.

A growing number of States, including El Salvador, France, Hungary, North Macedonia, Norway, Sweden and Uruguay have created websites that offer comprehensive information relating to the environment.¹

Fiji, Kiribati, the Marshall Islands, the Federated States of Micronesia, Nauru, Palau, Papua New Guinea, Samoa, the Solomon Islands, Tonga, Tuvalu and Vanuatu are collaborating on a Pacific islands network of national and regional environmental data repositories, reporting tools and public websites.²

In 2017, Finland created the Agenda 2030 Youth Group to serve as an advocate for the Sustainable Development Goals and to participate in national planning and implementation to achieve them. The Agenda 2030 Youth Group comprises 20 people with diverse backgrounds, aged between 15 and 28 years, from all over Finland.

In 2018, Mali adopted Law No. 2018-003 that affords protection to human rights defenders, including environmentalists. Burkina Faso and Côte d'Ivoire also enacted laws to safeguard human rights defenders.³

Rules of court in the Philippines allow any Filipino citizen, including minors or generations yet unborn, to file an action to enforce rights or obligations under environmental laws in order to protect their right to a healthy environment.⁴

In China, 'social organizations' that meet certain criteria may bring a lawsuit "for an act polluting the environment or causing ecological damage in violation of the public interest".⁵

Indonesia's environmental legislation authorizes organizations to file environmental lawsuits in the public interest.⁶ Similarly, court rules governing environmental cases recognize 'citizen lawsuits,' lawsuits brought by individual citizens seeking review of government actions (or inactions).⁷

C. Substantive obligations

With respect to substantive obligations, first, States must not violate the right to a healthy environment through their own actions or through the actions of State-owned enterprises. For example, States should not take actions that cause significant air, water and soil pollution. Second, States must protect the right to a healthy environment from being violated by third parties, especially businesses. This should be done through strong, non-discriminatory laws, regulations and standards that respect, protect and fulfil human rights as well as the vigorous implementation and enforcement of these rules. Examples include environmental quality standards for air, water and soil, vehicle emission standards, and bans on the production, import, sale or use of toxic substances that endanger human and ecosystem health, such as highly hazardous pesticides. Third, States must proactively implement measures to fulfil the right, such as the construction, operation and maintenance of drinking water, wastewater and waste management infrastructure. States should ensure the effective and non-discriminatory enforcement of their environmental standards against public and private actors.⁶³

Everyone has the right to a healthy environment, not just a privileged few. States should give special attention to marginalized groups and persons in situations of vulnerability whose rights may be jeopardized by the climate and environmental crises, including children, women, Indigenous Peoples, minority groups, refugees, migrants, persons with disabilities, older persons, and people living in poverty. These groups regularly have fewer resources, less political power and tend to be disproportionately affected. Poverty, discrimination and vulnerability are closely related and often intersect. In addition, these groups are also underrated as potentially powerful actors for change who can contribute effective and equitable solutions that better protect their rights and advance progress towards the UN Sustainable Development Goals.

States must prioritize actions to protect environmental human rights defenders, ideally by establishing institutions, rules and programmes to address the root causes of violence and harassment, celebrating and supporting defenders' work instead of attacking them and ensuring justice by holding perpetrators of violence accountable for their actions. I wrote a report about the disproportionate impacts of the planetary crisis on women and girls, emphasizing the need to end gender discrimination and empower more women, girls and gender-diverse persons to become climate, environmental, business and political leaders.⁶⁴

States have a duty to protect human rights from actual and potential harm that may be caused by all businesses within their territory,

jurisdiction, or control.⁶⁵ This requires States to act with due diligence, meaning they must take all reasonable and appropriate measures to protect, preserve and achieve human rights including the right to a healthy environment.⁶⁶ As the planetary crisis worsens, it is clear that voluntary corporate social and environmental responsibility is completely inadequate. Many businesses are either unaware of their human rights responsibilities or ignore them.

Unfortunately, States are complicit in the planetary crisis because they encourage, enable and subsidize destructive business activities. States must free themselves from corporate capture and mandate businesses to respect their climate, environmental and human rights responsibilities. Yet climate, environmental and human rights legislation is often weak, riddled with gaps and loopholes, not implemented, or not enforced in a meaningful way. No State has climate and environmental laws or policies that incorporate the science of planetary boundaries. Few States have adequate regulatory frameworks to control excessive corporate influence on public policy.⁶⁷

States must set clear expectations for businesses by enacting strong climate, environmental and human rights laws, regulations, standards and policies.⁶⁸ Then, States must supervise and monitor all businesses that may foreseeably cause significant environmental harm.⁶⁹ Effective enforcement is essential, requiring adequate institutions with the authority, capacity, resources and processes required to prevent, investigate, punish and redress climate and environmental impacts on human rights.⁷⁰

Motivated by widespread support for the normative principles in the UN Guiding Principles and the compelling evidence regarding the inadequacy of voluntary measures, several jurisdictions recently enacted mandatory human rights and environmental due diligence legislation. Examples include the Duty of Vigilance Law in France, the Act on Corporate Due Diligence Obligations in Supply Chains in Germany, and the Responsible and Sustainable International Business Conduct Bill in the Netherlands. Other laws are in development, including the Draft Bill on Human Rights and Environmental Protection for Sustainable Business Management in South Korea, and the Corporate Sustainability Due Diligence Directive in the European Union. These laws establish legally binding rules regarding the due diligence obligations of companies with respect to the actual and potential human rights impacts of their operations, subsidiaries and value chains. The laws also establish rules governing liability when business obligations are not met and human rights abuses occur.

Enacting and enforcing comprehensive human rights and environmental due diligence legislation that effectively prevents,

mitigates, ceases and remedies adverse human rights and environmental impacts is a State obligation – and it is essential to respecting, protecting and fulfilling the right to a healthy environment.⁷¹ Mandatory human rights and environmental due diligence legislation should: address all business actors; establish comprehensive duties of care to identify, assess, prevent, cease, mitigate and effectively remedy potential and actual adverse impacts to all internationally recognized human rights, including the right to a clean, healthy and sustainable environment; emphasize good governance; highlight the rights of the child; be rightsholder centered; ensure effective remedies for rightsholders; protect rightsholders from threats, intimidation and reprisals; commit States to monitoring and enforcement; foster cooperation within and between jurisdictions; and require dynamic, responsive and continually improved due diligence practices.⁷²

Human rights and environmental due diligence legislation is necessary but not sufficient to fulfill States' duty to protect against business violations of the right to a clean, healthy and sustainable environment, just as environmental impact assessment legislation is only one element of the array of laws needed to protect the environment. The planetary crisis demands transformative changes to societal goals, economic systems, corporate law, tax law, trade and investment law, climate law and environmental law, to mandate businesses to operate within planetary boundaries and respect human rights, including the right to a healthy environment.⁷³

I have published comprehensive reports on the steps States must take in order to respect, protect and fulfil the substantive elements of the right to a clean, healthy and sustainable environment, including:

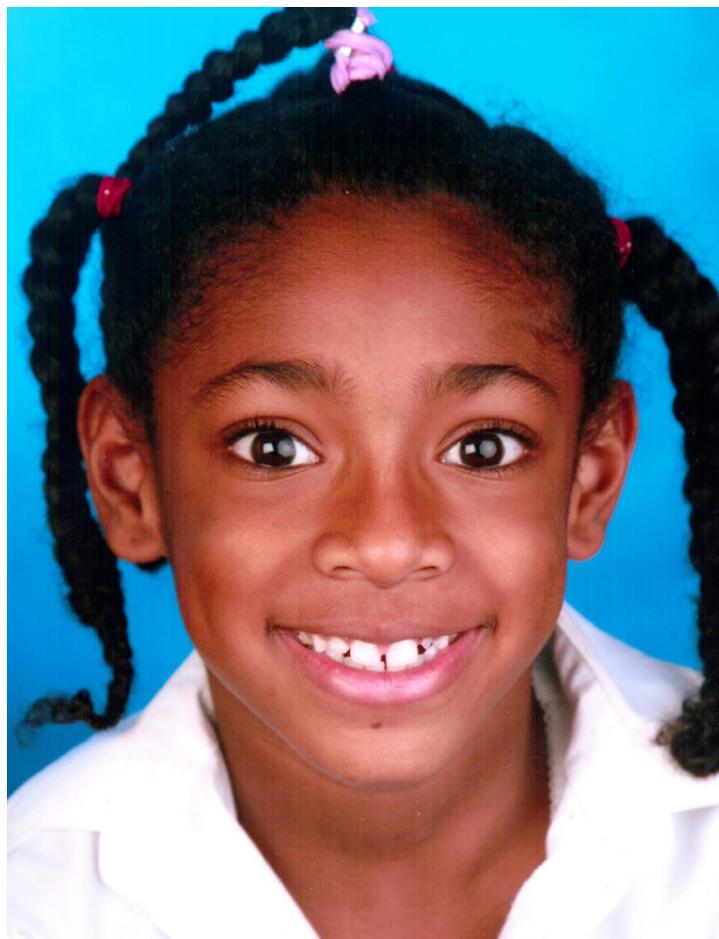
- a. clean air;⁷⁴
- b. a safe climate;⁷⁵
- c. safe and sufficient water;⁷⁶
- d. healthy and sustainably produced food.⁷⁷
- e. non-toxic environments;⁷⁸ and
- f. healthy ecosystems and biodiversity.⁷⁹

Because of their utility in informing civil society efforts to advance the implementation of the right to a clean, healthy and sustainable environment, a summary of these reports is provided below, including an array of good practices to inform and inspire future actions.⁸⁰

1. Clean air

At least seven million people die prematurely every year because of outdoor and household air pollution, including more than 1,000 newborns every day. Each premature death and every illness caused by breathing polluted air afflicts an individual with hopes and dreams,

families and friends. Given the devastating impacts of poor air quality on people's lives, health and human rights, actions must be taken rapidly and systematically, prioritizing improvements for those suffering the worst air quality. Fulfilling the right to breathe clean air goes hand in hand with achieving the Sustainable Development Goals, including healthy lives for all, sustainable cities, universal access to clean energy and effective action to address climate change. Reducing air pollution rapidly by shifting away from fossil fuels to renewables such as solar and wind could save as many as 150 million lives over the course of the twenty-first century.



Ella Kissi-Debrah, first person in the world for whom a coroner's inquest identified air pollution as cause of death after she died in 2013 at the age of 9

Civil society can ensure that States take seven key steps to fulfil the right to a healthy environment in the context of air pollution, namely:

- a. monitoring air quality and the impacts of air pollution on human health;
- b. assessing sources of air pollution, both household and outdoor;
- c. making air quality information publicly available and easily accessible, including prominent public health advisories on days with poor air quality;
- d. establishing air quality legislation, regulations, standards and policies;
- e. developing air quality action plans at the local, national and, if necessary, regional levels;
- f. implementing air quality action plans and enforcing the standards; and
- g. evaluating progress and, if necessary, strengthening plans to ensure that standards are met.

For each of the seven steps, States must ensure that the public is fully informed and has an opportunity to participate in decision-making processes. Every effort should be made to engage with women, children and others who may be in vulnerable situations, whose voices are too often silenced in environmental policy processes. Special attention must be paid to environmental defenders working to protect the right to breathe clean air. A failure to undertake any one of these seven steps can constitute a violation of the right to live in a healthy environment.

The good news is that air pollution is a preventable problem. The solutions, laws, standards, policies, programmes, investments and technologies—are well known (see Box 4 for examples). Many of these solutions will pay a triple dividend by improving air quality, tackling the climate crisis and improving health and well-being. Implementing these solutions may entail large investments (e.g. electric public transit systems), but extensive evidence demonstrates that the economic benefits dwarf the economic costs. For example, the costs of the Clean Air Act in the USA are measured in the billions of dollars but the benefits are measured in the trillions of dollars.⁸¹ Civil society played a key role in advocating for the phase-out of leaded gasoline, a solution to pollution that has been successfully implemented in every country, generating massive health, social, economic and environmental benefits.⁸² At the end of the day, the benefits of fulfilling the right to breathe clean air for all of humanity are incalculable.

BOX 4. GOOD PRACTICES FOR CLEAN AIR

- Laws that specifically refer to the right to breathe clean air in States, including in France and the Philippines.
- Lawsuits brought by civil society, based on the right to a healthy environment, targeting industrial air pollution in Buenos Aires (Argentina), Quintero-Puchuncavi (Chile), Jakarta (Indonesia) and Mpumalanga (South Africa).
- Campaign led by Client Earth in at least a dozen European nations, arguing that there is an implicit right to breathe clean air in the European Union's Air Quality Directive.
- Advocacy by Mom's Clean Air Force in the United States of America (USA), a civil society organization with more than a million members that is focused on protecting children from air pollution and climate change.
- Adoption of science-based air quality guidelines recommended by the World Health Organization.
- Push for adoption of Ella's Law in the UK, a bill that would recognize the right to breathe clean air and strengthen British air quality standards, led by the Ella Roberta Foundation.

For the Special Rapporteur's comprehensive recommendations on achieving clean air through the implementation of the right to a clean, healthy and sustainable environment, please see [A/HRC/40/55](#)

2. Safe climate

Climate change is already harming billions of people, violating human rights, exacerbating inequality and perpetuating injustice. On my country visits I witnessed devastating impacts, including rising temperatures everywhere, worsening droughts in Botswana and Chile, extreme weather events hammering Fiji and Saint Vincent and the Grenadines, and unprecedented wildfires in Canada and Portugal. In every State, it is the poorest and most marginalized people and communities that are the hardest hit by the climate crisis, despite their negligible contributions to the problem.

A safe climate is a vital element of the right to a healthy environment and is absolutely essential to human life and well-being. In today's global climate emergency, meeting the obligations to respect, protect and fulfil human rights could help to spur the transformative changes that are so urgently required. To successfully address the daunting challenge of climate change demands heroic action to phase out fossil fuels, transform industrial agriculture and end deforestation.

Unfortunately, most Parties to the Paris Agreement are not on track to meet their commitments. Instead of falling, global emissions are rising. Instead of phasing out fossil fuels, States provide subsidies and banks offer financing, still measured in trillions of dollars annually.⁸³ Funding from the global North for climate action in the global South has consistently fallen short of the promised US\$100 billion per year. Contributions to the new Loss and Damage Fund have been miniscule (hundreds of millions of dollars) compared to the magnitude of the needs (hundreds of billions of dollars). In 2018, the Committee on Economic, Social and Cultural Rights warned States that “a failure to prevent foreseeable human rights harm caused by climate change, or a failure to mobilize the maximum available resources in an effort to do so, could constitute a breach of this obligation”.⁸⁴ States must, therefore, dedicate the maximum available financial and material resources to shift to renewable energy, clean transport and agroecological farming; halt and reverse deforestation and soil deterioration; and increase adaptive capacity, especially in vulnerable and marginalized communities.

The right to a healthy environment has a potentially key role to play in addressing the climate crisis because it includes a safe climate. As a judge in Montana (USA) recently wrote in a leading climate case brought by a group of youth, “Plaintiffs have a fundamental constitutional right to a clean and healthful environment, which includes climate as part of the environmental life support system”.⁸⁵ As a result, part of a Montana law prohibiting the government from considering greenhouse gas emissions when regulating the fossil fuel industry was found unconstitutional. In a similar decision involving a

proposed biomass power plant, the Supreme Court of Hawaii ruled that the right to a clean and healthful environment includes the right to a safe and self-sustaining climate system.⁸⁶

The Intergovernmental Panel on Climate Change has made it clear that humanity must stop building new coal-fired power plants and close existing coal plants. More than 45 States have joined the Powering Past Coal Alliance, including States that are already coal-free and others pledging to end the use of coal for electricity generation by 2030. Portugal closed its last two coal plants in 2021. The United Kingdom is committed to phasing out unabated coal generation by October 2024, building on a swift decline of coal generation from 40 per cent of their electricity supply in 2012 to less than two per cent in 2020. Five years ago, Chile had 28 coal-fired power plants. Eight have already closed. Ten more will be shut down by 2025, and the remainder should be shuttered by 2030. Canada has legislated a requirement that coal plants close by 2030, unless they are capturing and storing their carbon emissions.⁸⁷ The benefits of a rapid phase out of coal plants around the world are immense – helping avoid over 14.5 million premature deaths from air pollution over the next three decades, and delivering an estimated economic benefit of US\$16.3 trillion.⁸⁸

It is inspiring to learn that civil society organizations have used the power of the right to a healthy environment to block proposed new coal-fired power plants, require the closure of existing coal plants, and prevent the expansion of large coal mines. Examples include the overturning of permits for a proposed coal-fired power plant in Lamu, Kenya, a case against a proposed coal-fired power plant in South Africa won by Earthlife, and a case blocking further expansion of the massive El Cerrejon coal mine in Colombia.⁸⁹ Civil society has also used the right to a healthy environment to overturn permits for offshore petroleum exploration in Norway and South Africa.⁹⁰

With regard to oil and gas, the wealthy, historically high emitting States should refuse to issue permits for additional oil and gas exploration and for new fossil fuel infrastructure. Robust scientific evidence makes it clear that existing fossil fuel reserves cannot be burned if humanity is going to meet the Paris Agreement targets. The Committee on Economic, Social and Cultural Rights has begun recommending that States stop some oil and gas developments. For example, the Committee recommended that Argentina reconsider plans for the large-scale exploitation of shale oil and gas because those plans ran “counter to the State party's commitments under the Paris Agreement and would have a negative impact on global warming and on the enjoyment of economic and social rights by the world's population and future generations”.⁹¹ The Committee expressed similar concerns about gas extraction in the Netherlands. Compelling economic

evidence shows that renewable energy sources are now cheaper than fossil fuels in a majority of States.⁹²

Another key piece of the climate puzzle is ending deforestation. In Brazil, civil society has relied heavily on the constitutional right to a healthy and ecologically balanced environment in pushing for accelerated action to stop deforestation. In 2023, deforestation in Brazil dropped by 50 per cent!⁹³ In Colombia, 25 children and youth relied on their constitutional right to a healthy environment in suing the government for failing to prevent deforestation in the Colombian portion of the Amazon rainforest. The Constitutional Court agreed that their right was being violated and ordered the government to develop and implement a plan to end deforestation. Rates of deforestation declined substantially in Colombia in 2022 and 2023.⁹⁴ The right to a healthy environment also has been used to protect forests in Costa Rica, Ecuador, Hungary, Indonesia and other nations.⁹⁵

BOX 5. GOOD PRACTICES ON CLIMATE CHANGE

Guatemala, Mexico, Morocco and the Philippines provide examples of climate change legislation addressing gender equality. In Mexico, the General Law on Climate Change includes a specific focus on gender equality and empowering women. In the Philippines, the Climate Change Act of 2009 requires the State incorporate “a gender-sensitive, pro-children and pro-poor perspective” in all climate change and renewable energy efforts, plans and programmes.

States that have reduced greenhouse gas emissions at least 33 per cent since 1990 include Czechia, Denmark, Estonia, Finland, Germany, Latvia, Lithuania, Slovakia, Sweden and the United Kingdom.

In recent years, Chile has added more than 6,000 megawatts of solar electricity generating capacity, providing more than 20 percent of national electricity production, the highest share in the world.

For the Special Rapporteur’s extensive recommendations on achieving a safe climate through the implementation of the right to a clean, healthy and sustainable environment, please see A/74/161

3. Safe and sufficient water

The world faces a worsening water crisis. Over two billion people lack access to safely managed drinking water (accessible on premises, available when needed and free from contamination).⁹⁶ Over four billion people—half the global population—lack access to safely managed sanitation, meaning their excreta is untreated, threatening human and ecosystem health.⁹⁷ Roughly 80 per cent of wastewater is discharged into the environment untreated, contaminating surface water, groundwater, soil and the oceans.⁹⁸ Wastewater includes effluent from industry, agriculture, households and institutions, as well as urban run-off. Waterborne disease causes nearly two million preventable deaths worldwide annually, with the greatest burden falling on children under five years of age.⁹⁹

While there are specific human rights to water and sanitation, these rights are complementary to the right to a clean, healthy and sustainable environment. The former often focuses on service provision, while the latter focuses on the quality and quantity of water available as well as the health of aquatic ecosystems. While the rights to water and sanitation enjoy explicit constitutional recognition in approximately 25 States, the right to a healthy environment enjoys constitutional protection in more than 100 States. Safe, sufficient water and healthy aquatic ecosystems are substantive elements of the right to a healthy environment, as recognized by regional tribunals, national laws and national jurisprudence.

Civil society can advocate for States to take seven key steps in applying a rights-based approach to water governance:¹⁰⁰

- a. prepare a state-of-the-water assessment that includes information on water quality, water supplies, users of water, sources of pollution, related land-use activities, and associated impacts on human rights, human health and ecosystem health, with a particular focus on groups in situations of vulnerability and marginalization;
- b. conduct a legal mapping initiative to ensure that the human rights to water, sanitation and a healthy environment are incorporated in water and wastewater laws, regulations, standards, plans and policies, and identify and correct gaps and weaknesses;
- c. ensure that human rights are prioritized in all water allocation decisions and develop or revise water-related plans to incorporate a rights-based approach;
- d. implement rights-based water plans (see Box 6) and vigorously enforce water-related laws, regulations and standards;
- e. evaluate progress and, if necessary, strengthen actions to ensure that human rights are fulfilled;

BOX 6. GOOD PRACTICES ON WATER

At the national level, good practices include constitutional protection for water (e.g. in Brazil, Croatia, Ecuador, Egypt, Slovenia and Uruguay), strong laws (e.g. the National Water Act, in South Africa), policies that empower women (e.g. the Rural Water Supply Policy, in Nepal), innovative approaches to conserving water and recycling wastewater (e.g. in Singapore), and legal developments that recognize the rights of rivers, lakes and watersheds (in Bangladesh, the Plurinational State of Bolivia, Colombia, Ecuador, India and New Zealand).

Constitutional recognition of the right to a healthy environment in Costa Rica was a catalyst for the development of stronger laws, regulations and policies to tackle water pollution, such as a law prohibiting open-pit mining, as well as court decisions requiring public and private actors to take actions to prevent violations of this right.⁸

The African Commission on Human and Peoples' Rights, in a case involving water contamination by the oil industry, stated that the right to a healthy environment "requires the State to take reasonable and other measures to prevent pollution and ecological degradation".⁹

In a recent decision involving water pollution, the Supreme Court of Mexico found that the Government had not taken all possible measures, to the maximum of available resources, to prevent and control processes of water degradation, to carry out monitoring to ensure that the wastewater discharges complied with current regulations in quantity and quality, or to carry out the necessary corrective actions to clean up the water. The Court concluded that it was indispensable that the State monitor compliance with environmental norms and, if necessary, sanction or limit the actions of private individuals, otherwise the human right to a healthy environment would be void of content.¹⁰

Rural access to safe water in Paraguay improved rapidly, from 53 per cent in 2000 to 99 per cent in 2017. Between 2000 and 2017, Ethiopia, India and Nepal achieved substantial reductions—greater than 45 per cent—in the number of people relying on open defecation.

- f. build human, financial and institutional capacity; and
- g. inform and engage the public, particularly women, girls and other groups in situations of potential vulnerable and marginalization.¹⁰¹

Given the devastating impacts of the global water crisis on people's lives, health and human rights, remedial actions must be taken rapidly and systematically, with priority placed on improving conditions for the most vulnerable. As the High-level Panel on Water concluded in 2018, "Whoever you are, whatever you do, wherever you live, we urge you get involved and contribute to meeting this great challenge: safe water and sanitation for all, and our water managed sustainably. Make every drop count. It's time for action."

4. Healthy and sustainably produced food

Food is essential for life, but today's food systems are major drivers of the climate emergency as well as of the biodiversity crisis, pervasive pollution, soil degradation, water depletion and the rising risk of infectious diseases that spill over into humans from wildlife and livestock.¹⁰² Not all food systems contribute equally to environmental degradation and human rights violations. There is a vast diversity of production practices and an even wider range of diets. The use of water, pesticides, synthetic fertilizers, antibiotics and other inputs, as well as associated levels of pollution and environmental damage, varies extensively by type of food and production method. Meat and dairy generally use the most land and have the largest environmental impacts per calorie produced.

Enough food is produced annually to provide adequate nutrition for everyone, but a large portion of crops are fed to livestock, wasted, or used to manufacture non-food products such as biofuels. Some two billion people lack adequate access to safe, nutritious and sufficient food, including 720–811 million suffering from daily hunger.¹⁰³ Industrially produced food appears to be cheap but is expensive. The hidden costs of hunger, unhealthy diets, and unsustainable food production are a staggering US\$12 trillion–US\$20 trillion annually.¹⁰⁴ More than US\$700 billion in subsidies encourage unsustainable food production practices and predominantly benefit large rather than small producers, exacerbating inequality.¹⁰⁵

Power imbalances, rooted in economic inequality, racism, patriarchy, neocolonialism and neoliberalism impede progress towards fulfilling the right to a clean, healthy and sustainable environment. There is a global trend in land ownership towards fewer, larger farms, contributing to the decline of rural communities. Large monoculture plantations have displaced traditional foods, knowledge and culture. A handful of huge corporations dominate trade in seeds, pesticides, fertilizers and farm machinery, wielding their power to block public

For the Special Rapporteur's detailed recommendations on achieving safe, sufficient water and healthy aquatic ecosystems through the implementation of the right to a clean, healthy and sustainable environment, please see [A/HRC/46/28](#)

policies that support just, healthy and sustainable food systems.¹⁰⁶ Trade rules harm low-income States and farmers. Millions of food industry workers are exploited, including migrant farm labourers, slaughterhouse employees and workers on plantations and factory trawlers enduring slave-like conditions.¹⁰⁷ Diets in high-income States include excessive animal protein and ultra-processed foods, contributing to deforestation and land-grabbing in the global South.

The environmental impacts caused primarily by industrial food systems interfere with the enjoyment of a wide range of human rights, including the rights to life, health, water, food, a healthy environment, development, an adequate standard of living, cultural rights, the rights of the child and Indigenous rights. The human right to food and the right to a clean, healthy and sustainable environment are complementary. The former often focuses on availability, accessibility and affordability, while the latter can be used to improve unsustainable aspects of food systems. While the right to food enjoys explicit constitutional recognition in approximately 30 States, the right to a healthy environment enjoys constitutional protection in more than 100 States.

Court decisions from every region have determined that unsustainable food production practices violate the right to a healthy environment. Examples include:

- air, water, and soil pollution from a 49,000-head hog facility in Yucatán (Mexico);¹⁰⁸
- allowing unregulated groundwater use for agriculture (Hungary);¹⁰⁹
- the dumping of 9 million kilograms of dead salmon into the Pacific Ocean by aquaculture companies (Chile);¹¹⁰
- the destructive impacts of bottom trawl fishing on the ocean (Costa Rica);¹¹¹
- severe air pollution from burning sugar cane waste (Brazil);¹¹²
- raising cattle and installing fencing in Indigenous Peoples' territories (Argentina);¹¹³
- foul odours from a composting facility that processed slaughterhouse sludge (Canada);¹¹⁴
- diverting the Acheloos River into a different watershed to provide water for irrigation (Greece);¹¹⁵
- a licence for a sugar cane plantation that was issued in a protected forest reserve (Uganda);¹¹⁶
- a palm oil plantation that burned peatlands (Indonesia);¹¹⁷
- destructive fishing practices, including the use of dynamite (Philippines);¹¹⁸ and
- development of shrimp aquaculture in sensitive coastal wetlands (India).¹¹⁹

Applying a rights-based approach to the governance of food systems requires States to make systemic changes, prioritizing action to improve the lives and livelihoods of the most disadvantaged, particularly those: who do not currently have adequate access to healthy and sustainable food; who lack access to land or whose land tenure is insecure; or whose right to a healthy and sustainable environment is being threatened or violated by food-related actions.

To address the environmental impacts of food systems, there are proven solutions available to reduce greenhouse gas emissions and enhance carbon sinks, reduce air and water pollution, alleviate water scarcity, decrease the use of pesticides, fertilizers and antibiotics, restore soil health, safeguard biological diversity and decrease the risks of pandemics from zoonotic diseases. Agroecological farming addresses all of these problems, while also seeking to achieve economic diversification, social and gender equity, co-creation of knowledge, connections between producers and consumers, animal health, and dignified, robust livelihoods for all food system actors.¹²⁰ Progress towards sustainable food production could be achieved through various approaches (see Box 7), including regenerative agriculture, organic farming, conservation agriculture, permaculture, climate-smart agriculture, precision agriculture and agroforestry. Many solutions offer multiple benefits (e.g. reducing pesticide use is good for soil, biodiversity and human health).

While the foregoing changes are necessary, they are not sufficient to achieve the required transformation of today's food systems. Fulfilling the rights to food and a healthy and sustainable environment requires additional policy and governance changes: increasing equity for women, girls and other small-scale producers; promoting healthy and sustainable diets; reducing food loss and waste, from producers to vendors to consumers; implementing economic reforms; and transforming food system governance.¹²¹



Photo: Unsplash/Abigail Keenan

BOX 7. GOOD PRACTICES ON FOOD PRODUCTION

The United Nations Food and Agriculture Organization identified agroecology policies in Brazil, Denmark, Ecuador, India, the Philippines, Senegal and the USA as winners of Future Policy Awards in 2018 for scaling up agroecology, improving the livelihoods of small-scale food producers, ensuring sustainable food production systems and implementing climate-resilient agricultural practices.¹¹

Agroecology projects in Benin, Brazil, Cameroon, Cuba, Egypt, India, Mozambique, Nepal, Niger and the Philippines were recognized for good practices by the World Future Council in 2019.¹²

Field schools for farmers can significantly reduce pesticide use, as inputs are replaced by knowledge. Large-scale studies conducted in Bangladesh, Indonesia and Viet Nam showed decreases of 34 to 92 per cent in pesticides used on rice crops.¹³

****For the Special Rapporteur's recommendations on achieving healthy and sustainable food through the implementation of the right to a clean, healthy and sustainable environment, please see A/76/179****

Feeding eight billion people healthy, sustainably produced food and fulfilling the SDGs by 2030 are monumental challenges. Yet transforming food systems that exploit millions of workers, undermine the health of billions of people and inflict trillions of dollars in environmental damages is morally and legally imperative in order to respect, protect and fulfill human rights. Achieving just, healthy and sustainable food systems will ensure that nobody is hungry or malnourished, that all producers and workers are treated fairly, and that environmental impacts—climate change, biodiversity loss, water use and pollution—remain within planetary boundaries.

5. Non-toxic environments

Pollution and toxic substances cause at least nine million premature deaths annually.¹²² Shockingly, that is one in six deaths globally, three times more than deaths from AIDS, malaria and tuberculosis combined and 15 times more than from all wars, murders and other forms of violence. Low- and middle-income countries bear the brunt of pollution-related illnesses, including nearly 92 per cent of pollution-related deaths.¹²³ Over 750,000 workers die annually

because of exposure to toxic substances on the job, including particulate matter, asbestos, arsenic and diesel exhaust.¹²⁴

The toxification of planet Earth is intensifying. While a few toxic substances have been banned or are being phased out, the overall production, use and disposal of hazardous chemicals continues to increase rapidly. Hundreds of millions of tons of toxic substances are released into air, water and soil annually. Production of chemicals doubled between 2000 and 2017, and is expected to double again by 2030 and triple by 2050, with the majority of growth in non-members of the Organisation for Economic Co-operation and Development (OECD).¹²⁵

Humans are exposed to toxic substances through breathing, eating and drinking, through skin contact and via the umbilical cord to the unborn child. Biomonitoring studies reveal pesticide residues, phthalates, flame retardants, per- and polyfluoroalkyl substances, heavy metals and microplastics in our bodies. Toxic substances can even be found in newborn infants.¹²⁶

The most unconscionable environmental injustices involve 'sacrifice zones', where profits and private interests are prioritized over health, human rights and the environment. As stated by a resident of the Quintero-Puchuncaví sacrifice zone in Chile: "They are giving us a bad life, every day they are sacrificing us, killing us slowly with cancer, with illness, and so on." Urgent clean-up actions are required to protect people's health and human rights in these extraordinarily hazardous places.

Given that current efforts to minimize or mitigate pollution and waste are grossly inadequate, States should establish or strengthen legislation, regulations, standards and policies to prevent exposure to toxic substances, and develop action plans for preventing pollution, eliminating toxic substances and rehabilitating contaminated sites. States should apply a human rights-based approach to all measures governing the production, import, sale, use, release and disposal of substances that may harm human health or the environment, in order to eliminate negative impacts on human rights. A rights-based approach should also govern clean-up, remediation, restoration and, where necessary, relocation of affected communities.

The Human Rights Committee has made it clear that States must investigate situations of serious pollution or release of toxic substances and impose sanctions where violations occur.¹²⁷ In 2024, the Inter-American Court on Human Rights determined that catastrophic pollution from a lead smelter in La Oroya, Peru, was

responsible for pollution that caused virtually every child in the community to have blood lead levels far above levels considered safe by the World Health Organization. The poisoning of children with lead causes irreversible lifelong impacts on development and is a severe violation of children's right to live in a healthy environment.

Important global treaties that control certain toxic substances and wastes include the Basel Convention, the Stockholm Convention, the Rotterdam Convention and the Minamata Convention. Exposure to persistent organic pollutants covered by the Stockholm Convention declined substantially in many countries following its adoption. Important regional treaties include the Bamako Convention on the Ban of the Import into Africa and the Control of Transboundary Movement and Management of Hazardous Wastes within Africa, the Aarhus Convention, the Escazú Agreement and the Convention on Long-range

Transboundary Air Pollution (see Box 8 for examples of good practices on toxic substances). Civil society plays a vital role in advocating for the effective implementation of these treaties in order to contribute to realizing the right to a healthy environment.

Employing rights-based approaches to detoxify people's bodies and the planet will require systemic and transformative changes to environmental law. The substantive obligations stemming from the right to a non-toxic environment require immediate and ambitious action to detoxify people's bodies and the planet. States and businesses must vigorously pursue zero pollution and the elimination of toxic substances, rather than merely trying to minimize, reduce and mitigate exposure to these hazards. Prevention, precaution and non-discrimination must be the paramount principles in environmental policymaking.

BOX 8. GOOD PRACTICES ON TOXIC SUBSTANCES

More than 60 States have prohibited all uses of all types of asbestos, which causes mesothelioma, lung cancer and asbestosis. Estimated worldwide consumption of asbestos fell from approximately two million tons in 2010 to 1.4 million tons in 2016. Civil society should be calling for global elimination of asbestos use.

The European Union has a relatively strong regulatory framework for toxic substances, involving approximately 40 instruments. A hazard-based approach to chemical management is adopted in the regulations on the registration, evaluation, authorization and restriction of chemicals and on the classification, labelling and packaging of chemical substances and mixtures.¹⁴ It is estimated that European regulations have prevented more than one million cancer cases in the past 20 years.¹⁵

The UN Food and Agriculture Organization assists States in eliminating the use of highly hazardous pesticides. Mozambique cancelled the registrations of 61 such pesticides. Botswana, Malawi, Tanzania and Zimbabwe have developed shortlists and started to phase them out. China banned the use of 23 highly hazardous pesticides. After Bangladesh and Sri Lanka banned them, suicides declined and agricultural productivity was unaffected.¹⁶

Taxes can be used effectively to reduce environmental contamination. States that levy water effluent charges include France, Germany, Malaysia, the Netherlands and the Philippines. Studies show that water pollution taxes lead to a significant decline in pollution levels.¹⁷ Air emission charges are used in many States, including Chile, Finland, France, Germany, Japan, the Netherlands, Norway, Sweden and the USA, contributing to lower emissions and improved air quality.

Legislation in British Columbia, Canada, authorizes the provincial government to apply the polluter pays principle by seeking payments for contaminated site remediation from "responsible persons", including present and past owners and operators of a property, creditors and persons who produced or transported the substances that caused a site to become contaminated.¹⁸

For the Special Rapporteur's recommendations on achieving non-toxic environments where people can live, work, learn and play through the implementation of the right to a clean, healthy and sustainable environment, please see [A/HRC/49/33](#)

6. Healthy biodiversity and ecosystems

Instead of treating the Earth—this unique, life-supporting and irreplaceable home—with care, respect and reverence, humans are inflicting catastrophic damage on ecosystems and biodiversity, undermining nature’s extraordinary contributions to human well-being and prosperity. The evidence is disturbing: wildlife populations (including amphibians, birds, fish and mammals) have plummeted an average of 60 per cent since 1970; the rate of extinction is hundreds of times higher than the average over the past ten million years and is accelerating, with one million species at risk; nearly three quarters of the Earth’s land surface has been altered significantly; and two thirds of the Earth’s ocean realm is experiencing adverse impacts, including acidification, deoxygenation and a loss of sea ice.¹²⁸

The rapid decline in ecosystem health and biological diversity is caused by changes in land and sea use (e.g. conversion of forests to agriculture), direct exploitation of species (e.g. fishing, hunting, poaching and illegal wildlife trade), climate change, pollution and invasive species. The root causes include production and consumption patterns, population growth, trade, technological innovations and societal values. In the past 50 years, the human population has doubled, the global economy has quadrupled and global trade has grown by a factor of ten, sending demand for energy and materials skyrocketing. Wealthy people are disproportionately responsible for overconsumption and pressure on nature.

BOX 9. GOOD PRACTICES TOWARDS PROTECTING AND RESTORING BIODIVERSITY AND ECOSYSTEMS

The Great Green Wall is an extraordinary initiative to restore degraded land in the Sahel region of Africa. The States involved include Algeria, Benin, Burkina Faso, Cameroon, Cabo Verde, Chad, Djibouti, Egypt, Eritrea, Ethiopia, the Gambia, Ghana, Libya, Mali, Mauritania, Niger, Nigeria, Senegal, Somalia, the Sudan and Tunisia. The Great Green Wall will help to combat climate change, drought, famine, conflict and migration. Senegal has already planted more than 12 million drought-resistant trees. In Ethiopia, 15 million hectares of degraded land have been restored and hundreds of millions of trees planted.

States that already protect at least 30 per cent of their land include Austria, the Bahamas, Belize, Benin, Bhutan, Bolivia, Botswana, Brazil, Brunei Darussalam, Bulgaria, Cambodia, Comoros, the Congo, Croatia, Cyprus, Germany, Greece, Guinea, Guinea-Bissau, Japan, Liechtenstein, Luxembourg, Malta, Mozambique, Namibia, New Zealand, Norway, Palau, Panama, Poland, Sao Tome and Principe, Seychelles, Slovakia, Slovenia, Sri Lanka, Tanzania, Trinidad and Tobago, Venezuela and Zambia.¹⁹

States that already protect at least 30 per cent of their marine territory include Australia, Belgium, Chile, Costa Rica, France, Gabon, Germany, Monaco, the Netherlands, New Zealand, Palau, Seychelles and the United Kingdom.²⁰

Laws that recognize the land rights of Indigenous Peoples have recently been passed by Kenya (the Community Land Act of 2016), Mali (Agricultural Land Law of 2017) and Zambia (Forest Act of 2015). Forests that are legally owned by Indigenous Peoples protect their rights and deliver a wide range of ecological and social benefits, including lower rates of deforestation, greater investments in forest restoration and maintenance, improved biodiversity conservation, and poverty reduction.²¹

South Africa’s *National Environmental Management: Biodiversity Act 10 of 2004* and the *Bioprospecting, Access and Benefit Sharing Regulation of 2008* provide a domestic legal framework for access and benefit sharing. In 2019, the world’s first industry-wide benefit-sharing agreement was launched in South Africa between the Khoikhoi and San Indigenous peoples, and the South African rooibos industry.²² The agreement recognizes the Khoikhoi and San peoples as the traditional knowledge holders for the uses of Rooibos, an indigenous plant species found only in the Cederberg region of South Africa. The agreement ensures that the Khoikhoi and San peoples will receive substantial economic benefits from the commercialisation of Rooibos.

Damage to the biosphere is having a major impact on a wide range of human rights and could have catastrophic impacts in the future. Among the human rights being threatened and violated are the rights to life, health, food, water, sanitation, an adequate standard of living, development, cultural rights and of course the right to a healthy environment.

In 2022, States agreed to the Kunming-Montreal Global Biodiversity Framework, pledging to employ rights-based approaches to address the distressing decline in the diversity of life on Earth. Among the specific commitments that are to be met by 2030 are the protection of 30 per cent of all lands and waters, the restoration of 30 per cent of degraded lands, and the termination of US\$500 billion dollars annually in subsidies that harm nature. The Framework specifically acknowledges the importance of the right to a clean, healthy and sustainable environment.

Transforming society to achieve a good quality of life for all in harmony with nature requires scaling up biodiversity conservation, engaging in large-scale restoration of degraded ecosystems and a rapid clean energy transition, as well as shifting to a circular economy, decreased energy and material consumption by wealthy individuals and reforming supply chains to reduce environmental impacts (see Box 9 for examples).

In the Human Rights Council's universal periodic review process, damage to ecosystems and biodiversity is receiving greater attention. For example, the universal periodic review of Argentina included a recommendation to "strengthen measures to combat the negative effect of the economic activities on the environment and biodiversity".¹²⁹ Similarly, the United Arab Emirates was urged to "protect biodiversity and stop disastrous environmental impacts, such as threats to the security of migrant birds, the destruction of live coral cover, the change of natural water flow and the destruction of natural seabed when constructing man-made islands".¹³⁰ UN treaty bodies are also increasingly highlighting the human rights impacts of damage to ecosystems and biodiversity.¹³¹

Civil society should advocate for rights-based approaches to all aspects of conserving, protecting, restoring, using and benefitting from healthy ecosystems and biodiversity. Applying a rights-based approach clarifies the obligations of States and businesses; catalyses ambitious action; highlights the plight of the poorest and most vulnerable; and empowers people to become involved in designing and implementing solutions.

The actions needed include:

- a. monitoring and reporting on the state of biodiversity and threats to biodiversity;
- b. adopting and implementing national biodiversity plans;
- c. mainstreaming biodiversity into other policy areas (e.g. health and finance);
- d. creating protected areas and establishing other effective conservation measures;
- e. establishing rules to ensure the sustainable use of biodiversity;
- f. enacting legislation to protect threatened species;
- g. restoring degraded ecosystems;
- h. preventing the spread of invasive species; and
- i. providing incentives for conservation and sustainable use.

Civil society can use the right to a healthy environment to hold governments accountable for their commitments to conserve biodiversity. For example, violations of the right to a healthy environment found in prominent court decisions have involved: damage to the habitat of an endangered species (Costa Rica, Greece and India); deforestation (Brazil, Colombia, Mexico and Philippines); shrimp farming in coastal wetlands (Peru); tourism development in mangrove forests (Mexico); hydroelectric projects in sensitive ecosystems (Brazil, Ecuador and Finland); real estate development in biodiversity-rich areas (Hungary, Macedonia, Slovenia and South Africa); and an industrial agriculture project in a protected forest (Uganda).¹³²

If we fail to employ a rights-based approach to protecting the biosphere, future generations will live in an ecologically impoverished world, deprived of nature's critical contributions to human well-being, ravaged by increasingly frequent pandemics and riven by deepening environmental injustices. If we place human rights and nature at the heart of sustainable development and succeed in transforming society, humans could attain a just and sustainable future in which people live happy, healthy and fulfilling lives in harmony with nature.

For the Special Rapporteur's recommendations on achieving healthy ecosystems and biodiversity through the implementation of the right to a clean, healthy and sustainable environment, please see [A/75/161](#)



VI. How can you use the right to a clean, healthy and sustainable environment to accelerate transformative change?

“Get up, stand up, stand up for your rights.
Get up, stand up, don’t give up the fight.”

Bob Marley

As illustrated in the previous section, the right to a clean, healthy and sustainable environment establishes a wide-ranging set of obligations for governments and responsibilities for businesses (see Box 10). Civil society, communities and individuals can advocate for stronger protection of this right in law through constitutional, legislative, budget and policy reforms. Perhaps more importantly, you can demand that governments and businesses fulfill their human rights obligations and responsibilities. Where governments and businesses fail to do so, there are a variety of ways to seek accountability, using national, regional and international mechanisms and processes.

This section highlights strategic actions that civil society, communities, social movements and individuals have used and can employ more frequently to accelerate the implementation of the right to a clean, healthy and sustainable environment. These include promoting environmental and human rights education, improving legal frameworks, engaging national human rights organizations, pursuing cases in domestic courts, using regional and international human rights systems, participating in multilateral international negotiations, and holding businesses accountable.

BOX 10. STATE OBLIGATIONS IDENTIFIED BY THE HUMAN RIGHTS COUNCIL IN 2023

In 2023, the UN Human Rights Council adopted a resolution²³ that outlined numerous State obligations, including:

- a. To respect, protect and fulfil human rights, including in all actions undertaken to address environmental challenges;
- b. To adopt and implement strong laws ensuring, among other things, the rights to participation, to access to information and to justice, including to an effective remedy, in environmental matters;
- c. To facilitate public awareness and participation in environmental decision-making, including of civil society, women, children, youth, Indigenous Peoples, peasants, older persons, persons with disabilities and others who depend directly on biodiversity and ecosystem services, by protecting all human rights, including the rights to freedom of expression and to freedom of peaceful assembly and association;
- d. To implement fully their obligations to respect, protect and fulfil human rights without discrimination of any kind, including in the application of environmental laws and policies;
- e. To promote a safe and enabling environment in which individuals, civil society organizations, including environmental human right defenders and those working on human rights and environmental issues can operate free from threats, hindrance and insecurity;
- f. To provide for effective remedies for human rights violations and abuses, including those relating to the enjoyment of the human right to a clean, healthy and sustainable environment, in accordance with their international obligations;
- g. To establish, maintain and strengthen effective legal and institutional frameworks to regulate the activities of public and private actors in order to prevent, reduce and remedy harm to biodiversity and ecosystems, taking into account human rights obligations and commitments relating to the enjoyment of a clean, healthy and sustainable environment;
- h. To take into account human rights obligations and commitments relating to the enjoyment of a clean, healthy and sustainable environment in the implementation of and follow-up to the Sustainable Development Goals, bearing in mind the integrated and multisectoral nature of the latter;
- i. To increase funding and support for, and collaboration with, grass-roots women’s organizations working on environmental and human rights issues, and for the implementation of gender action plans under multilateral environmental agreements;

Civil society can use this resolution, adopted by consensus, to push States to comply with these obligations.

A. Promoting environmental and human rights education

Every child has the right to environmental education under the Convention on the Rights of the Child, which says “States Parties agree that the education of the child shall be directed to ... the development of respect for the natural environment” [article 29(1)(e)]. Almost every nation on Earth is a party to the *Convention on the Rights of the Child*, with the surprising exception of the USA.

One of the most important actions that can possibly be taken is the comprehensive inclusion of human rights and environmental education throughout the school curriculum, from kindergarten (pre-school) through high school, college and university. In several States, recognition of the right to a healthy environment has been a catalyst for laws requiring environmental education to be prioritized (see Box 11), e.g. Brazil’s *National Environmental Education Policy Act* (1999); Armenia’s *Law on Ecological Education of the Population* (2001); and South Korea’s *Environmental Education Promotion Act* (2008). In several States, courts deciding cases based on the right to a healthy environment have issued orders requiring governments to implement environmental education programs (e.g. Argentina, India and the Philippines).¹³³

BOX 11. GOOD PRACTICE ON EDUCATION AND AWARENESS

In Canada, the David Suzuki Foundation and Ecojustice led a national grassroots education and advocacy campaign called the **Blue Dot Movement** which engaged thousands of volunteers, led 176 municipalities to adopt resolutions recognizing the right to a healthy environment and laid the groundwork for federal legislation that recognized this right for all Canadians in 2023.

B. Strengthening laws and policies

1. Constitutions

Constitutions are the highest and strongest form of law, and also reflect the deepest and most cherished values of a society. As a South African judge once wrote, constitutions are a “mirror of a nation’s soul”.¹³⁴ Laws and regulations, or portions thereof, that are inconsistent with the constitution are of no force or effect. Most



Waste left behind by mining companies in the traditional territory of the Sami Indigenous people in northern Norway

constitutions protect a range of human rights, with the right to a healthy environment enjoying constitutional protection in more than 110 States in every region of the world (see Box 12), as well as subnational jurisdictions in Argentina, Brazil, Canada, Mexico, Switzerland and the USA (Hawaii, Illinois, Massachusetts, Montana, New York, Pennsylvania and Rhode Island).¹³⁵

Civil society often plays a key role in persuading governments to include the right to a healthy environment in constitutions, as was the case in Tunisia in 2014 and the state of New York in 2022. Efforts should be made to add this fundamental human right to more national and sub-national constitutions. The wording used in constitutions varies from broad, sweeping statements to much more detailed provisions, as illustrated by the seven examples below from all regions of the world.

BOX 12. EXAMPLES OF THE CONSTITUTIONAL RIGHT TO A HEALTHY ENVIRONMENT

Costa Rica

Article 50. All persons have the right to a healthy and ecologically balanced environment.

Portugal

Article 66.

1. Everyone has the right to a healthy and ecologically balanced living environment and the duty to defend it.
2. To ensure the right to the environment within an overall framework of a sustainable development, the state, acting via appropriate bodies and with the involvement and participation of the citizens, is charged with:
 - a. Preventing and controlling pollution and its effects and harmful forms of erosion;
 - b. Conducting and promoting town and country planning with a view to a correct location of activities, balanced social and economic development and the enhancement of the landscape;
 - c. Creating and promoting natural and recreational reserves and parks and classifying and protecting landscapes and places, in such a way as to guarantee the conservation of nature and the preservation of cultural values and assets that are of historical or artistic interest;
 - d. Promoting the rational use of natural resources, while safeguarding their ability to renew themselves and ecological stability, with respect for the principle of inter-generational solidarity;
 - e. In cooperation with local authorities, promoting the environmental quality of rural settlements and urban life, particularly on the architectural level and as regards the protection of historic areas;
 - f. Promoting the integration of environmental objectives into the various policies with a sectoral scope;
 - g. Promoting environmental education and respect for environmental values and assets;
 - h. Ensuring that fiscal policy renders development compatible with the protection of the environment and quality of life.

Kenya

42. Environment

Every person has the right to a clean and healthy environment, which includes the right:

- a. to have the environment protected for the benefit of present and future generations through legislative and other measures, particularly those contemplated in Article 69; and
- b. to have obligations relating to the environment fulfilled under Article 70.

69. Obligations in respect of the environment

- 1 The State shall:
 - a. ensure sustainable exploitation, utilisation, management and conservation of the environment and natural resources, and ensure the equitable sharing of the accruing benefits;
 - b. work to achieve and maintain a tree cover of at least ten per cent of the land area of Kenya;
 - c. protect and enhance intellectual property in, and indigenous knowledge of, biodiversity and the genetic resources of the communities;
 - d. encourage public participation in the management, protection and conservation of the environment;
 - e. protect genetic resources and biological diversity;
 - f. establish systems of environmental impact assessment, environmental audit and monitoring of the environment;
 - g. eliminate processes and activities that are likely to endanger the environment; and
 - h. utilise the environment and natural resources for the benefit of the people of Kenya.
2. Every person has a duty to cooperate with State organs and other persons to protect and conserve the environment and ensure ecologically sustainable development and use of natural resources.

70. Enforcement of environmental rights

1. If a person alleges that a right to a clean and healthy environment recognised and protected under Article 42 has been, is being or is likely to be, denied, violated, infringed or threatened, the person may apply to a court for redress in addition to any other legal remedies that are available in respect to the same matter.

2. On application under clause (1), the court may make any order, or give any directions, it considers appropriate:
 - a. to prevent, stop or discontinue any act or omission that is harmful to the environment;
 - b. to compel any public officer to take measures to prevent or discontinue any act or omission that is harmful to the environment; or
 - c. to provide compensation for any victim of a violation of the right to a clean and healthy environment.
3. For the purposes of this Article, an applicant does not have to demonstrate that any person has incurred loss or suffered injury.

South Korea

Article 35. (1) All citizens shall have the right to a healthy and pleasant environment. The State and all citizens shall endeavor to protect the environment.

Jamaica

13. 3. The rights and freedoms referred to in subsection (2) are as follows: (. . .)

- I. the right to enjoy a healthy and productive environment free from the threat of injury or damage from environmental abuse and degradation of the ecological heritage.

Slovenia

Article 72.

- (1) Everyone has the right in accordance with the law to a healthy living environment.
- (2) The state shall promote a healthy living environment. To this end, the conditions and manner in which economic and other activities are pursued shall be established by law.
- (3) The law shall establish under which conditions and to what extent a person who has damaged the living environment is obliged to provide compensation.
- (4) The protection of animals from cruelty shall be regulated by law.

Research indicates that constitutional recognition of the right to a healthy environment was a catalyst for stronger environmental laws in more than 80 per cent of nations.¹³⁶ The exceptions are States that are grappling with extreme poverty, civil war, military dictatorships or that recognized this right very recently.

2. Legislation

Legal recognition of the right to a clean, healthy and sustainable environment means that States have obligations to enact, implement and enforce environmental laws, regulations and standards that prevent environmental harm. Civil society has a key role to play in ensuring that these rules are consistent with the best available science and international standards, such as Global Air Quality Guidelines and Guidelines for Drinking Water Quality of the World Health Organization (WHO). Standards should be updated when the scientific guidance is updated.

For example, in 2021 the WHO responded to new scientific developments by publishing revised air quality guidelines that cut the annual limit for fine particulate matter in half, from ten micrograms per cubic meter to five micrograms per cubic meter. Even the European Union, which has relatively good air quality standards, has dragged its heels in incorporating the new WHO guidelines into law. Every State in the world should have legally binding and enforceable standards for air quality, drinking water quality and soil quality, as well as rights-based action plans specifying the measures that will be taken to achieve those standards.

Currently, more than 100 States have laws specifically referring to the right to a healthy environment, while all 193 UN member States have some environmental legislation on the books, most commonly framework environmental laws and environmental impact assessment laws (see Box 13). In addition, every State that voted in favour of the UN resolutions on the right to a clean, healthy and sustainable environment (in 2021 and 2022) should be encouraged to review its existing climate and environmental laws, regulations and policies to ensure that they are consistent with their obligations to respect, protect and fulfill this right. The importance of rights-based legislation applies not only to national laws but also to subnational laws, considering the key roles of local governments in addressing many climate and environmental challenges.

BOX 13. EXAMPLES OF STRONG RIGHTS-BASED CLIMATE AND ENVIRONMENTAL LEGISLATION

Philippines' Clean Air Act of 1999

S. 4. Recognition of Rights.

Pursuant to the above-declared principles, the following rights of citizens are hereby sought to be recognized and the State shall seek to guarantee their enjoyment:

- a. The right to breathe clean air;
- b. The right to utilize and enjoy all natural resources according to the principles of sustainable development;
- c. The right to participate in the formulation, planning, implementation, and monitoring of environmental policies and programs and in the decision-making process;
- d. The right to participate in the decision-making process concerning development policies, plans, programs, projects, or activities that may have adverse impact on the environment and public health;
- e. The right to be informed of the nature and extent of the potential hazard of any activity, undertaking, or project and to be served timely notice of any significant rise in the level of pollution and the accidental or deliberate release into the atmosphere of harmful or hazardous substances;
- f. The right of access to public records that a citizen may need to exercise his or her rights effectively under this Act;
- g. The right to bring action in court or quasi-judicial bodies to enjoin all activities in violation of environmental laws and regulations, to compel the rehabilitation and cleanup of

- affected areas, and to seek the imposition of penal sanctions against violators of environmental laws; and
- h. The right to bring action in court for compensation of personal damages resulting from the adverse environmental and public health impact of a project or activity.

South Africa

National Environment Management Act, Act 107 of 1998, Preamble, sections, 2, 31

National Environment Management: Air Quality Act 39 of 2004, sections 2, 3

National Environmental Management of Biodiversity Act 10 of 2004, section 3

National Water Act (1998), Preamble, section 4

National Environment Management: Waste Act 59 of 2008, section 2

National Environment Management: Integrated Coastal Management Act of 2008, section 3

National Environment Management: Protected Areas Act 57 of 2003, section 3

Australia (New South Wales)

Climate Change (Net Zero Future) Act 2023

8. Guiding principles

...

- (5) Action to address climate change should be consistent with the right to a clean, healthy and sustainable environment.

Although strong climate and environmental laws are important, they will not be effective unless vigorously implemented and rigorously enforced. Implementation and enforcement require strong institutions that are not unduly influenced by businesses (e.g. environment ministry, independent prosecutors), adequate human and financial resources, and specific training and capacity-building.

C. Engaging national and sub-national human rights institutions

“The right to a clean, safe, healthy and sustainable environment is key to the fulfillment of other rights.”

Anne Okutoyi

The majority of States have independent national human rights institutions (NHRIs) with legal mandates to promote education and awareness about human rights, monitor the realization of human rights and in some cases, adjudicate individual grievances or complaints where human rights violations are alleged.¹³⁷ Other activities of NHRIs can include: reporting (national and international); investigation of complaints; support of individuals or communities seeking remedies; litigation; research and analysis; policy development; technical advice to government, businesses and others; advocacy (national and international); and human rights impact assessment. Some national human rights institutions (such as those in Austria, Chile, Colombia, Costa Rica, Hungary, Kenya and South Africa) also have the power to file lawsuits or to intervene in cases against the Government on behalf of communities whose rights are being violated.

These institutions take various forms, including commissions, ombudspersons and defenders of the people. Ideally, national human rights institutions should comply with the Paris Principles, which establish criteria based on independence, pluralism and effectiveness.¹³⁸ The Global Alliance of National Human Rights Institutions, which represents more than 110 national human rights institutions from across the world, governs the accreditation process and offers useful guidance regarding how these institutions can engage in the climate and environmental spheres.¹³⁹

In addition to accredited and nonaccredited national human rights institutions, there are also specialized human rights institutions with mandates dedicated to the rights of children (e.g. Chile) and future generations (e.g. Hungary). In some federal States, such as Mexico, there are sub-national human rights institutions that play a similar role to their national counterparts.

As the connections between human rights and environmental degradation have become more widely recognized in recent years, human rights institutions have become increasingly engaged in these issues (see Box 14). Human rights institutions may represent potential allies for civil society organizations, Indigenous Peoples and other



Photo: GANHRI

Participants to the Global Alliance of National Human Rights Institutions (GANHRI) 2023 Annual Meeting

concerned communities. They may also provide an independent process for filing complaints about violations of the right to a clean, healthy and sustainable environment and related human rights.

Here are links to accredited national human rights institutions across the world.

D. Bringing cases to domestic courts and tribunals

One of the most potentially powerful uses of the right to a clean, healthy and sustainable environment is through lawsuits to hold governments and businesses accountable for their human rights obligations and responsibilities, and also to review and improve legal frameworks and policies (see Box 15). Individuals, civil society organizations and communities have used this right in litigation in more than seventy States. In the vast majority of States, asserting a violation of the right to a clean, healthy and sustainable environment provides a sufficiently direct interest, based on the protection of the public interest, that courts will open the door to civil society organizations to bring forward cases (a concept known as standing).

BOX 14. EXAMPLES OF INSPIRING ACTIONS BY HUMAN RIGHTS INSTITUTIONS

In Chile, the Defensoría de la Niñez (Defender of Children) is a specialized public institution created for the dissemination, protection and promotion of all human rights of children and youth in the country. The Defensoría played an active role in a major case involving toxic air pollution that made hundreds of children sick while attending school in Quintero-Puchuncavi. Chile's NHRI shone a spotlight on the devastating environmental conditions in 'zonas de sacrificio' or sacrifice zones, dedicating a chapter of their annual report to this topic in 2018.

In Costa Rica, the independent office of the Ombudsperson protects the rights of citizens by ensuring that the public sector meets the standards set by the Constitution, statutes, treaties and general principles of law, as well as standards of morality and justice. The office may, either on its own initiative or upon request, investigate complaints of alleged human rights violations by public authorities, initiate judicial or administrative proceedings to address such violations, participate in parliamentary debates or review legislative proposals.

Denmark's National Human Rights Institute (the Danish Institute for Human Rights) has a legislative mandate providing it with wide-ranging powers that include the relationship between businesses and human rights. For example, it carried out an investigative project in Chile to assess the national implementation of the UN Guiding Principles on Business and Human Rights.²⁴ Their investigation uncovered extensive human rights violations caused by industrial fish farming in Chile as well as fraud by subsidiaries of Norwegian companies.²⁵

Kenya's independent National Commission on Human Rights (NCHR) encourages increased respect for human rights, serves as a watchdog to ensure that the government fulfills its human rights obligations, monitors compliance with human rights norms and standards, investigates and provides redress for human rights violations, conducts human rights education, facilitates training, and collaborates with other stakeholders.²⁶ The Commission is often engaged in the environmental assessment of major proposals, specifically in order to assess the potential impacts on human rights protected by Kenya's Constitution, including the right to a healthy environment. The NCHR was involved in challenges to two major developments on the basis of non-compliance with human rights law. One project was the proposed Lamu coal power plant, while the second was part of the proposed Lamu Port and Southern Sudan-Ethiopia Transport Corridor. Ultimately, courts struck down approvals for both, based on violations of the constitutional right to a healthy environment. A Kenyan court ordered \$US17 million to be paid in compensation to thousands of local fishermen whose livelihoods suffered due to construction activities.²⁷

The Philippines Commission on Human Rights (CHR) was created as an independent entity by the 1987 Constitution and was established by an Executive Order in May, 1987.²⁸ The CHR carried out a landmark investigation into the impact of climate change on the human rights of the Filipino people and the responsibility of the carbon majors—transnational corporations that have produced the lion's share of fossil fuels and associated greenhouse gas emissions.²⁹ The Commission held hearings across the country as well as in London and New York during 2018 and concluded that the carbon majors have responsibilities to address climate change, conduct human rights due diligence, and pay for remediation of adverse environmental and human rights impacts. At the close of the public hearings, Inquiry Chairperson Commissioner Roberto Cadiz described climate change as "a human rights issue, a global issue and an existential issue".

The South African Human Rights Commission filed a lawsuit against a municipality alleging that chronic air and water pollution from a poorly managed landfill violated local residents' right to a healthy environment.³⁰ The court concluded that the municipality failed to comply with waste management legislation and constitutional obligations to ensure that the landfill site was regulated properly and in an environmentally sound manner. The right to a healthy environment was violated, so the municipality was given one month to develop an action plan and report back to the court.

There is emerging evidence that climate lawsuits based on human rights are more likely to be successful if they include reliance on the right to a healthy environment.¹⁴⁰ Cases based on the right to a healthy environment, unfortunately, are not always successful. For example, in 2020, the Supreme Court of Norway ruled that the issuance of new permits for offshore oil and gas exploration did not violate the constitutional right to a healthy environment. The decision has been heavily criticized by experts and the applicants have taken the case to the European Court of Human Rights.¹⁴¹ A 2024 court decision in Norway reached the opposite conclusion, striking down permits for offshore petroleum exploration because of a failure to comprehensively assess potential greenhouse gas emissions violated the right to a healthy environment. The government is appealing the decision.

BOX 15. FINDING LAWYERS WITH THE RIGHT EXPERTISE

Environmental Law Alliance Worldwide (ELAW)
<https://elaw.org/>

Global Network for Human Rights and the Environment (GNHRE) <https://gnhre.org/>

Earthjustice <https://earthjustice.org/office/international>

Client Earth <https://www.clientearth.org/>

Center for International Environmental Law (CIEL)
<https://www.ciel.org/>

Inter-American Association for the Defense of the Environment (AIDA) <https://aida-americas.org/en>

Earthrights International <https://earthrights.org/>

Cyrus R. Vance Center for International Justice
<https://www.vancecenter.org/areas-of-practice/environment/>

In recent years, the right to a healthy environment has been a key element of inspiring and influential legal victories all over the world. It has been used by courts to:

- compel national governments to take action to improve air quality in heavily polluted communities (Argentina, Ecuador, India, Indonesia, South Africa);¹⁴²

- stop a massive industrial hog facility near an Indigenous Mayan community and cancel a tourism development in a sensitive mangrove ecosystem (Mexico);¹⁴³
- require comprehensive clean-ups of severely contaminated communities (Argentina, Chile, Kenya, Peru, the Philippines);¹⁴⁴
- strike down permits for seismic testing as part of proposed offshore oil and gas development (Colombia and South Africa);
- restrict the use of neonicotinoid pesticides due to impacts on pollinators and ecosystem health in (Costa Rica and France);
- require governments to take action to reduce deforestation in the Amazon (Brazil, Colombia, Ecuador);¹⁴⁵
- stop the deadly and wasteful practice of flaring gas (Ecuador and Nigeria);¹⁴⁶
- reject corporate challenges to regulations prohibiting single-use plastic items such as plastic bags (India, Kenya, Mexico, Uganda) and corporate challenges to laws and other government actions intended to protect nature (Argentina, Costa Rica, Nepal, Peru);¹⁴⁷
- block the construction of coal-fired power plants (Kenya, South Africa), and prevent expansion of one of the largest coal open-pit mines in the world (Colombia);¹⁴⁸
- prevent the construction of a polluting biomass power plant because it would violate the right to a safe climate (Hawaii, USA);¹⁴⁹
- strike down portions of laws that prevented the government from considering climate change and adverse climate impacts when issuing permits for fossil fuel activities (Montana, USA);¹⁵⁰
- mandate governments to protect safe drinking water and aquatic ecosystems from pollution, degradation and/or over-use (Argentina, Finland, Greece, India, Mexico, Pennsylvania, the Philippines);
- require governments to protect endangered species from activities that could increase the risk of extinction (Belgium, Costa Rica, Ecuador, Portugal);
- prevent open-pit mining in vital ecosystems (e.g. páramos); and
- reject large mining extraction because of incomplete environmental impact assessments and lack of free prior and informed consent (Colombia, Costa Rica, Panama).

The Constitutional Chamber of the Supreme Court of Costa Rica has applied the right to healthy and ecologically balanced environment to a wide range of cases involving mineral concessions, aerial pesticide spraying, toxic substances, deforestation, ecotourism, the protection of national parks, timber harvesting in the habitat of endangered species, and groundwater pollution.

Implementation of some court decisions is an ongoing challenge. A victory in court is often just one step forward in the long journey

towards climate and environmental justice. Some courts have used a remedy called 'continuing mandamus' that enables them to maintain ongoing oversight of governments' implementation of the court's orders. This remedy increases the likelihood that the required actions will be taken.

The following brief descriptions of key cases illustrate how the right to a healthy environment has been used at national courts to increase effective protection of this human right, and advance positive actions from States.

The Mendoza case (Argentina)

Seventeen residents of the most contaminated community in Argentina filed a lawsuit in 2004 based on their right to a healthy environment against the federal, provincial and local governments and

44 industrial polluters. In a 2008 decision, the Supreme Court of Argentina relied on violations of the constitutional right to a healthy environment to develop a comprehensive court order requiring cleanup of historical pollution, dramatic decreases in current levels of pollution, and prevention of future ecological degradation in the Matanza-Riachuelo River watershed.¹⁵¹ Specifically, the Supreme Court required:

- inspections of all polluting enterprises, creation and implementation of wastewater treatment plans, all on a strict schedule;
- closure of all illegal dumps; redevelopment of landfills; and cleanup of the riverbanks;
- improvement of the drinking water, sewage treatment, and storm-water discharge systems in the river basin;



- development of a regional environmental health plan, including contingencies for possible emergencies; and
- supervision, by the federal Auditor General, of the budget allocation for implementation of the restoration plan.

The federal, provincial and municipal governments created an organization called ACUMAR to oversee the implementation of the Court's order.¹⁵² The Supreme Court appointed a federal court judge to monitor compliance and required the federal Minister of Environment to provide regular updates to the Court in person. Governments have spent billions of dollars on the pollution clean-up, new drinking water and wastewater treatment plants, solid waste management and other types of infrastructure. Nevertheless, challenges are ongoing.¹⁵³ In 2019, the Supreme Court of Argentina made an additional order regarding actions needed to reduce air pollution in the watershed.¹⁵⁴

The Quintero-Puchuncavi case (Chile)

Quintero-Puchuncavi is one of Chile's most notorious sacrifice zones, a pair of neighbouring communities on the Pacific coast where for decades residents have suffered health problems linked to toxic industrial emissions. In a series of repeated episodes beginning in 2011, hundreds of children became ill as a result of emissions from an unidentified industrial facility. According to the Chilean Ministry of Health, 1,398 people were treated for gas poisoning in local hospitals between 21 September and 18 October 2011. Several schools were closed for days. Chile's Defender of Children and a number of other parties filed lawsuits against the government, seeking court orders to require the government to thoroughly investigate the toxic releases and implement an emergency health plan. The Supreme Court of Chile found a violation of the constitutional right to live in an environment uncontaminated by pollution, concluding that successive governments had neglected the health and wellbeing of the region's residents for many years.

The Court ordered the government to carry out more than a dozen specific actions, including:

- a comprehensive study of the emissions from each company operating in the region and their effects on human health and the environment, to be completed within one year, followed by the establishment of strict emissions limits;
- programs to test people's health and take remedial actions required;
- an environmental emergency response plan;
- additional steps to protect the physical and psychological integrity and health of children and adolescents; and
- a website with all of the foregoing information freely available.

Unfortunately, mass poisonings have continued to occur in Quintero-Puchuncavi. A second Supreme Court decision, issued in 2023, criticized the government for failing to comply with the 2018 order and issued additional instructions, with consequences for non-compliance.¹⁵⁵

The Manila Bay case (Philippines)

Environmental lawyer Tony Oposa filed a lawsuit in 1999 seeking to compel the clean-up and restoration of heavily polluted Manila Bay, adjacent to the capital of the Philippines. In 2008, the Supreme Court of the Philippines ordered the government to undertake extensive remedial actions.¹⁵⁶ The Court established an advisory committee (Manila Bay Advisory Committee) to review reports submitted by government agencies, carry out site visits and make detailed recommendations. The Supreme Court incorporated these expert recommendations into a binding Court order requiring inspections of all industrial facilities and commercial establishments, the construction of large-scale wastewater treatment plants (by 2037 at the latest), a five-year plan for restoring marine life, the removal of illegal settlements, proper waste disposal from ships in Manila Bay, enforcement of marine pollution laws, closure of garbage dumps and construction of proper landfills for waste disposal and the uniform inclusion of environmental protection in school curricula.

Recent data from the Department of Environment and Natural Resources indicate that faecal coliform levels in Manila Bay have fallen dramatically. Supreme Court Chief Justice Diosdado Peralta toured the area recently and stated "The purpose of the continuing mandamus is to clean the water. If you ask me if I am satisfied, I am satisfied because the water is clean."¹⁵⁷ There is much more to be done, but progress is being made.

The Owino Uhuru case (Kenya)

In 2007, a lead acid battery recycling plant began operating in Owino Uhuru in Kenya, leading to years of terrible air and water pollution and severe health impacts. An inspiring community effort led by Goldman Prize winner Phyllis Omido and her organization, the Center for Justice Governance and Environmental Action, resulted in the closure of the lead smelter in 2014. Nine residents of Owino Uhuru and the Center for Justice Governance and Environmental Action filed a lawsuit asserting that human rights, including the rights to health and a healthy environment had been violated. In 2020, the Land and Environment Court at Mombasa ruled in favor of the Owino Uhuru residents, determining that their right to a healthy environment had been violated, awarding 1.3 billion Kenyan shillings (roughly US\$13 million) in damages and ordering the defendants to clean-up the soil, water, and waste within four months.¹⁵⁸ The case earned international attention

and the Office of the United Nations High Commissioner for Human Rights referred to its outcome as a “positive milestone for environmental justice”.¹⁵⁹ Unfortunately an appeal court overturned the damages award, although it confirmed the requirement for environmental remediation and restoration.¹⁶⁰

Specialized environmental courts and tribunals

In recent years there has been rapid growth in the creation of specialized environmental courts and tribunals, now numbering more than 1,000 worldwide (see Box 16). These courts and tribunals (e.g. India’s National Green Tribunal, Kenya’s Environment and Land Courts and National Environmental Tribunal and the Land and Environment Courts in Sweden) have substantially increased access to environmental justice.¹⁶¹ The advantages of these judicial and quasi-judicial bodies include enhanced legal and scientific expertise, streamlined processes, flexibility, the use of alternative dispute resolution, comprehensive jurisdiction, open rules about standing (eligibility to file cases), effective remedies and enforcement powers, and unique case management tools. In other States, specialized rules have been developed to facilitate environmental cases. For example, in the Philippines, simplified rules including a special legal tool called a *writ of kalikasan* were created, to expedite cases intended to protect nature and the right to a healthy environment.

E. Bringing cases to regional human rights commissions and courts

At this point, there are regional human rights commissions and courts in place in Africa, the Americas (including the Caribbean) and Europe (see Box 18). While there are human rights instruments in place in the Middle East and Southeast Asia, there are currently no courts, tribunals or other mechanisms in these regions that can be used to hold States and businesses accountable.

At both the regional and global levels, it is a general rule that individuals, communities or civil society organizations must attempt to secure domestic remedies first, before bringing a case to an international court or commission. As well, some international tribunals are reluctant to grant standing to civil society organizations, limiting applications to individuals who are directly affected by an alleged human rights violation. However recent developments are promising, with the European Court allowing a climate case brought by a Swiss civil society organization representing older women.

1. Africa

The African Charter on Human and Peoples’ Rights (1981) states “All peoples shall have the right to a general satisfactory environment favorable to their development” (Article 24). Fifty-three UN member

BOX 16. USEFUL RESOURCES ON COURTS AND THE RIGHT TO A HEALTHY ENVIRONMENT

New York University, in partnership with the UN Environment Programme, has developed an excellent website featuring cases on the right to a healthy environment: <https://www.r2heinfo.com>

Climate Change Litigation Databases, Sabin Center for Climate Change: <https://climatecasechart.com>

UNEP (2022). Environmental Courts and Tribunals: A Guide for Policymakers, 2021.

<https://wedocs.unep.org/handle/20.500.11822/40309>

UNEP Judicial Handbook on Environmental Constitutionalism (2017). <https://www.unep.org/resources/publication/judicial-handbook-environmental-constitutionalism>

ECOLEX gateway to environmental law: <https://www.ecolex.org/>

nations are parties to the African Charter. In addition, the Protocol on the Rights of Women in Africa (Maputo Protocol, 2005) states that women “shall have the right to live in a healthy and sustainable environment” (art. 18).

In *Social and Economic Rights Action Centre v. Nigeria* (2001), the African Commission on Human Rights determined that the Nigerian government’s failure to prevent toxic pollution from the oil industry violated two rights under the African Charter, including the right to health and the right to a ‘general satisfactory environment’. The Commission clarified that Art. 24 “imposes clear obligations upon a government to take reasonable measures to prevent pollution and ecological degradation, to promote conservation, and to secure ecologically sustainable development and use of natural resources.”

A recent decision of the African Court found that Cote d’Ivoire had violated the right to a healthy environment in the notorious 2007 incident in which a ship called the Probo Koala, owned by the multinational business Trafigura, dumped a shipload of toxic waste in the capital, Abidjan, with the help of a local business enterprise.¹⁶² This indefensible illegal dumping caused 15 deaths and over 100,000 illnesses.¹⁶³

BOX 17. REGIONAL HUMAN RIGHTS INSTRUMENTS

The European Convention on Human Rights (1950) is one of the key regional instruments to enforce human rights. The following other regional instruments explicitly include the right to a healthy environment:

- African Charter on Human and Peoples' Rights (1981)
- San Salvador Protocol to the American Convention on Human Rights (1988)
- Arab Charter on Human Rights (2004)
- Aarhus Convention on Access to Information, Public Participation in Decision-making, and Access to Justice in Environmental Matters (1998)
- Regional Agreement on Access to Information, Public Participation in Decision-making, and Access to Justice in Environmental Matters in Latin America and the Caribbean (Escaxù Agreement, 2021)

2. Americas (including the Caribbean)

The Inter-American human rights system includes the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights. The right to a healthy environment is part of this system pursuant to Article 11 of the San Salvador Protocol. So far 16 States have ratified this protocol.¹⁶⁴ Individuals, groups and communities can bring allegations of human rights abuses and violations to the Inter-American Commission, as long as they can prove a direct impact to their rights. According to the rules, applicants are generally expected to “exhaust their domestic remedies” first, but there are exceptions where this is not required.

BOX 18. REGIONAL COURTS AND COMMISSIONS

African Commission on Human Rights
African Court on Human Rights
Inter-American Commission on Human Rights
Inter-American Court of Human Rights
Aarhus Compliance Committee
European Court of Human Rights

The Inter-American Commission can request States to implement precautionary measures, meaning interim actions pending resolution of the case. For example, in a famous case called *Community of La Oroya v Peru*, which involved pollution and toxic substances released by a lead and zinc smelter, the Commission requested the government of Peru to: conduct specialized medical diagnosis for a group of 65 victims; provide specialized and adequate medical treatment to the individuals who demonstrated significant harm to their personal integrity or their life; and coordinate such measures with the victims and their attorneys.¹⁶⁵

Individual cases must go to the Commission first, and cannot be brought directly to the Court. Unfortunately, due to inadequate resources, cases can take a long time to be adjudicated by the Commission. In the case of the *Community of La Oroya v Peru*, the Commission process took 15 years. In contrast, the Court makes decisions on an average of less than two years after receiving a case. Despite these challenges, the Inter-American System has developed important jurisprudence regarding the protection of human rights linked with the environment. Among these cases, in *Lhaka Honhat vs. Argentina* the Court applied the right to a healthy environment for the first time, concluding that raising cattle, building fences and other activities on the land of Indigenous Peoples violated this right.¹⁶⁶ In March 2024, the Inter-American Court issued a landmark decision on the right to a healthy environment in the *La Oroya* case (see Box 20).

The Inter-American Court also provides advisory opinions upon request from one or more State Parties. This process resulted in the highly influential Advisory Opinion 23/2017 and a pending advisory opinion on human rights and climate change. Civil society can encourage States to request advisory opinions on important topics related to human rights, climate and environment. Once the Court renders its advisory opinions, civil society has a key role to make sure the standards in them are implemented, both nationally and regionally. Of course, States should comply with standards set by the Court in advisory opinions to ensure that national law is aligned with Inter-American standards and the American Convention on Human Rights.

3. Europe

The European Convention on Human Rights dates back to 1950, and while it has been complemented by numerous additional protocols (e.g. recognizing the right to education), the Convention does not yet include the right to a healthy environment. Given Europe's global leadership in many aspects of both environmental protection and defending human rights, this is a glaring omission. Efforts in 1999 and 2009 to establish an additional protocol on the right to a healthy environment, led by the Parliamentary Assembly of the Council of



Photo: Unsplash/ Paddy O Sullivan

Europe (PACE), were unsuccessful. A third effort, again led by PACE, appears to have great promise and is actively supported by civil society. The PACE published a draft protocol in 2021¹⁶⁷ and it received unanimous support. As was the case with the UN resolutions in 2021 and 2022, it will take a unified effort from civil society and other actors to push European States to adopt a new protocol recognizing the right to a healthy environment. This is a monumentally important initiative that could have major positive consequences for realization of the right to a healthy environment both in Europe and around the world.

Despite the absence of a specific right to a healthy environment, the European Court of Human Rights has made decisions in many cases involving environmental hazards, including foul odours, air pollution, water pollution and chronic industrial pollution. However, to date the court has repeatedly stated that there is no right to nature preservation under the European Convention. At present there are multiple cases before the Court in which applicants are alleging that their rights are violated by inadequate State action to address the climate crisis through deep reductions in greenhouse gas emissions. In April 2024, the Grand Chamber of the European Court of Human Rights issued its

first three judgments in climate cases. In *KlimaSeniorinnen v Switzerland*, the Court found that inadequate action by the Swiss government to tackle the climate crisis violated human rights.¹⁶⁸ The decision marks a major breakthrough and provides a clear blueprint for future rights-based climate lawsuits. The other two cases were dismissed on procedural grounds.

4. Arab States and Asia

While the Arab Charter on Human Rights (2004) and the ASEAN Declaration on Human Rights (2012) both include the right to a healthy environment, the former has no institution for implementation or enforcement while the latter is an unenforceable political declaration. These instruments can be used in advocacy efforts pushing governments to protect human rights and the environment, but their practical utility appears to be fairly limited. However, an exciting new development is the beginning of a process in South-east Asia to develop a regional treaty on access to information, public participation and access to justice in environmental matters, similar to the Aarhus and Escazú agreements.

F. Accessing UN human rights mechanisms and processes

The UN human rights system can appear complicated and inaccessible. This User's Guide includes a brief description of the most important bodies and mechanisms that civil society has been using and could increasingly use to effectively protect the right to a healthy environment.

The three main institutions are the Human Rights Council, the treaty bodies, and the special procedures. Interacting with these institutions can be an effective way to highlight weaknesses and challenges facing States in terms of implementing the human right to a clean, healthy and sustainable environment, as well as good practices that could be emulated by other States. The following sections provide key information about how to engage with these UN mechanisms, as well as examples of how civil society has made a difference by working with them. A comprehensive database of climate and environment

related recommendations made by the Human Rights Council, the treaty bodies, and the special procedures is found [here](#).

1. Human Rights Council: Universal Periodic Review

The Human Rights Council leads an ongoing review of the performance of all 193 UN Member States in fulfilling their international human rights obligations. Created in 2006, the Universal Periodic Review (UPR) is an open and transparent process, repeated every five years, that encourages the participation of civil society (see Box 19). States report on the actions they have taken to improve the protection of human rights in their countries and overcome challenges to the full enjoyment of all internationally recognized human rights, including the right to a healthy environment. Then States receive recommendations from other Member States on improving their human rights performance, recommendations which are informed by input from rights holders and stakeholders. Since the first Universal

BOX 19. USEFUL ADVICE FOR PARTICIPATING IN THE UNIVERSAL PERIODIC REVIEW PROCESS

Participation of civil society in the UPR process is encouraged, both in Geneva and in your own countries, at all three stages of the process: 1. preparing for the review, 2. between the review and the adoption of recommendations, and 3. implementation of the recommendations.³¹ Civil society can prepare information for the review and provide it to those generating the information package about your State, i.e. to the Office of the High Commissioner on Human Rights (OHCHR) in Geneva and regional and national OHCHR offices. The OHCHR can include this information in the report regarding the human rights situation in your State. This information can describe situations where the right to a healthy environment has been impacted or is threatened, as well as suggested solutions that your State should implement.

Considering the amount of work and complexity of information involved in the UPR process, it is helpful and efficient if civil society works in a coordinated way to submit information and assist States in prioritizing effective recommendations. An example of such coordination is a coalition of organizations working in Mexico, that has submitted information in several cycles of the UPR.³² The information can include alternative reports and confidential information, asking to be treated as such. Civil society can also reach out to missions of other States to explain crucial aspects of human rights violations and request other States to advance important recommendations. Civil society can also participate in person at preparatory meetings in Geneva, request meetings in your State, and attend the UPR sessions. After the UPR recommendations are published, civil society follow up is vital.

There is lots of excellent guidance on how civil society can participate in the UPR. Two websites operated by the Office of the High Commissioner for Human Rights:

<https://www.ohchr.org/en/hr-bodies/upr/upr-home> and

<https://www.ohchr.org/en/hr-bodies/upr/ngos-nhris>

The Global Alliance of National Human Rights Institutions publishes advice for civil society and national human rights institutions interested in participating in the UPR process.³³ Country by country documents related to the UPR can be found [here](#).

Periodic Review in 2008, all 193 UN Member States have been reviewed three times. The **fourth cycle** of reviews began in November 2022 and will run until 2027.

In recent years, elements of the triple planetary crisis have received increasing but inconsistent attention in the UPR. For example, approximately 300 recommendations for climate action have been made since 2008, advanced mainly by climate vulnerable nations and mainly targeting the USA and small island developing states. References to the right to a clean, healthy and sustainable environment are still fairly rare but are on the upswing. This right should be featured in the UPR of every single State!

The UN Office of the High Commissioner for Human Rights (OHCHR) maintains the Universal Human Rights Index, a searchable database that facilitates access to the human rights recommendations made in the UPR. Examples of such recommendations include: The Maldives recommended that the United Kingdom continue to strengthen the legal and institutional systems on environmental protection, in particular with respect to the right to a healthy environment;¹⁶⁹ Spain recommended that Brazil improve the mechanisms to protect the life and territories of the Indigenous Peoples, guaranteeing their rights to water and a healthy environment;¹⁷⁰ Samoa recommended that India adopt concrete measures implementing the right to live in a healthy environment;¹⁷¹ Slovenia recommended that Guyana take all steps to respect and protect the constitutional rights to a healthy environment and intergenerational equity;¹⁷² Costa Rica recommended that Switzerland incorporate at the constitutional and legal levels the human right to a clean, healthy and sustainable environment;¹⁷³ and Fiji recommended that Japan strengthen and implement relevant domestic legislation to protect and promote the right to a clean, healthy and sustainable environment and its associated impacts on other rights.¹⁷⁴

2. Special Procedures

The **Special Procedures** are independent human rights experts, appointed by the Human Rights Council, with mandates to report and advise on human rights from a thematic or country-specific perspective. They are either individuals (known as Special Rapporteurs or Independent Experts) or Working Groups composed of five members, one from each of the five United Nations regional groupings (Africa, Asia, Latin America and the Caribbean, Eastern Europe, and the Western European and other States).

The Special Procedures: monitor the human rights situation in countries through visits; act on complaints of alleged human rights violations relevant to their mandate from individuals, communities and

civil society by sending communications to States and businesses seeking explanations for their alleged actions or omissions; conduct thematic studies and present the results to the Human Rights Council and the General Assembly; organize expert consultations to explore important issues related to their mandates; contribute to the development of international human rights standards; engage in advocacy and raise public awareness; participate in litigation at the national, regional and international levels (see Box 20); and cooperate with interested Governments by providing technical advice to assist them in fulfilling their human rights obligations.

In addition to the Special Rapporteur on human rights and the environment, there are also Special Rapporteurs on toxics and human rights, climate change and human rights, the right to food, the rights to water and sanitation, Indigenous Peoples, and human rights defenders. Many other Special Rapporteurs have done work on the **climate crisis**, reflecting the fact that this crisis affects a sweeping range of human rights (e.g. right to housing, right to development, cultural rights, rights of migrants). The UN Working Group on business and human rights has also done extensive work regarding environmental degradation caused by businesses and their human rights responsibilities.¹⁷⁵



Photo: Unsplash/ Sam Beasley

BOX 20. AMICUS BRIEFS SUBMITTED BY SPECIAL RAPPORTEURS

Many of the cases in which the Special Rapporteur on human rights and the environment participated over the past six years were brought to his attention by civil society. Examples of cases include:

Community of La Oroya v. Peru, Inter-American Court of Human Rights. Decades of toxic lead pollution from a smelter harmed the health and development of generations of children. Landmark decision on the right to a healthy environment issued in March 2024.

Groundwork Trust and Vukani Environmental Justice Alliance v. Minister of Environmental Affairs et al, High Court of South Africa, Gauteng Division. Successful lawsuit in which Court ordered the government to take action to improve air quality because failure to do so violated the right to a healthy environment.

Billy et al v Australia, (*Torres Strait Islanders case*), UN Human Rights Committee, (amicus co-authored with former Special Rapporteur John Knox). Successful case in which the Committee concluded that Australia violated the rights of Indigenous Peoples by failing to take adequate climate adaptation measures.

Melanie Subono et al. v. President of the Republic of Indonesia et al, Central Jakarta District Court. Successful lawsuit in which Court ordered the government to take action to improve air quality because failure to do so violated the right to a healthy environment. Decision upheld by the Supreme Court in 2023.

Climate Fund Case, ADPF 708, Direct Action of Unconstitutionality, Supreme Federal Court, Brazil. Successful lawsuit in which the Court found the government's failure to implement Brazil's Climate Fund to reduce greenhouse gas emissions violated the right to a healthy environment.

All amicus briefs filed by the Special Rapporteur on human rights and the environment are available [here](#).

Civil society can work with special procedures in a variety of ways encouraging them to: undertake formal or academic visits to a particular State; publish joint statements on urgent and important matters (e.g. joint statements related to human rights and climate change or human rights-based approaches to conserving biodiversity); and file amicus curiae briefs in national, regional and global cases that could set important precedents for human rights and the environment. Civil society can also contribute to the thematic reports prepared by special procedures by responding to semi-annual calls for inputs, published [here](#) for all mandates and [here](#) for the mandate of the Special Rapporteur on human rights and the environment.

The first Special Rapporteur on human rights and the environment, John Knox, visited Costa Rica, France, Madagascar, Mongolia and Uruguay. I visited Botswana, Chile, Fiji, the Maldives, Norway, Portugal, Saint Vincent and the Grenadines, and Slovenia. All country reports by the Special Rapporteur on human rights and the environment are [here](#).

Country missions provide an unparalleled opportunity to witness environmental hotspots and listen directly to the stories of victims, defenders and civil society. The resulting reports acknowledge good practices but also highlight deficiencies and actions needed for States to fulfil their obligations. For example, I complimented Norway's reliance on renewable electricity but urged Norway to stop issuing new licenses for petroleum exploration and development and to create a plan to phase out fossil fuels. I praised Chile for its progress in closing coal-fired power plants but called on Chile to take additional actions to reduce pollution in that State's embattled sacrifice zones.

Civil society organizations can submit allegations of human rights violations to any of the UN special procedures, including Working Groups, through a process called **Communications**. Applicants submit detailed information that is verified by the special procedures, who then write a formal letter to the States and/or businesses that are allegedly involved in the violation or abuse of

human rights. These letters will set forth the known facts ask a series of specific questions seeking information and explanations. Both the letters and the responses received are published online, and often a press release will be issued by the experts to draw increased attention to troubling situations.

For example, in 2020, I received a complaint regarding the devastating impacts of a massive coal mine (El Cerrejon) on the rights of nearby Wayuu Indigenous communities in Colombia. I sent a communication to Colombia and to the business, then issued a press release. There was intense media coverage of the issue and the community appreciated the intervention by a representative of the UN's human rights system, which drew national and international attention to their plight. Another example involved alleged human rights abuses by Saudi Aramco, one of the world's largest emitters of greenhouse gases.¹⁷⁶

The portal for submitting communications is found [here](#). The database of published letters and responses is found [here](#).

3. UN Treaty Bodies

Treaty Bodies are groups of independent experts elected by the General Assembly and tasked with monitoring the implementation of each of the nine main international human rights treaties by State Parties. Treaty Bodies publish authoritative explanations of specific treaty provisions, known as General Comments, review the performance of States in complying with their human rights obligations, adjudicate alleged human rights violations and host annual discussions on specific topics (e.g. Committee on the Rights of the Child on children's rights and the environment in 2016 and Committee on Economic, Social and Cultural Rights on sustainable development in 2023).

Many treaty bodies have addressed climate change and human rights in statements, decisions, concluding observations, general comments and views on communications (see Box 21). This body of work provides guidance for the interpretation and application of State party obligations deriving from the UN human rights treaties in relation to climate action and constitutes part of the evolving international human

BOX 21. TREATY BODIES THAT CAN ADJUDICATE ALLEGATIONS OF CLIMATE AND ENVIRONMENT-RELATED HUMAN RIGHTS VIOLATIONS FROM INDIVIDUALS

Any individual who claims that their human rights under a treaty have been violated by a State party to that treaty may bring a communication before the relevant committee, provided that the State has recognized the competence of the committee to receive such complaints and that domestic remedies have been exhausted. A State must have ratified the Optional Protocol to a specific human rights treaty that creates the communication procedure (e.g. 117 States have ratified the Optional Protocol to the International Covenant on Civil and Political Rights, while only 51 States have ratified the Optional Protocol to the Convention on the Rights of the Child).

Human Rights Committee: <https://www.ohchr.org/en/treaty-bodies/ccpr/individual-communications>

Committee on Economic, Social and Cultural Rights: <https://www.ohchr.org/en/treaty-bodies/cescr/individual-communications>

Committee on the Rights of the Child: <https://www.ohchr.org/en/treaty-bodies/crc/individual-communications>

Committee on the Elimination of Racial Discrimination: <https://www.ohchr.org/en/treaty-bodies/cerd/individual-communications>

Committee on the Elimination of All Forms of Discrimination Against Women: <https://www.ohchr.org/en/treaty-bodies/cedaw/individual-communications>

To learn if your country is a party to a specific human rights treaty and its optional protocol on a communications procedure, check [here](#).

The International Service for Human Rights has published a very helpful *Guide for Third-Party Interventions before UN Human Rights Treaty Bodies*, which is available [here](#).

rights legal framework that is increasingly addressing climate change. The Center for International Environmental Law publishes an excellent synthesis of outputs related to climate change that have been adopted by the UN treaty bodies, *States' Human Rights Obligations in the Context of Climate Change: Guidance Provided by the UN Human Rights Treaty Bodies*, with annual updates found [here](#).

General Comments clarify the content of the rights set out in the treaty in question, outline potential violations of those rights and advise states about complying with their human rights obligations under the treaty. For example, the Committee on Economic, Social and Cultural Rights published an important General Comment in 2002 on the right to water.¹⁷⁷ This General Comment played a vital role in the adoption of UN resolutions recognizing, for the first time, the rights to water and sanitation in 2010. The Committee on the Rights of the Child recently published General Comment 26 on child rights, the environment and climate change.¹⁷⁸ For the first time, the Committee recognized that children have the right to a clean, healthy and sustainable environment, a right not explicitly included in the Convention on the Rights of the Child. More than 16,000 young people made meaningful contributions to this General Comment, as did civil society organizations led by, or focused on, children and youth.

Civil society has a key role to play in helping treaty bodies pay more attention to the adverse impacts of the climate and environmental crisis on human rights, including the right to a healthy environment. For example, to contribute to the Committee on the Rights of the Child review of your State regarding children's right to a clean, healthy and sustainable environment, you can use a **platform** developed by Child Rights Connect in collaboration with the Committee. Save the Children has an excellent **guide** on how to support children's right to a healthy environment. Additional details on how to participate in the Committee's review of States' performance are **available** from the Office of the High Commissioner for Human Rights.

4. High Level Political Forum

Held annually at the General Assembly in New York, the High Level Political Forum is intended to track progress towards the 17 UN Sustainable Development Goals and the 169 associated targets. All UN member States, apart from the USA, have submitted reports called Voluntary National Reviews. To date, only a small handful of Voluntary National Reviews address human rights and the environment, and even fewer mention the right to a healthy environment.

Some SDGs are clearly related to the right to a clean, healthy and sustainable environment, including clean water and sanitation (SDG 6), affordable and clean energy (SDG 7), sustainable cities and

communities (SDG 11), responsible production and consumption (SDG 12), climate action (SDG 13), life below water (SDG 14) and life on land (SDG 15). Other SDGs cover a broad range of issues including poverty, health, and education, but every Goal incorporates targets directly related to the right to a clean, healthy and sustainable environment.¹⁷⁹ Obviously there is a great deal of room for improvement in taking a rights-based approach to the Sustainable Development Goals.¹⁸⁰

BOX 22. CURRENT OPPORTUNITIES FOR PARTICIPATING IN GLOBAL TREATY NEGOTIATIONS

For details on how to register for, and opportunities to participate in, these three treaty negotiation processes, see:

- Plastic pollution, <https://www.unep.org/inc-plastic-pollution>
- Business and human rights, <https://www.ohchr.org/en/hr-bodies/hrc/wg-trans-corp/igwg-on-tnc>
- Pandemic prevention, preparedness and response, <https://inb.who.int/>

Note that deadlines for registration are often months in advance of the negotiation sessions. Limited funding is usually available to support the participation of civil society representatives from the global South.

G. Participating in Multilateral Environmental Forums

There has been a proliferation of multilateral environmental agreements in recent decades, but only recently have breakthroughs been made to successfully begin integrating human rights considerations into the implementation of these agreements. None of the three Rio treaties (UN Framework Convention on Climate Change, UN Convention on Biodiversity or UN Convention on Combatting Desertification) even mention human rights. The same is true for the four chemical conventions (Basel, Minamata, Rotterdam, and Stockholm).

In 2015, history was made with the inclusion of human rights in the preamble of the Paris Agreement on climate change. In 2022, human rights, including the right to a clean, healthy and sustainable

environment, became a central element of the Kunming-Montreal Global Biodiversity Framework and the Sharm el Sheikh Implementation Plan. The 2023 Bonn Declaration for a Planet Free of Harm from Chemicals and Waste and the Global Stocktake that emerged from the 28th climate conference in Dubai (COP28) also refer to the importance of the right to a healthy environment.

Negotiations are ongoing for three new global treaties that need strong civil society advocacy for inclusion of the right to a clean, healthy and sustainable environment and human rights-based approaches (see Box 22). One is the new global instrument to tackle plastic pollution, with the UN Environment Programme overseeing the contentious negotiations. A second is a new treaty on business and human rights, which would require States to enact legislation mandating businesses to conduct human rights and environmental due diligence. That process is led by an Inter-governmental Working Group at the UN Human Rights Council. The third treaty being negotiated will address pandemic prevention, preparedness and response. This process involves an intergovernmental negotiating body established by the World Health Assembly.

Additional efforts will be necessary to ensure that States continue to increase the use of human rights-based approaches in implementing all multilateral environmental agreements. This can be done through active civil society participation in the Conferences of the Parties and through the domestic development of Nationally Determined Contributions, National Adaptation Plans, National Biodiversity Strategy and Action Plans, National Action Plans to combat desertification and land degradation, Voluntary National Reviews on the Sustainable Development Goals, etc. For example, a growing number of States have made human rights a central theme of their revised Nationally Determined Contributions under the Paris Agreement. While this is a good first step, continued civil society pressure is often needed to ensure that States follow through and fulfil these commitments.

H. Holding businesses responsible

All business enterprises, regardless of size or sector, have responsibilities to respect all internationally recognized human rights, including the right to a clean, healthy and sustainable environment, throughout their value chains.¹⁸¹ These responsibilities include: avoid causing or contributing to adverse human rights impacts through environmental harm; address such impacts when they occur; seek to prevent or mitigate adverse human rights impacts that are directly linked to their operations, products or services; and ensure access to remedies where harms have occurred. The responsibility to respect human rights applies not only to businesses whose activities may

directly damage the climate and environment, but also to the full array of enterprises supporting these businesses, including financial institutions, law firms, public relations firms, accounting firms and consultancies.¹⁸² Small and medium-sized enterprises are not absolved of human rights responsibilities, although their size influences the scope of these responsibilities. Even large non-profit organizations, for example those working on biodiversity conservation, have business-related human rights responsibilities when acting in a commercial capacity.¹⁸³

Businesses should comply with all applicable climate, environmental and human rights laws, implement human rights due diligence processes (including human rights impact assessments) to identify, prevent, mitigate and account for how they address their environmental impacts on human rights, and enable the remediation of any adverse environmental human rights impacts they cause or to which they contribute.¹⁸⁴

Unfortunately, over a decade after the introduction of the UN Guiding Principles on Business and Human Rights, environmentally irresponsible business practices, products and services continue to have egregious negative impacts on all elements of the right to a clean, healthy and sustainable environment.¹⁸⁵ Large businesses are responsible for the lion's share of air pollution, climate pollution, water pollution and excessive use of water, producing and marketing unhealthy and unsustainable food, contaminating people and ecosystems with toxic substances, and destroying biodiversity. For decades, large businesses have undermined the procedural elements of the right to a healthy environment, through greenwashing, deceit, denial, fraud, sabotaging science, aggressive lobbying, massive political donations, corruption, manipulating public opinion, revolving-door hiring practices, regulatory capture and other strategies that exploit their disproportionate economic, social and political power.¹⁸⁶ The Working Group on business and human rights acknowledged that implementation of the Guiding Principles "has not reached sufficient breadth or depth" to curb human rights abuses.¹⁸⁷

Human rights law, particularly related to the right to a healthy environment, can be used by civil society to clarify expectations for responsible business behaviour. For example, in the context of climate change the main responsibilities of businesses are to: reduce greenhouse gas emissions from their own activities and their subsidiaries; reduce greenhouse gas emissions from their products and services; minimize greenhouse gas emissions from their suppliers; publicly disclose their emissions, climate vulnerability and the risk of stranded assets; and ensure that people affected by business-related human rights violations have access to effective remedies.¹⁸⁸ In addition, businesses should support, rather than oppose, public

policies intended to effectively address climate change.¹⁸⁹ Similarly, in order to fulfil their responsibilities related to clean air, businesses should: make every effort to reduce emissions of air pollutants from their facilities and supply chains; stop delaying the transition away from fossil fuels; embrace the extraordinary economic opportunities presented by renewable energy, energy storage, energy efficiency, clean cook stoves, heating and lighting and zero emission vehicles; and contribute to and support efforts to shift towards the goal of a pollution-free circular economy.¹⁹⁰

Among the actions that civil society organizations can take to address human rights abuses by businesses and hold them accountable are: reporting abuses to government authorities (environment ministries, human rights institutions, advertising standards agencies, etc.); filing lawsuits in domestic courts; and using international mechanisms. The process for filing communications with UN treaty bodies and UN Special Procedures was described earlier. For example, Client Earth filed a communication about human rights abuses caused by Saudi Aramco, the State-owned fossil fuel business that is one of the world's largest greenhouse gas polluters.¹⁹¹

Pressure from civil society and other actors is needed to ensure that businesses contribute to the transformative changes needed to achieve a just and sustainable future, including: reforming supply chains to reduce climate, environmental and human rights impacts; reducing humanity's overall environmental footprint via decreased material consumption by wealthy nations and individuals; a rapid clean energy transition; scaling up ecosystem conservation and restoration; and shifting to a rights-based, toxic-free circular economy founded on principles of sufficiency, equality and regeneration. The purpose of business should be to solve the problems of people and the planet profitably, not to profit by causing problems for people and the planet. States are obliged to transform legal regimes governing businesses—for example corporate law, tax law, property law, trade and investment agreements, and climate, environmental and human rights laws—to ensure that businesses respect human rights, benefit society and contribute to a sustainable future. Robust regulatory frameworks require comprehensive monitoring and stringent enforcement, implemented by independent and empowered agencies overseen by national human rights institutions and judiciaries.

The Organization for Economic Cooperation and Development (OECD) has developed Guidelines for Multinational Enterprises that include guidance on climate change, environmental protection and human rights. Civil society can use these guidelines to hold businesses accountable by filing **grievances** with National Contact Points. Most international financial institutions, including the **World Bank** and the **International Finance Corporation**, provide grievance mechanisms for alleged human rights abuses. While weaker than State processes, these may offer civil society opportunities to raise issues and have them addressed.¹⁹²

Laws at the global, regional and national level that mandate human rights and environmental due diligence provide new and potentially useful opportunities for holding businesses accountable.¹⁹³ Civil society contributions are key to making these laws as strong as possible, to promoting implementation and to using the tools available to seek remedies for abuses related to the right to a clean, healthy and sustainable environment. Efforts are already underway in France to use the Duty of Vigilance Law to hold Total Energies accountable for alleged human rights abuses in Uganda related to an oil project, Danone responsible for plastic pollution, and Casino (a French supermarket chain) accountable for deforestation in Brazil caused by the cattle industry.¹⁹⁴



VII. Conclusion

Many efforts to achieve climate and environmental justice are David and Goliath struggles. The opponents of progress are powerful, wealthy elites with vested interests in prolonging the status quo because it benefits them immensely. Think of the trillions of dollars in profits made by large fossil fuel businesses in recent years. The best antidotes to corporate poisoning of democracy and public policy are created by people power—joining forces with allies to form diverse coalitions—using influential tools like the human right to a clean, healthy and sustainable environment. This is the recipe for success used by abolitionists, suffragettes, civil rights activists and other successful social movements.

In some States, the right to a clean, healthy and sustainable environment could be a mere paper tiger, a set of inspiring words that are inscribed in resolutions and laws, yet rarely acted upon. But in most States, it should be a mighty lion with a resounding roar. The right to a healthy environment is a potentially powerful tool, with the potential to serve as a catalyst for transformative changes. It's a shield to block unsustainable laws, policies and projects. It's a crowbar to pry open access to information. It's a key to unlock the door to inclusive public participation and access to justice. But the effectiveness of this right, like any tool, depends on the knowledge, skills and experience of those who choose to use it. I cannot over-emphasize that the recognition of the right to a healthy environment as a universal human right establishes broad obligations for governments and responsibilities for businesses. Obligations, not options.

You can use this right to demand bold rights-based action to address the planetary environmental crisis in your community and your country. Demand rights-based action to improve air and water quality. Demand rights-based action to switch quickly to renewable energy, energy storage, energy efficiency and a non-toxic circular economy. Demand rights-based action to transform industrial food systems towards agroecology while decreasing food waste and promoting, where appropriate, predominantly plant-based diets. Demand rights-based action to rapidly rehabilitate existing sacrifice zones and prevent the creation of new sacrifice zones. Demand rights-based action to conserve, protect and restore nature, financed by the re-direction of trillions of dollars in current subsidies that harm nature. Again, these are obligations for States, not options. If governments fail to fulfil their obligations, use the tools in this User's Guide to hold them accountable.

“We must rapidly begin the shift from a ‘thing’-oriented society to a ‘person’-oriented society.”

Martin Luther King

Millions of people in every region of the world are working day and night to advance the recognition, implementation and enjoyment of the right to a clean, healthy and sustainable environment. In a world plagued by conflict and inequality where we too often focus on the differences between people, the right to a healthy environment reflects a fundamental truth that should unite us all: The Earth is our life-support system and the only home we will ever know.

I believe that our best bet for achieving the just and sustainable future that so many of us so deeply desire is to place human rights at the very heart of our efforts. We must join together in an unstoppable community of world changers. Having met thousands of brilliant activists, leaders, thinkers, doers and planetary heroes over the past six years, I know that the reservoirs of energy, ingenuity and compassion are massive. There is no greater challenge and no greater reward than contributing to the collective effort to safeguard the extraordinary diversity of life—both human and non-human—on this unique, beautiful, blue-green planet.



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“I’m very conscious of the fact that you can’t do it alone. It’s teamwork. When you do it alone you run the risk that when you are no longer there nobody else will do it.”

Wangari Maathai

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I apologize for those whose names I have overlooked or mis-spelled. Please forgive my unreliable memory and get in touch with me so that I can update the list!

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Endnotes

Dear reader – notes from the Boxes are found on pages 62-63.

- 1 <https://www.un.org/sg/en/content/sg/statement/2022-07-28/statement-attributable-the-spokesperson-for-the-secretary-general-the-adoption-of-united-nations-general-assembly-resolution-the-right-healthy-environment>
- 2 <https://www.unep.org/news-and-stories/statements/statement-inger-andersen-un-general-assembly-resolution-recognizing>
- 3 <https://www.ohchr.org/en/statements-and-speeches/2023/10/solving-environmental-crisis-key-all-human-rights-turk-says>
- 4 A/HRC/RES/48/13. China, India, Japan and Russia abstained.
- 5 A/RES/76/300. For details regarding support from Kyrgyzstan, Saint Kitts and Nevis and Seychelles, see A/76/PV.97.
- 6 <https://www.openglobalrights.org/right-to-healthy-environment-joins-pantheon-human-rights/>
- 7 UN News (2023). *Draw inspiration from human rights advocates worldwide, urges Guterres*. 15 December. <https://news.un.org/en/story/2023/12/1144852>
- 8 Earth overshoot day <https://overshoot.footprintnetwork.org/>
- 9 United Nations Environment Programme (2023). *Environmental Rule of Law: Tracking Progress and Charting Future Directions*. <https://www.unep.org/resources/publication/environmental-rule-law-tracking-progress-and-charting-future-directions>
- 10 World Justice Project, Rule of Law Index (2023). <https://worldjusticeproject.org/rule-of-law-index/global/2023>
- 11 See the Environmental Performance Index, <https://epi.yale.edu/>
- 12 See France Law of Vigilance, <https://climatecasechart.com/non-us-case/milieudéfense-et-al-v-royal-dutch-shell-plc/>
- 13 *Fadeyeva v. Russia*, Judgement of 9 June 2005, *European Court of Human Rights*, para. 68. See also *Dubetska and others v. Ukraine*, Judgement of 10 February 2011, para. 105.
- 14 *Inter-American Commission of Human Rights, Advisory Opinion 23/17*, paras. 62-63.
- 15 *The report of the Special Rapporteur on Human Rights and the environment* (2020), *Good Practices*, (A/HRC/43/53) identified 156 States. Since then, Antigua and Barbuda, Belize, Canada, Grenada and Saint Lucia have taken action to recognize the right in law, for a total of 161.
- 16 See Inter-American Court of Human Rights, advisory opinion OC-23/17, 15 November 2017.
- 17 Supreme Court of Justice of Mexico, decision No. CCLXXXVIII/2018, in Amparo Review 307/2016, p. 43.
- 18 Supreme Court of Colombia, decision T-622/16, 10 November 2016. <https://www.corteconstitucional.gov.co/relatoria/2016/t-622-16.htm>
- 19 Walter Brenes Soto v. Costa Rican Institute of Fisheries and Aquaculture et al, Resolución N° 00912 - 2023, Case 17-008322-1027-CA, First Chamber of the Supreme Court of Justice, 21 June 2023.
- 20 D.R. Boyd (2012). *The Environmental Rights Revolution: A Global Study of Constitutions, Human Rights and the Environment*. University of British Columbia Press. See also C. Jeffords and L. Minkler (2016). "Do constitutions matter? The effects of constitutional environmental provisions on environmental outcomes", *Kyklos*, 69(2), 294–335.
- 21 See <https://www.ohchr.org/en/special-procedures/sr-environment/country-visits>
- 22 D.R. Boyd (2012). *The Environmental Rights Revolution: A Global Study of Constitutions, Human Rights and the Environment*. University of British Columbia Press. J.R. May and E. Daly (2015). *Global Environmental Constitutionalism*. Cambridge University Press. J.H. Knox and R. Pejan, eds. 2018. *The Human Right to a Healthy Environment*. Cambridge University Press.
- 23 C. Jeffords and L. Minkler (2016). Do constitutions matter? The effects of constitutional environmental provisions on environmental outcomes, *Kyklos* 69(2), 294–335.

- 24 C. Jeffords (2016). On the temporal effects of static constitutional environmental rights provisions on access to improved sanitation facilities and water sources, *Journal of Human Rights and the Environment* 7(1), 74–110.
- 25 Intergovernmental Panel on Climate Change (2023). *Synthesis Report: Summary for Policymakers*.
- 26 IPBES/7/10/Add.1.
- 27 UN Department of Economic and Social Affairs (2023). *SDGs Progress and Info*. <https://sdgs.un.org/goals/goal15#:~:text=Human%20activities%2C%20intensified%20by%20climate,of%20degraded%20land%20by%202030>.
- 28 *Billy v. Australia*, (2019) CCPR/C/135/D/3624/2019, Views adopted by the Committee under article 5(4) of the Optional Protocol concerning communication No. 3624/2019 (Sept. 22, 2022).
- 29 *Sustaining the Wild Coast v. Minister of Mineral Resources and Energy* [2022] ZAECMKHC 55 (South Africa)
- 30 <https://climatecasechart.com/non-us-case/milieudedefensie-et-al-v-royal-dutch-shell-plc/>
- 31 Committee on the Rights of the Child (2023). General Comment #26: *Child Rights, the Environment and the Climate*.
- 32 <https://www.greenpeace.org/international/press-release/64831/environmental-youth-groups-win-climate-court-case-against-norwegian-state/>
- 33 D. Boyd, 2024, Landmark Court decision on right to a healthy environment: La Oroya, <https://gnhre.org/?p=17944>
- 34 A/HRC/40/55, A/HRC/46/28, A/HRC/49/53, A/74/161, A/75/161, A/76/179. All available here.
- 35 Framework Principles on Human Rights and the Environment, A/HRC/37/59, annex.
- 36 See Framework Principle 14 and commentary.
- 37 See CRC/C/KOR/CO/5-6.
- 38 Inter-American Commission on Human Rights, “Caso No. 12.718: Comunidad de La Oroya, Perú – informe No. 330/20”, September 2021, para. 169.
- 39 See *Portillo Cáceres et al. v. Paraguay*.
- 40 *Lhaka Honhat v. Argentina*, Inter-American Court on Human Rights (IACtHR), ¶ 208.
- 41 Ibid.
- 42 See Principle 15, 1992 Rio Declaration. See also <https://www.iisd.org/system/files/2020-10/still-one-earth-precautionary-principle.pdf>
- 43 See Inter-American Court of Human Rights, Advisory Opinion OC-23/17, para. 180, 15 November 2017.
- 44 A/HRC/49/53.
- 45 *Rio Declaration*, at Principle 14.
- 46 Marcos Orellana (Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes), *Right to science in the context of toxic substances*, U.N. Doc. A/HRC/48/61 (July 26, 2021)
- 47 See Framework Principle 11 and commentary.
- 48 Inter-American Commission on Human Rights (IACHR), Report No. 330/20, Case 12.178. Merits. Community of La Oroya. Peru. 19 November 2020, para. 188.
- 49 See articles 55 and 56 of the Charter of the United Nations.
- 50 Inter-American Court of Human Rights, *Advisory Opinion OC-23/17*
- 51 Many of these obligations are informed by the Framework Principles on Human Rights and the Environment. A/HRC/37/59 and Annex.
- 52 See Framework Principle 7 and commentary.
- 53 Committee on the Rights of the Child, 2023, General Comment #26: *Child Rights, the Environment and the Climate*.
- 54 See Framework Principle 9 and commentary.
- 55 See Framework Principle 3 and commentary.

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- 56 See Framework Principle 5 and commentary.
- 57 See A/HRC/48/61.
- 58 See Framework Principle 8 and commentary.
- 59 See Framework Principle 10 and commentary.
- 60 See Special Rapporteur on human rights and the environment, David Boyd, “Women, Girls and the Right to a Healthy Environment”, A/HRC/52/33
- 61 See Framework Principle 15 and commentary. See also reports of the Special Rapporteur on the rights of Indigenous Peoples
- 62 See Framework Principles 4 and 5 and commentary.
- 63 See Framework Principle 12 and commentary.
- 64 A/HRC/52/33.
- 65 A/HRC/55/43.
- 66 Inter-American Court on Human Rights, Advisory Opinion 23/17, para. 123 and 124.
- 67 A/77/201.
- 68 UN Guiding Principles on Business and Human Rights, Principles 1-10.
- 69 Inter-American Court on Human Rights, Advisory Opinion 23/17, para. 119.
- 70 Framework Principles on human rights and environment, Principle 12.
- 71 E/C.12/GC/26, para. 30.
- 72 UN Special Rapporteur on human rights and environment (2022). *Essential elements of effective and equitable human rights and environmental due diligence legislation*. Policy Brief No. 3.
- 73 A/78/168 and A/HRC/55/43.
- 74 A/HRC/40/55.
- 75 A/74/161.
- 76 A/HRC/46/28.
- 77 A/76/179.
- 78 A/HRC/49/53.
- 79 A/75/161.
- 80 A/HRC/37/59.
- 81 US Environmental Protection Agency (2011). *The Benefits and Costs of the Clean Air Act from 1990 to 2020*.
- 82 Elise Gould (2009). Childhood lead poisoning: conservative estimates of the social and economic benefits of lead hazard control. *Environmental Health Perspectives* 117(7), 1162–1167.
- 83 <https://www.imf.org/en/Topics/climate-change/energy-subsidies>
- 84 Committee on Economic, Social, and Cultural Rights (2018). *Climate change and the International Covenant on Economic, Social, and Cultural Rights*. www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=23691&LangID=E.
- 85 *Rikki Held et al. v. State of Montana et al.* Montana First Judicial District Court, Lewis and Clark County, Case. CDV-2020-307, 14 August 2023, page 102.
- 86 *In the matter of Hawai'i Electric Light Company*, 2023, SCOT—22—0000418, Supreme Court of Hawai'i, 13 March 2023.
- 87 Reduction of Carbon Dioxide Emissions from Coal-fired Generation of Electricity Regulations (SOR/2012-167).
- 88 Powering Past Coal Alliance (2022). *Powering Past Coal: The State of Global Action to End Emissions from Coal Power*. https://poweringpastcoal.org/wp-content/uploads/202211_ZOD_PPCA_CoalExitReport_Foreword_Digital_CLEAN.pdf
- 89 *Mohamed Ali Baadi and others v Attorney General & 11 others*, [2018] eKLR High Court, Petition NO 22 OF 2012, High Court of Kenya at Nairobi. *Earthlife Africa v Minister of Environmental Affairs et al*, High Court of South Africa Gauteng Division, Pretoria, Judgment (6 March 2017). (65662/16) [2017] ZAGPPHC 58; [2017] 2 All SA 519 (GP) (8 March 2017).

- 90 *Greenpeace Norway and Nature and Youth v. Norway Ministry of Energy*, 2024, Case No. 23-099330TVI-TOSL/05, Oslo District Court, 18 January 2024.
- 91 E/C.12/ARG/CO/4.
- 92 <https://www.iea.org/reports/renewables-2023/executive-summary>
- 93 <https://www.reuters.com/world/americas/deforestation-brazils-amazon-down-by-50-five-year-low-2023-2024-01-12/>.
- 94 <https://insightcrime.org/es/noticias/gamechangers-2023-victoria-deforestacion-amazonia/>
- 95 Boyd, David R. (2012), *The Environmental Rights Revolution: A Global Study of Constitutions, Human Rights, and the Environment*. Vancouver, UBC Press.
- 96 A/HRC/46/28, para. 10.
- 97 A/HRC/46/28, para. 11.
- 98 World Bank Group (2019). *Quality Unknown: The Invisible Water Crisis*.
- 99 World Health Organization (2019). *Safer Water, Better Health*.
- 100 For further details please see A/HRC/46/28.
- 101 Cap-Net et al. (2017). *Human Rights-based Approach to Integrated Water Resources Management: Training Manual and Facilitator's Guide*.
- 102 A/76/179, para. 1 and paras. 12-28.
- 103 Food and Agriculture Organization of the United Nations (FAO), International Fund for Agricultural Development (IFAD), United Nations Children's Fund (UNICEF), World Food Programme (WFP) and World Health Organization (WHO) (2021). *The State of Food Security and Nutrition in the World 2021: Transforming Food Systems for Food Security, Improved Nutrition and Affordable Healthy Diets for All*. Rome,.
- 104 Food and Land Use Coalition (2019). *Growing Better: Ten Critical Transitions to Transform Food and Land Use, The Global Consultation Report of the Food and Land Use Coalition; Scientific Group of the United Nations Food Systems Summit* (2021). *The True Cost and True Price of Food, draft paper for the United Nations Food Systems Summit*.
- 105 Organisation for Economic Co-operation and Development (OECD) (2017). *Agricultural policy, monitoring and evaluation 2017*. Paris.
- 106 Clapp, Jennifer (2021). The problem with growing corporate concentration and power in the global food system. *Nature Food* 2.
- 107 International Labour Organization (ILO) (2017). *Global Estimates of Modern Slavery*.
- 108 Appeal for Review, 6/2020, Supreme Court, 19 May 2021.
- 109 A/76/179, para. 50.
- 110 Supreme Court of Chile, 22 May 2018.
- 111 Constitutional Chamber of the Supreme Court, resolution No. 13101/2013, 2 October 2013.
- 112 Special Appeal No 1.094.873 — SP (2008/0215494-3), 4 August 2009, Judge Humberto Martins.
- 113 Inter-American Court of Human Rights, *Indigenous Communities of the Lhaka Honhat Association v. Argentina*, 6 February 2020.
- 114 *St-Luc-de-Vincennes (Municipalité de) c. Compostage Mauricie inc.*, 2008 QCCA 235 (CanLII).
- 115 See Council of State decisions, including 2759-2760/1994, 3478/2000, 3054/2009 and 26/2014.
- 116 *Advocates Coalition for Development and Environment v. Attorney General* (2004), High Court. Miscellaneous Cause No. 0100 of 2004.
- 117 *Ministry of Environment and Forestry v. PT Kallista Alam*, Supreme Court, 651/K/Pdt/2015, 28 August 2015.
- 118 *Alfredo Tano and others v. Hon. Gov. Salvador P. Socrates and others* (1997) PHSC 1472, Supreme Court of the Philippines.
- 119 *S. Jagannath v. Union of India* (1997) 2 SCC 87.
- 120 High Level Panel of Experts on Food Security and Nutrition (HLPE) (2019). *Agroecological and other innovative approaches*. See also A/HRC/16/49, para. 31.

- 121 A/76/179.
- 122 Landrigan et al. (2018). The Lancet Commission on pollution and health. *The Lancet* 391(10119).
- 123 Ibid., and UNEP/EA.4/3.
- 124 See <https://www.who.int/publications/i/item/9789240034945>.
- 125 See United Nations Environment Programme (UNEP) (2019). *Global Chemicals Outlook II: From Legacies to Innovative Solutions – Implementing the 2030 Agenda for Sustainable Development*. Nairobi.
- 126 See A/HRC/33/41.
- 127 See *Portillo Cáceres et al. v. Paraguay* (CCPR/C/126/D/2751/2016).
- 128 Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services (2019). IPBES/7/10/Add.1.
- 129 A/HRC/37/5.
- 130 A/HRC/38/14.
- 131 A/75/161, para. 63.
- 132 For example, Supreme Court of Colombia, *Demanda Generaciones Futuras v. Minambiente*, STC No. 4360-2018, decision of 5 April 2018; Supreme Court of Justice, Colombia, STC No. 3872-2020, 18 June 2020 (Parque Isla Salamanca); Supreme Court of Mexico, First Chamber, Amparo en Revisión, No. 307/2016, decision of 14 November 2018. Other cases are discussed in David R. Boyd, *The Environmental Rights Revolution: A Global Study of Constitutions, Human Rights, and the Environment* (Vancouver, UBC Press, 2012).
- 133 Boyd, D.R. (2012). *The Environmental Rights Revolution: A Global Study of Constitutions, Human Rights and the Environment*. University of British Columbia Press.
- 134 *State v. Acheson* 1991 2 SA 805 at 813 (Nm).
- 135 A/HRC/43/53.
- 136 Boyd, D.R. (2012). *The Environmental Rights Revolution: A Global Study of Constitutions, Human Rights and the Environment*. University of British Columbia Press.
- 137 <https://ganhri.org>
- 138 <https://ganhri.org/paris-principles/>
- 139 <https://ganhri.org/practical-guidance-for-nhris-on-hr-and-climate-change/>
- 140 de Vilchez, P. and Savaresi, A. (2021). The Right to a Healthy Environment and Climate Litigation: A Game Changer? *Yearbook of International Environmental Law* 32(1), 3–19. <https://doi.org/10.1093/yiel/yvac064>
- 141 Voigt, C. (2021). The First Climate Judgment Before the Norwegian Supreme Court: Aligning Law with Politics. *Journal of Environmental Law* 33, 697-710.
- 142 See, for example, Groundwork Trust and Vukani Environmental Justice Alliance Movement in Action v The Minister of Environmental Affairs (2022). Case No. 39724/2019 High Court of South Africa, Gauteng Division, Pretoria. 14 March 2022.
- 143 Re 'Parque ecológico Centenario' (2018) Amparo in review [Amparo en Revisión], Judgment, No. 307/2016, 14 November 2018 (Supreme Court, First Chamber). Supreme Court of Justice of Mexico, First Chamber, decision No. CCLXXXVIII/2018. Appeal for Review, 6/2020, Supreme Court, 19 May 2021. Supreme Court of Mexico.
- 144 Beatriz Silvia Mendoza and others v. National Government and Others, 2008, M. 1569 XL, 8 July 2008 (Supreme Court of Justice).
Francisco Chahuan v. Empresa Nacional de Petroleo and others, Supreme Court of Justice, Rol. 5888-2019 (May 28, 2019)
Concerned Citizens of Manila Bay v. Metropolitan Manila Development Authority and others (2008), Nos. 171947-48, Supreme Court. (Philippines), (G.R. No. 171947-48, December 18, 2008).

- 145 Case No. 1149-19-JP / 20, (Los Cedros), 10 November 2021, Constitutional Court of Ecuador, Protection action by the GAD of Santa Ana de Cotacachi.
PSB et al v Brazil (deforestation and human rights) Supreme Court, ADPF 760 (Jun. 4, 2022): Supreme Federal Court (STF) minister Cármen Lúcia.
Future Generations v. Ministry of the Environment et al., STC No. 4360-2018, decision of 5 April 2018, Supreme Court of Colombia.
- 146 Mr. Jonah Gbemre v. Shell Petroleum Development Company Nigeria Ltd; Nigerian National Petroleum Corporation; and Attorney General of the Federation of Nigeria, (2005) AHRLR 151, Federal High Court of Nigeria. Herrera Carrion et al. v. Ministry of the Environment et al. (2021) No. 21201202000170, Multicompetent Chamber of the Provincial Court of Justice of Sucumbíos of Ecuador (Mecheros case).
- 147 See, for example, Kenya Association of Manufacturers & 2 others v Cabinet Secretary – Ministry of Environment and Natural Resources & 3 others, Land and Environment Court, Writ Petition No. 32 of 2017 [2017] eKLR.
- 148 Mohamed Ali Baadi and others v Attorney General & 11 others, [2018] eKLR High Court, Petition NO 22 OF 2012, High Court of Kenya at Nairobi. Earthlife Africa v Minister of Environmental Affairs et al, High Court of South Africa Gauteng Division, Pretoria, Judgment (6 March 2017). (65662/16) [2017] ZAGPPHC 58; [2017] 2 All SA 519 (GP) (8 March 2017).
- 149 In the matter of Hawai'i Electric Light Company, 2023, SCOT—22—0000418, Supreme Court of Hawai'i, 13 March 2023.
- 150 Rikki Held et al. v State of Montana et al, 2023, Cause No. CDV-2020-307, Montana First Judicial District Court, Lewis and Clark County, 14 August 2023.
- 151 Beatriz Silvia Mendoza and others v. National Government and Others, 2008, M. 1569 XL, 8 July 2008 (Supreme Court of Justice).
- 152 See <https://www.acumar.gob.ar/>
- 153 See <https://www.tiempoar.com.ar/informacion-general/beatriz-mendoza-fallo-sanear-riachuelo-corte-sentencia/> and also <https://www.tiempoar.com.ar/informacion-general/somos-el-rio-cronica-de-un-riachuelo-que-quiere-volver-a-vivir/>
- 154 *Beatriz Silvia Mendoza and others v. National Government and Others*, Juzgado Federal en los Criminal y Correccional [NRO 2], Sentencia FA19610000 14 mayo 2019.
- 155 See <https://www.pjud.cl/prensa-y-comunicaciones/noticias-del-poder-judicial/93166>
- 156 *Concerned Residents of Manila Bay et al. v. Metropolitan Manila Development Authority et al.* (2008), General Register Nos. 171947-48, Supreme Court.
- 157 See <https://newsinfo.inquirer.net/1348051/supreme-court-chief-satisfied-with-denr-work-on-manila-bay>
- 158 *KM & 9 others v Attorney General & 7 others* [2020] eKLR (Environment and Land Court) <<http://kenyalaw.org/caselaw/cases/view/198619/>>.
- 159 Office of the High Commissioner for Human Rights (2020). Court Ruling Called a Milestone in Environmental Justice. <https://www.ohchr.org/EN/NewsEvents/Pages/LeadPollutionJudgement.aspx>.
- 160 <https://nation.africa/kenya/counties/mombasa/blow-to-owino-uhuru-lead-poisoning-victims-as-court-quashes-sh1-3bn-award-4281174>
- 161 George Pring and Catherine Pring, *Environmental Courts & Tribunals: A Guide for Policy Makers*, UNEP, 2016.
- 162 <https://www.fidh.org/en/issues/business-human-rights-environment/business-and-human-rights/ivory-coast-victory-at-the-african-court-for-victims-of-the-trafigura>
- 163 <https://www.ohchr.org/en/press-releases/2009/10/toxic-waste-un-expert-releases-report-probo-koala-incident>
- 164 https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XXVII-18&chapter=27&clang=_en

-
- 165 Inter-American Commission on Human Rights, *Community of La Oroya vs. Peru, Precautionary Measures*, Resolution 16/2016, 3 May 2016, extending the precautionary measures from 31 August 2007.
- 166 <https://www.r2heinfo.com/casebook/indigenous-communities-of-the-lhaka-honhat-our-land-association-v-argentina/>
- 167 Council of Europe, Parliamentary Assembly (2021). Resolution 2396, *Anchoring the right to a healthy environment: need for enhanced action by the Council of Europe*, <https://pace.coe.int/pdf/658d3f594762736ba3c0f378798b2c9529cf4be34aa45a8c38616ecd18fa80c0/res.%202396.pdf>
- 168 <https://climatecasechart.com/non-us-case/union-of-swiss-senior-women-for-climate-protection-v-swiss-federal-council-and-others/>
- 169 A/HRC/52/10, 2022, 43.149.
- 170 A/HRC/52/14, 2022, 149.277.
- 171 A/HRC/52/11, 2022, 151.171.
- 172 A/HRC/44/16, 2020, 100.69.
- 173 A/HRC/53/12, 2023, 39.184.
- 174 A/HRC/53/15, 2023, 158.144.
- 175 <https://www.ohchr.org/en/special-procedures/wg-business>
- 176 <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=28094>
- 177 CESCR, General Comment No. 15 (E/C.12/2002/11)
- 178 CRC/C/GC/26.
- 179 A/77/284, para. 27.
- 180 A/77/284.
- 181 See Framework Principles on Human Rights and the Environment, A/HRC/37/59 and Annex as well as the Guiding Principles on Business and Human Rights: Implementing the UN “Respect, Protect and Remedy” Framework, 2011.
- 182 A/77/201, para. 63; and A/HRC/29/28, para. 11.
- 183 See [ohchr.org/sites/default/files/documents/issues/environment/srenvironment/activities/2022-07-14/20220713-SR-Environment_PolicyBriefingNr3.pdf](https://www.ohchr.org/sites/default/files/documents/issues/environment/srenvironment/activities/2022-07-14/20220713-SR-Environment_PolicyBriefingNr3.pdf).
- 184 A/HRC/37/59, para. 35.
- 185 A/HRC/55/43.
- 186 A/77/201; Gerald Markowitz and David Rosner, *Deceit and Denial: The Deadly Politics of Industrial Pollution* (Berkeley, California, University of California Press, 2003); and David Michaels, *Doubt is Their Product: How Industry's Assault on Science Threatens Your Health* (New York, Oxford University Press, 2008).
- 187 A/HRC/50/40/Add.3, para. 7.
- 188 Expert Group on Climate Obligations of Enterprises (2018). *Principles on Climate Obligations of Enterprises: Legal Perspectives for Global Challenges*.
- 189 A/74/161.
- 190 A/HRC/40/55.
- 191 <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=28094>
- 192 Office of the United Nations High Commissioner for Human Rights (2022). *Remedy in Development Finance*. <https://www.ohchr.org/sites/default/files/2022-02/Remedy-in-Development.pdf>
- 193 Special Rapporteur on Human Rights and the environment (2022). *Essential elements of effective and equitable human rights and environmental due diligence legislation*. Policy Brief 3.
- 194 <https://www.simmons-simmons.com/en/publications/clomu1rfn01pmu6x4dz5enms5/french-duty-of-vigilance-litigation-tracker>

BOX 3. GOOD PRACTICES ON THE NATIONAL LEVEL

- 1 See www.dinama.gub.uy/0an/. See also <http://oki.antsz.hu/>.
- 2 See www.sprep.org/inform/data-portals.
- 3 See Front Line Defenders: Global Analysis 2018, 2019.
- 4 Philippines, Rules of Procedure for Environmental Cases, Supreme Court 2010, Rule 2, Section 5.
- 5 Under Article 58 of China's 2014 Environmental Protection Law.
- 6 Environmental Protection and Management Act, 2009, Art. 92.
- 7 Indonesia Supreme Court's Guidelines for Handling Environmental Cases, 2013.

BOX 6. GOOD PRACTICES ON WATER

- 8 A/HRC/46/28, para. 35.
- 9 Social and Economic Rights Action Centre v. Nigeria, communication No. 155/96 (2001), para. 52.
- 10 Amparo en Revisión No. 641-2017, Supreme Court of Justice, 18 October 2017.

BOX 7. GOOD PRACTICES ON FOOD PRODUCTION

- 11 See www.fao.org/agroecology/slideshow/news-article/en/c/1187596/.
- 12 See www.worldfuturecouncil.org/press-release-opa-2019/.
- 13 Van den Berg, H. and Jiggins, J (2007). Investing in Farmers: The Impacts of Farmer Field Schools in Relation to Integrated Pest Management. *World Development* 35(4), 663–686.

BOX 8. GOOD PRACTICES ON TOXIC SUBSTANCES

- 14 Regulations (EC) No. 1907/2006 and No. 1272/2008.
- 15 European Commission (2020). Chemicals strategy for sustainability: towards a toxic-free environment. Communication, 14 October.
- 16 See UNEP, Global Chemicals Outlook II.
- 17 Organization for Economic Cooperation and Development (2011). *Environmental Taxation: A Guide for Policymakers*.
- 18 Contaminated Sites Regulation, B.C. Reg. 375/96, 16 December 1996 (as amended).

BOX 9. GOOD PRACTICES TOWARDS PROTECTING AND RESTORING BIODIVERSITY AND ECOSYSTEMS

- 19 <https://data.worldbank.org/indicator/ER.LND.PTLD.ZS>
- 20 <https://data.worldbank.org/indicator/ER.MRN.PTMR.ZS>
- 21 Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services (2019). Global Assessment Report on Biodiversity and Ecosystem Services.
- 22 See <https://naturaljustice.org/the-rooibos-access-and-benefit-sharing-agreement>

BOX 10. STATE OBLIGATIONS IDENTIFIED BY THE HUMAN RIGHTS COUNCIL IN 2023

- 23 A/HRC/RES/52/23.

BOX 14. EXAMPLES OF INSPIRING ACTIONS BY HUMAN RIGHTS INSTITUTIONS

- 24 <https://www.humanrights.dk/publications/salmon-industry-human-rights-chile-sector-wide-impact-assessment>
- 25 Ibid.
- 26 Article 59 of the Constitution of Kenya 2010 and the *Kenya National Commission on Human Rights Act, 2011*.

-
- 27 *Save Lamu & 5 others vs National Environmental Management Authority & another* [2019] eKLR
- 28 Commission on Human Rights, Republic of the Philippines. <https://chr.gov.ph/about-us/>
- 29 Commission on Human Rights of The Philippines (2022). *National Inquiry on Climate Change Report*. https://chr.gov.ph/wp-content/uploads/2022/12/CHRP_National-Inquiry-on-Climate-Change-Report.pdf
- 30 High Court of South Africa (2021). *South African Human Rights Commission v. Msunduzi Municipality et al.*, Case No. 8407/2020P, Order, 17 June.

BOX 19. USEFUL ADVICE FOR PARTICIPATING IN THE UNIVERSAL PERIODIC REVIEW PROCESS

- 31 <https://www.upr-info.org/en/upr-process/what-upr/introduction-brief-history>
- 32 *Collectivo EPU Mexico 2024*, <https://centroprodh.org.mx/colectivo-epu-mx-2024/>
- 33 *Universal Periodic Review: Tips for Engagement at Country Level for National Human Rights Institutions and Civil Society* <https://ganhri.org/universal-periodic-review-tips/>





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SPECIAL PROCEDURES

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