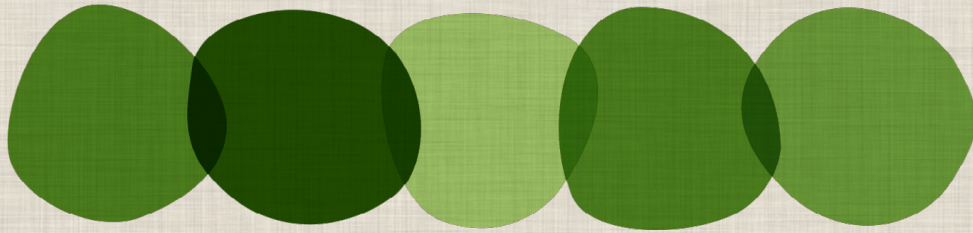


# THE RIGHT TO A HEALTHY ENVIRONMENT



**FROM RECOGNITION TO IMPLEMENTATION**



**Franciscans International**  
A voice at the United Nations



## Acknowledgment

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September 2024

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Franciscans International retains the sole responsibility for the content of this publication.

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## Introduction

We, as human beings, are part of nature. Nature is what sustains and governs us, as Saint Francis of Assisi wrote eight centuries ago. Many cultures all over the world recognize this principle. However, it was not expressly accepted in international law until recently, when the United Nations recognized our universal human right to a clean, healthy, and sustainable environment.

The triple planetary crisis of climate change, biodiversity loss, and pollution, that we are facing makes clear the importance and urgency of this recognition. Solving these crises, which are further aggravated by systemic and historical inequalities, requires redefining the one-sided relationship that humans have with nature: we must recognize that human beings are an interconnected part of nature, not separate from it.

Franciscans International has long focused on care for the planet and the dignity of all beings, and how these issues relate to environmental and climate justice. As part of this work, Franciscans International collaborated for years with many allies, including faith-based movements, civil society, Indigenous Peoples, social movements, and local communities, for the recognition of the right to a healthy environment.

This booklet provides a brief overview of the content of this right and the process towards its universal recognition. It also explores how we can effectively promote and work towards the implementation of this and all other human rights. This booklet also draws on the experiences shared by our allies during the workshop “Grassroots Action and The Right to a Clean, Healthy and Sustainable Environment: From Recognition to Implementation” organized by





Franciscans International in December 2023. We are grateful for the participation and generosity of all who joined and contributed their knowledge.

While the situation might seem dire, there are also many examples of advances and victories that have been achieved through collaboration, coordination, and fierce hope. This publication aims to be a source of inspiration and creativity for communities and movements on the ground. It is also an invitation to continue learning, coordinating, and sharing all these lessons whenever possible. Together, across the world, we can all contribute to protecting our beautiful planet.

Finally, as with many other tools, this booklet is not an endpoint. Rather, it aims to inspire continued conversations, interpretation, and the use of this right to strengthen our pursuit of justice. Accordingly, we look forward to continuing discussions and partnerships, as our work to promote and protect the right to a healthy environment continues.

*“Be praised, my Lord, for Sister Earth, our Mother, who sustains us and governs us, bringing forth fruits and vegetables of many kinds and flowers of many colors.”*

**Saint Francis of Assisi**  
*Canticle of the Creatures*







## The road to recognition

The universal recognition by the UN of the right to a clean, healthy, and sustainable environment was five decades in the making. This began with the 1972 Stockholm Declaration, which mentioned the importance of the environment for the right to life, dignity, and well-being. In 1989, the UN Sub-Commission on Prevention of Discrimination and Protection of Minorities appointed Fatma Zohra Ksentini as its Special Rapporteur on human rights and the environment. Her 1994 report included the right to a healthy environment among its draft principles. While this report already followed the 1992 “Earth Summit” in Rio de Janeiro, which noted that human beings “are entitled to a healthy and productive life in harmony with nature,” the UN only expressly recognized this right three decades later.

At the national level, the recognition of the right to a healthy environment developed more quickly, although disparately. Already in the 1970s, some domestic legislation included the protection of the environment as a duty of the State. Portugal was the first country to recognize a right to a healthy environment in its constitution in 1976, followed by Spain in 1978, and Peru in 1979. Over the years, other States followed or included explicit or implicit protections in their domestic laws.

At the regional level, the African human rights system was the first to recognize the human right to a healthy environment in Article 24 of the 1986 African Charter on Human and Peoples’ Rights.<sup>1</sup> A healthy environment is also recognized as a human right in the San Salvador Protocol, which entered into force in 1999.<sup>2</sup> The Aarhus Convention, the Arab Charter on Human Rights, and the Escazú Agreement all contain provisions on this right. Today, over 150 countries recognize the right to a healthy environment in some form through their constitutions, national laws, or regional treaties.

*“The recognition of the right can only help in our fight [...] it is very useful especially in our cases when there is shrinking space for protection of the environment and human rights.”*

**Jaybee Garganera**  
Alyansa Tigil Mina  
The Philippines



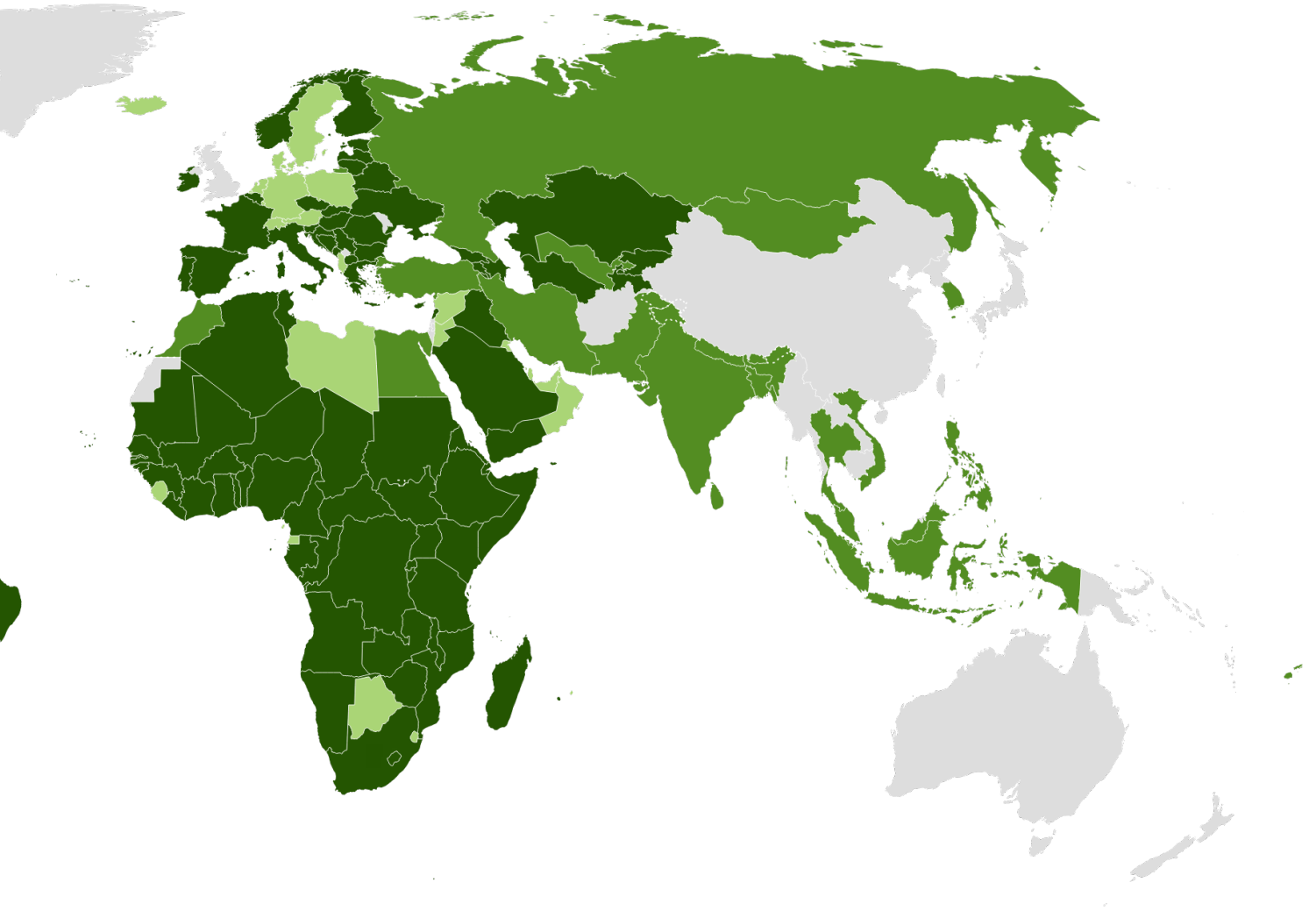


Another major step at the UN toward its universal recognition was taken by the Human Rights Council's first Special Rapporteur on human rights and the environment, John Knox, who recommended the recognition of the right in his final 2018 report to the General Assembly.<sup>3</sup> His successor David Boyd prioritized this objective during his mandate.

This focus was shared by the core group of States working on human rights and the environment, made up of Costa Rica, Morocco, Maldives, Slovenia, and Switzerland, who organized side-events and consultations with States toward recognizing the right. While some States supported and worked towards the universal recognition of the right to a healthy environment, others were opposed. Convincing all UN Member States proved to be a difficult task that required strong coordination. To encourage the advancing negotiations, civil society,

Indigenous Peoples, social movements, and local communities, launched a "Global Call"<sup>4</sup> in September 2020 urging the Human Rights Council to finally recognize this right. The call was supported by over 1,350 entities, sending a loud and clear message to the Council.

On 8 October 2021, after intense consultations and several draft resolutions, the Human Rights Council, in a historic vote, passed a resolution recognizing the right to a clean, healthy, and sustainable environment. The final text also invited the UN General Assembly to consider the matter.<sup>5</sup> Forty-three Human Rights Council members voted in favor, none against, and only China, India, Japan, and Russia abstained. After further negotiations, the General Assembly reaffirmed this resolution by an overwhelming vote of 161 in favor, none against, and just eight abstentions on 28 July 2022.<sup>6</sup>







# The content of the right to a healthy environment

Defining the content of the right to a clean, healthy, and sustainable environment is complex, as is nature and the interconnectedness of all beings. To facilitate its understanding and implementation, it is important to consider the six substantive elements and three procedural elements that compose the right to a healthy environment. All these individual elements are also human rights in themselves.

## Elements of the Right to a Clean, Healthy, and Sustainable Environment

### 6 substantive elements



Clean air



Safe climate



Safe and sufficient water



Healthy and sustainable food



Non-toxic environments to live, work, study, and play



Healthy biodiversity and ecosystems

### 3 procedural elements



Access to information



Public participation



Access to justice

To effectively guarantee the right to a healthy environment, States have the **obligation to protect, respect, and fulfill** each one of these elements separately and in combination. These elements are complementary with each other and with other human rights, in line with the principles of universality, interdependence, and indivisibility of all human rights. Accordingly, in many situations, the protection of a healthy environment is tied to the protection of other human rights, for example the right to life, health, and self-determination. When several rights are impacted, communities can strategically decide to reference multiple rights in their legal or advocacy work. Alternatively, they can decide to focus only on one that is a priority for the people suffering the violations.

When there is an environmental impact, its **consequences are both individual and collective**. It is difficult, and often even impossible, to fully individualize the consequences in a single person. For example, when temperatures are increasing, it affects, among others, the quality of life, food production, and availability of water in a region. When air pollution is at a high, entire communities – not just one person – are impacted. This makes the protection of the right to a healthy environment a matter of public interest and global concern, going beyond the individual interest.

A State's duty to protect the right to a healthy environment includes the obligation to ensure that the activities of **State and non-State actors** do not violate or negatively impact this right and all other human rights. Accordingly, States must effectively regulate and monitor activities that might impact the right to a healthy environment, enforce relevant laws, and hold those that violate or abuse human rights accountable.

For effective protection, **regulations and policies also need to be based on the best available science**, which should be objective, independent, and updated accordingly. States must prioritize the public interest and the protection of human rights, including the



right to a healthy environment in policy-making and implementation. But instead, one of the biggest challenges we face today is corporate influence on governments, authorities, and international bodies, including at the UN. This often hinders establishing and implementing regulations that prevent and protect against environmental harms or facilitate accountability when such negative impacts occur.

The responsibility of States to address violations and abuses of the right to a healthy environment can even extend beyond its borders – that is, **extraterritorially**. Indeed, the International Court of Justice has recognized that the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESR) can be applicable to States when they exercise jurisdiction outside their territory.<sup>7</sup> The International Tribunal for the Law of the Sea (ITLOS) also recently concluded that some State obligations to control harmful emissions of greenhouse gases apply in transboundary settings.<sup>8</sup>

In addition, the Inter-American Court on Human Rights has said that the obligations of States can exceptionally be applied extraterritorially when a State lawfully or unlawfully exercises effective control over an area or over people in another territory.<sup>9</sup> The UN Committee on the Rights of the Child also adopted this perspective in a 2021 decision. It concluded that a State could be responsible for the violation of human rights outside of its territory if there is a causal link between its actions and the violations and if there is effective control by the State regarding these actions.<sup>10</sup>

In the **specific context of business enterprises**, the Committee on the Rights of the Child concluded that States are obliged to provide access to effective remedies for “any harm and climate change-related risks to children’s rights” linked with businesses, as far as there is a “reasonable link between the State and the conduct concerned.”<sup>11</sup> The conclusion of the

Committee is based on the recognition that business activities may pose particular risks to children’s rights, especially if there are transboundary and global impacts.

More generally, the role of business enterprises and transnational corporations deserves extra scrutiny in the context of the right to a healthy environment. Large-scale agricultural, extractive, and energy industries – even some renewable energies – all have negative implications for this right. However, small and medium-sized businesses can equally have harmful impacts on the environment. To safeguard profits and avoid accountability, businesses have sought to weaken or circumvent human rights and environmental protections and exploit legal loopholes.

This can happen both within the State where a company is domiciled and operating, and when it operates transnationally. As the Special Rapporteur on the environment noted in a 2021 report on water, businesses have outsourced many polluting activities from high-income nations to low income-nations, exploiting lower or poorly enforced environmental standards.<sup>12</sup>

More broadly, it is often **those who are most marginalized** that bear the brunt of the adverse impacts of business activities and operations, including environmental and climate change impacts. As such, it is crucial for States to mandate human rights due diligence processes that include environmental and climate change impact assessments, and that they ensure accountability for human rights abuses by businesses. Notably, Indigenous Peoples, alongside Afro-descendants and other marginalized groups, are often disproportionately affected by water, air, and soil pollution as a result of the failure of States to recognize the land and water rights and tenure of these groups.<sup>13</sup>



## Substantive elements



1



**Clean air** is essential for all kinds of life, including human life. Although clean air is an urgent necessity, today 99 out of 100 people breathe air that exceeds the World Health Organization (WHO) guidelines.<sup>14</sup> Globally, 8.1 million people die each year because of exposure to air pollution according to the 2024 State of Global Air Report.<sup>15</sup> Children, the elderly, and people living in poverty, among others, are in more vulnerable situations and disproportionately suffer from these impacts. Moreover, beyond the dangers they pose to humans, air pollutants have been proven to harm biological diversity, ecosystems, and the planet's ability to support life.

The causes of air pollution are pervasive: a 2019 report by the Special Rapporteur on human rights on the environment noted a multitude of activities contribute to ambient air pollution, ranging from electricity generation, transportation, and mining to households using solid fuels for cooking and heating.<sup>16</sup>

States have the obligation to implement and enforce policies and laws guaranteeing clean air. This obligation includes regulating and adequately monitoring air quality, as well as implementing measures to prevent and mitigate the impacts of air pollution. Given that air pollution is transboundary, States must act not just locally, but also at an international level.

Transitioning away from the use of fossil fuels and other contaminants is one measure that should be taken, with States implementing relevant legislation and projects towards an energy transition. Businesses should also reduce their emissions, ensure compliance with laws and regulations towards clean air for all, and be held to account by States in cases of violations.



2



A **safe climate** is essential for the enjoyment of the right to a healthy environment and other human rights. The effects of climate change, including the rise of sea levels and extreme weather events already impact basic necessities such as housing, food production, livelihoods, and water availability. This will continue to increase without adequate measures to address the climate crisis.

At the same time, some of the measures taken to combat climate change, including those related to the so-called 'green transition', may also impact human rights and further degrade the environment. It is also evident that those who have contributed the least to climate change are the most impacted by its consequences. This pattern of abuse and injustice will continue if broad, global structural issues – including current unsustainable models of economic development – are not addressed.

A safe climate is not expressly mentioned in the UN resolutions recognizing the right to a healthy environment because of the opposition of some States. However, climate impacts on human rights are mentioned in the preambular paragraphs. Moreover, human rights bodies, such as the UN Human Rights Committee, the UN Committee on the Rights of the Child, the Inter-American Court on Human Rights, and the European Court on Human Rights, expressly recognized the negative impact of climate change on human rights and thus, the importance of a safe climate for the enjoyment of the right to a healthy environment.<sup>17</sup>

This is especially important for children, youth, and future generations, whose rights and quality of life are at stake if effective measures to halt climate change continue to be delayed. This includes stopping emissions of greenhouse gases, implementing adaptation measures, and prioritizing loss and damage actions to address the harm that has already been caused.





Access to **safe and sufficient water and healthy freshwater ecosystems** are equally vital for humans and nature. This element complements the human rights to water and sanitation. Therefore, States are obliged to implement good management, administration, and protection of water resources.

Policies and laws that are directly related to water or that might lead to water pollution or scarcity should be made from a rights-based perspective. This includes those related to energy, infrastructure, agriculture, urban planning, and even conservation, ensuring access to safe and sufficient water for people and healthy freshwater ecosystems.



This also necessitates a shift in perspective, including for States and businesses, where water is still seen as a commodity and where its industrial and luxury use is prioritized over guaranteeing water as a human right and a substantive element of the right to a healthy environment. Moreover, it necessitates ensuring that businesses are effectively regulated and that they themselves adopt policies to “effectively conserve, protect, restore and ensure the sustainable use of water and freshwater ecosystems.”<sup>18</sup>





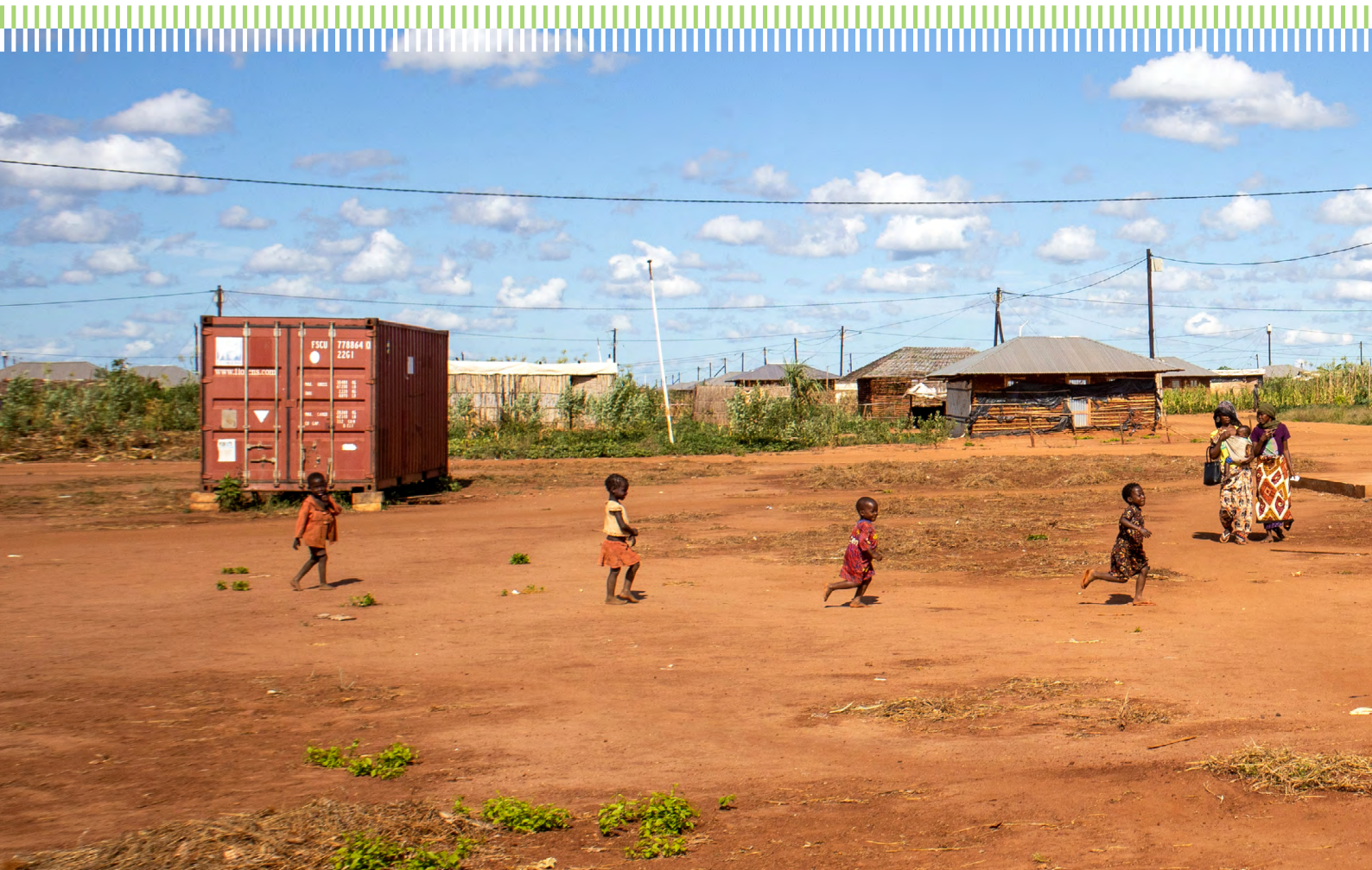
**4 Healthy and sustainable food** refers to the need for food to be produced in a way that avoids harming both the environment and human health. This element is vital considering the industrialization of food production and the use of toxic substances and other practices that cause severe climate and environmental impacts, such as deforestation, water depletion, pollution, and ecosystem and biodiversity loss. These impacts not only affect the right to a healthy environment, but also the right to life, health, and food, amongst others.

Similar to the element on safe and sufficient water, the lack of formal land and tenure rights impacts already vulnerable groups, including by restricting access to land and limiting the ability of communities to produce or gather their own food.<sup>19</sup> Industrial food production, which relies on “input-heavy monocultures, intensive livestock operations and large-scale fisheries and aquaculture,”<sup>20</sup> has been linked to violations of the rights of Indigenous Peoples and other communities whose livelihoods traditionally depend on their land and territories.



**5 Non-toxic environments to live, work, study, and play** is another element of the right to a healthy environment that is inextricably linked to the triple planetary crisis. Exposure to pollution and toxic substances creates various risks and causes harm for individuals in their daily lives. This can range from health consequences to a total inability to carry out activities. As such, a non-toxic environment is a precondition for the enjoyment of other human rights.

This element is crucial considering the disproportionate environmental impacts and human rights violations that poor and historically marginalized communities have been subjected to. In some places, the conditions are so severe that they are now considered ‘sacrifice zones’, a term originally used for areas made uninhabitable by nuclear weapons tests. These exemplify systemic discrimination, colonialism, impunity, and environmental injustice. In order to fulfill this element of the right to a healthy environment States should prevent pollution, eliminate the use of toxics, and rehabilitate contaminated areas.<sup>21</sup>







6



## Healthy biodiversity and ecosystems

are also essential for a healthy environment. Maintaining healthy biodiversity and ecosystems is vital for all living beings, including humans who depend on them for water, food, medicine, and cultural and religious matters, among others. As such, healthy biodiversity and ecosystems are also central to the fulfillment of human rights.

Guaranteeing healthy biodiversity and ecosystems is also important for their own intrinsic value – even when there is no direct relationship to humans. In line with this element, the effective protection of the right to a healthy environment requires the restoration and remediation of ecosystems and their biodiversity when needed.

This is especially important considering the magnitude of biodiversity loss worldwide. Already, 75 percent of land surface is significantly altered 66 percent of the ocean is experiencing an increase in cumulative negative impacts, and over 85 percent of wetlands have been lost.<sup>22</sup> Around 25 percent of animal and plant species are threatened, and about one million face extinction.<sup>23</sup>

Many conservation efforts are implemented with the intention to avoid further extinction of species. While doing so, it is important to make sure that these efforts also protect all human rights, including those of Indigenous Peoples and other rights-holders in the areas to be conserved.





## Procedural elements



The procedural elements of the right to a healthy environment are access to information, participation, and access to justice. These elements are both part of the right to a healthy environment and are independently protected human rights.



1



Every person should have effective **access to information** of public interest, including that related to the environment.<sup>24</sup> Regional treaties, such as the Aarhus Convention and the Escazú Agreement, make it clear that States must make information on the environment publicly available. This includes data on emissions and other substances released to the environment, for example information regarding climate change and the direct link to the extraction and burning of fossil fuels. It also includes information on how effective measures can be implemented to avoid or mitigate certain environmental threats. This can also take the form of alerting communities about risks, such as increased air pollution so that they can take measures to reduce harmful exposure. Making this information publicly available and easily accessible will help to identify and advance effective measures to avoid, or at least reduce, the dire impacts we are facing now.



2



**Public participation** in decisions that are related to the environment is equally vital. This includes the process of evaluating and establishing policies and norms; the assessment of projects and activities that might impact the environment; and suggesting adequate solutions for environmental protection and the reparation of damages. Public participation also benefits States and can help them receive relevant information they should take into consideration for better decisions. Participation should also be ensured keeping in mind the diversity of knowledge and circumstances of people and communities. For example, special measures to guarantee the effective participation of people or communities in vulnerable situations may be needed.

3



Finally, everyone has the right to **access to justice** when information or participation is not granted or when there is a violation of one or more of the substantive elements of the right to a healthy environment. In addition, effective access to justice is also important for the protection of human rights defenders, especially since those working on environmental issues are disproportionately at risk of attacks or harassment. Access to justice includes the possibility to have an effective remedy in court, for example through compensation or enforcement of existing laws.







### **Minors Oposa v. Secretary of the Department of Environment and Natural Resources in the Philippines**

*July 1993*<sup>25</sup>

In 1990, a legal action was brought against the Secretary of the Department of Environment and Natural Resources in the Philippines on behalf of a group of children. The case was brought as a taxpayers' class suit – a group action that can also benefit others outside of the case. It was grounded in Article 2(16) of the 1987 Constitution of the Philippines, which underscores that the State “shall protect and advance the right of the people to a balanced and healthful ecology in accord with the rhythm and harmony of nature.” The case was further based on principles of inter-generational responsibility and inter-generational justice.

The legal action aimed to cancel all existing timber license agreements in the country and prevent the State from granting new ones. Based on scientific information, it was argued that to maintain a “balanced and healthful ecology, the country’s land area should be utilized on the basis of a ratio of fifty-four per cent (54%) for forest cover and forty-six per cent (46%) for agricultural, residential, industrial, commercial and other uses.”<sup>26</sup>

The plaintiffs also argued that the unbalanced use of the land was already causing severe negative impacts on the environment and communities, which included water shortages, salinization of the water, massive erosion, recurrent spells of droughts, increasing velocity of typhoon winds, and the disturbance and displacement of communities and Indigenous Peoples.

Globally, this case pioneered a court accepting an open standing to sue. This means that the court held that the litigation was of public interest, in that it transcended the individuals that presented it and thus represented the interest of all citizens in the Philippines. According to the court, “every generation has a responsibility to the next to preserve that rhythm and harmony for the full enjoyment of a balanced and healthful ecology.”<sup>27</sup> By admitting this case, the Court recognized the need to protect the rights of children and affirmed the “obligation to ensure the protection of that right for the generations to come.”<sup>28</sup>

However, the court also concluded that the timber licenses were under the authority of the executive power, and as such the licenses were not cancelled. Accordingly, while this case set an important precedent on access to justice, it did not achieve its aim to protect the forests.





## People of La Oroya v. State of Perú

March 2024<sup>29</sup>

In 1922, a smelter was established in La Oroya, a small city in the Peruvian high Andes. The smelter first operated during a time when environmental and human rights laws did not exist. In 1997, the government privatized the smelter. Its new operator, the United States based Doe Run Company, significantly ramped up production, using raw material that elevated air pollution. For years, people in La Oroya, who suffered respiratory illnesses and other health issues, denounced the subsequent increase of these problems. The contamination by heavy metals from the smelter included emissions, spills, and soil pollution.

In 1998, a scientist working with local doctors and an environmental organization started to document

the situation. They found that the contamination was mainly due to the emission of lead, sulfuric acid, and cadmium. They also uncovered that the smelter did not take measures to control the emissions. The State was not aware of the situation, nor monitoring the smelter. Additional scientific findings confirmed the risks to the population, especially to women and children. In 1999, research showed that most children had high blood levels of lead. Under US laws and international standards, they should have been receiving urgent medical treatment.

The community, supported by national and international organizations, requested authorities to stop and control the contamination and to take adequate measures to protect people in La





Oroya. This request was based on their right to a healthy environment, enshrined in the Peruvian Constitution since 1993. The community also requested government action to monitor and control the smelter, a full assessment of public health impacts, and to be able to participate in future decision-making processes. Finally, they asked for a comprehensive plan to protect children and others who were more vulnerable to harm from the contamination.

The government denied the evidence presented by the community. Based on information provided by the Doe Run Company, it argued that the high lead levels in children were caused by the fuel from trucks passing through La Oroya and by a lack of hygiene at homes and schools. Instead of taking measures to control contamination from the smelter, authorities started campaigns on handwashing and improving hygiene in cooking.

When advocacy did not work, and recognizing the corporate capture of authorities, the community sued the government in 2004. They requested the protection of their right to a healthy environment, public health, and right to life. In a milestone decision in 2006, the Constitutional Tribunal agreed with the plaintiffs. It ordered the government to implement measures to protect the public health of people in La Oroya by effectively controlling the contamination from the smelter.

Despite the ruling, no such measures were implemented. During the years of litigation and campaigning, the United States and Peru were negotiating a free trade agreement, and the company was lobbying to prevent the inclusion of environmental protection clauses.<sup>30</sup> At the same time, there was a defamation and harassment campaign against the leaders of the “Movement for the Health of La Oroya” (MOSAO), which was mostly formed and led by women. Over time, the situation worsened, and some women were criminalized. Workers from the company also organized protests against the movement, claiming that their jobs were being threatened.

In this context of impunity, eighty inhabitants of La Oroya took the case to the Inter-American Commission on Human Rights in 2006. In March 2024, the Inter-American Court of Human Rights ruled in favor of the people of La Oroya, two years after the Commission had already granted precautionary measures to protect the life and integrity of the people there.<sup>31</sup> In a historic judgement, it concluded that Peru had violated their human rights, including their right to a healthy environment.

The support from the Church throughout this process was essential. At the outset, the local priest defended the company's interests. However, when women from La Oroya contacted their archbishop, he supported the community. Through solidarity work between communities and churches, the Presbyterian Church in Missouri got involved. They were facing similar challenges with another smelter owned by the Doe Run Company. The support from religious organizations helped to counter the continued pressure facing the community and prevented a further escalation of attacks against the movement in La Oroya.

Using the right to a healthy environment, enshrined in the Peruvian constitution, was a key argument to build the case. Because of the direct impacts of air and water pollution on public health, it was evident this case was not only about the protection of the rights of individuals, but also about the need to protect the environment for the benefit of the entire population. The Inter-American Court indeed recognized that this case was not only impacting the individual rights of those involved in the litigation, but of all people living in La Oroya. Accordingly, it ordered remedial measures benefiting everyone in the city.





## Held v. State of Montana, United States

*August 2023 and ongoing on appeal*<sup>32</sup>

In March 2020, sixteen youth in Montana filed a constitutional climate lawsuit against their state. They argued that the continued dependency on fossil fuels by the energy system violated their right to a clean and healthy environment under Montana's state constitution, since their use further exacerbates the climate crisis. The rights to seek safety, health, and happiness, dignity and equal protection under the law were also included in the lawsuit.<sup>33</sup>

During the court proceedings, the youth argued that the climate crisis was already impacting their lands, the state they live in, their personal lives, their physical and mental health, and potentially their future. These impacts also included injuries and damage to their homes, recreational, spiritual, and aesthetic interest, as well as tribal and cultural traditions, economic security, and happiness. They also argued that these impacts were linked to the inaction or counterproductive measures taken by the State of Montana to address climate change.

On 14 August 2023, a State Court judge ruled in favor of the youth, concluding that the State of Montana indeed violated their rights – including their right to a healthy environment.<sup>34</sup> In the ruling, the judge deemed laws that promote fossil fuels as unconstitutional, considering that they ignore the effect of worsening climate change. Thus, they negatively affected the rights of the youth. Montana appealed the ruling and on 11 July 2024, the state's Supreme Court heard oral arguments in the case. At the time of writing, the final decision is still pending.

Regardless of any future decisions, this case has been key in recognizing the standing of younger generations to defend their right to a healthy environment in court, where they can seek positive actions to address the climate crisis. It was also vital because the court recognized the urgency of this crisis and its link with human rights. The court further acknowledges the disproportionate impact of climate change on children, and the link between actions and omissions of a US state regarding the use of fossil fuels that exacerbate the crisis.



# Experiences from the grassroots

The recognition of the right to a healthy environment opens new opportunities for advocacy at the grassroots level. However, the avenues through which to implement the right are still being shaped. In December 2023, Franciscans International organized a consultation with over 60 people from different countries and regions to ascertain whether the right is already utilized on the ground. During the meeting, participants discussed the challenges, opportunities, and needs to operationalize this right to protect people, communities, and the planet.

Given the different regions, countries, and circumstances of participants, the experiences shared were diverse. Participants agreed on the importance of incorporating the right to a healthy environment in their pursuit of justice and its value to strengthen local activities. They also recognized the right as an additional legal and advocacy tool that communities can use.

However, the participants also agreed that many challenges remain to effectively use the right to a healthy environment. The following key issues were raised when exploring the different ways to move forward:

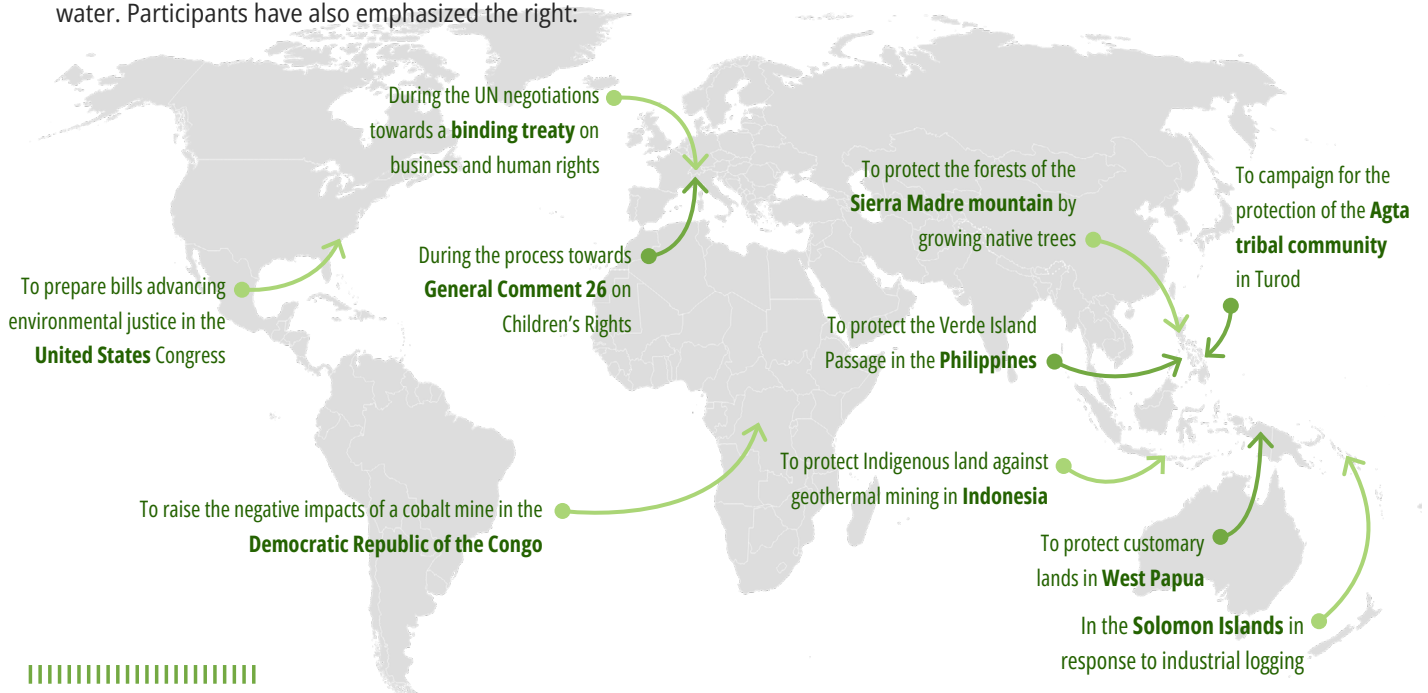


One of the main challenges identified was **the complexity and magnitude** that the use of the right to a healthy environment requires. This includes both understanding and applying the right, and in the approaches and solutions required on the ground. This stems from the fact that the right is related to virtually all other human rights. Achieving its effective protection also implies finding solutions to other structural and systemic problems linked to inequality, exclusion, corporate capture, and colonialism, to name just a few.



## Not starting from scratch: how the right is already used

While the UN recognition of the right to a healthy environment is new, many communities represented during Franciscan International's workshop are already using different elements of the right in their work. For example, in several countries the right has been used to strengthen rights-based work in anti-mining campaigns, to look for alternative livelihoods to stop the *kaingin* slash and burn agricultural system, or regarding the lack of access to clean water. Participants have also emphasized the right:







Other challenges relate to a **lack of capacity, awareness, and resources**.

This includes a lack of information and knowledge about international law and how it can be applied at local, national, and international levels to strengthen ongoing efforts by communities. A lack of time and capacity may also limit civil society's ability to monitor the implementation of measures needed to protect the environment. Participants also reported a lack of communication, coordination, and organization between movements and communities. This is in part because the magnitude of issues people face already overwhelms the capacity of civil society. Indeed, including the right to a healthy environment in advocacy strategies can feel like adding an additional task to an already crowded agenda, if not seen in a holistic way.



Moreover, some situations require immediate action and in some countries the **lack of express recognition or regulation** of how to effectively protect the right to a healthy environment might not bring the solutions that are urgently needed. This may depend on the level of marginalization, the rule of law, and the capacity of States to adopt and enforce legal frameworks

that protect people and place human rights at the center. Certain regions, particularly in the Global South, are facing more challenges than others. Here, environmental degradation and pollution are worse because of the levels of corporate capture, corruption, and illegal activities by non-State actors.



The **weakness of some States**, resulting in corporate capture and the absence of the rule of law is a serious challenge, as is the dysfunctionality of the international system at-large. Although there are national and international laws that should be upheld, the reality in many countries is that widespread corruption and a lack of political will frustrate efforts to protect human rights and the environment. Powerful economic interests do not only condone corruption but also actively exploit and exacerbate it.



The **high risk for people working to protect the environment**, especially in the Global South, was also raised as an obstacle by participants during the workshop. While any human rights work encompasses risk, reports consistently show human rights defenders working on environmental issues are among the most likely





to face attacks and reprisals. Oftentimes, taking a stance against powerful economic interests means that they face risk from both State and non-State actors.



Another important challenge identified are the **false solutions** to address climate change, biodiversity loss, and pollution. In these cases, the harm that may occur outweighs any benefits. These solutions fail to acknowledge the transformation required for climate justice. The development of large solar and wind energy projects, which may have wide-ranging adverse impacts on communities and the environment, were among the examples mentioned by participants.

These concerns echo those raised during UN deliberations such as the Permanent Forum on Indigenous Issues. Here, delegates criticized measures such as carbon pricing and carbon capture that sustain further fossil fuel extractions and distract from actual solutions to the climate crisis. Vigilance is needed, especially in the context of 'greenwashing' initiatives by States, companies, and others, that seek to cover up their negative environmental impacts.



Parallel to these false solutions, there is often a **perceived tension** between the protection of human rights and the development of business projects that, while harming the environment, are marketed as providing much-needed jobs and other benefits. In this context, communities may be presented with a false choice between human rights and economic prosperity.



Finally, the resolutions by the UN Human Rights Council and the UN General Assembly that recognize the right to a healthy environment are **non-binding**. Despite their vote in favor of recognition, some States have already argued that the results do not create any new obligations. However, irrespective of its non-binding nature, the resolutions can be used to strengthen national obligations and spur implementation. In regions and countries that have recognized the right, it can strengthen its protection.





## Recommendations and opportunities

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The path toward environmental justice, like nature itself, is complex, interconnected, and non-linear. Therefore, it is essential to remember that the right to a healthy environment is an additional available tool. As such, it is meaningful only to the extent that it is actually used. Like the cases described above, the realities, requirements, and even the particular situation of those in need should guide how to use this right.

The processes and solutions are neither perfect nor simple. Rather, the use of the right to a healthy environment can be a tool that complements and strengthens the work that is being done – and still needs to be done – in the search for alternative solutions to the current, unsustainable, status quo. There are multiple opportunities and paths that may advance the work toward justice at the grassroots, including those identified by workshop participants.

### Some examples include:

- **Systematically incorporate the right to a healthy environment** in advocacy work and other efforts – whenever appropriate and strategic – to strengthen ongoing work. The human right to a healthy environment should not be understood as just another right or area of work to be covered. Integrating this right in the assessment of situations can help to better understand and elaborate on complex situations, and identify potential solutions, arguments, and allies.
- **Prioritize work and arguments** based on needs, opportunities, and realities. For example, in a place where it is essential to have access to clean water, underscore both the human right to water and that access to safe water is an essential element of the right to a healthy environment. At the same time, in complex situations where different rights are affected, it might make sense to prioritize and organize narratives and actions around those most strategically prudent.
- **Deepen the identification and implementation of alternatives** to developmental models that are behind the triple planetary crisis. Such alternatives can include projects, solutions, programs, and laws based on traditional knowledge that can protect both the environment and human rights, while also promoting the well-being of people and communities.

*“We are working with local communities to counterbalance challenges, disunion, conflicts, and sometimes fear, in a project of Guardians of the Common Home. We are working from a personal, familial, and community perspective on what we can all do to implement changes needed to protect our shared home.”*

**Brenda Peralta**

*Commission for Justice, Peace and Integrity of Creation (JPIC) of the Franciscan Family in Guatemala*

- **Continue and strengthen organization and education.** Raising awareness about the right to a healthy environment at the grassroots and community level may include:
  - Amplifying the understanding and use of existing local and traditional practices for the protection of the environment. Promote decisions that allow for the sustainable use of nature without causing its destruction.
  - Sharing reflections and information on lessons learned in movements and processes – including litigation – which can help empower others.
  - Conducting formal trainings to share information on key issues, including: community monitoring; human rights, environmental, and climate change impact assessments; and Free, Prior and Informed Consent processes.
- **Use existing and complementary resources** to promote a better understanding of what the right to a healthy environment implies and what further actions are needed toward its implementation. Faith-based resources include the Catholic *Laudato Si'* and *Laudate Deum*, and the 2015 statement from the Buddhist leader Thich Nhat Hanh on 'Falling in Love with the Earth'.
- **Conduct advocacy at the local and national level** on concrete cases in collaboration with other like-minded networks and organizations. Actions towards joint advocacy may include:
  - Improving and fostering communication channels and solidarity between environmental human rights defenders, pastoral and social workers, and religious institutions.
  - Coordinating with other people and groups interested in, and empathetic to, environmental protection, including young people.
  - Strengthening and taking advantage of existing coordination spaces.
- Organizing intergenerational spaces of mutual education, where young people can help document and disseminate the knowledge of older generations.
- Strengthening civil society, including faith-based movements and organizations, to foster coherence, solidarity, and support for communities.
- Taking advantage of existing legal frameworks and jurisprudence to identify and utilize opportunities for strategic litigation.
- **Identify complementary actions** that can be implemented to support and facilitate the effective protection of the right to a healthy environment. For instance, encourage churches and other religious institutions to invest ethically, so that their actions can be held up as good examples and promote environmental protection and human rights, including by divesting from fossil fuels. Individual, collective, and institutional accountability for such decisions should also be promoted.
- **Harness the power of international law and treaties** through their effective use. This includes raising the right to a healthy environment through different UN mechanisms, such as the UN Human Rights Treaty Bodies.
- **Advocate for better coordination and transparency** between the United Nations, governmental entities, and other international and regional institutions, including International Financial Institutions, to ensure that the right to a healthy environment is protected, respected, and fulfilled.





# Annex – List of useful materials

## United Nations decisions and reports



**UN General Assembly**  
Resolutions 2994/XXVII, 2995/XXVII and 2996/XXII

Declaration on the Human Environment  
(commonly known as the Stockholm Declaration)

15 December 1972

Available at <https://wedocs.unep.org/bitstream/handle/20.500.11822/29567/ELGP1StockD.pdf>



**UN General Assembly**  
A/CONF.151/26 /Vol. 1

Rio Declaration on Environment and Development  
(commonly known as the Rio Declaration)

12 August 1992

Available at [https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A\\_CONF.151\\_26\\_Vol.I\\_Declaration.pdf](https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A_CONF.151_26_Vol.I_Declaration.pdf)



**UN Human Rights Council**  
Resolution 48/13

8 October 2021

Available at <https://undocs.org/A/HRC/RES/48/13>



**UN General Assembly**  
Resolution 76/300

28 July 2022

Available at <https://undocs.org/A/RES/76/300>



**Implementation of the right to a healthy environment**  
A/78/270

2 August 2024

Available at <https://undocs.org/A/79/270>







## Publications and other resources



### **The Right to a Healthy Environment - a user's guide**

Dr. David Boyd  
April 2024

Available at <https://www.ohchr.org/sites/default/files/documents/issues/environment/srenvironment/activities/2024-04-22-stm-earth-day-sr-env.pdf>



### **A Toolbox - Human Rights, Sustainable Development & Climate Policies: Connecting the Dots**

Franciscans International  
2021 (Update)

Available at [https://franciscansinternational.org/wp-content/uploads/2022/11/FI\\_Toolbox\\_ENG.pdf](https://franciscansinternational.org/wp-content/uploads/2022/11/FI_Toolbox_ENG.pdf)



### **R2HE Toolkit**

A database by NYU Law in collaboration with the UN Environment Programme that maps and analyses several case law and developments regarding the right.

Available at <https://www.r2heinfo.com/>



### **UN Office of the High Commissioner for Human Rights**

Information on their work on climate change and human rights is available at <https://www.ohchr.org/en/climate-change>



# Endnotes

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- 2 Protocol of San Salvador, Art. 11, Organization of American States, available at: <http://www.oas.org/en/sare/social-inclusion/protocol-ssv/docs/protocol-san-salvador-en.pdf>
- 3 Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, A/73/188, July 2018, available at: [https://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/73/188](https://ap.ohchr.org/documents/dpage_e.aspx?si=A/73/188)
- 4 The Time is Now! Global Call for the UN Human Rights Council to urgently recognise the Right to a safe, clean, healthy and sustainable environment, 10 September 2020, available at: <https://healthyenvironmentisaright.org/>
- 5 UN Human Rights Council, Resolution 48/13, 8 October 2021, available at: <https://undocs.org/A/HRC/RES/48/13>
- 6 UN General Assembly, Resolution 76/300, 28 July 2022, available at: <https://digitallibrary.un.org/record/3983329?v=pdf>
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- 13 Ibid, para. 50
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