What is the Right to a Healthy Environment?

Information Note

UNITED NATIONS
HUMAN RIGHTS
OFFICE OF THE HIGH COMMISSIONER

UN environment programme

UNDP

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1 Foreword

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The triple planetary crisis of climate change, biodiversity and nature loss, and pollution is increasingly affecting the human rights of people across the globe. From climate change induced drought that is precipitating hunger and famine around the world, to pollution that is contaminating water sources everywhere, the global environmental crisis is disproportionately impacting the world's most marginalized communities.

In July 2022, the United Nations welcomed the recognition by the General Assembly that a clean, healthy, and sustainable environment is a human right. This recognition followed the UN Human Rights Council resolution 48/13 which acknowledged the right in October 2021. These resolutions represent a landmark achievement in mobilizing to protect the human right to a healthy environment and the interdependent and indivisible human rights which depend on it. Recognition of the right to a healthy environment empowers all people with a critical tool to hold their governments, big polluters and all those responsible for environmental harm to account.

This Information Note aims to improve understanding of the right to a clean, healthy, and sustainable environment and why it matters. Further, the note traces the origins of this right, describes its key elements and highlights the expected benefits of its recognition by the General Assembly. Importantly, the note outlines the roles of different stakeholders in advancing realization of the right. Doing so is imperative to achieve the 2030 Agenda for Sustainable Development because environmental degradation threatens the ability of countries to achieve sustainable and people-centered development. Ultimately, the United Nations Development Programme (UNDP), the United Nations Environment Programme (UNEP) and the Office of the United Nations High Commissioner for Human Rights(OHCHR) hope that this guide will be a tool to galvanize the momentum and action we urgently need to protect and restore our natural world. We commit to working with governments, international organizations, rights-holders, businesses and other relevant stakeholders to ensure the right to a clean, healthy, and sustainable environment becomes a reality for all.

2 Introduction

The right to a clean, healthy and sustainable environment

All people have the right to a clean, healthy and sustainable environment. As human rights and the environment are interdependent, a clean, healthy and sustainable environment is necessary for the full enjoyment of a wide range of human rights, such as the rights to life, health, food, water and sanitation and development, among others.

At the same time, the enjoyment of all human rights, including the rights to information, participation and access to justice, is of great importance to the protection of the environment.[1]

Despite myriad international agreements, as well as national laws and policies, the condition of our environment keeps deteriorating. The global crises we currently face, including climate change, the loss of biodiversity, and pollution, represent some of the biggest threats to humanity, severely affecting the exercise and enjoyment of human rights. Some examples include:

- Rising global temperatures are increasing water shortages and land degradation, including soil erosion, vegetation loss, wildfires, and permafrost, affecting people's rights to life, health, food, water and adequate standard of living, among other rights.

- Air pollution is considered one of the biggest environmental threats to health resulting in an estimated seven million premature deaths every year in violation of the rights to health and life.[2]

- Over 38 million people were newly displaced by climate-related disasters in 2021. This directly affects the enjoyment of the rights to adequate housing, education, health and security, among others. [3]

- Environmental degradation disproportionately impacts persons, groups and peoples already in vulnerable situations. The impacts of the triple planetary crisis augment the structural and other intersecting barriers they face. Some examples of those who have often been and may continue to be disproportionately affected by the triple planetary crisis include:

- Women and girls, as environmental degradation reinforces pre-existing gender inequalities and discrimination on issues such as gender-based violence, and rights of access and tenure over land and natural resources.

- Children who, because of inter alia their less-developed physiology and immune systems, experience the effects of environmental degradation more intensely due to food and water shortages, and transmission of diseases.[4]

- Indigenous Peoples who often face grave and even life-threatening risks for defending the traditional lands, resources and territories upon which their communities depend for survival, livelihoods and religious and customary practices.

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[1] 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 (19 July, 2018). Available at https://documents-dds-ny.un.org/doc/UNDOC/GEN/N18/231/04/PDF/N1823104.pdf?OpenElement

[2] World Health Organization New WHO Guidelines aim to save millions of lives from air pollution (22 September, 2021). Available at https://www.who.int/news/item/22-09-2021-new-who-global-air-quality-guidelines-aim-to-save-millions-of-lives-from-air-pollution

[3] Internal Displacement Monitoring entre (iDMC), Global Report on Internal Displacement 2022. Available at https://www.internal-displacement.org/global-report/grid2022/#:~:text=There%20were%2059.1%20million%20internally,as%20a%20result%20of%20disasters.&text=Typhoon%20Rai%20triggered%20the%20largest%20number%20of%20disaster%20displacements%20in%202021

[4] See concept note of the Committee on the Rights of the Child in relation to the decision to draft a General Comment on children and environment. Available at https://www.ohchr.org/en/treaty-bodies/crc/concept-note-general-comment-childrens-rights-and-environment-special-focus-climate-change

Photo/UN

"Global wellbeing is at risk – and it's in large part because we haven't kept our promises on the environment."

UN Secretary-General António Guterres[5]

There is an urgent need to find innovative ways to enhance environmental protection. The recognition by the General Assembly (GA) of a clean, healthy and sustainable environment as a human right ("right to a healthy environment") is a key development.

This Information Note unpacks the right to a healthy environment and its elements. While States have the obligation to respect, protect and fulfill human rights, the note also addresses the active role that stakeholders such as national human rights institutions, businesses, civil society organizations and individuals, in particular environmental human rights defenders, can play to advocate for its realization.

Further, given the growing impact of businesses on the enjoyment of rights, including the right to a healthy environment, businesses must respect these rights. The note outlines the process of recognition of the right to a healthy environment, what the right to a healthy environment includes and how it benefits the environment and people. It includes guidance on how we can make the right to a healthy environment a reality for all. The note was co-authored by the Office of the United Nations High Commissioner for Human Rights (OHCHR), the United Nations Environment Programme (UNEP), and the United Nations Development Programme (UNDP).

Photo/Zakir Hossain Chowdhury - Right Here, Right Now, Photography 4 Humanity

[5] See "Rescue us from our environmental 'mess', UN chief urges Stockholm summit" (2 June, 2022, UN News). Available at https://news.un.org/en/story/2022/06/1119532.

3 What is the right to a healthy environment?

3. 1. The GA Resolution on the right to a healthy environment

On 28 July 2022, the GA adopted a landmark resolution recognizing the human right to a healthy environment.[6] The resolution, which followed recognition of the right by the Human Rights Council (HRC) in October 2021[7] was an unprecedented decision, adopted with unparalleled support (161 votes in favor, no votes against, and eight abstentions). The GA resolution sends a powerful message that there is widespread, worldwide support for this right – which is already recognized in 156 countries at the national and regional levels.

The GA is the principal policy-making body of the UN. It has universal membership of all 193 UN Member States and is mandated to consider new human rights issues.[9] GA resolutions often call on or require States to take legislative or policy measures to implement domestic constitutional, legislative and policy reform.

The GA resolution on the right to a healthy environment was the result of States' commitment on environmental issues, many years of advocacy and collaboration by national human rights institutions, civil society organizations, Indigenous Peoples, children and young people, and business actors, among others, and supported by UN entities.[10] Putting rights at the centre of addressing the triple planetary crisis – climate change, biodiversity and nature loss, and pollution – is more important now than ever and an imperative for achieving the Sustainable Development Goals (SDGs).

Photo/Linda Ogallo

"The resolution brings much-needed hope back into the climate change conversation, particularly for the Horn of Africa facing a climate-induced crisis."

Linda Ogallo, Climate Change Adaptation Expert at IGAD Climate Prediction and Applications Centre, Nairobi[8]

[6] UNGA, The human right to a clean, healthy and sustainable environment, A/RES/76/300 (28 July 2022).

[7] UNGA, HRC, A/HRC/RES/48/13 (18 October 2021).

[8] UNDP, "Let's get to work! Landmark environmental ruling celebrated worldwide". Available at https://stories.undp.org/lets-get-to-work

[9] UNGA, A/RES/41/120.

[10] UNEP, UNDP, OHCHR, "Joint statement of United Nations entities on the right to healthy environment", (8 March, 2021). Available at https://www.unep.org/news-and-stories/statements/joint-statement-united-nations-entities-right-healthy-environment

Photo/UNDP

"Most recently, the General Assembly recognized that a clean, healthy and sustainable environment is indeed a universal human right. The entire UN family and key partners like the International Union for Conservation of Nature are now working with countries and communities to help them fully leverage legislation to respect, protect and promote the rights of nature in tandem with human rights."

Achim Steiner, UNDP Administrator[11]

From 1972 to now: Recognition of the right to a healthy environment across five decades

In 1972, the UN held its first global environmental conference in Stockholm. States adopted the Stockholm Declaration on the Human Environment, in which the first principle states that people have:

"the fundamental right to freedom, equality and adequate conditions of life, in an environment of a quality that permits a life of dignity and well-being."[12]

Throughout the 1970s, the right to a healthy environment began appearing in national constitutions e.g., Portugal (1976), Spain (1978), Peru (1979), legislation and policy documents.
At the regional level, the right was included in the African Charter on Human and Peoples' Rights (1981), the San Salvador Protocol to the American Convention on Human Rights (1988), the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (**Aarhus Convention** (1998)), the Arab Charter on Human Rights (2004), the ASEAN Declaration on Human Rights (2012), and the Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin American and the Caribbean (**Escazú Agreement** (2018)), among others.

The right was legally recognized in more than eighty percent of UN Member States (156 out of 193 States), prior to the global recognition by the HRC and the GA.[13]

[11] Achim Steiner, UNDP Administrator, speaking at the Opening Ceremony of the 2022 Oslo International Environmental Law Conference, (3 October 2022, Oslo, Sweden). Recording available at https://www.iucn.org/events/iucn-event/2022-oslo-international-environmental-law-conference, at 51m, 24s.

[12] Declaration of the United Nations Conference on the Human Environment. UN Doc. A/Conf.48/14/Rev1 (1973); 11 I.L.M 1416 (1972). Available at http://hrlibrary.umn.edu/instree/humanenvironment.html

[13] See Annex II in A/HRC/43/53 (2019).

Photo/UNEP

"The recognition of the right to a healthy environment is a message to one billion children at extremely high risk of the impacts of a changed climate: a healthy environment is your right. No one can take away nature, clean air and water, or a stable climate from you."

Inger Andersen, Executive Director, UNEP[14]

3. 2. The elements of the right to a healthy environment

While there is not a universally agreed definition of the right to a healthy environment, the right is generally understood to include substantive and procedural elements. The substantive elements include clean air; a safe and stable climate; access to safe water and adequate sanitation; healthy and sustainably produced food; non-toxic environments in which to live, work, study and play; and healthy biodiversity and ecosystems.[15] The procedural elements include access to information, the right to participate in decision-making, and access to justice and effective remedies, including the secure exercise of these rights free from reprisals and retaliation. Realizing the right to a healthy environment[16] also requires international cooperation, solidarity and equity in environmental action, including resource mobilization, as well as recognition of extraterritorial jurisdiction over human rights harms caused by environmental degradation.

Substantive Rights

- Safe climate
- Clean air
- Healthy ecosystems and biodiversity
- Safe and sufficient water
- Healthy and sustainable food
- Non-toxic environment

Procedural Rights

- Access to information
- Public participation
- Access to justice

[14] Inger Andersen, UNEP Executive Director, "Statement by Inger Andersen on UN recognition of the Right to a Healthy Environment" (8 October 2021). Available at https://www.unep.org/news-and-stories/statements/statement-inger-andersen-un-recognition-right-healthy-environment.

[15] A/HRC/43/53 (2019).

[16] Ibid.

4

What are the implications of GA recognition of the right to a healthy environment for people and the planet?

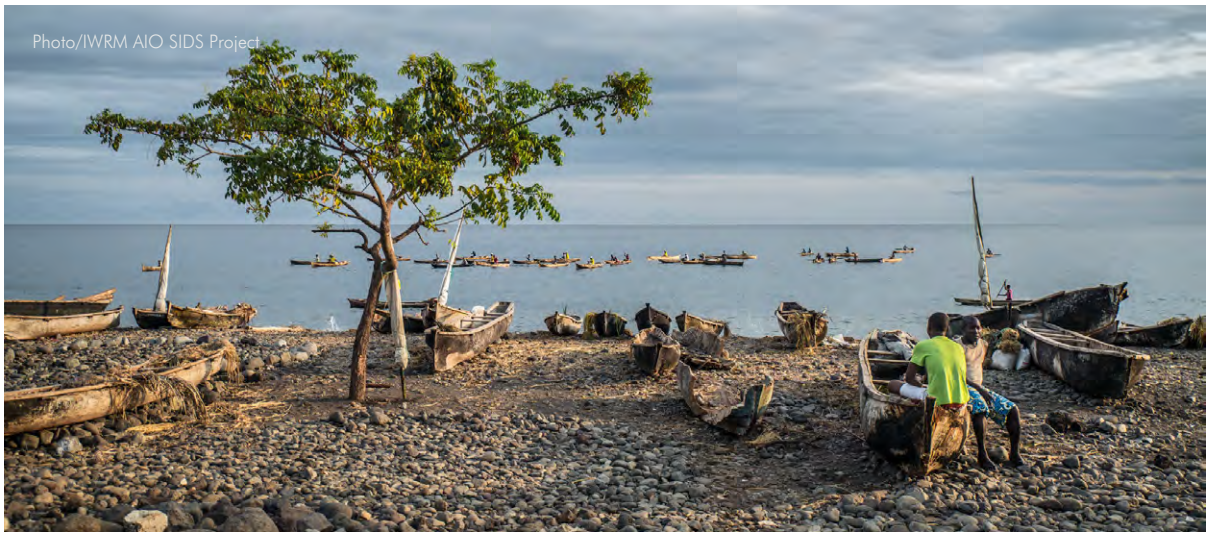
In the past, GA recognition of a human right has catalysed States' efforts to ensure the enjoyment of the right. As such, the GA Resolution on the right to a healthy environment is expected to have many catalytic effects:[17]

- Increased understanding of how environmental degradation threatens the enjoyment of all human rights and how the exercise of human rights contributes to better environmental protection – a virtuous cycle.

- Increased legal acknowledgement of the right in countries that do not recognize the right yet– for instance, presenting a starting point for constitutional and/or legislative reform to recognize this right.

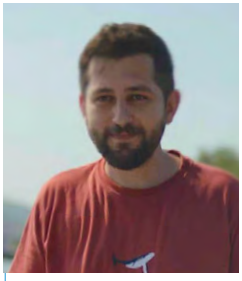
- Increased awareness of the need to address the environment at the societal level.

The GA recognized the human right to access clean water and sanitation in 2010. Since then, several countries have updated their legal frameworks to reflect water and sanitation as human rights, including in national constitutions and legislation; courts in several countries have issued judgments reflecting the recognition of water as a human right; autonomous regulatory bodies for water and sanitation services have been created in several countries; and civil society organizations and grassroots movements have leveraged this recognition to strengthen their efforts in this area.



Photo/IWRM AIO SIDS Project

[17] A/HRC/43/53; see also UN GA Resolution, The human right to water and sanitation, A/RES/64/292 (2010); HRC Resolution, Human rights and access to safe drinking water and sanitation, A/HRC/RES/15/9 (2010).



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"The definition of a clean environment as a human right by countries strengthens the struggle of citizens in the field of environmental protection. In lawsuits filed against companies regarding damage to the environment, not only will a decision be taken about polluting the environment, but also human rights will be taken into consideration. This will be the driving force for companies to be environmentally conscious."

Oğuz Ergen, Climate Activist, Founder of the Social Climate Association, Türkiye.[18]

- Strengthened implementation and enforcement in countries where the right is already recognized.

- Enhancement of the enjoyment of rights holders, and the accountability of duty bearers to respect, protect and fulfill the right to a healthy environment; for example, the right to a healthy environment can serve as an additional legal basis or reference for environmental-related cases in national and international courts and tribunals.

- Strengthened mechanisms to guarantee the protection of environmental human rights defenders.

- Enhanced responsibilities for the private sector to respect the human right to a healthy environment including throughout their supply chains and human rights due diligence.

- Increased support for an enhanced, integrated response to the triple planetary crisis by States and the UN system.

- Promotion of the free, active and meaningful participation of the public and affected populations in issues related to a right to the healthy environment.

In 2021, several Haitian children petitioned the **Inter-American Commission on Human Rights** to investigate human rights violations stemming from waste disposal in their residential district.

The Petition to the Inter-American Commission on Human Rights Seeking to Redress Violations of the Rights of Children in Cité Soleil, Haiti (2021) states that climate change is exacerbating harms to children through environmental displacement and exacerbation of waterborne diseases.

Petitioners allege violations of the American Convention on Human Rights' provisions on the rights of the child (Article 19), the right to privacy (Article 11), the right to live in a healthy environment (Articles 4, 26), and the right to judicial protection (Article 25).

[18] UNDP, "Let's get to work! Landmark environmental ruling celebrated worldwide". Available at https://stories.undp.org/lets-get-to-work.

5 Advancing a rights-based approach to environmental protection

A human rights-based approach (HRBA) to environmental protection is a critical tool for empowering those impacted by environmental activities and enhancing accountability for those making decisions and undertaking environmental activities. The HRBA integrates all human rights, including the right to a healthy environment and its substantive and procedural elements mentioned above as well as human rights principles such as inclusivity and universality, equality and non-discrimination, and accountability.

A HRBA identifies and strengthens the relationship between 'duty bearers' with human rights obligations and 'rights holders' who are empowered to hold duty bearers to account and to enjoy access to effective remedies for violations.

Rights-based approaches to environmental decision-making and policy development can provide the following benefits, among others:

- Establishment of consistent global environmental human rights standards to facilitate interventions at the appropriate levels (local, national, regional and international).

- Strengthened capacities of States to meet their human rights and environmental obligations in a coherent manner, , including their duty to ensure that private entities/non-State actor respect human rights.

- Enhanced accountability by enabling people to uphold their rights and hold States and other stakeholders to account.

- More effective, legitimate and sustainable outcomes.

Photo/OHCHR

"A rights-based approach is not only helpful but even essential to stimulating the many urgent actions needed to achieve the Sustainable Development Goals."

David Boyd, UN Special Rapporteur on human rights and the environment.[19]

[19] A/HRC/43/53 (2019).

Photo/UN WebTV screen capture

"The universal recognition of the human right to a clean, healthy and sustainable environment provides a powerful and effective response that we hope will catalyse transformative changes in our societies"

Maritza Chan Valverde, Costa Rican ambassador to the United Nations, on behalf of the core group, presenting the GA resolution on the right to a healthy environment before the vote.[20]

Framework Principles on Human Rights and the Environment[21]

Former Special Rapporteur on human rights and the environment, John Knox, developed 16 principles for States to implement human rights in the context of the environment. These included:

Principle 3: States should prohibit discrimination and ensure equal and effective protection against discrimination in relation to the enjoyment of a safe, clean, healthy and sustainable environment. ·

Principle 5: States should respect and protect the rights to freedom of expression, association and peaceful assembly in relation to environmental matters.

Principle 6: States should provide for education and public awareness on environmental matters.
·

Principle 7: States should provide public access to environmental information by collecting and disseminating information and by providing affordable, effective and timely access to information to any person upon request.

Principle 9: States should provide for and facilitate public participation in decision-making related to the environment and take the views of the public into account in the decision-making process.

Principle 10: States should provide for access to effective remedies for violations of human rights and domestic laws relating to the environment.

Principle 13: States should cooperate with each other to establish, maintain and enforce effective international legal frameworks in order to prevent, reduce and remedy transboundary and global environmental harm that interferes with the full enjoyment of human rights.

Principle 14: States should take additional measures to protect the rights of those who are most vulnerable to, or at particular risk from, environmental harm, taking into account their needs, risks and capacities.

[20] Introductory statement to the General Assembly, "The human right to a clean, healthy and sustainable environment" (28 July 2022). Vote available at https://www.youtube.com/watch?v=IdIlHYsTdeQ

[21] Framework Principles on Human Rights and the Environment", (UN Report, 2018), A/HRC/37/59 Available at https://www.ohchr.org/en/special-procedures/sr-environment/framework-principles-human-rights-and-environment-2018

Photo/Adrianne Walters

"Climate change is exacerbating the racialised environmental, social and economic injustices that colonisation was founded on, posing acute threats to Aboriginal and Torres Strait Islander peoples' rights to Country, culture and wellbeing."

Adrianne Walters, Associate Legal Director, Human Rights Law Centre, Australia.[22]

A rights-based approach is essential for the effective elaboration and implementation of policies related to a healthy environment and is inextricably linked to the concepts of environmental and climate justice.

Both environmental and climate justice emphasize the importance of empowering the people and groups that are particularly affected by and most at risk from environmental degradation including Indigenous Peoples, women, children, the elderly, persons with disabilities, and people living in poverty.[23]

According to a 2022 report of the Intergovernmental Panel on Climate Change (IPCC) "climate justice comprises justice that links development and human rights to achieve a rights-based approach to addressing climate change."[24]

The IPCC goes on to describe how equitable, rights-based approaches that are inclusive and participatory lead to more sustainable, effective and legitimate outcomes and are essential for climate resilient development.[25]

Ensuring all communities can participate in decision-making processes and have access to information and justice in relation to environmental matters is paramount.

Environmental justice is an evolving concept. It is generally understood as seeking "equitable treatment and involvement of people of all races, cultures, nations, and socioeconomic backgrounds in the development, implementation, and enforcement of environmental programs, laws and policies."[26] It requires accountability in environmental matters, and a focus on respecting, protecting and fulfilling environmental rights, as well as the promotion of environmental rule of law.

Similarly, while **climate justice**[27] has no fixed definition, the Summary for Policy-Makers of Working Group II of the Intergovernmental Panel on Climate Change developed as part of its Sixth Assessment Report states that climate justice "generally includes three principles: distributive justice which refers to the allocation of burdens and benefits among individuals, nations and generations; procedural justice which refers to who decides and participates in decision-making; and recognition which entails basic respect and robust engagement with and fair consideration of diverse cultures and perspectives."[28]

[22] Human Rights Law Centre (Australia), "ACT government must enshrine the right to a healthy environment in law", (2022). Available at https://www.hrlc.org.au/news/2022/9/8/act-government-must-enshrine-the-right-to-a-healthy-environment-in-law

[23] A/HRC/34/49 (2017).

[24] IPCC Report (2022) p. 7. Available at https://www.ipcc.ch/report/ar6/wg2/downloads/report/IPCC_AR6_WGII_SummaryForPolicymakers.pdf

[25] Ibid., p. 29.

[26] UNDP "Environmental Justice: Securing our right to a clean, healthy and sustainable environment", (2022) p. 13.

[27] Ibid.

[28] IPCC Report (2022), p. 7. Available at https://www.ipcc.ch/report/ar6/wg2/downloads/report/IPCC_AR6_WGII_SummaryForPolicymakers.pdf

Photo/Sara Omi

"It is time … to effectively recognize the rights that have to do with territories and the good practices that Indigenous peoples contribute to the effects of climate change, and for the non-criminalization of environmental defenders who defend life."

Sara Omi, President, Territorial Women Leaders of Mesoamerica and Embera and Lead Advisor, Embera Women Craftswomen's Association, Panama.[29]

Equitable benefit sharing and, more significantly, equitable sharing of the negative impacts, burdens and risks is an essential feature of environmental justice and the human rights-based approach.

Further, enhanced engagement with communities and groups that are disproportionately impacted by environmental degradation may help to identify previously invisible impacts and find creative, practical solutions.

UN Photo/Lucien Rajaonina

[29] UNDP, "Let's get to work! Landmark environmental ruling celebrated worldwide". Available at https://stories.undp.org/lets-get-to-work

6

Making the right to a healthy environment a reality for all

Photo/Indonesian Center for Environmental Law

"It is more than just constitutional jargon. We have to translate it into solid national policy. It should also be inherent in political decisions. We recommend conducting a thorough policy evaluation to ensure that every policy properly promotes the right to a safe and healthy environment. Also, we are calling the future generation in Indonesia and throughout the world to be optimistic!"

Isna Fatimah, Deputy Director, Indonesian Center for Environmental Law.[30]

The adoption of the GA Resolution on the right to a healthy environment as well as its recognition and inclusion in national legal frameworks represents only the beginning of the action needed to ensure the effective enjoyment of this right by all. What happens next will depend on how States and other stakeholders, such as businesses, respond and comply at domestic, regional and international levels.
The human right to a healthy environment should be integrated into cross-disciplinary decision-making and policy, such as development, conservation, education and training. It should also be considered in economic policies and business models, as the right has been described by former UN High Commissioner Michelle Bachelet as providing "vital guardrails" against human rights violations and environmental harm.[31]

Photo credit/Valery Del Carmen Salas Flores

"What is different now is that the world leaders realize the damages caused by environmental stressors and the impact they have on people's lives. That makes it easy for us to move forward in engaging the leaders to push for better funding for climate action, gender-just and gender sensitive climate policies, and for engaging youth in decision-making."

Fatou Jeng, Founder and Director of the youth-led non-profit Clean Earth Gambia.[32]

[30] UNDP, "Let's get to work! Landmark environmental ruling celebrated worldwide". Available at https://stories.undp.org/lets-get-to-work

[31] "UN General Assembly declares access to clean and healthy environment a universal human right", (28 July 2022) UN News. Available at https://news.un.org/en/story/2022/07/1123482.

[32] UNDP, "Let's get to work! Landmark environmental ruling celebrated worldwide". Available at https://stories.undp.org/lets-get-to-work

Photo/OHCHR

"We need strong national commitments for action, with an emphasis on participation by environmental human rights defenders, indigenous peoples, and civil society groups representing the communities that are most at risk – as well as support from business actors, cities and other active stakeholders."

Michelle Bachelet, former UN High Commissioner for Human Rights[33]

6.1 Who has a role in realizing the right to a healthy environment?

The duty to uphold the right to a healthy environment lies first and foremost with States who have an obligation to respect, protect and fulfil all human rights. At the same time, everyone has an important role to play in making the right to a healthy environment a reality. The GA resolution calls upon "States, international organizations, business enterprises and other relevant stakeholders to adopt policies, to enhance international cooperation, strengthen capacity-building and continue to share good practices in order to scale up efforts to ensure a clean, healthy and sustainable environment for all."[34]

States – implementation on domestic level:
As primary duty-bearers, every State has an "obligation to respect, protect and promote human rights, including in all actions undertaken to address environmental challenges, and to take measures to protect the human rights of all … and that additional measures should be taken for those who are particularly vulnerable to environmental degradation."[35] This involves adopting appropriate constitutional, legislative and policy reforms as well as strengthening capacity to scale-up efforts to ensure a healthy environment for all. For example, adopting a rights-based approach to the development, content, monitoring and implementation of nationally determined contributions, biodiversity strategies and action plans, and climate adaptation plans. It also includes making sure those who need it have access to justice and remedy. Armed non-State actors exercising government-like functions also have obligations to respect and protect human rights in areas under their control.

Aarhus Convention and the Escazú Agreement

The Aarhus Convention[36] and the Escazú Agreement[37] protect the procedural elements of the right to a healthy environment. Both multilateral environmental agreements stem from principle 10 of the 1992 Rio Declaration on Environment and Development. These instruments protect the rights to information, access to justice and public participation in environmental matters and support environmental human rights defenders in exercising their human rights, including the right to a healthy environment. For instance, the Aarhus Convention established the world's first Special Rapporteur on environmental defenders, while the Escazú Agreement was the first multilateral environmental agreement to specifically recognize the important role of environmental human rights defenders (EHRDs). Both instruments demonstrate the commitment of State parties to protect and promote the work of EHRDs and realize the right to a healthy environment.

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[33] Michelle Bachelet, former UN High Commissioner for Human Rights, "Global update at the 42nd session of the Human Rights Council", (Statement, 9 September 2019). Available at https://www.ohchr.org/en/statements/2019/09/global-update-42nd-session-human-rights-council.

[34] UN GA, A/RES/76/300, paragraph 4

[35] IPCC Report (2022) p. 7. Available at https://www.ipcc.ch/report/ar6/wg2/downloads/report/IPCC_AR6_WGII_SummaryForPolicymakers.pdf

[36] UNECE, "Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention)", (25 June, 1998, Aarhus, Denmark). Available at https://unece.org/DAM/env/pp/documents/cep43e.pdf

[37] CEPAL, "Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean", (4 March 2018, Escazú, Costa Rica). Available at https://www.cepal.org/en/escazuagreement

Photo/UN

"The promotion of the human right to a clean, healthy and sustainable environment requires the full implementation of the multilateral environmental agreements under the principles of international environmental law."

GA Resolution 76/300[38]

States – international cooperation: States have an obligation to cooperate internationally to realize the right to a healthy environment for all people.[39] Relevant future initiatives by UN Member States at the regional and international level should uphold the right to a healthy environment of present and future generations.

States may adopt or accede to multilateral environmental and human rights agreements, on issues related to a healthy environment, its protection and its impact on the enjoyment of wide range of rights.

Courts and oversight mechanisms: International, regional and domestic courts should take active measures to respect, protect and fulfil the right to a healthy environment. They should also ensure effective remedies for violations of the right to a healthy environment in consultation with affected individuals and communities. UN human rights mechanisms, such as the UN human rights treaty bodies, as well as national oversight mechanisms and bodies can also play a leading role in advancing the right to a healthy environment.

National Human Rights Institutions (NHRIs): NHRIs play an important role in monitoring and reporting on the human rights impacts of climate change, providing rights-based advice to governments to implement States' international obligations, supporting access to justice and means of redress, supporting communities to participate in decision-making and providing education on human rights impacts of climate change and policies.[40]

Businesses: Businesses have a responsibility to respect human rights and national legal frameworks must provide victims of corporate abuses with access to effective remedies. The UN Guiding Principles on Business and Human Rights[41] articulate the minimum duties of States with respect to human rights. With respect to environmentally impactful activities, States must ensure that businesses perform environmental and human rights impact assessments and due

The Commission on Human Rights of the Philippines conducted a National Inquiry on Climate Change. The Inquiry[42] and its report focused on the contribution of the carbon majors (the world's biggest polluters from the private sector) to the climate crisis and found there was a legal basis to hold them accountable. The National Inquiry on Climate Change which was based on a petition filed in 2015 by various non-governmental organizations (led by Greenpeace and the Philippine Rural Reconstruction Movement (PRRM) and thousands of individuals against 47 investor-owned, fossil-fuel and cement companies, including Shell, ExxonMobil, Chevron, BP, Repsol, Sasol and Total, is an important illustration of the role that people exercising their rights and NHRIs supporting them can play in the climate discourse.

[38] UN GA, A/RES/76/300.

[39] UN Charter Articles 55 and 56.

[40] Global Alliance of National Human Rights Institutions (GANHRI), "Climate change and NHRIs." Available at https://ganhri.org/ganhri-and-climate-change/

[41] A/HRC/17/31.

[42] Republic of the Philippines Commission On Human Rights, National Inquiry on Climate Change. Available at https://chr.gov.ph/nicc-2/

Photo/Paul Polman

"Recognising the human right to a healthy environment is not only a critical step for humanity, it is a golden opportunity to be seized by corporate boards and executives. Smart business leaders understand that healthy companies depend on a healthy planet and healthy societies. A stable climate, clean air and water, thriving nature, a strong and healthy workforce – these are fundamental to creating a resilient and prosperous private sector, which in turn drives innovation, increases living standards, and creates millions of jobs and lasting growth. The Human Right to a Healthy Environment is not simply a moral imperative, it is a tremendous win for the private sector and we must all act together to implement it."

Paul Polman, Business Leader and Campaigner, Former CEO of Unilever

diligence, provide access to information to affected individuals and communities, and engage in community consultation and transparent decision-making. Businesses must respect the right to a healthy environment and should seek to proactively advance it through responsible business practice.

Development finance institutions (DFIs): DFIs' mandates, functions and operations may differ, however most are explicitly mandated to support sustainable development, poverty reduction and avoid harming people and the environment. DFIs mandates are underpinned by normative frameworks on responsible business conduct (RBC) for the private sector, in particular the UN Guiding Principles on Business and Human Rights (UNGPs) and the human rights chapter of the OECD Guidelines on Multinational Enterprises (OECD Guidelines). They must ensure that the projects they finance do not harm people, and that effective remedy is readily available for any potential victims.[43]

Civil society organizations (CSOs): CSOs can play a central role in providing expertise and relevant knowledge on environmental rights. Many represent the voices and perspectives of those most likely to be directly affected by environmental problems and related policies and work to create space for the direct participation of affected people and communities in environmental decision-making. These organizations can bring needed attention to emerging environmental issues as they reach out to their respective communities and the public at large.

The Human Rights Committee

The Human Rights Committee recently released its decision regarding a complaint about Australia brought by eight Indigenous Torres Strait Islanders and their children. The Committee concluded that "by failing to discharge its positive obligation to implement adequate adaptation measures, Australia violated the complainants' rights to enjoy culture and to be free from arbitrary interferences with their rights to home, private life and family".[44] It ordered Australia to provide an effective remedy to the complainants, and to take steps to prevent similar future violations.

[43] OHCHR, Remedy in Development Finance: Guidance and Practice, available at: https://www.ohchr.org/sites/default/files/2022-03/Remedy-in-Development.pdf

[44] Human Rights Committee, CCPR/C/135/D/3624/2019, 22 September 2022

Photo/Kirim Foto Bambang Wirawan - Right Here, Right Now, Photography 4 Humanity

Individuals: As rights holders, individuals, including young people, play a crucial role in the realization of the right to a healthy environment for present and future generations. They do this by participating in environmental decision-making processes and holding decision-makers and businesses to account through mobilization, complaints to oversight bodies and litigation.

Environmental Human Rights Defenders (EHRDs) act as agents of change in protecting the environment and standing up for communities and individuals who are disproportionately impacted by environmental harm.

For years, EHRDs have been at the front line as advocates for sustainable practices and rights-based development, and in holding duty bearers and businesses accountable for unsustainable practices that violate human rights including the right to a healthy environment.

EHRDs, in particular women environmental rights defenders, often face acts of intimidation or reprisals in advocating for their rights and adequate safeguards and protections need to be in place to support their work.

In South Africa, in 2019, groundWork and the Vukani Environmental Movement, represented by the Centre for Environmental Rights, brought a constitutional claim against South Africa's Minister of Environmental Affairs. They argued the continuing poor ambient air quality in the Highveld Priority Area – an area in the Mpumalanga Highveld region polluted by 12 coal-fired power stations, a refinery and numerous coal mines – constituted a violation of the constitutional right "to an environment that is not harmful to … health and well-being".[45]

The South African High Court declared the poor air quality in the region was a breach of residents' constitutional right as the Minister unreasonably delayed preparing and initiating air quality regulations. The High Court directed the Minister to prepare air quality regulations within 12 months and specified relevant considerations for developing the regulations such as enhancing reporting of air quality and emissions.[46]

[45] The Constitution of the Republic of South Africa 1996, article 24. Available at https://www.justice.gov.za/legislation/constitution/saconstitution-web-eng.pdf

[46] Republic of South Africa, In The High Court of South Africa (Gauteng Division Pretoria), Case No: 39724/2019. Available at http://www.saflii.org/za/cases/ZAGPPHC/2022/208.pdf

Photo/Yessie Mossby

"If we can fight to save our home, then [all people who suffer against climate change] can fight to save their homes as well, knowing that the door now has already been opened"

Yessie Mossby, Torres Strait Islander and complainant to the Human Rights Committee[47]

6.2 What is the UN's role in advancing the right to a healthy environment?

The UN supports States to accelerate the implementation of the right to a healthy environment. This is done through raising awareness, providing technical assistance and advisory services, capacity-building and education – including to key actors like national human rights institutions and civil society organizations. The UN human rights mechanisms play an important role in monitoring and supporting the implementation of human rights, including the right to a healthy environment.

The UN also drives innovative solutions to "address the common bottlenecks affecting the entire environment agenda, which will in turn accelerate the implementation of the 2030 Agenda."[48] This includes identifying opportunities for cross-disciplinary integration of the right to a healthy environment, including in areas like conservation, climate action, sustainable development finance, pollution control, anti-corruption and good governance.

Finally, the UN plays a crucial role in supporting environmental human rights defenders, including women environmental rights defenders, and raising awareness of the role they play in realizing the right to a healthy environment. The UN acts as a convener creating safe and inclusive spaces and platforms for different stakeholders to share experiences and good practices on implementation of the right to a healthy environment.

UN Sustainability Strategy 2020 – 2030

In December 2018, the Secretary-General of the United Nations asked the system to raise the level of its internal ambitions and intensify its efforts to combat climate change from within. At the climate summit he had called for, which was held in September 2019, the Secretary-General highlighted that the United Nations was "walking the talk" on environmental sustainability and climate change. This request raised the profile of the mandate from senior officials of the UN Environment Management Group to develop an internal sustainability vision and strategy for the UN beyond 2020 in order to confirm the Organization's leadership aspirations in the area of internal environmental and social sustainability and to show that the UN aligns its own performance with the principles that it has pioneered internationally . The UN Sustainability Strategy 2020 – 2030 integrates environmental and social sustainability in UN system policies, programming and support functions. By doing so it aligns UN actions with human rights including the right to a healthy environment.

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[47] Marian Faa, ABC News Australia, "UN Human Rights Committee finds Australia violated Torres Strait Islanders' rights by failing to protect them from climate change" (23 September 2022). Available at https://www.abc.net.au/news/2022-09-23/un-finds-australia-violated-torres-strait-islanders-rights/101470524.

[48] GA President Abdulla Shahid quoted in UN News, "Rescue us from our environmental 'mess', UN chief urges Stockholm summit", (2 June 2022). Available at https://news.un.org/en/story/2022/06/1119532.

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Local people in the Wetlands of rural areas in West Bengal, India, collect the lilies from the wetland and sell them in local market for their daily wages. These lilies are eaten by people as a food as it helps to keep the stomach cool and digestion system working properly.

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