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■ UNPACKING THE RIGHT TO A HEALTHY ENVIRONMENT

HOW NATIONAL AND REGIONAL LAWS
AND JURISPRUDENCE CLARIFY THE SCOPE
AND CONTENT OF THE UNIVERSAL RIGHT



UNIVERSAL RIGHTS GROUP

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EXECUTIVE SUMMARY

On 8 October 2021, the United Nations Human Rights Council adopted its historic resolution 48/13 recognizing the human right to a clean, healthy and sustainable environment (hereinafter ‘right to a healthy environment or R2HE’) by a vote of 43-0-4.¹ Although the fundamental link between environmental protection and the enjoyment of human rights has long been acknowledged, and the right to a healthy environment itself has already been widely recognized at national and regional levels, HRC resolution 48/13 was the first formal recognition of the right to a healthy environment at the global level.

Soon after, on 28 July 2022, the United Nations General Assembly followed suit and adopted resolution 76/300 by a resounding vote of 161-0-8. This was one of the most widely supported UNGA resolutions, with 95.3 per cent support from the international community, and provided further political weight to the recognition that everyone, everywhere has the right to live in a clean, healthy and sustainable environment. The UN Secretary General welcomed the resolution as a ‘landmark development’² and the Executive Director of the UNEP hailed it as a ‘victory for people and the planet.’³

Notwithstanding, some States have emphasized the legally non-binding nature of HRC and UNGA resolutions and expressed concern that the scope and legal content of the right have not been clearly defined, arguing that it has neither been established in customary nor conventional international law and must therefore be the object of intergovernmental negotiations before the right can have true meaning for rights-holders and duty-bearers. This report aims to address these objections and concerns, by demonstrating the extent to which R2HE has been the object of increasing legislative and jurisprudential developments at national and regional levels. These, in turn, continue to inform the legal content of the right at the international level. They also showcase how global recognition increasingly serves as a catalyst for systemic and transformative change, in a similar manner to how past UN resolutions, such as the one recognizing the right to water,⁴ resulted in a ‘cascade of

positive changes that have improved the lives of millions of people.’⁵

The fact that the foundational human rights instruments, i.e. the Universal Declaration of Human Rights (1948), the International Covenant on Civil and Political Rights (1966), and the International Covenant on Economic, Social and Cultural Rights (1966) do not explicitly recognize the right to a healthy environment is not a matter of substance but rather of timing,⁶ as these instruments were drafted before the emergence of the modern environmental movement. Indeed, the first explicit international recognition of the intersection between environmental protection and human rights came with the first UN Conference on the Environment, held in 1972 in Stockholm (Stockholm Conference). The Stockholm Declaration proclaimed that the natural environment was ‘essential’ for the enjoyment of basic human rights, including the right to life itself. Its first principle indeed recognized the necessity of ‘an environment of a quality that permits a life of dignity and well-being.’⁷

However, in the half century between the initial international acknowledgement—that environmental protection and the enjoyment of human rights are interrelated, interdependent and mutually reinforcing—and the formal international recognition, through the adoption of the twin HRC and UNGA resolutions, that everyone, everywhere has a right to a healthy environment, most States gave effect to R2HE through national legislation and/or regional agreements. Indeed, today, there are at least 110 States where R2HE enjoys constitutional protection, 101 States that have incorporated the right into national and 126 of largely overlapping States that have ratified regional treaties that include recognition of the right. Taken together, this means that more than 80 per cent of UN member States (156 out of 193) now legally recognise the right to a safe, clean, healthy and sustainable environment, in different formulations and phraseologies, and with varying degrees of enforcement and impact.

In turn, as this report demonstrates, the legal provisions enshrining R2HE have given rise to an increasing number of legal proceedings in which the right is claimed to enhance the protection of the planet and its people. This corroborates the extensively documented trend of increasing recourse to rights-based legal arguments for the protection of environmental interests - a phenomenon referred to as the ‘greening of human rights’ whereby courts and human rights bodies have interpreted universal rights to compel States and corporations to take steps to protect the environment upon which effective enjoyment of those rights depends.

Rights-based approaches to environmental litigation have become particularly prominent in climate change litigation, notably after the recognition of the human rights dimensions of climate change in the Paris Agreement of 2015 bolstered a ‘rights-turn’ in climate litigation.⁸ Prior to 2015, studies recorded 19 rights-based climate cases whereas between 2015 and 2021, 148 climate cases were recorded involving rights language or arguments across 38 national jurisdictions and 11 international judicial or quasi-judicial bodies (amounting to a 778% increase).⁹

Moreover, at least 42 of these climate cases invoke the right to a healthy environment, seemingly pointing to the catalysing effects that international developments can have on litigation strategies, given the many examples of international law influencing national court decisions relating to R2HE. For example, the Stockholm Declaration influenced decisions of the Supreme Court of India protecting the implicit constitutional R2HE.¹ In another example, R2HE in the African Charter led Kenyan and Nigerian courts to make important rulings finding R2HE to be an essential part of the constitutional right to life (even though it is not explicitly articulated as such in either the Kenyan nor Nigerian Constitutions).¹ Likewise, Costa Rican and Colombian courts have cited the San Salvador Protocol in cases involving R2HE.¹ This also makes strategic sense as the right to a healthy environment is known to reduce costs, decrease delays

and minimise risks associated with pursuing other judicial remedies.

However, few cases have to-date considered the broader context of how R2HE has been increasingly invoked not only to address the climate emergency but also to combat the other two components of the triple planetary crisis, namely air pollution and biodiversity loss. There also exists little analysis of how this emerging body of practice clarifies the substantive and procedural elements that comprise the right to a healthy environment, as developed by national and regional laws and cases affirming, applying, and refining the right in a variety of different contexts. Research conducted in the context of this report analysed various examples of laws promulgating the R2HE, as well as 48 notable judicial cases involving the right to a healthy environment. The charts, which can be found in Appendix, provide a representative sample rather a comprehensive compendium of these R2HE cases and laws. They serve to infer broad trends and demonstrate the core transversal elements that constitute the substantive and procedural elements of R2HE.

For example, they show the geographical imbalance in the distribution of R2HE litigation, with Latin America and Africa responsible for most emerging R2HE jurisprudence (with 42.7% and 31.3% respectively), followed by Europe (with 14.6%), Asia (with 6.3%) and North America (with 4.2%). This could partially be the result of Latin American and African countries having been much earlier adopters of the right. For example, both the San Salvador Protocol (1988) and the African Charter on Human and Peoples’ Rights (1981) both recognise R2HE. Interestingly, these figures contrast sharply with statistics compiled by other authors regarding the geographical distribution of human rights based climate litigation that does not invoke R2HE, in which of the 89 cases identified, most took place in Europe (38.2%), followed by Asia (21.3%), Latin America (21.3%), North America (20.2%), and then Africa (4.5%), perhaps reflective of regional differences in



Ashaninka children watch the Ene River in front of their village of Boca Sanibeni, in an area that would be flooded by Pakitzapango Dam, Peruvian Amazon. April 2012.

Photo by Tomás Muñita, Flickr.

levels of carbon emission.¹⁰ In a demonstration of how the greening of human rights have also affected quasi-judicial international bodies, such as the human rights treaty bodies, the final 15.7% correspond to international jurisprudence.

Moreover, while the **substantive components** of the right to a healthy environment have been developed differently across jurisdictions, the following most prevalent components identified have been:

1. The protection and conservation of ecosystems, including special protections for fragile ecosystems and ecosystems of special importance
2. The protection of biodiversity within and across ecosystems
3. The protection of the climate system and its integrity
4. The protection against toxic pollution of the land, water, and air
5. The protection of the environmental minimum
6. The duty to regulate
7. Protecting vulnerable groups
8. Incorporating and ensuring compliance with international law, standards and commitments
9. Other potential substantive components of the R2HE

Procedurally, this same body of practice establishes the processes and procedures required by the right to a healthy environment. These procedural elements do not guarantee particular outcomes; nevertheless, adhering to them improves a fair process and decision-making, thus amplifying the likelihood of outcomes that are better for people and the environment.

The most prevalent **procedural components** of the right to a healthy environment include:

1. Environmental impact assessments
2. Access to information
3. Avenues for participation
4. Access to justice and effective remedy
5. Monitoring
6. Duty to Cooperate
7. Environmental education

From there, the report identifies the principles that have been applied by courts and legislatures from around the world to implement R2HE and make decisions that are consistent with its substantive and procedural guarantees.

These cross-cutting principles include:

1. The precautionary principle
2. The prevention principle
3. The principle of non-regression
4. The polluter pays principle
5. Sustainable development
6. Intergenerational equity and responsibility
7. Ecocentrism and the intrinsic value of nature
8. Gender equity
9. Consistency with the best available science
10. Respecting Local and Indigenous wisdom
11. Transboundary Harm and Extraterritoriality

The report continues by discussing the steps that both courts and legislatures have taken according to their specific roles and functions to improve the implementation of the right to a healthy environment and ensure it has material impact on the ground and within communities.

Specifically, **legislatures** have passed laws that improve implementation of R2HE by:

1. Providing inclusive definitions of the R2HE and what it entails
2. Detailing measures to be taken to realise R2HE
3. Setting up implementing bodies, mechanisms, and institutions
4. Creating causes of action, and
5. Specifying remedies

And **courts**, for their part, have taken steps to actualise and enforce R2HE by:

1. Providing flexibility for standing requirements
2. Easing the burdens associated with proving causation
3. Articulating methods to guarantee baseline protections in fact-specific circumstances
4. Identifying and providing remedies, including protection and restoration measures, the creation of implementing bodies or compliance mechanisms, and compensation

Though the bulk of this report focuses on describing the contours of R2HE practice around the world, it is centrally concerned with what this body of practice means for efforts to protect and promote the right going forward, especially in light of the historic UN Human Rights Council and General Assembly votes to recognise the right to a healthy environment as an international human right. With this objective in mind, this report concludes with an assessment of the gaps in R2HE practice and a note on the steps countries, government bodies, corporations, and others can take to ensure a safe, clean, healthy, and sustainable environment for generations to come.



Photo by David R. Boyd on Twitter. @SREnvironment



Photo by Maritza Chan on Twitter. @MaritzaChanV

INTRODUCTION

Two decades into the new millennium, humanity stands at a crossroads. As a species, we face overlapping and existential ecological threats; what we do over the course of the next decade will determine whether we head down a pathway of restoration, healing the planetary wounds harming humans and non-humans alike, or one where further environmental degradation and destruction risks ecological collapse, with profound consequences for communities and societies around the world.

To chart a path forward – towards restoration, not collapse – we need at our disposal tools that can target the drivers of these ecological threats – namely, climate change, biodiversity loss, and toxic pollution – and the harms they generate.

The right to a healthy environment (R2HE) is one such tool and, indeed, a powerful one at that.

Most countries around the world recognise the right to a healthy environment through their constitutions, laws, and / or accession to regional treaties incorporating the right – and have done so for years.¹¹ Moreover, regional treaties already recognise R2HE: the San Salvador Protocol,¹² the African Charter,¹³ the ASEAN Human Rights Declaration,¹⁴ and the Arab Charter on Human Rights.¹⁵ R2HE is also included among the economic, social and cultural rights protected by the American Convention.¹⁶

Recently, this global recognition was bolstered by the UN Human Rights Council and General Assembly, which passed in October 2021 and June 2022, respectively, resolutions formally recognising the right to a healthy environment as an international human right.

Given the widespread recognition of this right, there is a sizable body of practice comprising its judicial and legislative implementation around the world. In other words, courts and legislative bodies have been grappling with how best to implement the right to a healthy environment for years. And that means that efforts to implement and improve compliance with the right to a healthy environment is not starting from square one – far from it.

This report examines this body of practice, namely the features and best practices associated with the global implementation of the right to a healthy environment. In doing so, it aims to contextualise the recent recognition of R2HE, shedding light on how countries, courts, and civil societies can ensure that international R2HE materially improves the lives of individuals and communities around the world. In that spirit, it concludes with recommendations on how countries can strengthen the implementation of R2HE and, in the process, tackle the defining ecological challenges of the twenty-first century.



Photo by Naja Bertolt Jensen on Unsplash



WHAT IS THE RIGHT TO A HEALTHY ENVIRONMENT?

Recognition that human welfare is dependent on the environment is not new. Quite the opposite – it’s very old: for millennia, cultural and spiritual traditions around the world have reflected humanity’s place within the natural world and its web of life and underscored our species’ reliance on the components of nature for survival.

Legal recognition of this link between human wellbeing and the welfare of the natural world, however, has been a more recent development. As the consequences of accelerating economic activity and material consumption have become increasingly apparent in the twentieth century, government actors around the world have taken steps to integrate concern for the environment into law. In particular, as human rights law matured and environmental destruction and degradation increasingly threatened the panoply of human rights – including the rights to life, health, food, and culture – States around the world recognised a domestic **right to a healthy environment** in order to preserve, protect, and promote the components of the environment on which all humans depend. For decades, through the adoption of treaties and laws as well as the rulings of courts, a substantial majority of countries have recognised the right to a healthy environment. And now, with the 2021 Human Rights Council and 2022 General Assembly resolutions affirming the right to a healthy environment as an international human right, international law does too.

Around the world, this right to a healthy environment has been phrased in varying terms, including:

1. The right to a balanced and healthful ecology;¹⁷
2. The right to a general satisfactory environment favourable to [peoples’] development;¹⁸
3. The right to live in a healthy environment that is ecologically balanced, pollution-free and in harmony with nature;¹⁹
4. The right to an environment that is conducive to health and to a natural environment whose productivity and diversity are maintained;²⁰
5. The right of everyone to live in a benevolent environment.²¹

For the purposes of this report, the varied terminology used in different jurisdictions will be consolidated under the umbrella term “right to a healthy environment” or ‘R2HE.’

The remainder of this section will cover the who, what, and how of the right to a healthy environment: who has duties under R2HE, what the individual and collective dimensions of the right are, and how R2HE relates to other human rights.

Responsibility under R2HE: States, corporations, and individuals

Everyone has a role to play when it comes to the right to a healthy environment: States, corporations, and individuals. Though the bulk of practice related to the right to a healthy environment has focused on the obligations the right creates for governments, laws and judicial decisions around the world make clear that corporations and individuals have responsibilities too when it comes to fulfilling the substantive and procedural guarantees of R2HE.²²

Further, as the below examples show, courts around the world have also been vocal regarding interactions between governments, companies, and individuals that may touch upon the R2HE. For example, governments are usually ultimately held responsible for failing to hold corporations to the established rules and regulations²³ and corporations may have their business relations scrutinised.²⁴

Because these responsibilities are determined in each respective jurisdiction, a spectrum of responsibilities have been created. Yet, generally speaking, **governments** have both negative and positive obligations under R2HE. This means that they must, on one hand, refrain from certain actions that would infringe on the various substantive and procedural components of the right and, on the other, take concrete steps to preserve, protect, and promote the right and its components.

Laws and judicial decisions can provide important clarity about the government actors and the responsibilities they have in implementing the right to a healthy environment. A review of such laws and decisions shows that the type of State actors most often held responsible for implementing the R2HE are:

- The overall State;²⁵
- Specific branches of government, including:
 - The Executive Branch: the President of the republic,²⁶ specific agencies, departments and ministries (e.g., Ministry of Environment and Health),²⁷ Secretaries,²⁸ the Attorney General;²⁹
 - The Legislative Branch;³⁰
 - Provincial, municipal, city and other local governments,³¹ and local government leaders (e.g., mayors and governors).³²

Some of the specific actions that legislatures and courts have ordered government actors to perform in order to ensure their compliance with the substantive and procedural components of R2HE include:

- Preventing environmental harm via the regulation, supervision and monitoring of State and corporate activities that may threaten R2HE;³³
- Mitigating and compensating for environmental damage;³⁴
- Following or devising and implementing mitigation plans;³⁵
- Safeguarding an ecological minimum standard of living;³⁶
- Conducting comprehensive and participatory scientific studies to ascertain the extent of environmental and human health damage;³⁷
- Abstaining from carrying out actions, infrastructure works or undertakings on Indigenous and protected areas that could affect its existence, value, use or enjoyment by communities;³⁸





Professor John Knox, UN Special Rapporteur on human rights and the environment from 2012 to 2018.

Photo by Universal Rights Group

- Abstaining from promoting polluting activities and from ordering, requiring, authorising, tolerating or allowing third parties to carry out actions, infrastructure works or undertakings on Indigenous and protected areas;³⁹
- Ensuring prior, adequate, free and informed consultations to affected communities before any action that could affect R2HE is taken within their territory;⁴⁰
- Directing multiple levels of government and various types of public institutions on specific principles to follow and steps to take to protect ecosystems and R2HE.⁴¹ In cases where legislation works in the other direction – to prevent governmental bodies from fulfilling R2HE – courts have stepped in to remedy the issue.⁴²

The reach of R2HE doesn't end with government actors, however. Critically, in many jurisdictions, legislators and courts have expressly affirmed that R2HE creates duties for **corporations and companies** as well. Importantly, in many jurisdictions people and organisations can bring claims against corporations to protect their constitutional right to a healthy environment.⁴³ The importance of this express inclusion of corporations in the ambit of R2HE cannot be overstated given the driving role corporations play in environmental degradation in many contexts.

Company and corporate actors that have been held responsible for implementing R2HE through court rulings range from:

- State-owned companies that provide public services related to R2HE, such as running water and sewer services,⁴⁴ administrating resources and promoting sustainable development,⁴⁵ and incentivising transnational trade;⁴⁶
- Different levels of multinational conglomerates and domestic companies involved in a wide range of activities, such as metal mining,⁴⁷ oil and gas industry operations,⁴⁸ lead-acid batteries recycling,⁴⁹ and the development of sugar plantations;⁵⁰
 - This includes companies identified as 'Carbon Majors' – big oil, natural gas, coal and cement companies responsible for a majority of the world's historic industrial carbon emissions;⁵¹
- Owners, directors and shareholders of limited liability companies;⁵²
- Corporate officials that hold permits or licenses under their name, such as when mining officials are holders of mining concessions.⁵³
- Creation of an action plan that counteracts environmental degradation through police, judicial or administrative measures;⁶³
- Compliance with State and court monitoring requirements on activities that may threaten R2HE;⁶⁴
- Financial compensation to be used in remediation of the environment and community services.⁶⁵

While a rare case, the R2HE has also been previously used by companies to protect their own business interests. In South Africa, a national association of gasoline stations successfully convinced the Constitutional Court to prohibit a competitor from opening an oil filling station based on the protection of the right to a healthy environment.⁶⁶

As the examples above show, legislation and court rulings on R2HE may apply to **individuals** in their official governmental or corporate capacity. However, individuals in their personal capacity also have their own responsibilities when it comes to ensuring a safe, healthy, clean and sustainable environment for all. Indeed, most global legislation and court rulings emphasise the dual nature of R2HE – while it provides a privilege, it also entails a responsibility.

These laws and rulings also emphasise that all individuals are held responsible for protecting R2HE, especially those whose use of property and economic activities directly or indirectly affect the environment.⁶⁷ In Bhutan, for example, the Waste Prevention and Management Act reiterates the right to a healthy environment as well as corresponding individual duties to protect the environment, stating that a 'person has the right to a safe and healthy environment with equal and corresponding duty to protect and promote the environmental well being of the country.'⁶⁸ Similarly, the Environmental Code of Burkina Faso affirms the right to a healthy environment while underscoring that all natural and legal persons have a duty to promote

Most judicial decisions against corporations involve the failure of the procedural requirements of R2HE, for example, the carrying out of an environmental impact assessment,⁵⁴ the adherence to a public participation requirement,⁵⁵ or breaching a stop notice that would have harmed biodiversity.⁵⁶ To remedy these and substantive violations of R2HE, courts have largely ordered:

- Cessation of any acts or omissions violating R2HE,⁵⁷ including by declaring permits and licenses null and void;⁵⁸
- Mitigation of environmental harm;⁵⁹
- Implementation of government recommendations to rectify violations of R2HE, including clean up and remediation of contaminated environments,⁶⁰ and restoration of public services;⁶¹
- Conditioning permits and licenses on alternative methods that are more in line with R2HE;⁶²

The individual and collective dimensions of the right to a healthy environment

a healthy environment.⁶⁹ And likewise, Eritrean law provides that environmental governance must comply with environmental rights and duties, noting specifically that ‘every person in Eritrea has the right to a clean, healthy and scenic environment and the corresponding duty to protect the environment against pollution and degradation as well as to contribute individually and/or collectively to the maintenance and enhancement of the environment.’⁷⁰

Enforcing this, in Brazil, it was the Federal Public Ministry – an arm of the government – that brought a case against an individual for violations of R2HE. In this case, the court issued a preliminary decision ordering a farmer to remove a cattle herd that caused deforestation on the farms he was occupying and exploiting illegally in violation of the constitutional right to a healthy environment.⁷¹ In this way, the court emphasised the role that individuals, especially in their use of property, have to play in respecting the environment and others’ fundamental rights.

The right to a healthy environment protects people individually as well as collectively.

Individually, the right grants people substantive and procedural guarantees that protect them from harms associated with environmental degradation and destruction, and ensures their access to a safe, clean, and healthy environment in which they can live and satisfy their individual needs.

Collectively, the right protects the access of groups, communities, and generations to healthy, clean, and safe environments in which they can live and satisfy their needs.

Courts around the world have affirmed the individual and collective dimensions of R2HE.⁷² Indeed, in a watershed opinion by the Inter-American Court of Human Rights on the relationship between human rights and the environment, the court explained that, ‘the human right to a healthy environment has been understood as a right that has both individual and also collective connotations. In its collective dimension, the right to a healthy environment constitutes a universal value that is owed to both present and future generations. That said, the right to a healthy environment also has an individual dimension insofar as its violation may have a direct and an indirect impact on the individual owing to its connectivity to other rights, such as the rights to health, personal integrity, and life. Environmental degradation may cause irreparable harm to human beings; thus, a healthy environment is a fundamental right for the existence of humankind.’⁷³



Guanga, Ecuador. Photo by Azzedine Rouichi on Unsplash.



The Bolivian Constitution recognises the dual dimensions of the right as well, declaring that '[p]eople have a right to a healthy, protected and balanced environment. The exercise of this right must be granted to individuals and collectivities of present and future generations, as well as to other living beings, so they may develop in a normally and permanent way.'⁷⁴

And, in a recent decision, the Constitutional Court of Ecuador similarly affirmed the two dimensions of the right, underscoring in particular that, 'the right to a healthy environment is recognised to each person in a particular way, but at the same time . . . from a collective notion, which encompasses the population as a whole.

This collective notion also refers to the recognition of the ownership of this right to population groups in relation to the environment in which they find themselves. In this last sense, the ownership of communities, towns, cities or other jurisdictions may be considered, cities or other jurisdictions.'⁷⁵

The right to a healthy environment and its relationship to other rights

The right to a healthy environment does not exist in isolation: R2HE and other universal human rights are interrelated and interdependent, as has been repeatedly affirmed by courts and lawmakers around the world.⁷⁶

Violations of the right to a healthy environment, moreover, often generate harms that, in turn, violate core rights like the rights to life, health, and livelihood. Indeed, in a case dealing with the toxic pollution of the Atrato River and surrounding area due to illegal mining, the Constitutional Court of Colombia made clear that environmental degradation that violates the right to a healthy environment can also violate other fundamental rights, like the rights to food and health. It stated, 'the protection of the environment as a constitutional right [is] intimately linked with life, health and physical, spiritual and cultural integrity.'⁷⁷

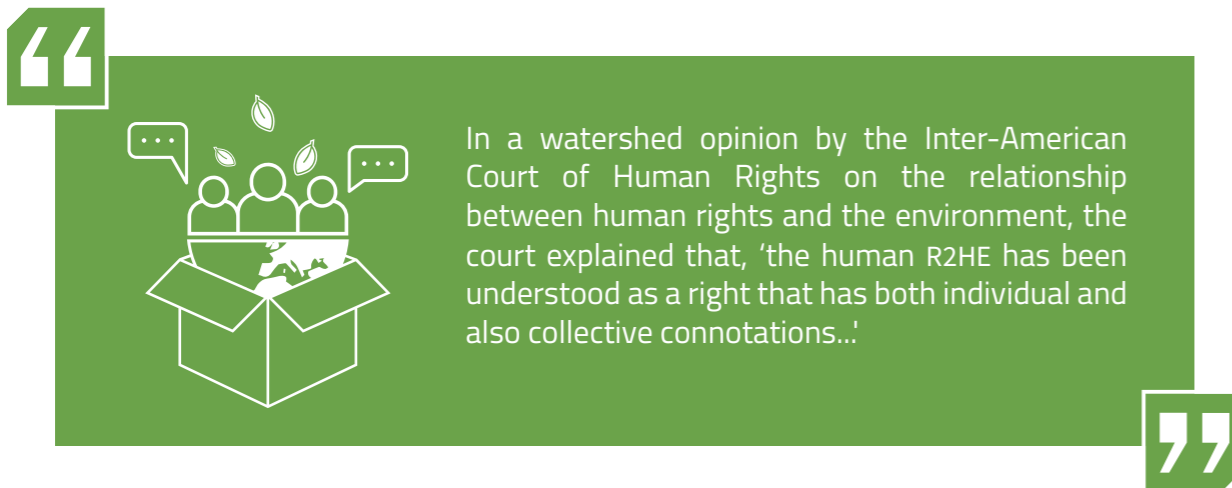
a. Putting the right to a healthy environment on par with other rights and concerns

Though R2HE is indeed inextricably linked to other fundamental human rights, it is – crucially – just as vital as other core rights. One of the benefits of the formal recognition of the right to a healthy environment is that it reinforces R2HE's status as a co-equal right. In other words, formal recognition of the right to a healthy environment puts it on par with other rights and concerns. This means that in specific instances where R2HE conflicts with other rights, especially those related to the disposition of property and economic development, the former does not always concede to the latter.

Indeed, there are many instances in which courts have found that the right to a healthy environment takes precedence over corporate and economic activity. The Constitutional Court of Hungary, for example, found that steps taken by the government to increase the amount of land open for development – namely, by incorporating land in protected natural areas into acquirable land – violated R2HE because it reduced environmental protection without being necessary to secure another constitutional aim or right.⁷⁸

In the Philippines, moreover, the Supreme Court upheld the government's cancellation of timber licenses as part of its administrative effort to review license grants given increased concern over the destruction of domestic forests. In doing so, the court emphasised that, '[w]hile there is a desire to harness natural resources to amass profit and to meet the country's immediate financial requirements, the more essential need to ensure future generations of Filipinos of their survival in a viable environment demands effective and circumspect action from the government to check further denudation of whatever remains of the forest lands. Nothing less is expected of the government, in view of the clear constitutional command to maintain a balanced and healthful ecology.'⁷⁹

Courts in South Africa,⁸⁰ Costa Rica,⁸¹ Chile,⁸² Guatemala,⁸³ and Colombia,⁸⁴ among others, have all also affirmed the high-level importance of the right to a healthy environment, demonstrating in specific cases that it often takes precedence over competing concerns, including economic activity and financial gain.





Aquaculture supports coastal livelihoods.

Photo by AusAID.



SUBSTANTIVE COMPONENTS OF THE RIGHT TO A HEALTHY ENVIRONMENT

The R2HE contains both substantive and procedural elements. A component of the right is substantive – instead of procedural – when it provides a guarantee of a baseline, material outcome. Procedural components of the right, on the other hand, are outcome-neutral: they guarantee the use of and access to certain processes, not particular outcomes from those processes.

This section focuses on the substantive elements of the R2HE, as identified in domestic laws and judicial decisions around the world.⁸⁵ Case law on the substantive components of R2HE is especially instructive, as many courts have expressly identified the different legal guarantees protected by the right.

In Colombia, courts have specified the precise substantive content of R2HE, explaining that the right means that states must:

1. Protect [environmental] diversity and integrity,
2. Safeguard the natural wealth of the Nation,
3. Conserve areas of special ecological importance,
4. Promote environmental education,
5. Plan the management and use of natural resources in order to guarantee its sustainable development, its conservation, restoration or substitution,
6. Prevent and control the factors of environmental deterioration,
7. Impose legal sanctions and demand the reparation of the damages caused to the environment and
8. Cooperate with other nations in the protection of ecosystems located in border areas.⁸⁶

The protection and conservation of ecosystems, including special protections for fragile ecosystems and ecosystems of special importance

Similarly, the Inter-American Court of Human Rights addressed the substantive obligations associated with the right to a healthy environment in its 2017 Advisory Opinion on the Environment and Human rights, noting that the right involves the following obligations: ‘(a) guaranteeing everyone, without any discrimination, a healthy environment in which to live; (b) guaranteeing everyone, without any discrimination, basic public services; (c) promoting environmental protection; (d) promoting environmental conservation, and (e) promoting improvement of the environment.’⁸⁷

The right’s substantive guarantees have both negative and positive dimensions, meaning that R2HE both prohibits States and other actors from taking certain actions that would degrade and destroy the environment while also requiring that governments and other actors take affirmative actions to protect and preserve environmental quality and prevent and redress environmental harms. These two dimensions of R2HE were highlighted by the Peruvian Constitutional when it explained that the negative dimension of R2HE required individuals and the State to, ‘abstain from carrying out any type of act that affects the balanced environment adequate for the development of human life’ while the positive dimension ‘imposes on individuals and the State tasks or obligations aimed at conserving the balanced environment, which are translated, in turn, into a set of possibilities. This not only implies conservation tasks, but also prevention and, evidently, repair or compensation for damage caused.’⁸⁸

The remainder of this section examines the specific substantive obligations that have been identified by courts and legislatures around the world through the steps they have taken to actualise the right to a healthy environment.

Ecosystems provide people and communities with a range of outputs that make human society possible – from clean water and food to pollination and waste regulation. These benefits are called ecosystem services. Unhealthy and unstable ecosystems cannot provide robust ecosystem services, which endangers the ability of people and communities to satisfy their basic needs.

As a result, the right to a healthy environment protects ecosystems, including their integrity and capacity to self-regulate. Given the negative and positive dimensions of this right in practice, States and other actors must, on one hand, refrain from taking actions that disrupt ecosystems and their ability to self-regulate and regenerate,⁸⁹ and on the other, take steps to protect and preserve ecosystems and their well-being. R2HE, in other words, entails an obligation to ‘ensure the preservation of ecology and life,’ as noted by the Constitutional Court of Guatemala.⁹⁰ Explaining this in more detail, the Constitutional Court affirmed that ‘the preservation of the ecological balance entails taking the necessary measures to prevent damage to the environment and, if damage was caused, those that are necessary to restore that balance.’⁹¹

If ecosystems are especially fragile or particularly important – due to, for example, their status as a biodiversity hotspot – States, corporations, and individuals are subject to heightened requirements. This means that State and non-State action that interferes with the health of special or fragile ecosystems is subject to stricter scrutiny and greater restrictions while at the same time requiring that States and others take more substantial actions to conserve these ecosystems and prevent harm. In Colombia, for example, the right to a healthy environment entails a State obligation to ‘conserve areas of special ecological importance,’ like the Páramo.⁹²

Legislation and policy, in addition to court rulings, emphasise the importance of protecting the integrity of ecosystems as part of the actualisation of the right to a healthy environment. The Environmental Bill of Rights for the Canadian province of Ontario, for example, provides that the right to a healthful environment includes ‘the protection and conservation of natural resources, including plant life, animal life and ecological systems’

and ‘identification, protection and conservation of ecologically sensitive areas or processes,’ in addition to the protection and conservation of biological diversity, protection against harmful pollution, and the wise management of natural resources.⁹³



Sumapaz Paramo, Sumapaz National Park, Colombia.

Photo by Michael (a.k.a. moik) McCullough

The protection of biodiversity within and across ecosystems

The protection and preservation of biodiversity within and across ecosystems is also a core substantive component of the right to a healthy environment. Though court rulings across jurisdictions affirm the importance of preserving biodiversity as part of the right to a healthy environment, legislation around the world has been especially proactive in defining the steps that must be taken to protect and promote biodiversity.

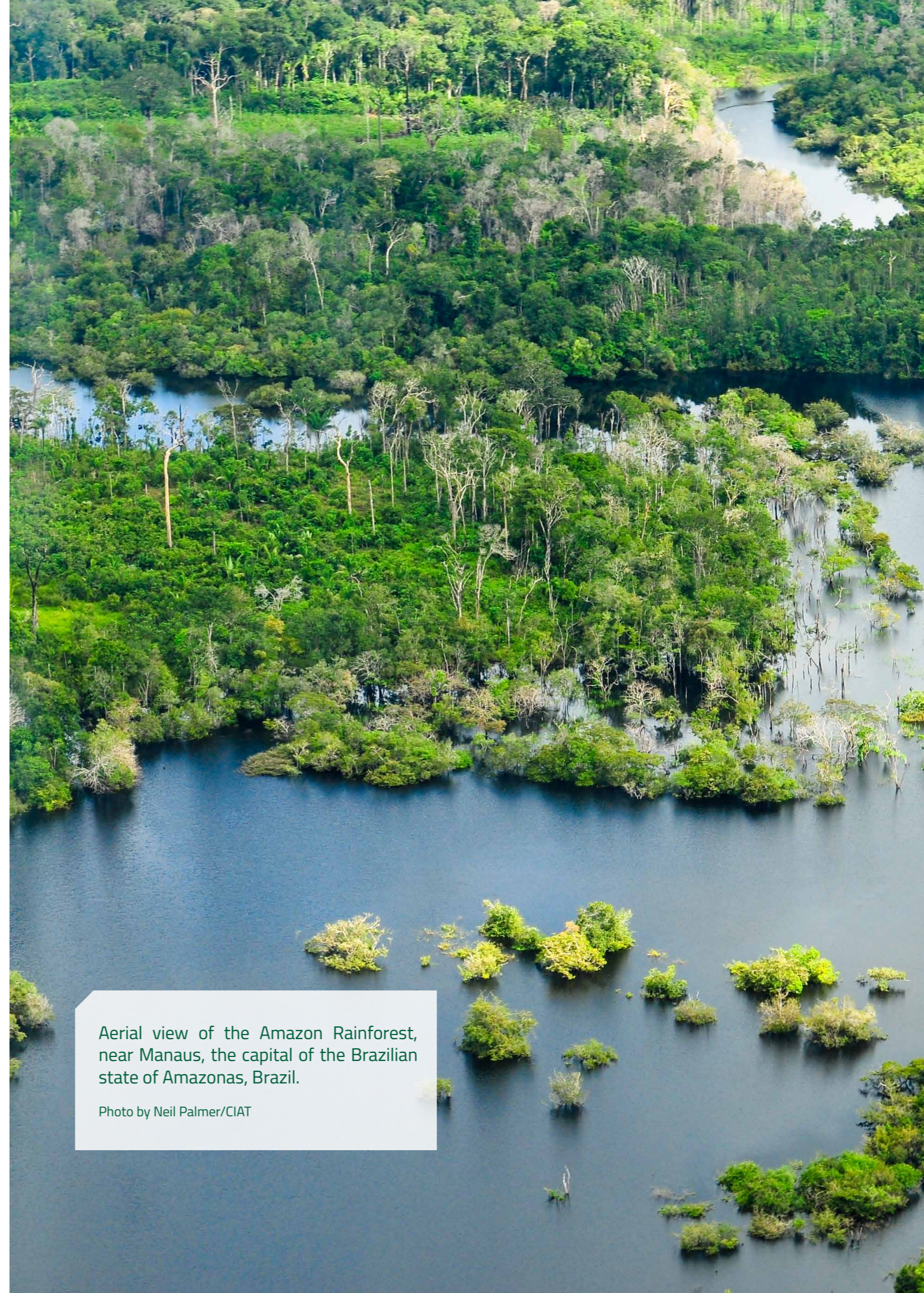
In Côte d'Ivoire, for example, the country's Environmental Code identifies biological diversity – which it defines as, 'the variability among living organisms from all sources including, inter alia, terrestrial, marine and other aquatic ecosystems and ecological complexes... this includes diversity within species, between species and of ecosystems' – as a core component of the natural environment to be protected by the right to a healthy and balanced environment.⁹⁴ To that end, the Environmental Code provides that '[a]ny action must avoid having significant adverse effects on biological diversity.'⁹⁵

The Environmental Code of the Central African Republic likewise includes biological diversity as a component of the natural environment protected by the right to a healthy environment. It then lists the actions that the government should take to protect biodiversity and safeguard against biodiversity loss, including, 'the protection of fauna and flora [and] the creation and management of protected areas.'⁹⁶

Legislation in Brazil,⁹⁷ South Africa,⁹⁸ Spain,⁹⁹ Cuba,¹⁰⁰ and Canada¹⁰¹ also outline the importance of biological diversity to the maintenance of a healthy environment, as protected by R2HE, and direct the government to take certain steps – like, creating protected areas and implementing biodiversity plans – to conserve biodiversity. These are only a few examples – many other laws demonstrate the affirmative steps countries can take to realise the biodiversity component of the right to a healthy environment.

The protection of biodiversity has also been at the centre of court adjudications throughout the world. The Brazilian Constitutional Court, for example, has emphasised the relevance of the protection of Amazon flora and fauna biodiversity for the fulfilment of the fundamental right to a healthy environment of all people – with a special emphasis on Indigenous communities and future generations.¹⁰² In an attempt to curb deforestation, the court also emphasised that violations of R2HE produce irreversible effects upon humans and non-humans alike.¹⁰³

In brief, this body of practice means that State and corporate actions are subject to restraint if those actions interfere with the diversity of species within and across ecosystems. Projects, for example, may be halted or required to change if they unduly interfere with biodiversity. On the flip side, States and others are also required to take affirmative steps to conserve and promote biodiversity, including through the regulatory apparatuses established through legislation.



Aerial view of the Amazon Rainforest, near Manaus, the capital of the Brazilian state of Amazonas, Brazil.

Photo by Neil Palmer/CIAT

The protection of the climate system and its integrity

The climate system is intimately entangled with the health of ecosystems: as the former destabilises, the latter diminishes, generating a whole range of environmental harms for people and communities. As a result, the right to a healthy environment protects the integrity of the climate system – locally, regionally, and globally. And by extension, it also encompasses safeguards against climate change.

Courts around the world have recognised the climate protections embedded in the right to a healthy environment, often in rights-based climate cases argued on the basis of R2HE. In *Greenpeace Mexico v. Ministry of Energy*, for example, a Mexican appeals court affirmed that two electricity sector policies that reduced the availability of renewable energy violated the right to a healthy environment in part by undermining needed greenhouse gas emission reductions.¹⁰⁴

In *Future Generations v. Ministry of the Environment and Sustainable Development* – wherein Colombian youth sued their government for its failure to fulfil its

commitment to reduce deforestation in the Amazon to net zero – the Colombian Supreme Court of Justice found that deforestation in the Amazon infringes upon young and future generations’ right to a healthy environment, among others, in part due to the climate impacts associated with such deforestation.¹⁰⁵

In their complaints, moreover, plaintiffs all over the world invoke the right to a healthy environment to secure action on climate change.¹⁰⁶

Legislation can help actualise the climate guarantees associated with the right to a healthy environment by codifying obligations States and others are required to meet to reduce greenhouse gas emissions, protect the climate system, and prevent dangerous climate change. North Macedonia’s Law on the Environment, for example – created ‘for the purpose of exercising the right of citizens to a healthy environment’ – details steps the government will take to protect the climate system, including the adoption of a national plan for the mitigation of climate change.¹⁰⁷

“

Legislation can help actualise the climate guarantees associated with the R2HE by codifying obligations States and others are required to meet to reduce greenhouse gas emissions, protect the climate system, and prevent dangerous climate change.

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Rally against Kinder Morgan oil pipeline on Burnaby Mountain.

Photo by Mark Klotz

The protection against toxic pollution of the land, water, and air

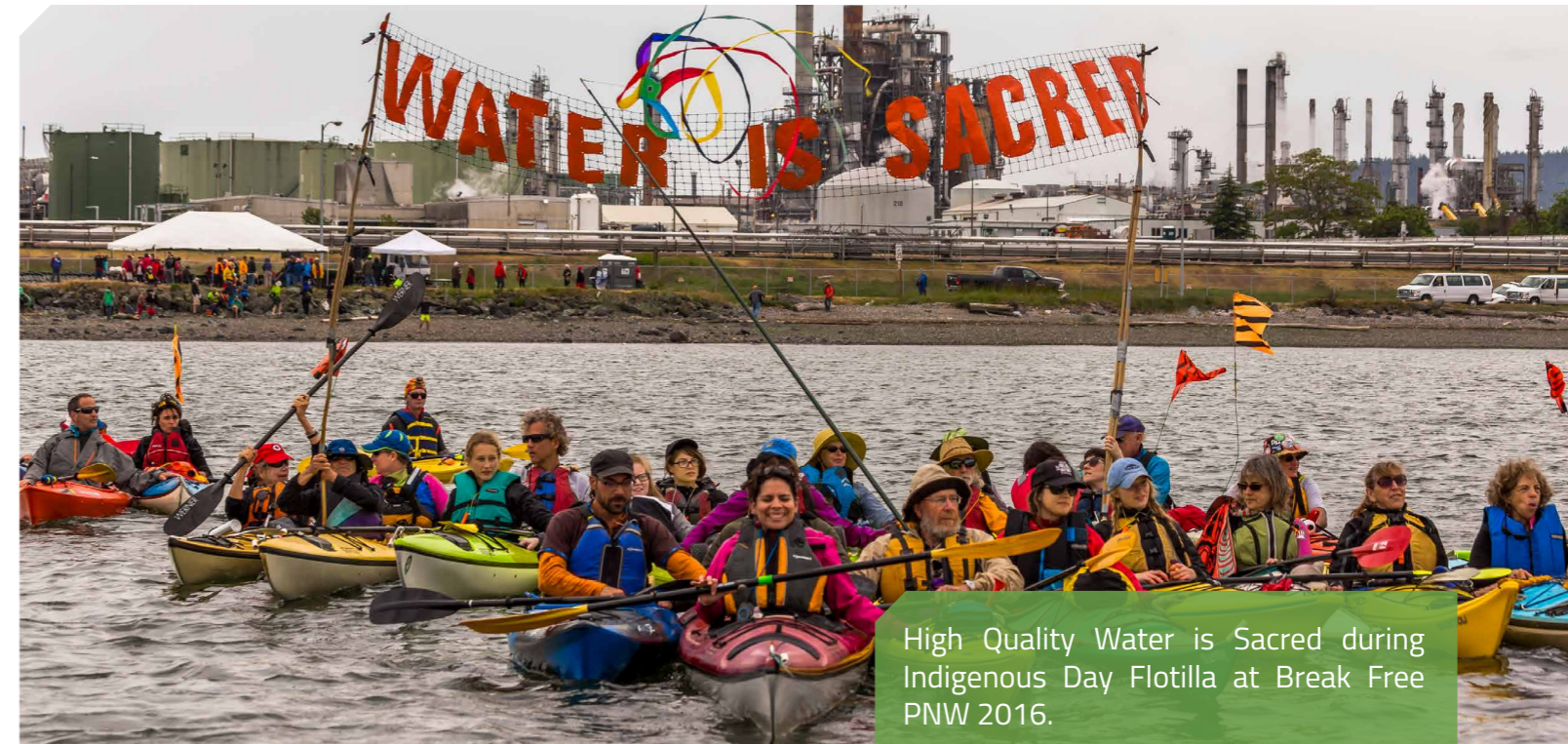
The right to a healthy environment protects peoples' access to clean water, land, and air. Because toxic pollution threatens this access, protection against it constitutes a substantive guarantee of R2HE. Courts and legislatures have made this clear. Judges have instructively refined the scope of protection against toxic pollution provided by the right, while legislators have demonstrated through law and policy the actions that can and should be taken to prevent, tackle, and remedy toxic pollution.

In *Luyara Odando v. National Management Environmental Authority*, a case that challenged the pollution of the Nairobi and Athi rivers as well as local air pollution from toxic dumping and industrial activity, the Kenyan Environment and Land Court found that the government failed to stop the alleged water and air pollution and was therefore responsible for violating the plaintiffs' constitutional R2HE. In doing so, the court explained that the right to a healthy environment obligates the State and its agencies to act to, 'eliminate processes and activities that pollute the environment.'¹⁰⁸ As a result, the court issued a series of orders requiring government agencies to take steps to eliminate the contested water and air pollution, including through the creation and implementation of a plan and strategy for the clean-up. The African Commission on Human Rights, likewise, has affirmed that the right to a healthy environment imposes clear obligations on States to 'take reasonable and other measures to prevent pollution and ecological degradation.'¹⁰⁹

More generally, in *Henares et al v. Land Transportation Franchising and Regulatory Board and Department of Transportation and Communications*, the Supreme Court of the Philippines recognised the right to clean air under the constitutional right to a balanced and healthful ecology.¹¹⁰ The Court went to 'reaffirm the premium [they] have placed on the protection of the environment.'¹¹¹

Robust legislation from around the world has added specificity to the scope of protection against toxic pollution offered by R2HE by codifying the steps that can and should be taken to realise this particular guarantee. Legislation, moreover, often focuses on tackling a particular component of the pollution problem – waste pollution, air pollution, water pollution, and so on – which can clarify the regimes that operate to address each type of toxic pollution. Laws in South Africa¹¹² and Mexico,¹¹³ for example, are designed to specifically target and remedy pollution stemming from waste.

Beyond issue-specific laws, environmental framework legislation also requires the government to take definitive steps to reduce and eliminate pollution, including through the support of implementing mechanisms or institutions.¹¹⁴ For example, in Guinea-Bissau, Law 1/2011 provides that 'all people have the right to a humane and ecologically sound environment' while simultaneously laying down the framework to guide the management of different forms of pollution, including waste, noise, and chemical pollution.¹¹⁵ The South Korean Framework Act on Environmental Policy – which provides that 'all citizens shall have the right to live in a healthy and agreeable environment' – takes a similarly broad approach to the forms of pollution it subjects to government management, defining environmental pollution as 'air pollution, water pollution, soil pollution, sea pollution, radioactive contamination, noise, vibration, malodor, sunshine obstruction, light pollution from artificial lighting and other similar pollution caused by industrial activities and other human activities, which are such conditions as inflict damage on human health or the environment.'¹¹⁶ The framework law then specifies the obligations with which the State, business entities, and individuals must comply to prevent and mitigate environmental pollution.



High Quality Water is Sacred during Indigenous Day Flotilla at Break Free PNW 2016.

Photo by John Duffy

The protection of the environmental minimum

The right to a healthy environment guarantees a minimum environmental quality. In other words, it obliges States to guarantee a baseline environmental quality that allows people to meet their basic needs and live lives of dignity. Court decisions have been especially instructive on this substantive component of R2HE. The Constitutional Court of Hungary, for example, outlined this component when it noted that, 'the constitutional right to a healthy environment entails the responsibility of the State to protect the environment and *maintain the natural basis of life*... [the] right to a healthy environment guarantees the physical conditions necessary to enforce the right to human life.'¹¹⁷

Likewise, the German Constitutional Court in *Neubauer v. Germany* recognised the existence of 'a right to 'an ecologically minimum standard of living'... [which] is

derived among other things from the 'minimum standard of living consistent with human dignity' ... guaranteed under Art 1(1) in conjunction with Art. 20(1) GG [provision on environmental protection], whereby minimum ecological standards are regarded as a precondition for a minimum standard of living... It is true that physical survival or even the possibilities for cultivating interpersonal relationships and taking part in social, cultural and political life... could not be guaranteed by economic safeguards alone if the only environment available for this purpose has been radically altered by climate change and had become toxic by human standards.'¹¹⁸ Many other courts, moreover, address this environmental minimum in their rulings by reference to the minimum conditions that are guaranteed by R2HE.¹¹⁹

The duty to regulate

Pursuant to the right to a healthy environment, States have an obligation to regulate. In other words, States must actually create, implement, and enforce laws, policies, regulations, and programmes designed to protect the components of a healthy and safe environment, including the climate system, biodiversity, and clean water, land, and air.

The Philippines' Supreme Court, for example, has noted that governmental compliance with the right to a healthy environment is shown, in part, through the active implementation of projects and programmes that target environmental harms, like air pollution.¹²⁰

Laws around the world, moreover, reference this duty as a motivating force for their adoption. The Environmental Base Regulations of Timor-Leste, for example, state that, '[i]t is incumbent upon the State, in promoting a healthy and ecologically balanced environment conducive to the health and well-being of people and in the preservation and sustainable use of natural resources, to define and implement environmental policy, legislation, programmes, plans and projects that aim.'¹²¹ Similarly, Tajikistan's Law on the Protection of the Environment provides that, in order to protect the right to a healthy environment, achieve sustainable development, and implement international environmental law, 'programs, concepts, strategies, as well as action plans based on them, are developed, providing for measures for environmental protection, sustainable and rational use and restoration of natural resources, [and the] improvement of the environment in the long term.'¹²² Similar provisions can be found in the environmental laws of Cuba¹²³ and Spain,¹²⁴ among others.

Protecting vulnerable groups

Though all humans depend on the natural world to satisfy their basic needs, certain groups of people are especially vulnerable to impacts of environmental destruction and degradation. Those groups include children, the elderly, minority communities, Indigenous and traditional communities, and individuals with disabilities, among others.

As a result, States and other actors must take more robust steps to protect vulnerable groups from environmental harms. This, again, includes negative and positive dimensions: refraining from actions that would unreasonably infringe on vulnerable groups' access to a clean and safe environment while taking affirmative steps to protect and promote this access.

Vietnam's Law on Environmental Protection, for example, provides that, '[e]nvironmental protection serves as a basis, key factor and prerequisite for sustainable socioeconomic development. Environmental protection activities are associated with economic development and natural resource management, and considered and assessed in the process of carrying out development activities. Environmental protection harmonises with social security, protection of children's right, promotion of gender equality and protection of the human right to live in a pure environment.'¹²⁵

Case law helps paint a picture of what this vulnerability looks like in practice. The Inter-American Commission of Human Rights, for example, explored how the Brazilian State's environmental destruction of Alcântara Quilombola (afro-descendant) land affected various local ways of subsistence in a context of various vulnerabilities. It pointed out that environmental destruction, which is often discriminatory and of unequal effects, in turn deepened these communities' systematic discrimination, territorial defencelessness and lack of access to justice, as well as the neglect, indifference, and failure of the State in solving problems for these poor and historically excluded communities.¹²⁶



Quilombola, Black and Popular Action held on the day of Black Consciousness in Porto Alegre 2012.

Photo by Fora do Eixo.



Incorporating and ensuring compliance with international law standards and commitments

To fully realise the right to a healthy environment, domestic law and policy should incorporate and be consistent with international law commitments and standards. Biodiversity and climate change, for example, are both the subject of major international framework agreements – the Convention on Biological Diversity (CBD) and the UN Framework Convention on Climate Change, respectively. Domestic law on biodiversity and climate change should reflect and incorporate the standards and principles set by these treaties as well as commitments made by States pursuant to them.

Courts around the world have recognised the importance of harmonising domestic law with international law when it comes to the right to a healthy environment. In *Earthlife Africa Johannesburg v. Minister of Environment*, for example, the High Court of South Africa ordered the Minister of the Environment to reconsider the environmental authorisation granted to a coal-fired power plant, requiring him to specifically consider climate impacts before rendering a decision on environmental authorisation. In ruling that domestic environmental law required the consideration of climate impacts, the High Court provided that international law was highly relevant in coming to this decision, noting that:

[The National Environmental Management Act, or NEMA] must also be interpreted consistently with international law. Section 233 of the Constitution provides that when interpreting any legislation, every court must prefer any reasonable interpretation of the legislation that is consistent with international law over any alternative interpretation that is inconsistent with international law. Therefore, the various international agreements on climate change are relevant to the proper interpretation of section 240(1)(b) of NEMA. Article 3(3) of the UN Framework Convention enacts a precautionary principle requiring all States parties to take precautionary measures to anticipate, prevent

or minimise causes of climate change. Article 4(1)(f) of the UN Framework Convention imposes an obligation on all States parties to take climate change considerations into account in their relevant environmental policies and actions, and to employ appropriate methods to minimise adverse effects on public health and on the environment.¹²⁷

In Mexico, the First Circuit Collegiate Tribunal used international climate law – including the UN Framework Convention on Climate Change and the Paris Agreement – as part of its analysis that ultimately found that energy policies diminishing the availability of renewable energy violated the right to a healthy environment.¹²⁸ In Colombia, the Supreme Court held that despite the ‘international instruments that make up the global ecological public order,’ the government failed to effectively tackle deforestation in the Amazon.¹²⁹ And in Ecuador, the Constitutional Court noted that the protection against pollution offered by the right to a healthy environment is meant to be ‘in line with the international instruments developed to mitigate the effects of pollution, such as the United Nations Convention on Climate Change and the Kyoto Protocol, of which Ecuador is a part.’¹³⁰ Similarly in Latvia, the Constitutional Court recognised that the right to a healthy environment is found in international agreements that were binding on Latvia.¹³¹

On the procedural aspect of R2HE, the Kenyan High Court held that ‘public participation in environmental law issues and governance has risen to the level of a generally accepted rule of customary international law’ – universally binding rules created by State practice.¹³² Likewise in Slovenia, the Constitutional Court held that because the Slovenian Constitution requires compliance with international law, a law that was drawn up without public participation and therefore in violation of the Aarhus Convention was incompatible with the Constitution.¹³³

Legislation has given effect to this substantive component of R2HE by translating international law into domestic law. Turkmenistan’s Law on Environmental Safety, for example, provides that, ‘[n]orms and regulations in the field of environmental safety are developed on the basis of modern achievements in science and technology in the field of environmental safety, taking into account the requirements of international conventions and standards’ while also prohibiting activities that allow the ‘implementation of activities that contribute to global negative changes in the environment and its components, including activities carried out in

violation of international treaties of Turkmenistan in the field of environmental safety.’¹³⁴ In Cuba, Law No. 81 (Environmental Law) confirms and implements the right to a healthy environment while also affirming that the ‘State shall promote and participate in international agreements and actions for the protection of the environment, particularly those that include the Latin American and Caribbean region, cooperating in a spirit of global solidarity to conserve, protect and restore the global environment and guarantee the national implementation of said decisions.’¹³⁵ These, importantly, only represent two examples among many others.

Closing Ceremony of COP21, Paris.

UN Photo/Mark Garten 12 December 2015



Other potential substantive components of the right to a healthy environment

Domestic legislation and court rulings so far have expanded the meaning – and with it the potential – of R2HE by recognising the above substantive components. And so far, there is no sign that the contours of the right won't continue to expand.

Two potential substantive components that may lie on the horizon are: (i) healthy and sustainably produced food; and (ii) access to safe water and adequate sanitation. Indeed, these two elements have already been recognised as substantive components of R2HE by the UN Special Rapporteur on human rights and the environment.¹³⁶

While there does not yet exist legislation or case law explicitly incorporating these elements into the right to a healthy environment, legislation and courts have emphasised their clear connection and often observe a violation of R2HE and the independent rights to food and water in the same decisions. In *Center for Social Justice Studies v. Presidency of the Republic et. al*, for example, the Colombian Constitutional Court held that mining and illegal logging in the Atrato River amounted to a violation of R2HE and food security, among others.¹³⁷ The court further stressed that the protection of water, forests and food security and sovereignty are intimately related and interdependent to the preservation of the environment.¹³⁸

Navegando el río Atrato.

Photo by Felipe Rodríguez-Moreno

PROCEDURAL COMPONENTS OF THE RIGHT TO A HEALTHY ENVIRONMENT

As explained above, procedural rights differ from substantive rights insofar as they guarantee adherence to certain processes, not particular outcomes from the use of these processes. Nevertheless, adhering to them improves decision-making, thus amplifying the likelihood of outcomes that are better for people and the environment.

Courts and lawmakers around the world have specified and refined the scope of procedural protections provided under the right to a healthy environment. Also, international and regional treaties on the environment and human rights further establish procedural protections pursuant to R2HE. Indeed, procedural guarantees and rights are the focus of regional treaties regarding the environment: the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention)¹³⁹ and the Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean (Escazú Agreement).¹⁴⁰

At the domestic level, the Law on Environmental Protection in Belarus, for example, lists procedural rights citizens have pursuant to the right to a healthy environment, including the right 'to compensation for harm caused by the violation of this right, as well as to receive, store and disseminate complete, reliable and timely environmental information;' the right to 'take part in public discussions of draft environmentally significant decisions, environmental impact assessment reports, environmental reports on strategic environmental assessment;' and the right to 'make proposals on conducting a public environmental review and participate in its conduct in the manner prescribed by the legislation of the Republic of Belarus.'¹⁴¹ Similarly, the Constitutional Court of Latvia, citing the Aarhus Convention, held that the right to a healthy environment included 'three procedural elements – first, the right of access to information on the environment, second, the right to participate in environmental decision-making, and third, the right of access to the courts in environmental matters.'¹⁴²

This section examines the procedural components of the right to a healthy environment, as defined by legislative and judicial practice around the world.



Environmental Impact Assessments

Environmental Impact Assessments (EIAs) are, in many ways, the cornerstone of environmental law, especially domestically. EIAs, in essence, are analyses performed to guide decision-making with respect to actions that may damage or otherwise impact the environment. They help governments make reasoned and informed decisions when considering whether to authorise actions – for example, project development by corporations – by ensuring that the environmental risks associated with the activities are catalogued and considered.

In order to ensure reasoned decision-making, moreover, governments and corporations are generally required to follow certain norms in composing and analysing environmental impact assessments. For example, governments must review EIAs as a whole, not in a fragmented manner that undervalues the cumulative and synergistic environmental impacts of the proposed action.¹⁴³ EIAs must also consider risks to components of the environment that are the subject of substantive guarantees under R2HE, including climate¹⁴⁴ and pollution,¹⁴⁵ among others.

Legislation that affirms the right to a healthy environment often also details requirements for environmental impact assessments. The Dominican Republic's Law on the Environment and Natural Resources, for example, both affirms R2HE and comprehensively details the environmental impact assessment process that will apply to activities and projects with potential environmental consequences, including agro-industries, mining projects, thermoelectric plants, and tourist development.¹⁴⁶ Likewise, Hungary's General Rules of Environmental Protection also reiterate the right to a healthy environment while providing rules for environmental impact assessments.¹⁴⁷ In Brussels, the Constitution Court found that a Belgian town and country planning code violated the Constitution when it failed to provide for an environmental impact assessment procedure that satisfied the relevant requirements of the Aarhus Convention.¹⁴⁸

Convention on Environmental Impact Assessment.

UN Photo/Jean-Marc Ferré



Access to information

States and other actors must ensure that people and communities have access to information on the environment and actions taken or contemplated that may impact it, especially when those people and communities are specially impacted by potential or ongoing actions.

Courts around the world have affirmed the right to obtain environmental information pursuant to R2HE, underscoring in the process the importance of this procedural guarantee. The Constitutional Court of Latvia, for example, noted that the constitutional right to a healthy environment 'endows the individual with the right of obtaining information on the environment and cooperating in the process of adoption of decisions on environmental issues.'¹⁴⁹ This, in turn, means that the State must 'efficiently inform society about its rights and possibilities of receiving information on environment and participation in making the decisions – shall evaluate the viewpoints, expressed by it. The main objective of the mandatory, determined by the law public participation is to ensure that the best possible decision is taken in the interests of the public and objections of every person shall be evaluated and as much as possible taken into consideration.'¹⁵⁰ The Argentinian Supreme Court of Justice has likewise demonstrated that access to information is a key component of the right to a healthy environment through remedies issued in cases dealing with environmental harms.¹⁵¹ And the European Court of Human Rights, among other examples, has also affirmed the duty to inform the public, including publicising the results of impact assessments, as part and parcel of the right to a healthy environment.¹⁵²

Courts are not the only actors to shed light on the contours of this key procedural right; legislatures too have provided insight into the elements of this procedural right through legislation that codifies it into domestic law. In Ethiopia, for example, the 1997 Environmental Policy instructively provides that 'adher[ing] to the principle that the right to live in a clean and healthy environment carries with it the right to be informed about environmental issues and to develop an appropriate information system.'¹⁵³ It then lists the country's environmental information access policies, noting that it 'make[s] available environmental information as a legal right to all interested parties' with a few limited exceptions, aims to 'base information generation on an identification of user needs,' and intends to "provide clear legislation and guidelines on environmental data and information generation, collection and dissemination specifying the nature of restrictions required.'¹⁵⁴ Environmental laws in Azerbaijan,¹⁵⁵ Zambia,¹⁵⁶ and Romania,¹⁵⁷ among other examples, also provide for access to information as part of the right to a healthy environment and environmental governance.

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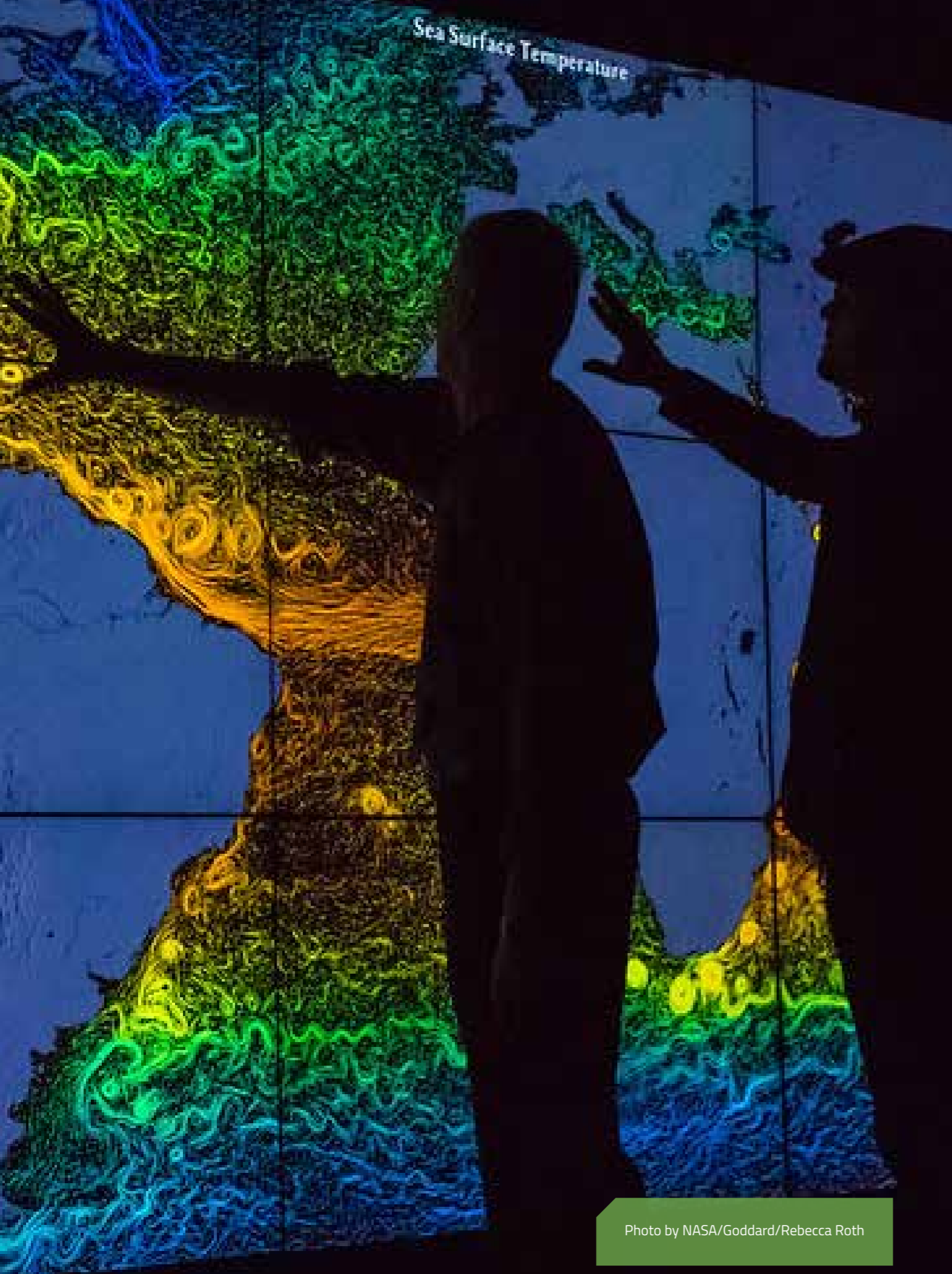


Photo by NASA/Goddard/Rebecca Roth

Avenues for participation

People and communities have a right to participate in decision-making on actions, activities, and projects that may impact their environment. In addition to supporting democratic decision-making, this right of participation also helps to ensure that governments make the best possible environmental decisions by incorporating diverse and affected voices into the decision-making process.

Both courts and legislatures have consistently affirmed the right to participate as a core component of the right to a healthy environment. The Latvian Constitutional Court, for example, emphasised the public's right of 'participation in the process of taking decisions on activities in the sphere of the environment,' including in decisions related to hazardous waste incineration.¹⁵⁸ According to the court, 'public participation shall serve two main objectives: first of all to obtain information,

which advances taking a motivated and fair decision, secondly, to convince the public that the viewpoints, expressed by it are being taken into consideration.'¹⁵⁹ The Czech Constitutional Court similarly held that non-governmental organisations promoting environmental protection shall be deemed to have an interest in environmental decision-making based on its interpretation of the Aarhus Convention.¹⁶⁰

Meanwhile, legislation in Haiti, among many other examples, provides for participation in environmental governance, including the evaluation of environmental impact assessments.¹⁶¹ And legislation in Lithuania requires that 'State authorities, administrators, and inspectors, pursuant to their jurisdiction... encourage the participation of citizens and public organisations in environmental protection.'¹⁶²



Environmental activist and geographer Hindou Oumarou Ibrahim speaks at TEDWomen 2019: Bold + Brilliant, in California.

Photo: Marla Aufmuth / TED

Access to justice and effective remedy

Given R2HE's status as a human and, in many countries, constitutional right, people are entitled to have their claims of R2HE violations heard and resolved by courts. In other words, they have a right to access justice for infringements of the right to a healthy environment. In Mexico, various courts have recognised that the Escazú Agreement establishes that access to justice in environmental matters is a crucial procedural component of R2HE, and that disregarding this component constitutes a violation of the right.¹⁶³ The courts have further emphasised the importance of guaranteeing the right of access to justice by, among other measures, allowing for broad active legal standing in cases relating to the defence of the environment.¹⁶⁴

Similarly in Latvia, the Constitutional Court held that R2HE applies directly and immediately, and a person has the right to address the court on action or inaction that violates this right.¹⁶⁵

Legislation around the world has been particularly clear on that front, specifying and codifying this procedural component of the right to a healthy environment into law. For example, Bhutan's National Environmental

Protection Act provides that '[a]ny person aggrieved by a decision taken under this Act may appeal to the [National Environmental] Commission. The person aggrieved may challenge the substantive and procedural legality of any decision, act or omission.'¹⁶⁶ A decision of the Commission can, in turn, be appealed to the High Court. And in addition to this right of appeal, the law also provides citizens with a right to seek review, providing that: '[t]his right of access to a review procedure shall apply in particular to any person who considers that: (a) a request for information has been ignored, wrongfully refused, whether in part or in full, inadequately answered, or otherwise not dealt with; and (b) a decision, act or omission has otherwise impaired his or her rights.'¹⁶⁷

The Environmental Code of Burkina Faso, meanwhile, provides that '[e]veryone has the right to a healthy environment. To this end, [one] may lodge a complaint with the competent administrative or judicial authorities in order to put an end to the nuisances generated by the activities which disturb the tranquillity, undermine public safety or health. The administration is required to respond to his request.'¹⁶⁸



COP 26 1.5 Action by YACAP and 350 Pilipinas volunteers held at the Commission on Human Rights of the Philippines on Dec 11, 2020.

Photo by 350.org



Monitoring

Monitoring is a key procedural support for the on-the-ground implementation of the right to a healthy environment, since it ensures that there is actual compliance with laws and orders meant to protect and promote the right to a healthy environment.

The African Commission on Human Rights and Peoples' Rights, for example, has noted that monitoring constitutes an important component of compliance with the right to a healthy environment, providing specifically that government compliance with R2HE requires 'ordering or at least permitting independent scientific monitoring of threatened environments, requiring and publicising environmental and social impact studies prior to any major industrial development, undertaking appropriate monitoring and providing information to those communities exposed to hazardous materials and activities and providing meaningful opportunities for individuals to be heard and to participate in the development decisions affecting their communities.'¹⁶⁹

Legislative schemes implementing the right to a healthy environment, moreover, often require governments to undertake different forms of monitoring and establish mechanisms to facilitate the monitoring of domestic environmental quality – including, for example, Ethiopia's 1997 Environmental Policy.¹⁷⁰

Duty to cooperate

Governments have a duty to cooperate to implement the right to a healthy environment that applies both domestically and internationally.

Domestically, the various organs and agencies that comprise a government are required to cooperate to address the myriad challenges that impact the right to a healthy environment and to develop and implement policies, programmes, and projects that help realise the right to a healthy environment.

Internationally, States are required to cooperate with each other to reach agreements that tackle the various threats that endanger the right to a healthy environment, including those of a transboundary and global nature. Once States have defined their obligations, States must cooperate to fully implement those agreements and ensure they run smoothly.¹⁷¹

Legislation that implements the right to a healthy environment has also affirmed this two-prong duty to cooperate. The Eritrean Environmental Protection, Management and Rehabilitation Framework, for example, is intended, in part, to 'set up the basis for Eritrea's effective contribution to and benefit from international cooperation in the global efforts for environmental protection.'¹⁷² In Portugal, the Basic Law on the Environment explicitly requires the government to pursue international collaboration on environmental matters.¹⁷³

The Environmental Base Regulations of Timor-Leste, moreover, state that 'public entities [addressed in this law] have the duty to collaborate and cooperate with the government department responsible for the environment, regarding the implementation of the environmental policy in order to guarantee unity and uniformity in its application.'¹⁷⁴

And finally, among many other examples, Hungary's Law on the General Rules for the Protection of the Environment provides that 'State bodies, local governments, natural persons and their organisations, management organisations and their interest protection organisations, as well as other institutions are obliged to cooperate in the protection of the environment. The right and obligation to cooperate covers all stages of solving environmental protection tasks.'¹⁷⁵ That same law also obliges the government 'to promote the enforcement of environmental protection interests through bilateral or multilateral international environmental protection and other cooperation, information and assistance agreements related to environmental protection, especially in its relations with neighboring countries.'¹⁷⁶

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Internationally, States are required to cooperate with each other to reach agreements that tackle the various threats that endanger the R2HE, including those of a transboundary and global nature.

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Environmental education

Environmental education has been identified around the world as an important procedural component of the right to a healthy environment.

The Law of Georgia on Environmental Protection, for example, provides that every citizen has a right to receive an 'ecological education and raise their environmental awareness.'¹⁷⁷ That law continues by establishing that a 'unified system of environmental education shall be set up in order to raise the environmental awareness of society and train relevant specialists. The system includes a network of educational institutions, personnel training and qualification upgrading institutions.'¹⁷⁸

Similarly, in Indonesia, the Environmental Management and Protection Act specifies that '[i]n protecting and managing the environment, the government shall be assigned and authorised to... provide education, training, fostering and appreciation'¹⁷⁹ while at the same time affirming that '[e]verybody shall be entitled to environmental education, information access, participation access and justice access in fulfilling the right to proper and healthy environment.'¹⁸⁰

And likewise, in North Macedonia, the Law on the Environment emphasises the importance of environmental education and includes a number of provisions to facilitate access to environmental education and improve ecological awareness.¹⁸¹

Finally in Colombia, the Supreme Court held that the constitutional mandate to protect the environment requires the State to, inter alia, promote environmental education.¹⁸²

PRINCIPLES THAT INFORM THE IMPLEMENTATION OF THE RIGHT TO A HEALTHY ENVIRONMENT

Cross-cutting principles provide conceptual clarity to the right to a healthy environment and shape its implementation across jurisdictions. Courts and legislatures around the world have applied these principles in specific contexts and to particular problems in order to guide their decision-making and ensure that State and non-State action is consistent with the right to a healthy environment. International and regional treaties governing environmental and human rights also mention such principles as key in guiding their implementation.

The precautionary principle

The precautionary principle provides that uncertainty about the exact consequences of a particular action or process does not justify failing to implement measures to combat associated environmental degradation and destruction if there is a risk of serious and/or irreversible harm. In other words, in the face of scientific uncertainty, authorities should still take measures to address environmental threats. The precautionary principle is one of the most widely cited principles of environmental law, and it guides the implementation of the right to a healthy environment.

Courts around the world have employed the precautionary principle to adjudicate the validity of government and corporate action that impacts the environment, often finding that application of the principle ultimately requires the challenged action to stop or that certain remedies be issued to ameliorate environmental harm.

The Kenyan Environment and Land Court, for example, has found that, in the context of environmental governance and the right to a healthy environment, the precautionary principle dictates ‘that the State has a duty to prevent environmental harm and health risks as well as conduct that may be harmful even where conclusive scientific evidence regarding the harmfulness is not available. The [government] must take precautionary actions aimed at reducing exposure to potentially harmful substances, activities and conditions to minimise significant adverse effects to health and the environment... One way of implementing the precautionary principle is by shifting the burden of proof to the polluters and exploring alternatives to the harmful actions... The precautionary approach to be adopted by the State should focus on how much harm can be avoided rather than consider how much can be tolerated.’¹⁸³

A Colombian court, moreover, has illustratively explained that the ‘spirit of this principle of prevention or precaution requires acting before the damage occurs, taking all possible measures, at the slightest evidence of damage to health, the environment or the life of people or living beings that are affected.’¹⁸⁴

Legislation intended at least in part to implement the right to a healthy environment very often explicitly adopts the precautionary principle as a guiding norm for environmental governance. This is the case in Burkina Faso,¹⁸⁵ Cameroon,¹⁸⁶ Finland,¹⁸⁷ and the Philippines,¹⁸⁸ among many other examples around the world.



World Forum on Enterprise & the Environment, Oxford 2010.

Photo by The Value Web.

The prevention principle

According to the principle of prevention, States and other actors must take meaningful steps to avoid environmental harms *before* they occur.

Argentinian courts have, for example, confirmed that the right to a healthy environment requires the government to take preventative action against environmental degradation and damage.¹⁸⁹ The Inter-American Court of Human Rights has, moreover, provided more detail on the precise operation of this principle, explaining that ‘the principle of prevention of environmental harm forms part of customary international law and entails the State obligation to implement the necessary measures *ex ante* damage is caused to the environment, taking into account that, owing to its particularities, after the damage has occurred, it will frequently not be possible to restore the previous situation.’ Based on the duty of prevention, the Court has pointed out that ‘States are bound to use all the means at their disposal to avoid activities under its jurisdiction causing significant harm to the environment.’¹⁹⁰

Legislation also often adopts the prevention principle as a guiding norm for environmental governance based on the right to a healthy environment. That includes, among others, legislation in Burkina Faso,¹⁹¹ France,¹⁹² and Cameroon.¹⁹³

The principle of non-regression

The principle of non-regression protects against backsliding in environmental management and the implementation of the right to a healthy environment. Specifically, it provides that, generally speaking, governments cannot reduce existing levels of environmental protection unless necessary to protect another fundamental right. And in instances where such reductions are necessary, it must be in proportion to the goal to be achieved.

In the first case to annul a law for violating the principle of non-regression, the Belgian Constitutional Court held that a new version of a law that regulated the development zone of an industrial nature without providing for an environmental impact assessment was such a ‘significant deterioration in the level of protection that ... cannot be justified by the reasons of public interest underlying the challenged provision.’¹⁹⁴

The Hungarian Constitutional Court has further given insight on how this principle of non-regression operates in practice when it comes to R2HE. In declaring a law unconstitutional because it allowed the transfer of protected areas into private ownership and therefore backtracked on existing environmental protection, it explained:

‘It follows... from the distinctive features of the right to a healthy environment, as stated in the present Decision, that the State is free neither to allow any deterioration of the environment nor a risk thereof.’

Indeed, there are objective criteria - a range of which are defined as mandatory by international norms - which in effect prescribe the necessity of the protection of nature. Environmental damage destroys non-renewable resources, is often irreparable, and the neglect of environmental protection sets in motion irreversible processes. The enforcement of the right to a healthy environment thus cannot be subjected to such quantitative and qualitative fluctuations caused by economic and social circumstances as that of social and cultural rights, in the case of which restrictions arising from circumstances may subsequently be redressed. Due to these distinct features, prevention has precedence over all other means to guarantee the right to a healthy environment, for subsequent penalties for irreparable damages cannot ensure restoration of the original condition. The enforcement of the right to a healthy environment constitutionally obliges the State - so long as legal protection is indeed necessary - not to regress from a degree of protection already achieved unless the conditions are such that would also allow restrictions of individual fundamental rights. The enforcement of the right to a healthy environment by upholding the degree of protection also compels the State not to regress from preventive rules of protection to protection ensured by sanctions. Similarly to the previous rule, any action by the State contrary to this requirement must be compelled by unavoidable necessity and proportionate with this necessity.¹⁹⁵

The polluter pays principle

The polluter pays principle provides that the entities that pollute, whether it be land, air, water, or food, bear the responsibility to remedy harms to humans and the environment generated by this pollution.

Courts around the world – ranging from India to Argentina and Kenya – have used the polluter pays principle to issue rulings on liability for environmental harms and craft orders to remedy them. In the Indian case, the National Green Tribunal found that black carbon produced through vehicle use was a major factor in the melting of glaciers in the Himalayas and affirmed that the polluter pays principle applied to the State government.¹⁹⁶ In Argentina, the court analysed the norms in the Constitution relating to environmental law and the polluter pays principle, and held that a municipality has the duty to control that the public highway remains in such conditions that people can travel through it safely.¹⁹⁷ In the Kenyan case, the Land and Environment Court upheld a lower court decision ordering a county government to restore the environment harmed by its project on the basis of the polluter pays principle, despite the government’s complaint that the costs of restoration were burdensome.¹⁹⁸

In a similar manner, the High Court at Nairobi applied the principle to individuals. It rejected the argument by property owners that the cost of environmental restoration due to discharge of liquid wastewater from septic tanks into the open environment and the river would be beyond them, because ‘there is no price for the lives of people downstream whose lives are endangered by the pollution.’¹⁹⁹ Legislation has in many places – including, for example, Chad²⁰⁰ and Romania²⁰¹ – identified the polluter pays principle as a norm that should guide decisions and methods of enforcing the right to a healthy environment.



Price the Polluters Rally
- Make Polluters pay.

Photo by John Englart

Sustainable development

According to the principle of Sustainable Development, States should pursue measures that allow present generations to meet their needs but do so without compromising the ability of future generations to also meet their needs. In other words, it recognises the need for economic development to ensure fundamental rights – including the rights to livelihood, health and R2HE – are fully realised, while also protecting the conditions necessary to support future generations and their rights.

Courts around the world have highlighted the relevance of the principle of sustainable development in decisions on the right to a healthy environment. In many Latin American jurisdictions, for example, the principle has served as guidance for States to ease the tension between the protection of the environment and economic development. The Constitutional Court of Colombia explained that, ‘the economic development–conservation and preservation of the environment tension, which in another sense corresponds to the economic welfare–quality of life tension, has been decided by the Constituent in a balancing synthesis that underlies the idea of sustainable economic development enshrined in various ways in the constitutional text.’²⁰²

Along similar lines, the Constitutional Court of Peru clarified that ‘the perspective of sustainable development seeks to balance the scheme of the social market economy with the right to live in a balanced and adequate environment. It is a maximisation of profits or utility against the quality of the environment that suffers the wear and tear of economic activity. In this sense, with the principle of sustainability (article V of the General Law of the Environment) it is intended to modulate this economic activity to the preservation of the environment, which will also have to serve as vital support for future generations. Thus, the rights of current generations should not be the ruin of the aspirations and future generations.’²⁰³

The High Court of South Africa noted that the government’s duty to pursue sustainable development is an extension of R2HE. Specifically, they explained that ‘officials responsible for a healthy environment have a duty to promote sustainable development which are underpinned by the integration of social, economic and environmental factors in the planning, implementation and evaluation of decisions to ensure that all developments serve present and future generations and not only the economic and commercial needs of property owners or developers.’²⁰⁴

Laws around the world have also identified sustainable development as a relevant principle for the implementation of the right to a healthy environment. In Rwanda, for example, a 2005 law on the modalities of environmental conservation, protection, and promotion aims to, among other things, ‘guarantee to all Rwandans sustainable development which does not harm the environment and the social welfare of the population.’²⁰⁵ In another section, the law further explains that ‘[h]uman beings are central to sustainable development. They are entitled to the right of a healthy and productive life in harmony with nature. However, the right to development must be achieved in consideration of the needs of present and future generations.’²⁰⁶

Intergenerational equity and Responsibility

The right to a healthy environment is centrally concerned with equity for future generations relative to present generations. This means that government and corporate actions should be consistent with preserving the ability of future generations to satisfy their needs. In other words, actions that allow present generations to meet their needs and wants but sacrifice the ability of future generations to meet their basic needs and live lives of dignity contravene the principles of intergenerational equity and responsibility.

Considerations of equity for young and future generations vis-à-vis present generations as well as the responsibilities of present generations towards future generations has guided legislation and court decisions implementing the right to a healthy environment around the world.

In Germany, for example, the German Constitutional Court found that the German government's failure to adequately specify emission reductions in the short-to-medium term to reach its net zero greenhouse gas emissions target was unconstitutional because it risked unduly burdening future generations with severe emissions reductions relative to present generations. The German government would have to specify how emission reductions would be spread out more equally across generations.²⁰⁷

In Colombia, the Supreme Court in *Amazon's Future Generations v. Ministry of the Environment* explained that international and constitutional law protected future generations and their environmental rights, which, in turn, necessitated limitations on the behaviour and actions of present generations in order to guarantee

those rights of future generations. Applied to the case at hand, that ultimately meant that the government had to take actions to meet its commitment to reduce deforestation in the Amazon to net zero.²⁰⁸

In the Philippines, the Supreme Court recognised that for R2HE claims, there is personality to sue on behalf of future generations based on the concept of intergenerational responsibility. The present assertion of a right to a sound environment entails the concurrent performance of an obligation to ensure the protection of that right for such future generations.²⁰⁹

Laws in Lesotho,²¹⁰ Mexico,²¹¹ Portugal,²¹² Rwanda,²¹³ and Tanzania,²¹⁴ among many other examples, also exemplify the importance of intergenerational equity and responsibility to the implementation of the right to a healthy environment. Lesotho's 2008 Environmental Act, for instance, directs courts to 'be guided by the following principles of sustainable development... the principle of inter-generational and intra-generational equity' in exercising their jurisdiction.²¹⁵ Mexico's General Law of Ecological Balance and Environmental Protection similarly provides that, among the principles the federal executive authority is required to observe, the government must consider the 'responsibility regarding the ecological balance involves both, the present conditions and those conditions that will determine the life quality of future generations.'²¹⁶ And Rwanda's Organic Law Determining the Modalities of Protection, Conservation and Promotion of the Environment aims to 'consider[] the durability of the resources with an emphasis especially on equal rights on present and future generations.'²¹⁷

Youth Climate Strike:
Quezon City.

Photo by 350.org



Ecocentrism and the intrinsic value of nature

In a number of countries, court decisions and laws have understood the right to a healthy environment to protect the environment not just for humans' sake but for the sake of nature itself. In other words, the right to a healthy environment recognises the intrinsic value of nature, not just its utility value for humans.

In the *Vía Parque Isla de Salamanca* case, for example, the Colombian Supreme Court of Justice, in the process of discussing constitutional rights including the right to a healthy environment, noted '[t]his is how the need arose to rethink the pillars of the interdependence that in reality sustain the roles of nature and the human being, and that the protection of [nature] cannot be exclusively subordinated to human comfort, since the environment and every form of life that composes it is endowed by itself and before it, with certain autonomous prerogatives (ecocentrism).'²¹⁸

Similarly, in the *Los Cedros* case adjudicated by the Ecuadorian Constitutional Court, the court repeatedly affirmed the intrinsic value of nature in its own right

throughout its analysis.²¹⁹ Indeed, the court concluded that '[t]he right to a healthy environment under the Ecuadorian constitutional framework and international instruments not only focuses on ensur[ing] adequate environmental conditions for human life, but protects also to the elements that make up nature from a biocentric approach.'²²⁰ In both of these cases, moreover, the courts recognised components of nature – *Vía Parque Isla de Salamanca* and *Los Cedros*, respectively – as the subject of rights.

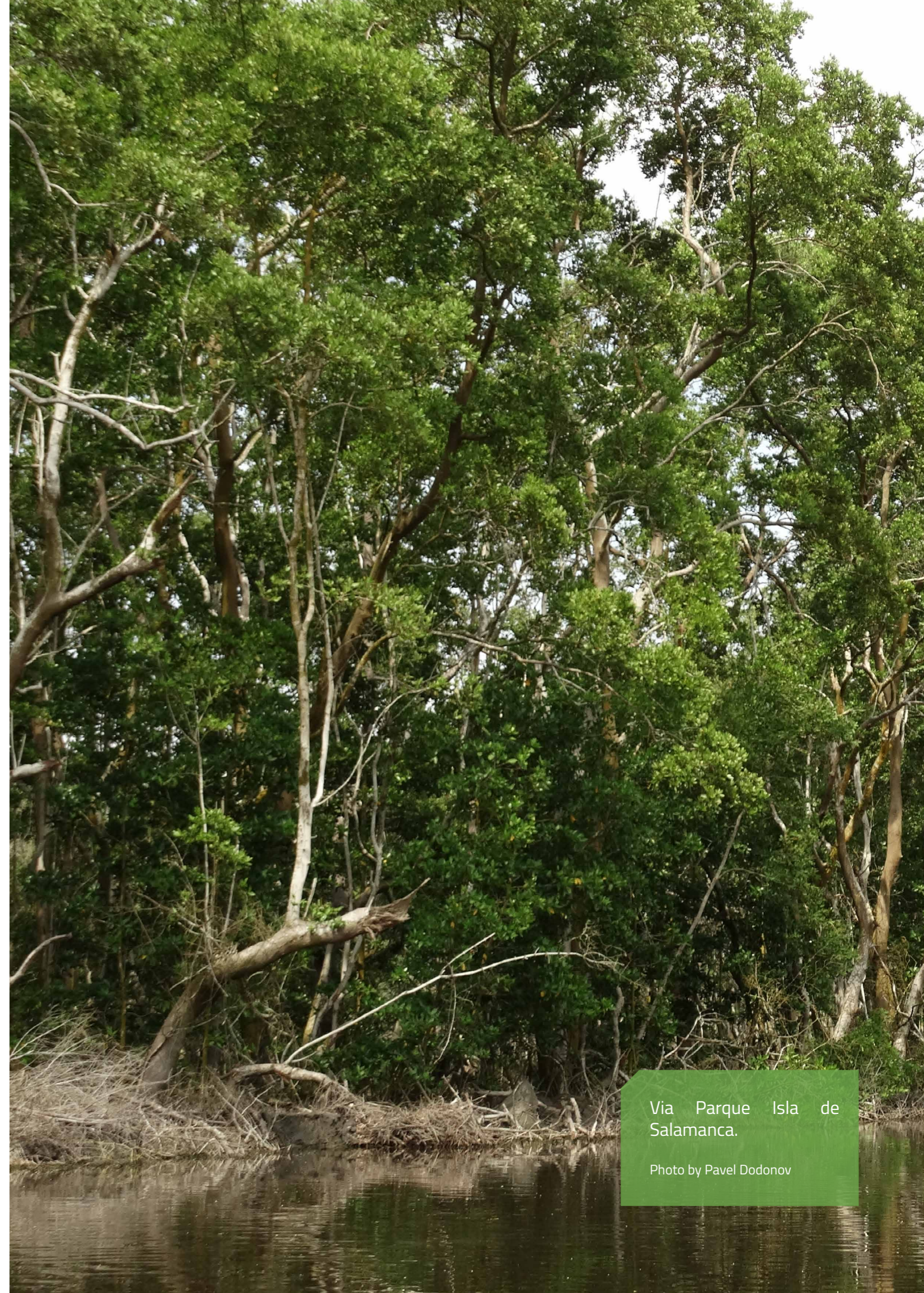
Legislation can also encourage a more ecocentric approach to implementing the right to a healthy environment. The Organic Environmental Code in Ecuador, for example, provides that 'the right to live in a healthy and ecologically balanced environment comprises...[the] conservation, sustainable management and recovery of natural heritage, biodiversity and all its components, with respect for the rights of nature...' which are explained in greater detail elsewhere in the code.²²¹

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In a number of countries, court decisions and laws have understood the R2HE to protect the environment not just for humans' sake but for the sake of nature itself.

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Vía Parque Isla de Salamanca.

Photo by Pavel Dodonov

Gender equity

Gender equity should guide the implementation of the right to a healthy environment, meaning that, when possible, measures taken to realise the right should promote gender equity and, at the very least, not contribute to gender inequity.

This principle is especially relevant when considering the fulfilment of the R2HE substantive component of protecting vulnerable groups, which often includes women. This intersection was recognised by petitioners in a case brought by a group of women against the government of Chile for delaying the closure of a thermoelectric power plant found in a vulnerable community. Plaintiffs explained that these conditions stemmed from the level of poverty, access to health, education and the presence of susceptible groups such as children, pregnant women and older adults. They explained: ‘if we look at the rest of the national population as holders of the same right to health and to live in a pollution-free environment, we find ourselves with an unequal distribution of environmental benefits and burdens, which in itself is not tolerated by law, and which has its source in a ‘sociological’ aspect, namely, the concentration tolerated by the State of polluting industries. Therefore, measures tending to substantial equality with positive actions are justified.’²²²

An application has also been filed in the Lahore High Court by a coalition of women, alleging that because climate change has a disproportionate impact on women, the Pakistan Federal Government’s inaction on climate change not only violated their fundamental rights, including R2HE, but also their rights to equal protection of the law and non-discrimination on the basis of sex.²²³

Legislation has codified another key intersection of R2HE and gender equality: the key role that women play for the environment and in environmental decision-making. The Mexican General Law on Ecological Balance and Environmental Protection, for example, provides that ‘[w]omen play an important role in the protection, preservation and sustainable exploitation of natural resources and in development. The full participation of women is essential to achieve sustainable development.’²²⁴



Gender equity should guide the implementation of the R2HE, meaning that, when possible, measures taken to realise the right should promote gender equity and, at the very least, not contribute to gender inequity.



Consistency with the best available science

Rules, regulations, policies, programmes, and any other measure taken to manage the environment or with expected environmental impacts should be consistent with the best available science. For instance, the European Council’s Pollution Prevention and Control Directive requires permits for industrial and agricultural activities with high pollution potential and one of the permit requirements is the prevention of pollution using ‘best available techniques.’²²⁵

Some courts have explicitly recognised that to comply with R2HE obligations, State action must be consistent with the best available science existing for the issue in question. For example, in invalidating an agency’s decision to allow higher ethanol content in gasoline, the Supreme Court of Mexico concluded that a measure carrying significant environmental risks must be evaluated using the relevant best scientific information available. The Court also held that State regulation more generally must be analysed with the greatest scientific information possible in light of international commitments established in the Paris Agreement.²²⁶ In its decision, the Court also reminded the State that, pursuant to the precautionary principle, it must adopt preventative and regulatory measures that tend to the protection of the environment, without having at its disposal all necessary scientific knowledge.²²⁷

On its part, the High Court of Kenya, citing international law scholarship, explained that a number of internationally held principles - including the principle that decisions must be based on the best possible scientific information and analysis of risk - must be observed by the State, since conservation of natural resources extends beyond the immediate environment to global issues.²²⁸

In another example, in a complaint to the European Committee of Social Rights, the Committee of Social Rights found that ‘even taking into consideration the margin of discretion granted to national authorities in such matters,’ Greece failed to strike a reasonable balance in adapting plant and mining equipment to the ‘best available techniques.’²²⁹



Respecting local and indigenous wisdom

Governmental and non-governmental actors should respect local and Indigenous wisdom, especially when it comes to environmental matters. As a result, local and Indigenous wisdom should be actively incorporated into rights-based environmental governance. This includes seeking out the active participation of Indigenous and local communities in environmental decision-making.

Laws and court decisions around the world recognise the value of local and Indigenous wisdom in implementing the right to a healthy environment. The Environmental Law of Mozambique, for example, explains that ‘environmental management is based upon fundamental principles that are derivative of the right of all citizens to an ecologically balanced environment that is favourable to their health and physical and mental well-being, namely... the recognition and valorisation of the traditions and the knowledge of the local communities that contribute to the conservation and preservation of natural resources and the environment.’²³⁰

The Environmental Protection and Management Law of Indonesia, moreover, establishes that ‘[i]n protecting and managing the environment, the government shall be assigned and authorised to... stipulate policies on procedures for recognising the existence of traditional communities, local wisdom, and rights of traditional communities with respects to environmental protection and management.’²³¹

And in Mexico, among many other examples, the General Law on Ecological Balance and Environmental Protection provides that ‘the preservation and sustainable exploitation of wild flora and fauna’ will consider the ‘traditional biological knowledge and participation of communities and indigenous peoples in the development of biodiversity programmes in the areas where they live.’²³²

The Inter-American Court of Human Rights, recalling international treaties - including the Rio Declaration and the Convention on Biological Diversity - that recognise the importance of traditional knowledge and practices has also emphasised, ‘that the management by indigenous communities of the resources that exist in their territories should be understood in pragmatic terms, favorable to environmental preservation.’²³³

At the domestic level, other courts have also highlighted the necessity of preserving ancestral and traditional knowledge. In Ecuador, this understanding has been observed in the Los Cedros case, when the Ecuadorian Constitutional Court recognised the importance of combining technical, scientific reports and the knowledge of indigenous communities, given their special relationship with nature.²³⁴ On occasion, the Brazilian Constitutional Court has also recognised that the R2HE is connected to the necessity of preserving indigenous communities’ cultures, identities and values as a means of environmental protection.²³⁵



Ikat weaving in Bena indigenous Ngada village. Flores, Indonesia 2016.

Photo by Paul Arps

Transboundary harm and extraterritoriality

At the international level, transboundary harm is largely considered to be harm caused in the territory of or in other places under the jurisdiction or control of a State other than the State of origin.²³⁶

In the environmental context, this includes issues of climate change, ozone depletion, the loss of biological diversity, long-range air pollution, marine pollution, plastic pollution and trade in hazardous substances.²³⁷ These transboundary issues may implicate violations of R2HE since, as set out in the 2011 Office of the High Commissioner on Human Rights report on human rights and the environment, ‘one country’s pollution can become another country’s environmental and human rights problem, particularly where the polluting media, like air and water, are capable of easily crossing boundaries....These issues are of particular importance in the environmental context, in the light of the number and intensity of transboundary and global environmental threats to the full enjoyment of human rights.’²³⁸

Relatedly, the no-harm rule – another widely recognised and binding principle of international law – requires States to prevent, reduce and control the risk of environmental harm to other States.²³⁹ Along these lines, the obligation of States to cooperate to achieve universal respect for and observance of human rights requires States to work together to address transboundary and global environmental threats to human rights. Once their obligations have been defined, States must comply with them in good faith.²⁴⁰

Further, although international case law and State practice varies on this issue, environmental harm that is transboundary in nature may trigger the extraterritorial dimension of human rights, meaning that the State causing the harm would have a human right obligations vis-à-vis a person that is not within its territory. Extraterritoriality may also be triggered when States fail to adequately regulate transnational corporations and other business entities having substantial business operations in their territories but that cause environmental harm in other countries where they operate.²⁴¹

Elaborating on the concept and taking it a step further, an Advisory Opinion of the Inter-American Court of Human Rights was of the view that the obligation to prevent transboundary environmental damage or harm ‘does not depend on the lawful or unlawful nature of the conduct that generates the damage, because States must provide prompt, adequate and effective redress to the ... victims of transboundary harm resulting from activities carried out in their territory or under their jurisdiction, even if the action which caused this damage is not prohibited by international law.’²⁴² It further explained that ‘States must ensure access to justice, without discrimination, to persons affected by environmental damage originating in their territory, even when such persons live or are outside this territory.’²⁴³



THE RIGHT TO A HEALTHY ENVIRONMENT: ADJUDICATION IN THE COURTS

Courts have conceptually clarified the R2HE and its components through decades of judicial decision-making and precedent setting. This conceptual clarity has improved the implementation of R2HE by ensuring its application in a variety of fact-specific circumstances, from particular mining projects to the climate policies of different countries to instances of deforestation and beyond. In other words, by articulating the doctrines, methods, and approaches that can and should be used to adjudicate R2HE claims, courts have helped translate the R2HE from an abstraction to a concrete norm with material impacts.

This section will examine how courts have adjudicated claims concerning the R2HE and, in doing so, have added substance to the body of R2HE practice.

National Green Tribunal Office, New Delhi.

Photo by Max Goth

Flexible standing requirements

Generally speaking, people and organisations need standing to bring claims to a court for resolution. Standing refers to the capacity of a given party to have their claims heard, typically requiring that the party demonstrate an individualised harm linked to the actions of the defendant which can be redressed by the court. Standing has proven to be a barrier to the adjudication of claims of environmental harms in many jurisdictions.

Some international and regional treaties that regard the right to a healthy environment emphasise that to guarantee the right of access to justice in environmental matters, States shall have ‘broad active legal standing in defense of the environment, in accordance with domestic legislation.’²⁴⁴

To improve the implementation of the right to a healthy environment, many courts have sought to reduce this barrier to judicial enforcement by providing flexibility to standing requirements.

The High Court of Uganda, for example, has provided that, with respect to standing, the constitutional right to a healthy environment ‘allows any individual or organisation to protect the rights of another even though[] that individual is not suffering the injury complained of or does not know that he is suffering from the alleged injury. To put it in the biblical sense the Article makes all of us our “brother keeper”. In that sense it gives all the power to speak for those who cannot speak for their rights due to their ignorance, poverty or apathy.’²⁴⁵ In short, this approach reduces the burden of demonstrating standing by easing the need for the plaintiff to prove she experienced an individualised harm.

The Kenyan Environment and Land Court has likewise explained in the context of a case challenging the inadequate management of a dumpsite that, ‘it is not necessary for one to demonstrate that they have suffered loss or injury, for them to move the court when claiming that the [constitutional] right to a clean and healthy environment has been violated or is under threat of violation. It is not therefore a requirement for the petitioners to show that they have personally suffered or that the presence of the dumpsite has directly caused them any direct harm. It is sufficient for the petitioners to point out that there is an ongoing or imminent threat of harm to the environment.’²⁴⁶

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To improve the implementation of the R2HE, many courts have sought to reduce this barrier to judicial enforcement by providing flexibility to standing requirements.

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Reducing barriers to proving causation

Overall, legal causation is the requirement that plaintiffs demonstrate a causal link between the defendant's actions and the alleged harm. Similar to standing, causation has also been a barrier to the adjudication of environmental rights claims.²⁴⁷ This has been a particular problem for claims of rights violations stemming from climate change, given the complex causality of climate change impacts.

Like with respect to standing, some courts have found ways to lessen the burden associated with proving causation in order to reduce this barrier to enforcing R2HE in court. In particular, in instances where difficulties proving causation result from the inherent nature of the problem – like climate change's role as a threat multiplier – courts have interpreted causation requirements to provide flexibility, so as to prevent these difficulties from undermining the protection of rights like the right to a healthy environment.

For example, in a case dealing with pollution generated by the inadequate management of a landfill site, for example, the High Court of South Africa noted that it was not necessary for the plaintiff to prove that the environmentally harmful activities are causally linked to harm to her wellbeing, as the constitutional right to a healthy environment involved a general governmental duty to protect the environment.²⁴⁸ In other words, it was enough to show that the government failed to comply with its environmental duties, in this case informed by duties imposed by environmental statutes.

Methods for ensuring baseline protections

Courts have developed various methods and standards to assess the appropriateness of government and corporate action relative to the baseline environmental quality needed to guarantee the right to a healthy environment.

In India, for example, the National Green Tribunal provided that the appropriateness of government action that has environmental ramifications would be judged according to a 'reasonable person's test.' This test, in short, helps resolve claims where the challenged action degrades the environment but provides some sort of economic benefit. Specifically, the 'risk of potential harm to the environment and human health resulting from development should be considered by somewhat tilting the balance in favour of the environment and in the larger public interest. According to 'a reasonable person's test', life, public health and ecology have priority over unemployment and loss of revenue.'²⁴⁹

Meanwhile, in a South African case challenging the approval of a new coal-fired power plant on the basis of its environmental impacts, the High Court explained that in assessing whether governmental action was consistent with the right to a healthy environment, 'short-term needs must be evaluated and weighed against long-term consequences.'²⁵⁰ In other words, short-term gains alone cannot justify environmental degradation and destruction when their long-term consequences undermine the right to a healthy environment.

Remedies

Judicial enforcement of the right to a healthy environment depends enormously on the remedies they provide. Appropriate and effective remedies for violations of R2HE play a key role in ensuring the right materially improves people's lives and protects the environment and its various components.

The remainder of this section explores the primary remedies courts around the world have offered to redress harms and violations of the right to a healthy environment – namely, protection measures, restoration orders, the creation of compliance mechanisms or implementing bodies, and compensation. Often, courts offer more than one of these remedies to rectify harms.

a. Protection Measures

Courts around the world have required States and corporations to undertake a wide array of measures to affirmatively protect the environment and its various components. This includes, for example, ordering governments to write and implement actions plans to tackle the challenged harm, like deforestation.

In Colombia, for example, in response to uncontrolled deforestation in the protected Vía Parque Isla de Salamanca, the Supreme Court of Justice ordered the defendant government (and relevant agencies) to 'formulate a strategic and effective plan of action in the medium term to reduce the levels of deforestation and degradation to zero (0) in the Vía Parque Isla de Salamanca. Said planning must contain commitments, responsible authorities, lines of action and dates specific measures for the promotion of VPIS prevention and restoration actions, as well as the consequences in case of non-compliance, in accordance with the legal provisions on environmental matters.'²⁵¹





Photo by Gryffyn M on Unsplash

b. Restoration

In instances where environmental degradation and destruction has already occurred, restoration constitutes an important objective to remedy violations of the right to a healthy environment. Courts have recognised this time and time again and have, as a result, ordered the parties responsible for the harm to take restorative actions to return the environment and its components to a State as close to its pre-degraded state as possible.

The Kenyan Environment and Land Court, for example, in a case dealing with the pollution of the Nairobi and Athi Rivers, ordered the government parties to develop and implement a plan and strategy for cleaning up the Nairobi and Athi Rivers such that the water is 'restored to a point where it is free from the pollution.'²⁵²

c. Creation of an implementing body or compliance mechanism

To redress complex and often ongoing harms, courts have ordered the creation of implementing bodies or compliance mechanisms to ensure action is taken to redress the challenged harm over the long periods of time such action may require.

In Pakistan, for example, the Lahore High Court found that the government's failure to implement its national climate change framework policy violated citizens' fundamental rights (including R2HE). In its order directing the government to implement this policy, the court ordered the formation of a climate change commission. The court tasked the commission – composed of government agency representatives, NGOs, and technical experts – with monitoring the progress made towards implementing the climate change framework.²⁵³

Colombian courts have made monitoring bodies key components of structural remedies they've issued to redress environmental degradation, including, for example, a 'permanent monitoring committee' in a case in which government agencies were ordered to develop and implement a strategic plan to of action to reduce deforestation and degradation to zero in the Vía Parque Isla de Salamanca.²⁵⁴ And the Indian National Green Tribunal, among many other examples, ordered the creation of a monitoring committee composed of representatives of government agencies to supervise efforts to protect and restore a sensitive ecosystem in Himachal Pradesh that had been degraded by human activity.²⁵⁵



d. Compensation

In addition to preventing environmental harm before it occurs and reversing that which has already occurred, courts regularly order reparations and compensation be paid to the people and communities whose right to a healthy environment has been infringed by the challenged State or corporate action. For instance, the Indian Supreme Court ordered the Central Government to establish an authority to ‘determine the compensation to be recovered from the polluters as cost of reversing the damaged environment,’ applying the ‘precautionary principle’ and the ‘polluter pays principle.’²⁵⁶ Within the Americas, the Inter-American Court of Human Rights has been, ‘since its first ruling on the matter in 1989...

developing standards applicable to the compensation of damage.²⁵⁷ In Colombia, the Constitutional Court has even ordered consultations between the defendants and harmed indigenous communities for the purpose of adopting compensation measures.²⁵⁸ In Kenya, the Environment and Land Court cited Principle 13 of the Rio Declaration, obliging States to develop law on liability and compensation for victims of pollution, when making an order for compensation.²⁵⁹



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LEGISLATING THE RIGHT TO A HEALTHY ENVIRONMENT

Like courts, legislatures around the world have taken steps specific to their particular roles and functions to implement the right to a healthy environment and improve its enforcement. This section covers the legislative steps that have been taken to implement R2HE that cut across jurisdictions and regions. These include: providing inclusive definitions of the right to a healthy environment, specifying measures to effectuate the right, establishing implementing bodies and institutions, creating causes of action, and listing available remedies for violations of the right.

Providing inclusive definitions of the right to a healthy environment

One of the challenges in ensuring that the right to a healthy environment has material impact on the ground is its lack of specificity relative to the complexity of the world. Legislation and policy can tackle this challenge by providing inclusive and robust definitions of the guarantees associated with the right to a healthy environment. Indeed, many legislators and policymakers around the world have done just that.

In Azerbaijan, for example, the Law on Environmental Protection lists the various guarantees comprising the right of ‘citizens, stateless persons and foreigners’ to a healthy environment, which includes, among other things, the right to: ‘receive accurate information about the existence of a favourable environment for the life and health of every citizen, its condition and measures to improve its condition;’ ‘as a result of their violation of environmental protection legislation receive compensation for damage to health and property;’

‘participate in meetings, rallies, pickets, marches and demonstrations, referendums related to environmental protection in accordance with the law;’ and ‘file lawsuits before relevant authorities and courts to hold guilty organisations, officials and citizens responsible for violations of environmental protection legislation.’²⁶⁰

Many other laws similarly specify what the right to a healthy environment entails in practice. The Environmental Code of Kazakhstan enumerates the various components of the right to a healthy environment to which present and future generations are entitled, including the right to: ‘access timely, complete and reliable environmental information under the laws of the Republic of Kazakhstan;’ ‘participate in the decision-making of State bodies and officials on environmental matters in the manner specified by this Code;’ and ‘apply to court to challenge the legality of actions (inaction) and decisions of State bodies, local authorities, officials and civil servants on environmental protection matters, including those related to reversing the caused environmental damage and stopping the violation of the environmental legislation of the Republic of Kazakhstan.’²⁶¹ Environmental laws in Ecuador,²⁶² Estonia,²⁶³ Georgia,²⁶⁴ and Mozambique,²⁶⁵ among many others, also detail the components, guarantees, and entitlements that define the right to a healthy environment.

Crucially, laws can also promote the effective implementation of the right to a healthy environment by protecting against efforts to criminalise or harass environmental defenders. Indonesia’s Environmental Protection and Management Law, for example, provides that ‘[e]verybody struggling for a right to proper and healthy environment may not be charged with criminal or civil offense.’²⁶⁶

Measures to effectuate the right to a healthy environment

Relatedly, legislators and policymakers have also greatly enhanced R2HE practice by spelling out in clear terms the measures governments (and their subdivisions) and corporations are required to take to effectuate the right to a healthy environment.

The Environmental Code of Mauritania, for example, specifies that the Minister for the Environment is required to take precautionary measures to protect the environment.²⁶⁷ In the Philippines, the Act to Promote Environmental Awareness through Environmental Education requires the government and relevant agencies to integrate environmental education into all levels of schooling as well as develop and programmes to promote ecological education and awareness.²⁶⁸ Environmental education – which ‘encompass[es] environmental concepts and principles, environmental laws, the state of international and local environment, local environmental best practices, the threats of environmental degradation and its impact on human wellbeing, the responsibility of the citizenry to the environment and the value of conservation, protection and rehabilitation of natural resources and the environment in the context of sustainable development’ – is viewed by the law as an important tool to facilitate the implementation of the right to a healthy environment.²⁶⁹ And Spain’s Law of Environmental Responsibility, among other examples, details a scheme for holding parties liable for environmental damage or breach of environmental responsibilities, including that which infringes upon the right to a healthy environment.²⁷⁰

Implementing bodies, institutions, and mechanisms

Realising the substantive and procedural guarantees of the right to a healthy environment takes time and effort. Bodies, institutions, and mechanisms dedicated to environmental governance are therefore crucial in implementing the right to a healthy environment. Around the world, laws affirming R2HE establish these specific bodies, institutions, and mechanisms, which can take on a variety of forms.

Environmental agencies – government agencies tasked with regulating activities affecting the environment and designing and implementing measures to protect the environment and remedy environmental harms – are one such example. In Liberia, for example, the Environment Protection Agency Act established the country’s Environment Protection Agency as an autonomous body within the executive branch of the government, tasked with regulating to protect and manage the environment, in part to facilitate and enhance the constitutional right to a healthy environment.²⁷¹

Legislation can also set up other bodies to oversee management of the environment and inject technical and specialised expertise into management processes. For example, Bhutan’s National Environmental Protection Act establishes the National Environment Commission to serve as ‘the highest decision-making body on all matters relating to the environment and its management in the country.’²⁷² The Commission is charged with ‘set[ting] the policies and [] coordinat[ing] the actions required to . . . protect and promote a safe and healthy environment’ in line with the constitutional right to a healthy environment, among other tasks.²⁷³

An environmental statute in Chad, moreover, establishes a National Technical Committee to facilitate its international commitments to reduce pollution and help guarantee the right to a healthy environment. More specifically, this National Technical Committee is placed ‘in charge of the implementation, monitoring and evaluation of the measures for the execution of the international instruments relating to pollution and nuisances.’²⁷⁴

Meanwhile, a Haitian environmental law sets up a National Environmental Information System, which collects data on the environment to inform, assess, and monitor environmental quality and decision-making in Haiti and thus facilitates the implementation of the right to a healthy environment.²⁷⁵ And the Palau Environmental Quality Protection Act, among many other examples, created the Environmental Quality Protection Board, which monitors various markers of environmental health and regulates to protect and enhance environmental quality.²⁷⁶

Domestic laws can also create courts and judicial bodies dedicated to adjudicating environmental claims, including claims related to the right to a healthy environment. India’s National Green Tribunal Act, for example, established the National Green Tribunal, a specialised court authorised to hear environmental claims.²⁷⁷

Proper implementation and enforcement of the right to a healthy environment requires resources. Legislation can tackle this need by creating special funds dedicated to environmental governance, including the protection and promotion of R2HE. The Comoros Framework Law on the Environment, for example, both affirms the right to a healthy environment and establishes an Environmental Management Fund to support the implementation of environmental programmes and the activities of environmental associations.²⁷⁸ The Kenyan Environmental Management and Coordination Act, meanwhile, created the National Environment Trust Fund to facilitate environmental research and capacity-building and the National Environment Restoration Fund to support the mitigation of environmental degradation.²⁷⁹ And similarly, Niger’s Framework Law on Environmental Management, among many other examples, both affirms R2HE and establishes the National Environment Fund to finance the country’s environmental policies.²⁸⁰

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Legislation can also set up other bodies to oversee management of the environment and inject technical and specialised expertise into management processes.

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Creating a cause of action

Legislation can play a meaningful role in both promoting access to justice as a procedural guarantee of the right to a healthy environment and ensuring judicial oversight of government and corporate actions that may implicate R2HE. One of the primary ways that legislation can do that is by providing a route for people and organisations to bring their claims involving R2HE in front of courts. Indeed, legislation around the world affirming R2HE commonly includes provisions that create a cause of action for R2HE claims, meaning that it authorises parties to bring these claims to court for resolution. Laws in Bhutan,²⁸¹ Burkina Faso,²⁸² Estonia,²⁸³ Lesotho,²⁸⁴ the Philippines,²⁸⁵ and Timor-Leste,²⁸⁶ among many other examples, provide this type of cause of action.

Estonia's law, for example, permits a legal person - an individual, company, or other entity which has legal rights and is subject to obligations- to file a claim or appeal with the administrative authority or court. If it is an environmental organisation that is bringing the claim, its rights are presumed to have been violated if the contested decision relates to the environmental protection goals or activities of that organisation.²⁸⁷

The Philippines permits a Writ of Kalikasan, which is a special civil action for vindication of the constitutional right to a 'balanced and healthful ecology' or an unlawful act or omission involving environmental damage of such magnitude as to prejudice the life, health or property of inhabitants in two or more cities or provinces.' The Writ also prohibits many motions in response that are otherwise typically available in civil actions, such as motion to dismiss, motion for extension of time to file return, counterclaim or cross-claim, among others.²⁸⁸

Courts around the world have ensured that causes of action created by domestic legislation are indeed actualised. In holding that plaintiffs did not need to

show that they had a right or interest in the property, environment, or land alleged to be damaged, the High Court of Kenya emphasised that every person in Kenya was entitled to a healthy environment and therefore had a right to prosecute their cause in court. The court therefore denied the argument of the defendant mining company that some plaintiffs did not have sufficient entitlement to bring the case to court or a valid interest in the property in question.²⁸⁹ In other words, the plaintiff's entitlement R2HE was sufficient to open the door for their day in court.

Specifying remedies

Legislation can also aid the judicial protection of the right to a healthy environment by specifying the remedies that plaintiffs can claim in cases brought to enforce R2HE. Laws in Azerbaijan and Belarus, for example, provide that plaintiffs in R2HE cases can seek compensation for harms suffered.²⁹⁰ Plaintiffs claiming violations of the right to a healthy environment can, moreover, seek measures to restore the environment and its various components to their pre-degraded condition, as far as possible, according to laws in Hungary²⁹¹ and Uganda,²⁹² among others. Fines may also be issued for noncompliance with environmental laws, including those intended to implement the right to a healthy environment.²⁹³ And the Kenyan Environmental Management and Coordination Act, like many laws affirming R2HE, lists multiple remedies that the High Court can provide for infringements of R2HE, which includes injunctions, restoration measures, and compensation orders.²⁹⁴



CONCLUSION: LEARNING BY EXAMPLE

Through the legislative recognition and judicial enforcement of procedural and substantive components of R2HE, as well the following of guiding principles and best practices, we have come a long way in the effective implementation of the right to a healthy environment.

Yet as the window of opportunity to avoid extreme scenarios of climate change and environmental destruction closes on us, there remains much to be done. But far from provoking feelings of resignation, this report, in part, aimed to show by example: it has been through the volition of States, judiciaries, and concerned citizens that we have made great progress in the protection of our ecosystems and their inhabitants. At this point in time, we can only keep moving forward, with urgency and ambition.

As you do so, this report invites you to value the opportunity to embrace the right to a healthy environment – along with its fundamental companion rights – as a powerful tool in your arsenal in the fight for our beloved world.



Living off the river, Isangi, Democratic Republic of Congo.

Photo by Julien Harneis

APPENDIX: R2HE CASE CHART

This chart documents cases around the world where the right to a healthy environment is invoked to redress environmental harms. Though comprising a diverse and representative sample of R2HE cases, this chart doesn't include the entire universe of global R2HE cases.

REGIONAL

S/N	YEAR	CASE NAME	JURISDICTION & COURT	PLAINTIFF(S)	ELEMENT	SUMMARY OF HOW R2HE IS ADDRESSED	SUMMARY OF CLAIMS
1	2002 (decided)	Social and Economic Rights Action Centre and Centre for Economic and Social Rights v. Nigeria LINK	African Commission on Human and Peoples' Rights	NGO	Pollution	The Commission determined that, as guaranteed under Article 24 of the African Charter or the right to a healthy environment, Governments have clear obligations "to take reasonable and other measures to prevent pollution and ecological degradation, to promote conservation, and to secure an ecologically sustainable development and use of natural resources."	Applicants alleged that the oil consortium has exploited oil reserves in Ogoniland with no regard for the health or environment of the local communities, disposing toxic wastes into the environment and local waterways in violation of applicable international environmental standards.
2	2006 (decided)	Marangopoulos Foundation for Human Rights v. Greece LINK	European Committee of Social Rights	NGO	Pollution, Climate	Greece has not managed to strike a reasonable balance between the interests of persons living in the lignite mining areas and the general interest, and finds that there has thus been a violation of Article 11§1, 2 and 3 of the Charter (protects citizens' right to a clean environment by requiring, among other things, restrictions on pollutants known to compromise human health).	alleged that the Greek government was not in compliance with Greek, European, and international law owing to the nature of its oversight (and partial ownership of) several lignite coal mines and coal-fired power plants. Among the legal authorities cited, perhaps most central to MFHR's claims was Article 11 of the European Social Charter of 1961; that article protects citizens' right to a clean environment by requiring, among other things, restrictions on pollutants known to compromise human health.
3	2009 (decided)	Tatar and Tatar v. Romania LINK	European Court of HR	Father and son	Pollution	The court concluded that the State's failure to take positive steps to prevent an environmental disaster violated the rights to life, private and family life and, more generally, to the enjoyment of a healthy and protected environment.	Plaintiffs alleged that the Baia Mare mine posed an environmental and health hazard because the mining process contained cyanide and aggravated the son's medical condition.

S/N	YEAR	CASE NAME	JURISDICTION & COURT	PLAINTIFF(S)	ELEMENT	SUMMARY OF HOW R2HE IS ADDRESSED	SUMMARY OF CLAIMS
4	2017 (decided)	Advisory Opinion, OC-23-17 / Medio Ambiente Y Derechos Humanos / A Request for an Advisory Opinion from the Inter-American Court of Human Rights Concerning the Interpretation of Article 1(1), 4(1) and 5(1) of the American Convention on Human Rights LINK	Inter-American Court of HR	Republic of Colombia	Biodiversity, Climate, Pollution	The right to a healthy environment under the San Salvador Protocol protects individuals and collectives, including future generations, and can be used to hold States responsible for cross-border violations that are within their "effective control." The Inter-American Court stated that: "Environmental damage can cause irreparable damage to human beings. As such, a healthy environment is a fundamental right for the existence of humanity."	The Court was asked to determine "how the Pact of San José should be interpreted when there is a danger that the construction and operation of major new infrastructure projects may have severe effects on the marine environment in the Wider Caribbean Region and, consequently, on the islands of a State Party to the Pact, in light of the environmental standards recognized in international customary law and the treaties applicable among the respective States."
5	2020 (decided)	Indigenous Communities of the Lhaka Honhat Association v. Argentina LINK	Inter-American Court of HR	Indigenous Communities	Biodiversity	Argentina violated the right of the Lhaka Honhat indigenous groups to a healthy environment due to the lack of effective measures to stop activities harmful to them. Thus, Courts have recognized that States can have an obligation to prevent violations of the right to a healthy environment.	Plaintiffs allege a violation of the obligations to respect, protect and adopt necessary measures to ensure the effective enjoyment of the right to communal property, based on the construction of several public works and the exploration of hydrocarbons in the traditional indigenous territory without respecting inter-American standards on free, prior and informed consultation, and for having consented to and tolerated illegitimate actions by private individuals such as the installation of fences, [illegal] logging and cattle farming in traditional indigenous territory.

NATIONAL

S/N	COUNTRY	YEAR	CASE NAME	JURISDICTION + COURT	PLAINTIFF(S)	ELEMENT	SUMMARY OF HOW R2HE IS ADDRESSED	SUMMARY OF CLAIMS
1	Argentina	2008 (decided)	Mendoza Beatriz Silva and other v. National Government and other in regards to damages suffered LINK	Supreme Court of Argentina	A group of concerned residents of the Matanza-Riachuelo River basin	Pollution	In its decision, while the Court did not explicitly frame the analysis within human rights law, it focused on issues that have dramatic impact on and relevance for human rights, including the rights to life, health, water, sanitation and a healthy environment. The Court established an action plan mandating the Government agency responsible for the Matanza/Riachuelo basin to undertake certain actions to clean up the basin.	Plaintiffs filed a complaint against the national government, the province and city of Buenos Aires as well as several private companies, based in part on the constitutional right to a healthy environment, seeking compensation for damages resulting from pollution of the basin, stoppage of contaminating activities, and a remedy for collective environmental damage.
2	Belgium	2006	Inter-Environment Wallonie v. Walloon Region LINK	Constitutional Court	Environmental NGO	Pollution	Court relied on R2HE in Constitution & int'l law. Emphasis on principle of non-regression.	Claim that amendment to law regulating land-use deprives the Belgian people of environmental protections.
3	Brazil	2020 (pending)	ADPF 746 (Fires in the Pantanal and the Amazon Forest) LINK	Federal Supreme Court	Labor Party (PT)	Biodiversity	N/A	The plaintiffs explain that in view of the omission of the Federal Executive Power regarding the duties of protection, prevention, precaution, inspection, conservation and sustainability of the environment in what regards the situation of the Pantanal and Amazon Forest biomes – national patrimonies by constitutional order – that have been decimated, the R2HE (art. 225 of the Constitution) has been violated. Plaintiffs emphasize that Art. 225 declares the Pantanal and Amazon Forest biomes as national patrimony and therefore necessitating special protection. Plaintiffs state that the constitutional vector for the environment is that human action must be guided by the action of nature. Man must be at the service of nature, not the other way around. Seen this way, the fires cannot be seen as “natural” and must be seen as part of the sphere of responsibility by the government. With this in mind, it follows that the fires in the Pantanal are an impact of the devastation in the Amazon rainforest.

S/N	COUNTRY	YEAR	CASE NAME	JURISDICTION + COURT	PLAINTIFF(S)	ELEMENT	SUMMARY OF HOW R2HE IS ADDRESSED	SUMMARY OF CLAIMS
4	Brazil	2020 (filed)	PSB et al. v. Brazil (on Amazon fund) LINK	Federal Supreme Court	4 political parties	Biodiversity	Plaintiffs allege a violation of Article 225 of the Constitution, which creates the right to an ecologically balanced environment and lists State's duties in this regard, including to “preseve and restore ecological processes”.	Plaintiffs claim that the federal government hasn't been taking proper measures to allow the Amazon Fund to operate. The Amazon Fund's objective is to promote projects that prevent or combat deforestation and finance actions for the reduction of GHG emissions.
5	Brazil	2020 (decided)	PSB et al. v. Brazil (on deforestation and human rights) LINK	Federal Supreme Court	7 political parties in Brazil, organized by a coalition of NGOs	Climate	Human rights that are alleged to be violated include R2HE. Article 225 of the 1988 Constitution of the Federative Republic of Brazil states that everyone has the right to an ecologically balanced environment.	The lawsuit asserts that the Government is significantly contributing to climate change by failing to implement the national deforestation policy. The plaintiffs claim that the Government has violated the fundamental right of the populations living in the Amazon and throughout Brazil, particularly the rights of Indigenous Peoples and traditional communities, as well as those of present and future generations.
6	Chile	1997 (decided)	Antonio Horvath Kiss and others v. National Commission for the Environment (“The Trillium decision”) LINK	Supreme Court	Citizens	Biodiversity, Pollution	The Court enjoined the project, holding that the constitutional right to a healthy environment is owed to all citizens, thus allowing the plaintiffs to pursue the matter as an acción de amparo even though none of them had personally suffered any injury.	Plaintiffs claimed that the Trillium corporation's project violated their constitutional “right to live in an environment free from contamination.”
7	Chile	2019 (decided)	Francisco Chahuan v. Empresa Nacional de Petroleos LINK	Supreme Court	Senator, Municipality, Victims, Ombudsman for Children, NGO	Pollution	Economic development such as that represented by the creation of Ventanas industrial complex, even when it legitimately aimed to improve the quality of life of people, including those who lived in nearby areas, could not be implemented by ignoring or abandoning the conservation and protection of the environment, and could not compromise the expectations of future generations.	Alleged that the Quintero - Puchuncaví coastline and its communities were affected by a health and environmental emergency, due to a toxic cloud emanating from the industrial park

S/N	COUNTRY	YEAR	CASE NAME	JURISDICTION + COURT	PLAINTIFF(S)	ELEMENT	SUMMARY OF HOW R2HE IS ADDRESSED	SUMMARY OF CLAIMS
8	Chile	2021 (pending)	Women from Huasco and Others v. the Government of Chile, Ministry of Energy, Environment and Health LINK	Court of Appeal of Copiapo	Women residents of Huasco	Pollution, Climate	On May 2, 2022, the Court of Appeals of Copiapo rejected the claim on procedural grounds. The Court found that the matter in question was beyond its competence, as it involved the exercise of powers belonging to the executive branch. The thermoelectric closure is a complex process involving different factors and not just the executive government.	Plaintiffs claim that: 1) They have a right to the constitutional right to live in an environment free of contamination (art. 19, n 8). The constitution empowers one who, because of arbitrary or illegal acts or omissions suffer deprivation, disturbance or threat in the legitimate exercise of the rights and guarantees established therein to file the action of protection before the respective court. 2) The permanent production of polluting GHG emissions by units of the Thermal Power Plant Guacolda and (2) the lack of a certain date for the removal of coal or reconversion of said units before the year 2040 violates the R2HE, among many other fundamental rights. 3) The State is responsible for: protecting environmental minimum, protecting vulnerable groups, regulating administrative coordination, and complying with international law and the duty to cooperate and access to justice
9	Colombia	1991 (decided)	Fundepublico v. Mayor of Bugalagrande and Others Judgment No. T-415/92 LINK	Constitutional Court	NGO (Fundepublico) representing resident communities (community action boards of the La Planta and Cocicoinpa neighborhoods)	Pollution	Court held in favor of the right to a healthy environment as a fundamental human right because it was part and parcel of what is considered fundamental rights. The court made reference to rights contained in the Colombian Constitution and also to "recent developments in international law". "precondition to life itself and must be guaranteed even in the face of uncertainty as to the risk of violating the right"	Plaintiffs allege violation of R2HE as a fundamental constitutional right, as a consequence of non-compliance by the officials that issued a permit for an asphalt plant, who allegedly did not comply with regulations that establish procedures to set limits and contamination objectives, within which it is considered that there is no major danger to health.
10	Colombia	1993 (decided)	Judgment No T-254/93 LINK	Constitutional Court	Individual	Pollution	R2HE, which is enshrined in article 79 of the Constitution, was violated by pollution of the Palo river. R2HE is not a fundamental constitutional right, but a constitutional right and interest of a collective nature; requirements for the protection of R2HE through the tutela action are: That the petitioner of the tutela action be the person directly or actually affected and there is proof of the violation or threat and the existence of a causal link between the alleged reason and the damage or threat. (R2HE claim creates different requirements for individual v. collective action?)	Constitutional Court is being asked to review the previous judgment of the Superior Court of Cauca. The applicant presented claims before the court against different public administrations, and private enterprises, arguing that private companies poured products contaminated with industrial operations into the Palo river waters to the detriment of the rights to life and work of the applicants and community living in Puerto Tejada.

S/N	COUNTRY	YEAR	CASE NAME	JURISDICTION + COURT	PLAINTIFF(S)	ELEMENT	SUMMARY OF HOW R2HE IS ADDRESSED	SUMMARY OF CLAIMS
11	Colombia	2000 (decided)	Judgement C-431/00 LINK	Constitutional Court	Individual (Prosecutor for Environmental and Agricultural issues - Procurador Delegado Julio César Rodas Monsalve)	Climate, Biodiversity	The Court followed the argumentation of the plaintiffs, and declared unconstitutional of paragraphs 6 and 7 of Law no 507/1999. The Court understood there was a violation of the R2HE and that the "positive administrative silence in environmental public policies is unconstitutional" as it makes impossible the control of environmental degradation	The Colombian Constitutional Court is asked to review the constitutionality of paragraphs 6 (partial) and 7 (part) of Article 1 of Law 507 of 1999, by which the Law 388 of 1997 is amended. The applicant considers that these paragraphs enshrines the administrative silence as a binding instrument to achieve the formulation and adoption of Land Management Plans by the Municipalities, Districts and Metropolitan Areas, preventing the State fulfil their constitutional duty to protect the diversity and integrity of the environment. According to the appellant, the solution to overcome the disadvantages caused by the delay of the environmental authorities to approve or disapprove the plans on Land Management openly denies the right of people to enjoy a healthy environment and the state's duty to protect.
12	Colombia	2003 (decided)	Claudia Sampedro y Héctor A. Suárez v Ministry of the Environment and Direction of Stupefacient Substances LINK	Administrative Tribunal of Cundinamarca	Citizens	Pollution	The tribunal held that there was no certainty on the harm that it could cause to human beings. Hence, applying on the precautionary principle contained in Law 99 of 1993, it ordered the temporary suspension of the fumigations until the necessary scientific studies on the effects of glyphosate were carried out.	The plaintiffs demanded that the defendant Ministry put an end to the fumigation of illicit drug crops in wide areas of the country, and to proceed to repair the consequent environmental damage. They argued that the environmental effects of the substances sprayed over illicit drug plantations (glyphosate) may go beyond their purpose in the eradication of illicit crops.
13	Colombia	2012 (decided)	Corporación Para El Desarrollo Sostenible Del Archipiélago De San Andrés, Providencia y Santa Catalina-Coralina v. La Agencia Nacional De Hidrocarburos-Anh LINK	Contentious Administrative Chamber (First Section)	NGO - CORALINA (Corporation for the Sustainable Development of the Archipelago of San Andrés, Providencia and Santa Catalina)	Biodiversity	The Court granted the protection of collective rights to the enjoyment of a healthy environment, the existence of ecological balance and the rational management and use of natural resources to guarantee their sustainable development, conservation, restoration or substitution. The conservation of animal and plant species, the protection of areas of special ecological importance, of ecosystems located in border areas, as well as other interests of the community related to the preservation and restoration of the environment	CORALINA demanded protection for the right to a healthy environment, the existence of ecological balance, and the rational management and use of natural resources as well as the protection and attention to regional species and ecosystems to permit a sustainable development of the community and the environment. Specifically, plaintiffs allege that the development of the consortium to carry out exploration and exploitation of hydrocarbons represents a serious risk for the marine ecosystems of this area of the country, protected by a UNESCO declaration as a Biosphere Reserve and by a decision of the MMADS that declared a fraction of the latter as marine protected area (MPA).

S/N	COUNTRY	YEAR	CASE NAME	JURISDICTION + COURT	PLAINTIFF(S)	ELEMENT	SUMMARY OF HOW R2HE IS ADDRESSED	SUMMARY OF CLAIMS
14	Colombia	2015 (decided)	Castilla Salazar v. Colombia (Sentencia C-035/16) LINK	Constitutional Court	Colombian citizens	Biodiversity, Climate	Reference to the constitutional right to a healthy environment (article 79)	Challenging the constitutionality of certain laws establishing provisions of Colombia's National Development Plan, on the basis that they threatened the health of the páramos (high altitude ecosystems) and infringed on constitutional rights, including the right to a healthy environment.
15	Colombia	2016 (decided)	Center for Social Justice Studies v. Presidency of the Republic et al. Judgment T-622/16 (Atrato River Case) LINK	Constitutional Court	Minority communities and farmers in the Chocó region	Biodiversity, pollution	Reference to the constitutional right to a healthy environment (article 79)	Alleging that the damage done to the Atrato River and its surrounding ecosystems by intensive mining and illegal logging violates the petitioners' fundamental rights to life, health, water, food security, a healthy environment, and culture and territory and asking the Court to issue orders detailing structural solutions to redress the situation.
16	Colombia	2018 (decided)	Barragán, et al. v. The Presidency of the Republic, et al. LINK	Supreme Court of Justice, Bogotá	25 children	Biodiversity, Climate	Deforestation in the Amazon rainforest is a violation of the R2HE. The Colombian government should ensure its protection but it has violated this right because of its ineffective measures against deforestation, contributing to climate change.	Claimed that deforestation in the Amazon and the increase of the average temperature in the country threatened their rights to a healthy environment, life, health, food, and water change.
17	Colombia	2018 (decided)	Future Generations v. Ministry of Environment and Others (Demanda Generaciones Futuras v. Minambiente) LINK	Supreme Court	25 youths between ages of 7 and 26 years old	Climate	The Court recognizes R2HE as a constitutional right, found in article 79 & 80. The Colombian government has a responsibility to protect the Amazon; for projects that will impact the Amazon, the Court will study the appropriateness of safeguards and weigh whether the impact on collective rights (including R2HE) transcends the violation of R2HE.	Plaintiffs allege that climate change along with the government's failure to reduce deforestation and ensure compliance with a target for zero-net deforestation in the Colombian Amazon by the year 2020 (as agreed under the Paris Agreement and the National Development Plan 2014-2018), threatens plaintiffs' fundamental rights, including R2HE.
18	Colombia	2018 (decided)	Narvaéz Gómez v. Colombia (Sentencia 080/17) LINK	Constitutional Court	Indigenous communities	Biodiversity, pollution	Reference to the constitutional right to a healthy environment (article 79)	Challenging the fumigation of illicit crops by aerial spraying of glyphosate as a violation of the petitioners' fundamental rights, including their rights to life, cultural and spiritual survival, prior participation and consultation, physical and cultural existence, due process, freedom of development of the personality, education, and a healthy environment, protected under the Colombian Constitution.
19	Colombia	2018 (decided)	Salamanca Mancera et al. v. Colombia LINK	Supreme Court	A group of 25 children, adolescents, and young adults	Biodiversity, Climate	The defendants have not adopted the appropriate measures to deal with this eventuality and, in addition, this has dire consequences for the places of their residence, alternating their living conditions, and cutting off the possibility of "enjoying a healthy environment."	demand that the national government protects their rights to a healthy environment, life, health, food, and water. They claim that the rampant deforestation in the Colombian Amazon and climate change are threatening these rights.

S/N	COUNTRY	YEAR	CASE NAME	JURISDICTION + COURT	PLAINTIFF(S)	ELEMENT	SUMMARY OF HOW R2HE IS ADDRESSED	SUMMARY OF CLAIMS
20	Colombia	2020 (decided)	Combeima River case LINK	Council of State, Administrative Tribunals	Public servant in charge of defending, promoting, and protecting human rights in the Tolima region	Biodiversity, Climate, Pollution	Right to a healthy environment is recognized as a constitutional right (article 79).	Plaintiff alleged that defendants (Ministry of Environment, Mining Agency, 2 mining companies, and 3 individuals) violated the collective rights to a healthy environment and ecological balance (article 79 of the constitution), among others. At issue was mining permits on rivers that had been designated areas of special environmental importance.
21	Colombia	2020 (decided)	Judgment No 73001-23-31-000-2011-00611-03 LINK	Administrative Tribunal of Tolima	Individuals	Pollution	The requirements of prevention of serious, imminent and irreversible damage to the collective rights invoked by the irreversible damage to the collective rights invoked by the plaintiff and the requirements of and reasoning that the Chamber has required for this type of determinations. However, compliance with the condition for the lifting of the measure presents a problem. the lifting of the measure presents a considerable practical problem, and that is that the environmental license regulations in force do not demand this requirement for the mining exploration activity. mining exploration activity. Therefore, the condition imposed on the concessionaires by the the concessionaires by the the Administrative Court of Tolima in the clarifying order of October 28, 2011, is, a October 28, 2011 is, as of today, legally impossible to comply with; since they would not be able to obtain an administrative pronouncement such as that one when, legally speaking, the same is improper. Consequently, the Court leaves without effect the a quo's statement, in order to confirm purely and simply what was decided by the Court in its order of the Court in its order of September 30, 2011.	The plaintiffs claim that the following claims should be granted: In the first place, they seek protection of the collective rights of the entire population of Ibagué, preventing the continued development of gold mining exploration and gold mining exploration and exploitation in the greater basin of the Coello River - Combeima River and Corcora River. Secondly, the declaration of extinction of all rights held by the companies and individuals sued is and the individuals being sued by virtue of the subscription of the concession contracts corresponding to the concession contracts corresponding to the mining titles referenced in the lawsuit. the lawsuit. Finally, the plaintiff seeks to prohibit INGEOMINAS from entering into concession contracts to carry out exploration and mining activities. to carry out gold mining exploration and exploitation tasks in the Major Basin of the Coello Cuenca Mayor del Río Coello, Río Combeima and Río Cocora.
22	Colombia	2020 (decided)	STC No. 3872-2020 (Parque Isla Salamanca) LINK	Supreme Court of Justice	Affected citizen	Biodiversity, Pollution	Found that the right to a healthy environment obliges States to adopt regular and effective measures that contribute to the proper functioning, maintenance and conservation of the fauna and flora that make up the ecosystem	Petitioner requested that Via Parque Isla Salamanca be recognized as a subject of rights and that respondents be ordered to formulate plans to counteract the rate of deforestation of mangrove forests and undertake action to deal with forest fires. Alleged that the ecosystem in question was near collapse due to respondents' "indiscriminate burning", which not only endangers biodiversity, but damages air quality, which affects the health of children in Barranquilla.
23	Costa Rica	1993 (decided)	Carlos Roberto Mejía Chacón Case LINK	Supreme Court of Justice, Constitutional Chamber	Minor boy (10-year-old Carlos Roberto Mejía Chacón)	Pollution	The court held that a clean and healthy environment is a very basis of human life, as are balanced ecosystems, biodiversity, and other elements of nature on which people depend. "The right to a healthy and ecologically balanced environment is fundamental, self-executing and enforceable..." Just like food, work, housing and education, an all-round healthy environment should be considered a human right.	Plaintiff alleged that the local municipality, in allowing the river to be used as a garbage dump (because of the lack of a proper waste management) violated the human right to life, which requires adequate living conditions and protected, clean waterways.

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24	Costa Rica	1994 (decided)	Presidente de la sociedad Marlene S.A. v. Municipalidad de Tibás Marlene	Supreme Court of Justice, Constitutional Chamber	Resident	Pollution	The decision emphasized that the right to a healthy environment is equal to the right to life and the right to health, in that the right to a healthy environment is also inalienable and fundamental. The court added that without recognition of the rights to health and to the environment, the right to life would be severely limited. "There is no longer any doubt about the constitutional protection of the right to health marked out by the right to life and hence by a right to a healthy environment."	Plaintiff alleged that the land north of her home was being illegally used as a private garbage dump which cause pollution and odors that make family life impossible and cause serious pollution to the Virilla River basin and requested that the dump be ordered closed and that the Municipality of Tibás and the Ministry of Health, the Office of Environmental Sanitation, be sentenced for violating his right to petition.
25	Czech Republic	2014 (decided)	Locus Standi of Civic Association to File a Petition (Case No. 59/14) LINK	Constitutional Court	NGO		Natural persons, when associated in a civic association the purpose of which under its by-laws is the protection of nature and landscape, may exercise their right to the healthy environment, as laid down in Article 35 of the Charter, through such association.	Plaintiff challenged a municipal land-use plan on environmental protection grounds
26	Ecuador	2020 (decided)	Herrera Carrion et al. v. Ministry of the Environment et al. (Caso Mecheros) LINK	Provincial Court of Justice of Sucumbio	9 Individuals (Youth)	Pollution, Climate, Biodiversity	The Court recognizes that the R2HE is a constitutional standalone right, however, it also understands that such right is connected to concepts outside of the R2HE, e.g., the right to sustainable development. The Court understood that the following principles guided the R2HE: precautionary, prevention, eco-centrism, intergenerational equity/responsibility, and, as priorly mentioned, sustainable development.	Plaintiffs requested the recognition of (i) gas flaring (although authorized as an exception) as unlawful, and (i) a violation of the rights to health, water and food sovereignty, the R2HE, and the rights of nature. They also requested that annulment of all gas flaring authorizations.
27	Ecuador	2021 (decided)	Case of Los Cedros Forest (Case No. 1149-19-JP/20) LINK	Constitutional Court	Protection action by the GAD of Santa Ana de Cotacachi	Biodiversity	Court recognized constitutional right of individuals, communities, peoples and nationalities to a healthy environment. Also recognized that this right is interrelated with the right to water.	Plaintiff asserted that the right to a healthy environment and the right to water were affected by mining activity. Pointed out that it is the duty of the State to protect the environment, including biodiversity and ecosystems, which must be a priority in this case.

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28	France	2018 (decided)	Notre Affaire à Tous v. France LINK	Administrative Court of Paris	NGOs	Climate	The Administrative Court of Paris issued a decision recognizing that France's inaction has caused ecological damage from climate change and awarded the plaintiffs the requested one euro for moral prejudice caused by this inaction. The Court deferred the decision on whether to issue an injunction to order the French government to take stronger climate measures, and ordered the government to disclose steps it was taking to meet its climate targets within two months. As part of the decision, the Court held that France could be held responsible for failing to meet its own climate and carbon budget goals under EU and national law. But the Court rejected arguments that the government could be forced to meet more specific renewable energy and energy efficiency targets on the grounds that such sectoral measures cannot be independently directly linked to ecological damage. Further, the Court declined to issue compensatory damages for ecological harm, as the Court found that the plaintiffs had not shown that the government will be unable to repair the harm caused.	Plaintiffs argue that the government has both general and specific legal duties to act on climate change. Its general duties stem from 1) the French Charter for the Environment ("the Charter"), the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECPHR), and 3) the general principle of law providing the right of every person to live in a preserved climate system. Under the Charter, plaintiffs point to citizens' constitutional rights to live in a healthy and ecologically balanced environment and argue the government has a duty of care to "take all necessary measures to identify, avoid, reduce and compensate the consequences of climate change." Like other recent international cases, they point to further obligations of the state to act on climate change to uphold the rights guaranteed under Articles 2 & 8 of the ECPHR, respectively "the right to life" and the "right to respect for private and family life." They argue that these rights require States "to implement a legislative and regulatory framework and to adopt practical measures meant to fight efficiently against climate change."
29	France	2021 (decided)	Association Les Amis De La Terre France, (Case No. 1805238) LINK	Administrative Tribunal	Les Amis de La Terre	Climate	Given the climate impact that the use of palm oil in the production of biofuels is likely to generate, and the substantial quantities likely to be used for the operation of the La Mède biorefinery, the impact study of the project should therefore include an analysis of its direct and indirect effects on the climate, a concept that cannot be understood in a strictly local manner within the immediate perimeter of the project. the court ordered Total to carry out a new impact study in order to take into account the climatic impacts of imported palm oil. For its part, the Prefecture of Bouches-du-Rhône, which had issued the authorization to operate the refinery, will have to carry out a new public inquiry and may issue an amended operating authorization on the basis of these new elements, in a period of 9 months at the latest. The court also recognized that the authorization to operate was irregular in that it was not submitted for an opinion to a truly independent and autonomous environmental authority.	Industrialist to take into account the climatic impacts generated by the activities of production of raw materials.

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30	Germany	2020 (decided)	Neubauer et al v. Germany LINK	Federal Constitutional Court	Group of German Youth	Climate	The Federal Constitutional Court published its decision striking down parts of the KSG as incompatible with fundamental rights for failing to set sufficient provisions for emission cuts beyond 2030. The Court found that Article 20a of the Basic Law not only obliges the legislature to protect the climate and aim towards achieving climate neutrality, but "also concerns how environmental burdens are spread out between different generations".	Plaintiffs filed a legal challenge to Germany's Federal Climate Protection Act arguing that the KSG's target of reducing GHGs by 55% until 2030 from 1990 levels was insufficient. The complainants alleged that the KSG therefore violated their human rights as protected by the Basic Law, Germany's constitution. Their constitutional complaints rely primarily on duties of protection arising from fundamental rights under Art. 2(2) first sentence and Art. 14(1) of the Basic Law, as well as on a fundamental right to a future consistent with human dignity and a fundamental right to an ecological minimum standard of living.
31	Ghana	2007 (decided)	Center for Public Interest Law and Another v. Tema Oil Refinery LINK	High Court of Justice at Tema	Environmental NGO and a citizen living in the affected area	Pollution	In the complaint & in Court's assessment of the defendant's request for dismissal, R2HE is recognized as an international legal obligation as well as a derivative constitutional right	Plaintiff claimed that defendant company polluted the Chemu II Lagoon, damaging the health of citizens living in the area, especially fishermen. Plaintiffs believe this to be a violation of R2HE (derivative constitutional right and international legal obligation).
32	Guatemala	2017 (decided)	Castillo Montano v. Municipal Council of San Pedro La Laguna (Case 5956-2016) LINK	Constitutional Court	Chamber of Industry of Guatemala	Pollution	The court held that protection of the environment implies in parallel the protection of the person through Art. 97 of the Constitution and is centered on the human being and his/her dignity	Alleging that the municipal council of San Pedro La Laguna violated their rights and committed an ultra vires act for enacting Municipal Agreement 111-2016 that prohibits the use, sale and distribution of bags plastics, duroport, straws and derivatives.
33	Hungary	1994 (decided)	Magyarország Alkotmánybroság (Case 28/1994 (V.20)) LINK	Constitutional Court	Not stated in decision	Biodiversity ("destruction of natural treasures")	The court rejected the state's justification for the repeal, reasoning that "[t]he right to a healthy environment guarantees the physical conditions necessary to enforce the right to human life ... extraordinary resolve is called for in establishing legislative guarantees for the right." Once the state created a baseline of environmental protection, it could not thereafter degrade it.	Complainant requested the court to declare that a certain provision of the law on the commission on the organisation of soil parcels is unconstitutional and violates his right to a healthy environment because it reduced the degree of environmental protection.
34	India	1996 (decided)	Vellore Citizens Welfare Forum vs Union Of India & Ors LINK	Supreme Court	NGO	Pollution	Compensation for environmental damage to be assessed applying the "precautionary principle" and "polluter pays principle".	Complainant filed a public interest petition relating to "the pollution which is being caused by enormous discharge of untreated effluent by the tanneries and other industries in the State of Tamil Nadu."
35	India	2013 (decided)	In re Court on its own motion v. State of Himachal Pradesh and others LINK	National Green Tribunal	National Green Tribunal	Biodiversity, Climate, Pollution	The court found that Black Carbon, which can be produced through vehicle use, is a major causative factor for rapid melting of glaciers in the Himalayan region. It concluded that Indian citizens have the right to a wholesome, clean and decent environment.	Court on its own motion claimed and decided that black carbon is a major cause of environmental degradation in the region.

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36	Kenya	2001	Rodgers Muema Nzioka and Others v. Tiomin Kenya Limited LINK	High Court at Mombasa	Rodgers Muema Nzioka & 2 others	Pollution (titane mining)	R2HE is addressed as a statutory right under Kenyan Environmental law (Section 3 (1) EMC Act). R2HE is addressed by the court to determine that the plaintiffs have a standing in court and in general a right to an injunction (without the need to show a (likely) loss or damage or any entitlement to property or land). The following reasoning focuses on the lawfulness of the mining project en abstracto (breach of section 58) without examining substantial components of the R2HE.	Plaintiffs claimed that the mining project was unlawful due to several reasons, including: (i) that the drafted environmental impact assessment report asserted the area of activity to be 5 sq km although it was 56 sq km, (ii) that the defendant did not obtain consent of the owners and consent for change of user under section 26 of the Land Control Act Cap 302 before using the land, (iii) that the defendant did neither draw a comprehensive resettlement plan, nor show what plan it had put into place to avoid the effects of expose titanium, to redress radioactivity or (dust) pollution and (iv) that the defendant has not submitted an appropriate environmental impact assessment plan to the authorities and has not been licenced under section 58 of Environmental Management and Co-ordination Act 8 of 1999 (EMC).
37	Kenya	2006	Peter K. Waweru v. Republic LINK	High Court at Nairobi	Individual (Peter K. Waweru)	Pollution	Petition dismissed on procedural grounds, however the Court still analyzes a number of universal principles of environmental law, including R2HE.	Petitioners charge twin offenses of discharging raw sewage into a public water source and failure to comply with the statutory notice from the public health authority.
38	Kenya	2017 (decided)	African Centre for Rights And Governance (ACRAG) & 3 others v Municipal Council of Naivasha LINK	Environment and Land Court at Nakuru	NGO (african centre for rights and governance) and 4 residents	Pollution	Given the citizens' right to a clean and healthy environment, the government agencies have specific obligations as regards waste disposal operations.	Arguing that the continued operation of the dumpsite violates their right to a clean and healthy environment because the dumpsite is poorly managed and a clear hazard.

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39	Kenya	2018 (Decided)	Mohamed Ali Baadi and others v Attorney General & 11 others LINK	High Court of Kenya at Nairobi	Individuals	Climate, Pollution	The Court agreed with the residents that the project proponent should have prepared an SEA before the LAPSSET port project started. The Court was not convinced by the government's argument that SEAs were not legally required until 2015, when amendments to the EMCA took effect. The Court looked to Kenyan environmental law and the constitution, noting that the drafters intended to promote broad environmental governance principles and encourage project proponents and decisionmakers to look "far beyond" traditional environmental impacts. The Court criticized the ministries for not considering the port project's external costs, stating: "To the extent that such an estimation of external costs was not considered, assessed or reported, this amounts to a significant procedural inadequacy in the ESIA and the SEA Reports." The Court agreed with the residents that the ministries failure to pay compensation and prepare a monitoring plan constituted significant violations of the environmental licence, but refused to second-guess the ministries on the manner in which they complied with conditions concerning mangrove forest replanting. The Court directed that, going forward, government ministries associated with the LAPSSET project just consult, cooperate and coordinate with the Lamu County Government and other affected counties. The High Court addressed whether the government infringed on the constitutional right to a clean and healthy environment by approving a project that would irrevocably harm the marine ecosystem in Lamu by removing mangrove forests, harming fisheries, and degrading water quality (among other impacts). Through the site visit, the Court observed that mitigation measures touted by the government and port developer were not entirely effective. The Court recognized that the right to a clean and healthy environment includes the right to have the environment protected for the benefit of future generations. Environmental rights are also inextricably intertwined with the right to life. The Court agreed with the community members that the right to a clean and healthy environment "is potentially at risk of being violated."	This case arises out of the Lamu Port-South Sudan Ethiopia-Transport Corridor project (LAPSSET), a large-scale transportation and infrastructure scheme with many individual components, including a railway, oil pipelines, oil refineries, tourism development, and a 32-berth port at Manda Bay in Lamu, Kenya. In 2012, a group of residents from Lamu County filed a case against the Attorney General and the heads of several ministries (collectively "the government") responsible for approving the port project, alleging that the LAPSSET project was designed and implemented in violation of the Kenyan Constitution and applicable laws, such as the Environmental Management and Co-ordination Act (EMCA). The Lamu residents expressed concern about the far-reaching and potentially irrevocable environmental, economic, and cultural impacts of the project, which were not adequately considered during planning phases. The government's approach to designing and implementing the project, according to the residents, violated their constitutional rights to a healthy environment, to earn a livelihood, and to obtain information (among other rights). The residents also claimed that the decision-making process improperly excluded the county government in Lamu, violating Kenyan constitutional principles of devolution.
40	Kenya	2019 (decided)	National Environment Management Authority & 3 others v Maraba Lwatingu Residents Association & 505 others LINK	Environment and Land Court at Kakamega	Residents Association, NGO (Kenyans for Justice & Development)	Pollution	The court held that the EIA was invalid and the right to a clean and healthy environment was violated because the mitigation measures proposed were inadequate to avert the risk of contaminating Lwatingu stream.	Alleged that the EIA for the sewage project was invalid because there was no adequate public participation.
41	Kenya	2020 (decided)	KM & 9 Others v. Attorney General & 7 others LINK	Environment and Land Court at Mombasa	9 Individuals and the Center for Justice Governance and Environmental Action	Pollution	Court relies heavily on constitutional R2HE as well as int'l standards for R2HE. Focus on state responsibility for ensuring that R2HE is not violated by private parties.	Petitioners assert that their human rights (including R2HE) have been violated by pollution caused by the establishment of a metal refinery next to their community as well as by state's failure to prevent it.

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42	Kenya	2021 (decided)	Isaiah Luyara Odando & another v National Management Environmental Authority & 2 others; County Government of Nairobi & 5 others LINK	Environment and Land Court at Nairobi	Adult Kenyan citizens based in Nairobi County, environmental community based NGO (Ufanisi Center)	Pollution	Government violated Plaintiffs' R2HE because they did not adopt the precautionary principle in environmental management, failing to prevent the pollution of the Nairobi and Athi Rivers	Seeking a declaration that the Respondents had jointly and severally violated their rights, including the right to a clean and healthy environment, along with permanent conservatory orders. Contended that the pollution emanated from waste products that are dumped into Nairobi River from the numerous industries and argued that the precautionary principle required that where there are serious or irreversible threats of damage to the environment, immediate, urgent and effective measures must be taken to prevent environmental degradation even in the absence of full scientific certainty on the threat.
43	Latvia	2003 (decided)	Baldzēns v. Cabinet of Ministers (Case No. 2002-14-04) LINK	Constitutional Court	Residents (community)	Pollution	The right to a benevolent environment under Art. 115 is a fundamental right of every person, but when its procedural components (right to information and participation) are complied with, the government has done its duty.	A residential community challenged to the Ministry of Environmental Protection and Regional Development's issuance of a permit to operate a hazardous waste incinerator for failure to submit sufficient evidence that environmental harms outweighed ensuing public benefit.
44	Mexico	2020 (decided)	Ruling on Modification to Ethanol Fuel Rule LINK	Supreme Court	Minister Alberto Perez Dayan	Pollution	The precautionary principle and the right to a healthy environment require consideration of ethanol's environmental risks, including its contributions to greenhouse gas emissions.	In 2017 Mexico's Energy Regulatory Commission modified a fuel rule to allow a maximum of 10% ethanol in gasoline sales, up from 5.8%. The modified rule would have applied nationwide, with exceptions for Mexico's three largest cities, where air pollution is of particular concern. A petition was brought by a Minister asking the Court to review whether Mexico's rule increasing the maximum ethanol fuel content is constitutional.
45	Mexico	2020 (decided)	Greenpeace Mexico v. Ministry of Energy and Others (on the National electric System policies) LINK	District Court in Administrative Matters. First Circuit Collegiate Tribunal	Greenpeace Mexico	Climate	The Court found that the contested policies would violate the constitutional R2HE since they encourage the operation of conventional power plants that generate greater GHG emissions.	Greenpeace Mexico sued the government contesting the constitutionality of 2 electricity sector policies that would limit renewables; asked the court to declare the policies unconstitutional for violating the rights to a healthy environment (Article 4) among other things.

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46	Mexico	2021 (pending)	Julia Habana et. al., v. Mexico, Amparo No. 210/2021 (Unconstitutionality of the reform to the electric industry law) LINK	Request for appeal is pending with the Supreme Court of Justice	214 young people aged between 15 and 28 years old	Climate	The court held that the negative effects that plaintiffs suffer as a consequence of the acts of the defendants does not give them a legitimate interest. While the contested decree would allow more pollutants in the air and would affect people's health and a healthy environment, "the effects they allege cannot be classified as belonging to a special situation in the legal order or to an identifiable group, to the exclusion of the rest of the different groups and individuals that make up society...because the affectations that they indicate in any case would be resented by the entire population."	Plaintiffs argue that the Mexican State is constitutionally obligated to mitigate and adapt to climate change, which necessarily implies designing and implementing an energy policy that favors the gradual substitution of fossil fuels for renewable energy. [Raises the same claims as Nuestros Derechos al Futuro y Medio Ambiente Sano et. al., v. Mexico, with youth acting as plaintiffs, rather than civil associations for procedural reasons re. Amparo process]
47	Mexico	2021 (pending)	Nuestros Derechos al Futuro y Medio Ambiente Sano et. al., v. Mexico (Unconstitutionality of the reform to the Electric Industry Law) LINK	District Court in Administrative Matters	Nuestros Derechos al Futuro y Medio Ambiente Sano A.C.; Alianza Juvenil por la Sostenibilidad, A.C.; NajHub, A.C.; Consejo Interuniversitario Nacional de Estudiantes de Derecho, A.C.; and Agora Ciudadanos Cambiando México, A.C.	Climate	On April 7, 2021, the District Court issued an injunction to suspend the effects of the contested amendments until the court reaches a final decision on the merits of the case. The judge reasoned that the amendments could undermine the Mexican government's duty to transition towards renewable energy. This duty is mainly established in the 18th Transitory Article of the Decree of Constitutional Energy Reforms of 2013. The judge also noted that, in the Energy Reform of 2013, the legislators agreed that the use of clean energies will enable the Mexican State to work towards its international climate and environmental commitments (specifically, the Paris Agreement and the 2030 Sustainable Development Goals). The Court reasoned that compliance with the international commitments could be hindered by the amendments, because of the limits they place on the generation of clean energies. The R2HE is developed as a stand-alone constitutional right.	Plaintiffs argue that the concrete effect of the State's energy policies is the non-compliance with national goals and reduction of CO2 emissions that the country has proposed. Plaintiffs argue that this violates the Constitution in two ways: 1) because they violate the energy transition mandated by the Constitution in articles 4 (R2HE) and 25 of the Constitution in relation to the Seventeenth and Eighteenth Transitory of the Decree of Reforms to the Constitution on Energy of 2013; and 2) because they violate the R2HE (art. 4). The policies also violate international treaties and federal law. This violates, among other aspects, the possibility for the younger generations to assure their right to a sustainable future.
48	Mexico	2022 (decided)	Amparo No.35/2022 (related to the expansion works of the port of Veracruz) LINK	Supreme Court of Justice	Citizens living in the affected area along with the Mexican Center for Environmental Rights	Biodiversity	Court found that the authorities of the Ministry of Environment and Natural Resources violated the R2HE by verifying in a fragmented manner the environmental impacts of the expansion works of the Port of Veracruz.	Plaintiffs claimed that the expansion of the Port of Veracruz was authorized and begun without having guaranteed, under the highest standard of protection, Plaintiffs' right to a healthy environment.
49	Latvia	2007 (decided)	Amolina v. Garkalne Pagasts LINK	Constitutional Court	Dace Amolina and 46 others	Pollution Biodiversity	R2HE is addressed as a constitutional right that can be invoked against a urban planing decision to allow the building of houses within a flood zone.	Plaintiffs claimed that the spatial plan violated their R2HE under Section 115 because it allowed the building of houses in a flood zone not in accordance with national planning/environmental laws.

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50	Latvia	2008 (decided)	On Compliance of the Part of Riga Land Use Plan 2006 – 2018 Covering the Territory of the Freeport of Riga with Article 115 of the Satversme [Constitution] of the Republic of Latvia (Case No. 2007-11-03) LINK	Constitutional Court	Coalition for Nature and Cultural Heritage Protection	Pollution & biodiversity	Constitutional court elaborated on Constitutional R2HE at length, especially procedural requirements. Made decision based on procedural violations.	Plaintiffs believed a land use plan was threatening to the environment; brought suit based primarily on procedural violations such as failure to conduct a specific EIA.
51	Pakistan	2018 (filed)	Maria Khan v. Pakistan (Constitutional Petition No. 8960 of 2019) LINK	High Court of Lahore	Coalition of women on their own behalf and on behalf of future generations	Climate	The right to a clean and healthy environment falls under the right to life and dignity, but it has been recognized by the courts of Pakistan in a slew of cases starting from the landmark case of Shehla Zia v. WAPDA PLD 1994 SC 693, leading to <i>tolmrana Tiwana and others v. Province of Punjab PLD 2015 Lahore 522</i> and culminating in the recognition of the right to a climate capable of sustaining human life in <i>Asghar Leghari v. Federation of Pakistan 2018 CLD 424</i> .	Plaintiffs allege that the federal government's inaction on climate change violated their fundamental rights, including the right to a clean and healthy environment and a climate capable of sustaining human life. They further argue that since climate change has a disproportionate impact on women, the government's climate inaction violates plaintiffs' rights to equal protection under the law and no discrimination on the basis of sex.
52	Pakistan	2018 (decided)	Leghari v. Pakistan (W.P. No. 25501/201) LINK	High Court of Lahore	Adult male	Climate	While the court said that R2HE is included under the right to life, it treated and interpreted the right as separate from the right to life. The court treated the petition as a "rolling review or a continuing mandamus and considering it to be a writ of kalikasan, as they call it in Philippines."	Challenging the Pakistani government for their failure to carry out the core provisions of the 2012 climate law, based on rights to life, dignity, water, to a healthy environment, and the principle of intergenerational equity.
53	Peru	2009 (decided)	Jaime Hans Bustamante Johnson c/ Occidental Petrolera del Perú LLC, Repsol Exploración Perú y Petrobras Energía Perú S.A. LINK	Tribunal Constitucional (national higher court)	Individual – Jaime Hans Bustamante Johnson	Biodiversity	Plaintiff claimed that his R2HE was threatened.	Plaintiff filed an amparo suit against 3 companies to demand that the State protect biodiversity. In particular, plaintiff alleges that an area called the Cordillera Escalera Regional Conservation Area is at risk – this is an idea that is especially important for its biodiversity and as a source of water for surrounding populations. The purpose of the amparo claim was to suspend the exploration and possible exploitation of hydrocarbons in this area. The amparo claim was originally rejected by the Superior Court of Justice of San Martín. In this case, the Constitutional Court examines plaintiff's constitutional tort appeal.
54	Philippines	1990 (decided)	Ysmael, Jr. & Co. v. Deputy Executive Secretary LINK	Supreme Court	Holder of a timber license concession	Biodiversity	Cancelled timber licenses because the R2HE is more important than the right to a concession.	Seeking reinstatement of its timber license agreement.

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55	Philippines	1993 (decided)	Minors Oposa v. Secretary of the Department of Environment and Natural Resources LINK	Supreme Court	Youth petitioners & environmental NGO	Biodiversity	The Court recognized the constitutional right to a balanced and healthful ecology under SECTION 15 and 16 of Article II of the 1987 Constitution. Stated that the advancement of these rights may even be said to predate all governments and constitutions and that they impose a solemn obligation on the state.	Alleging that the government's approval of excessive timber licenses – endangering the country's tropical rainforests through rapid deforestation – violates the petitioners' and future generations' constitutional right to a balanced and healthful ecology and the rights to self-preservation and self-preservation found under natural law, as informed by the principles of intergenerational justice and responsibility.
56	Philippines	2006 (decided)	H.M. Henares, Jr. et al. v. Land Transportation Franchising and Regulatory Board et al. LINK	Supreme Court	Individuals	Pollution	Court recognized R2HE to include right to clean air. Citizens have standing to bring a claim based on violation of this fundamental right.	Ps tried to get the court to issue a writ of mandamus requiring public utility vehicles to switch to Compressed Natural Gas instead of fuel.
57	Philippines	2008 (decided)	Metropolitan Manila Development Authority (MMDA) v. Concerned Residents of Manila Bay LINK	Supreme Court	Residents	Pollution	Affirmed Oposa v. Factoran's ruling "that the right to a balanced and healthful ecology need not even be written in the Constitution for it is assumed, like other civil and political rights guaranteed in the Bill of Rights, to exist from the inception of mankind and it is an issue of transcendental importance with intergenerational implications." Also ruled that Republic Act 9003 on Solid Waste Management implements the constitutional provision on the "right of the people to a balanced and healthful ecology in accord with the rhythm and harmony of nature."	Respondents Concerned Residents of Manila Bay filed a complaint before the Regional Trial Court (RTC) in Imus, Cavite against several government agencies, among them the petitioners, for the cleanup, rehabilitation, and protection of the Manila Bay based on: the Respondents' constitutional right to life, health, and a balanced ecology, several domestic environmental laws, the civil code, and international law.
58	Philippines	2015 (filed)	In re Greenpeace Southeast Asia and Others LINK	Commission on Human Rights	NGOs and individuals	Climate	R2HE has individual and collective dimensions and is owed to present and future generations—it is distinct from the environmental dimensions of other rights and protects the elements of the environment. It is connected to other rights and includes the right to a safe climate. (p. 93, memorandum for the Petitioners)	Petition asking the Commission to investigate a general issue—"the human rights implications of climate change and ocean acidification and the resulting rights violations in the Philippines"—and a more specific one—"whether the investor-owned Carbon Majors have breached their responsibilities to respect the rights of the Filipino people."
59	Philippines	2017 (decided)	Segovia v. The Climate Change Commission LINK	Supreme Court	Carless People of the Philippines, parents, representing their children, who in turn represent "Children of the Future, and Car-owners who would rather not have cars if good public transportation were safe, convenient, accessible, available, and reliable"	Climate Pollution	Apart from repeated invocation of the constitutional right to health and to a balanced and healthful ecology and bare allegations that their right was violated, the petitioners failed to show that public respondents are guilty of any unlawful act or omission that constitutes a violation of the petitioners' right to a balanced and healthful ecology.	Petitioners contend that respondents' failure to implement the foregoing laws and executive issuances resulted in the continued degradation of air quality, particularly in Metro Manila, in violation of the petitioners' constitutional right to a balanced and healthful ecology, and may even be tantamount to deprivation of life, and of life sources or "land, water, and air" by the government without due process of law.

S/N	COUNTRY	YEAR	CASE NAME	JURISDICTION + COURT	PLAINTIFF(S)	ELEMENT	SUMMARY OF HOW R2HE IS ADDRESSED	SUMMARY OF CLAIMS
60	South Africa	2007 (decided)	Fuel Retailers Association of South Africa v. Director-General: Environmental Management, Dept of Agriculture, Conservation and Environment, Mpumalanga Province, et al. LINK	Constitutional Court	Fuel Retailers Association of Southern Africa (represents interests of fuel retailers)	Pollution	Court recognized Constitutional R2HE as informing obligations of environmental authorities. Elaborated on relationship between environmental rights & other fundamental rights. Elaborated on principle of sustainable development.	Group representing interests of fuel retailers in South Africa brought suit to prevent the government from approving a competitor's application to build a filling station. Based suit in environmental law – claimed that environmental authorities didn't adhere to statute when the approved the application.
61	South Africa	2007 (decided)	Khabisi No and Another v. Aquarella Investment (Pty) Ltd Others LINK	High Court	Officials responsible for conservation, agriculture, and/or the environment in Gauteng	Biodiversity	The Court references the section of the South African Constitution that ensures the right to a healthy environment.	Defendant is a developer who owns and wants to develop land located in a sensitive ecosystem, posing a risk to biodiversity and certain species of plants. Tension between R2HE and property rights. Plaintiffs contend that the developers had not sought the correct Environmental Impact Assessment. The Court held that the project should not proceed.
62	South Africa	2016 (decided)	EarthLife Africa Johannesburg v. Minister of Environmental Affairs (65662/16) LINK	High Court (Gauteng Division)	NGO	Climate Pollution	Interpreted Sec. 24 of the constitution on the right to a healthy environment – the right necessarily imposes on the government an obligation to consider or assess the risk of climate change even if it is not part of the environmental impact assessment law.	Challenging the government's failure to adequately consider climate change-related impacts in the development of a coal-fired power plant, based on the right to a healthy environment.
63	South Africa	2021 (decided)	South African Human Rights Commission v. Msunduzi Municipality et al LINK	High Court	Human Rights Commission	Pollution	The court found that air and water pollution caused by a poorly managed landfill violated the constitutional right of nearby residents to a healthy environment. It ordered the municipal government to develop an action plan within one month and report back.	The municipality consistently failed to comply with the waste management law and constitutional obligations to ensure that the landfill site was regulated properly and in an environmentally sound manner that would uphold the right to a healthy environment.
64	Uganda	2005 (decided)	Advocates Coalition for Development and Environment (ACODE) v. Attorney General LINK	High Court at Kampala	Environmental NGO (group was formed by local community) + individual	Biodiversity	Uganda's National Environmental Act creates the right to a clean and healthy environment and makes the National Environment Management Authority (2nd respondent in this case) responsible for enforcing this right. One of the methods of ensuring R2HE is through an Environmental Impact Assessment, which was't completed in this case. Plaintiffs & Court also acknowledge a violation of the constitutional right to a healthy environment (article 39).	Kakira Sugar Works got permission to turn a Forest Reserve into a sugar plantation. Without undertaking an Environmental Impact Assessment, the company started clearing the forest and replacing it with sugar cane. Plaintiffs alleged violation of article 39 of the Ugandan Constitution, which creates the right to a clean and healthy environment. Also allege violation of the National Environmental Act, which creates the right to a healthy environment and establishes procedures to ensure this right (Environmental Impact Assessment), which were not followed in this case.
65	United States	1999 (decided)	Montana Environmental Information Center v. Department of Environmental Quality LINK	Supreme Court of Montana	Environmental organizations	Pollution	The court elaborates on R2HE as a right under Montana's state constitution.	Plaintiffs allege that their R2HE has been violated by the discharge of polluted water to the Blackfoot and Landers Fork Rivers.

APPENDIX: R2HE LEGISLATION CHART

This chart documents laws, policies, and regulations around that world that include and / or implement the right to a healthy environment. Though comprising a diverse and representative sample of such laws and policies, this chart doesn't include the entire universe of global R2HE legislation.

INTERNATIONAL AND REGIONAL

S/N	ADOPTED	ENTRY INTO FORCE	NAME OF LEGISLATION	TYPE OF INSTRUMENT	ELEMENT	SUMMARY OF LEGISLATION	SUMMARY OF HOW R2HE IS ADDRESSED
1	1988	1999	Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights ("San Salvador Protocol") LINK	Treaty	Climate and biodiversity	This legislation governs the State Parties of the American Convention on Human Rights, and establishes the duty of State Parties to adopt, both domestically and through cooperation among States, the full observance of the rights recognized in the Protocol.	Art. 11(1): "Everyone shall have the right to live in a healthy environment..."
2	1981	1986	African Charter on Human and Peoples' Rights LINK	Treaty	Climate and biodiversity	This legislation establishes that the State Parties of the Organization of African Unity must recognize the rights, duties, and freedoms for Humans and Peoples' that are laid out in the Treaty and give effect to them	Art. 24: "All peoples shall have the right to a general satisfactory environment favourable to their development."
3	2004	2008	Arab Charter on Human Rights LINK	Treaty	Climate and biodiversity	Establishes a human rights framework for Arab State Parties, in an effort to reaffirm the principles of the Charter of the United Nations, the Universal Declaration of Human Rights and the provisions of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, and having regard to the Cairo Declaration on Human Rights in Islam.	Art. 38: "Every person has the right to an adequate standard of living for himself and his family, which ensures their well-being and a decent life, including ... the right to a healthy environment."
4	2012	-	ASEAN Human Rights Declaration LINK	Declaration	Climate and biodiversity	Establishes the framework for human rights cooperation among Member States of the Association of Southeast Asian Nations	Art. 28(f): "Every person has the right to an adequate standard of living for himself or herself and his or her family including: the right to a safe, clean and sustainable environment."

S/N	ADOPTED	ENTRY INTO FORCE	NAME OF LEGISLATION	TYPE OF INSTRUMENT	ELEMENT	SUMMARY OF LEGISLATION	SUMMARY OF HOW R2HE IS ADDRESSED
5	1998	2001	Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (Aarhus Convention) LINK	Treaty	Climate and biodiversity	Aims to further accountability and transparency in decision-making and strengthening public support for decisions of the environment. It established that States Parties shall guarantee the rights to access of information, public participation in decision-making, and access to justice in environmental matters according to the provisions of the Convention.	Art. 1: "The right of every person of present and future generations to live in an environment adequate to his or her health and well-being."
6	1996	-	Council Directive 96/61/EC LINK	Directive	Pollution	The purpose of the Directive is to "achieve integrated prevention and control of pollution". It also establishes measures "designed to prevent or, where that is not applicable, to reduce emissions in the air, water and land", to "achieve a high level of protection of the environment taken as a whole" (art. 1)	Art. 3(a): "Member States shall take the necessary measures to provide that the competent authorities ensure that installations are operated in such a way that all the appropriate preventive measures are taken against pollution, in particular through application of the best available techniques."
7	2018	2021	Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean (Escazú Agreement) LINK	Treaty	Climate and biodiversity	The Agreement aims to guarantee a full and effective implementation of rights related to access to environmental information, public participation and access to justice in environmental matters	Art. 1: "The objective of the present Agreement is to guarantee the full and effective implementation in Latin America and the Caribbean of the rights of access to environmental information, public participation in the environmental decision-making process and access to justice in environmental matters, and the creation and strengthening of capacities and cooperation, contributing to the protection of the right of every person of present and future generations to live in a healthy environment and to sustainable development." Art. 4(1): "Each Party shall guarantee the right of every person to live in a healthy environment..."

DOMESTIC

S/N	COUNTRY	YEAR PASSED	NAME OF LEGISLATION	JURISDICTION	TYPE OF INSTRUMENT	ELEMENT	SUMMARY OF HOW R2HE IS ADDRESSED	SUMMARY OF LEGISLATION
1	Azerbaijan	1999	Law on Environmental Protection of the Republic of Azerbaijan (No. 678 - IQ) LINK	Azerbaijan	Law	Biodiversity	Article 6.1.3 : "Each citizen of the Republic of Azerbaijan, individuals without citizenship and citizens of foreign states has the right to: live in the natural environment favorable to his/her health and life."	This Law governs the legal, economic and social framework for environmental protection. The purpose of this Law is to guarantee environmental safety and the ecological balance of the environment, prevent the impact of socioeconomic and other activities, preserve biological diversity, and effectively manage the use of nature.
2	Belarus	1992	Law of the Republic of Belarus On Environmental Protection of 26 November 1992 (No 1982-XII) LINK	Belarus	Law	Biodiversity, climate, pollution (briefly)	Art. 14: "The right to a favourable environment belongs to every citizen since birth and is subject to protection as a personal non-property right that is not connected with property in the order established by the legislation of the Republic of Belarus."	This Law establishes the legal basis for environmental protection, nature management, preservation and reproduction of biological diversity, natural resources and objects and is aimed at ensuring the constitutional rights of citizens to an environment that is favorable for life and health.
3	Bolivia	2009	Political Constitution of the Plurinational State of Bolivia LINK	Bolivia	Constitution	Climate and biodiversity	Art. 33: "Everyone has the right to a healthy, protected, and balanced environment."	Establishes the Constitutional framework in Bolivia. Its preamble indicates that it should be a "(...) State based on respect and equality for all, on principles of sovereignty, dignity, interdependence, solidarity, harmony, and equity in the distribution and redistribution of social wealth, where the search for a good life predominates; based on respect for the economic, social, juridical, political and cultural pluralism of the inhabitants of this land; and on collective coexistence with access to water, work, education, health and housing for all".
4	Brazil	1988 (rev. 2022)	Constitution of the Federative Republic of Brazil LINK	Brazil	Constitution	Climate and biodiversity	Art. 225: "Everyone has the right to an ecologically balanced environment..."	Establishes the Constitutional framework in Brazil. It aims at ensuring the exercise of social and individual rights, liberty, security, well-being, development, equality and justice as supreme values of a fraternal, pluralist and unprejudiced society, founded on social harmony and committed, in the domestic and international orders, to the peaceful settlement of disputes.
5	Brazil	2015	Federal Law No. 13.123 LINK	Brazil	Law	Biodiversity	Art. 5: Access to genetic heritage and associated traditional knowledge for practices harmful to the environment, cultural reproduction, human health, and for the development of biological and chemical weapons is prohibited.	Regulates Art. 225 of the Brazilian Constitution relating to the conservation of biological diversity.
6	Burkina Faso	2013	Article 5 of the Environmental Code of Burkina Faso (Law No. 2013-006) LINK	Burkina Faso	Law	Climate & biodiversity	Art. 5: "Everyone has the right to a healthy environment."	Made up of 5 titles: general provisions, climate change, maintaining ecological balances and improving the living environment, administrative sanctions and repression of infringements, miscellaneous provisions, final provisions

S/N	COUNTRY	YEAR PASSED	NAME OF LEGISLATION	JURISDICTION	TYPE OF INSTRUMENT	ELEMENT	SUMMARY OF HOW R2HE IS ADDRESSED	SUMMARY OF LEGISLATION
7	Cameroon	1996	Law No. 96/12 of 5 August 1996, being the Framework Law Relating to Environmental Management LINK	Cameroon	Law	Biodiversity & pollution	Art. 5: "The laws and regulations shall guarantee the right of everyone to a sound environment and ensure a harmonious balance within ecosystems and between the urban and rural zones."	Lays down the general legal framework for environmental management in Cameroon.
8	Canada	1993	Environmental Bill of Rights LINK	Ontario (The Ministry of the Environment, Conservation and Parks)	Law	Biodiversity, pollution	Provides for the protection of the environment and human's right to a healthy environment using public participation	The purposes of the present Act are: a) to protect, conserve and, where reasonable, restore the integrity of the environment; b) to provide sustainability of the environment; and c) to protect the right to a healthful environment. In particular, it aims at: a) the prevention, reduction and elimination of the use, generation and release of pollutants that are an unreasonable threat to the integrity of the environment; b) the protection and conservation of biological, ecological and genetic diversity; c) the protection and conservation of natural resources, including plant life, animal life and ecological systems; d) the encouragement of the wise management of our natural resources, including plant life, animal life and ecological systems.
9	Central African Republic	2007	Environmental Code (Law No. 07.018)	Central African Republic	Law	Biodiversity (section 4) & pollution	Art. 2(2): "All citizens of the Central African Republic have the right to a healthy environment under the conditions established by the national and international legal texts in force."	Developed an Environmental Code for the Central African Republic, the purpose of which is to empower Ministry of the Environment and Ecology to be responsible for the administration and management of the environment.
10	Chad	2009	Decree No. 904/PR/PM/MERH/2009 dated 6 August 2009 on the Regulation of Pollution and Damage to the Environment LINK	Chad	Law	Pollution	Art. 2: "The right of every citizen to a healthy environment is a fundamental right. The creation and maintenance of conditions favourable to the effective and sustainable management of this right are matters of public order."	Defines the rules relating to pollution and environmental nuisances. Regulates the protection of the environment against any form of degradation, alteration and its sustainable management, as well as the improvement of the framework and the living conditions of the population are of public order.
11	Colombia	1991 (rev. 2015)	Political Constitution of Colombia LINK	Colombia	Constitution	Climate and biodiversity	Art. 79: "Every individual has the right to enjoy a healthy environment."	Establishes the Constitutional framework in Colombia. It aims to strengthen the unity of the nation and ensure to its members life, peaceful coexistence, work, justice, equality, understanding, freedom, and peace within a legal, democratic, and participatory framework that may guarantee a just political, economic, and social order and committed to promote the integration of the Latin American community.
12	Comoros	1994	Loi cadre relative à l'environnement (framework law on the environment) LINK	Comoros	Law	Biodiversity	Art. 4: "Each citizen has the fundamental right to live in a healthy environment. But he also has the obligation to contribute, individually or collectively, to its preservation."	Lays down the basic regime for the environment. In particular, aims to preserve the diversity and integrity of the environment, create the conditions for quantitatively and qualitatively sustainable use of natural resources; guaranteeing all citizens an ecologically healthy and balanced living environment.

S/N	COUNTRY	YEAR PASSED	NAME OF LEGISLATION	JURISDICTION	TYPE OF INSTRUMENT	ELEMENT	SUMMARY OF HOW R2HE IS ADDRESSED	SUMMARY OF LEGISLATION
13	Cote d'Ivoire	1996	Environmental Code of Côte d'Ivoire (Loi 96-766 of 3 October 1996) LINK	Cote d'Ivoire	Law	Biodiversity (section 3) & pollution (generally)	Art. 33: "Everyone has the fundamental right to live in a healthy and balanced environment. Everyone also has a duty to contribute individually or collectively to the safeguarding of the natural heritage. To this end, when deciding on a request, the court shall take into account, inter alia, the state of scientific knowledge, the solutions adopted by other countries and the provisions of international instruments."	Article 2: This code aims to: protect soils, subsoils, sites, landscapes and national monuments, plant formations, the fauna and flora and particularly classified areas, national parks and existing reserves; establish the fundamental principles intended to manage and protect the environment against all forms of degradation in order to develop natural resources, to fight against all kinds of pollution and nuisances; - improve the living conditions of the different types of population while respecting the balance with the surrounding environment; - create the conditions for rational and sustainable use of natural resources for present and future generations; guarantee to all citizens an ecologically healthy and balanced living environment; - ensure the restoration of damaged environments.
14	Cuba	1997	Environmental Law No. 81 LINK	Cuba	Law	Pollution, biodiversity (chapter 2), climate (brief mention),	Preamble: "It is necessary to enshrine...the right to a healthy environment and to enjoy a healthy and productive life in harmony with nature..." Article 4(a): "The State establishes and provides the necessary means and guarantees so that the right to a healthy environment is adequately and timely protected."	Establishes the principles that govern the environmental policy and the basic norms for the regulation of the administration of the environment and the actions of the citizens and society in general, with the goal to protect the environment and achieve the sustainable development of the Country.
15	Dominican Republic	2000	Law on the Environment and Natural Resources, No. 64-00 LINK	Dominican Republic	Law	Pollution, biodiversity,	Art. 6: "The freedom of citizens in the use of natural resources is based on the right of all person to enjoy a healthy environment."	Establishes the basic principles of environmental protection, management and use of natural resources, as well as the civil and criminal liabilities and penalties resulting from non-compliance.
16	Ecuador	2008 (rev.2021)	Constitution of the Republic of Ecuador LINK	Ecuador	Constitution	Biodiversity, pollution	Art. 66(27): "The following rights of persons are recognized and guaranteed: the right to live in a healthy environment that is ecologically balanced, pollution-free and in harmony with nature."	Establishes the Constitutional framework in Ecuador. It foresees a "new form of public coexistence, in diversity and in harmony with nature, to achieve the good way of living, the sumak kawsay; a society that respects, in all its dimensions, the dignity of individuals and community groups; and a democratic country, committed to Latin America integration".
17	Ecuador	2017	Organic Environmental Code LINK	Ecuador	Law	Pollution, climate, biodiversity (titulo I)	Art. 5 states what is included in the right to live in a healthy and ecologically balanced environment.	It aims to guarantee the right of people to live in a healthy and ecologically balanced environment, as well as to protect the "rights of nature" recognized in the Constitution of Ecuador.
18	Eritrea	2017	Proclamation 179/2017 (Environmental Protection & Management Framework)	Eritrea	Law	Pollution	Art. 5(6): "Environmental rights and duties of persons: every person in Eritrea has the right to a clean, healthy and scenic environment and the corresponding duty to protect the environment against pollution and degradation as well as to contribute individually and/or collectively to the maintenance and enhancement of the environment."	This Legislation establishes the following objectives: to establish the foundation of environmental management and protection laws and provide the institutions and legal instruments for their implementation and enforcement; to advance an environmental policy framework consistent with sustainable development; to guarantee and promote maximum public and community participation in the conservation, protection and enhancement of the environment; and to set up the basis for Eritrea's effective contribution to and benefit from international cooperation in the global efforts for environmental protection.
19	Estonia	2011	General Part of the Environmental Code Act LINK	Estonia	Law	Pollution, biodiversity	Art. 23(1): "Everyone has the right to an environment which meets the needs of health and well-being."	Determines general principles for environmental protection in Estonia.

S/N	COUNTRY	YEAR PASSED	NAME OF LEGISLATION	JURISDICTION	TYPE OF INSTRUMENT	ELEMENT	SUMMARY OF HOW R2HE IS ADDRESSED	SUMMARY OF LEGISLATION
20	Ethiopia	1997	Environmental Policy LINK	Ethiopia	Law	Biodiversity, climate, pollution	Art. 2.3(a): "The Key Guiding Principles are: every person has the right to live in a healthy environment."	The Environmental Policy of Ethiopia creates broad policy objectives with a number of key principles. States that establishing and clearly defining these guiding principles is very important as they will shape all subsequent policy, strategy and programme formulations and their implementation. Sectoral and cross-sectoral policies and environmental elements of other macro policies will be checked against these principles to ensure consistency.
21	Finland	2014	Environmental Protection Act, 27/6/2014/527 LINK	Finland	Law	Climate, pollution, biodiversity	Art. 1(2) guarantees a safe and sound, pleasant and economically sustainable and versatile environment, support sustainable development and counter climate change.	For the prevention of pollution, the conservation of a varied ecological system, for the promotion of involvement of the public in environmental protection and to provide for ecologically sustainable use of resources and the assessment of effects of economic activities on the environment.
22	France	2009	French Environmental Code LINK	France	Law	Pollution, biodiversity, climate	Art. L110-2 – The laws and regulations organize the individual's right to a healthy environment and contribute to ensuring a harmonious balance between urban zones and rural zones. Art. L220-1 – Recognizes the right of all to breathe air which is not harmful to the health as well as extensive rights related to information, participation and access to justice.	Contains most of the acts and decrees related to the environment, such as: rules concerning the preservation of natural resources, the monitoring of hazardous activities, environmental assessment and public information on projects.
23	Georgia	1995	Law on Environmental Protection LINK	Georgia	Law	Pollution, biodiversity, climate	Art. 6: Citizens shall have the right to live in an environment that is harmless and sound for their health; use the natural environment; etc.	Regulates legal relations in the field of environmental protection and the use of natural resources between state bodies and natural and legal persons throughout Georgia, including its territorial waters, airspace, continental shelf and exclusive economic zone
24	Guinea-Bissau	2011	Basic Environmental Law (Law no. 1/2011) LINK	Guinea-Bissau	Law	Pollution (damage to biodiversity included in definition of pollution – Chapter 3, Article 9), climate (mentioned in Chapter 1, Article 6, section q)	Art. 4(1): "Everyone has the right to a humane and ecologically balanced environment and the duty to defend it, and the State, through its own body and through popular and community initiatives, shall promote the improvement of individual and collective quality of life."	Defines the basic concepts and specifies the norms, and the basic principles related to policies and activities of protection, preservation and conservation of the environment of the Republic of Guinea-Bissau. It also promote the improvement of the quality of life through a correct management of the National environment and a rational use of natural resources, in order to optimize and to guarantee the sustainability and continuity of the use of such resources.
25	Haiti	2006	Decree on the Management of the Environment and the Regulation of the Conduct of Citizens for a Sustainable Development LINK	Haiti	Decree (law?)	Biodiversity	Art. 9: "Everyone has the right to a healthy and pleasant environment. This right is accompanied by the constitutional obligation to protect the environment."	Defines the national policy on environmental management and regulates the conduct of citizens for sustainable development.
26	Hungary	1995	Act LIII of 1995 on the General Rules of Environmental Protection LINK	Hungary	Law	Pollution, biodiversity (briefly), climate (briefly)	Art. 1(2): Enforces constitutional rights for a healthy environment – Article XXI(1) of the Fundamental Law of Hungary (Constitution) states that Hungary recognises and gives effect to the right of all to a healthy environment.	Enforces constitutional rights for a healthy environment
27	India	2010	National Green Tribunal Act (No. 19 of 2010) LINK	India	Law	Pollution, biodiversity	Preamble: and whereas in the judicial pronouncement in India, the right to a healthy environment has been construed as a part of the right to life under article 21 of the Constitution;	Establishes the National Green Tribunal to deal with cases relating to the environment

S/N	COUNTRY	YEAR PASSED	NAME OF LEGISLATION	JURISDICTION	TYPE OF INSTRUMENT	ELEMENT	SUMMARY OF HOW R2HE IS ADDRESSED	SUMMARY OF LEGISLATION
28	Indonesia	2009	Environmental Protection and Management (Law No. 32 of 2009) LINK	Indonesia	Law	Pollution, biodiversity, climate	Art. 65: "Everyone has the right to a good and healthy environment as one of the human rights."	The purpose of this Law is to create an environmentally sustainable development through means of an environmental planning policy, and the rational exploitation, development, maintenance, restoration, supervision and control of the environment.
29	Kazakhstan	2007	Environmental Code of the Republic of Kazakhstan of 9 January 2007 (No. 212-III) LINK	Kazakhstan	Law	Pollution (part 6), biodiversity (chapter 15), climate (chapter 45)	Art. 13(1): Individuals have the right to a favourable environment for their life and health.	Regulates public relations in the environmental field; regulates activities of individuals and legal entities that may have a negative impact on the environment.
30	Kenya	2000	Environmental Management and Coordination Act LINK	Kenya (The National Environment Council)	Law	Biodiversity (section 50), pollution	States in its general principles that "Every person in Kenya is entitled to a clean and healthy environment and has the duty to safeguard and enhance the environment." and that any person can allege the violation of this right to the High Court of Kenya, which may issue writs and directions to correct the wrong. (p. 15) Sec. 3 provides for the judicial remedy.	An Act to provide for the establishment of the National Environment Council, the National Environment Management Authority, the National Environment Trust Fund, the Environment Restoration Fund, the National Environment Action Plan Committee, the Standards and Enforcement Review Committee and the National Environment Tribunal, and to regulate various matters relating to the institutions established and various matters relating to protection of the environment including environmental impact assessment, environmental audit and monitoring of the environment.
31	Latvia	1918 (rev. 2014)	Constitution of the Republic of Latvia LINK	Latvia	Constitution	Climate and biodiversity	Art. 115: "The State shall protect the right of everyone to live in a benevolent environment..."	Establishes the Constitutional framework in the Republic of Latvia. It governs that Latvia is a democract, socially responsible and national state based on the rule of law and on respect for human dignity and freedom, that recognises and protects fundamental human rights and respects ethnic minorities, sovereignty, national independence, territory, territorial integrity and the democratic system.
32	Lesotho	2008	Environment Act, 2008 LINK	Lesotho	Law	Pollution (part VII), biodiversity (within part IX),	Art. 4(1): "Every person living in Lesotho (A) has the right to a scenic, clean and healthy environment; and (B) has a duty to safeguard and enhance the environment including the duty to inform the Director [of the Department of Environment] of all activities and phenomena that may affect the environment significantly." Art. 4(2): "Every person may, where the right referred to in subsection (1) is threatened as a result of an activity or omission which is causing or likely to cause harm to human health or environment, bring an action against the person whose activity or omission is causing or is likely to cause harm to human health or the environment."	This Act makes provision for the conservation and management of the environment and the sustainable use of natural resources in Lesotho.
33	Liberia	2003	Environmental Protection Agency Act 2003 LINK	Liberia	Law	Pollution, biodiversity (minimal)	Art. 32(1): "Every person in Liberia has the right to a clean and healthy environment and a duty to take all appropriate measures to protect and enhance it through the Agency, the judicial process, the Environmental Court established under this Act and any appropriate organizations established for the purpose in accordance with this Act and any other written law."	Creates the Environmental Protection Agency of Liberia
34	Lithuania	1992	Law on Environmental Protections LINK	Lithuania	Law	Pollution	Art. 2.1(1) establishes the right of the population of the Republic of Lithuania to a healthy and safe environment	Establishes the main rights and duties of legal and natural persons of Lithuania in regards to the environment.

S/N	COUNTRY	YEAR PASSED	NAME OF LEGISLATION	JURISDICTION	TYPE OF INSTRUMENT	ELEMENT	SUMMARY OF HOW R2HE IS ADDRESSED	SUMMARY OF LEGISLATION
35	Mauritania	2000	Law No. 2000.045 of the Mauritania Environmental Code LINK	Mauritania	Law	Pollution & biodiversity	Art. 4: "The environment constitutes a national heritage, the management of which must reconcile the rights of present generations with those of future generations and the exploitation of natural resources must guarantee their sustainable use. It is part of the perspective of integrating environmental concerns into development policies." Art. 5: "The laws and regulations organize the right of everyone to a healthy and balanced environment and fix the duties that the implementation of this right counts for all they also specify the conditions for the involvement of the populations in the development and execution of environmental policies."	The purpose of this Act is to establish the general principles that should form the basis of the national policy for the protection of the environment and serve as a basis for the harmonization of ecological imperatives with the requirements of sustainable economic and social development. the national environmental policy strives in particular to guarantee 1) the conservation of biological diversity and the rational use of natural resources, 2) the fight against desertification, 3) the fight against pollution and nuisances, 4) improvement and protection of the living environment, and 5) the harmonization of development with the safeguarding of the natural environment. Articles 31 to 34 relate to the protection of the atmosphere. Article 33 in particular states that when emissions into the atmosphere are likely to pose a threat to people or property, the proponents must implement all appropriate measures to suppress or reduce their pollutant emissions.
36	Mexico	1988	General Law on Ecological Balance and Environmental Protection LINK	Mexico	Regulatory law	Pollution, biodiversity (second title)	Art. 1(l) – Guarantees the right of all persons to live in an environment suitable for their development, health and welfare	This constitutes a regulatory law for the provisions of the Political Constitution of the United Mexican States related to the preservation and restoration of ecological balance, as well as the environmental protection in the national territory and in the areas where the nation exercises its sovereignty and jurisdiction.
37	Mexico	2003 (published in Official Journal of the Federation)	General Law for the Preventive and Comprehensive Handling of Environmental Waste LINK	Mexico	Law	Pollution	Art. 1: "One of the aims of the law is to guarantee the right of everyone to a healthy environment and promote sustainable development through the prevention of the generation of hazardous waste and its evaluation and integral management." Art. 2: "One of the principles that must be observed when enacting this law is the right of every person to live in an environment suitable for their development and well-being."	Aims to guarantee the right of every person to the healthy environment and to foster sustainable development through the management and prevention of the generation of waste.
38	Mongolia	1995	Law of Mongolia on Environmental Protection dated 30 March 1995 LINK	Mongolia	Law	Pollution (article 21),	Article 1 – The purpose of this law is to...guarantee the human right to live in a healthy and safe environment	The purpose of this law is to regulate relations between the State, citizens, business entities and organizations in order to guarantee the human right to live in a healthy and safe environment, an ecologically balanced social and economic development, the protection of the environment for present and future generations, the proper use of natural resources and the restoration of available resources
39	Morocco	2009	National Charter for Environment and Sustainable Development 2013 (loi-cadre 99-12) LINK	Morocco	Law	Pollution, climate & biodiversity	Art. 1: "Everyone has the right to live in a healthy environment, which provides security, health, economic development, social progress, and where the natural and cultural heritage and the quality of life are preserved."	The Framework Law lays the ground for a national policy for the protection of the environment and the sustainable development. It was prepared in consultation with all ministry departments, economic and social operators, civil society and academics. It gives legal basis to the National Charter for Environment and Sustainable Development, establishing the principles, rights, duties and obligations set forth by the Charter.

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40	Mozambique	1997	Environment Law (Law No. 20/97, dated 1 October) LINK	Mozambique	Law	Biodiversity (article 12), pollution (chapter 3)	Preamble: "The Constitution of our Nation confers on every citizen both the right to live in a balanced environment as well as the duty to defend this right..." Art. 4: "Environmental management is based upon fundamental principles that are derivative of the right of all citizens to an ecologically balanced environment that is favourable to their health and physical and mental well-being..."	This Act establishes protective requirements to be satisfied in order to exploit the environmental sector and impact assessment conditions in order to avoid environmental disasters. It consists of 34 articles defining natural elements, as well as authorized activities relevant to the exploitation of the environment. It also establishes national programmes for environmental management under the responsibility of competent authorities.
41	Niger	1998	Framework Law on Environmental Management (Loi 98-56, 1998) LINK	Niger	Law	Pollution & biodiversity	Art. 4: "Everyone has the right to a healthy environment..." Art. 5: "Everyone has the right to be informed about his environment and to participate in the taking of decisions relating to it..."	This Law establishes the general legal framework and the fundamental principles of environmental management in the country. A Fund called the National Environment Fund is set up to finance the National Environmental Policy (art.15). This fund will notably be used in support of programs to combat desertification, including reforestation, fight against bush fires, improve farming techniques and use of energy sources other than firewood, and for the promotion of the use of renewable energies and clean technologies (art. 17).
42	Norway	1814 (rev. 2023)	The Constitution of the Kingdom of Norway LINK	Norway	Constitution	Biodiversity, pollution	Art. 112: "Every person has the right to an environment that is conducive to health and to a natural environment whose productivity and diversity are maintained."	
43	North Macedonia	2005	Law on Environment (article 1) LINK	North Macedonia	Law	Climate, biodiversity, pollution	Regulates the rights and the responsibilities of the Republic of Macedonia, municipalities, the City of Skopje and the municipalities of the City of Skopje as well as the rights and the responsibilities of legal entities and natural persons, in the provision of conditions required to ensure protection and improvement of the environment, for the purpose of exercising the right of citizens to a healthy environment.	Aims at ensuring protection and improvement of the environment, for the purpose of exercising the right of citizens to a healthy environment. Protection objectives include the ozone layer and anthropogenic impacts on the climate.
44	Palau	1981	Environmental Quality Protection Act 24 P.C.L. § 102(c) LINK	Palau	Law	Pollution (throughout), biodiversity (briefly in 102(b)(4))	The Olbiil Era Kelulau [Palauan national legislature] recognizes that each person has a fundamental right to a healthful environment and that each person has a responsibility to contribute to the preservation and enhancement of the environment.	Establishes general environmental provisions, creates the Palau Environmental Quality Protection Board, cites environmental studies and decisions, and discusses implementation and enforcement of environmental law.
45	Philippines	1987	The Constitution of the Republic of the Philippines LINK	Philippines	Constitution	Biodiversity, pollution	Art. 2: "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."	
46	Philippines	2008	Republic Act No. 9512 on National Environmental Awareness and Education Act LINK	Philippines (Department of Environment and Natural Resources)	Law	Biodiversity	Art. 2: "Consistent with the policy of the State to protect and advance the right of the people to a balanced and healthful ecology in accord with the rhythm and harmony of nature, and in recognition of the vital role of the youth in nation building and the role of education to foster patriotism and nationalism, accelerate social progress, and promote total human liberation and development, the State shall promote national awareness on the role of natural resources in economic growth and the importance of environmental conservation and ecological balance towards sustained national development."	This Act provides for the promotion of environmental awareness through environmental education which shall encompass environmental concepts and principles, environmental laws, the state of international and local environment, local environmental best practices, the threats of environmental degradation and its impact on human well-being, the responsibility of the citizenry to the environment and the value of conservation, protection and rehabilitation of natural resources and the environment.

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47	Philippines	2010	Rules of Procedure for Environmental Cases LINK	Philippines (Judiciary)	Regulation	Biodiversity, pollution	One of the objectives of the procedure is "to protect and advance the constitutional right of the people to a balanced and healthful ecology." It includes a "writ of kalikasan," which is a remedy that can be taken "on behalf of persons whose constitutional right to a balanced and healthful ecology is violated, or threatened with violation by an unlawful act or omission of a public official or employee, or private individual or entity, involving environmental damage of such magnitude as to prejudice the life, health or property of inhabitants in two or more cities or provinces.	The Rules govern the procedure in civil, criminal and special civil actions before the Regional Trial Courts, Metropolitan Trial Courts, Municipal Trial Courts in Cities, Municipal Trial Courts and Municipal Circuit Trial Courts involving enforcement or violations of environmental and other related laws, rules and regulations.
48	Portugal	2014	Basic Law on the Environment (Lei No. 19/2014, Diário da República n.º 73/2014, Série I de 2014-04-14) LINK	Portugal	Law	Pollution (law & Constitution, article 66(2)(a)), biodiversity (law), climate (law)	Implements Art. 66(1) of the National Constitution, which states that everyone has the right to a healthy and ecologically balanced living environment and the duty to defend it.	This Law sets out the basis of environmental policy in compliance with the provisions of Articles 9 and 66 of the National Constitution.
49	Romania	1995	Law No. 137/1995 for the protection of the environment LINK	Romania (Ministry of Environment)	Law	Pollution, biodiversity	For the purpose of environmental protection the Law No. 137/1995 on environmental protection provides that the State must recognise the right of all persons to a healthy environment. To this end, it guarantees several substantive and procedural rights.	The law serves as a general framework for environmental protection and establishes procedural rights that come with the right to a healthy environment, including the permitting procedure for projects with environmental impact. The law also provides for the obligations of natural and legal persons in relation to the environment.
50	Rwanda	2005	Organic Law Determining the Modalities of Protection, Conservation and Promotion of the Environment in Rwanda No. 04/2005. LINK	Rwanda	Law	Biodiversity (section 3), pollution, climate (article 27, minor reference)	Art. 6: "Every person in Rwanda has a fundamental right to live in a healthy and balanced environment. He or she also has the obligation to contribute individually or collectively to the conservation of natural heritage, historical and socio-cultural activities."	This law gives effect to The National Policy on Environment, which sets out how to protect, conserve and promote the environment. It defines the responsibilities of citizen and state and defines principles for using natural resources, such as air and water, protecting biodiversity etc. It orders an environmental impact assessment.
51	South Africa	2009	National Environmental Management: Waste Act 59 of 2008 LINK	South Africa	Law	Pollution	Enacts Art. 24 of the Constitution, which sets out the right to a healthy environment	To reform the law regulating waste management in order to protect health and the environment by providing reasonable measures for the prevention of pollution and ecological degradation and for securing ecologically sustainable development; to provide for institutional arrangements and planning matters; to provide for national norms and standards for regulating the management of waste by all spheres of government; to provide for specific waste management measures; to provide for the licensing and control of waste management activities; to provide for the remediation of contaminated land; to provide for the national waste information system; to provide for compliance and enforcement; and to provide for matters connected therewith.

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52	South Africa	2004	National Environmental Management: Biodiversity Act 10 of 2004 LINK	South Africa	Law	Biodiversity	Enacts Art. 24 of the Constitution, which sets out the right to a healthy environment	To provide for the management and conservation of South Africa's biodiversity within the framework of the National Environmental Management Act, 1998; the protection of species and ecosystems that warrant national protection; the sustainable use of indigenous biological resources; the fair and equitable sharing of benefits arising from bioprospecting involving indigenous biological resources; the establishment and functions of a South African National Biodiversity Institute; and for matters connected therewith.
53	South Africa	2004	National Environmental Management: Protected Areas Act 57 of 2003 LINK	South Africa	Law	Biodiversity	Enacts Art. 24 of the Constitution, which sets out the right to a healthy environment	To provide for the protection and conservation of ecologically viable areas representative of South Africa's biological diversity and its natural landscapes and seascapes; for the establishment of a national register of all national, provincial and local protected areas; for the management of those areas in accordance with national norms and standards; for inter-governmental co-operation and public consultation in matters concerning protected areas; and for matters in connection therewith.
54	South Korea	1990	Framework Act on Environmental Policy LINK	South Korea	Law	Pollution (through-out), biodiversity (briefly in Article 15(4)(a)), climate (Article 27 & 58)	Art. 6(1): "Every citizen shall have the right to live in a healthy and agreeable environment."	The purpose of this Act is to prevent environmental pollution and environmental damages and to properly manage and preserve the environment through defining rights and duties of citizens and obligations of the State.
55	Spain	2007	Law No. 42 on National Heritage and Biodiversity LINK	Spain	Law	Biodiversity	Art. 1: Recognizes that the Constitution establishes R2HE (Art. 45)	Establishes the basic legal regime for the conservation, sustainable use, improvement and restoration of the natural heritage and the Spanish biodiversity, as part of the duty to conserve and the objective of to guarantee the rights of people to a suitable environment for their welfare, health and development.
56	Spain	2007	Environmental Responsibility Law (Ley No. 26/2007) LINK	Spain	Law	Pollution (law)	Law creates administrative regime to enforce the R2HE found in Art. 45 of Spain's Constitution. Article 45 of the Constitution recognizes the right of citizens to enjoy an adequate environment as an indispensable condition for the development of the person, while establishing that those who fail to comply with the obligation to use natural resources rationally and to preserve nature they will be obliged to repair the damage caused independently of the administrative or criminal sanctions that also apply.	Transposes Directive 2004/35 / EC of the European Parliament and of the Council, of April 21, 2004 on environmental responsibility in relation to the prevention and repair of environmental damages. Creates an administrative regime to back substantive environmental law, including that found in Spain's Constitution, Article 45.
57	Tajikistan	2011	Law of the Republic of Tajikistan on Protection of Environment dated 2 August 2011 No. 760 LINK	Tajikistan	Law	Pollution, biodiversity, climate	Art. 12: "Citizens of the Tajikistan Republic have the right to live in an environment favorable for their life and to use its resources, and to protection of the environment from negative effects caused by economic or other activity, and emergencies both natural and man-made."	This Law establishes legal grounds of state policy in the sphere of environmental protection and is aimed at ensuring sustainable development, healthy and favourable environment, prevention of negative environmental impact, ecological safety and rational use of natural resources. The present Law regulates the relations connected with interaction of the society and environment, arising during the implementation of economic and other environmental impact related activities on the territory of the Republic of Tajikistan.

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58	Timor-Leste	2012	Decreto-Lei No. 26/2012, 26 June 2012 – Environmental Base Regulations LINK	Timor-Leste	Law	Pollution, biodiversity (article 27), climate (article 34)	Preamble: References the right to a clean and healthy environment as a universally recognized human right and as enshrined in the Constitution of the Democratic Republic of Timor-Leste. Considers protection of the environment a fundamental task of the State.	Establishes the Environmental Basic Legislation. Specifies the policy on environment and wildlife protection, including the basic principles for conservation, preservation and sustainable use of natural resources in order to improve the quality of life of the local populations.
59	Turkmenistan	2017	Law of Turkmenistan "On Ecological Safety" No. 569-V dated 3 June 2017 LINK	Turkmenistan	Law	Pollution	Art. 10(1): "Every citizen has a right to: a favourable living environment and environmental safety."	Regulates relations in the field of environmental safety in the activities of individuals and legal entities. Aimed at ensuring vital interests of man and society and protection of the environment from danger arising as a result of human action.
60	Uganda	1995	National Environment Act (Cap. 153) LINK	Uganda	Law	Pollution, biodiversity	Arts. 2 and 3 state that every person has a right to a healthy environment. Creates duties in furtherance of the right to a healthy environment.	An Act to provide for sustainable management of the environment; to establish an authority as a coordinating, monitoring and supervisory body for that purpose; and for other matters incidental to or connected with the foregoing.
61	United Republic of Tanzania	2004	Environment Management Act 2004 LINK	United Republic of Tanzania	Law	Pollution, biodiversity, climate	Art. 4: "Every person living in Tanzania shall have a right to clean, safe and healthy environment. The right to clean, safe and healthy environment shall include the right of access by any citizen to the various public elements or segments of the environment for recreational, educational, health, spiritual, cultural and economic purposes."	An Act to provide for legal and institutional framework for sustainable management of environment; to outline principles for management, impact and risk assessments, prevention and control of pollution, waste management, environmental quality standards, public participation, compliance and enforcement.
62	Vietnam	2014	Law on Environmental Protection No. 55/2014 LINK	Vietnam	Law	Pollution, biodiversity, climate	Art. 4(2): "Environmental protection must harmonize with the economic growth, social security, assurance about the children's right, promotion of gender equality, development and conservation of biodiversity, response to climate changes, in order to ensure the human right to live in a pure environment."	Provides statutory provisions on environmental protection activities; measures and resources used for the purpose of environmental protection; rights, powers, duties and obligations of regulatory bodies, agencies, organizations, households and individuals who are tasked with the environmental protection task.
63	Zambia	2011	Environmental Management Act No. 12 of 2011 LINK	Zambia	Law	Pollution, biodiversity (brief mention of climate)	Art. 4(1): "Subject to the Constitution of Zambia, every person living in Zambia has the right to a clean, safe and healthy environment."	Makes provision for integrated environmental management and the protection and conservation of the environment and the sustainable management and use of natural resource and related matters.

ENDNOTES

1. Human Rights Council Resolution 48/13, UN Doc A/HRC/RES/48/13 (2021) at 1.
2. <https://press.un.org/en/2022/sgsm21386.doc.htm>
3. <https://www.unep.org/news-and-stories/statements/statement-inger-andersen-un-general-assembly-resolution-recognizing>
4. https://www.un.org/waterforlifedecade/human_right_to_water.shtml#:~:text=On%2028%20July%202010%2C%20through,realisation%20of%20all%20human%20rights.&text=It%20is%20a%20prerequisite%20for%20the%20realization%20of%20other%20human%20rights%22.
5. Rebecca Bratspies, Do We Need a Human Right to a Healthy Environment?, 13 Santa Clara J. Int'l L. 31 (2015).
6. John Knox, Greening Human Rights (Open Democracy, 14 July 2015) <https://www.opendemocracy.net/en/openglobalrights-openpage/greening-human-rights/> (accessed on 31 March 2023)
7. Stockholm Declaration on the Human Environment, in Report of the United Nations Conference on the Human Environment, UN Doc.A/CONF.48/14, at 2 and Corr.1 (1972).
8. See e.g.: Jacqueline Peel and Hari M Osofsky, 'A Rights Turn in Climate Change Litigation?' (2018) 7 Transnational Environmental Law 37; Annalisa Savaresi and Juan Auz, 'Climate Change Litigation and Human Rights: Pushing the Boundaries' (2019) 9 Climate Law 244; Annalisa Savaresi, 'Human Rights and the Impacts of Climate Change: Revisiting the Assumptions' (2021) 11 Oñati Socio-Legal Series 231; Keina Yoshida and Joana Setzer, 'The Trends and Challenges of Climate Change Litigation and Human Rights' (2020) 2020 European Human Rights Law Review 140; Cesar Rodriguez-Garavito, Litigating the Climate Emergency: How Human Rights, Courts and Legal Mobilization can Bolster Climate Action (Cambridge University Press, 2022); Annalisa Savaresi and Joana Setzer, 'Rights-Based Litigation in the Climate Emergency: Mapping the Landscape and New Knowledge Frontiers' (2022) 13 J Human Rights & Env't 7
9. Cesar Rodriguez-Garavito, Litigating the Climate Emergency: How Human Rights, Courts and Legal Mobilization can Bolster Climate Action (Cambridge University Press, 2022)
10. <https://academic.oup.com/yielaw/article/32/1/3/6982625>
11. As of 2020, the Right to a Healthy Environment was explicitly included in regional treaties ratified by 126 States. Additionally, 156 out of 193 UN Member States had legally recognised the right to a safe, clean, healthy and sustainable environment in their legislative provisions. See U.N Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, Report on the Right to a Healthy Environment: good practices. ¶13 U.N Doc A/HRC/43/53 (March 2020) [hereinafter UN Special Rapporteur Report].
12. Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights, art. 11 (Nov. 16, 1999) [hereinafter San Salvador Protocol].
13. African Charter on Human and Peoples' Rights, art. 24 (Jun. 27, 1981) [hereinafter African Charter].
14. ASEAN Human Rights Declaration, art. 28(f) (Nov. 19, 2012).
15. Arab Charter on Human Rights, art. 38 (May 22, 2004).
16. The Environment And Human Rights (State Obligations In Relation To The Environment In The Context Of The Protection And Guarantee Of The Rights To Life And To Personal Integrity: Interpretation And Scope Of Articles 4(1) And 5(1) In Relation To Articles 1(1) And 2 Of The American Convention On Human Rights), Advisory Opinion OC-23/17, Inter-Am. Ct. H.R. (ser. A) No. 23, (Nov. 15, 2017), ¶ 57 [hereinafter Advisory Opinion OC-23/17 (Inter-Am. Ct. H.R.)]. Note that The European Convention currently does not recognise R2HE, but pressure on this respect is increasing. Actors have in the past gotten around this jurisdictional hurdle and presented their case to the European Court of Human Rights (ECtHR) by grounding their complaint in Article 6 § 1 - the right to a fair trial - where domestic courts failed to properly consider R2HE as recognised under domestic law.
17. CONST. (1987), art. 2, §16 (Phil.).
18. African Charter, supra note 3, art. 24.
19. CONST. (2008), ch. 6, art. 66, §27 (Ecuador).
20. CONST. (1814, rev. 2014), §112 (Norway).
21. CONST. (1922, rev. 2016), §115 (Latvia).
22. See e.g. CONST. (1988, rev. 2017), §225 (Braz.) and CONST. (1991, rev. 2015), §79 (Colom.).
23. See e.g., Combeima River case of September 14, 2020, Administrative Tribunal, No 73001-2331-000-2011-00611-03 (Sept. 14, 2020) (Colom.) (holding the government responsible for issuing mining permits that could adversely affect biodiversity) [hereinafter Combeima River (Colom.)].
24. KM & 9 others v. Attorney General & 7 others, Environment and Land Court at Mombasa, Petition No. 1 of 2016 (Jul. 16, 2020) (Kenya) [hereinafter KM (Kenya)].
25. See, e.g., Herrera Carrion et al. v. Ministry of the Environment et al. (Caso Mecheros), Provincial Court of Justice, Juicio No: 21201202000170 (Jul. 29, 2021) (Ecuador) [hereinafter Herrera Carrion (Ecuador)]; Social and Economic Rights Action Center & the Center for Economic and Social Rights v. Nigeria, Communication 155/96, African Commission on Human and Peoples' Rights [Afr. Comm'n H.P.R.] (May 27, 2002) [hereinafter Social and Economic Rights Action Center (Nigeria)]; PSB et al. v. Brazil (on Amazon fund), Supreme Court, ADO 59/DF (Jan. 7, 2022) (Braz.).
26. See e.g. Women from Huasco and Others v. the Government of Chile, Ministry of Energy, Environment and Health, Court of Appeal, No. 323-2021 (Feb. 5, 2022) [hereinafter Women from Huasco (Chile)]; ADPF 746 (Fires in the Pantanal and the Amazon Forest), Supreme Court (pending since 2020) (Braz.); Salamanca Mancera et al v Presidencia de la República de Colombia et al, Supreme Court of Justice, No 110012203 000 2018 00319 01 (5 April 2018) (Colom.) [hereinafter Salamanca Mancera (Colom.)]; Future Generations v. Ministry of the Environment and Others (Demanda Generaciones Futuras v. Minambiente), Supreme Court, STC 4360-2018, (Apr. 5, 2018) (Colom.) [hereinafter Future Generations (Colom.)].
27. See, e.g., Women from Huasco (Chile), supra note 16; KM (Kenya), supra note 14; Combeima River (Colom.), supra note 13; Carlos Roberto Mejía Chacón Case, Constitutional Chamber of the Supreme Court, Voto No. 3705-93 (Jul. 30, 1993) (Costa Rica) [hereinafter Chacón Case (Costa Rica)]; Fuel Retailers Association of South Africa v. Director-General Environmental Management, Dept of Agriculture, Conservation and Environment, Mpumalanga Province, & other, Constitutional Court, Case CCT 67/06 (Jun. 7, 2007) (S. Afr.) [hereinafter Fuel Retailers Association (S. Afr.)]; H.M. Henares, Jr. et al. v. Land Transportation Franchising and Regulatory Board et al., Supreme Court, G.R. No. 158290 (Oct. 23, 2006) (Phil.) [hereinafter H.M. Henares Jr (Phil.)]; Salamanca Mancera (Colom.), supra note 16; Corporación para el Desarrollo Sostenible del Archipiélago de San Andrés, Providencia y Santa Catalina v. Agencia Nacional de Hidrocarburos, Administrative Tribunal, Exp. No. 88-001-23-31-003-2011-00011-00 (Jun. 4, 2012) (Colom.) [hereinafter Agencia Nacional de Hidrocarburos (Colom.)]; Mont. Env't Info. Ctr. v. Dep't of Env't Quality, Supreme Court of Montana, 1999 MT 248, 296 Mont. 207, 988 P.2d 1236.; Ysmael, Jr. & Co. v. Deputy Executive Secretary et al., Supreme Court, G.R. No. 79538 (Oct. 18, 1990) (Phil.) [hereinafter Ysmael Jr (Phil.)]; Future Generations (Colom.), supra note 16.
28. See, e.g., Minors Oposa v. Secretary of the Department of Environment and Natural Resources, Surpeme Court, G.R. No. 101083 (Jul. 30, 1993) [hereinafter Minors Oposa (Phil.)]; Isaiah Luyara Odando & another v National Management Environmental Authority & 2 others; County Government of Nairobi & 5 others (interested parties), Environment and Land Court, Constitutional Petition 43 of 2019 (Jul. 15, 2021) (Kenya) [hereinafter Isaiah Luyara Odando (Kenya)]; Fuel Retailers Association (S. Afr.), supra note 17.
29. See, e.g., KM (Kenya), supra note 14; Advocates Coalition for Development and Environment (ACODE) v. Attorney General, High Court, Miscellaneous Cause No. 100 of 2004 (Jul. 13, 2005) (Uganda) [hereinafter ACODE (Uganda)].
30. See, e.g., Nuestros Derechos al Futuro y Medio Ambiente Sano et. al., v. Mexico (Unconstitutionality of the reform to the Electric Industry Law), District Court, Amparo No. 204/2021 (Jul. 4, 2021) (Mex.) [hereinafter Nuestros Derechos al Futuro (Mex.)].
31. See, e.g., On Compliance of the Part of Riga Land Use Plan 2006 – 2018 Covering the Territory of the Freeport of Riga with Article 115 of the Satversme [Constitution] of the Republic of Latvia, Constitutional Court, Case No. 2007-11-03, (Jan. 17, 2008) [hereinafter Riga Land Use Plan (Lat.)]; KM (Kenya), supra note 14; On the Compliance of the Part of the Garkalne Pagasts (a small rural district) Council Spatial Plan, which Envisages Construction of Buildings in the Flood Zone of the Big Baltezers Lake with Sections 1 and 115 of the Republic of Latvia Satversme, Constitutional Court, Case No. 2006-09-03 (Feb. 8, 2007) (Lat.) [hereinafter Garkalne Pagasts (Lat.)]; Asociación para la Protección del Medio Ambiente y Educación Ecológica 18 de Octubre v. Aguas Argentinas S.A. y otros, Higher Court, RDAmb 2004-0-193 (Jul. 8, 2003) (Arg.) [hereinafter Aguas Argentinas (Arg.)]; Chacón Case (Costa Rica), supra note 17; Inter-Environnement Wallonie v. Walloon Region, Constitutional Court, Arret No. 137/2006 (Sept. 14, 2006) (Belg.) [hereinafter Inter-Environment Wallonie (Belg.)]; Future Generations, supra note 17; Salamanca Mancera, supra note 16; Barragán, et al. v. The Presidency of the Republic, et al, Supreme Court, STC4360-2018 (Apr. 5, 2018) (Colom.).
32. See, e.g., Fundepublico v. Mayor of Bugalagrande and Others, Constitutional Court, Judgment No. T-415/92 (Colom.); South African Human Rights Commission v. Msunduzi Local Municipality & Others, High Court, Case No. 8407/2020P (Jun. 17, 2021)(S. Afr.) [hereinafter Msunduzi Local Municipality (S. Afr.)].
33. See, e.g., Case of the Indigenous Communities of the Lhaka Honhat (Our Land) Association v. Argentina, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 420, ¶ 208 (Feb. 6, 2020) [hereinafter Lhaka Honhat (IACtHR)].
34. Id.
35. See e.g. Mendoza Beatris Silva et al v. State of Argentina et al, Supreme Court of Justice, M. 1569. XL (Jul. 8, 2008) (Arg.) ¶ 17 [hereinafter Mendoza Beatris Silva (Arg.)]; African Centre for Rights And Governance (ACRAG) & 3 others v Municipal Council of Naivasha, Environment and Land Court, Petition 50 of 2012 (May 31, 2017) (Kenya) ¶¶ 46-47; In re Court on its own motion v. State of Himachal Pradesh and others, National Green Tribunal, CWPIL No. 15 of 2010 (Jun. 2, 2014) (India) ¶ 38 [hereinafter CWPIL No. 15 of 2010 (India)]; Msunduzi Local Municipality (S. Afr.), supra note 22, ¶ 109; and Metro Manila Development Authority et al. v. Concerned Residents of Manila Bay, Supreme Court, G.R. No. 171947-48, 4-5 (Dec. 18, 2008) (Phil.).

36. Bundeversfassungsgericht (BVerfG), Constitutional Court, 1 BvR 2656/18 (Mar. 24, 2021) (Ger.) ¶ 114 [hereinafter Neubauer (Ger.)].
37. KM (Kenya), supra note 14, ¶ 172 (order not made because scientific studies “had been done going by the reports filed in [that] petition”).
38. Lhaka Honhat (IACtHR), supra note 23, ¶ 288.
39. Herrera Carrion (Ecuador), supra note 15, 59 (Google translate); Lhaka Honhat (IACtHR), supra note 23, ¶ 288; KM v. AG, supra note 15, ¶ 153.
40. Lhaka Honhat (IACtHR), supra note 23, ¶ 249.
41. See, e.g., National Charter for Environment and Sustainable Development, loi-cadre 99-12, 2013 (Morocco).
42. Judgement C-431/00, Constitutional Court, D-2589, 35 (Apr. 12, 2000) (Colom.) (Google translate).
43. ACODE (Uganda), supra note 19. See also Jaime Hans Bustamante Johnson v. Occidental Petrolera del Perú LLC, Repsol Exploración Perú y Petrobras Energía Perú S.A., Constitutional Tribunal, Exp No. 03343-2007-PA/TC (Feb. 19, 2009) [hereinafter Bustamante Johnson (Peru)]; Center for Public Interest Law and anor v. Tema Oil Refinery, High Court, Suit No. E12/91/07 (Sept. 20, 2007) (Ghana) (the High Court holding that a plaintiff has a cause of action against a defendant oil refinery company for polluting a lagoon and violating the residents’ R2HE); Irazú Margarita v. Coperto SA, Chamber of Civil and Commercial Appeals, No. 215328 (Feb. 9, 1995) (Arg.) [hereinafter Irazú Margarita (Arg.)].
44. Aguas Argentinas (Arg.), supra note 21.
45. Future Generations (Colom.), supra note 16.
46. KM (Kenya), supra note 14.
47. Combeima River, supra note 13; Rodgers Muema Nzioka & 2 others v. Tiomin Kenya Limited, High Court, Civil Case No. 97 of 2001, (Sept. 21, 2001) (Kenya) [hereinafter Rodgers Muema Nzioka (Kenya)].
48. See Bustamante Johnson (Peru), supra note 33.
49. KM (Kenya), supra note 14.
50. ACODE (Uganda), supra note 19.
51. In re Greenpeace Southeast Asia and Others, Commission on Human Rights, Case No. CHR-NI-2016-0001 (Phil.).
52. Khabisi No and Another v Aquarrella Investment (Pty) Ltd Others, High Court, No. 9114/2007 (Jun. 22, 2007) (S. Afr.) [hereinafter Khabisi No (S. Afr.)].
53. Combeima River (Colom.), supra note 13.
54. ACODE (Uganda), supra note 19, 23 (pdf).
55. Antonio Horvath Kiss y otros contra Comisión de Evaluación Ambiental de la Región de Aysén, Court of Appeals, Rol de la causa 153-2011 (Oct. 6, 2011) (Chile).
56. Khabisi No (S. Afr), supra note 42.
57. Aguas Argentinas (Arg.), supra note 21, ¶ 17 (Google translate); Khabisi No (S. Afr), supra note 42, 35; Irazú Margarita (Arg.), supra note 33; Rodgers Muema Nzioka (Kenya), supra note 37, 19.
58. ACODE (Uganda), supra note 19, 23 (pdf).
59. Future Generations (Colom.), supra note 16, 50.
60. KM (Kenya), supra note 14, ¶¶ 161-162.
61. Aguas Argentinas (Arg.), supra note 21, ¶¶ 28 and 34 (Google translate).
62. Combeima River, supra note 13, ¶ 5.15.4 (Google translate).
63. Future Generations (Colom.), supra note 16, 49.
64. Aguas Argentinas, supra note 21, ¶ 20 (Google translate).
65. KM (Kenya), supra note 14, ¶ 168; Irazú Margarita (Arg.), supra note 33.
66. See generally Fuel Retailers (S. Afr.), supra note 17.
67. See Bustamante Johnson (Peru), supra note 33; Waste Prevention & Management Act (2009) (Bhutan) [hereinafter Waste Prevention & Management Act (Bhutan)]; See Environmental Code, Law No. 2013-006 (2013) (Burkina Faso) [hereinafter Environmental Code (Burkina Faso)]; Proclamation No. 179/2017, Environmental Protection, Management, and Rehabilitation Framework, ch. 2, art. 5(6) (2017) (Eritrea) [hereinafter Environmental Protection, Management, and Rehabilitation Framework (Eritrea)].
68. Waste Prevention & Management Act (Bhutan), supra note 57, ch. 2, ¶6.
69. Environmental Code (Burkina Faso), supra note 57, ch. 3, arts. 5& 6.
70. Environmental Protection, Management, and Rehabilitation Framework (Eritrea), supra note 57.
71. See, e.g., Ministério Público Federal v. de Rezende (Braz.).
72. See, e.g., Agencia Nacional de Hidrocarburos (Colom.), supra note 17.
73. Advisory Opinion OC-23/17 (Inter-Am. Ct. H.R.), supra note 6
74. CONST. (2009), art. 33 (Bolivia).
75. Municipality of Santa Ana de Cotacachi v. Minister of the Environment, Constitutional Court, No. 1149-19-JP / 20 (Nov. 10, 2021) (Ecuador), ¶240 (Deep L translation) [hereinafter Los Cedros case (Ecuador)]. Original Spanish version: “El derecho constitucional a un ambiente sano es reconocido a cada persona de manera particular, pero a la vez desde una noción colectiva, que abarca a la población en su conjunto. Esta noción colectiva refiere también al reconocimiento de la titularidad de este derecho a grupos poblacionales en relación al entorno al que se encuentran vinculados. En este último sentido, se puede considerar la titularidad de comunidades, pueblos, ciudades u otras jurisdicciones.”
76. See, e.g., Lhaka Honhat (IACtHR), supra note 23 (“Referring to diverse statements made by international bodies, the Court has underlined the “close” relationship or “interdependence” between the environment and human rights. This is because the latter may be adversely affected by environmental degradation and, in turn, because – as United Nations agencies have indicated – “effective environmental protection often depends on the exercise of human rights.”).
77. Judgment T-622/16, Constitutional Court (Nov. 10, 2016) (Colom.), ¶ 5.5 [hereinafter Judgment T-622 or Atrato River case (Colom.)]
78. See Magyarország Alkotmánybírósága, Constitutional Court, Case 28/1994 (V. 20) (May 20, 1994) (Hung.) [hereinafter Case 28/1994 (Hung.)].
79. Ysmael Jr (Phil.), supra note 17.
80. See Khabisi No (S. Afr), supra note 42, ¶ 30 (“It is not in dispute that applicants, as officials responsible for a healthy environment have a duty to promote sustainable development which are underpinned by the integration of social, economic and environmental factors in the planning, implementation and evaluation of decisions to ensure that all developments serve present and future generations and not only the economic and commercial needs of property owners or developers.”)
81. See Presidente de la sociedad MARLENE S.A. v. Municipalidad de Tibas Marlene, Constitutional Chamber of Supreme Court, No. 6918/94 (Costa Rica).
82. See Francisco Chahuan v. Empresa Nacional de Petroleo, Supreme Court of Justice, Rol. 5888-2019 (May 28, 2019) (Chile) [hereinafter Francisco Chahuan (Chile)].
83. See Castillo Montano v. Municipal Council of San Pedro La Laguna, Constitutional Court, No. 5956-2016 (Oct. 5, 2017) (Guatemala) [hereinafter Case No. 5956-2016 (Guatemala)].
84. See Sentencia C-035/16, Constitutional Court (Feb. 8, 2016) (Colom.) [hereinafter Castilla Salazar (Colom.)].
85. These elements are mirrored in international guiding documents. Special Rapporteur David Boyd identified the R2HE substantive components to be: (i) clean air, (ii) safe climate, (iii) healthy and sustainably produced food; (iv) access to safe water and adequate sanitation; (v) non-toxic environments in which to live, work and play; and (vi) healthy ecosystems and biodiversity. See generally, UN Special Rapporteur Report, supra note 1.
86. Castilla Salazar (Colom.), supra note 74, at ¶131 (Google Translate).
87. Advisory Opinion OC-23/17 (Inter-Am. Ct. H.R.), supra note 6, ¶ 60.
88. Bustamante Johnson (Peru), supra note 33, at ¶5 (Deep L translation).
89. See, e.g., Aguas Argentinas (Arg.), supra note 21, ¶18.
90. Case No. 5956-2016 (Guatemala), supra note 73, 34 (google translate).
91. Case No. 5956-2016 (Guatemala), supra note 73, 35 (google translate).
92. Castilla Salazar (Colom.), supra note 74, ¶ 131; see also C.P. Oswaldo Giraldo López, Highest Court on Administrative Law, radicado: 73001 23 31 000 2011 00611 03 (Sept. 14, 2020) (Colom.).
93. Ontario Bill of Rights, S.O. 1993, c. 28, pt. 1(2) (Can.).
94. Environmental Code (1996), Loi 96-766, Title I, Art. I (Côte d’Ivoire) (Google Translate).
95. Id. Title III, §35.3 (Google Translate).
96. Environmental Code (2007), Law No. 07.018, §4, Art. 38 (Central African Republic).
97. See Federal Law no. 13.123 (2015) (Brazil).

98. See National Environmental Management: Biodiversity Act of 2004 (S. Afr.); National Environmental Management: Protected Areas Act of 2004 (S. Afr.).
99. See Law No. 42 on National Heritage and Biodiversity (No. 42/2007, 2007) (Spain) [hereinafter Law No. 42 (Spain)].
100. See Environmental Law No. 81 (1997) (Cuba) [hereinafter Environmental Law (Cuba)].
101. See Ontario Bill of Rights, S.O. 1993, c. 28 (Can.).
102. See also PSB et al. v. Brazil (on deforestation and human rights), Supreme Court, ADPF 760 (Jun. 4, 2022) (Braz.) [hereinafter ADPF 760 (Braz.)].
103. Id. at 145.
104. See Greenpeace Mexico v. Ministry of Energy (on National Electric System policies), First Circuit Collegiate Tribunal, Amparo No. 104/2020, (Nov. 17, 2020) (Mex.) [hereinafter Greenpeace Mexico (Mex.)].
105. See Future Generations (Colom.), supra note 16.
106. See, e.g., Notre Affaire à Tous v. France, Administrative Tribunal, Nos. 1904967, 1904968, 1904972, 1904976/4-1 (Oct. 14, 2021) (Fr.).
107. The Law on the Environment (2005) ch. I, art. 1 & ch. XIX, art. 187 (North Macedonia) [hereinafter Law on the Environment (North Macedonia)].
108. Isaiah Luyara Odando (Kenya), supra note 18, ¶ 90.
109. Social and Economic Rights Action Center (Nigeria), supra note 15, ¶ 52.
110. H.M. Henares Jr (Phil.), supra note 17.
111. Id.
112. See National Environmental Management Act: Waste Act of 2008 (S. Afr.).
113. See Ley General para la Prevención y Gestión Integral de los Residuos [General Law for the Prevention and Comprehensive Handling of Environmental Waste], Diario Oficial de la Federación [DOF] 8-10-2003 (Mex.) (implementing R2HE through legislation dealing with waste pollution).
114. See Basic Environmental Law, Law no. 1/2011 (2011) (Guinea-Bissau) [hereinafter Basic Environmental Law (Guinea-Bissau)]; see also Framework Act on Environmental Policy, Act No. 13894, Jan. 27, 2016 (S. Kor.) [hereinafter Framework Act on Environmental Policy (S. Kor.)]; see also Law on Environmental Protection, March 30, 1995 (Mongolia).
115. Basic Environmental Law (Guinea-Bissau), supra note 104.
116. Framework Act on Environmental Policy (S. Kor.), supra note 104, at art 6(1) & art. 3(4).
117. Case 28/1994 (Hung.), supra note 68, at §III(3)(b) & (c) (emphasis added).
118. See Neubauer (Ger.), supra note 26, ¶114.
119. Along these lines, see Women from Huasco (Chile), supra note 16, 65.
120. See Segovia v. Climate Change Commission, 806 Phil. 1019 (S.C., Mar. 7, 2017) (Phil.).
121. Environmental Base Regulations (2012), ch. 1, art. 4 (Timor-Leste) (Google Translate) [hereinafter Environmental Base Regulations (Timor-Leste)].
122. Law on Protection of the Environment (2011), ch.1, art. 7(1) (Tajikistan) (Google Translate)
123. See Environmental Law (Cuba), supra note 90.
124. See Law No. 42 (Spain), supra note 89.
125. Law on Environmental Protection (2014), No. 55/2014, ch. 1, art. 4 (Vietnam).
126. See IACHR Takes to the IACtHR Case Involving the Collective Property of Alcantâra's Quilombola Communities, with regard to Brazil, ORG. OF AM. STATES. (Jan. 12, 2022), https://www.oas.org/en/IACHR/jsForm/?File=/en/iachr/media_center/PReleases/2022/013.asp.
127. Earthlife Africa Johannesburg v. Minister of Env'tl. Affairs, High Court, Case No. 65662/16 (Mar. 8, 2017) (S. Afr.).
128. See Greenpeace Mexico (Mex.), supra note 94.
129. Future Generations (Colom.), supra note 16, ¶¶ 11.3 and 13.
130. Los Cedros case, supra note 65, ¶ 245.
131. Garkalne Pagasts (Lat.), supra note 21, ¶ 11.
132. Mohamed Ali Baadi and others v Attorney General & 11 others, High Court, Petition 22 of 2012, (Apr. 30, 2018) (Kenya), ¶ 221.
133. Application U-I-386/06, Constitutional Court, Official Gazette RS, No. 32/2008 (Mar. 13, 2008) (Slovn.).
134. Law on Ecological Safety (2017), ch. 5, art. 17(3) & ch. 6, art. 27(3) (Turkmenistan).
135. Environmental Law (Cuba), supra note 90, preamble & ch. 1, art. 5.
136. Hum. Rts. Council, Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, U.N. Doc. A/HRC/43/53, para. 2 (Dec. 30, 2019).
137. See Atrato River case (Colom.), supra note 67.
138. Id., 50 at ¶ 5.5.1.
139. See generally Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters, Jun. 25, 1998, 2161 U.N.T.S. 447 [hereinafter Aarhus Convention].
140. See generally Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean, Mar. 4, 2018, C.N.195.2018 [hereinafter Escazú Agreement].
141. Law on Environmental Protection (1992), No. 1982-XII, ch. 3, art. 12 (Belarus) [hereinafter "Law on Environmental Protection (Belarus)"].
142. Riga Land Use Plan (Lat.), supra note 21.
143. See, e.g., Case No. 035/2022, Supreme Court of Justice (Feb. 9, 2022) (Mex.).
144. See, e.g., Association Les Amis De La Terre France, Administrative Tribunal, No. 1805238 (Apr. 1, 2021) (Fr.).
145. See Tatar v. Romania, App. No. 67021/01, (Jan. 27, 2009) [hereinafter Tatar (ECtHR)].
146. See Law on the Environment & Natural Resources (2000), No. 64-00, ch. IV (Dominican Republic).
147. See 1995. évi LIII. törvény a környezet védelmének általános szabályairól (Act on the general rules for the protection of the environment) (Hung.) [hereinafter Act on the general rules for the protection of the environment] (Hung.).
148. Inter-Environment Wallonie (Belg.), supra note 21.
149. On Compliance of the Cabinet of Ministers Decree of August 8, 2001 No.401 "On the Location of the Hazardous Waste Incineration Facility in Olaine" with Articles 111 and 115 of the Satversme, Section 5 and Para 1-3 of Section 6 of the Waste Management Law, Section 3 and Section 11 of Law On the Environmental Impact Assessment, Section 14 and Section 17 (1) of Law on Pollution, as well as Section 11 of Law On Environmental Protection, Constitutional Court, Case No. 2002-14-04 (Feb. 14, 2003) (Lat.), 10 [hereinafter Baldzens v. Cabinet of Ministers (Lat.)].
150. Id. at 13.
151. See, e.g., Mendoza Beatris Silva (Arg.), supra note 25.
152. See Tatar (ECtHR), supra note 135.
153. Environmental Policy (1997), ¶4.7(a) (Ethiopia) [hereinafter Environmental Policy (Ethiopia)].
154. Id. ¶4.7(c), (d), & (g) (Ethiopia).
155. See Law on Environmental Protection (1992), Law No. 1982-XII, art. 3 (Azerbaijan) [hereinafter Environmental Protection (Azerbaijan)].
156. See Environmental Management Act (2011), No. 12 of 2011, pt. VI (Zambia).
157. See Law on Environmental Protection (1995), Law No. 137, art. 5 (Romania) [hereinafter Law on Environmental Protection (Romania)].
158. Baldzens v. Cabinet of Ministers (Lat.), supra note 139, 12.
159. Id. at 13-14.
160. Locus Standi of Civic Association to File a Petition Seeking the Annulment of a Measure of a General Nature (Land-use Plan), Constitutional Court, Decision 59/14, (May 30, 2014) (Czech).
161. See Decree on the Management of the Environment and the Regulation of the Conduct of Citizens for Sustainable Development (2006), §§12,19,42, 58, & 69 (Haiti).
162. Law on Environmental Protections (1992), ch. 2, art. 8(9) (Lithuania).
163. Nuestros Derechos al Futuro (Mex.), supra note 20; Escazú Agreement, supra note 130, art. 8.
164. Julia Habana et. al., v. Mexico (Unconstitutionality of the reform to the Electric Industry Law), Supreme Court, Amparo No. 210/2021 (Mar. 26, 2021) (Mex.); Nuestros Derechos al Futuro (Mex.), supra note 20; Escazú Agreement, supra note 130, art. 8.3(c).
165. Riga Land Use Plan (Lat.), supra note 21.
166. National Environment Protection Act (2007), ¶ 88 (Bhutan) [hereinafter National Environment Protection Act (Bhutan)].

167. *Id.* ¶ 89.
168. Environmental Code (Burkina Faso), *supra* note 57, ch. 2, art. 5.
169. Social and Economic Rights Action Center (Nigeria), *supra* note 15, ¶ 53 (emphasis added).
170. See Environmental Policy (Ethiopia), *supra* note 143, ch. 5.3.
171. See U.N. Secretary-General, Human Rights Obligations relating to the enjoyment of a safe, clean, healthy, and sustainable environment, ¶¶ 19-20, U.N. Doc. A/73/188 (July 19, 2018).
172. Environmental Protection, Management, and Rehabilitation Framework (Eritrea), *supra* note 57, ch. 2, art. 4.
173. See Basic Law on the Environment (2014), *Diário de la República* 73/2014, art. 4 b (Portugal) [hereinafter Basic Law on the Environment (Portugal)].
174. Environmental Base Regulations (Timor-Leste), *supra* note 111, ch. 2, art. 10 (Google Translate).
175. Act on the general rules for the protection of the environment) (Hung.), *supra* note 137, at ch. 1, §10(1) (Google Translate).
176. *Id.* at ch. 1, §11(1) (Google Translate).
177. Law on Environmental Protection (1995), No. 519_IS, ch. 2, art. 6(d) (Georgia) [hereinafter Law on Environmental Protection (Georgia)].
178. *Id.*
179. Environmental Protection and Management (2009), Law No. 32/2009, ch. IX, art. 63(w) (Indonesia) [hereinafter Environmental Protection and Management (Indonesia)].
180. *Id.* at ch. X, art. 65(2).
181. See Law on the Environment (North Macedonia), *supra* note 97.
182. Castilla Salazar (Colom.), *supra* note 74.
183. Isaiah Luyara Odando (Kenya), *supra* note 18, ¶¶ 114 – 116.
184. Judgment No. of the Administrative Court of Cundinamarca (Jun. 13, 2003) (Colom.), ¶14 (Google Translate).
185. See Environmental Code (Burkina Faso), *supra* note 57.
186. See Framework Law Relating to Environmental Management (1996), Law No. 96/12 (Cameroon) [hereinafter Framework Law Relating to Environmental Management (Cameroon)].
187. See Environmental Protection Act (2014), No. 527 (Finland).
188. See Rules of Procedure for Environmental Cases, A.M. No. 09-6-8-SC (2010) (Phil.) [hereinafter Rules of Procedure for Environmental Cases (Phil.)].
189. See, e.g., *Aguas Argentinas* (Arg.), *supra* note 21.
190. *Lhaka Honhat* (IACTHR), *supra* note 23, ¶ 208.
191. See Environmental Code (Burkina Faso), *supra* note 57.
192. See *Loi 110-2 du February 28, 2002* [Law 2002-276 of February 28, 2002, Environmental Code] *JOURNAL OFFICIEL DE LA RÉPUBLIQUE FRANÇAISE* [J.O.] [OFFICIAL GAZETTE OF FRANCE], Feb. 28, 2002.
193. See Framework Law Relating to Environmental Management (Cameroon), *supra* note 176.
194. *Inter-Environment Wallonie* (Belg.), *supra* note 21.
195. *Case 28/1994* (Hung.), *supra* note 68, at pt. IV.
196. See, e.g., *CWPIL No. 15 of 2010* (India), *supra* note 25.
197. See, e.g., *Aguas Argentinas* (Arg.), *supra* note 21.
198. See, e.g., *National Environment Management Authority v. Maraba Lwatingu Residents Ass'n*, National Environment Tribunal, Tribunal Appeal No. 113 of 2013 (Mar. 5, 2019) 16-17 (pdf) (Kenya).
199. *Peter K. Waweru v. Republic*, High Court, Mis.Civl Appli.No.118 of 2004 (Mar. 2, 2006) (Kenya), para. 44.
200. See Decree on the Regulation of Pollution and Damage to the Environment (2009), No. 904/PR/PM/MERH/2009 (Chad) [hereinafter Decree on the Regulation of Pollution and Damage to the Environment (Chad)].
201. See Law on Environmental Protection (Romania), *supra* note 147.
202. *Sentencia T-251/93*, Constitutional Court (Jun. 30, 1993) (Colom.), ¶ 12 (Google translate).
203. *Bustamante Johnson* (Peru), *supra* note 33, ¶14 (Google Translate).
204. *Khabisi No* (S. Afr), *supra* note 42, 34.
205. Organic Law Determining the Modalities of Protection, Conservation and Promotion of the Environment in Rwanda (2005), Law No. 04/2005, Official Gazette of the Republic of Rwanda, art. 1(5) (Rwanda) [hereinafter Organic Law Determining the Modalities of Protection, Conservation and Promotion of the Environment in Rwanda (Rwanda)].
206. *Id.* at ch. III, art. 7(2).
207. See *Neubauer* (Ger.), *supra* note 26.
208. See *Future Generations* (Colom.), *supra* note 16.
209. *Minors Oposa* (Phil.), *supra* note 18.
210. See *Environment Act (2008)*, §4 (Lesotho) [hereinafter *Environment Act* (Lesotho)].
211. See *General Law on Ecological Balance and Environmental Protection*, ch. III, art. 15(V), *Diario Oficial de la Federación* [DOF] 28-01-1998 (Mex.) [hereinafter *General Law on Ecological Balance and Environmental Protection* (Mex.)].
212. See *Basic Law on the Environment* (Portugal), *supra* note 163, ch. 1, art. 3(b).
213. See *Organic Law Determining the Modalities of Protection, Conservation and Promotion of the Environment in Rwanda* (Rwanda), *supra* note 195, ch. I, art. 1(4).
214. See *Environment Management Act* (2004), ch. 2 (Tanzania) [hereinafter *Environment Management Act* (Tanzania)].
215. *Environment Act* (Lesotho), *supra* note 200, pt. I, ¶4(4)(e).
216. *General Law on Ecological Balance and Environmental Protection* (Mex.), *supra* note 201, at ch. III, art. 15(V).
217. *Organic Law Determining the Modalities of Protection, Conservation and Promotion of the Environment in Rwanda* (Rwanda), *supra* note 195, ch. I, art. 1(4).
218. *Parque Isla Salamanca case*, Supreme Court, STC No. 3872-2020 (Jun. 18, 2020) (Colom.) [hereinafter *Parque Isla Salamanca* (Colom.)].
219. See *Los Cedros case* (Ecuador), *supra* note 65.
220. *Id.* at ¶ 339.
221. *Organic Environmental Code* (2017), Official Register of the Government of Ecuador, No. 983, title II, Art. 5(1) (Ecuador) [hereinafter *Organic Environmental Code* (Ecuador)].
222. *Women from Huasco* (Chile), *supra* note 16, 69.
223. *Maria Khan et al. v. Federation of Pakistan et al.*, High Court, No. 8960 of 2019 (Feb. 15, 2019) (Pak.).
224. *General Law on Ecological Balance and Environmental Protection* (Mex.), *supra* note 201, ch. III, art. 15(XV).
225. Council Directive 96/61/EC, 1996 O.J. (L257) 26.
226. *Ruling on Modification to Ethanol Fuel Rule*, Supreme Court, 610/2019 (Jan. 22, 2020) (Mex.), 2.
227. *Id.* at 29.
228. *Rodgers Muema Nzioka* (Kenya), *supra* note 37, 16.
229. *Marangopoulos Foundation for Human Rights (MFHR) v. Greece*, Complaint No. 30/2005, European Committee of Social Rights, ¶ 221 (Dec. 6, 2006).
230. *Environmental Law* (1997), Law No. 20/97 (Mozambique), ch. I, Art. 4(2) [hereinafter *Environmental Law* (Mozambique)].
231. *Environmental Protection and Management* (Indonesia), *supra* note 169, ch. IX, art. 63(t).
232. *General Law on Ecological Balance and Environmental Protection* (Mexico), *supra* note 201 ch. III, Art. 79(X)
233. *Lhaka Honhat* (IACTHR), *supra* note 23, paras. 250-251.
234. *Los Cedros case* (Ecuador), *supra* note 65, para. 52.
235. See *ADPF 760* (Braz.), *supra* note 92, 36.
236. U.N. GAOR 56th Sess., Report of the International Law Commission on the work of its fifty-third session at 370, art. 2(c), U.N. Doc. A/56/10 (Aug. 10, 2001).
237. Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable

- environment, para. 19, U.N. Doc. A/73/188 (Jul. 19, 2018) [hereinafter Special Rapporteur Report 2018].
238. Hum. Rts. Council, Analytical study on the relationship between human rights and the environment: Report of the United Nations High Commissioner for Human Rights, para. 65, U.N. Doc. A/HRC/19/34 (Dec. 16, 2011) [hereinafter Human Rights - Environment Analytical Study].
239. no harm rule, U.N. ENV'T PROGRAMME, <https://leap.unep.org/knowledge/glossary/no-harm-rule> (last visited Dec. 12, 2022).
240. Special Rapporteur Report 2018, supra note 227, para. 19-21.
241. Human Rights - Environment Analytical Study, supra note 228, para. 66.
242. Advisory Opinion OC-23/17 (Inter-Am. Ct. H.R.), supra note 6, ¶ 103.
243. Id. ¶ 240.
244. Escazú Agreement, supra note 130, art. 8, section 3(c). While standing requirements are less clear under the Aarhus Convention, the European Commission, in The Aarhus Convention An Implementation Guide, emphasised that parties must not use criteria laid down in their national law so strictly that they essentially prevent environmental organisations from taking an environmental case case to court. See generally U.N. ECON. COMM'N FOR EUR., THE AARHUS CONVENTION: AN IMPLEMENTATION GUIDE (2nd ed., 2014), https://unece.org/fileadmin/DAM/env/pp/Publications/Aarhus_Implementation_Guide_interactive_eng.pdf
245. ACODE (Uganda), supra note 19, 6.
246. African Centre for Rights and Governance v. Municipal Council of Naivasha, Environment and Land Court, Petition No. 50 of 2012 (May 31, 2017) (Kenya).
247. For a case pertaining to the R2HE, see, e.g., Francisco Chahuan (Chile), supra note 72, para. 41 (where the court concluded that there was not enough proof of causality to attribute legal responsibility of environmental harm and pollution to any company, despite there being sufficient connections to presume, with good reason, that the economic activity carried out by the different companies would be the cause of the persistent and serious episodes of contamination and intoxication that have affected the inhabitants of the communes in question).
248. See Msunduzi Local Municipality (S. Afr.), supra note 22
249. CWPII No. 15 of 2010 (India), supra note 25, at ¶ 12.
250. Earthlife Africa Johannesburg v. Minister of Env'tl. Affairs, supra note xx, at ¶ 82.
251. Parque Isla Salamanca (Colom.), supra note 208.
252. Isaiah Luyara Odando (Kenya), supra note 18, ¶¶ 132, 136(vii).
253. See Leghari v. Federation of Pakistan, High Court, W.P. No. 25501/201 (Pak.), ¶ 8(iii).
254. Parque Isla Salamanca (Colom.), supra note 208.
255. See CWPII No. 15 of 2010 (India), supra note 25, ¶ 38(viii).
256. Vellore Citizens Welfare Forum v. Union of India & ors, Supreme Court, [1996] 5 SCC 647 (India), at 18 (pdf).
257. Manuel Cepeda Vargas v. Colombia, Preliminary Objections, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R., Concurring opinion of Judge Diego García-Sayán, ¶ 21 (May 26, 2010).
258. Narvaéz Gómez v. Colombia, Constitutional Court, Sentencia T-080/17 (Feb. 7, 2017) (Colom.).
259. KM (Kenya), supra note 14, paras. 88 and 160.
260. Environmental Protection (Azerbaijan), supra note 145, art. 6.
261. Environmental Code (2007), No. 212-III (Kazakhstan).
262. See Organic Environment Code (Ecuador), supra note 211.
263. See General Part of the Environmental Code Act (2011) (Estonia) [hereinafter General Part of the Environment Code Act (Estonia)].
264. See Law on Environmental Protection (Georgia), supra note 167.
265. See Environmental Law (Mozambique), supra note 220.
266. Environmental Protection and Management (Indonesia), supra note 169, art. 66.
267. See Environmental Code, Law No. 2000.045, Official Journal of the Islamic Republic of Mauritania, ch. II, Art. 6 (Mauritania).
268. See Act to Promote Environmental Awareness through Environmental Education and for Other Purposes, Rep. Act No. 9512, §§3 – 4 (Dec. 12, 2008) (Phil.) (hereinafter "Act to Promote Environmental Awareness through Environmental Education and for Other Purposes (2008) (Phil.)").
269. Act to Promote Environmental Awareness through Environmental Education and for Other Purposes (2008) (Phil.), at §3.
270. See Law on Environmental Responsibility (2007, 26) (Spain).
271. See An Act Creating the Environment Protection Agency of the Republic of Liberia (2002) (Liberia).
272. National Environment Protection Act (Bhutan), supra note 156, ch. III, ¶ 20.
273. Id. at ch. III, ¶ 29(b).
274. Decree on the Regulation of Pollution and Damage to the Environment (Chad), supra note 190, at §2, art. 8.
275. See Decree on the Management of the Environment and the Regulation of the Conduct of Citizens for Sustainable Development (Jan. 26, 2006) (Haiti).
276. See Environmental Quality Protection Act (1981), 24 P.C.L. (Palau).
277. See National Green Tribunal Act, No. 19 of 2010, INDIA CODE (2010) (India).
278. Loi cadre relative a l'environnement [Framework Law on the Environment] (1994), No. 94-018, §4, Art. 16 (Comoros).
279. See Environmental Management and Coordination Act (1999), No. 8 of 1999, arts. 24 & 25 (Kenya) [hereinafter Environmental Management and Coordination Act (Kenya)].
280. See Loi-cadre relative à la Gestion de l'Environnement [Framework Law on Environmental Management] (1998), No. 98-56, ch. 1, art. 15 (Niger).
281. National Environment Protection Act (Bhutan), supra note 156, at ch. II, Art. 16.
282. See Environmental Code (Burkina Faso), supra note 57, ch. II, art. 5 (Burkina Faso).
283. See General Part of the Environment Code Act (Estonia), supra note 253, §30.
284. See Environment Act (Lesotho), supra note 200, pt. II, art. 4.
285. See Rules of Procedure for Environmental Cases (Phil.), supra note 178, pt. III, Rule 7.
286. Environmental Base Regulations (Timor-Leste), supra note 111, art. 63 (Google Translate).
287. General Part of the Environment Code Act (Estonia), supra note 253, §30.
288. Rules of Procedure for Environmental Cases (Phil.), supra note 178, pt. III, Rule 7.
289. Rodgers Muema Nzioka (Kenya), supra note 37, 10.
290. See Environmental Protection (Azerbaijan), supra note 145; see also Law on Environmental Protection (Belarus), supra note 131.
291. See Act on the general rules for the protection of the environment (Hung.), supra note 137.
292. See National Environmental Act (1995) (Uganda).
293. See, e.g., Environment Management Act (Tanzania), supra note 204.
294. See Environmental Management and Coordination Act (Kenya), supra note 269, pt. 2, art. 3(3).



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