



Recognizing the right to a healthy environment

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Human rights and the environment

At the United Nations Conference on the Human Environment, in Stockholm in 1972, Governments adopted a declaration in which it is stated, in the first paragraph of the proclamation, that “Man has the fundamental right to freedom, equality and adequate conditions of life, in an environment of a quality that permits a life of dignity and well-being”. In recent decades, human rights bodies have elaborated on the understanding that a healthy environment is of fundamental importance to the full enjoyment of a vast range of human rights. More than 1,100 civil society organizations, 15 UN agencies and seventy-plus member states have expressed support for recognition of this right. The findings are clear: the time has come for the United Nations to formally recognize the human right to a safe, clean, healthy and sustainable environment, or, more simply, the human right to a healthy environment.

The human right to a safe, clean, healthy and sustainable environment

Substantive obligations

Decades of experience with the right to a healthy environment in regional treaties, national constitutions and environmental legislation have clarified that this right includes clean air, safe and sufficient water, healthy and sustainably produced food, a safe climate, healthy ecosystems and biodiversity and toxic-free environments where people can live, work, study and play. Environmental standards should be enacted, implemented and enforced in order to fulfill these elements of the right. The Framework Principles on Human Rights and the Environment provide detailed guidance on factors to be taken into account in developing standards:

- The standards should result from a procedure that itself complies with human rights obligations, including those relating to the rights to freedom of expression, freedom of association and peaceful assembly, information, participation and remedy;
- The standards should take into account and, to the extent possible, be consistent with all relevant international environmental, health and safety standards, such as those promulgated by the World Health Organization;
- The standards should take into account the best available science. However, the lack of full scientific certainty should not be used to justify the postponement of effective and proportionate measures to prevent environmental harm, especially when there are threats of serious or irreversible damage. States should take precautionary measures to protect against such harm;
- The standards must comply with all relevant human rights obligations. For example, in all actions concerning children, the best interests of the child must be a primary consideration;
- The standards must not strike an unjustifiable or unreasonable balance between environmental protection and other social goals given the effects of the standards on the full enjoyment of human rights.

Environmental human rights defenders

States have obligations to protect environmental human rights defenders, namely, individuals and groups striving to protect and promote human rights relating to the environment, and those who work to protect the environment on which human rights depend.

Procedural obligations

In the framework principles presented in 2018 to the Human Rights Council, the Special Rapporteur summarizes the obligations of States under human rights law relating to the enjoyment of a safe, clean, healthy and sustainable environment. The framework principles include specific procedural obligations, such as the duties of States to :

- respect and protect the rights to freedom of expression, association and peaceful assembly in relation to environmental matters,
- provide for environmental education and public awareness,
- provide public access to environmental information,
- require the prior assessment of the possible environmental and human rights impacts of proposed projects and policies,
- provide for and facilitate public participation in decision-making related to the environment and
- provide for access to effective remedies for violations of human rights and domestic laws relating to the environment.

International Cooperation

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. No State should ever seek to withdraw from any of its international obligations to protect against transboundary or global environmental harm.

Non-discrimination

States have obligations to protect against environmental harm that results from or contributes to discrimination, to provide for equal access to environmental benefits and to ensure that their actions relating to the environment do not themselves discriminate. In order to protect the rights of those who are particularly vulnerable, States must also ensure that their laws and policies take into account the ways that some parts of the population are more vulnerable or susceptible to environmental harm and the barriers that some face to exercising their human rights relating to the environment.

The urgency of global recognition

In 1986, the UN General Assembly, in paragraph 4 of its resolution 41/120, adopted guidelines indicating that new human rights instruments should:

- Be consistent with the existing body of international human rights law;
- Be of fundamental character and derive from the inherent dignity and worth of the human person;
- Be sufficiently precise to give rise to identifiable and practicable rights and obligations;
- Provide, where appropriate, realistic and effective implementation machinery, including reporting systems;
- Attract broad international support.

Through decades of experience with the right to a healthy environment at the regional and national levels, it is clear that each of these five requirements has been met.

The ultimate test in evaluating the right to a healthy environment is whether it contributes to healthier people and healthier ecosystems. The evidence in this regard is strikingly positive. Studies have concluded that nations with the right to a healthy environment in their constitutions have smaller ecological footprints, rank higher on comprehensive indices of environmental indicators, are more likely to ratify international environmental agreements and have made faster progress in reducing emissions of sulphur dioxide, nitrogen oxides and greenhouse gases than nations without such provisions.

The recognition by the United Nations of a universal right to a safe, clean, healthy and sustainable environment would be very timely in view of the multiple ecological challenges facing the world. The World Health Organization reports that nearly one quarter of the global burden of disease is caused by exposure to environmental hazards in the air we breathe, the water we drink, the food we eat and the buildings and communities in which we live. Despite the Paris Agreement, global emissions of greenhouse gases continue to rise, exacerbating the present and future impacts of climate change on human well-being. Despite the Convention on Biological Diversity, growing numbers of species are becoming endangered and extinct, with grave consequences for human rights and well-being. Although recognition of the right to a healthy environment is not a silver bullet that will solve these problems overnight, it will empower and inspire people throughout the world.

Routes to recognition

Because of the urgency of the global environmental emergency, it is essential that the right to a healthy environment be recognized by the United Nations as soon as possible. This should involve resolutions from the Human Rights Council and the General Assembly.

While these resolutions are not legally binding or enforceable, past experience shows that they are a catalyst for positive changes. For example, following UN resolutions on the right to water in 2010, States have added this right to their constitutions (e.g. Costa Rica, Fiji, Mexico, Slovenia), added to legislation (e.g. France) and strengthened implementation (e.g. Canada, Colombia).

In the future, the right to a healthy environment should be part of a legally binding global instrument, such as the proposed Global Pact for the Environment, an optional protocol to an existing human rights instrument, a third international covenant on human rights, or another international treaty. Eventually, the right to a healthy environment should be added to the Universal Declaration of Human Rights.

Benefits of global recognition



Stronger environmental laws and policies



Reduced environmental injustices



Improved implementation and enforcement



A level playing field with social and economic rights



Greater public participation in environmental decision-making



Better environmental performance

Examples of the recognition of the right to a safe, clean, healthy and sustainable environment



A healthy environment has gained constitutional recognition and protection in more than 100 States. Over 100 States have enacted legislation that specifically identifies and articulates the right.



Portugal became the first country to adopt a constitutional “right to a healthy and ecologically balanced human environment”, in 1976.



The Environment Protection Act of Bhutan states that everyone “has the fundamental right to a safe and healthy environment with equal and corresponding duty to protect and promote the environmental well-being of the country”.



Costa Rica added the right to a healthy environment to its constitution in 1994, sparking the country’s emergence as a global environmental leader.



The African Charter on Human and Peoples’ Rights of 1981 provides that “all peoples shall have the right to a general satisfactory environment favourable to their development” (art. 24).



The Aarhus Convention of 1998 refers to “the right of every person of present and future generations to live in an environment adequate to his or her health and well-being”.



An objective of the Escazú Agreement is “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. 1).



The Inter-American Court stated in 2017 that: “Environmental damage can cause irreparable damage to human beings. As such, a healthy environment is a fundamental right for the existence of humanity.”



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