



Right to
a healthy
environment:
good
practices

Report of the Special Rapporteur on the
issue of human rights obligations relating
to the enjoyment of a safe, clean, healthy
and sustainable environment



Summary

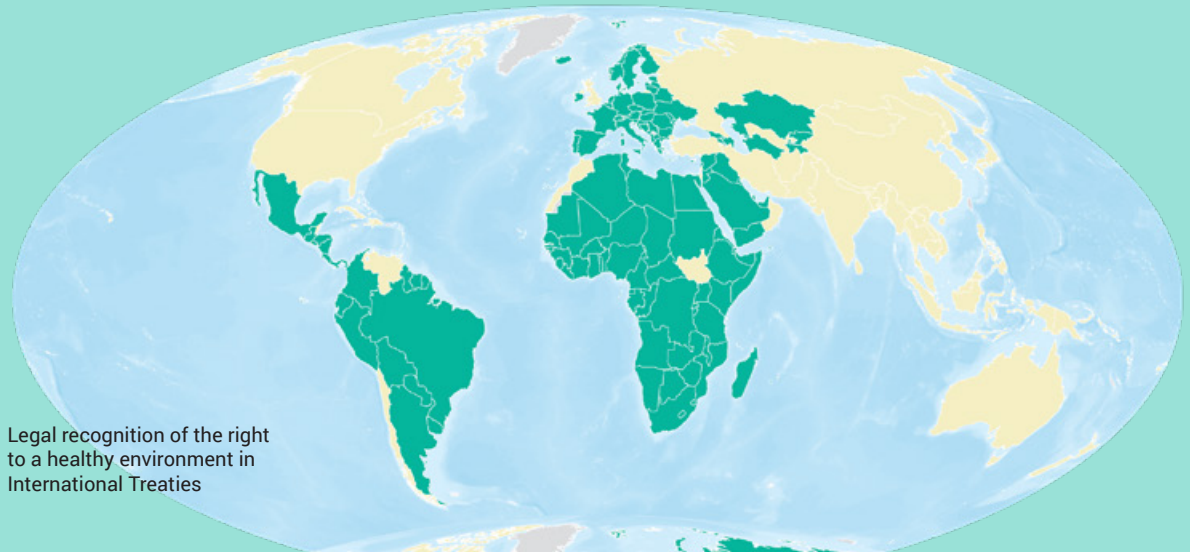
The report (and its annexes) describe good practices of States in recognizing the right to live in a safe, clean, healthy and sustainable environment and implementing the procedural and substantive elements of the right. This fundamental human right is now recognized in law by more than 80 percent of United Nations Member States (156 out of 193). The procedural elements are access to information, public participation, and access to justice/effective remedies. The substantive elements include clean air, a safe climate, access to safe water and adequate sanitation, healthy and sustainably produced food, non-toxic environments in which to live, work, study and play, and healthy biodiversity and ecosystems. In the context of the global environmental crisis, accelerated diffusion and adoption of good practices to protect human rights is imperative.

Healthy environment

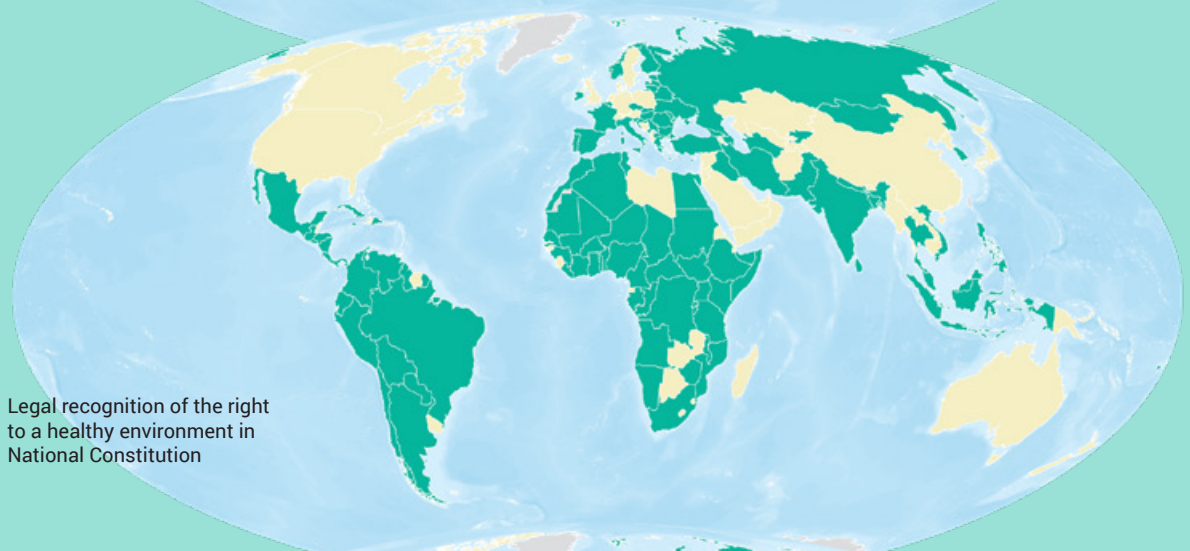


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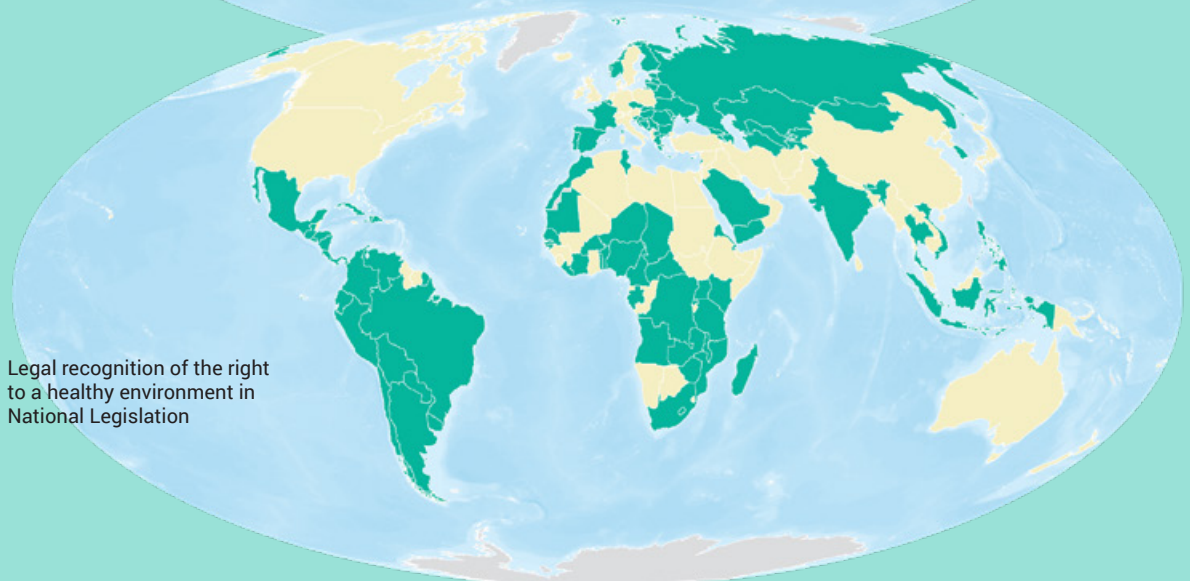
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Legal recognition of the right to a healthy environment in International Treaties



Legal recognition of the right to a healthy environment in National Constitution



Legal recognition of the right to a healthy environment in National Legislation

I. Introduction

1

In 2018, the Human Rights Council appointed Dr. David R. Boyd to serve as the Special Rapporteur on human rights obligations related to the enjoyment of a safe, clean, healthy and sustainable environment (A/Res/37/8). Over the past year, the Special Rapporteur submitted reports on country visits to Fiji and Norway (A/HRC/43/53/Add.1 and A/HRC/43/53/Add.2), presented thematic reports on clean air to the Council (A/HRC/40/55) and on a safe climate to the General Assembly (A/74/161), hosted an experts' meeting "on experience and best practices of States at the national and regional levels with regard to human rights obligations relating to the environment," and submitted a summary report on discussions at that meeting (A/HRC/43/54).

2

The present report highlights good practices in the recognition and implementation of the human right to a safe, clean, healthy and sustainable environment. The term "good practice" is defined broadly, to include laws, policies, jurisprudence, strategies, programs, projects and other measures that contribute to reducing adverse environmental impacts, improving environmental quality and fulfilling human rights. The good practices address both the procedural and substantive elements of the right to a safe, clean, healthy and sustainable environment. The procedural elements are access to information, public participation, and access to justice/effective remedies. The substantive elements include clean air, a safe climate, access to safe water and adequate sanitation, healthy and sustainably produced food, non-toxic environments in which to live, work, study and play, and healthy biodiversity and ecosystems.

II.

The process of compiling good practices

3

The Special Rapporteur circulated a call for inputs on good practices related to the implementation of the human right to a safe, clean, healthy and sustainable environment in April 2019. He would like to thank Bosnia and Herzegovina, Brazil, Colombia, Honduras, Hungary, Italy, Kazakhstan, Mali, Mauritius, Mexico, Monaco, Norway, Senegal, Serbia, Slovenia, Sweden, Ukraine, Uruguay, and Venezuela for their informative responses. A number of international organizations, civil society organizations and individuals also provided useful inputs.¹ As requested by the Human Rights Council, on 20-21 June 2019 the Special Rapporteur co-hosted, with UN Environment, an experts' seminar to discuss the experiences and good practices of States with regard to the implementation of the right to a safe, clean, healthy and sustainable environment.

4

The Special Rapporteur also created a global online "researchathon" which resulted in the submission of hundreds of good practices from more than 175 UN Member States. Contributors included government officials, representatives from international agencies, civil society organizations, academics, students, lawyers, and judges.²

5

In November 2019, the Special Rapporteur co-hosted five regional webinars on the role of National Human Rights Institutions in protecting the right to a safe, clean, healthy and sustainable environment. Co-organized by UNDP, UNEP, the Swedish Environmental Protection Agency, and the Global Alliance of National Human Rights Institutions, these informative webinars also identified many good practices.

¹ All Submissions are available at <https://www.ohchr.org/EN/Issues/Environment/SR/Environment/Pages/GoodPracticesRight2HESubmissions.aspx>

² A complete list of contributors can be found in Annex A.

6

Because of word limits, this report summarizes only a subset of submitted good practices. The remaining good practices are described in Annex B, and all good practices collected will be added to the inventory compiled by the previous Special Rapporteur and made available at www.environmentalrightsdatabase.org. There are many more good practices in addition to those identified in this report. The practices highlighted by the Special Rapporteur are intended to illustrate the innovative and exemplary efforts being made to fulfill the right to a safe, clean, healthy and sustainable environment.

7

These good practices provide evidence that environmental progress and the protection of human rights from environmental harms is possible. While it is encouraging to assemble such a prodigious variety of good practices from such a large number of States, the Special Rapporteur cautions that this must not lead to complacency. Humanity is embroiled in an unprecedented global environmental crisis. Our actions are causing a climate emergency, a massive decline in biodiversity, and pollution of air, water, and soil that contributes to millions of premature deaths annually. The accelerated diffusion and adoption of good practices is imperative to transform society onto a genuinely sustainable pathway and protect human rights.

8

To be clear, all States have obligations related to the enjoyment of a safe, clean, healthy and sustainable environment, including States that have not yet recognized the right to a healthy and sustainable environment. These obligations are set forth in extensive detail in the Framework Principles presented to the Human Rights Council by the previous Special Rapporteur.³

III. Good practices in the implementation of the right to a safe, clean, healthy and sustainable environment

A. Legal recognition

9

This report focuses on the implementation of the right to a safe, clean, healthy and sustainable environment. The legal recognition of this right can itself be considered a good practice, whether by means of constitutional protection, inclusion in environmental legislation, or through ratification of a regional treaty that includes the right.

10

In cooperation with the Vance Center for International Justice, the Special Rapporteur prepared an updated list of States that legally recognize the right to a safe, clean, healthy and sustainable environment (See Table 1). There are 111 States where this right enjoys constitutional protection. Constitutional protection for human rights is essential because constitutions represent the highest and strongest laws in domestic legal systems. As well, constitutions play an important cultural role, reflecting a society's values and aspirations.

Healthy environment

Table 1:
Legal recognition
of the right to a healthy
environment

• = Yes
◦ = Implicit
- = No

	National legislation			* International treaties Include the African Charter, the San Salvador Protocol, the Aarhus Convention, the Arab Charter and the Escazu Agreement.
	International treaty*			
	National Constitution			
• • • Afghanistan	• • • Denmark	• • • Libya	• • • Samoa	
• • • Albania	• • • Djibouti	• • • Liechtenstein	• • • San Marino	
• • • Algeria	• • • Dominica	◦ • • Lithuania	• • • Sao Tome and Principe	
• • • Andorra	• • • Dominican Republic	• • • Luxembourg	• • • Saudi Arabia	
• • • Angola	• • • Ecuador	• • • Madagascar	• • • Senegal	
• • • Antigua and Barbuda	• • • Egypt	• • • Malawi	• • • Serbia	
• • • Argentina	◦ • • El Salvador	◦ • • Malaysia	• • • Seychelles	
• • • Armenia	• • • Equatorial Guinea	• • • Maldives	• • • Sierra Leone	
• • • Australia	• • • Eritrea	• • • Mali	• • • Singapore	
• • • Austria	◦ • • Estonia	• • • Malta	• • • Slovakia	
• • • Azerbaijan	• • • Eswatini	• • • Marshall Islands	• • • Slovenia	
• • • Bahamas	• • • Ethiopia	• • • Mauritania	• • • Solomon Islands	
• • • Bahrain	• • • Fiji	• • • Mauritius	• • • Somalia	
◦ • • Bangladesh	• • • Finland	• • • Mexico	• • • South Africa	
• • • Barbados	• • • France	• • • Micronesia (• • • South Sudan	
• • • Belarus	• • • Gabon	Federated States of)	• • • Spain	
• • • Belgium	• • • Gambia	• • • Monaco	◦ • • Sri Lanka	
• • • Belize	• • • Georgia	• • • Mongolia	• • • Sudan	
• • • Benin	• • • Germany	• • • Montenegro	• • • Suriname	
• • • Bhutan	◦ • • Ghana	• • • Morocco	• • • Sweden	
• • • Bolivia	• • • Greece	• • • Mozambique	• • • Switzerland	
(Plurinational State of)	• • • Grenada	• • • Myanmar	• • • Syrian Arab Republic	
• • • Bosnia and	◦ • • Guatemala	◦ • • Namibia	• • • Tajikistan	
Herzegovina	• • • Guinea	• • • Nauru	• • • Thailand	
• • • Botswana	• • • Guinea-Bissau	• • • Nepal	• • • Timor-Leste	
• • • Brazil	• • • Guyana	• • • Netherlands	• • • Togo	
• • • Brunei Darussalam	• • • Haiti	• • • New Zealand	• • • Tonga	
• • • Bulgaria	• • • Honduras	• • • Nicaragua	• • • Trinidad and Tobago	
• • • Burkina Faso	• • • Hungary	• • • Niger	• • • Tunisia	
• • • Burundi	• • • Iceland	◦ • • Nigeria	• • • Turkey	
• • • Cambodia	◦ • • India	• • • North Macedonia	• • • Turkmenistan	
• • • Cabo Verde	• • • Indonesia	• • • Norway	• • • Tuvalu	
• • • Cameroon	• • • Iran (Islamic	• • • Oman	• • • Uganda	
• • • Canada	Republic of)	◦ • • Pakistan	• • • Ukraine	
• • • Central African	• • • Iraq	• • • Palau	• • • United Arab Emirates	
Republic	◦ • • Ireland	◦ • • Panama	• • • United Kingdom of	
• • • Chad	• • • Israel	• • • Papua New Guinea	Great Britain and	
• • • Chile	◦ • • Italy	• • • Paraguay	Northern Ireland	
• • • China	• • • Jamaica	• • • Peru	◦ • • United Republic of	
• • • Colombia	• • • Japan	• • • Philippines	Tanzania	
• • • Comoros	• • • Jordan	• • • Poland	• • • United States of	
• • • Congo	• • • Kazakhstan	• • • Portugal	America	
• • • Costa Rica	• • • Kenya	• • • Qatar	• • • Uruguay	
• • • Côte d'Ivoire	• • • Kiribati	• • • Republic of Korea	• • • Uzbekistan	
• • • Croatia	• • • Kuwait	• • • Republic of Moldova	• • • Vanuatu	
• • • Cuba	• • • Kyrgyzstan	• • • Romania	• • • Venezuela (Bolivarian	
◦ • • Cyprus	• • • Lao People's	• • • Russian Federation	Republic of)	
• • • Czechia	Democratic Republic	• • • Rwanda	• • • Viet Nam	
• • • Democratic People's	• • • Latvia	• • • Saint Kitts and Nevis	• • • Yemen	
Republic of Korea	• • • Lebanon	• • • Saint Lucia	• • • Zambia	
• • • Democratic Republic	• • • Lesotho	• • • Saint Vincent and the	• • • Zimbabwe	
of the Congo	◦ • • Liberia	Grenadines		

11

The right to a healthy environment is explicitly included in regional treaties ratified by 126 States. This includes 52 States that are parties to the African Charter on Human and Peoples Rights, 45 States that are parties to the Aarhus Convention on Access to Information, Public Participation, and Access to Justice in Environmental Matters, 16 States that are parties to the San Salvador Protocol, and 16 States that are parties to the Arab Charter on Human Rights. As of 1 December 2019, five States have ratified the Escazú Agreement on Access to Information, Public Participation, and Access to Justice in Environmental Matters in Latin America and the Caribbean, but this recent treaty requires eleven ratifications to enter into force. Ten States adopted the non-binding ASEAN Declaration on Human Rights.

12

It is also important that legislation be enacted and implemented to respect, protect and fulfill the right to a safe, clean, healthy and sustainable environment. There are 101 States where this right is incorporated in national legislation. Especially good practices are exemplified by Argentina, Brazil, Colombia, Costa Rica, France, the Philippines, Portugal, and South Africa, where the right to a healthy environment serves as a unifying principle that permeates legislation, regulations, and policies.

13

In total, more than 80 percent of UN Member States (156 out of 193) legally recognize the right to a safe, clean, healthy and sustainable environment. A series of Annexes to this report provide, on a regional basis, the text of constitutional and legislative provisions that recognize this right (Annex IV: Africa⁴, Annex V: Asia-Pacific⁵, Annex VI: Eastern Europe⁶, Annex VII: Latin America and the Caribbean⁷, Annex VIII: Western Europe and Others)⁸.

4 https://www.ohchr.org/Documents/Issues/Environment/AfricanRegional_AnnexIV.docx

5 https://www.ohchr.org/Documents/Issues/Environment/Asia-PacificRegional_AnnexV.docx

6 https://www.ohchr.org/Documents/Issues/Environment/EasternEuropeRegional_AnnexVI.docx

7 https://www.ohchr.org/Documents/Issues/Environment/LACRegional_AnnexVII.docx

8 https://www.ohchr.org/Documents/Issues/Environment/WEOGRegional_AnnexVIII.docx



B.

Procedural elements

1.

Access to environmental information

14

Access to information is a widely recognized human right and is essential for people to be able to protect and defend their human rights from potentially harmful environmental impacts. Some States have put in place laws, policies and programs that create enhanced access to environmental information, including at least twenty States whose constitutions guarantee the right of access to environmental information (e.g. Albania, Argentina, Azerbaijan, Belarus, Bolivia, Brazil, Czechia, France, Norway, Ukraine).

15

An additional set of States have enacted legislation specifically authorizing affordable access to environmental information. For example, Norway's Environmental Information Act recognizes every person's right to obtain a broad range of environmental information from public and private entities, subject to specified exceptions that are to be narrowly interpreted.⁹ Slovenia's Environmental Act specifies that environmental information is public, and "everyone has the right to access environmental information."

16

A growing number of States have created websites that offer comprehensive information related to the environment. Uruguay established a National Environmental Observatory to organize and disseminate all available environmental information in a single portal.¹⁰ Environmental indicators identify trends in the state of the environment, including pollutant emissions, waste, effects on the quality of water, air, soil and biodiversity; as well as the protection and response measures developed by governments. The Observatory also features information on territorial planning, environmental management of river basins and aquifers, technical reports and open data available to researchers. An innovative element of the Observatory is that it provides a simple process for citizens to file complaints about potential environmental

⁹ Act of 9 May 2003, No. 31.

¹⁰ Law 19.147. The Observatory can be found at <https://www.dinama.gub.uy/oan/>

violations. Citizens can also share information on species sighting and coastal monitoring. El Salvador operates a similar environmental observatory.

17

Hungary has a comprehensive National Environmental Information System. The National Public Health Institute publishes updated data online regarding air quality, the quality of drinking water and bathing water, pollen levels, and other potential health risks.¹¹ France, North Macedonia, Norway and Sweden also have excellent websites with comprehensive information on the state of the environment.¹²

18

Fiji, Kiribati, Marshall Islands, Micronesia, Nauru, Palau, Papua New Guinea, Samoa, Solomon Islands, Tonga, Tuvalu, and Vanuatu are collaborating on a Pacific island network of national and regional data repositories, reporting tools, and public websites to monitor, evaluate, and analyze environmental information, supporting planning, forecasting, and reporting requirements.¹³

19

Another important type of environmental information is data about toxic substances. The Aarhus Convention's Kyiv Protocol on Pollutant Release and Transfer Registers requires its 35 Parties to collect and publish information on pollution from industrial facilities. This information must be gathered annually, made available in user-friendly ways to the public for free, and must include at least 86 pollutants covered by the Protocol. Canada, Mexico and the United States also have comprehensive pollutant release inventories.

20

A growing number of States publish regular national reports on the state of the environment, including Hungary, Kazakhstan, and Turkey. Kazakhstan also publishes monthly bulletins on topics related to the state of the environment and the use of natural resources. South Sudan published a "State of Environment and Outlook Report" just one month after independence.

21

Laws in Armenia, Azerbaijan, Brazil, Montenegro, Philippines, Portugal, Senegal, and South Korea require governments to provide environmental education.¹⁴ For example, Montenegro's 2016 Law on the Protection of Nature calls for "emphasizing the importance and necessity of nature protection through the education system from pre-school to university." After establishing a National Climate Change Policy, Ghana is now implementing a national climate education strategy.

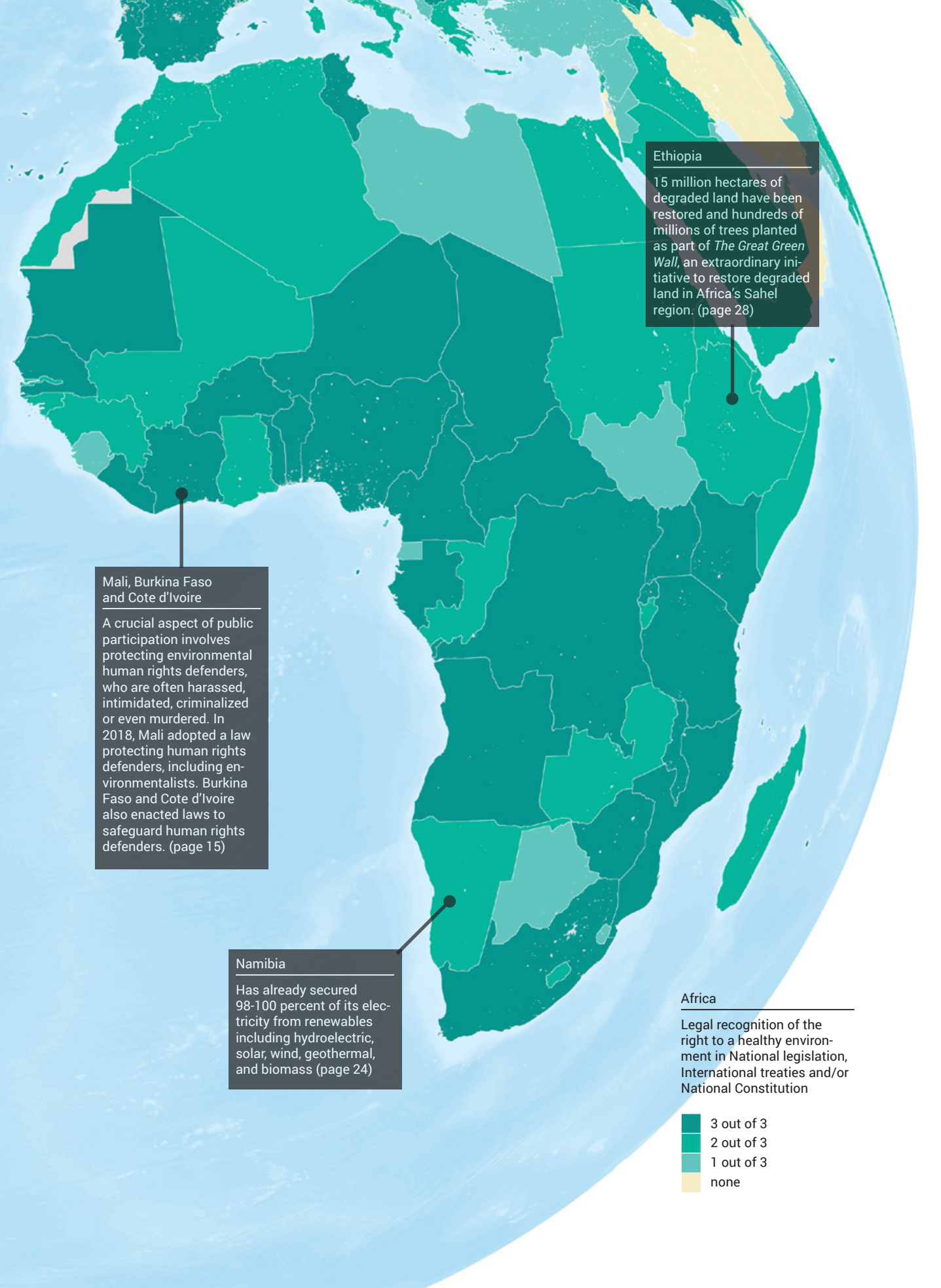
11 <http://oki.antsz.hu/>

12 www.environment.no

13 <https://www.sprep.org/inform/data-portals>

14 Armenia Law on Ecological Education of the Population 2001.

Azerbaijan Law on Ecological Education 2002.



Ethiopia
15 million hectares of degraded land have been restored and hundreds of millions of trees planted as part of *The Great Green Wall*, an extraordinary initiative to restore degraded land in Africa's Sahel region. (page 28)

Mali, Burkina Faso and Cote d'Ivoire
A crucial aspect of public participation involves protecting environmental human rights defenders, who are often harassed, intimidated, criminalized or even murdered. In 2018, Mali adopted a law protecting human rights defenders, including environmentalists. Burkina Faso and Cote d'Ivoire also enacted laws to safeguard human rights defenders. (page 15)

Namibia
Has already secured 98-100 percent of its electricity from renewables including hydroelectric, solar, wind, geothermal, and biomass (page 24)

Africa
Legal recognition of the right to a healthy environment in National legislation, International treaties and/or National Constitution

- 3 out of 3
- 2 out of 3
- 1 out of 3
- none

Climate change lessons will be included in the primary school curriculum, with the goal of making schoolchildren more environmentally conscious.

2. Public participation in environmental decision-making

22

Ensuring broad, inclusive and gender-sensitive public participation not only fulfills human rights obligations but results in better outcomes.

23

In 2005, France enshrined in its constitution the public's right to participate in decisions affecting the environment. France's Economic, Social and Environmental Council is a consultative assembly that promotes dialogue and cooperation between different groups of stakeholders, to ensure a diversity of views contribute to public policy development. The National Commission for Public Debate organizes public debates on proposals for major development projects, such as nuclear reactors, railways, highways, natural gas pipelines, hydroelectric dams, sports stadiums, and radioactive waste storage facilities. Between 2002 and 2014, the Commission organized 70 public debates and 800 meetings involving approximately 150,000 people.

24

Slovenia's Environmental Act articulates the public's right to participate in a wide range procedures relating to environmental protection. Hungary also guarantees involvement of public in decision making through legislation.¹⁵

25

Norway's Environmental Information Act includes provisions for public participation in environmental decision-making, while the Planning and Building Act provides extensive opportunities for residents to advocate for local plans that advance sustainability. A national guide to public participation in planning was published in 2014, with special attention to protecting the interests of vulnerable groups. In 2018, Norway adopted a new Local Government Act that obligates all local and regional authorities to establish three councils representing youth, older persons and persons with disabilities. Norway also formalized a consultation procedure with the Sami indigenous

¹⁵ Act no. CXXX/2010 and Act no. CXXXI/2010

people in 2005, fulfilling the right of indigenous peoples to participate in decision-making processes.

26

In 2017, Finland created an Agenda 2030 Youth Group to serve as an advocate for the Sustainable Development Goals and participate in national planning and implementation to achieve the goals. The Finnish Agenda 2030 Youth Group is composed of twenty diverse people aged 15 to 28 years from all over Finland. The group organized a debate on climate change for presidential candidates and a youth climate summit in 2019, which involved 500 young people.

27

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28

Honduras enacted a new law in 2015, establishing a national protection mechanism to safeguard the rights of human rights defenders, journalists and judges.¹⁸ Associated regulations were adopted in 2016. A Special Prosecutor's Office for protecting Human Rights Defenders, Journalists, Media Professionals and Justice Officials was established in 2018 with six prosecutors, four assistant prosecutors, and ten investigators.¹⁹ These positive steps respond to the murders of high-profile defenders, and implement recommendations from the Inter-American Commission of Human Rights. In 2019, seven men were sentenced to at least 30 years in jail for their role in the murder of indigenous environmental defender Berta Caceres.

29

Peru's National Human Rights Plan 2018-2021 highlights the vital work of human rights defenders, and in 2019, the Ministry of Justice created a Protocol to Guarantee the Protection of Human Rights Defenders. The objectives are to promote the recognition of human rights defenders, implement specific protection measures for those at risk, work towards preventive measures, and to ensure prompt and effective investigations of threats against defenders.²⁰ In the first Peruvian case of its kind, prosecutors are seeking 35-year jail sentences for two businessmen and three loggers implicated in the murder of four Indigenous environmental human rights defenders.²¹

¹⁶ Law No. 2018-003 of 12 January 2018 on human rights defenders.

¹⁷ Front Line, the International Foundation for the Protection of Human Rights Defenders. 2019. Front Line Defenders: Global Analysis 2018.

¹⁸ the Act on the Protection of Human Rights Defenders, Journalists, Media Professionals and Justice Officials.

¹⁹ Visit to Honduras - Report of the Special Rapporteur on the situation of human rights defenders (A/HRC/40/60/Add.2)

²⁰ Ministerial Resolution 0159-2019-JUS.

²¹ <https://www.voanoticias.com/a/peru-fiscalia-asesinato-ambientalistas-/5148352.html>



3.

Access to justice

30

Good practices related to access to justice and effective remedies often seek to overcome three major obstacles—standing to sue, economic barriers, and lack of judicial expertise in environmental matters. In most of the States where the right to a safe, clean, healthy, and sustainable environment is recognized in the constitution, individuals and NGOs have standing to bring lawsuits based on the violation of this right or environmental laws (e.g. Argentina, Colombia, Costa Rica, India, Portugal, Romania, Slovenia).

31

Globally there are more than 1,000 specialized environmental courts and tribunals at the national and sub-national levels. Among the advantages of these judicial and quasi-judicial bodies are enhanced expertise (both legal and scientific), streamlined processes, flexibility, use of alternative dispute resolution, comprehensive jurisdiction, open rules about standing (eligibility to file cases), effective remedies and enforcement powers, and unique case management tools.²² Examples include India's National Green Tribunal, Kenya's Environment and Land Courts and National Environmental Tribunal, and Sweden's Land and Environment Courts.

32

Over 100 States have national human rights institutions in the form of human rights commissions or human rights ombudspersons.²³ These institutions generally have two core functions: independent review of the nation's human rights record, and addressing individual grievances or complaints alleging human rights violations. Some NHRIs also have the power to file lawsuits or intervene in cases against the government on behalf of communities whose rights are being violated (e.g. Austria, Chile, Czechia, Hungary, Kenya, and Romania).

33

Costa Rica has three exemplary institutions that provide access to justice. The independent Ombudsperson protects the rights of citizens by ensuring that the public sector meets standards set by the Constitution, statutes, treaties and general principles of law, as well as standards of morality and justice. The Ombudsperson, either on its own initiative or upon request, investigates complaints of alleged human rights violations by public authorities, initiates judicial or administrative

²² UN Environment. 2016. Environmental Courts and Tribunals: A Guide for Policy-makers.

²³ Global Alliance for National Human Rights Institutions, <https://nhri.ohchr.org/EN/Pages/default.aspx>

proceedings to address such violations, participates in parliamentary debates and reviews legislative proposals. Much of the work of the Ombudsperson in recent years has concerned environmental issues, including the constitutional right to a healthy and ecologically balanced environment. Colombia, Croatia, and Portugal also have ombudspersons who are active in environmental matters.

34

Second, Costa Rica's Environmental Administrative Tribunal has jurisdiction to hear complaints for violations of all laws protecting the environment and natural resources. The Tribunal can carry out site visits to determine the nature of environmental damage, require interim protection measures, and impose fines and administrative sanctions to eliminate or mitigate environmental damage.

35

The third element of ensuring access to justice in Costa Rican cases involving the right to a healthy environment is the Constitutional Chamber of the Supreme Court, which has applied this right in a wide range of cases involving mineral concessions, aerial pesticide spraying, toxic substances, deforestation, ecotourism, protection of national parks, timber harvesting in the habitat of endangered species, and groundwater pollution.

36

Under Indonesian law, every person has the rights of access to information, to participate in environmental decisions, and to effective remedies if they are harmed by environmental degradation.²⁴ Indonesia's Supreme Court has created policies that require all environmental cases to be handled by a judge with environmental certification (obtained through specialized training).

37

When access to justice and/or effective remedies are denied at the national level, regional courts, tribunals and committees can play an important role. Cases involving the right to a healthy environment have been decided by the African Commission on Human and Peoples' Rights,²⁵ the Inter-American Court of Human Rights,²⁶ the European Court of Human Rights,²⁷ the European Committee of Social Rights,²⁸ and the Aarhus Convention Compliance Committee.

24 Act 32/2009 regarding Environmental Protection and Management, Art. 62, 65, 85.

25 Social and Economic Rights Action Centre and Centre for Economic and Social Rights v. Nigeria, communication No. 155/96, 2001.

26 Advisory Opinion, OC-23-17, 15 November 2017.

27 Tatar v. Romania, Application No. 67021/01, Judgment, 27 January 2009, paras. 107 and 112.

28 Marangopoulos Foundation for Human Rights v. Greece, Complaint No. 30/2005, Decision on the Merits, 6 December 2006, para. 195.

Costa Rica

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① The independent Ombudsman protects the rights of citizens by ensuring that the public sector meets standards set by the Constitution, statutes, treaties and general principles of law, as well as standards of morality and justice.

② Costa Rica's Environmental Administrative Tribunal has jurisdiction to hear complaints for

violations of all laws protecting the environment and natural resources.

③ The Constitutional Chamber of the Supreme Court, which has applied this right in a wide range of cases involving mineral concessions, aerial pesticide spraying, toxic substances, deforestation, ecotourism, protection of national parks, timber harvesting in the habitat of endangered species, and groundwater pollution. (page 20–21)

Good practices

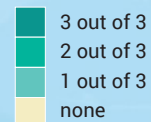
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Peru

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Latin America and the Caribbean

Legal recognition of the right to a healthy environment in National legislation, International treaties and/or National Constitution



C.

Substantive elements

1.

Clean air

38

Nine out of ten persons globally live in areas that do not meet World Health Organization guidelines for air quality. Air pollution causes seven million premature deaths annually, including 600,000 children under the age of five. More than two billion people still rely on polluting cooking systems.

39

To protect the clean air component of the right to a healthy environment, States must take seven key steps including 1) monitoring air quality and impacts on human health; 2) assessing sources of air pollution; 3) making information publicly available, including public health advisories; 4) establishing air quality legislation, regulations, standards and policies; 5) developing air quality action plans at the local, national and, if necessary, regional levels; 6) implementing air quality action plans and enforcing the standards; and 7) evaluating progress and, if necessary, strengthening plans to ensure that the standards are met.²⁹ As the following good practices illustrate, many States are making dedicated efforts to improve air quality and protect their peoples' right to live in a healthy and sustainable environment. Additional good practices that relate to clean air (e.g. phasing out coal, accelerating renewable electricity generation, and shifting to zero emission transportation) are found in the "Safe climate" section of this report.

40

Many States are establishing or improving air quality monitoring networks, including Azerbaijan, Bolivia, Jordan, Kuwait, Lebanon, Mali, Morocco and Qatar.

41

North Macedonia has a public air quality portal containing information on measures to improve air quality, sustainable transport, cleaner domestic heating practices, alert thresholds set for certain pollutants, and health advice from the Institute of Public Health. The portal also provides information on air quality monitoring, legislation and policies, projects, and emission inventories.

²⁹ Special Rapporteur on human rights and the environment A/HRC/40/55.

42

The Dominican Republic, France and the Philippines explicitly recognize the right to breathe clean air³⁰ In India and Pakistan, courts have clarified that the right to breathe clean air is constitutionally protected because it is essential to the rights to life and health. Lebanon’s National Strategy for Air Quality Management states: “Every citizen has the right to enjoy clean air.”

43

There is compelling evidence that enacting and enforcing strong air quality regulations saves lives and prevents illnesses. Since the Clean Air Act was enacted in 1970, the American economy has grown by 262% (measured by increased GDP) while achieving average reductions of 73% for six main air pollutants. The costs of the Clean Air Act are measured in billions of dollars, while the benefits are in the trillions.³¹ Reduced air pollution in California resulted in significant improvements in children’s lung function.³²

44

Bosnia and Herzegovina, Bulgaria, Costa Rica, Croatia, Singapore, Slovakia and Turkmenistan recently enacted stronger air quality laws or regulations. National action plans to improve air quality are being developed or implemented in Bahrain, Colombia, Ireland, Kuwait, Montenegro and Uruguay.

45

Household air pollution from the use of inefficient cookstoves burning biomass, kerosene and coal causes millions of premature deaths every year. Women and children face the highest risks. The most rapid progress in providing access to clean cooking, either through liquified petroleum gas, piped natural gas or electricity, has been achieved in India, Indonesia, Pakistan, Sudan and Vietnam.³³

46

Two initiatives that have dramatically improved air quality in many countries are the phase-out of leaded gasoline and major reductions in the sulphur content of transport fuels. These actions have produced enormous health, environmental and economic benefits, valued in the trillions of dollars.³⁴

47

In large cities in States from Germany and the United Kingdom to China and Mexico, low emission zones have been established to reduce pollution from motor vehicles and protect public health. Entry into low emission zones is restricted to vehicles that meet specific emission standards.

30 General Law on the Environment and Natural Resources 2000

(Dominican Republic), Environmental Code of France and Philippines Clean Air Act.

31 US Environmental Protection Agency. 2011. The Benefits and Costs of the Clean Air Act from 1990 to 2020.

32 W.J. Gauderman, R. Urman, E. Avol et al. 2015.

“Association of improved air quality with lung development in children,” New England Journal of Medicine 372(10): 905-913.

33 International Energy Agency, World Bank, et al. 2019. Tracking SDG 7: The Energy Progress Report 2018.

34 E. Gould, “Childhood lead poisoning: conservative estimates of the social and economic benefits of lead hazard control”, Environmental Health Perspectives, vol. 117, No. 7 (July 2009), pp. 1162–1167.

2. Safe climate

48

Because of human activities, the concentrations of greenhouse gases in the atmosphere are at their highest level in millions of years, causing climate change and a devastating array of impacts from droughts and floods to sea level rise and more intense extreme weather events. The UN High Commissioner for Human Rights, Michelle Bachelet, warned that “The world has never seen a human rights threat of this scope.”³⁵

49

The historic inclusion of human rights in the Paris Agreement indicated that human rights should be at the heart of all climate action, including legislation, mitigation, adaptation, finance, and loss and damage.

50

Nine States now include responsibilities relating to climate change in their national constitutions including Cote d’Ivoire, Cuba, Dominican Republic, Ecuador, Thailand, Tunisia, Venezuela, Vietnam, and Zambia. Draft constitutions in The Gambia and Yemen also include references to addressing climate change.

51

Approximately 140 States have enacted framework climate legislation.³⁶ The best laws include bold targets, timelines, and accountability mechanisms.³⁷ For example the United Kingdom’s Climate Change Act requires a reduction of greenhouse gas emissions by at least 80 percent by 2050 compared to 1990 levels, through legally binding caps on emissions, carbon budgets, and various programs. Elements of the British law have been emulated by other countries including Denmark, France, Mexico, Norway, and Sweden. Peru’s 2018 Framework Law on Climate Change mandates that climate change considerations must be incorporated into public spending decisions at all levels of the government.

52

Long-term plans for achieving deep emissions reductions by 2050 provide essential vision as well as certainty to investors that economies will shift away from fossil fuels over the next three decades. Thirteen States have filed long-term decarbonization plans with the United Nations, including Benin, Canada, Czechia, Fiji, France, Germany, Japan, the Marshall Islands, Mexico, Portugal, Ukraine, the United Kingdom and the United States.³⁸ The Marshall Islands 2050 Climate Strategy

³⁵ The Guardian. 9 September 2019. “Climate change is greatest ever threat to human rights, UN warns.”

³⁶ Grantham Research Institute on Climate Change and the Environment. 2018. Global trends in climate change legislation.

³⁷ A. Averchenkova. 2019. “Legislating for a low carbon and climate resilient transition: learning from international experiences” Elcano Policy Paper.

³⁸ UNFCCC. 2019. <https://unfccc.int/process/the-paris-agreement/long-term-strategies>





emphasizes a rights-based approach, while Fiji and Mexico make multiple references to human rights in their plans.

53

A growing number of States have incorporated, in law, specific timelines for achieving net-zero carbon emissions, including Norway (2030), Finland (2035), Sweden (2045), France (2050), New Zealand (2050), and the United Kingdom (2050). Bhutan is already carbon negative, and intends to maintain carbon neutrality. Costa Rica, Fiji, Iceland, Ireland, Marshall Islands, Portugal and Uruguay have made similar but not legally binding commitments. Denmark recently raised its ambition by setting a goal of reducing greenhouse gas emissions 70 percent by 2030.

54

Dozens of States substantially reduced their greenhouse gas emissions, led by Czech Republic, Denmark, Hungary, Slovakia, and the United Kingdom, where emissions are down more than 30 percent between 1990 and 2017.³⁹ Other Annex 1 Parties making progress (at least a 20 percent decline in emissions since 1990) include Belgium, Croatia, Estonia, Finland, Germany, Luxembourg, Portugal, Romania, and Sweden.⁴⁰ Sweden reduced emissions 26 percent since 1990, while enjoying an increase in GDP of 75 percent over the same time period.

55

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

56

Uruguay has done an exemplary job of integrating human rights in both the process of climate change policy-making and the substance of the policies produced, such as the National Climate Change Plan. This integration flows from a partnership between Uruguay's Ministry of Housing, Territorial Planning and Environment and the President's Secretariat of Human Rights.

57

Nationally Determined Contributions (NDCs) comprise the commitments made by States pursuant to the Paris Agreement on a five-year cycle. Twenty-four NDCs in the first cycle incorporated human rights. Seventeen States committed to taking a rights-based approach to climate action, including Bolivia, Brazil, Chad, Chile, Costa Rica, Ecuador, Georgia, Guatemala, Guyana, Honduras, Malawi, Marshall Islands,

³⁹ C. Le Quere et al. 2019. "Drivers of declining CO2 emissions in 18 developed economies," *Nature Climate Change*, 9: 213-17.

⁴⁰ See https://di.unfccc.int/time_series

Mexico, Morocco, Philippines, South Sudan, and Uganda. Seven States identified human rights as a key element of the legal context in which actions would be taken, including Cuba, El Salvador, Indonesia, Nepal, Venezuela, Yemen, and Zimbabwe. NDCs from more than 50 States address gender issues, participation and the empowerment of women, while NDCs from 19 States include references to Indigenous peoples and/or traditional knowledge.⁴¹

58

France enacted a law in 2017 banning new fossil fuel exploration and development and requiring existing projects to be closed by 2040 (including French territories overseas). An earlier French law prohibiting the exploitation of shale gas by hydraulic fracturing was challenged by industry but upheld by the Constitutional Council.⁴²

59

Costa Rica and Belize were the first States to prohibit all offshore oil and gas exploration and development, demonstrating climate leadership and protecting marine ecosystems.⁴³ Denmark and New Zealand have also established limits on exploration for oil and gas.⁴⁴

60

The Intergovernmental Panel on Climate Change concluded that a safe climate requires a two-thirds reduction in coal power generation in 2030 and near-total elimination by 2050.⁴⁵ Canada and the United Kingdom created the Powering Past Coal Alliance in 2017 and have been joined by 28 States and 22 sub-national governments pledging to end the use of coal to generate electricity by 2030 or in some States to never use coal for electricity.⁴⁶ In 2019, Finland enacted a law that bans the use of coal for electricity generation and heating as of 1 May 2029.⁴⁷

61

Spain and Germany are phasing out coal industries and have put in place just transition strategies for workers.⁴⁸

62

Dramatic declines in the cost of renewable energy are accelerating the transition to clean energy. In many countries, wind and solar now provide cheaper electricity than fossil fuels. Global solar electricity generating capacity grew exponentially from one gigawatt in 2000 (one gigawatt equals one billion watts) to over 500 gigawatts in 2019. Thanks to supportive public policies, the top five solar electricity producing countries in the world are China, the US, Japan, Germany and India.

63

The global total of wind electricity generating capacity grew from 17 gigawatts in 2000 to over 600 gigawatts in 2019. The

41 S. Duyck, E. Lennon, W. and A. Savaresi. 2018. Human rights and the Paris Agreement's Implementation Guidelines: Opportunities to develop a rights-based approach. Carbon & Climate Law 12,3:191-202.

42 Conseil Constitutionnel. Dec. 2013-346 QPC, Oct. 11, 2013, Schuepbach Energy LLC

43 Government of Belize. (2017). Petroleum Operations (Maritime Zone Moratorium) Act, 2017. Government of Costa Rica. (2019). Executive Decree No. 41578 Extending the National Moratorium on Oil Exploration and Exploitation.

44 UN Environment. 2019. The Production Gap. <http://productiongap>

45 Intergovernmental Panel on Climate Change, Special Report: Global Warming of 1.5o C (2018).

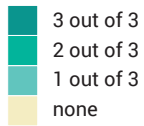
46 Powering Past Coal Alliance. <https://poweringpastcoal.org>

47 Law 416/2019.

48 UN Environment. 2019. The Production Gap. <http://productiongap>

Europe

Legal recognition of the right to a healthy environment in National legislation, International treaties and/or National Constitution



Norway

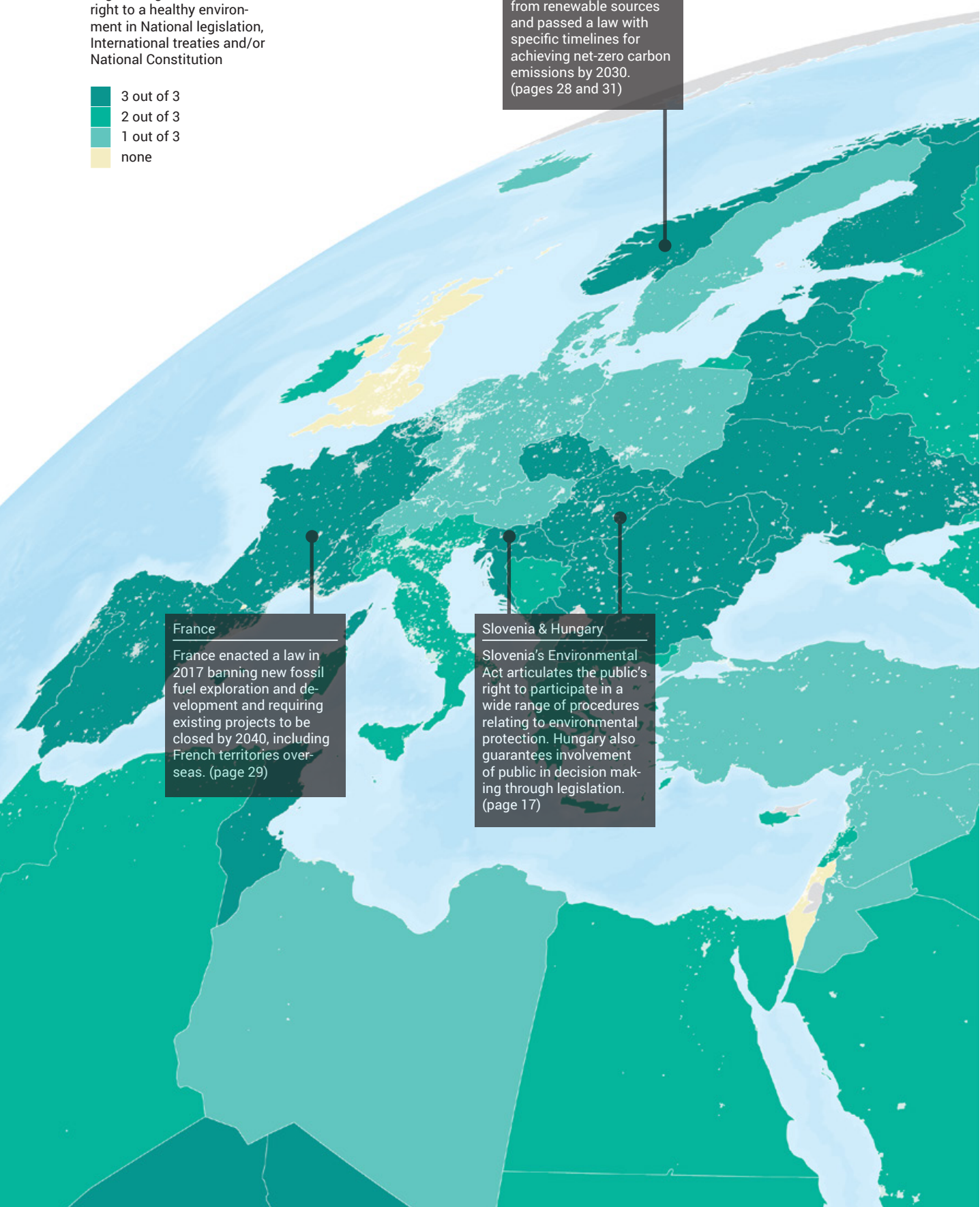
Norway generates 98 percent of its electricity from renewable sources and passed a law with specific timelines for achieving net-zero carbon emissions by 2030. (pages 28 and 31)

France

France enacted a law in 2017 banning new fossil fuel exploration and development and requiring existing projects to be closed by 2040, including French territories overseas. (page 29)

Slovenia & Hungary

Slovenia's Environmental Act articulates the public's right to participate in a wide range of procedures relating to environmental protection. Hungary also guarantees involvement of public in decision making through legislation. (page 17)



top five countries in the world in generating electricity from wind, again due to effective public policies, are China, the US, Germany, India, and Spain.

64

The steep decline in the costs of wind and solar mean that rapidly shifting to 100 percent renewable electricity is environmentally responsible and economically attractive. The following States already secure 98–100 percent of their electricity from renewables including hydroelectric, solar, wind, geothermal, and biomass: Albania, Costa Rica, Iceland, Namibia, Norway, Paraguay, and Uruguay. Ten other States are above 90 percent, including Belize, Bhutan, Burundi, Democratic Republic of Congo, Kyrgyzstan, Laos, Mozambique, Nepal, Tajikistan, and Zambia.

65

Distributed renewable energy programs (where electricity is produced at or near the point where it is used) offer an excellent way to extend reliable access to clean and affordable electricity and have been established in many low- and middle-income countries in Asia, Africa, and Latin America. For example, at least twenty million people in remote villages in Bangladesh have solar panels with batteries that store electricity, improving their quality of life.⁴⁹

66

Nineteen West African States are collaborating in the Regional Off-Grid Electrification Project to increase access to electricity for households and businesses using off-grid solar systems. The \$150 million project is expected to benefit 585,000 households (two million people), as well as 65,000 small and medium-sized businesses.⁵⁰ Participating States include Benin, Burkina Faso, Cabo Verde, Cameroon, the Central African Republic, Chad, Côte d’Ivoire, the Gambia, Ghana, Guinea, Guinea-Bissau, Liberia, Mali, Mauritania, Niger, Nigeria, Senegal, Sierra Leone, and Togo.⁵¹

67

Through the African Forest Landscape Restoration Initiative, twenty-eight countries across Africa have committed to restore more than 100 million hectares of deforested and degraded landscapes. Funding includes \$1 billion in development finance and \$500 million in private sector funding. The focus is on improving livelihoods, but the initiative will also increase carbon storage by creating healthy forests. Participating States include Benin, Burkina Faso, Burundi, Cameroon, Central African Republic, Chad, Cote d’Ivoire, Democratic Republic of the Congo, Ethiopia, Eswatini, Ghana, Guinea, Kenya, Liberia, Madagascar, Malawi, Mozambique, Niger, Nigeria, Republic of

49 Kabir, Ehsanul; Kim, Ki-Hyun; Szulejko, Jan E. 2017. “Social Impacts of Solar Home Systems in Rural Areas: A Case Study in Bangladesh.” *Energies* 10, no. 10: 1615.

50 <https://projects.worldbank.org/en/projects-operations/project-detail/P160708?lang=en>

51 <https://www.lightingafrica.org/publication/regional-off-grid-electrification-project-rogep-overview/>

Congo, Rwanda, Senegal, South Africa, Sudan, Tanzania, Togo, Uganda, and Zimbabwe.⁵²

68

In 2018, Vanuatu created a National Policy on Climate Change and Disaster-Induced Displacement, emphasizing a rights-based approach that draws on the Sendai Framework for Disaster Risk Reduction and the Guiding Principles on Internal Displacement. The policy is systemic and action-oriented, incorporating non-discrimination, gender responsiveness and community participation. It addresses prevention, protects persons during evacuation and throughout the term of displacement, and seeks durable solutions.

69

Although relocating communities should be a last resort, in cases where it is inevitable then plans should be developed in close cooperation with the affected communities. Fiji's Planned Relocation Guidelines, published in 2018, are a commendable example of a rights-based approach to relocation.

70

The Netherlands, Canada, Denmark, Australia, Sweden and Switzerland provide 98-100 percent of bilateral public climate finance in the form of grants, which are much better for developing nations than loans.⁵³

71

Germany funds projects in Mexico to foster women's participation in climate action, including the Women's Network for Renewable Energy and Energy Efficiency. Ireland promotes gender equality in access to renewable energy, developing climate-resilient agriculture, and greening the health sector.

72

The Global Environment Facility established an Indigenous Peoples Advisory Group and created an Indigenous Peoples Fellowship Program. These are important first steps towards increasing flows of climate finance to Indigenous peoples.

3. Healthy and sustainably produced food

73

More than 800 million people were under-nourished in 2017, marking the third consecutive year where hunger has increased globally. Faced with the immense environmental impacts of industrial agriculture and the need to feed almost eight

⁵² See <https://afr100.org/content/home>

⁵³ Oxfam. 2018. Climate Finance Shadow Report 2018: Assessing progress towards the \$100 billion commitment.

billion humans, it is imperative that diets evolve and food be sustainably produced.

74

The right to food is recognized in the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights as part of the right to an adequate standard of living. Thirty-one States provide constitutional recognition of the right to food, including Belarus, Bolivia, Brazil, Colombia, Costa Rica, Cuba, Democratic Republic of the Congo, Dominican Republic, Ecuador, Egypt, Fiji, Guatemala, Guyana, Haiti, Honduras, India, Kenya, Malawi, Maldives, Mexico, Nepal, Nicaragua, Niger, Panama, Paraguay, Philippines, Republic of Moldova, South Africa, Suriname, Ukraine, and Zimbabwe.

75

Agroecological farming can help improve livelihoods for small-scale farmers and those living in poverty, including women, because it involves limited reliance on expensive external inputs. Agroecology improves air, soil, surface water and groundwater quality, is less energy intensive, reduces emissions of greenhouse gases and enhances carbon sinks.⁵⁴ The UN Food and Agriculture Organization identified agroecology policies in Brazil, Denmark, Ecuador, India, the Philippines, Senegal and the United States as winners of Future Policy Awards in 2018 for scaling up agroecology, improving the livelihoods of small-scale food producers, ensuring sustainable food production systems and implementing climate-resilient agricultural practices.⁵⁵ Agroecology projects in Benin, Brazil, Cameroon, Cuba, Egypt, Niger, India, Mozambique, Nepal, and the Philippines were recognized for good practices by the World Future Council in 2019.⁵⁶

76

Turkey passed a Law on Organic Agriculture in 2004 and a Bylaw on Organic Agriculture Principles and Practices in 2010. The number of farmers and area under organic cultivation have grown rapidly since 2010, with the area in organic production jumping more than 60 percent between 2010 and 2014.⁵⁷

77

The Great Green Wall is an extraordinary initiative to restore degraded land in Africa's Sahel region.⁵⁸ Countries involved include Algeria, Benin, Burkina Faso, Cameroon, Cabo Verde, Chad, Djibouti, Egypt, Eritrea, Ethiopia, Gambia, Ghana, Libya, Mali, Mauritania, Niger, Nigeria, Senegal, Somalia, Sudan, and Tunisia. The Great Green Wall will help combat climate change, drought, famine, conflict and migration. Already, Senegal has planted more than 12 million drought-resistant trees. In

54 Special Rapporteur on the Right to Food A/HRC/16/49.

55 See <http://www.fao.org/agroecology/slideshow/news-article/en/c/1187596/>

56 See <https://www.worldfuturecouncil.org/press-release-opa-2019/>

57 Ministry of Environment and Urbanisation. 2016. State of the Environment Report for Republic of Turkey.

58 <https://www.greatgreenwall.org>

Ethiopia 15 million hectares of degraded land have been restored and hundreds of millions of trees planted. In Niger, five million hectares of land have been restored, producing an additional 500,000 tonnes of grain annually, enough to feed 2.5 million people.

78

Field schools for farmers can significantly reduce pesticide use, as inputs are replaced by knowledge. Large-scale studies from Indonesia, Vietnam and Bangladesh demonstrated decreases of 34 to 92 percent in pesticides used on rice crops.⁵⁹

79

An important element of shifting to a healthy and sustainable food system is a decrease in the production and consumption of meat, particularly beef, because of the huge environmental impacts.⁶⁰ Protein crops (e.g. soybeans, lentils, chickpeas) can provide benefits such as less disease and pest pressure, improved nitrogen management, lower nitrogen emissions, and increased opportunities for farmers. In 2015, Ireland introduced a program offering incentives to farmers to grow protein crops. In the first year there was a 300 percent increase in production.⁶¹

59 Henk Van den Berg and Janice Jiggins, "Investing in Farmers. The Impacts of Farmer Field Schools in Relation to Integrated Pest Management," *World Development*, 35:4, 2007, pp. 663-686.

60 IPCC. 2019. Special Report on Climate Change and Land: Summary for Policymakers. <https://www.ipcc.ch/srccl/chapter/summary-for-policymakers/>

61 New Economics Foundation. 2017. *Solutions for the Farm of the Future: Go Green.*

62 UN Secretary General. 2019. Special Edition: Progress towards the Sustainable Development Goals. E/2019/68.

63 See, for example, A/GA/68/157, 2013 and A/HRC/27/7, 2014.

64 C. de Albuquerque. 2014. *Realising the Human Rights to Water and Sanitation: A Handbook.* UN Special Rapporteur on the human rights to safe drinking water and sanitation.

4.

Access to safe water and adequate sanitation

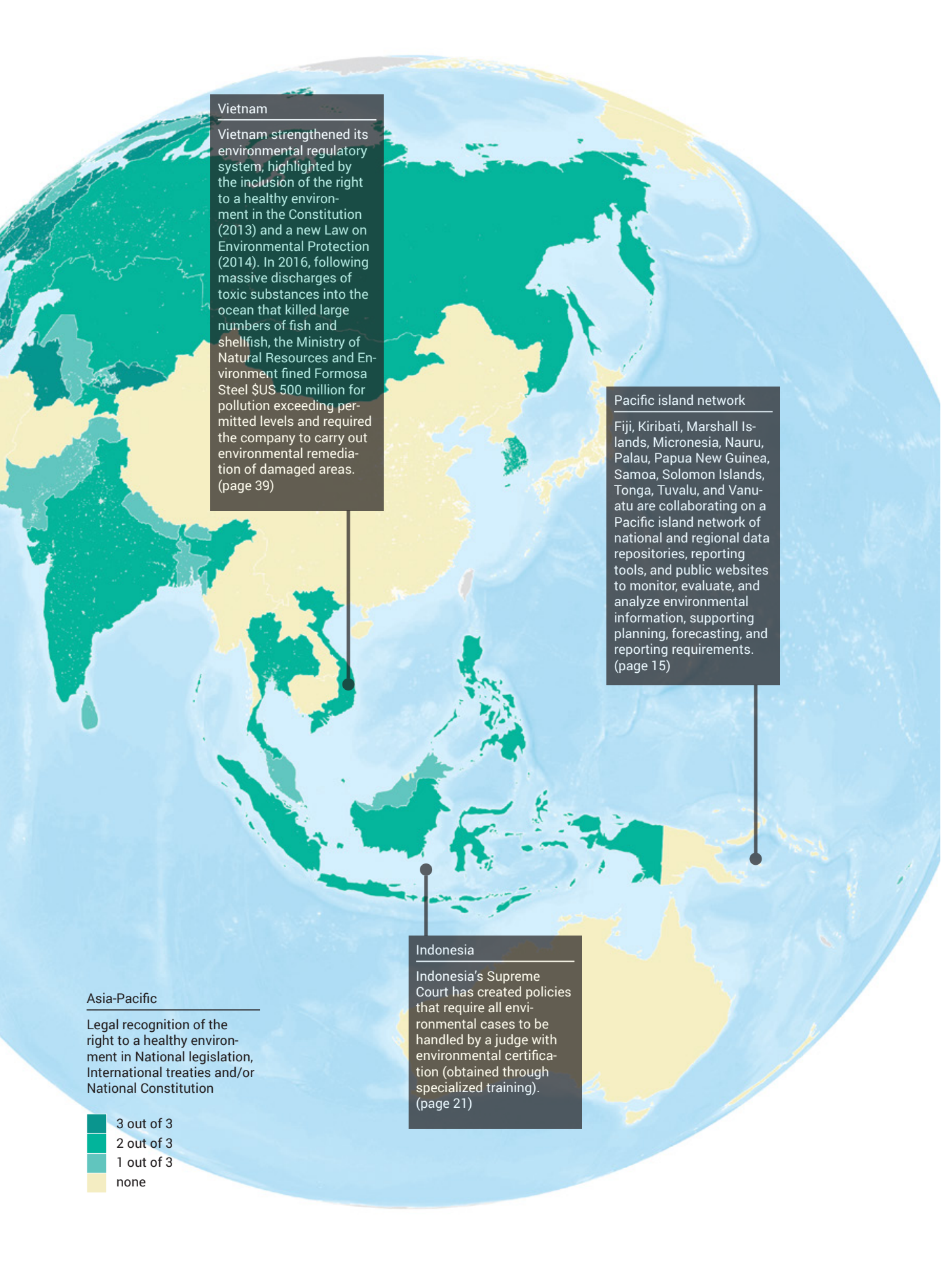
80

In 2017, 785 million people still lacked access to basic water services and 700 million people still practiced open defecation due to lack of sanitation services. The lack of access to safe drinking water and adequate sanitation causes 870,000 premature deaths annually.⁶²

81

The rights to water and sanitation were recognized in 2010 by the UN General Assembly (Res. 64/292) and the Human Rights Council (Res. 15/9) and have been repeatedly re-affirmed.⁶³ Catarina de Albuquerque, the former Special Rapporteur, published a comprehensive set of good practices in implementing the rights to water and sanitation.⁶⁴ The handbook emphasizes the need for clear articulation of the content of the rights to water and sanitation through laws, regulations, and policies governing availability, physical accessibility, affordability, quality and safety, and acceptability. Also essential are legal frameworks to eliminate discrimination





Vietnam

Vietnam strengthened its environmental regulatory system, highlighted by the inclusion of the right to a healthy environment in the Constitution (2013) and a new Law on Environmental Protection (2014). In 2016, following massive discharges of toxic substances into the ocean that killed large numbers of fish and shellfish, the Ministry of Natural Resources and Environment fined Formosa Steel \$US 500 million for pollution exceeding permitted levels and required the company to carry out environmental remediation of damaged areas. (page 39)

Pacific island network

Fiji, Kiribati, Marshall Islands, Micronesia, Nauru, Palau, Papua New Guinea, Samoa, Solomon Islands, Tonga, Tuvalu, and Vanuatu are collaborating on a Pacific island network of national and regional data repositories, reporting tools, and public websites to monitor, evaluate, and analyze environmental information, supporting planning, forecasting, and reporting requirements. (page 15)

Indonesia

Indonesia's Supreme Court has created policies that require all environmental cases to be handled by a judge with environmental certification (obtained through specialized training). (page 21)

Asia-Pacific

Legal recognition of the right to a healthy environment in National legislation, International treaties and/or National Constitution

- 3 out of 3
- 2 out of 3
- 1 out of 3
- none

in the provision of water and sanitation services (e.g. Honduras, Ghana, Pakistan).

82

Today, dozens of States recognize the human rights to water and/or sanitation in their constitutions and/or legislation including Belgium, Bolivia, Chile, Democratic Republic of the Congo, Cuba, Dominican Republic, Ecuador, Ethiopia, Fiji, France, Kenya, Maldives, Mexico, Netherlands, Nicaragua, Niger, Paraguay, Slovenia, Solomon Islands, South Africa, Tanzania, Tunisia, and Uruguay.

83

Ideally, the rights to water and sanitation should be embedded throughout a State's legal framework, including the constitution, legislation, policies, and programs. For example, the right to water is enshrined in South Africa's Constitution, the National Water Act, Water Services Act, Free Basic Water Implementation Strategy, and National Framework for Municipal Indigent Policies. The Water Services Act also includes recognition of the right to sanitation. South Africa's legal framework helped secure financing to ensure implementation of the rights. Between 2000 and 2017, 14 million South Africans gained access to basic water services while 17 million people gained access to at least basic sanitation.⁶⁵

84

Poland's National Municipal Wastewater Treatment Program was created to ensure compliance with upgraded water legislation. The policy fostered the construction of new and updated wastewater treatment plants that reduced water pollution and generated energy from waste. As of 2017, 99 percent of Poland's population have access to at least basic sanitation service, and 99 percent of Polish wastewater is treated at plants providing at least secondary treatment.

85

Pro poor programs to ensure access to safe drinking water are a leading good practice. In France and Belgium, a type of subsidy, referred to as a solidarity mechanism, pays water bills for the most financially deprived people.⁶⁶ Chile employs a similar approach, allowing connection costs to be paid in affordable monthly instalments over five years instead of a lump sum. Zambia's Devolution Trust Fund was created in 2003 to finance water and sanitation services for poor urban areas and informal settlements. Funding came from development partners, government and water utilities and is replenished by a three percent solidarity levy on the water bills of all customers.⁶⁷ Community members are represented in the project task team

65 UNICEF and World Health Organization. 2019. Progress on household drinking water, sanitation, and hygiene 2000-2017: Special focus on inequalities.

66 Special Rapporteur on Safe Water and Sanitation. 2011. Good Practices Report. A/HRC/18/33/Add.1

67 R. Bos et al. 2016. Manual on the Human Rights to Safe Drinking Water and Sanitation for Practitioners. IWA Publishing.

and decide where water distribution kiosks are to be placed, and local water watch groups serve as an accountability mechanism.

86

Bangladesh, Hungary, Kenya, Mozambique and Peru also have strong laws, policies, or programs in place to provide water and sanitation to poor and marginalized communities.

87

Cabo Verde, Comoros, Maldives, Mauritius, São Tomé & Príncipe and the Seychelles have begun an initiative to fix the “problems relating to the scarcity and contamination of freshwater supplies; over-exploitation and poor management of groundwater resources; [and] pollution in surface water.”⁶⁸ About 100,000 community members already benefit from improved water quality. This project contributes to fulfilling the right to water, reduces poverty, improves health, and facilitates climate change adaptation.

88

The ultimate objective is to ensure universal access to safe water and adequate sanitation. Regarding sanitation, there is some very positive news. Between 2000 and 2017, Ethiopia, India and Nepal achieved substantial declines, greater than 45 percent, in the number of people relying on open defecation. The proportion of the population using at least basic sanitation services increased by more than 30 percent between 2000 and 2017 in Cabo Verde, Cambodia, India, Indonesia, Lesotho, Mauritania, Micronesia, Nepal and Vietnam.

89

There has also been impressive progress in some States in terms of increased access to safer drinking water. Use of basic water services increased by more than 30 percent between 2000 and 2017 in Afghanistan, Laos, Mali, Mauritania, Mozambique, Myanmar, and Somalia.⁶⁹ Rural access to basic water services in Paraguay improved rapidly from 53 percent in 2000 to 99 percent in 2017. These examples of progress improve human health and well-being, and fulfill human rights.⁷⁰

68 Implementing Integrated Water Resources Management in the Atlantic and Indian Ocean Small Island Developing States <https://www.thegef.org/news/life-aquatic-small-islands-atlantic-indian-oceans-working-together-fight-tough-water-challenges>

69 UNICEF and World Health Organization. 2019. Progress on household drinking water, sanitation, and hygiene 2000-2017: Special focus on inequalities.

70 UNICEF and World Health Organization. 2019. Progress on household drinking water, sanitation, and hygiene 2000-2017: Special focus on inequalities.

5.

Non-toxic environments in which to live, work and play

90

Toxic substances pose a direct threat to the rights to life, health, safe food and water, adequate housing and the right to a safe, clean, healthy and sustainable environment. Pollution

kills at least nine million people annually.⁷¹ The burden of toxic substances often falls most heavily on vulnerable and marginalized populations.⁷²

91

Important global treaties that prohibit, phase out or limit the use of certain toxic substances include the Basel Convention, Stockholm Convention on Persistent Organic Pollutants, Rotterdam Convention, Minamata Convention on Mercury, and the Vienna Convention on Substances that Deplete the Ozone Layer (including the Montreal Protocol and associated amendments). The implementation of obligations related to these treaties constitute good practices in fulfilling the right to a healthy and sustainable environment.

92

Human biomonitoring is an important good practice because it measures concentrations of toxic substances and their metabolites in bodily fluids, faeces, hair, teeth, and nails. Biomonitoring data reveal levels of exposure and trends, help researchers to understand health effects, and assist in developing and evaluating policies to reduce exposure. Ethical standards must be applied to protect human rights. Canada, Denmark, France, Germany, Norway, Spain, and the United States have national biomonitoring programs.⁷³

93

The European Union has a relatively strong regulatory framework for toxic substances. The EU's main legislation governing toxic chemicals, the Registration, Evaluation, Authorisation, and Restriction of Chemicals (REACH) regulation, adopts a hazard-based approach to chemical management. The EU prohibits the use of carcinogens, mutagens, and reproductive toxicants in cosmetics and personal care products.

94

Sweden and Norway are international leaders in chemical regulation to reduce the risk of damage to health and the environment. Sweden developed national objectives and timelines for phasing out mercury, lead, carcinogens, mutagens, substances that harm reproduction, and persistent and bioaccumulative substances. Norway has a priority list of more than 30 substances and groups of substances and reports on progress in reducing emission levels.⁷⁴

95

Vietnam strengthened its environmental regulatory system, highlighted by the inclusion of the right to a healthy environment in the Constitution (2013) and a new Law on Environmental Protection (2014). In 2016, following massive discharges of toxic substances into the ocean that killed large

71 <https://www.thelancet.com/commissions/pollution-and-health>

72 <https://www.ohchr.org/EN/Issues/Environment/ToxicWastes/Pages/SRToxicWastesIndex.aspx>

73 WHO Regional Office for Europe. 2015. Human biomonitoring: facts and figures.

74 Norwegian Environment Agency. 2018. List of priority substances. <https://www.environment.no/topics/hazardous-chemicals/list-of-priority-substances/>

numbers of fish and shellfish, the Ministry of Natural Resources and Environment fined Formosa Steel \$US 500 million for pollution exceeding permitted levels and required the company to carry out environmental remediation of damaged areas.

96

Plastic pollution is a huge global concern because of its impacts on humans and biodiversity. The European Union enacted the most comprehensive legislation to reduce plastic waste.⁷⁵ Banned items include plastic cutlery, plates, stirrers, straws, expanded polystyrene (foam) food and beverage containers, and balloon sticks. Extended producer responsibility rules cover additional plastic products and packaging. By 2029, 90 percent of single-use plastic wastes must be collected for recycling.

97

Germany has an advanced waste management system, protecting human health, human rights and the environment through strong legislation and regulations, strong institutions to implement, monitor, and enforce rules, adequate financing through application of the polluter pays principle, and use of the best available technologies. In 2017, 68 percent of Germany's municipal waste was recycled, the highest rate in the world.⁷⁶

98

Albania, Bahrain, Burkina Faso, Kenya, Montenegro, Rwanda, Samoa, Senegal, Uzbekistan have banned plastic bags, reducing plastic pollution, reducing animal deaths, and preventing clogged drains that can contribute to flooding and malaria. These policies also improve air quality, as plastic bags are no longer disposed of via burning.

99

Perverse subsidies are government subsidies that provide financial support for activities that cause environmental harm. For example, in most States taxes are lower on diesel fuel than gasoline despite higher levels of toxic emissions from diesel. The United Kingdom was the first EU State to impose higher fuel excise duties on diesel fuel than regular gasoline.⁷⁷

100

Taxes can be used effectively to reduce environmental threats. Pollution fees are widely used. Nations imposing water effluent charges include France, Germany, Malaysia, the Netherlands, and the Philippines. Studies show that water pollution taxes lead to a significant decline in pollution levels.⁷⁸ Air emission charges are used in many nations, including Finland, France, Germany, Japan, the Netherlands, Norway, Sweden, and the United States.

75 Directive (EU) 2019/904 of the European Parliament and of the Council of 5 June 2019 on the reduction of the impact of certain plastic products on the environment

76 European Union. 2019. EUROSTAT: Recycling rate of municipal waste.

77 European Environment Agency. 2019. Transport fuel prices and taxes in Europe.

78 OECD. 2011. Environmental Taxation: A Guide for Policymakers.

101

The restoration of polluted or contaminated areas is also an important activity in ensuring a non-toxic environment. Pursuant to a federal law passed in 1999 and most recently amended in 2019, Russia is implementing a wide range of actions to protect Lake Baikal and the surrounding region, including the closure of a pulp and paper mill, rehabilitating polluted land, reducing the volume of polluted wastewater entering the lake, and increasing the amount of solid waste managed properly.⁷⁹ To ensure implementation of, and compliance with, the legislation on environmental protection in the Lake Baikal watershed, as well as to protect the constitutional right of citizens to a favourable environment, the Baikal Interregional Environmental Prosecutor's Office was formed in 2017.

102

It is essential that governments enforce environmental laws when polluters violate standards. The lack of adequate environmental enforcement is a global problem. In 2019, Ethiopia shut down four tanneries over toxic waste emissions.⁸⁰ Myanmar temporarily suspended operations at two tin mining sites and 17 factories for environmental non-compliance.

6. Healthy ecosystems and biodiversity

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Humanity depends on nature for a vast range of products and ecological services, from food, fiber and medicine to pollination, clean air, water and soil. Human rights may be jeopardized by lack of access to nature's bounty, or by actions taken to protect nature that fail to take rights into consideration.⁸¹ Globally, wildlife populations have declined sixty percent since 1970, and as many as one million species are at risk of extinction. The decline or disappearance of a particular species could be devastating to an Indigenous community and their rights. But the creation of a new protected area without the consultation and consent of Indigenous peoples or local communities could violate their rights.⁸²

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International environmental law establishes norms and standards for the protection of the diversity and abundance of life on Earth through global treaties including the Convention

⁷⁹ Federal Law of the Russian Federation dated May 1, 1999 N 94-ФЗ "On Protection of Lake Baikal."

⁸⁰ A/HRC/WG.6/33/ETH/1, ¶ 37.

⁸¹ Special Rapporteur on human rights and the environment. A/HRC/34/49.

⁸² Special Rapporteur on the rights of Indigenous peoples. A/71/229.



NO
NATURE

NO
FUTURE



on Biological Diversity, Convention on International Trade in Endangered Species of Wild Fauna and Flora, Ramsar Convention on Wetlands, World Heritage Convention, the UN Convention on the Law of the Sea, and International Convention for the Regulation of Whaling. For example, the Aichi targets set pursuant to the Convention on Biological Diversity set targets of protecting 17 percent of representative ecosystems on land and 10 percent in the oceans by 2020. Regional environmental treaties are also important.

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A growing number of constitutions incorporate duties related to the protection of wildlife and nature, including Bhutan, Bolivia, Ecuador, and Namibia. Bhutan’s Constitution requires 60 percent of land area to be maintained under forest cover for all time. The constitutions of Bolivia and Ecuador refer to the rights of non-human species, with Ecuador providing comprehensive provisions related to the rights of Pachamama or Mother Earth. Recognizing the rights of Nature could reduce environmental harm, potentially benefiting human rights.

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At the legislative level, almost all States have specific laws protecting wildlife and wildlife habitat, and managing activities that could harm or over-exploit other species, such as fishing, hunting, mining, agriculture, and forestry.

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Forty-four States have protected at least 25 percent of their land, including Andorra, Austria, Bahamas, Belize, Benin, Bhutan, Bolivia, Botswana, Brazil, Brunei Darussalam, Bulgaria, Cambodia, Republic of the Congo, Costa Rica, Croatia, Dominican Republic, France, Germany, Greece, Guinea, Japan, Luxembourg, Malta, Monaco, Morocco, Namibia, New Zealand, Nicaragua, Palau, Poland, Sao Tome and Principe, Senegal, the Seychelles, Slovakia, Slovenia, Spain, Sri Lanka, Tanzania, Togo, Trinidad and Tobago, United Kingdom, Venezuela, Zambia, and Zimbabwe.⁸³ In total, over 15 percent of the world’s land—more than 25 million square kilometres (the size of North America)—is now protected, which should help conserve biodiversity.⁸⁴

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Sixteen States have protected at least 25 percent of their marine territory, including Australia, Belgium, Brazil, Chile, France, Gabon, Germany, Jordan, Lithuania, Monaco, the Netherlands, New Zealand, Palau, Slovenia, the United Kingdom and the United States.⁸⁵

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Kenya, Mali, and Zambia recently passed laws to recognize the land rights of indigenous people and local communities

⁸³ World Bank. 2019. Terrestrial Protected Areas database. <https://data.worldbank.org/indicator/ER.LND.PTLD.ZS>

⁸⁴ J.E.M. Watson et al. 2014. The performance and potential of protected areas. *Nature* 515: 67-73.

⁸⁵ World Bank. 2019. Marine Protected Areas database. <https://data.worldbank.org/indicator/ER.MRN.PTMR.ZS>

(IPLCs).⁸⁶ IPLCs are more likely to invest in good management of forests, soil and water if they have clear user rights and security against eviction. They are more likely to invest in improving yields on existing land and less likely to extend cultivation into marginal or forest areas. Forests that are legally owned and/or designated for use by IPLCs deliver a wide range of ecological and social benefits, including lower rates of deforestation and forest degradation, greater investments in forest restoration and maintenance, improved biodiversity conservation, lower carbon emissions and more carbon storage, reduced conflict, and poverty reduction.⁸⁷

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The Maya Biosphere Reserve in Guatemala is one of the world's most biodiverse areas. To help conserve the reserve, the Government gave nine local communities land concessions so they can make a sustainable living from the forest. The concessions have generated more than \$US5,000,000 in annual revenue as well as jobs for local community members. The forest concessions had a near-zero deforestation rate for the past 14 years. According to research, there is a positive relationship between socioeconomic progress (income, investments, savings, capitalization of community enterprises as well as asset building at household and enterprise level) and conservation of the concession areas.⁸⁸

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Kenya's Greenbelt movement, for which Wangari Maathai won a Nobel Peace Prize in 2004, has planted over 51 million trees. The grassroots organization sponsors 4,000 tree nurseries that produce over eight million native seedlings annually. More than 30,000 women received training in forestry, bee-keeping, food processing, and other trades, enabling them to earn a livelihood while protecting local lands and ecosystems. Similar movements now exist in Tanzania, Uganda, and other African nations.

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Mauritius has established community-based programs intended to restore important ecosystems including coral reefs and mangrove forests. At least five vulnerable coastal communities participated in training programs and have created coral nurseries. Mangrove forests in Mauritius are being rehabilitated and are now protected by the Fisheries and Marine Resources Act.

86 Kenya's Community Land Act of 2016. Mali's Agricultural Land Law of 2017. Zambia's 2015 Forest Act.

87 Intergovernmental Science- Policy Platform on Biodiversity and Ecosystem Services. 2019. Global assessment report on biodiversity and ecosystem services. Rights and Resources Initiative. 2019. The relationship between local communities' and Indigenous peoples' land tenure and global climate and conservation goals: A synopsis of key findings from research.

88 Center for International Forestry Research <https://www.cifor.org/library/7163/>

IV. Conclusion

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This report (and Annex III)⁸⁹ summarize hundreds of good practices in implementing the human right to a safe, clean, healthy and sustainable environment, drawn from more than 175 States. The report illustrates that a dazzling diversity of actions can deliver on the imperatives of cleaner air, improved access to safe water, adequate sanitation, healthy and sustainably produced food, healthy environments, and a safe climate. This is true even in difficult circumstances, such as in States or communities plagued by poverty, conflict or natural disasters. The most important beneficiaries of the good practices highlighted in this report are the individuals and communities who are most vulnerable to the adverse effects of environmental harms and who lack access to basic environmental services.

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Protecting the environment contributes to the fulfillment of human rights, and protecting human rights contributes to safeguarding the environment. While in some States some aspects of the right to a safe, clean, healthy and sustainable environment are subject to progressive realization, all States must dedicate the maximum available resources to comply with their human rights obligations in addressing environmental challenges.

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The Special Rapporteur hopes that these concrete examples of good practices will inspire States to accelerate their efforts to recognize, respect, protect and fulfill the right to a safe, clean, healthy and sustainable environment. The adoption of a UN resolution recognizing the right to a safe, clean, healthy and sustainable environment would be a positive catalyst to accelerate efforts to ensure the enjoyment of this right. Indeed, this is precisely what occurred in many States following the General Assembly (64/292) and Human Rights Council (15/9) resolutions on the rights to water and sanitation in 2010. A rights-based approach is not only helpful, but essential to stimulating the many urgent actions needed to achieve the 2030 Sustainable Development Goals.

⁸⁹ https://www.ohchr.org/Documents/Issues/Environment/SREnvironment/A_HRC_43_53_AnnexIII.docx

Ultimately, however, it must be emphasized that humanity faces a daunting and unprecedented global environmental crisis of our own making. Despite the many good practices, they are not nearly enough. There is much, much more work to be done to transform today's unjust and unsustainable society into an ecological civilization where human rights are universally respected, protected and fulfilled.

Annex I

Contributors to the global online researchathon

The Special Rapporteur thanks the following contributors to the global online researchathon on good practices related to the implementation of a safe, clean, healthy and sustainable environment:

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