

The Right to a Healthy Environment: From International Recognition to Domestic Constitutionalization

من الاعتراف الدولي إلى الدسترة الوطنية: الحق في بيئة صحية

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Abstract:

The right to a healthy environment, recently recognized by the UN General Assembly, is the outcome of a gradual evolution through international and regional milestones. This development has, in turn, influenced many national legal systems, promoting the constitutionalization of this right within their constitutions, including Algeria. Since independence, Algeria's constitutional framework has progressively evolved, with successive constitutions reflecting not only political, social, and economic transformation, but also an increasing emphasis on environmental rights. This research aims to examine the main milestones in the recognition of the right to a healthy environment at the international level and their subsequent impact on the constitutionalization of this right at the domestic level.

Keywords: Right to a Healthy Environment, International Recognition, Constitutionalization, Algeria.

ملخص:

يعد الحق في بيئة صحية، الذي اعترفت به الجمعية العامة للأمم المتحدة مؤخرًا، ثمرة تطور تدريجي عبر محطات دولية وإقليمية متعددة. وقد أسهم هذا التطور بدوره في التأثير على العديد من الأنظمة القانونية الوطنية، من خلال تشجيع دسترة هذا الحق في دساتيرها، بما في ذلك الجزائر. ومنذ الاستقلال، شهد الإطار الدستوري الجزائري هو الآخر تطورًا تدريجيًا، حيث لم تكن الدساتير المتعاقبة انعكاسًا فقط للتحويلات السياسية والاجتماعية والاقتصادية، بل أولت أيضًا اهتمامًا متزايدًا بالحقوق البيئية. وعليه، يسعى هذا البحث إلى دراسة أبرز المحطات في مسار الاعتراف بالحق في بيئة صحية على الصعيد الدولي، وما ترتب عليها من أثر في دسترة هذا الحق على الصعيد الوطني.

الكلمات المفتاحية: الحق في بيئة صحية، الاعتراف الدولي، الدسترة، الجزائر.

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Introduction:

Over the last decades, the world has witnessed growing concerns about environmental degradation and climate change; meanwhile, a new right has gained significance, namely the right to a healthy environment. This right has recently achieved a universal recognition by the United Nations General Assembly. However, it is not entirely new; rather, it has gradually developed through international and regional milestones. Despite the lack of a universally agreed definition of the right to a healthy environment, it is generally understood to encompass two main categories of elements¹. The substantive elements include clean air, safe water and sanitation, healthy food, non-toxic surroundings, biodiversity, and a stable climate, while the procedural elements involve access to information, participation in decision-making, and access to justice. Recognizing its crucial role for human well-being and sustainable development, many national constitutions have constitutionalized or incorporated this right², with Algeria being among them.

The Algerian constitutional framework has undergone a gradual progression since independence. The first constitution, adopted in 1963, defined the political and economic system of the country. Since then, Algeria has adopted five successive constitutions, each reflecting the country's political, economic, and social development, as well as a growing emphasis on environmental rights. Across these constitutions, provisions have been reaffirmed or expanded, often building on earlier constitutional foundations or introducing new ones to align with internationally recognized principles and commitments, as well as regional obligations concerning environmental protection.

This raises a key research question: How has the evolution of international recognition of the right to a healthy environment influenced Algeria's successive constitutions since independence?

To answer this question, this research adopts a descriptive–analytical approach. It begins with a descriptive overview of the international recognition of the right to a healthy environment, and then analyzes how this evolution has shaped the constitutionalization of this right within Algeria's successive constitutions. Accordingly, the research is divided into two sections: the first devoted to the international recognition of the right to a healthy environment, and the second to the domestic constitutionalization of this right.

1-International Recognition of the Right to a Healthy Environment

In this section, we will dive into the key milestones that shaped the path toward the international recognition of the right to a healthy environment, starting with its initial acknowledgment in international conferences and regional instruments, which laid the groundwork for formal recognition by the Human Rights Council, and finally reaching universal recognition by the United Nations General Assembly in 2022.

1-1- Initial Recognition of the Right to Healthy Environment

The initial recognition of the right to a healthy environment can be traced back to the 1972 Stockholm Declaration, adopted at the United Nations Conference on the Human Environment.

This declaration is considered the cornerstone of the right to a healthy environment, as it contains 26 principles aimed at protecting the human environment. The first principle of the declaration affirms that humans have the fundamental right to freedom, equality, and adequate living conditions in an environment that ensures dignity and well-being, along with the responsibility to protect and improve the environment for future generations. It also condemns oppressive policies such as racial segregation, apartheid, discrimination, colonialism, and foreign domination, which must be eradicated. Although Principle 1 does not explicitly mention the right to a healthy environment, the declaration is widely recognized as the first international document to establish a link between human rights and environmental quality, thereby establishing the foundation for future international recognition of this right.³

On the twentieth anniversary of the Stockholm Conference, the 1992 Earth Summit adopted the Rio de Janeiro Declaration on Environment and Development, a framework of 27 principles promoting sustainable development. Although it does not explicitly refer to the right to a healthy environment, several of its principles indirectly support this right. Principle 1 comes closest, affirming that human beings are at the center of sustainable development and are entitled to a healthy, productive life in harmony with nature. Principle 3 emphasizes the need to balance development with environmental protection, while Principle 4 underlines that environmental protection is essential for human well-being. Principle 7 highlights the importance of international cooperation in achieving environmental protection. Principle 10 reinforces this right by guaranteeing access to information, public participation in decision-making, and access to justice, widely described as procedural environmental rights. Additionally, Principles 15 and 16 complement each other: the former advocates adopting the precautionary approach to prevent environmental harm, and the latter requires polluters to bear the costs of the environmental damage they cause. Finally, Principle 22 acknowledges the vital role of indigenous peoples and local communities in environmental management and protection.⁴

Ten years later, the World Summit on Sustainable Development (WSSD), also known as the Johannesburg Summit in 2002, built on the Rio Declaration and resulted in the Johannesburg Declaration on Sustainable Development and the Plan of Implementation, thereby shifting from principles to application and reaffirming the outcomes of previous United Nations environmental conferences.⁵ The 2012 Rio + 20 Conference, formally the United Nations Conference on Sustainable Development, once again reaffirmed the commitments of Rio and Johannesburg through its outcome document, *The Future We Want*, which set the stage for the adoption of the Sustainable Development Goals (SDGs)⁶. In 2015, the UN Sustainable Development Summit adopted the 2030 Agenda for Sustainable Development, which acknowledges in its preamble the importance of a healthy environment for human dignity and well-being.⁷

At the regional level, significant progress was also made, particularly on the African continent. The 1981 African Charter on Human and Peoples' Rights, also known as the Banjul Charter, is a landmark regional treaty adopted by the Organisation of African Unity (OAU)—now the African Union (AU)—aimed at promoting and protecting human rights across Africa. It was the first binding African treaty to explicitly recognize environmental rights. Article 24 grants every individual the right to a general satisfactory environment favorable to their development.⁸ This

provision imposes clear obligations on African governments, requiring them to take reasonable measures to prevent pollution and ecological degradation, promote conservation, and ensure the sustainable use and development of natural resources.⁹

Similarly, the Americas have also witnessed progress in the recognition of this right through the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social, and Cultural Rights, commonly known as the Protocol of San Salvador (1988), which entered into force in 1999. This protocol expanded the American Convention on Human Rights—also known as the Pact of San José, adopted by the Organization of American States (OAS) in 1969—to encompass economic, social, and cultural rights. Article 11 explicitly recognizes the right to a healthy environment as a human right in the Americas, affirming that everyone is entitled to live in a healthy environment and to access basic public services. To realize this right, this provision obliges states to promote, preserve, and improve the environment for the well-being of all.¹⁰

Furthermore, significant progress was achieved with the conclusion of two regional instruments on access to information, public participation in decision-making, and access to justice in environmental matters, stemming from Principle 10 of the Rio Declaration and enshrining the three key procedural environmental rights. The first is the Aarhus Convention, adopted under the auspices of the United Nations Economic Commission for Europe (UNECE) in 1998, which entered into force in 2001 and has been ratified by 48 countries across Europe and Central Asia (UNECE, 2025). Article 1 affirms the right of present and future generations to live in an environment adequate for their health and well-being, supported by three key pillars: public participation, access to environmental information, and access to justice.¹¹ The second is the Escazú Agreement (2018), adopted within the framework of the UN Economic Commission for Latin America and the Caribbean (ECLAC), which entered into force in 2021 and has been ratified by 18 states parties (UN, 2025). Article 1 recognizes the right to a healthy environment for present and future generations by guaranteeing access to information, public participation, and access to justice, while also promoting regional cooperation for sustainable development.¹²

The regional momentum expanded with other instruments. The Arab Charter on Human Rights, adopted by the Council of the League of Arab States in 2004, entered into force in 2008 and was ratified by Algeria in 2006. Article 38 links the right to a healthy environment with other substantive rights, such as food, clothing, housing, and essential services, placing it within the framework of human dignity and well-being¹³. Likewise, the ASEAN Human Rights Declaration (2012), adopted by the ten ASEAN member states (Association of Southeast Asian Nations), in Article 28(f), affirms that everyone is entitled to a safe, clean, and sustainable environment¹⁴. These regional instruments reflect the growing international consensus on the recognition of the right to a healthy environment. By contrast, the Charter of Fundamental Rights of the European Union (2000) does not explicitly recognize the right to a healthy environment under Article 37; however, it establishes a policy obligation for public authorities to integrate environmental protection into policymaking processes.¹⁵

1-2- Formal Recognition of the Right to a Healthy Environment

The formal recognition of the right to a healthy environment evolved through three key international resolutions. Human Rights Council resolution 19/10 (2012) marked the first step toward this recognition. Although it did not explicitly recognize this right as a stand-alone human right, it referred to the enjoyment of a safe, clean, healthy, and sustainable environment by appointing an independent expert for a three-year mandate to examine the related human rights obligations. The expert's tasks included studying and consulting with governments, international bodies, civil society, and others on human rights obligations connected to a safe, clean, healthy, and sustainable environment; identifying and sharing best practices to use human rights obligations in strengthening environmental policies; making recommendations to support achieving the Millennium Development Goals, especially Goal 7 (environmental sustainability); integrating human rights perspectives into the follow-up to the 2012 UN Conference on Sustainable Development; applying a gender perspective, coordinating with UN bodies and stakeholders; submitting annual reports with findings, conclusions, and recommendations to the Human Rights Council. This resolution thus introduced the first textual link between human rights and a safe, clean, healthy, and sustainable environment within the Human Rights Council framework, laying the foundation for formal recognition of this right.¹⁶

Building on this foundation, in its 48th session on 8 October 2021, the Human Rights Council adopted Resolution 48/13 (2021), which is regarded as the first document to explicitly recognize the right to a healthy environment. Article 1 affirms that the right to a clean, healthy, and sustainable environment is essential for the enjoyment of all human rights and highlights the connection of this right to other rights and existing international law, while Article 3 emphasizes that promoting this right requires the full implementation of multilateral environmental agreements in accordance with international environmental law principles. Furthermore, Article 4 calls on states to build capacities, enhance cooperation, share best practices, adopt supportive policies, and integrate human rights obligations into sustainable development goals (SDGs). The final articles invite the General Assembly to consider this right and reaffirm the Human Rights Council's commitment to monitoring and advancing its promotion and implementation.¹⁷

Following this, the UN General Assembly subsequently adopted Resolution 76/300 on 28 July 2022, representing the universal recognition of the right to a healthy environment. Similar to Articles q1 to 4 of the Human Rights Council resolution, Articles 1 to 4 of this resolution, respectively, recognize the right to a healthy environment as a key right for the enjoyment of human rights; highlight its relation to other rights and existing international law; affirm that this right requires the full implementation of multilateral environmental agreements under international environmental law principles; and call on states, international organizations, businesses, and other stakeholders to adopt policies, cooperate internationally, build capacity, and share best practices to ensure a clean, healthy, and sustainable environment for everyone. With this resolution, the right to a healthy environment has finally achieved universal recognition by the UN General Assembly, with 161 votes in favor, none against, and 8 abstentions.¹⁸

In summary, the formal recognition of the right to a healthy environment has developed gradually through major international conferences from 1972 to 2015, particularly the Stockholm

Conference (1972) and the Rio Summit (1992), which framed environmental protection as a central human concern. Over time, this right evolved from being a conceptual principle in international declarations to a legally recognized right in significant regional instruments, notably the African Charter on Human Rights (1981) and the Protocol of San Salvador (1988), among others. These milestones established the groundwork for its formal recognition at the global level. The UN Human Rights Council initiated this process through two resolutions: the 2012 Resolution, which served as the preliminary step by appointing an independent expert to link human rights with environmental protection, and the 2021 Resolution, which formally recognized this right. Subsequently, the 2022 UN General Assembly resolution granted it the universal recognition. This international evolution has, in turn, influenced many national constitutions, notably in Algeria, where environmental rights and duties have been progressively incorporated since independence.

2- Domestic Constitutionalization of the Right to a Healthy Environment:

Since independence, Algeria has adopted six constitutions, each reflecting the country's political, social, and economic development at different stages. This section examines how the right to a healthy environment has been addressed across these successive constitutions through both implicit and explicit constitutionalization.

2-1- Implicit Constitutionalization of the Right to a Healthy Environment

After independence, Algeria adopted its first Constitution in 1963. It primarily focused on defining the country's political and economic systems and did not include explicit provisions on environmental protection or the right to a healthy environment. However, Article 16, in the section on fundamental rights, stated that "Everyone has the right to a decent life and a fair distribution of national income". Since a decent life is hardly conceivable without a healthy environment, this article can be interpreted as an implicit reference to the right to a healthy environment, given that a healthy environment is an essential component of a decent life.¹⁹

Similarly, the 1976 Constitution did not include any explicit reference to environmental protection or the right to a healthy environment in the section on fundamental freedoms, human rights, and citizens' rights. Nevertheless, Article 67 in the same section states that "Every citizen has the right to healthcare. This right is guaranteed through the provision of public and free health services, the expansion of preventive medicine, the continuous improvement of living and working conditions, as well as the promotion of physical education, sports, and recreational activities." This provision can be interpreted as an implicit affirmation of the right to a healthy environment, since preventive healthcare, improved living and working conditions, and safe spaces for recreation are inherently linked to environmental well-being. Furthermore, Article 151, in the section related to the legislative authority's functions, provides additional relevance. Paragraph 22 includes the term "environment"; it stipulates that "the People's National Assembly has the power to legislate in the areas defined by the Constitution, including the general guidelines of regional development policy, the environment, quality of life, and the protection of animals and plants." This provision demonstrates that the Constitution granted the PNA the authority to enact laws concerning the protection of the environment and some of its components, namely animals and plants.

Accordingly, while not explicit, the 1976 Constitution indirectly supports the right to a healthy environment.²⁰

In the same manner as the former, the 1989 Constitution also did not explicitly mention the right to a healthy environment, but it can be implicitly linked to it through the provisions related to healthcare and work. Article 51 states that “healthcare is a right for all citizens, and the State shall ensure the prevention and combat of epidemic and contagious diseases.” Article 52 provides that “every citizen has the right to work. The law guarantees, during work, the right to protection, safety, and hygiene. The right to rest is guaranteed, and the law shall determine the conditions for its exercise.” The provisions of these two articles indirectly support the right to a healthy environment, as ensuring healthcare essentially requires disease prevention and clean surroundings, while guaranteeing the right to work involves providing safe and hygienic workplaces. Moreover, in the section concerning the legislative authority, this constitution reaffirmed the power of the legislative authority to enact laws related to environmental protection. Article 115 explicitly refers to the environment and certain of its components. It stipulates that the People’s National Assembly has the power to legislate in the areas granted to it by the Constitution, including general rules related to the environment and living conditions, as well as general rules concerning animal and plant resources. Together, these provisions represent an implicit constitutionalization of environmental conditions essential to health and well-being, while reaffirming the constitutional foundation for environmental protection and its specific components.²¹

Similar to the two previous constitutions, the 1996 constitution did not explicitly incorporate the right to a healthy environment. Nonetheless, it can be indirectly inferred from the provisions on healthcare and work, since a healthy environment is essential for the realization of these rights. Articles 54 and 55 reaffirm the same provisions as the earlier constitution with only a change in numbering. Both provisions implicitly support the right to a healthy environment by ensuring disease prevention, safeguarding public health, and guaranteeing safe and hygienic working conditions. In addition, Article 122, concerning the environmental legislation, significantly broadened the scope of matters entrusted to the People's National Assembly. It authorizes enacting laws covering a wide range of areas, including general rules on the environment, living conditions, and urban planning; the protection of animal and plant resources; the preservation of cultural and historical heritage; forests and rangelands; water resources; mines and hydrocarbons; and land property. This comprehensive scope highlights the increased constitutional emphasis on environmental protection in the 1996 constitution, extending to diverse environmental components such as air, water, land, biodiversity, forests, and even the balance between urban planning and nature.²²

The successive Algerian constitutions from independence until 1996 contained only implicit provisions relating to the right to a healthy environment, primarily through provisions ensuring the rights to a decent life, healthcare, and work. This evolution was influenced by international conferences, particularly the Stockholm Conference (1972) and the Rio Summit (1992), which introduced the principles of environmental rights, as well as the African Charter on Human and Peoples’ Rights (1981, ratified by Algeria in 1987), which gave these rights a binding character at the regional level. To remain aligned with subsequent UN environmental initiatives, most notably the Johannesburg Summit (2002), the Rio+20 (2012), and the UN Sustainable Development

Summit (2015), the Algerian legislator granted considerable importance to environmental protection and sustainable development, particularly through Law 03-10²³ on Environmental Protection within the Framework of Sustainable Development, alongside other related laws. Nevertheless, the absence of an explicit constitutional provision has limited the full realization of this right. Consequently, explicit constitutionalization has become a legal necessity, not only to ensure stronger and more effective protection of the environment at the domestic level, but also to harmonize Algeria's constitutional framework with evolving international commitments and regional obligations in the field of environmental rights.

2-2- Explicit constitutionalization of the right to a Healthy Environment

The 2016 Algerian constitution is regarded as the first constitution to explicitly incorporate the right to a healthy environment. In its preamble, it emphasized environmental preservation within the framework of sustainable development, declaring that “the Algerian people remain committed to their choices aimed at reducing social disparities and eliminating regional inequalities, while working to build a productive and competitive economy within the framework of sustainable development and environmental preservation.” In the section on State, Article 19 stipulates that “the State shall ensure the rational use of natural resources and their preservation for the benefit of future generations, and the State shall protect the agricultural lands.” Moreover, Article 68, in the section on rights and freedoms, introduced an explicit provision guaranteeing this right; it stipulates that “Every citizen has the right to a healthy environment. The state shall work to preserve the environment. The law defines the duties of natural and legal persons in protecting the environment”. In addition, Article 207, under the section on advisory bodies, expanded the mandate of the National Economic and Social Council, for the first time, to include the responsibility of evaluating the effectiveness of national bodies specialized in enhancing the value of research outcomes for the benefit of the national economy, all within the framework of sustainable development.²⁴

Taken together, the 2016 constitution marked a turning point in Algeria's constitutional framework by firmly linking the right to a healthy environment with the principles of sustainable development. It integrates environmental protection with socio-economic development and emphasizes institutional assessment to ensure effective implementation. Moreover, it highlights the State's pivotal role as the primary guarantor of this right, particularly through the rational use of natural resources to ensure intergenerational equity, as well as the preservation of agricultural land and water resources. For the first time, it formally enshrines the right to a healthy environment for every citizen in Algeria, while at the same time defining the duties of the State, entities, and citizens to preserve it.

Drawing on the 2016 Constitution, which first explicitly enshrined the right to healthy environment, the 2020 Constitution goes further. While reasserting in its preamble the Algerian people's commitment to reducing social disparities, eliminating regional inequalities, and building a productive and competitive economy within the framework of sustainable development, it also addresses growing concerns over environmental degradation and the negative impacts of climate change, thereby highlighting a collective commitment to protecting the natural environment, ensuring the rational use of natural resources, and preserving them for the benefit of future generations. In the section on fundamental rights and public freedoms, Article 64 essentially

reproduces the provisions of the 2016 Constitution —under new numbering—by explicitly affirming every citizen’s right to a healthy environment within the framework of sustainable development, while also defining the legal obligations of individuals and entities to actively contribute to environmental protection.²⁵

Compared to the 2016 Constitution, the 2020 Constitution significantly broadened the state’s commitment to environmental protection. Article 21 in the section on the State expanded the scope of obligations by intensifying efforts to protect agricultural lands, ensure a healthy environment, raise awareness of environmental risks, promote the rational use of water, fossil energy, and other natural resources, safeguard the environment in its terrestrial, marine, and atmospheric dimensions, and adopt appropriate measures to penalize polluters. Furthermore, in the section on advisory bodies, articles 209 and 210 extended the mandate of the former National Economic and Social Council by explicitly incorporating an environmental dimension and renaming it the National Economic, Social, and Environmental Council (NESEC). The council’s role was further strengthened to serve as a platform for dialogue and consultation on economic, social, and environmental matters; a framework for civil society participation in shaping sustainable development policies; an advisory body to the government and the President, offering proposals and recommendations; and an assessment and foresight entity, studying issues of national interest in economic, social, environmental, and educational fields.²⁶

In brief, the late constitutions of 2016 and 2020 represent the crucial stages in the explicit constitutionalization of the right to a healthy environment in Algeria. While the 2016 Constitution enshrined the right to a healthy environment within the principles of sustainable development, the 2020 constitution strengthened this right and went further by addressing environmental degradation and the impacts of climate change, expanding the states’ obligations to ensure environmental protection, as well as reinforcing the role of the National Economic, Social, and Environmental Council (NESEC) in guiding and supporting sustainable development. This progress highlights Algeria’s significant steps toward adapting its constitutional framework to current environmental challenges and fulfilling its commitments under the global Sustainable Development Agenda (SDGs)

Conclusion

The international recognition of the right to a healthy environment has evolved gradually, beginning with its conceptual affirmation, particularly in the 1972 Stockholm Conference and the 1992 Rio Summit declaration, and moving toward the regional recognition of this right in binding regional instruments such as the African Charter on Human and Peoples’ Rights (1981) and the Protocol of San Salvador (1988). This course of development culminated in the formal recognition through the UN Human Rights Council resolutions (2012, 2021) and the 2022 UN General Assembly resolution, which granted universal recognition to this right. These milestones have shaped the modern understanding of environmental protection, recognizing it as a fundamental human right and a key requirement for sustainable development.

Like many countries, Algeria’s constitutional framework has been influenced by the key milestones in the international recognition of the right to a healthy environment. The

constitutionalization of this right has progressed across the successive constitutions through two phases. The first, characterized by implicit constitutionalization, spanned from the adoption of the first constitution in 1993 until 1996, containing only indirect references to environmental rights through provisions on the rights to decent living, health, and work. The second phase, marked by the explicit constitutionalization, began with the adoption of the 2016 Constitution, which for the first time enshrined the right to a healthy environment and firmly connected it to the principles of sustainable development. On this basis, the 2020 Constitution not only reaffirmed this right within the framework of sustainable development but also addressed some pressing environmental challenges, including climate change, environmental degradation, and the rational use of natural resources. It further strengthened the role of the state in environmental protection and expanded the mandate of the National Economic, Social, and Environmental Council (NESEC) in shaping sustainable development policies.

Together, these reforms reflect Algeria's commitment to enshrining the right to a healthy environment in its constitution, while aligning domestic legislation with contemporary environmental challenges and the Sustainable Development Goals (SDGs).

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