

The Human Rights Council as a Mechanism for the Recognition of the Right to a Safe Environment

مجلس حقوق الانسان كآلية لضمان الحق الإنساني في بيئة آمنة

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Date of submission:16/10/2025 Date of final acceptance:29/03/2026 Date of publication :Mars 2026

Abstract:

The human right to a safe environment is one of the relatively recent and emerging concepts that has garnered increasing attention from the international community. This attention has not arisen in a vacuum; rather, it reflects a broader evolution in the recognition of individual rights and freedoms, alongside a growing awareness of the need to affirm and protect the right to a healthy environment. While the primary responsibility for environmental protection lies with the United Nations General Assembly, the Human Rights Council has been entrusted with safeguarding human rights more broadly and, in particular, with addressing environmental concerns. As such, the Council has progressively demonstrated its commitment to the recognition of the environmental right, as well as to ensuring its safety and sustainability, through a series of resolutions adopted since its establishment.

Keywords:

Right to the Environment; Human Rights Council; Human Rights; Environment; Special Procedures.

ملخص:

إن حق الإنسان في البيئة هو أحد المفاهيم الحديثة التي حظيت باهتمام متزايد من المجتمع الدولي في العصر المعاصر، وهذا لاهتمام لم ينشأ في فراغ بل إنه يعكس تطورا أوسع نطاقا في الاعتراف بالحقوق الحريات الفردية، إلى جانب الوعي المتزايد للحاجة إلى التأكيد على الحق في بيئة صحية وحمايته، وفي حين أن حماية البيئة تقع على عاتق الجمعية لعامة للأمم المتحدة، فقد عهد إلى مجلس حقوق الإنسان حماية حقوق الإنسان بشكل، ومعالجة المسائل البيئية بشكل خاص وعليه فقد أظهر لمجلس تدريجيا التزامه بالاعتراف بالحق لبيئي، فضلا عن ضمان سلامته واستدامته، خلال سلسلة من القرارات التي اتخذت منذ إنشائه. الكلمات المفتاحية: الحق في البيئة؛ مجلس حقوق الإنسان؛ حقوق الإنسان؛ البيئة؛ الإجراءات الخاصة.

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Introduction:

The right to a clean, safe, and healthy environment is among the most fundamental environmental human rights advocated by international conferences, enshrined in various international legal instruments, and incorporated into domestic legal systems. Owing to its universality and international legal status, this right has drawn and continues to draw the attention of the global community. Given the essential need for every individual to live in an environment that safeguards their human dignity, the necessity of adopting effective mechanisms for the domestic and international protection of this right has become increasingly evident.

At the national level, most legal systems around the world have recognised and guaranteed the right to a clean, safe, and sustainable environment within their domestic legislation. On the international plane, the United Nations has issued multiple declarations, convened key conferences, and adopted numerous treaties, in addition to establishing subsidiary bodies such as the Human Rights Council. Prior to 2006, this body functioned merely as a limited commission under the Economic and Social Council. Today, however, it plays a pivotal role in shaping global policy for the protection and promotion of human rights and fundamental freedoms, both internationally and domestically. Through its institution-building mechanisms particularly the special procedures it has assumed responsibility for protecting human rights in general, and environmental rights in particular, by means of reports and resolutions adopted either by special rapporteurs or the Council itself.

This study aims to provide a practical analysis of the Human Rights Council's resolutions on environmental protection at the international level, assessing the effectiveness of its recommendations in affirming the right to a healthy environment. By examining the significance of environmental rights and their dual protection at both the domestic and international levels alongside the emerging role of the Human Rights Council as a key factor in environmental governance this research addresses the central question: To what extent are the resolutions of the Human Rights Council sufficient to affirm the human right to a safe and healthy environment?

To answer this question, a descriptive and analytical methodology is employed, involving a review and interpretation of relevant agreements and legal frameworks that explicitly acknowledge and protect the right to a healthy environment.

Section I: The International Community's Commitment to Recognising the Environmental Right

Despite the existing doctrinal divergence and jurisprudential debate surrounding the precise definition of the right to a healthy environment whether it should be regarded as an individual right per se or as a collective entitlement encompassing all of humanity this right has nonetheless gained significant international, regional, and domestic recognition. Such recognition is evident in various treaties and legal instruments adopted under the auspices of the United Nations, regional frameworks, and the incorporation of this right into the domestic legislation of the majority of states worldwide.

A) subtitle: International Recognition of the Human Right to a Healthy Environment

The right of every person to live in a safe, clean, healthy, and sustainable environment has garnered broad international and regional endorsement. This support aims to reinforce the legitimacy of this right and to promote its observance across legal systems. Internationally, the United Nations has recognised this right through multiple instruments adopted by the General Assembly; regionally, it has been enshrined in a number of human rights conventions and charters. In addition, numerous other relevant treaties too numerous to detail in full have implicitly acknowledged this right within their provisions. Among the most notable of these instruments are

the Universal Declaration of Human Rights (1948), the International Covenant on Civil and Political Rights (1966), and the Nairobi Declaration (1982), among others.

1- The Environmental Right within the United Nations Framework

The United Nations, in its efforts to safeguard environmental integrity and enshrine the human right to a clean, healthy, and sustainable environment, has adopted a wide array of international and regional instruments including declarations, conferences, charters, and conventions as well as a number of General Assembly resolutions that merit particular attention. Due to the considerable volume of instruments affirming this right, the most significant among them are highlighted below:

– The 1972 Stockholm Declaration on the Human Environment:

This declaration is regarded as the first to formally advocate for the right to a healthy environment as a cornerstone of human dignity and sustainable development. This was clearly articulated in both the preamble and the 26 principles it laid out. One of the key outcomes of this declaration was the establishment of the United Nations Environment Programme (UNEP), marking the first global institutional response to environmental issues. The Stockholm Declaration is often referred to as the "Universal Declaration on the Environment" for its pioneering role in promoting environmental awareness and advancing the global environmental agenda.¹

– The World Charter for Nature (28 October 1982):

This Charter reaffirmed that the right to a healthy environment constitutes one of the fundamental human rights, ensuring a standard of living that upholds human dignity and well-being. Conversely, it also imposes on individuals a duty to protect the environment, preserve it, and guarantee its sustainability for future generations, as set out in Article 1 of the Charter.²

– The Report of the World Commission on Environment and Development (1987) "Our Common Future":

This report, also known as Our Common Future, proclaimed in its first principle the right to a safe, healthy, and sustainable environment. It affirms that: All human beings have a fundamental right to an environment adequate for their health and well-being, and States must maintain the use of environmental and natural resources for the benefit of present and future generations.³

– The Aarhus Convention (1988):

Although this convention is regional in nature and primarily applies within the European system, it is nonetheless considered a treaty of global significance. It enshrines procedural environmental rights with universal applicability, including the right of the public to access environmental information, participate in environmental decision-making processes, and seek judicial remedies in environmental matters. These procedural rights are foundational to the broader human right to the environment; enabling individuals to remain informed and aware of the environmental conditions and risks they face.⁴

– The United Nations Convention on the Rights of the Child (1989 Children Version):

Article 24 of this Convention, titled Health, Water, Food and Environment, recognises every child's right to live in a clean, safe, and pollution-free environment, and to benefit from proper care and healthy nutrition. Articles 23 and 27 further affirm the environmental right by recognising the

child's right to a dignified life, particularly in the case of children with disabilities, and the right to an adequate standard of living necessary for their development. The Convention also mandates States to implement these rights to the maximum extent of their available resources.⁵

– **The First Earth Summit – The United Nations Conference on Environment and Development (Rio de Janeiro, 1992):**

This landmark conference adopted the Rio Declaration on Environment and Development, in which Principle 1 affirms the human right to a safe, healthy, and sustainable environment. Principle 10 sets out a core component of environmental rights: the right to access information, participate in decision-making, and raise environmental awareness. These provisions emphasise the importance of public engagement and environmental education as essential pillars for the realisation of environmental rights.⁶

2- The Environmental Right in Regional Instruments

The right to a healthy environment has also received notable attention within regional legal frameworks, including those of Europe, the Americas, Africa, Asia, and the Arab region. This right represents a fundamental issue of global concern and reflects the aspiration to adopt and entrench it regionally, while simultaneously affirming its universal and international legal character.

– **The European Conference on the Conservation of Nature (1970):**

Held in Strasbourg, this conference laid the foundation for the recognition of the human right to the environment within the European system. It affirmed that the right to a healthy environment is among the basic human rights to which every person is entitled.⁷

– **Joint Conference of the International Institute of Human Rights and the European Policy Institute of Human Rights (1979):**

This conference explicitly recognised the right to a pollution-free environment, stating that: The right to an unpolluted environment is henceforth to be considered a human right. The statement underscores the need to institutionalise and internationalise this right through global advocacy and the inclusion of environmental protections in both international treaties and regional legal systems particularly the European framework.⁸

– **First Arab Ministerial Conference on Environmental Considerations in Development – Tunis Declaration (13–15 October 1986):**

This conference reaffirmed the environmental principles of the Stockholm Declaration and the World Charter for Nature. It recognised that the right to live in a clean and safe environment free from pollution is a fundamental human right, while also imposing on individuals a duty to protect and preserve the environment for future generations.⁹

– **The African Charter on Human and Peoples' Rights (1981):**

Article 24 of the Charter enshrines the right of all peoples to a general satisfactory environment favourable to their development, free from all forms of danger and degradation, without discrimination or disparity in enjoyment.

– **The Additional Protocol of San Salvador to the American Convention on Human Rights (1988):**

This protocol was adopted to supplement the original 1969 Convention by addressing gaps in the area of environmental protection. Article 11 recognises, in its first and second paragraphs, the human right to a healthy environment and affirms the duty of States Parties to protect and improve it to ensure a liveable and sustainable setting.

– **The Cairo Declaration on Human Rights in Islam (1990):**

Article 17(a) of this declaration provides for the right of every individual to a clean environment free from pollution and moral degradation. It further calls on States to guarantee this right through all available means at the national level.¹⁰

– **The Protocol on the Rights of Women in Africa (2003) – Annexed to the African Charter:**

This protocol affirms the fundamental rights of women, including their right to benefit from a safe and sustainable environment. Recognising women as a vulnerable group, the protocol safeguards their environmental rights in accordance with relevant international and regional instruments.¹¹

– **The Arab Charter on Human Rights (2004):**

Article 38 of the Charter includes a set of social rights, notably the right to a safe environment free from waste, pollution, and environmental hazards. It also obliges States Parties to adopt the necessary means to guarantee and implement these rights, including the right to a healthy environment.¹²

– **The ASEAN Human Rights Declaration (2012):**

Adopted in Cambodia during the 21st ASEAN Summit, this declaration reaffirms the principles of the 1998 Asian Human Rights Charter. Article 28 provides that: Every person has the right to an adequate standard of living for himself and his family, including: (f) the right to a safe, clean and sustainable environment.¹³

B) subtitle: Domestic Recognition of the Human Right to a Healthy Environment

Most national legislations around the world have not deviated from what has been established in international conferences and treaties with regard to the human right to the environment particularly after the convening of the Stockholm and Rio Conferences, which marked the true beginning of recognising and entrenching this right in domestic legal systems.

1- The Environmental Right in Arab Legislation:

There is no doubt that most -if not all- Arab societies were historically subject to colonial ambitions and exploitation by Western powers. This has had a direct and tangible impact on environmental degradation, due to war, nuclear experimentation, and radiation, leading to pollution and climate change that continue to affect individuals and communities. In response to these consequences, and in an effort to contain and remedy the associated risks, Arab states have placed environmental issues at the forefront of their national strategies. While still in the phase of constructing the foundations of sustainable development, these states have begun to link development objectives with the notion of environmental rights. The legal systems of Algeria and Egypt are particularly illustrative of this trend, while many other Arab nations in Africa and Asia

have recognised the human right to a clean and pollutant-free environment, ensuring its sustainability for both current and future generations.

– **The Algerian Legal Framework:**

Like other Arab countries, Algeria has enshrined environmental protection and the right to a healthy environment within its domestic legislation. One of the most prominent rights is the right to access environmental information and to participate in environmental decision-making an essential pillar of the right to a safe and healthy environment. Although previous Algerian constitutions did not explicitly recognise this right, they implicitly acknowledged it through certain provisions. For instance, Article 16 of the 1963 Constitution guaranteed each individual the right to an adequate standard of living a notion inherently tied to environmental well-being. Article 151 of the 1976 Constitution and subsequent provisions in the 1996 Constitution authorised the National People's Assembly to enact laws on environmental protection, biodiversity, cultural heritage, and forestry reflecting the legislature's intent to develop a comprehensive framework for environmental protection, influenced by the 1972 Stockholm and 1992 Rio Declarations.

The 1989 and 1996 Constitutions witnessed an expansion in the concept of environmental protection, particularly with the emergence of human rights organisations such as the National Human Rights Observatory and the Algerian League for the Defence of Human Rights. The 2016 constitutional amendment marked a turning point, explicitly recognising the human right to a healthy environment under Article 68. This was reaffirmed in the 2020 constitutional amendment under Article 64, which mobilised state resources to guarantee this right and uphold core environmental principles, including the precautionary principle, the polluter-pays principle, public participation and access to information, biodiversity protection, and environmental and water security.¹⁴

At the legislative level, Algerian environmental law often implicitly recognises this right. This is evident in Law No. 03-10 (Articles 2, 7, 8, and 9), Executive Decrees 91-177 and 91-178 relating to land-use planning, Articles 2, 32, and 34 of Law No. 01-19 on waste management, the Local Authorities Law under Articles 11, 18, 31, and 32 of Municipal Law No. 10-11 and Provincial Law No. 12-07, in addition to provisions of Law No. 12-05.¹⁵

– **The Egyptian Legislation:**

The Egyptian legislator explicitly affirmed the human right to a suitable environment beginning with the 2007 constitutional amendment. Article 16 of this amendment stipulates that the state guarantees the requirements of welfare through the provision of cultural, social, and health services. Prior to this, the 1971 Constitution, albeit implicitly, incorporated environmental protections within its recognition of social rights, refining the principles previously established in the 1956 Constitution. These rights were regarded as fundamental tenets of Egyptian society and were allocated a dedicated chapter (Chapter Two) within the constitutional framework, reflecting their elevated status in comparison with other legal norms.

Notably, prior to the 2007 amendment, the Egyptian Supreme Constitutional Court had recognised the human right to life in its landmark decision issued on 15 June 1996 in Case No. 49.¹⁶ The 2007 Constitution reaffirmed this recognition of the right to a healthy environment, placing it under Chapter Three on public rights, freedoms, and duties. Article 59 therein states: "The protection of the environment is a national duty, and the law shall regulate the necessary measures for preserving a proper environment".¹⁷

The 2014 constitutional amendment marked a further evolution in the constitutional treatment of environmental rights. A series of articles 43 to 46 address various environmental concerns, ranging from the protection and development of the Suez Canal as an international

waterway, to the safeguarding of the Nile River as a vital environmental and water resource. These provisions also ensure citizens' rights to benefit from the river (e.g., fishing, irrigation), commit the state to protect seas, coasts, water passages, and nature reserves, and culminate in Article 46 which explicitly declares: "Every individual has the right to a healthy and sound environment. Protecting the environment is a national duty requiring its preservation, the prevention of harm thereto, and the rational exploitation of natural resources to ensure their sustainability for future generations".¹⁸

– **Legislation in Other Arab States:**

Arab legal systems vary in their recognition of the right to a healthy environment. Some constitutions provide explicit and direct recognition, while others adopt a more implicit or indirect approach. The Tunisian Constitution is one of the most progressive in this regard, elevating environmental rights to a quasi-constitutional status, rendering them immune from amendment, and framing them as part of the core human rights acquis.¹⁹ The 2005 Iraqi Constitution also explicitly recognises environmental rights under Article 33, which states that "every individual has the right to live in safe environmental conditions. Similarly, Article 13 of the Sudanese Constitution provides that the state shall promote public health and protect and preserve the environment and its natural balance in pursuit of public safety and sustainable development."²⁰ The 2011 Moroccan Constitution affirms the right of citizens to a clean environment and sustainable development.²¹

Conversely, several other Arab constitutions indirectly refer to environmental rights. The 1996 Constitution of the United Arab Emirates, for example, addresses public health in Article 19, stating that the community shall provide citizens with preventive and curative healthcare. Similarly, Article 8 of the 2001 Constitution of the Kingdom of Bahrain guarantees every citizen the right to healthcare, and mandates state responsibility for public health.²² The Basic Law of the Sultanate of Oman, promulgated by Royal Decree No. 101/96 on 6 November 1996, affirms in Article 12 that the state is committed to public health, disease prevention, and environmental protection, explicitly stating that the state shall strive to safeguard the environment and prevent its pollution.²³

2- The Environmental Right in Non-Arab Legislations:

Undoubtedly, non-Arab states especially those that are industrialised and developed have long been pioneers in environmental protection, and in adopting the notion of the human right to a safe, clean and healthy environment. Following the Stockholm Conference of 1972, many countries promptly incorporated the concept of the environmental right into their constitutions.

Among the countries that have explicitly enshrined in their legislation the human right to a suitable, sound, and pollution-free environment, as well as the need to preserve and sustain it for future generations, are the following:

Hungary in Article 67 of its 1972 Constitution,²⁴ The Philippines in Article 23 of its 1973 Constitution, Portugal in Article 66(1) of its 1975 Constitution, Spain in Article 45 of its 1978 Constitution, South Korea in Article 35 of its 1978 Constitution, Venezuela in Article 23 of its 1978 Constitution, Guinea in Article 19 of its 1984 Constitution, Finland in Article 20 of its 1999 Constitution, South Africa in Article 24, paragraphs 1 and 2, Turkey in Article 56, Mexico in Article 4, Argentina in Article 41, Slovenia in Article 56, The Islamic Republic of Iran in Article 50, The Republic of Benin in Article 24 of its 1990 Constitution,²⁵ France through its 2005 Environmental Charter specifically Article 1.²⁶

These examples illustrate that many constitutions across the world have adopted a constitutional framework that affirms the environmental right as a legal entitlement. Such provisions are often linked to broader commitments towards intergenerational equity, sustainability, and environmental justice.²⁷

Section II: The Environmental Right within the Framework of the Human Rights Council

The subject of the environment in general and the human right to a healthy environment in particular has received significant attention on the agenda of the Human Rights Council, as it had previously within the programme of the former Commission on Human Rights. However, during the era of the Commission, the environmental right was addressed in a rather implicit and indirect manner. In contrast, its successor the Human Rights Council has explicitly and directly acknowledged the human right to a clean, safe, healthy, and sustainable environment. This recognition has largely been achieved through the effective use, in our view, of the Special Procedures mechanism, both in the form of Council resolutions and reports issued either by the Council itself or by the Independent Expert or the Special Rapporteur on Human Rights and the Environment.

A) subtitle: The Impact of the HRC's Special Procedures Mechanism in Recognising the Environmental Right

Before examining the environmental right and the role played by the resolutions of the Human Rights Council in its affirmation, it is necessary to first address the Council's working mechanisms, particularly the procedures outlined in the Institution-Building Package of the Council. Specifically, the Council relies heavily on the Special Procedures mechanism, which it inherited from the former Commission on Human Rights. Under this mechanism, the Council appoints independent experts or special rapporteurs mandated either to assess the human rights situation in specific countries referred to as country mandates or to address specific themes referred to as thematic mandates.

There is no doubt that the efforts of John H. Knox, the former Special Rapporteur, and David R. Boyd, the current Special Rapporteur on human rights and the environment, both appointed by the Council to address human rights obligations relating to the enjoyment of a safe, clean, healthy, and sustainable environment, have significantly contributed to explicitly affirming the environmental right and promoting its recognition across all levels. Their work is manifested through the numerous reports they have submitted upon the Council's request.

In addition, other Special Rapporteurs whose mandates touch on environmental issues albeit implicitly have also contributed to the advancement of this right. These include, for example, the Special Rapporteur on the promotion and protection of human rights in the context of climate change and the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes.

Below is a selection of thematic and country-specific reports submitted by the aforementioned Special Rapporteurs:

1- The Mandate of the Special Rapporteur on Human Rights and the Environment:

The first mandate dedicated to the protection of the human right to a healthy environment was assigned to the Independent Expert Mr. John H. Knox, who was appointed in 2012 by Human Rights Council Resolution No. 10/19 for a three-year term. His mandate was later renewed in 2015 by Resolution No. 11/28, and upon its conclusion in 2018, Mr. David R. Boyd was appointed as the current Special Rapporteur on Human Rights and the Environment by Resolution No. 37/8.²⁸ Both mandate holders were tasked with addressing the human rights obligations related to the enjoyment of a safe, clean, healthy, and sustainable environment. Each of them significantly contributed to the recognition of this right through the various reports submitted during their respective mandates, as illustrated in the following reports:

- Concerning the Former Independent Expert and Special Rapporteur:

In his initial report A/HRC/22/43, Mr. Knox referred to Resolution 10/19 of the Council which mandated him to examine human rights obligations related to the enjoyment of a safe, clean, healthy, and sustainable environment. He outlined his duties, which included advocating for international recognition of this right and presenting periodic reports to the Council containing findings and recommendations. He also indicated that his mandate officially began on 1 August 2012.

In the same report, Knox affirmed his reliance on broad consultations that extended beyond states to include international organisations, civil society, human rights institutions, and experts in both human rights and environmental matters. He also employed various methodologies including the use of questionnaires, all aimed at advancing the recognition of the human right to a healthy environment.

He described environmental rights as among the latest additions to the human rights framework, asserting that both national legislators and the drafters of the Universal Declaration of Human Rights were aware that environmental rights were implicitly embedded therein. The growing environmental crises (such as marine pollution, ozone depletion, and climate change) motivated the adoption of environmental protection laws and international agreements.

As for the constitutional enshrinement of environmental rights, Knox cited Portugal as the first country to constitutionally recognise the right to a healthy environment. He also referred to other states that have incorporated environmental rights such as the right to access environmental information and to participate in environmental decision-making. Furthermore, he cited regional human rights systems that have recognised environmental rights, including the 1988 African Charter on Human and Peoples' Rights, the Additional Protocol to the American Convention on Human Rights, the ASEAN Human Rights Declaration, and the Aarhus Convention. He also emphasised that the 1972 Stockholm Declaration was the first instrument to expressly enshrine the human right to a healthy environment.²⁹

In his report A/HRC/25/53, Knox described consultations held in Asia and Europe and summarised the results of surveys conducted among governments, human rights organisations, and civil society on various substantive and procedural rights and obligations. These included the rights of vulnerable groups and the integration of human rights and environmental standards into international institutions. He collaborated with the United Nations Environment Programme and the OHCHR to develop an inter-agency programme aimed at identifying and disseminating good practices regarding the use of human rights obligations to protect the environment.³⁰

Report A/HRC/25/53/Add.1 details "Knox's" country visit to Costa Rica from 28 July to 1 August 2013, during which he assessed the state's practices in implementing human rights obligations related to environmental protection, identified best practices, and evaluated challenges in realising such rights.³¹

In report A/HRC/28/61, he discussed good practices adopted by governments, international organisations, civil society actors, and businesses in fulfilling environmental human rights obligations. These included procedural duties such as disseminating environmental information, facilitating public participation in environmental decision-making, and ensuring access to environmental justice.³²

In his final 2018 report, marking the end of his mandate as Special Rapporteur, Knox introduced a set of principles known as the "Framework Principles on Human Rights and the Environment", comprising 16 principles that focused on both procedural and substantive obligations

of states in ensuring the human right to a healthy environment, as well as specific obligations relating to vulnerable groups.³³

- The Mandate of the Current Special Rapporteur:

The current Special Rapporteur, David R. Boyd, has produced a series of reports that substantively contributed to the recognition of the human right to a safe, clean, healthy, and sustainable environment. His first thematic report, numbered A/73/188 and dated 25 October 2018, was co-authored with his predecessor, John H. Knox, and addressed the issue of universal recognition of this right.

In his subsequent report, numbered A/HRC/40/55, Boyd affirmed that the majority of States recognise the right to a healthy environment through their constitutions, national legislations, and by virtue of their accession to various regional treaties. However, despite its wide normative and practical significance, the right to a healthy environment had yet to receive universal recognition at the international level. Boyd further emphasised the right to breathe clean air as a core component of this right, and provided a set of recommendations to States for integrating air quality measures into national action plans.³⁴

During his country visit to Fiji, which took place from 7 to 18 December 2018 at the invitation of the Fijian government, Boyd assessed the extent to which the country fulfilled its human rights obligations with direct relevance to the environment. He identified best practices and reviewed the environmental challenges Fiji faces. These findings were presented in report A/HRC/43/53/Add.1 submitted to the Human Rights Council.³⁵

In the related report A/HRC/43/53, he addressed the good practices adopted by States for recognising the environmental right, urging States to implement procedural (access to information, public participation, access to justice and remedy) and substantive elements (clean air, safe climate, adequate water, healthy food, etc.) of this right. He called for the accelerated dissemination of these practices as an essential measure for strengthening the protection of human rights.³⁶

In light of the global outbreak of the COVID-19 pandemic in 2020, Boyd prepared his annual report numbered A/75/161 and submitted it to the General Assembly. In this report, he underscored that States have a pressing obligation to take urgent action to preserve, protect, and restore the biosphere, to safeguard ecosystems and biodiversity, and to ensure their sustainable use. These are vital components of the human right to a healthy environment.³⁷

In relation to other rights connected to the environmental right, Boyd's report A/HRC/46/28 highlighted that the provision of safe and sufficient water constitutes a fundamental component of the human right to a healthy environment. He called upon States to comply with both procedural and substantive obligations in this respect and urged relevant institutions to contribute to and support efforts aimed at ensuring universal access to safe and sufficient water.³⁸

Regarding the connection between healthy and sustainable food systems and the human right to a healthy environment, Boyd's report A/76/179 submitted to the General Assembly outlined that sustainable and nutritious food is among the essential elements of the right to a safe, clean, healthy, and sustainable environment. To guarantee this right, he urged States to adhere to procedural and substantive obligations. Furthermore, he outlined a set of good practices that reduce greenhouse gas emissions, improve air quality, limit water use, restore soil health, protect biodiversity, and reduce the reliance on pesticides, fertilisers, and antibiotics.³⁹

2- The Mandate of Other Special Rapporteurs Concerned with Environmental Issues:

The term "other special rapporteurs concerned with environmental issues" refers to the Special Rapporteur on Climate Change, the Special Rapporteur on the implications for human rights

of the environmentally sound management and disposal of hazardous substances and wastes, and the Special Rapporteur on the human right to safe drinking water, who also deserves particular attention.

– **The Mandate of the Special Rapporteur on Climate Change:**

By virtue of Human Rights Council Resolution, No. A/HRC/RES/48/14, adopted on 13 October 2021, the Council announced the establishment of a Special Rapporteur on the promotion and protection of human rights in the context of climate change.⁴⁰ At its 49th session held in March 2022, the Council appointed Mr Ian Fry as the first Special Rapporteur, with his mandate beginning on 1 May 2022.⁴¹ According to the resolution, the Rapporteur is tasked with:

- Studying and identifying how the adverse effects of climate change, including both sudden and slow-onset disasters, affect the full and effective enjoyment of human rights, and making recommendations on how to address and prevent these adverse impacts.
- Raising awareness of the human rights implications of climate change, particularly the rights of individuals living in developing countries that are particularly vulnerable to climate change, identifying ongoing challenges, including financial obstacles, in the efforts of states to promote and protect human rights while simultaneously addressing the negative effects of climate change, and making recommendations on how to integrate human rights into climate change policies, Conducting country visits and promptly responding to official invitations from states.
- Coordinating closely with other special rapporteurs, especially those focused on human rights and the environment, hazardous substances and wastes, and the human right to safe drinking water.
- Submitting annual reports to the Human Rights Council and the General Assembly following his appointment.⁴²

– **The Mandate of the Special Rapporteur on Human Rights and Hazardous Substances and Wastes:**

In 1995, the former Commission on Human Rights established this mandate to investigate the human rights implications of exposure to hazardous substances and toxic wastes, including issues related to the illicit traffic and use of such substances during conflicts. The mandate was later renewed by the Human Rights Council under Resolution A/HRC/RES/45/17 (2020), which led to the appointment of Mr Marcos Orellana as Special Rapporteur on toxics and human rights in August 2020.⁴³

Under this resolution, the Rapporteur is mandated to continue providing detailed and updated information on the harmful impacts that may result from the improper management and disposal of hazardous substances and wastes in relation to the full enjoyment of human rights. This includes:

- The adverse effects on vulnerable persons and groups, including Indigenous Peoples.
- The interaction between science and policy regarding the risks associated with the life cycle of hazardous substances and wastes, including risks to the right to freedom of expression (which encompasses the freedom to seek, receive and impart information) and the right to enjoy the benefits of scientific progress.
- Developments, gaps, and deficiencies in the effectiveness of international regulatory mechanisms concerning hazardous substances and wastes and their impact on the enjoyment

of human rights, including issues emerging from the management and disposal of chemicals and wastes.

- Human rights concerns relating to all business enterprises, whether transnational or otherwise, in connection with the environmentally sound management and disposal of hazardous substances and wastes.⁴⁴

Among the key reports produced under this mandate is the one prepared by former Special Rapporteur "Baskut Tuncak" on 20 July 2017 (A/HRC/36/41), which introduced guiding principles for good practices in fulfilling human rights obligations associated with the environmentally sound management and disposal of hazardous substances and wastes. These guidelines aim to assist states, businesses, civil society, trade unions, and other stakeholders in addressing key issues arising from human rights violations linked to toxic substances. The report does not purport to present an exhaustive compendium of the practices of state and non-state actors, given the dynamic nature of approaches to this matter and the limited space available for elaboration.⁴⁵

Another notable report by the same Rapporteur is dated 3 August 2018 (A/HRC/39/48), in which he focused on the plight of workers affected by occupational exposure to toxic and hazardous substances across the globe. In this report, he proposed a set of principles intended to assist states, businesses, and other stakeholders in respecting and protecting the rights of workers exposed to such risks, including measures for redress and compensation.⁴⁶

The most recent report was submitted by the current Special Rapporteur, Marcos Orellana, to the General Assembly on 28 July 2022 under reference A/77/183, in accordance with Resolution 45/17. In this report, he highlights the severe effects of hazardous and toxic substances on the human rights of Indigenous Peoples. He outlines the devastating consequences of mining, oil and gas extraction, toxic pesticide spraying, hazardous waste dumping, and military activities on the health and rights of Indigenous Peoples. Every aspect of their lives, lands, water, food, wildlife, and plants is affected by contamination. The report concludes with recommendations on how to address these harmful impacts, including the interpretation of legal instruments on chemicals and waste in light of the United Nations Declaration on the Rights of Indigenous Peoples.⁴⁷

B) subtitle: Human Rights Council Resolutions Affirming the Right to a Healthy Environment

The Human Rights Council, as a modern institutional mechanism and previously the Commission on Human Rights has demonstrated a growing concern for environmental rights, as evidenced by numerous resolutions issued over time. Most of the Commission's resolutions implicitly and indirectly referred to the human right to a healthy environment. In contrast, its successor, the Human Rights Council, has adopted resolutions which at times explicitly affirm this right, while on other occasions addressing it more indirectly.

1- Recognition of the Environmental Right under the Former Commission on Human Rights:

The Commission on Human Rights began addressing environmental issues in general, and the right to a healthy environment in particular, through a series of resolutions relating to the transboundary movement and disposal of hazardous and toxic waste (see Resolution 1989/42). The Commission also adopted its first resolution entitled Human Rights and the Environment in 1994, followed by several other resolutions on the same subject, including Resolution 1994/65,⁴⁸ and Resolution 1995/14, which established the mandate of the Special Rapporteur on the adverse effects of the illicit movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights. The Commission also appointed a Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, a title that was later changed to the Special Rapporteur on the Rights of Indigenous Peoples.⁴⁹

In 2002, coinciding with the World Summit on Sustainable Development, the Commission adopted resolutions on human rights and the environment as part of sustainable development, notably Resolution 2002/75. During its 59th session in 2003, the Commission indicated that environmental protection and sustainable development may contribute to the well-being of humanity and the potential enjoyment of human rights. It further noted that environmental harm may have negative implications for the enjoyment of certain human rights.⁵⁰

In Resolution 2005/69, adopted in 2005, the Commission requested the UN Secretary-General to appoint a Special Representative on the issue of human rights and transnational corporations and other business enterprises. Following this appointment, the Representative conducted various studies, including one examining the environmental impacts of corporate activities. The findings highlighted the significance of environmental and social impact assessments across various industries.⁵¹

2- The Acknowledgement of the Environmental Right under the Human Rights Council:

Since its establishment in 2006 as the successor to the former Commission on Human Rights, the Human Rights Council has paid significant attention to the human right to a healthy environment. Its resolutions have addressed a wide range of issues linked to environmental matters, particularly climate change, the right to safe drinking water and sanitation, indigenous peoples' rights, sustainable development, and the responsibilities of transnational corporations with regard to human rights. These areas constitute essential dimensions of the broader framework of the human right to a healthy environment.

– Climate Change:

The issue of climate change has been a recurring theme in most of the Council's resolutions, given its intrinsic link to the right to a healthy environment. For instance, Resolution A/HRC/RES/46/7 explicitly referenced the Paris Agreement adopted under the United Nations Framework Convention on Climate Change. Its preamble recognised that when addressing climate change, States must respect, promote, and consider their respective human rights obligations, including the right to health, the rights of indigenous peoples, local communities, migrants, children, persons with disabilities, those in vulnerable situations, and the right to development, in addition to gender equality, women's empowerment, and intergenerational equity.⁵²

Similarly, Resolution A/HRC/48/L.23/Rev.1 stressed that the impacts of climate change, unsustainable natural resource management, and poor governance of chemicals and waste, along with biodiversity loss and the degradation of ecosystem services, can significantly undermine the enjoyment of a safe, clean, healthy, and sustainable environment. The resolution further emphasised that environmental harm may directly or indirectly affect the enjoyment of all human rights.⁵³

– The Right to Safe Drinking Water and Sanitation:

In its Resolution A/HRC/RES/51/19 adopted on 6 October 2022, the Human Rights Council reaffirmed the recognition of this right as essential for the full enjoyment of life and all human rights, referencing UN General Assembly Resolution 64/292. It reiterated that States, within their available resources, bear the primary responsibility to realise this right, which also corresponds to Goal 6 of the Sustainable Development Goals (SDGs), as set out in General Assembly Resolution 70/1 entitled "Transforming our world: the 2030 Agenda for Sustainable Development." Moreover, the Council highlighted the importance of the 2023 UN Water Conference, held from 22 to 24 March, under the theme "Water for Sustainable Development," aimed at accelerating progress on internationally agreed water-related goals and targets, including those under the 2030 Agenda.⁵⁴

– **Human Rights and Transnational Corporations:**

Resolution 11/40, adopted on 21 March 2019, recognised the essential role played by environmental human rights defenders in promoting human rights, environmental protection, and sustainable development. The Council urged all States to take necessary measures to ensure the protection and safety of all individuals, including environmental defenders. The resolution also reaffirmed that all business enterprises, particularly transnational corporations, bear the responsibility consistent with the UN Guiding Principles on Business and Human Rights to respect human rights, including the rights of human rights defenders, especially those working in environmental fields, ensuring their right to life, liberty, and personal security.⁵⁵

– **Sustainable Development:**

In Resolution A/HRC/48/L.23/Rev.1, the Human Rights Council underlined that sustainable development, with its three interdependent pillars social, economic, and environmental and the protection of ecosystems, contributes fundamentally to human well-being and the enjoyment of human rights. These include the right to life, the highest attainable standard of physical and mental health, an adequate standard of living, adequate food, housing, and participation in cultural life, for both present and future generations. The Council also acknowledged that the negative consequences of environmental degradation on human rights are felt globally and disproportionately affect vulnerable population groups, including indigenous peoples, the elderly, persons with disabilities, women, and girls.⁵⁶

Conclusion:

"David R. Boyd", the United Nations Special Rapporteur on human rights and the environment, expressed the significance of the Human Rights Council's resolution adopted on 8 October 2021 by stating: "There is likely to be a vote on the recognition of the right to a clean, healthy and sustainable environment. This right was not included in the Universal Declaration of Human Rights in 1948, so this is truly a historic decision that would change the nature of international human rights law", He further added: "We also need to transition to a circular economy, we need to detoxify our societies, and the right to a healthy environment is one of the most powerful tools we have for holding governments accountable".

Based on this perspective and our analysis of the research topic from multiple angles, the following results and recommendations are drawn:

Results:

- Despite doctrinal disagreements regarding the legal recognition of the right to a healthy environment, it has emerged as a binding moral obligation within the framework of international law.
- The international, regional, and domestic recognition of the right to a clean and healthy environment supports its integration into the corpus of international human rights law.
- While many states, including Arab countries, had previously failed to accord sufficient attention to the human right to a healthy environment, they have begun to address the issue in light of growing awareness of the long-term environmental risks.
- The right to a healthy environment encompasses various other rights, including the right to life, adequate living conditions, access to clean water, food, health, climate safety, and sustainable development.

- Vulnerable groups, including children, women, and even refugees, are entitled to the enjoyment of environmental rights.

Recommendations:

- Given the extensive number of international, regional, and domestic instruments recognising the human right to a healthy environment, the international community should work towards codifying a comprehensive global charter guaranteeing the right to a clean, safe, sustainable, and high-quality environment.
- The right to the enhancement of environmental quality must be affirmed, especially in light of the scientific and technological advancements that have contributed to climate disruption, environmental imbalances, and the degradation of ecological systems.
- International and national judicial mechanisms should be established to guarantee environmental rights, including the creation of international environmental courts and national constitutional mechanisms. Constitutional entrenchment would ensure that these rights are protected against infringement by conflicting legislation through the application of constitutional supremacy and review.
- The right to a healthy environment should be recognised as a personal and inalienable human right due to its close connection with human dignity.
- Environmental rights should be elevated to the level of unamendable constitutional provisions (so-called "eternity clauses"), as is the case in the Tunisian Constitution.
- Environmental rights must be included as a condition in the foreign policy of states, particularly as a prerequisite for concluding treaties or partnerships similar to the European Union's approach, which requires states and organisations to respect human rights as a condition for engagement.
- While the Human Rights Council currently mandates a Special Rapporteur on human rights and the environment as part of its special procedures, it is recommended that a working group be established to replace the Special Rapporteur. This group, also operating within the framework of special procedures, may prove more effective in advancing the human right to a healthy environment at the highest possible level.

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