

# 20

## Landmark Court Decisions on the Right to a Healthy Environment



*David R. Boyd • Melina De Bona • César Rodríguez-Garavito*

Research Assistants:

*Emma Crowe • Anne Pfeifenberger*

➔ “Environmental degradation can cause irreparable damage to human beings, which is why a healthy environment is a fundamental right for the existence of humanity”.

Inter-American Court of Human Rights  
(*Community of La Oroya v. Peru*, 2024)

First Edition TERRA Program at NYU Law  
October 2024



Creative Commons License: CC BY-NC-ND 4.0

See: <https://creativecommons.org/licenses/by-nc-nd/4.0/>

Published in the United States by the New York University  
Earth Rights Research and Action (TERRA)  
Program at NYU Law.  
ISBN: 979-8-218-52602-3

Reports of NYU Clinics, Centers or Programs do not purport to  
represent the institutional views of NYU School of Law, if any.

Edited by:  
David R. Boyd  
Melina De Bona  
César Rodríguez-Garavito

Research Assistants:  
Emma Crowe  
Anne Pfeifenberger

Book Cover and Design by Alejandro Ospina  
Photos: istock.com

# Table of Contents

Introduction → 6

## Landmark Decisions

### **Africa**

Cleaning Up Deadly Air (South Africa) → 13

Leveraging the Right to a Healthy Environment  
to Challenge Megaprojects (Kenya) → 19

The Most Fundamental Right (Seychelles) → 25

### **Asia-Pacific**

Planting the Seeds of Intergenerational Equity (Philippines) → 31

The Power of a Specialized Environment Court (India) → 37

Unlocking the Courtroom Doors (Papua New Guinea) → 43

Healing Pollution Hotspots: The Power and Limits  
of Innovative Judicial Intervention (Philippines) → 47

### **Europe**

Halting Environmental Rollbacks (Hungary) → 55

Planning, Participation, Prevention and Precaution:  
The Prerequisites for Just and Sustainable  
Decision-Making (Latvia) → 59

Confronting the Norwegian Paradox:  
Climate Leader or Petrostate? (Norway) ➔ 65

Giving Teeth to the Protection of the Iberian Wolf (Portugal) ➔ 71

## **Latin America and the Caribbean**

Environmental Law Elevated to Supra-Legal Status (Brazil) ➔ 78

Achieving Environmental Justice in a Sacrifice Zone (Chile) ➔ 84

Youth Unite to Defend the Amazon (Colombia) ➔ 90

Justice for Hammerhead Sharks (Costa Rica) ➔ 96

Shifting Paradigms to Protect  
Los Cedros Cloud Forest (Ecuador) ➔ 102

A Pleasant Surprise: States Embrace  
the Right as a Shield (Mexico) ➔ 108

No More Business as Usual: Rethinking  
the Environment-Economy Nexus (Panama) ➔ 114

Ensuring Environmental Justice for Children (Peru) ➔ 120

## **North America**

A Safe Climate: Elevating  
the Voices of Youth (United States) ➔ 127

Conclusion ➔ 131

List of Cases ➔ 134

Index of Key Legal Principles and Terms ➔ 139

## Introduction

**In October** 2021, the United Nations (UN) Human Rights Council adopted a resolution (A/HRC/RES/48/13) recognizing the human right to a clean, healthy and sustainable environment, also referred to as the right to a healthy environment. In July 2022, the UN General Assembly adopted a similar resolution (A/RES/76/300) recognizing the right. These landmark resolutions ignited widespread interest in the right to a healthy environment. They also came at a critical juncture – as humanity grapples with global environmental challenges of unprecedented severity. Despite their designation as soft law instruments, these historic UN resolutions swiftly found their way into legal discourse, being cited by courts within mere months.

The right to a healthy environment is not a recent development in human rights. Its origins can be traced back to the early 1970s in countries such as Portugal, Slovenia and the United States. Today, this right is enshrined in the laws of at least 164 UN Member States through their constitutions, legislation and regional treaty ratifications. Decades of domestic and international practice illustrate that the right to a healthy environment comprises a range of procedural and substantive elements. Procedural elements include access to information, participation in decision-making and access to justice.

The substantive elements consist of clean air, safe and sufficient water and adequate sanitation, healthy and sustainably produced food, non-toxic environments in which people can live, work, study and play, healthy ecosystems and biodiversity, as well as a safe and liveable climate.

This report highlights 20 of the most significant court decisions worldwide concerning the right to a healthy environment. These cases were selected through a collaborative effort involving the former UN Special Rapporteur on the human right to a clean, healthy and sustainable environment, the Earth Rights Research & Action (TERRA) Program at the New York University School of Law and the UN Environment Programme. With thousands of court judgments from over 70 nations that apply, interpret and enforce this right, the selected decisions represent the tip of the iceberg of a vast body of jurisprudence. To aid courts, practitioners and civil society in navigating this world, the TERRA Program at NYU School of Law created the R2HE Toolkit – the first database to map and analyze significant jurisprudence regarding the right (<https://www.r2he.info/>). Each case featured in this report includes a corresponding case study in the R2HE Toolkit, providing a more comprehensive legal analysis of the case and defining key concepts and terms.

The 20 cases selected for this report represent landmark decisions showcasing the breadth of environmental challenges where the right to a healthy environment has been invoked. They encompass cases addressing the climate crisis, biodiversity loss, pervasive toxic pollution and critical issues related to water, the source of life. Furthermore, these decisions illuminate essential legal principles, such as non-discrimination, prevention, precaution, non-regression and polluter pays.

The court judgments span from the early 1990s to mid-2024, with the majority issued by supreme or constitutional courts at the apex of national legal systems. The most recent decision, a powerful precedent, stems from the Inter-American Court of Human Rights. While the majority of these court decisions reflect positive outcomes, the report also includes cautionary tales and a disappointing decision from the Supreme Court of Norway.

Due to the robust protection afforded by constitutionally guaranteed human rights, most cases discussed in this report are grounded on the constitutional right to a healthy environment. This right enjoys explicit constitutional recognition in at least 100 States, as well as in some sub-national jurisdictions. Additionally, courts in a dozen States lacking explicit constitutional provisions for the right to a healthy environment have interpreted it as implicit within other rights, notably the right to life and the right to health, thereby affording it constitutional protection.

The clarity and diversity of the court decisions described in this report also provide a resounding rebuttal to one of the most widely used arguments against the adoption of UN resolutions recognizing the human right to a healthy environment. A peculiar grouping of States led by Russia, the United States and the United Kingdom long contended that a UN resolution recognizing the right was premature since it was not defined in a formal international law instrument. These States were unfazed by the fact that every human right in the Universal Declaration of Human Rights was undefined as of 1948 when the Universal Declaration was adopted. They ignored the clear evidence that, historically, rights are first recognized in non-binding instruments and only then codified in legally enforceable treaties. Some of these States further overlooked the fact that the right to a healthy environment had enjoyed constitutional protection and legislative recognition and that it was the subject of multiple court decisions in their own country over a span of decades. As the decisions highlighted in this report indicate, courts across the world have had no difficulty in defining, interpreting and applying the right to a healthy environment. The widespread use of different adjectives to describe the right in different national contexts – e.g., safe, clean, healthy, favorable and ecologically balanced, among others – has also failed to obstruct or undermine the work of courts and tribunals.

Another argument against the UN recognition of the right to a healthy environment was that although such a resolution would be non-binding from a legal perspective, it would spark a flood of vexatious litigation from environ-



mental advocates. This contention overlooked the fact that such cases were already being brought in increasing numbers by civil society, children and youth, Indigenous Peoples and local communities in attempts to hold governments and businesses accountable for broken commitments to address the current existential environmental crises.

One of the most surprising revelations stemming from the research for this report is that while the right to a healthy environment continues to be wielded as a sword against States by individuals, communities and civil society organizations seeking accountability, the right is increasingly used by States as a shield against businesses and industry associations challenging climate and environmental regulations. States have used the right as a defense against business lawsuits attacking a variety of measures, ranging from restrictions on destructive fishing practices to regulations banning plastic bags. This finding represents a significant and promising advance, as stronger climate and environmental laws and policies are urgently needed. If the right to a healthy environment can empower States to justify expedited action to tackle the planetary environmental crises despite impacts on corporate profits, it will prove to be an invaluable asset in the years to come. This development should motivate more States to embrace the legal – and ideally, the constitutional – recognition of the right to a healthy environment.

We hope that this selection of cases will inspire grassroots activists, civil society organizations, Indigenous Peoples, children and youth and local communities to boldly assert their right to live in a clean, healthy and sustainable environment. We also hope that legislators, policymakers and all legal professionals – including lawyers, judges and academics – will realize that fulfilling everyone’s right to a healthy environment stands as one of the most pressing and vital challenges of the twenty-first century. To the extent that this right can catalyze systemic and transformative changes toward a just and sustainable future, both present and future generations will benefit from ongoing judicial leadership.

We urge all States to accelerate the human rights–based actions urgently required to transform the inspiring words of the UN Human Rights Council and General Assembly resolutions into reality so that everyone, everywhere, can fully enjoy their right to a clean, healthy and sustainable environment. Hundreds of millions of lives depend on it, as well as the future of both the human and the more-than-human worlds.

# AFRICA





## Cleaning Up Deadly Air

*Groundwork Trust and Vukani Environmental Justice Movement  
in Action v. Minister of Environmental Affairs and others  
(South Africa, 2022)*



Photo: Daylin Paul / Life After Coal

For decades, Promise Mabilo has lived in Emalahleni, located in the Highveld region of South Africa. The region is home to coal mines and 12 coal-fired power plants, causing some of the most severe **air pollution** in the world. The toxic air has taken a physical and emotional toll on Promise and her family: her son suffers from asthma, preventing him from participating in the activities of a healthy child and impacting his performance at school.

The government of South Africa designated the Highveld region as a national priority area in 2007, as per the National Air Quality Act. However, for more than a decade thereafter, it failed to take substantial action to ensure clean air for the residents of this heavily polluted area.

By 2019, two environmental justice organizations – Groundwork Trust and Vukani Environmental Justice Movement in Action – had had enough. With legal support from the Centre for Environmental Rights, they filed a pioneering lawsuit arguing that dirty air violated the right to a healthy environment, found in Section 24 of South Africa’s Constitution.

Vukani Environmental Justice Movement in Action is led by Promise Mabilo. “I joined the case because it was too hard looking at my son suffering with his coughing”, she explained, “must we now relocate from our area because of air pollution? No. We have to do something”.<sup>1</sup>

The High Court decision issued in March 2022 was a resounding victory for clean air and human rights. The Court referred to the government’s own finding that air pollution causes thousands of premature deaths every year in the Highveld region. This fact, combined with the government’s failure to take any kind of tangible regulatory action to improve air quality, led the

---

1 CENTRE FOR ENVIRONMENTAL RIGHTS, *International Women’s Day: Meet the women fighting against #DeadlyAir*, 8 March 2022, <https://cer.org.za/news/meet-the-women-fighting-against-deadlyair>.

Court to reach the “inescapable conclusion” that the region’s poor air quality violated the right to a healthy environment. In the words of the Court, “the undisputed evidence presented shows that the levels of air pollution in the Highveld Priority Area remain far in excess of the National Standards and show no meaningful improvement”.

The ruling reprimanded the government for “inordinate delays” in enacting regulations to improve air quality in the Highveld region and ordered the Minister of Environment to finalize such regulations within one year. According to the Court, the regulations were needed to empower the Minister to enforce air quality standards, reduce emissions and achieve long-overdue accountability. Most importantly, the Court recognized that the regulations were needed to fulfill the government’s human rights obligations and improve the health of people living in the Highveld.

The Court also provided useful guidance to the government about the full range of actions needed to improve air quality and fulfill the right to a healthy



environment, including clear goals, a comprehensive air quality strategy, a special focus on densely populated communities living in poverty, improved monitoring, enforcement actions against non-compliant industrial facilities, closure of facilities unable or unwilling to meet national emission standards and the adequate human and financial resources to carry out these actions.

The Court relied extensively on an *amicus curiae* – friend of the court – brief filed by the UN Special Rapporteur on the right to a healthy environment that addressed international human rights law and comparative constitutional jurisprudence. For example, the Court quoted the Special Rapporteur in stating that “poor air quality falls disproportionately on the shoulders of **marginalised and vulnerable communities** who bear the burden of disease caused by air pollution”. Similarly, the Court concluded that if air quality fails to meet national standards, it is a *prima facie* – true unless proven otherwise – violation of the right to a healthy environment, especially if the failure to meet standards persists over a long period of time.

The Court recognized that “the **principle of sustainable development** further requires that measures put in place to achieve economic development should not sacrifice the environment and human life and well-being”. This view is of critical importance for other courts, as many States continue to prioritize economic growth at the expense of the environment, human health and human rights.

Unfortunately, despite recognizing that the polluted air in the Highveld infringes upon the right to a healthy environment, the government has appealed the sections of the Court’s order concerning the implementation of regulations and remains slow to act on air quality.





Across the globe, a similar case emerged in Indonesia. In *Melanie Subono and others v. President of the Republic of Indonesia*, Jakarta residents contended that the government's failure to improve the dire air quality in the city contravened the constitutional right to a healthy environment. The Trial Court ruled in favor of the residents, and their victory was upheld by the Supreme Court of the Republic of Indonesia.

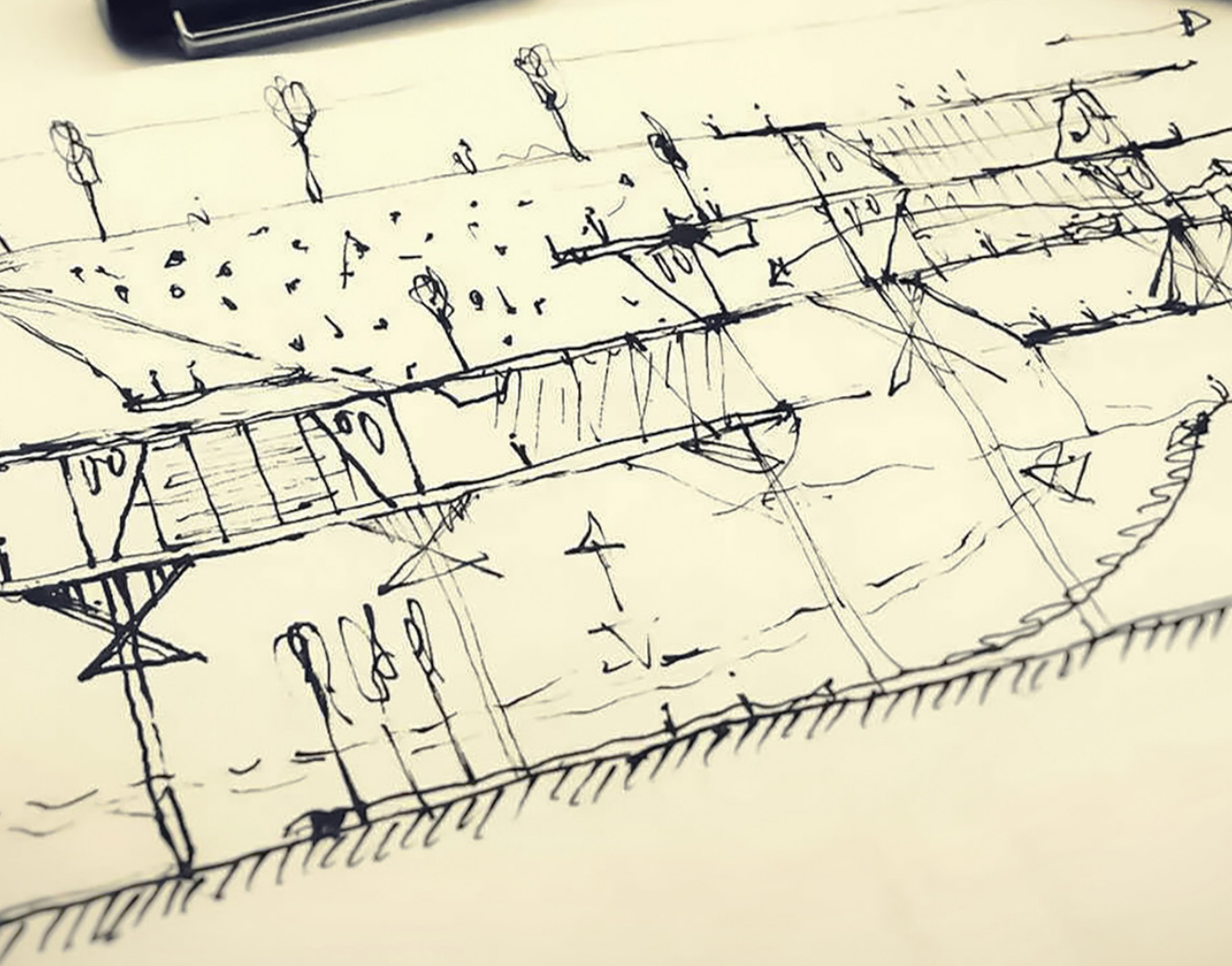
These two cases underscore the crucial role of **clean air as a fundamental element of the right to a safe, clean, healthy and sustainable environment**. They establish a clear mandate for governments to undertake effective and equitable measures to enhance air quality. Urgent action is required, given that air pollution stands as the most lethal environmental challenge worldwide, causing a staggering 7 million premature deaths per year.<sup>2</sup>

In the words of Mbali, another woman from Emalahleni whose children have suffered from respiratory illnesses caused by air pollution, “the *Deadly Air* case is very important because I do not want others to continue to suffer the same issues”.<sup>3</sup>

---

2 WORLD HEALTH ORGANIZATION, *Health consequences of air pollution on populations*, 25 June 2024, <https://www.who.int/news/item/25-06-2024-what-are-health-consequences-of-air-pollution-on-populations>; WORLD HEALTH ORGANIZATION, *7 million premature deaths annually linked to air pollution*, 25 March 2014, <https://www.who.int/news/item/25-03-2014-7-million-premature-deaths-annually-linked-to-air-pollution#:~:text=25%20March%202014%20%7C%20Geneva%20%2D%20In,result%20of%20air%20pollution%20exposure>.

3 LILITA G., *Fighting for a breath of fresh, clean air: Mpumalanga Highveld communities take on government*, HEALTH E-NEWS, 26 May 2021, <https://health-e.org.za/2021/05/26/fighting-for-a-breath-of-fresh-clean-air-mpumalanga-highveld-communities-take-on-government/>.



## Leveraging the Right to a Healthy Environment to Challenge Megaprojects

[\*Mohamed Ali Baadi and others v. Attorney General \(Kenya, 2018\)\*](#)

The *Mohamed Ali Baadi* case illustrates how the right to a healthy environment can empower a local community to challenge a multinational megaproject. It highlights the benefits of recognizing the right at the constitutional level and its central role in both protecting the environment and advancing democratic nation-building. By leveraging the right to a healthy environment, a coastal Kenyan community rejected business as usual, demanded that their voices be heard and sought to ensure that the promise of sustainable development to leave no one behind be met.

Spanning thousands of kilometers across Kenya, Ethiopia and South Sudan, the Lamu Port-South Sudan Ethiopia-Transport Corridor (LAPSSET) is a mega-transport and infrastructure project. It was designed to encompass a railway system, oil pipelines, oil refineries, tourism development and a port situated at Manda Bay in Lamu, Kenya. Spearheading the initiative, the government of Kenya aimed for it to serve as a cornerstone of economic development for East Africa. “The globe’s largest and last giant to be woken up is the African continent ... In this case, Kenya is taking the leading role in the waking up of the last and biggest giant”,<sup>4</sup> emphasized the CEO of LAPSSET.

LAPSSET was begun in 2012. Despite its promised economic benefits, a Lamu County community soon realized the downside of the project: its potential for environmental destruction through the looming **discharge of industrial waste, degradation of mangrove forests and peril to marine life**. To the community’s dismay, the hasty launch of LAPSSET had neglected – or intentionally disregarded – their voices and concerns. Consequently, the community invoked their right to a healthy environment as a means of advocacy to amplify their voices and seek accountability.

The Lamu community filed a case in the High Court against Kenya’s attorney general and various government ministries in charge of planning, approving and implementing the project. While not opposed to the implementation of LAPSSET, the community claimed that the environmental, economic and cultural impacts of the project were not adequately considered during planning, leading to the inclusion of inadequate mitigation measures in its design. More specifically, the project improperly excluded participation from the public and the local government. The petitioners asserted that the project was plagued by procedural errors and violated their constitutional right to a

---

4 STRATHMORE UNIVERSITY, *Understanding LAPSSET - Kasuku, S. (Director Gen, LAPSSET)*, YOUTUBE (9 October 2013), 23:23, <https://www.youtube.com/watch?v=-jb8q5QsoVd8>.

healthy environment, as well as their rights to livelihood, culture, information, **public participation** and **sustainable development**. The respondents argued that all such concerns had been properly addressed in the project design and public consultation phases.

While recognizing the economic potential of LAPSSET and allowing it to move forward, the High Court held that the project's **environmental impact assessment processes** and licenses were inadequate and incomplete, leading to violations of the community's right to a healthy environment. The Court ordered a broad suite of remedies, including the re-evaluation and re-implementation of numerous environmental assessment processes, the implementation of mitigation measures in consultation with the Lamu County government and local community, a more inclusive public participation process, the crafting of a comprehensive plan for disseminating information about the project, the provision of monetary compensation to local fishermen for their loss of livelihood and various action plans to safeguard cultural interests.



The High Court's decision demonstrates the power of relying on the constitutionally enshrined right to a healthy environment. This approach ensured that the community had **standing** to bring the case. It also led the Court to hold that the State owed the community a duty to protect the environment and its fundamental rights, even in the absence of clear regulatory and statutory frameworks. In reaction to the respondents' claim that they had not conducted a timely and robust environmental impact assessment because this was not required by legislation, the Court held that statutory backing was not necessary given the existence of regulations and, more importantly, of the constitutionally mandated right to a healthy environment. In other words, the State could not use its own regulatory and statutory gaps as loopholes for evading robust standards of environmental and human rights protection. This case, therefore, points to the ability of the right to a healthy environment to address statutory and regulatory gaps that plague the environmental frameworks of numerous nations.

The case also underscores the elevated levels of protection that emerge when the right to a healthy environment is interpreted alongside principles of international environmental law. More specifically, the Court concluded that an integrated reading of the **procedural elements** of the right to a healthy environment – in this case, **access to information and participation** – together with the **precautionary principle** demanded from the State a proactive approach that considered the environmental concerns of affected peoples early in the decision-making process, when alternative safeguards were still achievable. Because government agencies had not carried out an adequate environmental impact assessment before allowing LAPSSET to begin, the project violated the right to a healthy environment.



More generally, the High Court also emphasized that the right to a healthy environment significantly contributes to democracy building. Democracy encompasses more than just political representation by the government – it also hinges on **processes that empower individuals to wield a meaningful voice in decisions impacting them and their environment**. By safeguarding inclusive participation through the enforcement of “this powerful right to the environment”, the Court made it clear that citizens and courts can foster a nation that harmonizes economic interests with fundamental rights in pursuit of sustainable development.





## The Most Fundamental Right

*Woodlands Holdings Ltd & Anor v. Ministry of Environment Energy and Climate Change and others (Seychelles, 2023)*

**This case** marked the first time in the history of Seychelles that a plaintiff won an environmental **pollution** case against the government. The plaintiffs – a local resident and a corporation – alleged that toxic discharges caused by unsustainable farming practices were polluting a river that ran through their land. Tests carried out by the Ministry of Environment determined that the water in the river was contaminated by E. coli bacteria. While the plaintiffs provided evidence to the government that the source of the

contamination was a large-scale livestock operation inappropriately located in a residential area and engaged in the illegal dumping of waste, the Ministry of Environment failed to act against the alleged polluter or implement any type of remedial action to prevent ongoing pollution.

Confronted with this inaction, the plaintiffs filed their lawsuit in 2018. They sought damages for anxiety, emotional distress, risks to their health and violations of their human rights, including their constitutional right to a healthy environment. The plaintiffs also sought a court order forcing the government to identify and eliminate the source of E. coli contamination.

The trial judge decided to submit three inquiries to the Constitutional Court regarding Article 38 of the Constitution of Seychelles, which enshrines the right of every person to live in and enjoy a clean, healthy and ecologically balanced environment:

1. Whether the obligation to ensure that private citizens do not pollute the environment – entrenched in Article 38 – extended to the State;
2. Whether the State was under obligation to take steps to clean up any pollution caused by such citizens;
3. Whether the failure to do so rendered the State liable to its citizens for damages.

The Constitutional Court answered “yes” to all three questions, drawing upon international human rights and environmental law, referencing the Framework Principles on Human Rights and the Environment and an Inter-American Court of Human Rights decision finding a violation of the right to a healthy environment caused by unchecked cattle ranching in Argentina. The government of Seychelles appealed the Constitutional Court’s decision to the Court of Appeal.

The Court of Appeal issued a powerful decision, concluding that the right to a healthy environment is “**the most fundamental right of a human being**” (emphasis in the original). In the words of the Court, “**none of the myriad of other fundamental rights**, including civil and political rights, **can be meaningfully exercised by a human being in the absence of a clean and healthy environment which can sustain life**”.

The Court of Appeal unequivocally affirmed that the right to a healthy environment is not a mere aspiration, as the State had contended. On the contrary, “it is a constitutional promise given by the State to every person with a view to ensuring the **effective realization** of this right”. The Court was guided by Article 24 of the African Charter on Human and Peoples’ Rights, which states that “all peoples shall have the right to a general satisfactory environment favourable to their development”. The African Commission on Human and Peoples’ Rights and the African Court on Human and Peoples’ Rights have both issued decisions confirming that this right imposes clear



obligations on governments “to prevent pollution and ecological degradation, to promote conservation, and to secure the ecologically sustainable development and use of natural resources”.<sup>5</sup>

By enacting the Environmental Protection Act, the Court held that the government of Seychelles had fulfilled the legislative element of its obligations related to the right to a healthy environment. Yet more was required, including executive and administrative measures to prevent pollution by private entities and the clean-up of pollution that affects public spaces, such as rivers and beaches. **The costs of cleanups should be recoverable by the State from the responsible private parties.**

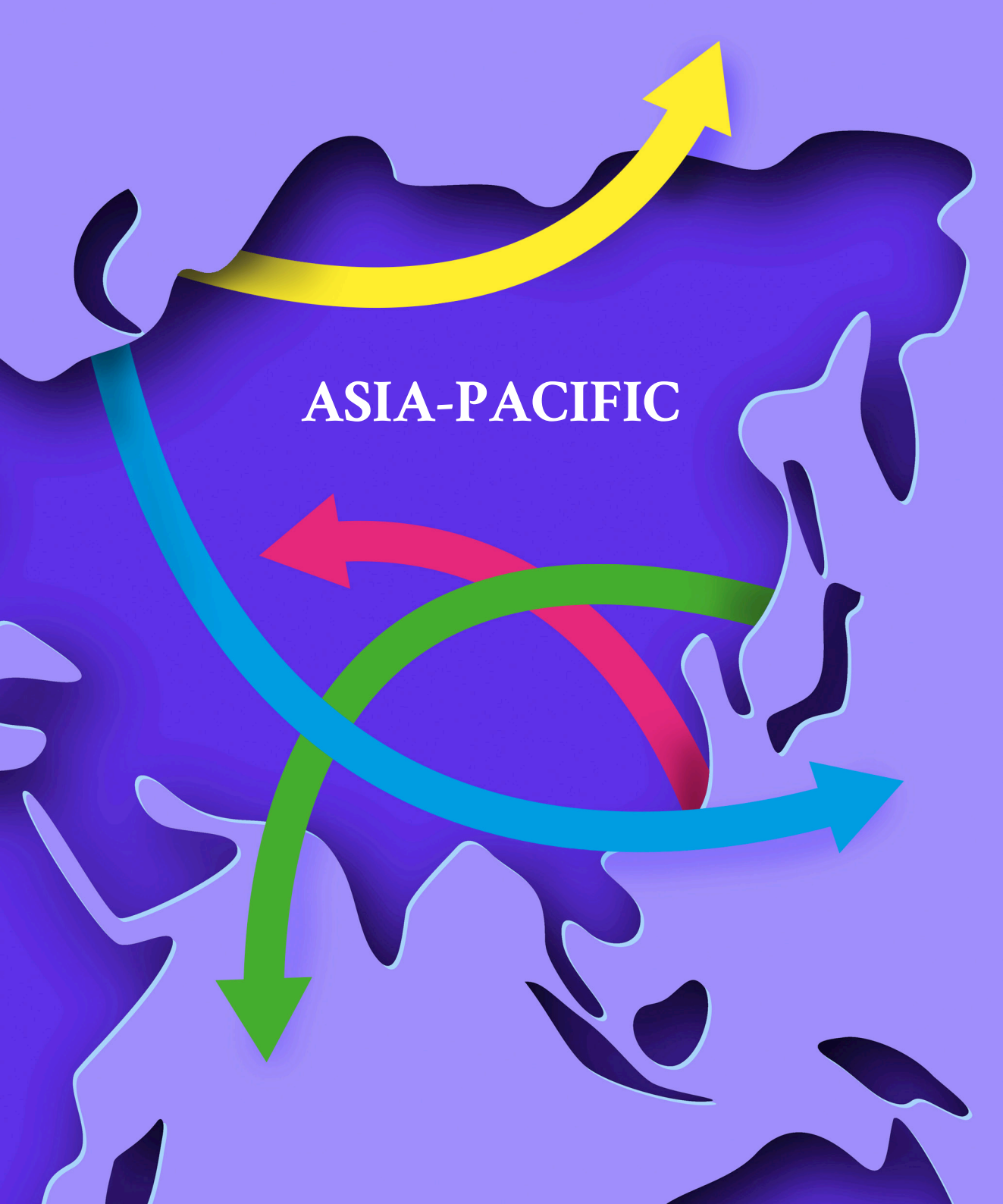
Following the decision of the Court of Appeal, the case was sent back to the Trial Court to determine, based on the facts, whether and to what extent the government owes damages to the petitioners. While this determination is still pending at the time of writing, this landmark case illustrates the power of the right to a healthy environment in holding governments accountable for their dual obligation to remediate past contamination and prevent future pollution.



---

<sup>5</sup> Social and Economic Rights Action Centre (SERAC) and another v. Nigeria, AHRLR 60, Afr. Comm’n H. Ppl. R., ¶ 56 (2001); Ligue Ivoirienne Des Droits De L’homme (Lidho) and others v. Republic of Côte d’Ivoire, Application No. 041/2016, Afr. Ct. H. & Ppl. R., ¶ 179 (5 September 2023).

ASIA-PACIFIC





## Planting the Seeds of Intergenerational Equity

*Minors Oposa v. Secretary of the Department of Environment and Natural Resources (The Philippines, 1993)*

A widely heralded landmark decision by the Supreme Court of the Philippines, *Minors Oposa* established that children and future generations have a fundamental and enforceable right to a healthy environment. The principle of **intergenerational responsibility** has since reached paramount importance in defining the right to a healthy environment, advancing the idea that everyone has a duty to act sustainably and safeguard environments not only for the present but also for the future.

Occupying a unique geographic niche, the Philippines archipelago has long been recognized as one of the most biodiverse regions in the world. Despite its relatively small size, the mega-biodiverse country harbors a massive variety of ecosystems, habitats and creatures – including at least 700 endangered species, many of which live nowhere else on Earth. Sadly, the Philippines’ natural wonders have suffered severe deforestation. In 1990, when *Minors Oposa* was filed, only 2.8% of the Philippines’ landmass constituted mature rainforest. At the then-current rate of deforestation, the archipelago would have found itself devoid of old-growth forests by the end of the decade.

Seeking to protect themselves, future generations and the environment, 45 youth petitioners represented by creative lawyer Tony Oposa, Jr. challenged the government’s permissive timber licensing policies. As petitioners, the youths demanded that the State cancel existing licenses and stop awarding new ones to prevent further deforestation. The petitioners identified the tragic consequences of deforestation, including water shortages, salinization of the water table, erosion, loss of soil fertility, declining biodiversity, worsened typhoon winds and increased flooding.

The petitioners argued that this ongoing devastation of nature violated their constitutional right to a balanced and healthy environment and the rights of future generations to the same. Under environmental, constitutional and administrative laws, the petitioners argued, the government of the Philippines had an obligation to protect the environment and discontinue destructive timber harvesting activities.

In a first-of-its-kind determination in the Philippines, the Supreme Court held that the **children had legal standing to defend their own and future generations’ right to a healthy and balanced environment**. Reversing a lower court’s decision, the Supreme Court sided with the youth petitioners. That the right to a healthy environment was recognized in a chapter of the Constitution other than the Bill of Rights did not, in the Court’s view, reduce the right’s importance in relation to other civil or political rights. In fact, the Court clarified that the right to a healthy environment – a right con-



cerning the preservation of humanity – belongs to a set of natural rights that predate governments and constitutions.

**Weighing all interests, the Court elevated the right to a healthy environment above economic rights and rejected the lower court’s view that freedom of contract prevented it from granting the petitioners’ requested relief** – the cancellation of logging contracts. The lower court had ruled that canceling all existing timber license agreements would violate the Constitution’s “non-impairment clause”, which provides that no law shall be passed that impairs the obligation of contracts. In response, the Supreme Court wrote, “we are not persuaded at all; on the contrary, we are amazed, if not shocked, by such a sweeping pronouncement”. A timber license agreement was a privilege, not a right protected by the Constitution, the Court held. Moreover, even if such agreements did constitute contracts, the power of the government to advance the right to a healthy environment justified



their cancellation because the freedom to contract is limited by the interests of public health, safety and environmental protection.

The Court's unprecedented recognition of legal standing to represent the interests of impacted future generations marked a turning point for the treatment of intergenerational equity in environmental litigation. The lower court dismissed the case on the grounds that the petitioners lacked the standing to pursue their claim in court. In contrast, the Supreme Court found that the right to a balanced and healthful ecology and the concept of intergenerational responsibility gave the youth petitioners standing to sue on behalf of themselves and "generations yet unborn". In the Supreme Court's view, the right to a healthy environment comprises a mandate to conserve the country's forests while preserving equitable access to those ecosystems in the present and the future. The youth petitioners proved that every generation has a responsibility to safeguard future generations' right to a healthy environment.

The significance of this ruling echoed far beyond the petitioners' case, helping to define and highlight the paramount importance of the right to a healthy environment. Instead of rejecting the petitioners' future generations claim as unprecedented, the Court acknowledged the argument's originality before concluding that it made perfect sense to harmonize the rights of future and present generations. In doing so, the Court confirmed that the right to a healthy environment is justiciable, enforceable and fundamental, creating binding obligations upon the State. The Court emphasized the responsibility of governments to act as responsible stewards of natural ecosystems and hold the environment in trust for future generations.



*Minors Oposa* dealt a blow to the proliferation of government-sanctioned timber licenses in the Philippines. The government prohibited new logging concessions on remaining virgin forest lands. In doing so, it demonstrated the power of the right to a healthy environment to speed up the implementation of concrete measures that are urgently needed but challenging to secure to protect the environment. Although deforestation, due primarily to illegal logging, remains a critical issue for the Philippines today, old-growth forest cover remains at 2.8%. In other words, after suffering a precipitous decline, old-growth forests stabilized in the three decades since the Supreme Court's pioneering decision. Since 1993, the so-called 'Oposa Doctrine' of intergenerational equity has also gained global influence, illuminating the power of the right to a healthy environment to ensure a future in which new generations inherit more than – in Supreme Court Justice Hilario Davide, Jr.'s words in *Minors Oposa* – a “parched earth incapable of sustaining life”.



## The Power of a Specialized Environment Court

*[In re Court on its Own Motion v. State of Himachal Pradesh and others \(India, 2014\)](#)*

A 2014 decision of India's National Green Tribunal illuminates the promising impact of creating a specialized forum to adjudicate cases on environmental protection. Acting on its own initiative, the National Green Tribunal exercised its judicial powers to address problems in the state of Himachal Pradesh that impacted locals' fundamental right to a healthy environment. The Tribunal held the state responsible for failing in its obligation to address **air pollution**, climate change and unsustainable development

caused by fossil fuel emissions. In doing so, the Tribunal reinforced **clean air and a safe climate as key elements of the right to a healthy environment.**

Himachal Pradesh is renowned for its stunning natural beauty, biodiverse forests and the incomparable snow-capped Himalayas. One of India's northernmost states, this picturesque mountain environment is exceedingly fragile and susceptible to the impacts of human activities. Unchecked tourism has increasingly wreaked havoc on the local environment. Deforestation, excessive construction, escalating vehicle traffic and other byproducts of tourism have led to a regional air pollution crisis. Expert reports revealed tourism to be the driving source of emissions that were releasing black carbon into the atmosphere, staining Himachal Pradesh's famous snow caps and glaciers with particulate matter and contributing to the climate crisis. Further, decreasing snowfall and shrinking glaciers imperiled the water supply needed by downstream communities and ecosystems.

In a series of visionary judgments dating back to 1988, the Indian judiciary held that the right to life encompasses the right to a healthy environment. This implicit right, along with the explicit constitutional obligation on both the State and citizens to safeguard the environment, created a strong presumption against State actions causing environmental harm. The creation of the National Green Tribunal in 2010, together with legislation explicitly mentioning the right to a healthy environment, reflected the increasing global recognition of the right and the robust body of jurisprudence on the right to a healthy environment referenced by courts worldwide. The creation of the Tribunal also provided India with an opportunity to extend its judicial leadership in the environmental field.

Indeed, by 2014, the Tribunal, acting on its own accord, reiterated the Supreme Court of India's earlier determination that the right to a healthy environment is part of the right to life, creating a duty for the State to respect, protect and help realize the right. More specifically, the Tribunal held that

particulate matter and increasing temperatures threatened the local populations and sensitive ecosystems of Himachal Pradesh, grievously impacting both rights. It also held that the State is responsible for regulating human activities that drive air pollution and exacerbate climate change.

The Tribunal ordered the State to mitigate the adverse effects of rising vehicular traffic, particularly diesel and petrol vehicles passing through Himachal Pradesh. Implementing authoritative measures to regulate traffic, including restrictions, travel permits and fuel requirements, could help prevent environmental damage and protect the right to a healthy environment. The Tribunal also recognized tree cover as a crucial asset in addressing air pollution and stabilizing local and regional climates and ordered measures to reduce deforestation and promote reforestation.



The Tribunal highlighted that **pollution and climate change have regional and global impacts extending beyond the immediate vicinity of their source**. The fact that addressing pollution or climate sources at local or regional levels alone cannot fully resolve these global crises, however, did not negate the need to focus on the right to a healthy environment locally. Indeed, protecting the right to a healthy environment requires collective action at all levels to reduce the effects of pollution and climate change. The Tribunal's rationale connected direct physical environmental degradation with the violation of fundamental rights. It also addressed the indirect effects of fossil fuel use and unsustainable development, which lead to air pollution and climate change, affecting the right to a healthy environment in the long term.

In emphasizing the **interconnection between the right to life and the right to a healthy environment**, the Tribunal also underscored the interdependence of human and ecosystem health. The right to live with human dignity, it emphasized, requires the fundamental necessities of clean air, safe water and healthy soil.

Ten years later, the Supreme Court of India issued a powerful judgment building on earlier decisions of the Court and the National Green Tribunal on the right to a healthy environment, as well as the increasing scientific consensus on climate change. In *M.K. Ranjitsinh and others v. Union of India and others*, the Supreme Court ruled that **a safe climate is an integral element of the implicit right to a healthy environment, which is included in the constitutional right to life**. In the words of the Court, “without a clean environment which is stable and unimpacted by the vagaries of climate change, the right to life is not fully realised”.





Because of this, the Court concluded, States are “compelled to prioritize environmental protection and **sustainable development**, thereby addressing the root causes of climate change and safeguarding the well-being of **present and future generations**. It is imperative for States like India to uphold their obligations under international law, including their responsibilities to mitigate greenhouse gas emissions, adapt to climate impacts, and protect the fundamental rights of all individuals to live in a healthy and sustainable environment”.



## Unlocking the Courtroom Doors

[\*Morua v. China Harbour Engineering Company, Ltd. \(Papua New Guinea, 2020\)\*](#)

**Papua** New Guinea's National Court of Justice broke new legal ground in 2020 when it affirmed plaintiffs' standing to seek environmental damages from a construction company. This landmark decision emphasized flexible standing requirements for plaintiffs defending the right to a healthy environment and confirmed the importance of guaranteeing access to justice for all.

In 2015, Papua New Guinea's public works agency contracted with China Harbour Engineering Company Ltd. (CHECL) to carry out reconstruction work on the Laloki Bridge outside of Port Moresby. However, by 2018, CHECL's reconstruction efforts had resulted in substantial environmental damage to the surrounding area. CHECL seemed to have disappeared from the country, precluding any possibility that the company would return and repair the damage it had caused – which included water and noise pollu-

tion, the release of chemicals into the air and damage to nearby topsoil, upon which many families relied for their agricultural livelihoods.

Several families living on a nearby plot of land, including the Moruas, contacted the Conservation Environment Protection Authority to inquire whether CHECL had received the required environmental permits and whether the company had a restoration responsibility. Investigations followed, and by 2018, multiple assessments confirmed the Moruas' claims of environmental damage, including the deterioration of **topsoil and the release of numerous pollutants**. The investigation also proved that CHECL had never applied for – much less received – the necessary environmental permit for its construction work.

Faced with what they perceived as their only recourse, the Moruas filed a lawsuit against CHECL in the National Court of Justice in 2019, seeking damages for environmental and trespass harms. The company applied to dismiss the case on the grounds that the Moruas lacked legal standing to bring their claim and that they had failed to state a reasonable cause of action.

The National Court of Justice disagreed and held that the Moruas, along with other families, did have legal standing to bring their claims. Although the Moruas had not explicitly invoked the right to a healthy environment, Chief Justice Kandakasi noted that the plaintiffs' complaint, in effect, aimed to defend the rights to life and a healthy environment. Citing both domestic and foreign cases in which courts recognized applicants' standing despite their lack of financial or economic interests in the protection of disputed lands, the Court agreed that genuine environmental concerns satisfied the "sufficient interest" **standing requirement**.

The Court reflected on **the need to empower public interest groups to challenge unlawful conduct, recognizing that many individuals and communities – particularly in cases concerning customary land – lack access to justice**. In the Court's view, applying a flexible standing re-

quirement was a matter of equitable access to justice. Based on constitutional provisions, the Court found an intent to give all individuals the opportunity to address breaches of their human rights – actual, imminent or likely – and to have those complaints heard without undue difficulty, cost or delay.

Because evidence demonstrated that the State had failed to adequately monitor CHECL’s activities, the Court went a step further and ordered the Conservation Environment Protection Authority and other relevant government agencies to be added as parties to the case. The Court also directed the plaintiffs to amend their pleadings to include additional factual and legal details. CHECL and its lawyers, meanwhile, were sanctioned for improperly attempting to dismiss the plaintiffs’ case and for costing the Court unnecessary resources and delay.

The Court’s ruling illuminates the scope of governmental obligations to safeguard the right to a healthy environment. Chief Justice Kandakasi surveyed international and comparative jurisprudence, tracking the increasing number of global decisions recognizing that the right to a healthy environment imposes a positive duty on States to tackle environmental harms, including harms resulting or likely to result from climate change. The Court highlighted the growing importance of State action to ensure a **safe climate** as a substantive element of the right to a healthy environment. The comparative jurisprudence also buttressed the Court’s decision to interpret public interest standing broadly in cases involving the right to a healthy environment.

In placing the right to a healthy environment on equal footing with other essential freedoms, this ruling illuminates how the “fundamental” nature of the right empowers plaintiffs and courts alike to defend it. Citing the Stockholm Declaration of 1972, in which the right was first articulated, the Court noted the imposition of “a solemn responsibility to protect and improve the environment for present and future generations”.



## Healing Pollution Hotspots: The Power and Limits of Innovative Judicial Intervention

*Concerned Citizens of Manila Bay v.  
Metropolitan Manila Development Authority  
and others (The Philippines, 2008)*

**Decided in 2008** following decades of severe environmental **pollution**, *Concerned Citizens of Manila Bay* underscores governments' positive duty to safeguard the right to a healthy environment for present and future generations. As both a historic win and a cautionary tale, the case serves as a poignant reminder that while environmental restoration is possible, even in

the most degraded ecosystems, it must be supported by persistent collective efforts and demands for accountability.

Each year, the Philippines generates millions of tons of plastic waste – much of which enters rivers, streams and oceans. The country is one of the largest contributors to plastic pollution in the world. Perhaps nowhere is this more evident than Manila Bay, where vast volumes of garbage, waste and toxic effluents directly impact the lives, health and well-being of approximately 10 million people. In recognition of the damage to public health and marine ecosystems, Manila Bay was declared a “pollution hotspot” in 1999.

That same year, disturbed by the ongoing deterioration of Manila Bay’s water quality and ecological health, local residents took action by filing a lawsuit against multiple government agencies with the Regional Trial Court. Citing a litany of public health and water quality violations, the residents alleged that the agencies were legally required to clean, rehabilitate and protect the bay. Moreover, the plaintiffs argued that it was the defendants’ “reckless, wholesale, accumulated and ongoing” inaction that had caused the bay’s **water quality** to plummet far below permissible standards, creating serious and imminent risks to public health and **marine life**.

The plaintiffs contended that the government’s failure to combat Manila Bay’s pollution violated the public trust doctrine, domestic law such as the Philippine Environmental Code, international law and the constitutional right to a healthy and ecologically balanced environment. They asked the Trial Court to compel the defendants to clean up, protect and restore Manila Bay to water quality standards appropriate for recreational activities.

In 2002, the Regional Trial Court ruled in favor of the plaintiffs, holding the government agencies accountable for Manila Bay’s degradation and ordering them, through a writ of *mandamus* – an extraordinary remedy that compels a government entity to fulfill its duties – to undertake a comprehensive restoration effort. The Court also directed specific agencies to formulate a coor-



minated action plan within six months, install appropriate waste and sewage treatment facilities, regulate vessel-generated waste, eradicate illegal fishing practices and revitalize the bay's marine life.

Several government agencies opposed the Trial Court's ruling, appealing the decision to the Court of Appeals and, ultimately, the Supreme Court of the Philippines. The agencies argued that existing laws required only the clean-up of specific pollution incidents rather than the general and comprehensive clean-up of Manila Bay. The agencies also argued that the Court lacked the jurisdiction to use the writ of *mandamus* to compel them to take specific actions.

In 2008, the Supreme Court excoriated the agencies for attempting to "shirk" their duties under both domestic and international law. The Court concluded that the defendants' inaction infringed upon the plaintiffs' right to a healthy



environment and upheld the comprehensive remediation orders. The Supreme Court ordered the inspection of all industrial facilities and commercial establishments, the construction of large-scale wastewater treatment plants, a five-year plan for restoring marine life, the removal of illegal settlements, proper waste disposal from ships, enforcement of marine pollution laws, closure of garbage dumps and the construction of proper landfills for waste disposal.

The Supreme Court’s ruling sheds light on the power of the right to a healthy environment to clarify government obligations related to environmental protection and to empower ordinary people to hold the State accountable. Affirming that the right to a healthy environment exists both explicitly and implicitly, the Court emphasized the right’s “transcendental” and intergenerational dimensions. More specifically, the Court stated that this right would have obliged the government to preserve the environment and restore clean waters in Manila Bay – **for present and future generations** – even if it lacked an express legal mandate.

The ruling also highlights the urgent need for rigorous government action and the impermissibility of government inaction in the face of growing pollution and environmental degradation. As the Court wrote, “the era of delays, procrastination, and ad hoc measures is over. [Agencies] must transcend their limitations, real or imaginary, and buckle down to work before the problem at hand becomes unmanageable”. In addition, the Court invoked the **polluter pays principle** to indicate that polluters must clean up and compensate for any damage they have caused. Where pinpointing a specific source of pollution is impossible, the Court held that the government has an obligation to take the lead in protecting natural wonders and the right to a healthy environment.



*Concerned Citizens of Manila Bay* demonstrates that the public and judiciary – not only government agencies – have vital roles to play in safeguarding the right to a healthy environment. Along with the other remedies, the Court directed defendants to institute public education programs to cultivate environmental responsibility, care and stewardship. In doing so, the Court emphasized the importance of political will and collective action.

The Supreme Court further distinguished itself by taking an ongoing role in supervising the implementation of its judgment. In 2011, the Court issued a continuing *mandamus* and instituted an advisory committee to ensure that its decision was not brushed aside. The Court reiterated that restoration of the bay was a long-term project, which needed to extend beyond rehabilitation to preservation and conservation in order to guarantee that the clean-up effort would become more than a “futile, cosmetic exercise”. In 2023, the Court ordered the government to submit a report that included information on actions taken to implement its ruling, current strategies to clean up the bay and “realistic” clean-up targets for the next five years. While much remains to be done, the water quality of Manila Bay has significantly improved.

An ocean away, Argentina’s Supreme Court sent a remarkably similar message in 2008. In the case of *Beatriz Silvia Mendoza v. National Government* – known in the Argentine media as *Beatriz Mendoza v. the World* because the defendants included federal, provincial and municipal governments as well as 44 large industrial polluters – the Supreme Court of Argentina held that the severe pollution in the “*Villa Inflamable*” (Flammable Town) region of Buenos Aires violated the plaintiffs’ constitutional right to a healthy environment. Like the Supreme Court of the Philippines, Argentina’s Supreme Court ordered an extensive suite of remedies aimed at environmental restoration – including the **participation** of environmental NGOs to assist in monitoring compliance with the ruling. Since the decision, millions of people have gained access to safe drinking water and adequate sanitation, while thousands have new, vastly improved homes. Hundreds of polluting businesses and illegal garbage dumps have also been closed, and parks and riverside pathways have been built. As in Manila Bay, however, threats to

public health and the environment persist in Argentina's *Villa Inflamable* and in similar "**sacrifice zones**" – places where private interests and profits have been prioritized over human health, human rights and the environment – around the world.

Together, these cases demonstrate both the power of courts to defend the right to a healthy environment with sweeping orders intended to reverse decades of egregious environmental degradation and the limited ability of the judiciary to ensure compliance with its judgments. These two cases are also a reminder that the right to a healthy environment is not a silver bullet in securing environmental protection and restoration – it requires ongoing efforts by concerned citizens seeking a just and sustainable future for themselves and their descendants.

# EUROPE





## Halting Environmental Rollbacks

[Magyarország Alkotmánybírósága.](#)  
[Case 28/1994 \(Hungary, 1994\)](#)

**In Hungary**, the Constitutional Court's (Magyarország Alkotmánybírósága) groundbreaking judgment in *Case 28/1994* safeguarded the right to a healthy environment and demanded concrete actions from Hungary's government, setting a key precedent for proactive environmental governance. Striking down legislation that weakened environmental protections, the Court established a precedent that explicitly links **the principles of prevention and non-regression** to the right to a healthy environment. In doing so, the Constitutional Court became one of the first courts in Central and Eastern Europe to reinforce the State's duty to safeguard the well-being of nature and humankind.

In 1992, the government of Hungary passed two pieces of legislation – the Transition Acts – transferring into State ownership tracts of land that, under the Communist regime, had belonged to nationalized agricultural cooperatives. To compensate these cooperatives, either funds or land would be furnished, with protected areas – national parks, lands protected by international conventions, lands under special protection and forests – largely ineligible for return to the cooperative members.

One year later, the passage of Act II on Land Reallocation and Land Distribution Committees significantly weakened environmental protections by enabling the transfer or sale of almost all lands into private ownership, excluding only national parks and internationally protected lands. Arguing that this change violated the right to a healthy environment, a petitioner requested a constitutional review of Act II of 1993. He sought annulment of the provision that reduced environmental protections, contending that the sale of forests and parks to private interests would result in environmental degradation and the destruction of “national treasures”.

Deciding in favor of the petitioner, Hungary’s Constitutional Court ruled that the right to a healthy environment precluded the State from reducing environmental protections in all cases, except where a constitutional conflict made doing so unavoidable. The attempt to re-designate protected forests into categories of land that could be privatized represented a clear and impermissible reduction of environmental protection. Consequently, the Court found the offending provisions of Act II of 1993 unconstitutional and annulled them. Further, the Court held that the absence of provisions establishing the management of protected areas by environmental protection authorities or another equally protective scheme violated the Constitution. In other words, the right to a healthy environment requires clear and established safeguards. Ambiguity did not suffice, and neither did a regulatory gap. The Court directed Hungary’s legislators to remedy the illegalities of Act II of 1993 within six months.



The Court specifically held that the non-regression principle prevented the State from reducing protections for protected and forested areas by transferring them into private hands. In articulating the relationship between institutionalization and the principles of prevention and non-regression, the Court reasoned that environmental damage was often irreversible and that governmental neglect of the environment was not permissible. In the Court's words, "the State was not free to allow any deterioration of the environment or risk thereto". This case represents a significant trend in which the principle of non-regression, with roots in international human rights law, is gaining increased traction in environmental cases worldwide.

The Court's exceptional ruling made headlines for its emphasis on institutionalizing the right to a healthy environment, requiring proactive governance and establishing a more demanding standard for State environmental actions. The right to a healthy environment, the Court held, was neither a social right nor a mere constitutional goal but rather "a distinct fundamental right exceedingly dominated and determined by its objective aspect of institutional protection". As such, the right to a healthy environment – **which the Court linked explicitly to the right to life** – elevated State duties to implement and maintain environmental protections to the level of a fundamental right. These duties include the obligation to establish and operate specialized institutions for its protection.

Finally, the Hungarian Constitutional Court ruling is noteworthy for its confirmation that **future generations are also bearers of the right to a healthy environment**, an affirmation of intergenerational responsibility for environmental stewardship. In the Court's view, the right to a healthy environment extends beyond individual lives and rights to encompass all of nature and humanity.



## Planning, Participation, Prevention and Precaution: The Prerequisites for Just and Sustainable Decision-Making

[Case No. 2007-11-03 - on the Land Use Plan \(Latvia, 2008\)](#)

To fulfill the right to a healthy environment, numerous factors must align, as demonstrated by a landmark decision from the Constitutional Court of Latvia. Policymakers and concerned citizens require reliable information, the public must have opportunities for participation, options must be carefully considered, and avenues must be made available to challenge any processes and decisions that fail to respect human rights.

In 2005, Riga's City Council approved a new Land Use Plan that aimed to revamp building regulations and land use designations to promote economic development and expand the port of Riga. A central aspect of the port's expansion was the conversion of Krievu Island from a natural area into an industrial zone. The plan threatened to displace residents, isolate neighborhoods and expand development into areas identified as potential micro-reserves for **biodiversity**, jeopardizing valuable bird nesting grounds. While strategic and environmental assessments were prepared, they failed to adequately consider the possible impact of the proposed developments on areas including the nearby Natura 2000 reserves, part of a European Union network of protected areas.

The Coalition for Nature and Cultural Heritage Protection, a Latvian non-governmental organization, challenged Riga City's 2006–2018 Land Use Plan, focusing on the government's failure to respect the **procedural elements** of the right to a healthy environment. The coalition alleged that procedural shortcomings had limited opportunities for **public input** and that the government had disregarded important input from expert agencies. Additionally, the coalition asserted that the strategic and **environmental assessments** of the plan lacked the necessary detail to fully evaluate the potential environmental and social impacts on designated lands and nearby nature reserves. By ignoring the precautionary, prevention and sustainable development principles, the Land Use Plan would irreversibly harm people and the environment, violating the constitutionally protected right to a healthy environment and contravening international and European law. Any development activities in the port of Riga would be illegal unless and until the government complied with the required procedures.

Ruling in favor of the coalition, the Latvian Constitutional Court held that the government had violated its duties under domestic, regional and international laws that established specific procedures for projects with environmental impacts. The Court's decision rectified oversights in the creation of the Land Use Plan.

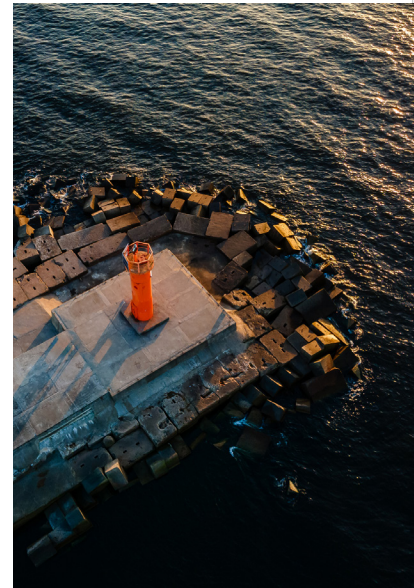
In its decision, the Court outlined the measures necessary to protect the public's right to a healthy environment. It held that Latvia was obligated to interpret national legislation in harmony with international legal norms to which the State had committed unless such interpretation contradicted domestic constitutional principles. The Court drew upon domestic law, the Aarhus Convention, the Rio Declaration and pronouncements by the European Commission and the European Court of Justice to clarify the State's procedural obligations related to public participation and transparency. It specifically held that "the law of the European Union has become an indispensable part of Latvian Law". Recognizing that Latvian law sometimes differed from international law, the Court applied the more protective legal regime when analyzing the right to a healthy environment. This approach synthesized the two legal regimes in a way that enhanced Latvia's procedural and substantive obligations to respect, protect and fulfill the right to a healthy environment.



The Court explained that the right to a healthy environment requires transparent procedures involving all interested parties from the outset of law, policy and decision-making processes. Transparency empowers the public to hold governments accountable. The Court determined that the government had sufficiently engaged the public but had overlooked crucial feedback from expert institutions, such as the Public Administration of Cultural Heritage.

While the Court noted that the right to a healthy environment is not absolute, it held that economic development can only constrain this right when the benefits to society are substantial and adequate environmental conditions are maintained. In other words, development is a legitimate public policy objective but must be sustainable and based on a holistic understanding of potential impacts on people and nature. The government must evaluate alternative solutions and adhere to legal procedures that are consistent with procedural elements and guiding principles related to the right to a healthy environment.

The Court also held that failing to rigorously evaluate the advantages and drawbacks of a Land Use Plan and to balance competing interests was inherently unlawful. Further, domestic and international law obligated the government to prioritize the **principles of prevention, precaution and sustainable development as part of this balancing exercise**. Prevention involves comprehensively evaluating the known and expected consequences of proposed activities and minimizing adverse effects. By recognizing applicants' capacity to invoke fundamental rights for the protection of both present and future generations, the Court called for proactive environmental stewardship based on preventing damage rather than responding after damage has already occurred. Precaution acknowledg-



es the limitations of human foresight and requires avoiding actions that may cause significant adverse outcomes. Sustainable development, in turn, seeks to ensure ecological integrity and economic opportunities for present and future generations. Because the government failed to consider these principles during the plan's formulation, the plan could not adequately protect the right to a healthy environment.

This decision illustrates the power of applying the right to a healthy environment in State planning contexts to prevent future harm. Consequently, it represents a major improvement over more conventional paradigms of permitting damage to nature and subsequently engaging in restoration and rehabilitation activities.





## Confronting the Norwegian Paradox: Climate Leader or Petrostate?

[Greenpeace Nordic Ass'n v. Ministry of Petroleum and Energy - People v. Arctic Oil \(Norway, 2020\)](#)

**Norway**, one of the wealthiest nations on Earth, is also one of the world's largest per capita exporters of carbon dioxide emissions. Despite compelling scientific evidence that the world cannot burn existing reserves of oil, gas and coal while meeting the Paris Agreement commitments to limit climate change, Norway continues to greenlight new offshore fossil fuel exploration.

In some respects, however, Norway is at the forefront of the global transition to a fossil fuel-free economy. Its electricity system is nearly 100% renewable, it has the highest share of electric vehicle sales in the world, it is the first country to ban the use of fossil fuels for the heating of buildings, it prohibits flaring from petroleum facilities, and it bans the disposal of organic materials in landfills, preventing methane emissions.

The Norwegian paradox is clear: the country's apparent leadership in addressing the climate emergency is contradicted and undermined by its ongoing dependence on the petroleum industry, a business sector that is fueling the crisis and contributing to extensive human rights violations across the planet. This paradox points to a profound injustice – that the world's most impoverished individuals, who have scarcely contributed to the climate emergency, bear the heaviest burden, while the wealthiest nations, primarily responsible for precipitating the crisis, continue to generate billions of dollars as major fossil fuel producers.

In an attempt to address this conundrum, the organizations Greenpeace and Young Friends of the Earth Norway filed a lawsuit widely known as *People v. Arctic Oil*, challenging Norway's decision to issue new licenses for oil and gas exploration in the Arctic Ocean. They argued that issuing these licenses violated the right to a healthy environment, enshrined in Article 112 of Norway's Constitution.

In response, the Norwegian government took the position that Article 112 did not guarantee a right but merely provided policy guidance. Yet Article 112 resides within the section of the Constitution labeled "Human Rights", and its language is unequivocal: "every person has the right to an environment that is conducive to health and to a natural environment whose productivity and diversity are maintained. Natural resources shall be managed on the basis of comprehensive long-term considerations which will safeguard this right for future generations as well".

In 2018, the District Court confirmed that the right to a healthy environment in Article 112 is an enforceable human right that the government has a legal obligation to respect, protect and fulfill. **From a climate change perspective, it is irrelevant where fossil fuels are burned. All emissions exacerbate the climate emergency.** However, the Court upheld the petroleum licenses despite this fact, accepting the government’s claim that Norway has no responsibility for carbon dioxide emissions caused by burning exported Norwegian oil and gas, known as “Scope 3” emissions.

The Court of Appeal denied the civil society organizations’ appeal and confirmed the validity of the licenses, although it agreed with the District Court that the constitutional right to a healthy environment could limit State actions that result in significant environmental damage.

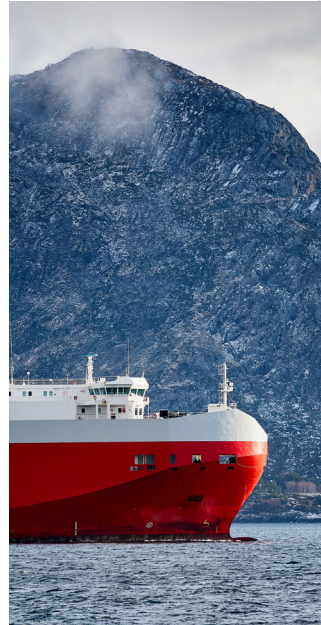
In a shocking 2020 decision, the majority of the Supreme Court – 11 of 15 judges – severely undermined Norway’s constitutional right to a healthy environment, ruling that it allows judicial review in very limited circum-



stances. Indeed, decisions made by the Stortinget – Norway’s Parliament – can only be reviewed by courts if the State “grossly disregards” its constitutional duties to protect the environment. The Supreme Court held that the petroleum licenses were effectively approved by Parliament and, therefore, were beyond the reach of judicial review. In one of the only silver linings of its decision, the Supreme Court ruled that evaluating the carbon dioxide emissions from the combustion of exported Norwegian oil or gas was required if evidence of potential climate damage in Norway existed.

The Supreme Court’s poorly reasoned judgment has been the subject of extensive criticism. International environmental law expert Christina Voigt wrote that “its main purpose appears to hurriedly align the law with the politics of continuous, unfettered petroleum extraction”,<sup>6</sup> that it “failed to draw the link between the scientific facts and the normative consequences of those facts”<sup>7</sup> and that it ignored the **Paris Agreement** when interpreting Article 112.<sup>8</sup> Professor Voigt concluded that by undermining its own competence to hold the State accountable for constitutional obligations, the Court failed in its paramount duty to protect persons against violations of their human rights.<sup>9</sup>

In a recent development, Greenpeace and Young Friends of the Earth Norway returned to court in Norway. In the 2023 case *Greenpeace Nordic Association and Nature and Youth v. Ministry of Petroleum and Energy*, they challenged the approval of plans for the development and operation of three new oil and



---

6 CHRISTINA VOIGT, *The climate judgment of the Norwegian Supreme Court: Aligning the law with politics*, 33 J. Env'tl L. 697 (November 2021), 1.

7 *Id.* at 11.

8 *Id.* at 12.

9 *Id.* at 14.

gas fields in the North Sea, which collectively hold nearly 1 billion barrels of oil. The organizations argued that Norway had failed to evaluate, in its impact assessment, the Scope 3 emissions from burning fossil fuels, violating the procedural element of the right to a healthy environment that guarantees **access to information**.

In January 2024, the Oslo District Court determined that the approvals were unlawful given the State's failure to assess Scope 3 emissions and issued an injunction to prevent further work, pending the government's appeal. The Oslo District Court cited expert evidence that the climate crisis is already causing significant impacts in Norway and is expected to result in increased impacts unless global emissions decline. The Court ruled that failing to comprehensively assess carbon dioxide emissions was inconsistent with Norway's petroleum regulations, interpreted in light of the constitutional right to a healthy environment. The Court also ordered the State to pay the plaintiffs' legal costs, improving **access to justice** in a manner consistent with the Aarhus Convention.

The District Court's decision was praised by experts as "a courageous and much-needed constitutional renewal for Norway".<sup>10</sup> It is regarded as better reasoned and more aligned with international law compared to the Supreme Court's 2020 decision, which is currently under review by the European Court of Human Rights. However, with the Norwegian government appealing the District Court's decision, at the time of writing, it remains uncertain whether the right to a healthy environment will effectively steer Norway toward a greener and less fossil fuel-dependent future.

---

10 SEE ESMERALDA COLOMBO, *Is the Norwegian paradox coming to an end?*, VERFASSUNGSBLOG (8 July 2024), <https://verfassungsblog.de/is-the-norwegian-paradox-coming-to-an-end/>.



## Giving Teeth to the Protection of the Iberian Wolf

[Ruling No. 83/2022 - The Portuguese  
Iberian Wolf Case \(Portugal, 2022\)](#)

**The Iberian** wolf is emblematic of the complex relationship between humans and wildlife, especially large carnivores. Regarded by many as a symbol of local and national identity, the wolf has inhabited the Iberian region for millennia and holds significant cultural importance. But this apex predator has also posed a challenge to local livelihoods, primarily by killing farmers' livestock. Consequently, wolves have endured centuries of persecu-

tion that have, in some regions of the world, pushed them to the threshold of extinction. The protection of the Iberian wolf thus poses a dilemma, raising questions about the appropriate balance between preserving nature and safeguarding economic and property rights.

Once widespread across Portugal, by the late 1980s, Iberian wolves were restricted to a small northern area of the country. Killings by farmers who be-moaned the economic toll of livestock attacks drove the wolf to the brink of extirpation. In response, Portugal implemented the Dead Wolf Monitoring System and enacted Law 90/88, laying down the legal groundwork for the wolves' protection.

In 2016, Decree 54/2016 was enacted to revise the principles governing the conservation and restoration of wolf populations. The decree prohibited the killing of wolves and modified the compensation system for landowners affected by wolf-related livestock damage. In response, the country's attorney general petitioned the Constitutional Court to declare the decree unconstitutional. He argued that the decree's compensation framework, which was characterized by stringent eligibility criteria, limited compensation and gradually reduced payments, amounted to the "sacrificial expropriation" of farmers' property. The attorney general claimed that the revised framework violated citizens' constitutional rights, equality in public burdens, proportionality, private property and fair compensation. Therefore, the State was constitutionally obliged to provide farmers full compensation covering the "expropriation" of their livestock.

The Court rejected the attorney general's arguments and confirmed the decree's constitutionality, anchoring its analysis on the right to a healthy environment. The Court first affirmed the necessity of the prohibition against killing the Iberian wolf to fulfill the State's constitutional obligations to protect the right to a healthy environment. It then assessed the compatibility of Decree 54/2016 with the State obligation to protect the right to a healthy environment.



In its analysis, the Court carefully **weighed the interests of wolf conservation against the property and economic concerns of affected farmers** and determined that the restrictions on compensation outlined in the decree did not expropriate farmers' property. As a result, the State was not obliged to fully compensate them. The Court held that to strike a balance between the constitutional duty to protect the wolf and the economic and property interests of farmers, the State had rightly opted for a middle-ground approach, offering partial compensation in certain circumstances. Providing full compensation would create perverse incentives that undermined wolf conservation, it explained. The more restrictive compensatory scheme in the decree was designed to protect the wolf by discouraging farmers from leaving their livestock unprotected and profiting from the more generous government policy.



*Ruling No. 83/2022* underscores **the role of biodiversity as a pivotal element of the right to a healthy environment**. As shown in a global overview of rights-based biodiversity jurisprudence, the right to a healthy environment has become a key vehicle to protect species and ecosystem diversity around the world.<sup>11</sup> The ruling also highlights the need for the biodiversity element of the right to be interpreted consistently with relevant international legal principles. The Court noted that framing compensation as State aid, rather than constitutionally mandated compensation for expropriation, afforded the drafters flexibility to align the decree with international law. This approach harmonized Portugal's wolf conservation regime with national, EU and global biodiversity rules, including the UN Convention on Biological Diversity and the European Convention on the Protection of Wildlife and the Natural Environment. The decision illustrates the power of leveraging domestic and international law to inform specific elements of the right to a healthy environment and ensure robust protection standards.



*Ruling No. 83/2022* also emphasizes the dual **anthropocentric and ecocentric dimensions of the right to a healthy environment**. The Court clarified that this duality translates into duty-bearers' responsibility to promote a harmonious and sustainable relationship between humans and the environment. In light of this, the decree's explicit aim to reconcile contemporary shepherding practices with the continued presence of wolves in the wild was deemed constitutionally valid. The case reinforces that, in fulfilling its human rights obliga-

---

<sup>11</sup> See generally CÉSAR RODRÍGUEZ-GARAVITO and DAVID R. BOYD, *A rights turn in biodiversity litigation?*, 12 *Transnat'l. Evt'l L.* 498 (November 2023).

tions, the State had the responsibility to balance the rights of its citizens and the surrounding ecosystems, even if the benefits of this balancing exercise were not appreciated by the former.

To weigh the survival of wild species against economic or property interests, the Court explained, the State had to consider the critical role of the right to a healthy environment. While both sides may be considered, providing full compensation for livestock losses would unreasonably transfer the burden of economic activity onto nature. The Court stressed that “what is not reasonable, and would go against a demanding understanding of the State’s duty to protect nature, is to shift this risk onto the specimens that make up nature, which, unlike humans, do not foresee, plan or adapt”. Ultimately, in its balancing act, the State must recognize that humans possess the capacity and responsibility to protect their businesses and livelihoods; nature does not.

The Constitutional Court’s conclusion in this case is noteworthy because past balancing exercises frequently prioritized corporate profits and economic and property rights. In the face of an escalating global biodiversity crisis, however, the constitutionally mandated weight given to the right to a healthy environment and the State’s corresponding obligation to conserve, protect and restore nature are reinforced by judicial decisions such as *Ruling No. 83/2022*. The Court leveraged the distinctive spirit of the right to a healthy environment as a right that safeguards both ecocentric and anthropocentric interests to reconcile the needs of human communities and nature. In doing so, it demonstrated the right’s invaluable role in maintaining this elusive balance.

The right to a healthy environment empowers courts, as guardians of human rights, to play a pivotal role in protecting biodiversity and the ecosystems upon which humans depend. With more than 1 million species at risk of extinction, nature needs all the help it can get.

# LATIN AMERICA AND THE CARIBBEAN





## Environmental Law Elevated to Supra-Legal Status

[Arguição de Descumprimento de Preceito Fundamental, ADPF N° 708 - The Climate Fund Case \(Brazil, 2022\)](#)

In the *Climate Fund* case, Brazil's Federal Supreme Court relied on the constitutional right to a healthy environment to compel the government to act by using funds dedicated to addressing the global climate emergency. Deciding on the State's "non-compliance with a fundamental norm" – a special process used to challenge infringements of constitutionally protected rights –, this case clearly articulated the nexus between human rights and environmental protection and underscored the State's obligations to protect the right to a healthy environment.

The Amazon rainforest, often called the “lungs of the Earth”, sprawls across 40% of Brazil’s total landmass. Concentrated in the northeast, Brazil’s portion of the Amazon constitutes almost two-thirds of the massive rainforest. In the early 2000s, after decades of devastating deforestation, Brazil committed to combating this issue alongside environmental degradation and climate change. To do so, the government established multiple laws, policies and decrees, including the National Policy on Climate Change. These measures targeted land use change and deforestation, the leading sources of greenhouse gas emissions in Brazil. A Climate Fund was established to seek climate finance from international sources, helping Brazil implement the adaptation and mitigation measures needed to achieve the targets set in its Nationally Determined Contribution – its climate commitment under the Paris Agreement.

Notable progress was made in reducing deforestation, but this trend reversed starting in 2013. The loss of forests to ranching, industrial agriculture and wildfires reached record highs in 2019 and 2021 during the Bolsonaro administration.<sup>12</sup> Scientists measured a shocking 190% increase in deforestation between 2012 and 2021, resulting in over 1 million hectares of forest loss, including in protected areas and Indigenous lands.<sup>13</sup> The onslaught from deforestation, illegal mining, poaching, violence and ineffective law enforcement severely impacted Indigenous communities, threatening their rights, livelihoods, cultures and lives.

---

12 JONATHAN WATTS, *Amazon rainforest “will collapse if Bolsonaro remains president”*, THE GUARDIAN, 14 July 2021, <https://www.theguardian.com/environment/2021/jul/14/amazon-rainforest-will-collapse-if-bolsonaro-remains-president>.

13 NATIONAL INSTITUTE FOR SPACE RESEARCH- FEDERAL GOVERNMENT OF BRAZIL, *Estimativa de desmatamento por corte raso na Amazônia Legal para 2021 é de 13.235 km*, 27 October 2021, <https://www.gov.br/inpe/pt-br/assuntos/ultimas-noticias/divulga-cao-de-dados-prodes.pdf>, 1.

In 2019, Brazilian lawyers and environmental non-governmental organizations uncovered that the Climate Fund, a cornerstone of the Brazilian National Policy on Climate Change, was non-operational and no longer disbursing resources for environmental and climate-related projects. Four political parties came together and filed a lawsuit alleging that the intentional paralysis of the Climate Fund violated the right to a healthy environment guaranteed by the Constitution. They argued that the Ministry of the Environment was legally obligated to protect the environment, combat **pollution** and create an annual plan for the fund. They asked the Court to order the reactivation of the fund's finances and operations, mandate the drafting of annual plans and prevent the executive branch from withholding any future funds allocated by the legislature.





The Supreme Court ruled in favor of the petitioners, determining that the government had violated its constitutionally and legislatively mandated duties to protect the fundamental right to a healthy environment. The State's deliberate inaction endangered the **biodiversity**, ecosystems and ecological processes that provide a life support system for present and **future generations**. "There are no human rights on a dead or sick planet", the Supreme Court emphasized, quoting the UN Environment Programme. The Court then ordered the government to refrain from any actions – or inaction – that impaired the functionality of the Climate Fund.

In its analysis, the Court embraced a progressive interpretation of international environmental law, ruling that environmental treaties, such as the Paris Agreement, are complementary to international human rights law. Therefore, such treaties enjoy the same supra-legal status in Brazil – prevailing over ordinary laws and regulations. This approach places international environmental and human rights treaties at the top of the legal hierarchy in Brazil, superseding all domestic legislation. Consequently, the United Nations Framework Convention on Climate Change and the Paris Agreement imposed enforceable obligations to address climate change. In other words, these constitutional, legal and supra-legal duties meant that the government had "no legally valid option of simply refraining from combatting climate change".

The Supreme Court also outlined principles from international human rights law guiding the implementation of the State's obligations to fulfill the right to a healthy environment. The Court emphasized the **principle of non-regression** as particularly significant in the context of environmental protection and explained that the principle is breached when protections are reduced due to inaction or the weakening of climate and environmental



rules. Like all human rights, the fundamental right to a healthy environment is **progressive**, meaning that the duty to implement increasingly protective measures translates to ever-higher performance benchmarks that governments cannot renege on. Similarly, the Paris Agreement holds that successive iterations of Nationally Determined Contributions are intended to include more ambitious commitments. Therefore, to reverse course on environmental progress and the protection of the right to a healthy environment violates both human rights law and environmental law.

The Supreme Court of Brazil pioneered an interpretation of international law by **equating environmental and human rights treaties and endowing them with supra-legal status**. The *Climate Fund* decision acknowledged that **the right to a healthy environment includes a safe, liveable climate and healthy ecosystems**, both of which are essential for enjoying other fundamental human rights. In a world on fire, where few States are addressing the climate emergency with the requisite urgency, this type of bold jurisprudence is essential.



## Achieving Environmental Justice in a Sacrifice Zone

*[Francisco Chahuán v. Empresa Nacional de Petróleo and others \(Chile, 2019\)](#)*

A decades-long campaign against industrial pollution reached a tipping point in 2018 when Chile’s Supreme Court issued a landmark decision holding that inadequately regulated industrial **pollution** violates the right to a healthy environment. A hard-fought victory for local communities, this case demonstrates the power of the right to a healthy environment to overcome the terrible injustice of “**sacrifice zones**” – places where private interests and profits have been prioritized over human health, human rights and the environment, resulting in massive negative impacts on humans and ecosystems.

For decades, industrial pollution sabotaged the health of residents and families living in Quintero and Puchuncaví, Chile's most notorious sacrifice zone. First industrialized in the 1950s to help drive economic development, corporations from a multitude of industries, including oil and gas, energy, chemicals and port management, caused catastrophic contamination of the air, water, soil and ocean of the region.

A series of mass poisonings culminated in 2018 when a cloud of toxic chemicals caused alarming neurological and other acute health symptoms for community members, sending more than 1,000 individuals to the hospital. Demanding accountability for the incident, Valparaíso senator Francisco Chahuán said the Quintero and Puchuncaví communities had “turned into death zones”.<sup>14</sup> Local corporations denied responsibility. Expressing regret, however, one industry representative acknowledged, “we are deeply sorry for the situation that Quintero residents have had to go through...This is not an isolated case for the residents of the two affected cities”.<sup>15</sup>

One month after the crisis, 12 plaintiffs alleged that the Ministry of the Environment, the President and a dozen businesses had acted with long-term negligence, given their ongoing failure to prevent toxic pollution events, such as the mass poisoning of 2018. The Court of Appeals dismissed the plaintiffs' claim, citing the incident's complexity and the inability to pinpoint a specific responsible industrial facility. The plaintiffs appealed to Chile's Supreme Court, sharing evidence that companies operating in Quintero and Puchuncaví had failed to implement adequate waste treatment and pollution prevention measures. By failing to properly regulate these businesses, monitor pollution and enforce environmental laws, the plaintiffs contended, the

---

14 ALI DASHTI, *Yellow alert in central Chile after massive chemical gas leak; Piñera urges “investigation”*, THE SANTIAGO TIMES, 26 August 2018, <https://santiago-times.cl/2018/08/26/yellow-alert-in-central-chile-following-massive-chemical-gas-leak-pinera-urges-investigation/>.

15 *Id.*

State had breached its domestic and international obligations to safeguard health and human rights, including the constitutional right to live in an environment free of contamination.

Partly ruling for the plaintiffs in 2019, the Supreme Court held that the State's failure to address the region's industrial **air pollution** violated the right to a healthy environment and related fundamental rights. The Court found that the government had failed to implement necessary preventive and precautionary measures. The Quintero and Puchuncaví communities had experienced "environmental discrimination because they were made to bear disproportionate environmental harms as a result of their abandonment by the state and society". The Court issued an expansive suite of remedies, ranging from orders for the State to enforce compliance with emissions standards to fostering intra-governmental coordination and creating a platform where environmental quality and enforcement information would be **publicly available**. The plaintiffs' allegations against the private corporate defendants were dismissed, however, on the grounds that insufficient evidence



linked responsibility for the 2018 incident to any individual defendant. The Court did acknowledge that the region's industrial activity was, as a whole, to blame for the adverse impacts on the plaintiffs' health and well-being.

The Court's ruling is a striking demonstration of how courts can leverage the right to a healthy environment to lower the **burden of proof**, ensuring justice and accountability even when no specific culprit can be identified. In contrast to the lower court's approach, the Supreme Court clarified that **a lack of evidence proving the pollution's exact industrial cause was not fatal to the plaintiffs' case**. To compensate for this uncertainty, the Court relied on "guiding elements", including sustainable development, human rights and environmental principles. Invoking the **precautionary principle**, the Court found that government agents have an obligation to monitor and regulate industrial pollution and its impacts on the environment and human health, "even when there is no absolute certainty of the effects that a given act will have on the environment". Moreover, the **prevention principle** mandated that the State exhaust all possible avenues of avoiding harm, and the **principle of sustainable development** required that industrial activities, even if seeking to improve economies and individuals' lives, could not do so at the expense of public health, future generations or the environment.



In 2023, following almost five years of slow and limited remedial action, the Supreme Court issued a new judgment rejecting the government's prevention and decontamination plan for the area. According to the Court, the plan was not compliant with the principles of prevention, **polluter pays** or sustainable development. To remedy the plan's deficiencies and accelerate the

restoration of the region's environment, the Court ordered immediate action to monitor pollution, reduce emissions and achieve air quality standards. The Court also ordered agencies to comply with its orders and respond to affected communities' complaints in a proactive and timely manner. To its credit, Chile responded by closing coal-fired power plants, shutting down a major copper smelter and strengthening environmental standards, yet more remains to be done.

The decision in *Francisco Chahuán* tells a story not only of the right to a healthy environment but also of the resilience of people in heavily contaminated communities across the globe. By holding the State accountable for improving the region's air quality and environmental health, Chile's Supreme Court vindicated years of local mobilization by the people of Quintero and Puchuncaví. The case shows how the right to a healthy environment can be used by local communities to hold governments and other actors accountable, ending the era of sacrifice zones and achieving environmental justice for all.





## Youth Unite to Defend the Amazon

[Future Generations v. Ministry of the Environment and others \(Colombia, 2018\)](#)

**Concerned by** the global climate and biodiversity crises, a group of 25 youth petitioners argued before Colombia's Supreme Court that deforestation in the Amazon violated their right to a healthy environment. Their victory marked a key precedent. Handed down in 2018, the *Future Generations* ruling remains one of the most important articulations of the right to a healthy environment to date.

It may be hard to imagine what 70,000 hectares looks like. Perhaps it is easier to imagine an equivalent – 50,000 soccer fields, side by side. Collectively home to millions of animals, plants and fungi, as well as a sizable chunk of the Earth’s biodiversity, each of those soccer pitches was once blanketed by rainforests. Together, they represent the extent of deforestation in the Colombian Amazon in 2016 alone. Worse yet, primary rainforest – the most biodiverse and carbon-dense in the world – comprised nearly three-quarters of the Colombian forest lost to deforestation from 2016 to 2018. By 2018, the government was failing to keep its 2015 promise to reduce net deforestation to zero by 2020. Instead, due mostly to land grabbing, illicit crops and illegal mining, deforestation rates soared.

Seeking to protect Colombian ecosystems, the global climate and the fundamental rights of all Colombian citizens and future generations, youth petitioners initiated a *tutela* action – a legal mechanism safeguarding constitutional rights – against the Colombian government. With support from the human rights organization Dejusticia, the petitioners alleged that the State had taken insufficient action to prevent deforestation and its wide-ranging consequences – including changes in water quality and quantity, increased flooding and global warming resulting from higher net carbon emissions. As a result, the youth petitioners expected to suffer a reduced quality of life and lose the opportunity to enjoy a healthy environment. The State’s inaction violated the fundamental rights to a healthy environment, life and health, the petitioners argued, in addition to obligations under the Paris Agreement and domestic law to reduce deforestation and greenhouse gas emissions.

Although the *tutela* was initially dismissed, in 2018, Colombia’s Supreme Court granted the youth petitioners a stunning victory by acknowledging that the degradation of the Amazon constituted a “serious attack” on current and future lives and on the rights to water, clean air, dignity and a healthy environment. State measures to confront deforestation and protect the petitioners’ fundamental rights had proven ineffective, according to the Court. The State had breached its international and domestic obligations to sustain-

ably manage natural resources, enforce environmental protections, hold violators accountable and safeguard fundamental rights. Recalling the Amazon's importance to humanity, the Court concluded that "the conservation of the Amazon is a national and global obligation".

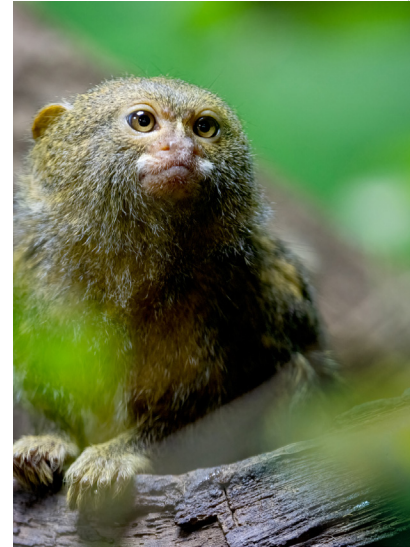
The Supreme Court ordered the relevant ministries to create action plans to reduce deforestation and formulate an intergenerational pact for the life of the Colombian Amazon, which would include measures aimed at reducing deforestation to zero. The Court's orders required compliance within five months and mandated the inclusion of preventive, mandatory and measurable strategies for climate change mitigation and adaptation. Certain remedies, including the drafting of an intergenerational pact, also required the active **participation** of the petitioners, affected communities, scientific organizations and environmental research groups. Each defendant was ordered to begin taking action to address deforestation within 48 hours of the Court's ruling.



The Supreme Court's ruling shed light on who has legal standing to assert the right to a healthy environment and how they can do so. Confirming that human rights are "substantially linked and determined by the environment and the ecosystem", the Court recognized the **youth petitioners' legal standing** and confirmed that the exceptional *tutela* action was the appropriate legal mechanism given the severity of the issues raised. As a justification, the Court noted that without a healthy environment, "subjects of law and sentient beings in general will not be able to survive, much less protect those rights, for our children or for future generations".

The Court broadened the legal basis for defending the collective right to a healthy environment by recognizing that it is possessed by both children and future generations. In the Court's view, the ethical duty of human solidarity and the intrinsic value of nature compel equity and prudence in present generations' approach to consumption and development.

The Court's mandate also extended beyond future generations to include other animals, plants and ecosystems. Linking the climate crisis to humanity's adoption of an anthropocentric model defined by consumerism, exploitation and selfishness, the Court urged a global shift toward collective ethics and **ecocentric** patterns of thought that deprioritize materialism while emphasizing human responsibility to protect the environment. The Court also declared the Colombian Amazon a subject of rights entitled to protection, conservation and restoration; acknowledged that ecosystems have intrinsic, rather than merely instrumental, value; and contributed to the growing global jurisprudence on the **rights of nature**.



This groundbreaking ruling illuminates the critical role that scientific evidence can play in support of the right to a healthy environment, as the petitioners and Court relied extensively upon expert reports on **biodiversity loss and climate change**. Invocation of the **precautionary** and **intergenerational equity principles**, together with such evidence, led the Court to conclude that continuing deforestation would result in ecological destruction for the Amazon and its neighbors.



## Justice for Hammerhead Sharks

*Walter Brenes Soto v. Costa Rican Institute of Fisheries and Aquaculture and others (Ruling 912-2023) - The Hammerhead Shark Case (Costa Rica, 2023)*

One of the most compelling aspects of the right to a healthy environment is its ability to protect both people and nature from environmental degradation. This feature distinguishes the right to a healthy environment from all other human rights and has been repeatedly noted by courts across the world. The European Court of Human Rights, for example, has explained that the absence of the right to a healthy environment from the European Convention – the only regional human rights instrument that omits this right – means that the Convention does not enshrine a “right to nature preservation”.



In contrast, a 2023 decision from the Constitutional Chamber of the Supreme Court of Justice of Costa Rica provides a clear and inspiring example of how the right to a healthy environment can boost protection for **biodiversity**. In 2017, the Costa Rican Institute of Fisheries and Aquaculture established a rule that identified three species of hammerhead sharks as eligible for capture by commercial fishing fleets, a demand driven by Chinese consumers' taste for shark fin soup.

According to the Red List created by the International Union for the Conservation of Nature, hammerhead sharks are a critically endangered species, a designation indicating that a species is perilously close to the brink of extinction. As a result, hammerhead sharks are internationally protected by the Convention on Trade in Endangered Species (CITES).

In 2018, lawyer Walter Brenes Soto filed a lawsuit arguing that hammerhead sharks should be included on Costa Rica's endangered species list, not on the commercial fishing list. According to Costa Rican biologist Randall Arauz, permitting the capture of hammerhead sharks was rapidly driving the species toward extinction. Arauz noted that 85% of all hammerhead sharks landed between 2015 and 2020 had not even reached the size required for sexual maturity, indicating a severe depletion of the older, larger sharks needed to sustain the population.

In a powerful decision written by Judge Damaris Vargas Vásquez, the Court concluded that allowing the commercial exploitation of an endangered species was inherently unsustainable and thus violated the right to a healthy environment. The government was ordered to adopt all necessary and appropriate measures to eliminate the capture and commercial exploitation of hammerhead sharks. The Court further rejected the government's argument that it was already protecting hammerhead sharks. The evidence indicated that hammerhead sharks were being caught as incidental catch, even in a special marine protected area in the Golfo Dulce, that independent monitors had never been put in place and that the species population was in rapid decline.

The Court referred to a wealth of international and comparative law as the foundation for its decision. These sources included the Inter-American Court of Human Rights Advisory Opinion on Environment and Human Rights (Advisory Opinion 23/17), the UN General Assembly Resolution on the right to a healthy environment (A/RES/76/300) and a decision by the Supreme Court of Mexico regarding the impacts of a proposed port on wetlands and coral reefs. The Court noted that the UN resolution strengthened its understanding of **the right to a healthy environment as a fundamental right that uniquely protects various components of nature independently of their utility to human beings.**

The judgment also referenced key principles of human rights and environmental law, including the **principles of prevention, precaution, progressiveness, non-regression and *in dubio pro natura*** – under which uncertainty should be resolved in favor of nature. The Court added that scientific studies must inform the regulations governing wildlife and the environment.



In the past, some critics have argued that human rights law is anthropocentric (narrowly focused on homo sapiens) to the exclusion of other species. This argument is undermined by the **ecocentric nature of the right to a healthy environment**, which recognizes that humans are part of nature and that human well-being is inextricably linked to healthy biodiversity and ecosystems. Earlier court decisions in Costa Rica had relied on the right to a healthy environment to protect tropical almond trees from all types of use or exploitation on the basis that these trees are critical for an endangered bird called the great green macaw. Similarly, multiple court decisions relied on the right to a healthy environment to protect endangered sea turtles, including a decision justifying the expropriation of private land in Las Baulas – or Leatherback – National Marine Park in 2008. Other cases relied on this right to protect pollinators from the threat posed by neonicotinoid pesticides. This impressive line of court decisions applying the human right to a healthy environment to protect non-human species epitomizes its ecocentric interpretation.



Following the Supreme Court's ruling in 2023, the government of Costa Rica enacted an executive decree that prohibits the capture, transportation, storage or sale of hammerhead sharks or their byproducts, such as fins and teeth. In the words of Law Professor Mario Peña Chacón of the University of Costa Rica, "justice was served for the hammerhead shark".<sup>16</sup>

---

16 MARIO PEÑA CHACÓN, Justicia ecológica para el tiburón martillo, DELFINO, 10 September 2023, <https://delfino.cr/2023/09/justicia-ecologica-para-el-tiburon-martillo>.





## Shifting Paradigms to Protect Los Cedros Cloud Forest

[Case No. 1149-19-JP/21 - Los Cedros Decision \(Ecuador, 2021\)](#)

**In Ecuador**, nestled between the high alpine habitats of the Chocó bioregion and the lush expanse of the Tropical Andes, thrives an invaluable ecological treasure – the Los Cedros cloud forest. The old-growth forests of Los Cedros are home to over 200 species at high risk of extinction, including the spider monkey, the spectacled bear – South America’s only bear species – and numerous other species that dwell nowhere else on Earth. The bioregion’s uniqueness, biodiversity and critical ecological role led to much of Ec-

cuador's cloud forest being designated as protected in 1994. In 2008, Ecuador became the first country in the world to enshrine constitutional protection for the rights of nature – i.e., *Pachamama* or Mother Earth – adding another powerful layer of defense to Los Cedros.<sup>17</sup>

However, in 2017, Ecuador's Ministry of Environment and Water issued two concessions approving copper and gold mining in two-thirds of the Los Cedros protected area. That same year, an environmental registration – a procedure permitted only for projects likely to result in low environmental impact – was issued for the initial exploration phase of mining. No public consultation had been carried out with affected communities prior to the concessions' approval.

In 2018, on behalf of the Los Cedros forest, the municipal government of Cotacachi filed a constitutional action seeking injunctive relief against Ecuador and the state-owned mining company Empresa Nacional Minera (ENAMI). Seeking to repeal both the resolution granting the project's environmental registration and the approval of ENAMI's **environmental impact study**, the petitioners argued that these documents violated the constitutional rights of nature by permitting potentially destructive mining activity within Los Cedros. Additionally, the petitioners alleged that the respondents' procedures violated the constitutional rights to a healthy environment, water and **environmental consultation**, including special guarantees about the participation of Indigenous Peoples.

---

17 For a detailed account of this case and a systematic assessment of its implementation, see NYU LAW TERRA and MORE-THAN-HUMAN LIFE PROGRAM, *The Impact of the Rights of Nature: Assessing the Implementation of the Los Cedros Ruling in Ecuador*, 14 June 2024, <https://mothrights.org/project/report-assessing-the-implementation-of-the-los-cedros-ruling-in-ecuador/>. This summary of the case is partially taken from that report.

In a highly consequential decision, Ecuador’s Constitutional Court concluded in 2021 that the mining activities would cause environmental degradation in clear violation of the right to a healthy environment and the rights of the forest as a subject of legal protection. Specifically, mining threatened the rights of Los Cedros and its species to exist and to reproduce via healthy life cycles. The Court held that the violations of human rights and **rights of nature** required the annulment of the mining permits. The Court declared the environmental registration void and held that activities threatening the rights of nature – including mining and all types of extractive activities – were prohibited within Los Cedros. Emphasizing the interconnectedness of all human rights – and particularly the right to a healthy environment – with the rights of nature, the Court also found violations of the rights to water and environmental consultation.





The Court ordered ENAMI to refrain from conducting any type of activity in Los Cedros, remove all mining infrastructure and reforest the damaged areas. To ensure compliance with the substance of its ruling, the Court also ordered guarantees of non-repetition and measures for the preservation of water, outlined indicators to monitor progress and mandated that State agencies take all necessary measures to preserve Los Cedros and uphold the rights of nature.

Deploying an **ecocentric conception of the right to a healthy environment**, the Court set a key precedent by recognizing that infringements of the rights of nature jeopardize the rights of individuals and communities. Reasoning that humans are not separate from nature and that any violation of nature’s rights thus entails a violation of human rights, the Court held that the two sets of rights “converge within the right to a healthy environment”. Scientific evidence demonstrated that the preservation of Los Cedros – and, more broadly, of all critical ecosystems – directly enables local communities to enjoy the right to a healthy environment. The mining activities threatened the ecosystem’s intrinsic right to flourish and the communities’ right to a healthy environment. By embracing criteria defining the shape and substance of nature’s rights in conjunction with the right to a healthy environment, the Court contributed to the ongoing elucidation of what States must do under the law to fulfill their obligations pursuant to these rights.



The Court also elaborated on the **relationship between the rights to water and to a healthy environment**, ruling that these rights encompass both the right of humans to consume water and the rights of ecosystems to sustain themselves. Here, because of the unique ecological features of Los

Cedros – including the forest’s headwaters and provision of a secure water source for lower-altitude communities and ecosystems – mining jeopardized both anthropocentric and ecocentric dimensions of the rights to water and a healthy environment.

Finally, the Court offered a nuanced interpretation of the **precautionary principle**. It relied on scientific evidence related to the forest’s flora, fauna and fungi, water cycles, as well as its critical role as a “buffer zone” and biodiversity corridor in order to reject the respondent’s argument that the “exploratory phase” of mining would result in only minor environmental impacts. Placing the **burden of proof** on the respondents to demonstrate that mining activity would not generate irreversible harm to the forest, the Court found that they failed to meet this test. The unique characteristics of the cloud forest made Los Cedros more susceptible to environmental damage, meriting higher standards of protection. The Court emphasized that the precautionary principle required the State to apply timely and effective measures where industrial activities could cause species extinction, ecosystem destruction or the permanent alteration of natural cycles.

In sum, the *Los Cedros* landmark decision rigorously articulated the interdependence of the right to a healthy environment and other human rights with the rights of nature. By developing the substantive and procedural elements of the right to a healthy environment, the Court advanced the right’s jurisprudence and practical impacts. The decision illustrates the ecological paradigm shift in human rights law, policy and philosophy led by the courts of Latin America, including the Inter-American Court of Human Rights, along with the highest courts of Colombia, Ecuador, Costa Rica, Panama, Mexico and other countries. The *Los Cedros* ruling encourages humans to reflect on our relationships with, irrevocable dependence upon and responsibilities to the healthy ecosystems found only on Earth. Living in harmony with nature is more than enjoyable – it is imperative for the survival of life on our planet.



## A Pleasant Surprise: States Embrace the Right as a Shield

[Writ of Amparo under Review 128/2022 -  
On Plastic Bags \(Mexico, 2023\)](#)

**We live** in a world where plastic abounds, from the highest mountains to the deepest marine trenches. Plastic is in the air, water, food and, most alarmingly, our bodies. The Supreme Court of Mexico's decision in this case provides a glimmer of hope, exemplifying how the unique nature of the right to a healthy environment may protect the human and the more-than-human worlds in unexpected ways. More broadly, by highlighting how governments and judiciaries can use the right to a healthy environment as a shield against private sector attacks, this case sent a clear message that the protection of the planet takes precedence over business profits.

Many of Mexico's rivers, mangroves and beaches have become de facto rubbish dumps, with most of the waste being plastic. To address this problem, the government of Oaxaca amended the Solid Waste Prevention and Management Law in 2019, prohibiting businesses from distributing non-recycled plastic bags. A plastic bag manufacturer promptly challenged the government in court, arguing that, in addition to being unclear, arbitrary and procedurally flawed, the amendment violated its freedom of commerce and equality relative to other producers. The manufacturer thus sought an *amparo* – or protection measure – in the form of an exemption from the amendments.

The case reached Mexico's Supreme Court, which in 2023 ruled that the prohibition of non-recycled plastic bags did not violate the manufacturer's rights. The Court first examined the environmental consequences of plastic, including massive **pollution, exacerbation of climate change and harm to marine ecosystems**. Each of these consequences threatened key elements of the right to a healthy environment. Using a **proportionality test**, the Court weighed the benefits of environmental protection and fulfilling the right to a healthy environment against any infringement on the rights of the manufacturer. The Court concluded that safeguarding the right to a healthy environment took precedence over business freedoms, particularly when such activities endanger the environment. The prohibition on non-recycled plastic bags was upheld, dismissing the business's *amparo* request.

In evaluating whether the prohibition infringed upon the **rights to freedom of trade and equality**, the Court employed a test that allowed for the legitimate restriction of these rights to promote a constitutional purpose, right or principle. Highlighting the constitutional nature of the right to a healthy environment, the Court determined that environmental protection was a constitutionally valid and mandated purpose of the Solid Waste Law amendments. The Court underscored the significance of the right by considering its global prominence. Showcasing the importance of the international recognition of the right to a healthy environment and its potential influence on domestic rulings, the Court asserted that all States are obligated to adopt

necessary measures for environmental protection. Given the substantial weight attributed to the right and the duties it entails, the Court found the prohibition to be appropriate and necessary. Since the prohibition advanced the critical goal of environmental protection more than it restricted the right to conduct business, the Court deemed it proportional.

Global jurisprudence acknowledges the **multifaceted nature of the right to a healthy environment, encompassing both anthropogenic and ecocentric aspects as well as individual and collective dimensions.** *Writ of Amparo under Review 128/2022* shed light on these dimensions to clarify what the right requires from duty-bearers. Interweaving the right's dualities, the Court elucidated that while the individual or "anthropocentric" dimension ensures each person's enjoyment of the right, the collective or "ecological" dimension safeguards nature's intrinsic value and preserves na-



ture for its broader societal benefits. Thus, the Court reinforced the right's pivotal role in protecting both human well-being and the inherent value of healthy ecosystems.

The case also serves as a cautionary tale about industries' potential misuse of the right to a healthy environment for self-serving ends, from invalidating governmental regulations to undermining competitors. In this case, the manufacturer argued that amendments to the Solid Waste Law violated the **polluter pays principle** associated with the right to a healthy environment. The manufacturer contended that the amendments unfairly burdened plastic bag producers rather than addressing consumer behavior and government oversight of bag usage. Using a strategy commonly deployed by businesses, the manufacturer claimed that the responsibility for pollution primarily lay with consumers due to improper disposal practices compounded by a lack of government education.

In its response, the Court demonstrated the **government's capacity to use the right as a shield against industry attacks**. Turning the manufacturer's argument around, the Court acknowledged that both the State and businesses have obligations and responsibilities associated with respecting the right to a healthy environment. Indeed, it was this same obligation that prompted the Oaxaca government to enact the prohibition against non-recycled plastic bags.



The case demonstrates a key lesson – governments and courts can successfully use the right to a healthy environment as a protective shield against ill-conceived industry lawsuits. It is encouraging to note that courts have already relied on the right to a healthy environment to reject industry attacks on environmental laws and regulations not only in Mexico but also in Argentina, where the Supreme Court rejected a mining company lawsuit challenging a glacier protection law; in Kenya, where an industry also challenged plastic bag regulations; and in Peru, where an industry challenged regulations prohibiting import of older, more polluting motor vehicles. In the midst of a global environmental crisis, where stronger climate and environmental laws are crucial, the power of the right to a healthy environment to defend these laws is a potential game-changer.





## No More Business as Usual: Rethinking the Environment-Economy Nexus

[\*Callejas v. Law No 406 - On the Unconstitutionality of Mining Concession \(Panama, 2023\)\*](#)

**What happens** when the right to a healthy environment collides with a multi-billion-dollar mining project? A recent decision of the Supreme Court of Panama revealed that the answer is deeply different from business as usual. Throughout the world, the mining industry has left a catastrophic but predictable legacy of contaminated water, toxic waste, tailings, dam collapses and bitter communities that were promised economic progress but instead received environmental degradation.

Panama is one of the world's most biodiverse countries and home to a canal that makes it a key hub for international trade. With its decision in *Callejas v. Law No 406*, the Supreme Court of Panama demonstrated admirable leadership in managing this confluence of biodiversity and commerce. This commitment was illustrated by the Court's focus on prioritizing the right to a healthy environment and the State's associated obligations as paramount in the pursuit of sustainable development through contractual relationships with the private sector.

For many years, a Canadian business, First Quantum Minerals, operated a massive copper mine in Panama despite unanswered questions about the legal status of the project, namely whether it had received all the required authorizations. To resolve this uncertainty, the government of Panama crafted a concession contract in 2023 between the State and Minera Panamá, S.A. – a local subsidiary of the Canadian business – granting the company exclusive rights to explore, extract and commercialize copper and associated minerals in the Colón province. The National Assembly approved the contract through Law No. 406 of October 2023.

The law's enactment provoked unprecedented public protests in the streets of Panama City, through which individuals urged the government to prioritize water, human rights and nature. Concerned by years of adverse environmental impacts inflicted by the mine and alarmed at the prospect that this could continue for decades, local resident Juan Callejas filed a claim of unconstitutionality in the Supreme Court of Panama, challenging Law No. 406. Callejas alleged that both the secretive negotiation process and the business-friendly terms of the contract breached his constitutional rights.

Acting with urgency, the Supreme Court issued a sweeping judgment in November 2023, concluding that the negotiation process and contract granted Minera Panamá, S.A. benefits and permissions that contradicted the constitutionally mandated principle of the common good. The Court held that the law violated 25 substantive and procedural constitutional guarantees – ranging from the right to a healthy environment to the rights of children.

The decision in *Callejas v. Law No 406* demonstrates the **power of the right to a healthy environment to redefine contractual relationships**. The Court undertook an in-depth analysis of the right, concluding that “faced with the dilemma presented, in which the human right to a healthy environment must be weighed against the right to the protection of economic investment, the **balance** of the Plenary of the Supreme Court of Justice will naturally lean towards safeguarding the continuity of the human race”.

The Supreme Court made it clear that to foster **sustainable development**, public contracts must be distinguished from those between private entities. In carrying out the former, the State is obligated to prioritize the public interest and fundamental rights, such as the right to a healthy environment. In this case, the Court found that neither Minera Panamá, S.A. nor the govern-



ment followed the procedural framework for establishing investment relationships with the State. There was **no public bidding process**, the approval of the concession relied on an outdated and inadequate **environmental impact assessment**, and the contract transferred State responsibilities to the company, all of which prevented the State from fulfilling its human rights obligations.

The Court explained that the contractual relationship contradicted international law frameworks that Panama had supported. These included UN General Assembly Resolution 76/300 (A/RES/76/300), which recognized the right to a healthy environment as a human right and emphasized the importance of **procedural guarantees** to protect the right. In accordance with international guidelines, the Court also emphasized that **businesses have a responsibility to respect human rights, including the right to a healthy environment**, irrespective of the actions of States.

The Court described the Constitution and the international legal frameworks endorsed by Panama as representative of the nation's vision and values. Within this framework, the Court emphasized that the right to a healthy environment transcends mere obligation – it embodies a core value, a driving force and a foundational element of Panamanian societal identity. To address situations in which those in power neglect, threaten or violate this right, courts play an essential watchdog role with the power and the responsibility to intervene.

The Court also clarified that the **balancing act between the right to a healthy environment and economic interests should not be limited to human interests but must also consider the rights of nature**. In light



of recent Panamanian legislation acknowledging nature as a subject of the law, State actions, including contracts and legislation, must prioritize the well-being of nature for its inherent value.

Regrettably, the ruling of the Supreme Court of Panama does not mark the end of this dispute. Soon after the Court released its decision, the Canadian mining company initiated an Investor-State lawsuit, pursuing damages of more than US\$ 20 billion. While this sum may appear staggering, it reflects a troubling trend where foreign investors routinely assert multi-billion-dollar claims, often contesting climate and environmental regulations within developing nations. This legal battle is a microcosm of the challenge of addressing the planetary climate and environmental crisis within a global economy based on the exploitation of people and nature. While the inspiring decision of Panama's Supreme Court is a beacon of hope, the pending arbitration casts a shadow over Panama's efforts to create a sustainable future in harmony with nature.



## Ensuring Environmental Justice for Children

*[Community of La Oroya v. Peru](#)  
([Inter-American Court of Human Rights, 2024](#))*

**Generations of** people in the community of La Oroya have been poisoned by lead, arsenic and other toxic substances stemming from the La Oroya Metallurgical Complex in Peru. This contamination has resulted in a devastating array of physical and mental illnesses and, in some cases, death. Of paramount concern are children, for whom lead poisoning causes irreversible developmental damage.



In response, the Inter-American Court of Human Rights handed down a landmark decision in March 2024, concluding that the right to a healthy environment and other human rights were violated by more than a century of disastrous industrial pollution. The Court ordered the State to publicly acknowledge its wrongdoing and provide specialized medical assistance and monetary compensation to the victims.

The Court specifically ordered each identified victim to be paid between US\$ 30,000 and 65,000, with larger sums going to children, women and older persons due to their particular **vulnerabilities**. This figure included compensation for health costs and lost earnings, as well as compensation for pain and suffering. While no amount of money can fully compensate a person for damage to their health or their developmental potential, these damage awards would, in the Court's view, improve the victims' quality of life.

More broadly, Peru was ordered to strengthen and strictly enforce environmental standards, rehabilitate damaged ecosystems, monitor air, water and soil quality, as well as ensure that **polluters pay** for the environmental damage they cause. Finally, the State was ordered to investigate and prosecute those responsible for the extensive environmental damage, as well as those responsible for threats against **environmental human rights defenders** in La Oroya.

In its first ruling on a contentious case involving **toxic pollution**, the Inter-American Court built upon its widely cited Advisory Opinion on Environment and Human Rights (Advisory Opinion 23/17), where it clarified the **procedural** and substantive elements of the right to a healthy environment. For La Oroya, the contamination levels were so severe that the Court agreed with the Special Rapporteur on the right to a healthy environment's statement (in report A/HRC/49/53) that the community had become a "**sacrifice zone**" – an area where environmental contamination caused by the reckless pursuit of profit is so egregious that it constitutes a systematic violation of the human rights of its residents. Indeed, while there were only

80 named plaintiffs in the case, catastrophic pollution – covering more than 2,300 square kilometers – harmed many more people, spanning multiple generations. In light of this, the Court emphasized the **collective nature** of the right to a healthy environment in reaching its decision and crafting its extensive orders.

Also echoing the Special Rapporteur (in his report A/HRC/40/55), the Court confirmed:

People enjoy the **right to breathe clean air** as a substantive component of the right to a healthy environment, and, therefore, the State is obliged to: a) establish laws, regulations and policies that ensure air quality standards do not constitute risks to health; b) monitor air quality and inform the population of possible health risks; c) carry out action plans to control air quality that include the identification of the main sources of air pollution, and implement measures to enforce air quality standards.



Similar observations were made regarding **clean water as a substantive element of the right to a healthy environment**. In the words of the Court:

This substantive element of the right to a healthy environment imposes the obligation on States to a) design norms and policies that define water and wastewater quality standards that are compatible with human and ecosystem health; b) monitor the levels of contamination of water bodies and, if applicable, report possible risks to human and ecosystem health; c) make plans and policies with the purpose of controlling water quality that include the identification of main causes of contamination; d) implement measures to enforce water quality standards; and e) adopt actions that ensure the management of water resources in a sustainable manner.

Noting that the metallurgical complex had been operated by a combination of state-owned and private businesses, the Court reiterated that the **obligations of the State regarding human rights abuses caused by business enterprises** are to “prevent, investigate, punish and redress such abuses through appropriate policies, regulatory activities and prosecution”. Because even weak Peruvian environmental standards were being violated and no adequate remedial measures had been taken, Peru had failed to fulfill its obligations to regulate business enterprises.

The Court prioritized **vulnerable populations**. It pointed to the 2023 General Comment 26 of the Committee on the Rights of the Child (CRC/C/GC/26) as support for its conclusion that “when the type of pollution pro-

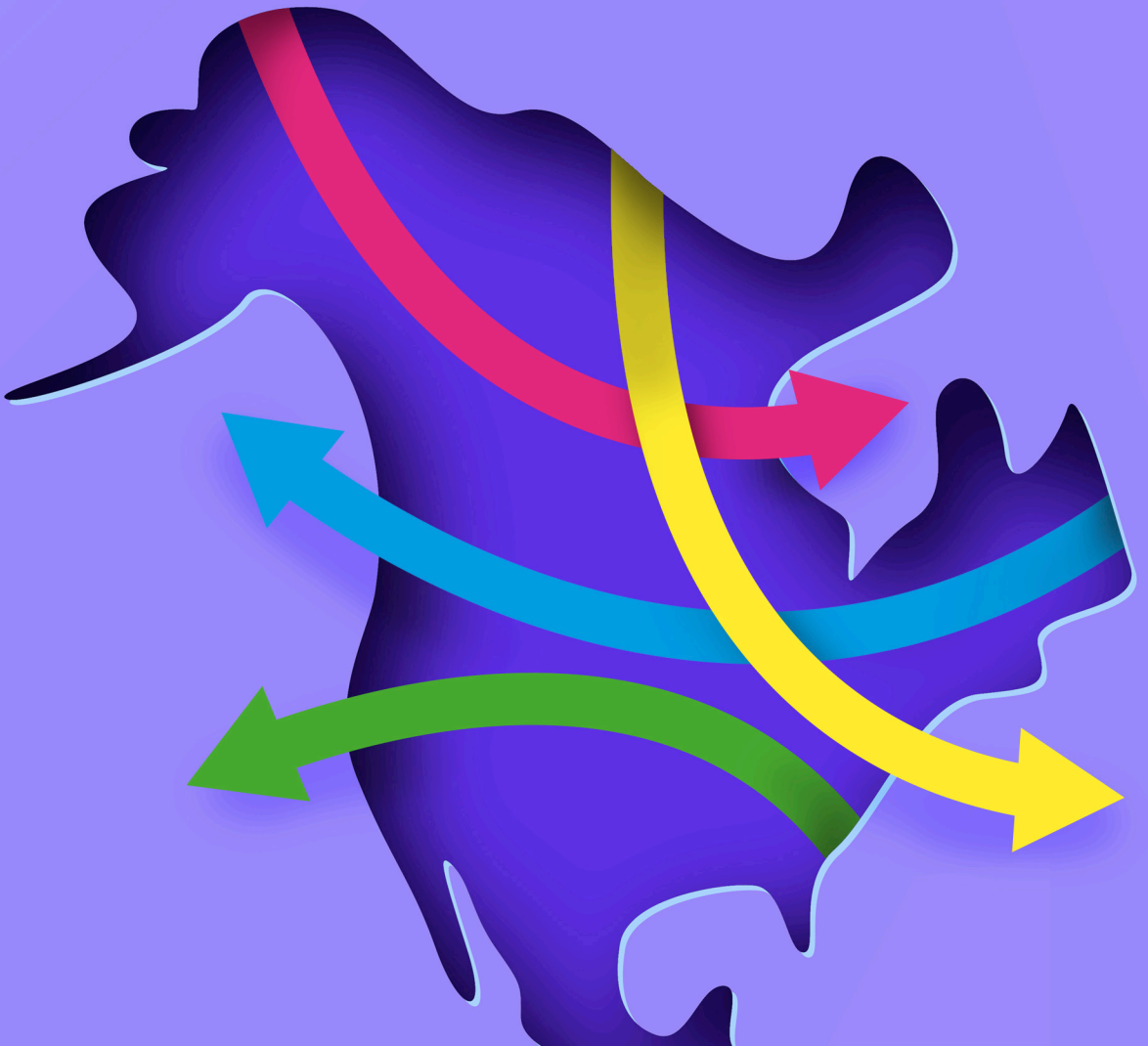


duced by company operations constitutes a high risk for the **rights of children**, States must require a stricter **due diligence process** and an effective surveillance system”. The Court also highlighted the importance of environmental human rights defenders, noted the threats and harassment suffered by many of the victims and criticized Peru’s abject failure to effectively investigate the abuses committed against them.

Another important aspect of the Court’s decision was its articulation of key international law principles. The Court emphasized the **principle of prevention**, which requires States to meet a standard of due diligence. In cases like La Oroya, where highly toxic substances – including lead and arsenic – are involved, the due diligence obligation imposes a higher standard to prevent activities that are likely to harm human or ecosystem health. A key element of the case is the Court’s articulation of the **non-regression principle**. In 2017, Peru weakened its air quality standards for sulfur dioxide. The Court explained that this regression in environmental standards was incompatible with the principle of **progressive realization** of economic, social, cultural and environmental rights. The weakening of the standard was deliberate, unjustified and breached the State’s obligation to progressively develop the right to a healthy environment.

The Inter-American Court’s decision is the strongest and most comprehensive judgment on the right to a healthy environment of any regional human rights court to date. Not only did it provide long-overdue environmental justice for the people of La Oroya in Peru, but it also established a vital precedent to be used by concerned citizens, communities, courts and environmental human rights defenders all over the world.

# NORTH AMERICA





## A Safe Climate: Elevating the Voices of Youth

[\*Held v. State of Montana\* \(United States, 2023\)](#)

*Held v. Montana* thrust frequently unheard voices into the U.S. and global spotlight. The case confirms that youth can skillfully employ the right to a healthy environment to serve their unique needs. The testimony of 16 youths before Montana's District Court dramatically demonstrated the link between health, environmental integrity and greenhouse gas emissions, paving the way for the Court to reach its pivotal conclusion: that the right to a healthy environment encompasses the protection of a safe climate.

By the time she turned 18, Rikki Held had already experienced the brutal consequences of climate change. While working on her family's ranch, she experienced the physical and psychological effects of extreme heat and wildfire smoke. When Rikki heard that the nonprofit Our Children's Trust was searching for youth interested in participating in litigation to address the climate crisis and protect Montana's environment, she jumped at the opportunity. Fifteen other youths between the ages of 2 and 18 joined her, becoming the *Held v. Montana* plaintiffs.

The case, filed against the state government in 2020, focused on the contradiction between Montana's environmentally progressive constitution – which includes an expansive definition of the right to a healthy environment – and its environmentally hostile laws. The plaintiffs argued that the State Energy Policy Act and the Montana Environmental Policy Act – which promoted fossil fuels and excluded climate change from environmental assessments by state bodies – violated their right to a healthy environment. The plaintiffs asked for a declaration that the laws were unconstitutional and an order for Montana to reduce its emissions. Due to the defendants' persistent efforts to have the case dismissed, which involved repealing and amending the challenged statutes, only claims related to the Montana Environmental Policy Act remained for trial.

The trial took place in 2023 – the hottest recorded year in more than a century – and became a global spectacle in part because the case was one of the first youth-led climate trials featuring the right to a healthy environment. The case also drew extensive media attention because the plaintiffs' team deployed an effective communications and media strategy. The Court's ruling accepted the arguments of the plaintiffs, held that the offending provisions of the Montana Environmental Policy Act violated the right to a healthy environment and declared these provisions unconstitutional. The Court's most significant contribution to advancing climate justice stems from its conclusion that **a safe climate is an essential element of the right to a healthy environment.**



The plaintiffs presented vast scientific evidence to substantiate each step of the causal chain connecting Montana’s laws to their individualized climate harms. Particularly important was the plaintiffs’ emphasis on Montana’s globally disproportionate emissions and their detrimental effect on its citizens. The Court rejected the defendants’ argument that Montana’s emissions were “a drop in the bucket” relative to global emissions and, therefore, factually and legally insignificant – a ubiquitous defense in climate change cases. The plaintiffs’ emphasis on their lived experiences with climate harms also allowed the Court to conclude that the case belonged in state court because these harms triggered citizens’ protections under the right to a healthy environment in Montana’s constitution.

The Court also rejected the defendants’ arguments that including a safe climate as part of the right to a healthy environment would be overly burdensome for the state and its citizens. Simply put, the Montanan constitution’s text and legislative intent clearly showed that the right to a healthy environment was meant to encompass all aspects of Montana’s natural environment, including the climate, and create a range of government obligations. The



understanding of the right to a healthy environment as a fundamental right led the Court to apply a higher standard under which the **burden of proof** for proper environmental protection shifted to the government, a standard that Montana could not overcome.

The Court's reasoning showcases the significance of constitutional provisions recognizing the right to a healthy environment and the important role of courts in interpreting this right to hold U.S. states accountable for obligations related to the climate crisis. A similar example is the recent decision *In Re Application of Hawaii Electric Light Co.*, where the Supreme Court of Hawaii upheld the state's rejection of a biomass power project, recognizing that a safe climate is a key element of the right to a healthy environment. Such cases are profoundly significant, as they render climate protection legally enforceable.

*Held v. Montana* confirmed that youth can exercise their fundamental right to a healthy environment, echoing the 2023 General Comment 26 of the Committee on the Rights of the Child (CRC/C/GC/26). The case showcases the role that courts can play in ensuring that the rights of youth – who are largely excluded from political decision-making processes – are served. By enforcing the right to a healthy environment through a **youth-centered approach**, courts can ensure that governments protect young people's rights by incorporating their voices, needs and ideas into **decision-making**.

Not surprisingly, the government defendants filed a notice of appeal. Given that during the trial the defendants largely failed to contest the facts put forward regarding the climate crisis and its impact on young people in Montana, the state faces an uphill battle.



## CONCLUSION

**What began** as a trickle of cases based on the right to a healthy environment in the 1970s, 1980s and 1990s has now become a river. Of the 20 cases highlighted in this report, 2 were decided before the year 2000, 2 between 2000 and 2009, 4 between 2010 and 2019, and 12 since 2020. The report demonstrates that courts worldwide are making increasingly numerous, bold and progressive decisions.

As the right to a healthy environment gains recognition in regional treaties, constitutions, legislation and UN resolutions, its use in litigation has expanded. Given the ongoing environmental crises – where air pollution kills 7 million people annually, around one million species teeter on the brink of extinction, billions of people lack access to safe and sufficient water and

climate chaos threatens the livability of vast areas of the planet – it is hardly a bold prediction that lawsuits based on the right to a healthy environment will multiply.

Court decisions are already extending the protective scope of the right, and the implementation of these decisions will save many thousands of lives in the coming years. Indeed, spanning the globe, from Indonesia to South Africa to Peru, judges have confirmed that the right to a healthy environment includes clean air. The right to a healthy environment is also being harnessed by litigants pursuing climate justice, accelerating the transition away from fossil fuels and halting deforestation, as demonstrated by cases in Brazil, Colombia, Kenya, Norway and the United States. The forthcoming Advisory Opinion on Human Rights and the Climate Emergency from the Inter-American Court of Human Rights is likely to generate additional momentum.

From Costa Rica, Ecuador and Panama to Hungary, Portugal and the Philippines, courts have also increasingly relied on the right to a healthy environment to safeguard biodiversity and ecosystems, from cloud forests to populations of wolves and hammerhead sharks. Demonstrated by cases in Argentina, Chile and the Philippines, this right harbors significant potential in addressing so-called sacrifice zones, where the pursuit of profits has fostered some of the most toxic living conditions on Earth. States must embrace their obligations to respect, protect and fulfill the right to a healthy environment as a robust defense against the mounting barrage of business lawsuits seeking to slow the momentum of environmental transformation.

As the leading cases outlined in this publication gain international recognition, we anticipate a process of cross-pollination among legal practitioners, with lawyers and judges citing them beyond their initial jurisdictions. Networks, including the Global Judicial Institute on the Environment, the Global Alliance of National Human Rights Institutions, the Environmental Law Alliance Worldwide and the Global Network on Human Rights and the Environment, are at the forefront of this dissemination.

This report seeks to facilitate and support this cross-pollination process. As noted in the introduction, it is part of a broader effort that includes a dedicated website on the right to a healthy environment, curated by the NYU TERRA program (<https://www.r2he.info/>). The site is an online public good for the field that publishes detailed case studies, educational materials and other resources on a rolling basis.

We welcome the submission of other court decisions concerning the right to a healthy environment to [r2he@nyu.edu](mailto:r2he@nyu.edu). The TERRA program at NYU School of Law, in partnership with the UN Environment Programme, remains steadfast in its commitment to advance education and analysis related to this vital field of jurisprudence and legal practice at the confluence of human rights law and environmental law.

## List of Cases

### Africa

#### Kenya

*Mohamed Ali Baadi and others v. Attorney General and 11 others*, [2018] eKLR High Court, Petition NO 22 OF 2012, High Court of Kenya at Nairobi

#### Seychelles

*Woodlands Holdings Ltd & Anor v. Ministry of Environment Energy and Climate Change and others* (SCA CL 01/2023) [2023] (Arising in CP 04/2021) [2023] SCCA 57 (18 December 2023)

#### South Africa

*Groundwork Trust and Vukani Environmental Justice Movement in Action v. Minister of Environmental Affairs and others*, 2022, Case No. 39724/2019, 18 March 2022, High Court of South Africa, Gauteng Division

## Asia-Pacific

### India

*In re Court on Its Own Motion v. State of Himachal Pradesh and others*, National Green Tribunal, Application no 237 (THC)/2013 (CWPIL no 15 of 2010) (6 February 2014)

MK Ranjitsinh & Ors. v Union of India & Ors., Supreme Court of India, Writ Petition (Civil) No. 838 of 2019 with Civil Appeal No. 3570 of 2022 (judgment) (21 March 2024)

### Papua New Guinea

*Morua et al v. China Harbour Engineering Co (PNG) Ltd* [2020] PGNC 16; N8188 (7 February 2020) National Court of Justice WS. NO. 437 of 2019

### Philippines

*Concerned Citizens of Manila Bay v. Metropolitan Manila Development Authority and others* [2008] Nos. 171947-48, Supreme Court of the Philippines (18 December 2008)

*Oposa et al v. Factoran et al* [1993] G.R. No. 101083, Supreme Court of the Philippines (30 July 1993)

## Europe

### Hungary

*Decision No. 28/1994 (V. 20.)* of the Constitutional Court

## Latvia

*On Compliance of the Part of Riga Land Use Plan 2006 – 2018 Covering the Territory of the Freeport of Riga with Article 115 of the Satversme [Constitution] of the Republic of Latvia*, Constitutional Court, Case No. 2007-11-03 (17 January 2008)

## Norway

*Nature and Youth, Greenpeace Nordic et al v. Norway Ministry of Petroleum and Energy*, Case No. 20-051052SIV-HRET (22 December 2020), Supreme Court of Norway;

*Greenpeace Nordic Association and Nature and Youth v. Ministry of Energy*, 2024, Case No. 23-099330TVI-TOSL/05, 18 January 2024, Oslo District Court

## Portugal

*Ruling No. 83/2022*, on the protection of the Iberian wolf. Constitutional Court, Portugal

## Latin America and the Caribbean

### Argentina

*Beatriz Silvia Mendoza and others v. National Government and others*, 2008, M. 1569 XL, 8 July 2008 (Supreme Court of Justice)



## Brazil

*Partido Socialista Brasileiro (PSB), Partido Socialismo e Liberdade (PSOL), Partido dos Trabalhadores (PT) e Rede Sustentabilidade v. Brazil (on Climate Fund)*, Federal Supreme Court of Brazil, ADPF 708, 1 July 2022

## Chile

*Cassation appeal, Supreme Court of Justice, Rol. 149.171-2020* (5 September 2023)

*Francisco Chahuán v. Empresa Nacional de Petroleo and others*, Supreme Court of Justice, Rol. 5888-2019 (28 May 2019)

## Colombia

*Future Generations v. Ministry of the Environment et al*, STC No. 4360-2018, decision of 5 April 2018, Supreme Court of Colombia

## Costa Rica

*Walter Brenes Soto v. Costa Rican Institute of Fisheries and Aquaculture et al*, Resolución N° 00912 - 2023, Case 17-008322-1027-CA, First Chamber of the Supreme Court of Justice, 21 June 2023

## Ecuador

*Case No. 1149-19-JP / 20* (Los Cedros), 10 November 2021, Constitutional Court of Ecuador, Protection action by the GAD of Santa Ana de Cotacachi

## **Panama**

*Callejas v. Law No 406 of 20 October 2023 (unconstitutionality of mining concession)*, Supreme Court of Panama, 27 November 2023

## **Peru**

*Inhabitants of La Oroya v. Peru*, Inter-American Court of Human Rights, March 2024

## **Mexico**

*Writ of Amparo under Review 128/2022*, Supreme Court of Justice of Mexico, October 2023

## **North America**

### **United States**

*Rikki Held et al v. State of Montana et al*, 2023, Cause No. CDV-2020-307, Montana First Judicial District Court, Lewis and Clark County, 14 August 2023

*In the matter of Hawai'i Electric Light Company*, 2023, SCOT—22—0000418, Supreme Court of Hawai'i, 13 March 2023

# Index of Key Legal Principles and Terms

The following and other key legal principles and terms are defined in the R2HE Toolkit (<https://www.r2he.info/>).

## Access to Information

- *Francisco Chahuán v. Empresa Nacional de Petróleo and others*
- *Greenpeace Nordic Association and Nature and Youth v. Ministry of Petroleum and Energy*
- *Mohamed Ali Baadi and others v. Attorney General*

## Access to Justice and Remedies

- *Greenpeace Nordic Association and Nature and Youth v. Ministry of Petroleum and Energy*
- *Morua v. China Harbour Engineering Company, Ltd.*

### Burden of Proof

- *Case No. 1149-19-JP/21 - Los Cedros Decision*
- *Francisco Chahuán v. Empresa Nacional de Petróleo and others*
- *Held v. State of Montana*

### Clean Air

- *Community of La Oroya v. Peru*
- *Francisco Chahuán v. Empresa Nacional de Petróleo and others*
- *Groundwork Trust and Vukani Environmental Justice Movement in Action v. Minister of Environmental Affairs and others*
- *In re Court on its Own Motion v. State of Himachal Pradesh and others*
- *Melanie Subono and others v. President of the Republic of Indonesia*

### Collective Rights

- *Community of La Oroya v. Peru*
- *Writ of Amparo under Review 128/2022 - On Plastic Bags*

### Corporate Due Diligence

- *Callejas v. Law No 406 - On the Unconstitutionality of Mining Concession*
- *Community of La Oroya v. Peru*
- *Mohamed Ali Baadi and others v. Attorney General*
- *Morua v. China Harbour Engineering Company, Ltd.*
- *Writ of Amparo under Review 128/2022 - On Plastic Bags*

### Duty to Implement Environmental Impact Assessments

- *Callejas v. Law No 406 - On the Unconstitutionality of Mining Concession*
- *Case No. 1149-19-JP/21 - Los Cedros Decision*

- *Case No. 2007-11-03 - On the Land Use Plan*
- *Mohamed Ali Baadi and others v. Attorney General*

### Ecocentrism

- *Case No. 1149-19-JP/21 - Los Cedros Decision*
- *Future Generations v. Ministry of the Environment and others*
- *Ruling No. 83/2022 - The Portuguese Iberian Wolf Case*
- *Walter Brenes Soto v. Costa Rican Institute of Fisheries and Aquaculture and others (Ruling 912-2023) - The Hammerhead Shark Case*
- *Writ of Amparo under Review 128/2022 - On Plastic Bags*

### Economic & Property Interests Balancing Test

- *Callejas v. Law No 406 - On the Unconstitutionality of Mining Concession*
- *Case No. 2007-11-03 - On the Land Use Plan*
- *Minors Oposa v. Secretary of the Department of Environment and Natural Resources*
- *Ruling No. 83/2022 - The Portuguese Iberian Wolf Case*
- *Writ of Amparo under Review 128/2022 - On Plastic Bags*

### Environmental Human Rights Defenders

- *Community of La Oroya v. Peru*

### Healthy Biodiversity and Ecosystems

- *Arguição de Descumprimento de Preceito Fundamental, ADPF Nº 708 - The Climate Fund Case*
- *Case No. 2007-11-03 - On the Land Use Plan*
- *Concerned Citizens of Manila Bay v. Metropolitan Manila Development Authority and others*

- *Future Generations v. Ministry of the Environment and others*
- *Mohamed Ali Baadi and others v. Attorney General*
- *Morua v. China Harbour Engineering Company, Ltd.*
- *Ruling No. 83/2022 - The Portuguese Iberian Wolf Case*
- *Walter Brenes Soto v. Costa Rican Institute of Fisheries and Aquaculture and others (Ruling 912-2023) - The Hammerhead Shark Case*
- *Writ of Amparo under Review 128/2022 - On Plastic Bags*

### In Dubio Pro Natura

- *Walter Brenes Soto v. Costa Rican Institute of Fisheries and Aquaculture and others (Ruling 912-2023) - The Hammerhead Shark Case*

### Indivisibility Principle

- *In re Court on its Own Motion v. State of Himachal Pradesh and others*
- *Magyarország Alkotmánybírósága, Case 28/1994*
- *Woodlands Holdings Ltd & Anor v. Ministry of Environment Energy and Climate Change and others*

### Intergenerational Equity

- *Arguição de Descumprimento de Preceito Fundamental, ADPF Nº 708 - The Climate Fund Case*
- *Community of La Oroya v. Peru*
- *Concerned Citizens of Manila Bay v. Metropolitan Manila Development Authority and others*
- *Future Generations v. Ministry of the Environment and others*
- *Held v. State of Montana*
- *Magyarország Alkotmánybírósága, Case 28/1994*
- *Minors Oposa v. Secretary of the Department of Environment and Natural Resources*
- *M. K. Ranjitsinh and others v. Union of India and others*

### Non-regression Principle

- *Arguição de Descumprimento de Preceito Fundamental, ADPF Nº 708 - The Climate Fund Case*
- *Community of La Oroya v. Peru*
- *Held v. State of Montana*
- *Magyarország Alkotmánybírósága, Case 28/1994*
- *Walter Brenes Soto v. Costa Rican Institute of Fisheries and Aquaculture and others (Ruling 912-2023) - The Hammerhead Shark Case*

### Polluter Pays Principle

- *Community of La Oroya v. Peru*
- *Concerned Citizens of Manila Bay v. Metropolitan Manila Development Authority and others*
- *Francisco Chahuán v. Empresa Nacional de Petróleo and others*
- *Woodlands Holdings Ltd & Anor v. Ministry of Environment Energy and Climate Change and others*
- *Writ of Amparo under Review 128/2022 - On Plastic Bags*

### Pollution

- *Arguição de Descumprimento de Preceito Fundamental, ADPF Nº 708 - The Climate Fund Case*
- *Beatriz Silvia Mendoza v. National Government*
- *Community of La Oroya v. Peru*
- *Concerned Citizens of Manila Bay v. Metropolitan Manila Development Authority and others*
- *Francisco Chahuán v. Empresa Nacional de Petróleo and others*
- *Groundwork Trust and Vukani Environmental Justice Movement in Action v. Minister of Environmental Affairs and others*
- *In re Court on its Own Motion. State of Himachal Pradesh and others*
- *Melanie Subono and others v. President of the Republic of Indonesia*

- *Mohamed Ali Baadi and others v. Attorney General*
- *Morua v. China Harbour Engineering Company, Ltd.*
- *Woodlands Holdings Ltd & Anor v. Ministry of Environment Energy and Climate Change and others*
- *Writ of Amparo under Review 128/2022 - On Plastic Bags*

### Precautionary Principle

- *Case No. 1149-19-JP/21 - Los Cedros Decision*
- *Case No. 2007-11-03 - on the Land Use Plan*
- *Francisco Chahuán v. Empresa Nacional de Petróleo and others*
- *Future Generations v. Ministry of the Environment and others*
- *Mohamed Ali Baadi and others v. Attorney General*
- *Walter Brenes Soto v. Costa Rican Institute of Fisheries and Aquaculture and others (Ruling 912-2023) - The Hammerhead Shark Case*

### Prevention Principle

- *Case No. 2007-11-03 - on the Land Use Plan*
- *Community of La Oroya v. Peru*
- *Francisco Chahuán v. Empresa Nacional de Petróleo and others*
- *Magyarország Alkotmánybírósága, Case 28/1994*
- *Walter Brenes Soto v. Costa Rican Institute of Fisheries and Aquaculture and others (Ruling 912-2023) - The Hammerhead Shark Case*

### Procedural Elements / Components

- *Case No. 2007-11-03 - on the Land Use Plan*
- *Callejas v. Law No 406 - On the Unconstitutionality of Mining Concession*
- *Community of La Oroya v. Peru*
- *Mohamed Ali Baadi and others v. Attorney General*



### Progressive Realization Principle

- *Arguição de Descumprimento de Preceito Fundamental, ADPF Nº 708 - The Climate Fund Case*
- *Community of La Oroya v. Peru*
- *Walter Brenes Soto v. Costa Rican Institute of Fisheries and Aquaculture and others (Ruling 912-2023) - The Hammerhead Shark Case*

### Public Participation

- *Beatriz Silvia Mendoza v. National Government*
- *Callejas v. Law No 406 - On the Unconstitutionality of Mining Concession*
- *Case No. 1149-19-JP/21 - Los Cedros Decision*
- *Case No. 2007-11-03 - on the Land Use Plan*
- *Future Generations v. Ministry of the Environment and others*
- *Held v. State of Montana*
- *Mohamed Ali Baadi and others v. Attorney General*

### Rights of Nature

- *Callejas v. Law No 406 - On the Unconstitutionality of Mining Concession*
- *Case No. 1149-19-JP/21 - Los Cedros Decision*
- *Future Generations v. Ministry of the Environment and others*

### Safe and Sufficient Water

- *Case No. 1149-19-JP/21 - Los Cedros Decision*
- *Community of La Oroya v. Peru*
- *Concerned Citizens of Manila Bay v. Metropolitan Manila Development Authority and others*
- *Woodlands Holdings Ltd & Anor v. Ministry of Environment Energy and Climate Change and others*

### Safe Climate

- *Arguição de Descumprimento de Preceito Fundamental, ADPF Nº 708 - The Climate Fund Case*
- *Future Generations v. Ministry of the Environment and others*
- *Greenpeace Nordic Ass'n v. Ministry of Petroleum and Energy - People v. Arctic Oil*
- *Greenpeace Nordic Association and Nature and Youth v. Ministry of Petroleum and Energy*
- *Held v. State of Montana*
- *In Re Application of Hawaii Electric Light Co.*
- *In re Court on its Own Motion v. State of Himachal Pradesh and others*
- *M. K. Ranjitsinh and others v. Union of India and others*
- *Morua v. China Harbour Engineering Company, Ltd.*
- *Writ of Amparo under Review 128/2022 - On Plastic Bags*

### Sacrifice Zone

- *Beatriz Silvia Mendoza v. National Government*
- *Community of La Oroya v. Peru*
- *Francisco Chahuán v. Empresa Nacional de Petróleo and others*

### Standing

- *Future Generations v. Ministry of the Environment and others*
- *Minors Oposa v. Secretary of the Department of Environment and Natural Resources*
- *Mohamed Ali Baadi and others v. Attorney General*
- *Morua v. China Harbour Engineering Company, Ltd.*

### Sustainable Development

- *Callejas v. Law No 406 - On the Unconstitutionality of Mining Concession*
- *Case No. 2007-11-03 - on the Land Use Plan*
- *Francisco Chahuán v. Empresa Nacional de Petróleo and others*
- *Groundwork Trust and Vukani Environmental Justice Movement in Action v. Minister of Environmental Affairs and others*
- *M. K. Ranjitsinh and others v. Union of India and others*
- *Mohamed Ali Baadi and others v. Attorney General*

### Transboundary Effects

- *Greenpeace Nordic Ass'n v. Ministry of Petroleum and Energy - People v. Arctic Oil*
- *In re Court on its Own Motion v. State of Himachal Pradesh and others*

### United Nations Convention on Biological Diversity

- *Ruling No. 83/2022 - The Portuguese Iberian Wolf Case*

### United Nations Framework Convention on Climate Change and Paris Agreement

- *Arguição de Descumprimento de Preceito Fundamental, ADPF N° 708 - The Climate Fund Case*
- *Greenpeace Nordic Ass'n v. Ministry of Petroleum and Energy - People v. Arctic Oil*

Vulnerable Populations

- *Beatriz Silvia Mendoza v. National Government*
- *Case No. 1149-19-JP/21 - Los Cedros Decision*
- *Community of La Oroya v. Peru*
- *Francisco Chahuán v. Empresa Nacional de Petróleo and others*
- *Groundwork Trust and Vukani Environmental Justice Movement in Action v. Minister of Environmental Affairs and others*
- *Morua v. China Harbour Engineering Company, Ltd.*

