

RESEARCH BRIEF

THE IMPLEMENTATION OF UN GENERAL ASSEMBLY RESOLUTION 76/300 RECOGNIZING THE RIGHT TO A CLEAN, HEALTHY, AND SUSTAINABLE ENVIRONMENT

KEY MESSAGES

The global recognition of the right to a clean, healthy, and sustainable environment (HR2HE) through United Nations General Assembly (UNGA) Resolution 76/300 marks a key advancement in aligning human rights with environmental protection. As a cornerstone of the human rights-based approach to environmental protection and climate change, this human right was formally endorsed by the UN in 2022. Since its recognition, it has been understood to encompass both procedural and substantive dimensions, emphasizing the critical need for clean air, safe water, sustainable food, a non-toxic environment, healthy biodiversity, and a stable climate.

Although Resolution 76/300 is non-binding, it builds on long-standing efforts to implement the HR2HE at national and regional levels, with over 85% of UN Member States already incorporating this right into their constitutions, legislation or ratifying regional treaties that include this right. The resolution consolidates this progress by urging States to adopt policies and measures to ensure a clean, healthy and sustainable environment for all. It stresses the importance of collective action to address the escalating triple planetary crisis of climate change, pollution, and biodiversity loss. Additionally, it reflects a shift towards more flexible and inclusive multilateralism, involving diverse stakeholders in addressing pressing, cross-border, and complex environmental and climate challenges.

Despite challenges in fully implementing the HR2HE, Resolution 76/300 has already influenced State actions and strengthened responses at local, national, and global levels to the triple planetary crisis. Its growing recognition points to the potential for HR2HE to evolve into a binding norm under international law, further solidifying environmental protection and human rights. The widespread commitment of States and international bodies to uphold this fundamental right demonstrates a significant step towards stronger global cooperation and accountability, ensuring a clean, healthy and sustainable environment for present and future generations.

DECEMBER 2024 | Dr. Baïna Ubushieva

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RECOMMENDATIONS

Ensure the Effective Implementation of the HR2HE at the National Level: Establish robust legal and administrative frameworks to ensure the effective implementation of all substantive and procedural elements of the HR2HE, both in countries where this human right is already constitutionally or legally guaranteed, and in countries that are parties to regional instruments recognizing the HR2HE. To ensure the effective implementation of the HR2HE, it is recommended to ensure consistent and explicit reference to this human right in laws, regulations, policies and court decisions involving environmental and climate-related issues.

Promote a Rights-Based Approach to Climate and Environmental Policies: Continue to mainstream the HR2HE into multilateral environmental and climate agreements, ensuring that all global initiatives are designed in a way that promotes and protects human rights, including the HR2HE.

Capacity Building and Technical Assistance: Assist countries, especially those that are particularly vulnerable to the adverse effects of environmental degradation and climate change, in mobilizing resources and building capacity to fulfill their HR2HE obligations. Collaborative efforts should focus on technology transfer, financial aid, and knowledge-sharing initiatives.

Enhancing Judicial and Non-Judicial Engagement: Encourage national, regional and international courts, quasi-judicial bodies and national human rights institutions to consistently reference international instruments, such as UNGA Resolution A/76/300, in environmental and climate-related cases. This will help reinforce the intersection of human rights and environmental law and ensure both the full enjoyment of human rights, including the HR2HE and the coherence of judicial practice across different jurisdictions.

Ensure the Justiciability of the HR2HE at the National Level: Establish and reinforce legal mechanisms and remove barriers to justice, to empower individuals and groups to seek legal remedies when the HR2HE is threatened or violated. In particular, in countries where the HR2HE is constitutionally or legally acknowledged, as well as in countries that are parties to regional instruments recognizing the HR2HE, but in which judges have not recognized the HR2HE as a justiciable and enforceable right, training should be provided and legal actions should be facilitated.

Allocate Resources and Build Capacity: Allocate adequate financial, technical and human resources to ensure that the HR2HE is effectively implemented. This includes investing in capacity-building for environmental governance, human rights institutions, judicial systems, and administrative bodies involved in the implementation of the HR2HE.

Promote Multi-Stakeholder Collaboration: Foster collaboration between key stakeholders, including civil society, Indigenous Peoples, persons of African descent, peasants and other traditionally nature-dependent people working in rural areas, the private sector, and local governments, to create holistic, inclusive, and substantial climate and environmental policies that promote and protect human rights, including the HR2HE.

Engagement with Civil Society: Facilitate the inclusion of civil society organizations, Indigenous Peoples, persons of African descent, peasant and other traditionally nature-dependent rural communities, and environmental defenders in policy development, ensuring that their voices are heard in the implementation of environmental rights.

Systematic Examination of the HR2HE within the UPR and relevant UN treaty bodies: States should consistently and comprehensively evaluate their efforts to respect, protect and fulfill the HR2HE and its key substantive and procedural elements.

Monitor and Report Progress: Establish mechanisms for monitoring and reporting on their progress in implementing the HR2HE, including regular environmental assessments, public reporting, and engaging civil society in tracking performance of relevant authorities.

Increase Awareness and Advocacy: Promote public awareness of the HR2HE through education campaigns, inclusion in school curriculums at all levels, public consultations, and engagement with civil society to ensure that citizens understand their HR2HE and how they can claim it.

INTRODUCTION¹

The recognition of the right to a clean, healthy, and sustainable environment (HR2HE) marked a transformative moment in the landscape of international human rights law and environmental protection. In 2021, the United Nations (UN) Human Rights Council officially recognized this right with the adoption of Resolution 48/13, followed by its endorsement by the UN General Assembly (UNGA) through Resolution 76/300 in 2022. This milestone reflects decades of concerted advocacy by governments, UN special procedures mandate holders – Special Rapporteurs John Knox, David R. Boyd and Astrid Puentes Riaño – as well as UN agencies, civil society global coalition, Indigenous Peoples, local communities and progressive businesses – all of whom have long sought global recognition of this human right.

The HR2HE is unique in its multidimensional nature, entitling every individual to an environment of sufficient quality to live a healthy and dignified life. Based on decades of national-level implementation of the HR2HE, both former and current UN Special Rapporteurs on the HR2HE (SR-Env) have consistently emphasized both substantive² and procedural³ aspects of this right – areas where States struggle to reach consensus. The substantive elements include clean air, a safe climate, sufficient and safe water, healthy and sustainable food, an environment free from toxic substances, and the protection of healthy ecosystems and biodiversity⁴. Complementing these are the procedural dimension which guarantee access to information, public participation and access to justice. This recognition underscores the deep interdependency between human rights and environmental protection, highlighting that environmental degradation directly impairs the enjoyment of basic human rights such as the rights to life, health, water and food.

Importantly, the formal global recognition of this right did not emerge in isolation, as its implementation began long before it was officially acknowledged by the UNGA and other UN bodies. The roots of this right can be traced back to the 1972 Stockholm Declaration, which first clearly reported the deep interconnection between human rights and the environment⁵. In the decades that followed this declaration, many States incorporated this right into their constitutions and legislation⁶, reflecting a growing global consensus on its significance. By the time of the adoption of Resolution 76/300, over 80 per cent of UN Member States – 156 out of 193 – had recognized some form of the HR2HE at the constitutional or legislative level, creating

binding legal obligations for these States and requiring its implementation at the national level⁷. However, it was not until recent years – fueled by the escalating⁸ triple planetary crisis of climate change⁹, pollution¹⁰, and biodiversity loss¹¹ – that the urgency and necessity of fully recognizing and operationalizing this right on a global scale was actively brought into focus within the UN forums.

Recognized within a UNGA resolution, where each UN Member State holds a vote, the HR2HE was acknowledged with near-unanimous support (161 States voted in favor of the resolution, with only 8 abstentions – Belarus, Cambodia, China, Ethiopia, Iran, Ethiopia, Iran, Kyrgyzstan¹², Russia, and Syria). This signifies a global consensus on the importance of this right for the enjoyment of all human rights. This collective commitment serves as a concrete effort to tackle the triple planetary crisis, recognized as an unprecedented¹³ “common concern of humankind”¹⁴. It highlights the urgent need to address its harmful consequences and prevent further escalation of environmental degradation.

Moreover, the recognition of the HR2HE through the UNGA resolution signals a shift toward more effective multilateralism within the UN, which brings together 193 Member States, making consensus inherently challenging¹⁵. Rather than relying solely on binding treaties, this approach prioritizes flexible and rapid cooperation¹⁶ with a diverse range of stakeholders – not limited to States but also including civil society organizations, Indigenous Peoples, peasants and other people working in rural areas, local governments and progressive businesses – to address complex and cross-border challenges like the triple planetary crisis¹⁷. The rigid nature and lengthy processes involved in adopting binding treaties on such a large scale can pose significant obstacles when addressing urgent¹⁸ and unprecedented crises that require swift and decisive action. For instance, the IPCC has declared climate change a “threat to human well-being and planetary health”, warning of a rapidly closing window of opportunity to secure a livable and sustainable future for all – a statement backed by very high confidence¹⁹. This collective recognition strengthens international efforts to combat environmental degradation, climate change, and their impacts on human rights, promoting shared responsibility and collective action for the benefit of present and future generations.

Resolution 76/300 not only affirms the importance of the HR2HE but also provides a framework for its

operationalization, promoting holistic approaches that integrate human rights and environmental protection. Resolution 76/300 has the potential to catalyze action, accountability, and collaboration in the pursuit of sustainable development, environmental protection, and climate justice. It reinforces the understanding that safeguarding the environment is inseparable from protecting human dignity and well-being, thus encouraging UN Members States to align their national constitutions, legislation and policies with its provisions.

The international recognition of the HR2HE through the adoption of UNGA Resolution 76/300 represents a significant milestone. However, the real challenge remains achieving the effective implementation of the HR2HE, especially given the resolution's non-binding nature. Its adoption creates a critical need to assess its practical impact on legal and policy landscapes and its potential role in promoting environmental and climate justice.

This Research Brief aims to analyze the implementation of UNGA Resolution 76/300, exploring its legal significance and influence on both national and international legal systems. While the topic involves two interconnected yet distinct legal challenges – the implementation of Resolution 76/300 itself and the broader implementation of the HR2HE – they are deeply interrelated. On one hand, Resolution 76/300 serves as a non-binding political instrument that expresses the General Assembly's recognition of the HR2HE and commitment to its realization. It signals international concern and provides a framework to guide States in operationalizing this human right at various levels. It urges States to align their national legal frameworks accordingly, promoting its recognition and advocacy. On the other hand, the HR2HE is a legal concept, a human right with the potential to evolve into a binding obligation under international law. The broader implementation of the HR2HE is an ongoing and dynamic process that could eventually lead to its formal recognition as a customary international law norm, thus embedding it more fully into both international law and domestic legal systems.

While non-binding, the widespread adoption of Resolution 76/300 has significantly advanced global discussions on environmental and climate justice and accountability. The recognition and application of the HR2HE, as first endorsed by the HRC and subsequently by the UNGA, illustrate the growing impact of this human right in shaping States'

accountability and legal responsibility, demonstrating the resolution's effectiveness.

The purpose of this brief is to assess the ongoing implementation of Resolution 76/300, examining its potential to influence legal reforms, policy adjustments, and judicial decisions at both national and international levels. It will assess how the resolution strengthens environmental and climate legal frameworks, fosters international collaboration, and promotes global environmental and climate justice. Building on its use by States and various stakeholders, this research analyzes its impact on States' behavior. Given the resolution's broad international, but also national and local support, there is potential for it to evolve into a customary international norm, further embedding the HR2HE in global environmental governance. At the same time, the brief addresses the challenges associated with implementing the Resolution, particularly given its non-binding nature, and explores the obstacles that may hinder its full operationalization. Finally, by exploring both the opportunities and challenges associated with the implementation of Resolution 76/300, this brief aims to provide a comprehensive understanding of the Resolution's impact, shed the light on the binding nature of the HR2HE, and assess its potential to drive forward global environmental and climate justice.

1. THE LEGAL AMBIGUITY OF UNGA RESOLUTION 76/300: NON-BINDING DECLARATION OR EMERGING NORM?

A. THE NON-BINDING NATURE OF UNGA RESOLUTION 76/300

From the perspective of international law, resolutions of the UNGA, including Resolution 76/300, are recommendations to States and do not carry mandatory legal force, even for those States that voted in favor. These resolutions can, however, influence behavior and inspire further actions without producing legal obligations.

Following the adoption of Resolution 76/300, various representatives expressed divergent perspectives regarding its nature, binding force, and potential for implementation²⁰. Some States, particularly Pakistan²¹, the United States, the United Kingdom, and Russia, emphasized that the resolution is not legally binding. They characterize it primarily as a political declaration rather than a legal affirmation having its source under 'existing international law'. They explicitly stressed that the HR2HE has not yet emerged as a customary

right in international law²². India and Japan echoed these sentiments, noting that the terms “clean”, “healthy,” and “sustainable” lack clear “internationally agreed definition”, and stating that the resolution does not change existing international law. Further concerns were raised by representatives from Russia, China, and Belarus about the lack of agreement on the definition of this right²³. Russia²⁴ and Belarus²⁵ highlighted that this human right is not recognized in existing international treaties, making the method of its recognition through an UNGA resolution legally questionable. China similarly called for further discussion on defining this right and its relationship to existing human rights before moving forward²⁶.

Despite its non-binding status, many delegations emphasized the strong political and symbolic value of the resolution. Costa Rica, which introduced the resolution on behalf of the core group “Environment and Human Rights”, argued that the universal recognition of the HR2HE would catalyze transformative changes and assist States in fulfilling their human rights obligations, including those related to the environment. Many States agreed, stressing that this right has the potential to address the harmful effects of the triple planetary crisis and safeguard the enjoyment of other human rights. Sri Lanka and Trinidad and Tobago, despite acknowledging the resolution’s lack of binding authority, supported it for its potential to galvanize action on pressing environmental issues.

The European Union, representing its 27 Member States, pointed out that various national and regional instruments already guarantee some form of the HR2HE, reinforcing its relevance. Many delegations, including New Zealand, further highlighted that the resolution acts as a political call to action. Norway, for instance, noted that it sends a “strong political message” encouraging States to reduce emissions and adopt sustainable practices, while the EU viewed it as laying the groundwork for future action on environmental protection.

While some States underlined that binding obligations can only be established through conventions and treaties – without which enforcement is excluded and implementation efforts limited – UNGA Resolution 76/300 still holds significant potential. It marks an important step in global environmental governance, setting the stage for further legal and policy developments that could eventually transform the HR2HE into a universally accepted norm under international law.

B. THE EMERGING BINDING NATURE OF THE HR2HE

The UNGA resolutions, like those of the Human Rights Council, reflect the opinions and will of States. Though non-binding, they can influence the development of international law over time. These resolutions play a significant role in the normative evolution of the international community²⁷, foster legal accountability²⁸, and act as catalysts for normative change. They often lay the groundwork for the emergence of customary international law by influencing State practice and *opinio juris*²⁹.

Arguing that the HR2HE does not exist under international law simply because it is recognized only in a non-binding UNGA resolution is a narrow perspective³⁰. While Resolution 76/300 may be of a non-binding nature, its adoption contributes significantly to the progressive development of international law. International law is not static but dynamic, evolving in response to changing societal values, advancements in scientific understanding, and pressing environmental and climate challenges. Moreover, international law is shaped not only by treaties and customary law but also by soft law instruments, such as UNGA resolutions. Like previous UNGA resolutions³¹, this one holds the capacity to influence legal frameworks and set the stage for future binding commitments. A pertinent example is the human right to safe and clean drinking water and sanitation³², which was initially recognized through UNGA resolution 64/292³³. Building on existing national-level recognition, the right to water and sanitation was acknowledged by 178 countries through non-binding resolutions and declarations from all regions of the world by the time of the resolution’s adoption³⁴, and has since played a pivotal role in shaping legal norms and obligations³⁵. Similarly, the global recognition of the HR2HE builds upon existing national and regional practices that recognize and implement this right³⁶. If we consider non-binding resolutions and declarations related to the HR2HE, the number of countries would exceed 180. It reflects a global consensus on the urgent need to address environmental degradation, which has led to the triple planetary crisis of climate change, pollution, and biodiversity loss.

For a norm to crystallize into customary international law³⁷, two essential elements must be met: consistent and widespread State practice, and *opinio juris* reflecting the belief that such practice is legally obligatory³⁸. In determining whether a human right has a customary international law status, the International Court of Justice

(ICJ) examined several factors. The ICJ considered whether the human right is protected by numerous international instruments of universal application, such as Universal Declaration of Human Rights, the Geneva Conventions for the protection of war victims, the International Covenant on Civil and Political Rights, and UNGA resolution 3452/30 of 9 December 1975 on the protection of all persons from being subjected to torture and other cruel, inhuman or degrading treatment or punishment. Additionally, the ICJ evaluated whether the right has been incorporated into the domestic laws of “almost all States” and whether violations of this human right are regularly condemned in both national and international fora³⁹.

In case of the HR2HE, many States have already enshrined similar rights in their national constitutions and legislation and through ratification of regional treaties, signaling an established pattern of State practice⁴⁰. An increasing number of States are recognizing the HR2HE in their domestic law, with 85% of UN Member States now acknowledging this right. Recent recognitions, subsequent to Resolution A/76/300, include Antigua and Barbuda, Belize, Canada, Dominica, Grenada, the Federated States of Micronesia, Oman, and Saint Lucia. In 2024, the SR-Env reported that an additional 15 small island developing States have expressed their support for this right, raising the total to 91% of UN Member States members, or 176 out of 193⁴¹. Furthermore, nearly all regional human rights instruments now recognize the HR2HE⁴², with the exception of the European Convention on Human Rights (although this right is included in the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters). However, discussions are underway within the Council of Europe on how to best incorporate this right into its framework, building on the existing indirect and piecemeal protections of the substantive and procedural elements of the HR2HE already in place thanks to the judicial work of the European Court of Human Rights. The Reykjavik Declaration⁴³ demonstrates the Council of Europe’s commitment to prioritizing the environment as a core focus, aiming to ensure a clean, healthy and sustainable environment across Europe. Following this, the Steering Committee for Human Rights (CDDH-Env) has undertaken efforts to evaluate the necessity and feasibility of developing additional instruments on human rights and the environment, showing the Council of Europe’s commitment. Despite this, the Committee of Ministers has shown political reluctance to endorse a new

additional protocol to the ECtHR that would explicitly recognize the HR2HE. This hesitation contrasts sharply with the legal landscape within the Council of Europe: 42 out of 46 member States have already adopted this right domestically, highlighting a discrepancy that may impede the effective realization of this right across Europe.

The second element, *opinio juris*, involves States recognizing a practice as legally required, rather than voluntary. While UNGA Resolution 76/300 reflects broad and consensual political support, with 161 votes in favor, some States underlined its soft law nature without binding legal obligations. However, as the connection between environmental protection and human rights – such as the rights to life, health, water and food⁴⁴ – is widely recognized, the HR2HE is increasingly viewed as a legal duty. This evolving perspective is reflected in the Universal Periodic Review (UPR) mechanisms, where States are increasingly articulating the right as binding⁴⁵. Moreover, the growing integration of the HR2HE into multilateral treaties and international discussions related to environmental and climate issues further reinforces its recognition as a binding human right.

The statements made by States during the UNGA voting process, which emphasized that Resolution 76/300 does not alter existing international law and does not yet grant the HR2HE the status of customary international law, ironically highlight the potential for resolution 76/300 to evolve into a norm rooted in international law over time⁴⁶. By affirming its current non-binding status and denying the customary nature of the HR2HE, States inadvertently highlight the potential for this right to evolve into a legally binding norm. This evolution could occur as more States integrate this right into their national legal frameworks, implement it at the national level and acknowledge its significance in international fora.

Alternatively, the widespread adoption and application of resolution 76/300, which recognizes the HR2HE and its fundamental role in the enjoyment of all human rights⁴⁷, underscores States’ commitments to respect, protect and fulfill human rights, particularly in addressing environmental challenges. The resolution also emphasizes the need for the full implementation of multilateral agreements in line with the principles of international environmental law, reinforcing the link between environmental protection and human rights.

This broad recognition suggests that the resolution may reflect a general principle of law recognized by civilized nations⁴⁸ – specifically, the principle advocating for a human rights-based approach to environmental protection. Under international law, general principles of law are fundamental rules derived from common legal traditions of States, often recognized as essential for ensuring justice and fairness. As the resolution notes, “a vast majority of States have recognized some form of the right to a clean, healthy and sustainable environment through international agreements, their national constitutions, legislation, laws or policies”. Given the extensive adoption of this human right across countries, it holds substantial potential to be recognized as a general principle of law. This recognition could be further solidified if international courts, including the ICJ, reference and apply the HR2HE in their rulings. Judicial citation and consistent application could help transform the HR2HE from a soft law instrument into a norm capable of “altering the existing international law”.

Establishing the HR2HE as a general principle of law offers an immediate avenue for judicial recognition while bridging the gap in its formal status in international law. The forthcoming advisory opinion from the ICJ on the obligations of States in relation to climate change is highly anticipated. The HR2HE is expected to play a significant role, likely being considered through its recognition as a general principle of law⁴⁹. Although general principles carry persuasive authority, they lack the binding power of customary international law. However, as the HR2HE gains prominence in international legal discussions and national frameworks, this principle could eventually evolve into binding customary law, providing more robust legal force.

The dual approach of pursuing HR2HE as a general principle of law in the short term, while gradually building its case for recognition as customary international law, offers a strategic pathway. Over time – and considering the progress made since the 1972 Stockholm Declaration – the HR2HE could become an established norm in international law, reflecting a shared global value around human rights-based environmental protection. This process would make the HR2HE a cornerstone of global environmental governance and climate justice, ultimately recognized as a universal obligation by all nations. However, for this practice to solidify into a customary norm, it must have more uniform and consistent enforcement in various international fora, as examined below.

2. RESOLUTION 76/300 AS A CATALYST FOR TRANSFORMATIVE CHANGES WORLDWIDE

UNGA Resolution 76/300 holds significant value as a catalyst for transformative change, particularly in its potential to support the emergence of customary international law. The HR2HE is not a new right; it has existed for decades, and 80% of UN Member States had already recognized it in their constitutions or legislative frameworks prior to the GA resolution. It is therefore not merely the creation of new norms that Resolution 76/300 influences. Its real impact lies in transforming the behavior of States, international bodies, and potentially businesses.

A. NATIONAL LEGAL AND POLICY REFORMS INFLUENCED BY RESOLUTION

UNGA Resolution 76/300 has played a significant role in reinforcing a global understanding that the HR2HE is not only a political commitment but also an actionable human right. By highlighting the connection between environmental and human rights, Resolution 76/300 has influenced a variety of national legal and policy reforms, urging governments to integrate the HR2HE into their legal frameworks and take meaningful steps towards human rights-based environmental protection and climate action.

For instance, Belize, Antigua and Barbuda, Canada, Grenada, Micronesia, Pakistan, Saint Lucia, the Australian Capital Territory and the State of New York have recently recognized the HR2HE within their legal systems, aligning their environmental policies with international human rights obligations⁵⁰. Micronesia and Pakistan were the first States in the world to amend their constitutions using the specific language of Resolution 76/300, to incorporate the right to a clean, healthy and sustainable environment. Canada (with an amendment to a federal environmental statute), New York (via an addition to its state constitution) and the Australian Capital Territory (through an amendment to human rights legislation) have adopted specific legislative frameworks explicitly recognizing the HR2HE. Antigua and Barbuda, Belize, Grenada and Saint Lucia have embraced this human right through the ratification of the Escazu Agreement, which affirms the “right of every person of present and future generations to live in a healthy environment and to sustainable development” and guarantees specifically the procedural aspects of this right (access to environmental information, public participation in the environmental decision-making process and access to justice in environmental matters).

These legal reforms mark a significant step in recognizing that sustainable development and human rights-based environmental protection are crucial for the well-being of all citizens, both present and future.

Case study 1: Australia

UNGA Resolution 76/300 has significantly influenced Australia's legal framework, particularly within the Australian Capital Territory (ACT). On 26 October 2023, the Human Rights (Healthy Environment) Amendment Bill 2023 was introduced to the ACT Legislative Assembly, marking Australia's first legislative move to provide statutory protection for the HR2HE. In August 2024, the ACT passed the law. Concerned residents now have the power to file complaints regarding alleged violations of their right to a clean, healthy and sustainable environment with the ACT Human Rights Commission, which is empowered to investigate and adjudicate these complaints.

This Bill explicitly aligns with the principles of Resolution 76/300, directly referencing and adopting its language⁵⁷. The explanatory statement outlines that the HR2HE includes key substantive elements such as clean air, access to safe water, non-toxic living environments, healthy biodiversity, and a safe climate — all aspects highlighted by the SR-Env. By pioneering the inclusion of the HR2HE in its human rights framework, the ACT demonstrates the far-reaching influence of Resolution 76/300 in shaping national reforms, aligning the ACT with global efforts to link environmental protection with human rights obligations.

Case study 2: Canada

UNGA Resolution 76/300 has played a significant role in shaping Canada's recent legal and policy initiatives, particularly through the modernization of the Canadian Environmental Protection Act, 1999 (CEPA). In June 2023, the Canadian government enacted statutory amendments to protect the right to a healthy environment, directly reflecting the principles of Resolution 76/300. CEPA adopts the resolution's language, defining a healthy environment as one that is "clean, healthy and sustainable"⁵². However, the right is restricted to federal government actions under this particular statute, meaning it does not apply in a range of other important federal regulatory spheres (e.g. pesticides, national parks), nor does it apply to provincial, municipal or Indigenous governments in Canada.

More recently, the government unveiled several initiatives, including a Draft Implementation Framework on the Right to a Healthy Environment, which is undergoing

public consultation and is expected to be published in 2025. The framework outlines the scope of this right and the enforcement mechanisms created under CEPA to guarantee its protection. These efforts aim to address environmental justice, intergenerational equity, and non-regression, while integrating Indigenous knowledge and recognizing the role of science in the decision-making process related to the protection of the environment. Key measures for the implementation of the HR2HE include a Watch List Approach for substances of concern that have hazardous properties but are not currently defined as toxic, a Plan of Priorities for chemical substances management, and a Strategy to Replace, Reduce or Refine Vertebrate Animal Testing⁵³.

Canada's commitment to aligning environmental protection with the HR2HE, as emphasized in Resolution 76/300, is evident in these reforms. They highlight the country's leadership in managing environmental risks while safeguarding human rights, further solidifying Canada's role in addressing global environmental challenges.

Case study: Belize

Oceana Belize's advocacy for the recognition of the HR2HE at the national level is highly commendable. The organization submitted recommendations to the People's Constitution Commission, which is responsible for reviewing and improving the Belize Constitution⁵⁴. They urged the inclusion of the HR2HE within Belize's legal framework as a means to bolster existing environmental protection laws. This initiative highlights a broader civil society movement aimed at integrating human rights principles with environmental sustainability, potentially leading to significant constitutional changes in Belize. While constitutional reforms are still pending, Belize did ratify the Escazu Agreement in 2023, marking the country's first legal recognition of the HR2HE.

B. COURT CASES AND JUDICIAL INTERPRETATIONS

UNGA Resolution 76/300 has already had substantial impact on national, regional and international court decisions, influencing legal interpretations related to environmental protection and climate change. This resolution has provided courts with a framework to reinforce the HR2HE recognized in national law, helping to shape legal arguments and decisions. Current and former UN Special Rapporteurs on the HR2HE, Astrid Puentes Riaño and David R. Boyd, have documented its influence in multiple countries, attesting that the HR2HE was already being implemented before the resolution. Their

reports highlight how this right has been applied to tackle air pollution, clean up contaminated areas, protect biodiversity, and address climate-related risks. Plaintiffs in Argentina, Chile, Kenya, Peru, and the Philippines were able to leverage the HR2HE to mandate environmental protections, improve air quality standards, and restrict new harmful projects, such as fossil fuel projects⁵⁵.

The number of cases that explicitly cite the HR2HE⁵⁶ has grown significantly since the adoption of Resolution 76/300, reflecting its increasing importance as a justiciable right for environmental and climate litigation⁵⁷. This shift demonstrates how the resolution has enhanced the HR2HE's ability to promote environmental and climate justice at the national level, thereby empowering national courts to better uphold these principles. While we focus on cases that directly reference Resolution 76/300, it is important to recognize that the rising number is also driven by the indirect influence of the resolution on all stakeholders⁵⁸, operating within the broader framework of promoting this right at the international level.

Two national cases from Central America explicitly referencing Resolution 76/300 are particularly noteworthy: one from Costa Rica and another from Panama. In Costa Rica, the Supreme Court⁵⁹, explicitly citing Resolution 76/300, delivered a progressive ruling recognizing the HR2HE as an autonomous right, encompassing both anthropocentric and ecocentric dimensions. The Supreme Court addressed a frequently debated aspect of the HR2HE, the protection of biodiversity, by affirming that the “object of protection transcends the human being, because it provides shelter to the diverse components of nature to preserve the existence of living organisms in general, independently of their usefulness for human beings”. In Panama, the Supreme Court also referenced Resolution 76/300, explicitly noting Panama's support for the resolution⁶⁰. The Court emphasized the procedural dimension of the HR2HE and underscored the responsibility of businesses to respect human rights, as outlined in the Guiding Principles on Business and Human Rights, including the HR2HE. This landmark case is also significant for affirming that the HR2HE can coexist with economic activities and private investment, as long as both the State and private actors respect human rights. The Court further emphasized that, in case of a conflict, the “right to life, healthy and the environment of future generations takes precedence” over any other economic right, including the right to investment.

A notable example of this trend is a case⁶¹ in Peru, where the plaintiff filed an *amparo* action against the government for its failure to mitigate the retreat of Andean glaciers, which poses a serious threat to the population due to climate change. The plaintiff argued that the government's inaction violated their constitutional right to a healthy environment and cited UNGA Resolution 76/300 as a binding international standard to strengthen their claim. Although initially dismissed, the case was later accepted on appeal, reflecting the growing influence of the HR2HE in climate litigation. Similarly, in Thailand, the Administrative Court of Chiang Mai⁶², citing UNGA Resolution 76/300, reaffirmed the right to a healthy environment and temporarily suspended a coal mining project to protect the local Koboed community. This decision upholds the community's substantive right to a healthy environment and their right to meaningful participation in environmental decision-making until a final judgment is issued.

Another national case exemplifying the indirect influence of Resolution 76/300 comes from the Seychelles⁶³, where the Court of Appeal ruled that the State has a constitutional responsibility to clean up severely polluted public places, such as rivers and beaches, contaminated by E.coli bacteria. While the Court referenced the Stockholm Declaration of 1972, Rio Declaration on Environment and Development of 1992 and Article 24 of the African Charter on Human and Peoples' Rights, it did not cite UNGA Resolution 76/300. The court determined that the HR2HE is “*the most fundamental right of a human being*”⁶⁴ for the enjoyment of other human rights and that failure to act could expose the State to liability. This ruling demonstrates the proactive role national authorities must play in preventing pollution, even if it is caused by private actors, by implementing environmental policies and taking ‘executive and administrative’ actions to effectively ensure the HR2HE.

UNGA Resolution 76/300 has also influenced regional courts like the European Court of Human Rights (ECtHR) and the Inter-American Court of Human Rights (IACtHR). In the ECtHR's case of pollution *Pavlov and Others v. Russia*⁶⁵, Judge Krenk, in a concurring opinion, referred to Resolution 76/300 as an important international development that the ECtHR must recognize. In the landmark case *Klimaseniorinnen v. Switzerland*⁶⁶, the first climate case decided by the ECtHR, the Court referenced Resolution 76/300 as part of the international legal context for assessing climate-related issues under the ECHR⁶⁷. While Switzerland and

Norway argued that the resolution is non-binding, the Court emphasized that it represents a “major and recent” development, explicitly recognizing the HR2HE as a human right. The Court also noted that all Council of Europe Member States had supported the resolution. While the Court made it clear that it is not its role to determine whether the “general trends” surrounding the recognition of this right creates a specific legal obligation, it affirmed that it considers the UNGA Resolution as part of the broader international legal context when assessing issues under the ECHR. Thus, since the HR2HE is not explicitly enshrined in the ECHR, the Court refrained from using judicial activism to introduce this right into its framework, leaving this opportunity to States. Instead, the Court relied on the existing legal framework and concluded that Article 8 – guaranteeing the right to private and family life – already includes the State’s positive obligation to protect individuals from the serious adverse impacts of climate change on their life, health, well-being, and quality of life.

In *Community La Oroya v. Peru*⁶⁸, the IACtHR recognized the HR2HE as a “fundamental right to the existence of mankind” and affirmed clean air as a substantial component of this right. In this regard, the Court explicitly clarified that States are obliged to “a) establish laws, regulations and policies that regulate air quality standards that do not constitute health risks; 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 (...)”⁶⁹. The IACtHR referenced the UNGA’s recognition of this right, calling it “universal interest”. It further concluded that this right entails an “obligation of protection” for the entire international community, even suggesting that international environmental protection may require progressive recognition as a peremptory norm (*jus cogens*). It also emphasized States’ duty to adopt policies and implement specific measures that ensure environmental protection integrating principles of intergenerational equity.

At the international level, UNGA Resolution 76/300 has been referenced in legal proceedings before the ICJ⁷⁰. It is included in documents submitted by the UN Secretariat to the ICJ⁷¹, underscoring its growing importance in shaping global legal norms related to the intersection between the adverse effects of climate change and human rights.

UNGA Resolution 76/300 has become a critical tool in shaping legal arguments and court rulings in cases addressing environmental harm and climate change. By recognizing the HR2HE as a justiciable right, the resolution has empowered courts to take stronger stances on environmental justice, promoting greater accountability for environmental protection and reinforcing the need for sustainable environmental policies. As more courts integrate the HR2HE into their rulings, Resolution 76/300 will continue to serve as a cornerstone in the global effort to achieve climate justice and protect human rights.

C. INFLUENCE ON INTERNATIONAL MECHANISMS

UNGA Resolution 76/300 has significantly influenced international and regional human rights mechanisms, emphasizing a human rights-based approach to climate change and environmental challenges, particularly the HR2HE. The UN, along with its agencies and various entities, has played a crucial role in formalizing and institutionalizing this right by clarifying its scope and embedding it within international legal frameworks⁷². This collective effort contributes to strengthening environmental governance at the global level.

The UN High Commissioner for Human Rights and OHCHR have been instrumental in promoting the HR2HE, mainstreaming it in their work and advocating for its recognition in multilateral environmental conventions, treaties and international forums. Resolution 76/300 explicitly encourages the full implementation of multilateral environmental agreements in line with the principles of international environmental law. This broad recognition reflects the *opinio juris* of all stakeholders, demonstrating the widespread acceptance of the HR2HE and of the obligations to respect, protect and fulfill it.

A notable example is the Sharm el-Sheikh Implementation Plan⁷³, which acknowledges that countries’ climate actions should respect, promote, and consider their human rights obligations, including those linked to the HR2HE. Echoing this perspective, the first Global Stocktake from COP 28 acknowledged the HR2HE, highlighting that Parties should respect, promote and consider their respective human rights obligations when taking action to address climate change⁷⁴. The HR2HE has also been fully integrated in other key frameworks like the Kunming-Montreal Global Biodiversity Framework⁷⁵, which stresses that its implementation should adopt a human rights-based approach, which explicitly includes the HR2HE. Furthermore, the Bonn Declaration

for a Planet Free of Harm from Chemicals and Waste⁷⁶ recognizes the negative impacts of chemical pollution on the enjoyment of clean, healthy and sustainable environment and highlights its importance in addressing such issues. This approach should also be extended to future agreements, such as the forthcoming global plastic treaty, ensuring that the HR2HE is central to global efforts to combat environmental degradation⁷⁷.

Resolution 76/300 has catalyzed crucial engagement in international fora, mobilizing collaboration between governments, international organizations, civil society, and the private sector. By embedding the HR2HE within broader human rights, environmental and climate change discussions, the resolution advances a global movement that emphasizes the interconnectedness of environmental protection and human health and well-being.

The HR2HE's inclusion in multilateral agreements is driving the development of binding commitments, enhancing environmental governance at local, national, and global levels. This broad recognition of the HR2HE offers a crucial step toward greater accountability and more effective global efforts to combat the triple planetary crisis and safeguard human rights.

Following Resolution 76/300's adoption, the UN Treaty bodies have played a crucial role in recognizing its importance. The Committee on the Rights of the Child for example, recognized the relevance of the resolution recognizing the HR2HE for its interpretation, making it possible to recognize the children's right to live in a clean, healthy and sustainable environment⁷⁸. The Committee on the Elimination of Discrimination against Women also recognized the HR2HE and provided that States parties have an obligation to ensure that State actors and business actors take measures without delay to guarantee a clean, healthy and sustainable environment⁷⁹. Furthermore, the Committee on Economic, Social and Cultural Rights has recently acknowledged in its draft of the General Comment on Economic, Social and Cultural Rights and the Environmental Dimension of Sustainable Development recognized that the HR2HE is implicit in the Covenant and is directly linked to the right to an adequate standard of living. This recognition further embeds this human right within the international human rights framework and underscores its fundamental importance for human survival⁸⁰.

The Universal Periodic Review (UPR) mechanism, established by the UN Human Rights Council, is a unique process for assessing the human rights records of all 193 UN Member States. Conducted every four and a half years, the UPR is a peer-led process, where States review each other's human rights practices. During the UPR, each State presents its human rights achievements, challenges, and commitments, while other Member States provide recommendations for improvement. This collaborative approach promotes accountability, encourages States to fulfill their human rights obligations, and fosters a global culture of respect for human rights.

The UPR also plays a key role in clarifying the evolving international consensus around the HR2HE and its recognition as a human right. Since its formal recognition within the UN system, the UPR has increasingly incorporated the HR2HE into its evaluation, broadening its focus to include this human right⁸¹. This aligns with Resolution 52/23⁸² that encourages States to address their human rights obligations related to the HR2HE within human rights mechanisms, including the UPR and reporting to UN human rights treaty bodies.

Since 2021 and 2022, explicit references to the HR2HE became more frequent and consistent⁸³ in UPR outcome reports. Prior to the formal recognition of the HR2HE in 2021 and 2022, States generally focused on broader environmental issues⁸⁴, recommending policies for conservation⁸⁵, raising environmental awareness and incorporating environment and climate change considerations⁸⁶, and addressing cross-sectoral environmental challenges⁸⁷. This approach underscores that these environmental concerns were already perceived as part of human rights obligations⁸⁸, reinforcing both the importance and widespread consensus on the need for a human rights-based approach to environmental protection and climate change. However, after the HR2HE was formally recognized by the HRC in 2021 and the UNGA in 2022, countries like Costa Rica, Maldives, and Slovenia – part of the core group “HR2HE” – along with others, began specifically urging States under review to recognize and uphold the HR2HE at the national level⁸⁹.

Despite this progress, a tendency to offer more general recommendations persists. Some countries often encourage States to implement environmental obligations, ratify environmental treaties like the Escazú Agreement acknowledging the HR2HE, or enhance the implementation

of environmental policies. Recommendations often focus on enforcing environmental impact assessments, combatting pollution, ensuring meaningful participation of affected communities in human rights and environmental impact assessments, providing access to justice for victims of nuclear testing, and protecting environmental defenders⁹⁰.

The UPR process provides a critical platform for identifying State practice in implementing human rights, including the HR2HE. Through systemic evaluation, it allows States to report on their efforts to protect this right by highlighting the adoption and implementation of relevant laws, policies, and actions. These reports document State practices and offer other nations opportunities to follow their successful approaches. Furthermore, the UPR enables States to express their legal views on the HR2HE. When a State accepts or rejects recommendations regarding this right, it indicates its stance on the legal obligation to uphold the HR2HE.

For example, New Zealand acknowledged the importance of a healthy and sustainable environment for the enjoyment of human rights, but admitted it had no immediate plans to legislate the HR2HE. Instead, it committed to implementing policies that support a healthy environment⁹¹. Chile provided a comprehensive reporting on its environmental laws without explicitly referencing the HR2HE⁹², while Indonesia recommended that Chile continue implementing its Framework Act on Climate Change to ensure a healthy and sustainable environment for the enjoyment of human rights. Similarly, France highlighted its leadership in promoting political recognition of the right to a healthy environment during the 21st session of the Conference of the Parties to the UNFCCC⁹³.

Since 2022, the growing focus on the HR2HE in UPR processes reflects increasing State commitments to recognize and implement this right as part of their international legal obligations. However, for the HR2HE to gain further traction as an international norm, explicit references to it in UPR reports need to be more consistent and widespread. Greater participation by States in endorsing and promoting the HR2HE will help solidify its status as a customary international legal obligation, contributing to the global recognition and implementation of this vital right to address the triple planetary crisis.

3. CHALLENGES AND GAPS IN THE IMPLEMENTATION OF RESOLUTION 76/300

While the recognition of the HR2HE through the UNGA resolution is a milestone, its implementation and translation into actionable and enforceable laws and policies remains a complex and context-specific challenge⁹⁴. This complexity arises not only from the non-binding nature of the resolution but also from its multidimensional nature, including both anthropocentric and ecocentric perspectives, as well as individual and collective dimensions of the HR2HE. Even when enshrined in national constitutions or legislation, the HR2HE can encounter obstacles in its implementation. Key insights from an expert seminar organized by the Geneva Academy⁹⁵ highlighted that the implementation of the HR2HE varies greatly across countries depending on their political, legal, economic and environmental contexts. Factors such as civil society involvement, existing legal frameworks, government capacity, and available resources all influence how effectively the right is realized. These factors are further exacerbated by challenges such as civil wars, foreign invasions or acts of aggression, ongoing genocides, extreme poverty, and failed States, all of which tend to undermine the rule of law and hinder the implementation of the HR2HE. Countries face varying environmental and climate challenges that require tailored approaches. Therefore, the measures necessary for implementation must be adapted to local realities, rather than assuming a one-size-fits-all approach.

The HR2HE intersects with multiple areas of governance, from water and air quality management to climate adaptation, disaster risk reduction, and environmental justice. Its wide-ranging implications demand coordinated action across government institutions, departments, and agencies. However, fragmented governance and lack of coherence between environmental, economic, and social policies hinder effective implementation. This is compounded by the need for capacity-building and training of decision-makers at all levels to ensure that the HR2HE is integrated into policy and practice. While some States have adopted robust national frameworks by incorporating the HR2HE in their constitutions and legislations, the main challenge lies in governance and administration⁹⁶. Without effective decision-making, monitoring, and coordination, even the best constitutional provisions and laws cannot protect the environment and human rights.

Judicial recognition and enforcement of the HR₂HE are critical for its realization. In some countries, like South Africa and India, courts have taken progressive stances on environmental rights, broadening interpretations to include broader aspects of well-being and long-term environmental sustainability. However, many countries still face challenges related to legal standing, access to justice, and the readiness of courts to issue general measures of remediation. The example of the IACtHR case *Lhaka Honhat v. Argentina*⁹⁷ highlights how courts can recognize the HR₂HE as a standalone right, but the question of monitoring and enforcing such general measures remains unresolved⁹⁸.

the HR₂HE into their national legal systems and climate policies, the resolution holds the potential to evolve from a soft law instrument into crystalizing binding legal obligations, further strengthening global environmental governance and advancing human rights. In conclusion, the HR₂HE, as articulated in Resolution 76/300, represents a crucial step towards more comprehensive and rights-based environmental protection. While challenges remain, particularly in ensuring effective implementation and enforcement, the collective commitment to this right across countries signals a hopeful trajectory toward stronger legal frameworks that will hold states accountable and promote sustainable development for current and future generations.

CONCLUSION

UNGA Resolution 76/300, recognizing the HR₂HE, has emerged as a pivotal milestone at the international level. Its influence extends across national legal systems, numerous international and regional human rights mechanisms, demonstrating widespread State commitment to addressing the intertwined challenges of environmental protection and human rights. Since its adoption, the resolution has garnered recognition in multilateral environmental agreements and legal frameworks, including the Sharm el-Sheikh Implementation Plan and the Kunming-Montreal Global Biodiversity Framework, underscoring the necessity of adoption of a human rights-based approach to climate and environmental action.

Although non-binding, Resolution 76/300 has set in motion a critical shift in state behavior, reflecting a strong consensus among States on the importance of the HR₂HE. This growing commitment is evident in the increasing references to the HR₂HE in UPR outcome reports and in the evolving legal and policy frameworks of many countries. States now recognize that environmental challenges are not merely technical issues but are directly linked to human rights obligations. The resolution's non-binding nature does not diminish its potential to shape binding commitments in the future. The resolution, by influencing both national legislation and international treaties, is driving the integration of the HR₂HE in all relevant States' policies. This evolving practice reflects a growing understanding that environmental protection is integral to the fulfillment of human rights and that the recognition of such a right lays the foundation for a more robust system of accountability and legal enforcement. As States continue to integrate

END NOTES

1 The author expresses sincere gratitude to all the experts, including the former UN Special Rapporteur on the Human Right to a Clean, Healthy and Sustainable Environment, David R. Boyd, for generously participating in the peer review process and dedicating their time to reviewing this Research Brief. Their insights and constructive feedback have significantly enriched its content.

2 On the components of the HR2HE, see to the SR-Env reports on “Clean air and human rights”, A/HRC/40/55, 2019; “Human rights and a safe climate”, A/74/161, 2019; “Human rights depend on healthy and sustainable food systems”, A/76/179, 2021; “The global water crisis and human rights”, A/HRC/46/28, 2021; “Human rights depend on a non-toxic environment”, A/HRC/49/53, 2022; “Human rights depend on a healthy biosphere”, A/75/161, 2020; “Human rights depend on a healthy biosphere: good practices”, Annex to A/75/161, 2020.

3 SR-Env, Boyd D. R., UN Human Rights Special Procedures, *The right to a healthy environment. A user's guide*, 2024, pp. 15-17.

4 For an in-depth discussion on the content of this right, refer to the first Research Brief published by the Geneva Academy of International Humanitarian Law and Human Rights. See, Ubushieva, B., and Golay, C., *The Human Right to a Clean, Healthy, and Sustainable Environment: Understanding its Scope, States' Obligations, and Links with Other Human Rights*, Geneva Academy of International Humanitarian Law and Human Rights, March 2024.

5 Principle 1 states that “both aspects man’s environment, the natural and the man-made, are essential to his well-being and to the enjoyment of basic human rights – event the right to life itself”.

6 Portugal, Slovenia and the United States have incorporated this right into their national (subnational, in the case of the USA) legal frameworks as early as the 1970s.

7 SR-Env, Report “Right to a healthy environment: good practices”, A/HRC/43/53, 2019; SR-Env, Report “The human right to a clean, healthy and sustainable environment: a catalyst for accelerated action to achieve the Sustainable Development Goals”, A/77/284, 2022. Boyd D.R., *The Environmental Rights Revolution. A Global Study of Constitutions, Human Rights, and the Environment*, UBC Press, Vancouver, Toronto, 2012, p. 59 ff.

8 However, the Stockholm Declaration of 1972 already underlines the “growing evidence of man-made harm in many regions of the earth: dangerous levels of pollution in water, air, earth and living beings; major and undesirable disturbances to ecological balance of the biosphere; destruction and depletion of irreplaceable resources; and gross deficiencies, harmful to the physical, mental and social health of man, in the man-made environment, particularly in the living and working environment”.

9 IPCC, 2022: Summary for Policymakers [H.-O. Pörtner, D.C. Roberts, E.S. Poloczanska, K. Mintenbeck, M. Tignor, A. Alegría, M. Craig, S. Langsdorf, S. Lösschke, V. Möller, A. Okem (eds.)]. In: *Climate Change 2022: Impacts, Adaptation, and Vulnerability. Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change* [H.-O. Pörtner, D.C. Roberts, M. Tignor, E.S. Poloczanska, K. Mintenbeck, A. Alegría, M. Craig, S. Langsdorf, S. Lösschke, V. Möller, A. Okem, B. Rama (eds.)].

10 UNEP, *Implementation plan “Towards a Pollution-Free Planet”*, UNEP/EA.4/3.

11 IPBES, *Global assessment report on biodiversity and ecosystem services of the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services*, ed. E. S. Brondizio, J. Settele, S. Díaz, and H. T. Ngo, IPBES secretariat, Bonn, Germany, 2019.

12 It is crucial to highlight that Kyrgyzstan subsequently officially clarified that its abstention was made in error and that it actually supports the resolution.

13 SR-Env, Report, Overview of the implementation of the human right to a clean, healthy and sustainable environment, 2024, A/79/270.

14 HRC, Resolution, The human right to a clean, healthy and sustainable environment, 4 April 2023, A/HRC/RES/52/23.

15 However, the situation is different at the regional level, where fewer states are involved, making consensus more achievable. Example of this include the Escazú Agreement and the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights (Protocol of San Salvador). We are also anticipating decisive steps from the Council of Europe, which could follow the lead of other regional mechanisms by adopting a legally binding instrument within the framework of the European Convention on Human Rights to protect the HR2HE.

16 Zimmermann A., “Possible indirect legal effects of non-legally binding instruments”, CADHI Expert Workshop, 26 March 2021, Council of Europe, Strasbourg.

17 UNFCCC, “What is the triple planetary crisis?”, UN Climate Change News, 13 April 2022, <https://unfccc.int/news/what-is-the-triple-planetary-crisis>. For further details on transgressed planetary boundaries due to systemic human impacts requiring urgent attention, see Katherine Richardson *et al.*, “Earth beyond six of nine planetary boundaries”, *Science Advances*, vol. 9, Issue 37, 13 September 2023, DOI:10.1126/sciadv.adh2458

18 https://www.ipcc.ch/report/ar6/syr/downloads/report/IPCC_AR6_SYR_SPM.pdf

19 IPCC, 2023: Summary for Policymakers. In: *Climate Change 2023: Synthesis Report. Contribution of Working Groups I, II and III to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change* [Core Writing Team, H. Lee and J. Romero (eds.)]. IPCC, Geneva, Switzerland, pp. 24-25, doi: 10.59327/IPCC/AR6-9789291691647.001.

20 UN press release, “With 161 votes in favor and 8 abstentions, the General Assembly adopts a landmark resolution recognizing a clean, healthy, and sustainable environment as a human right”, 28 July 2022.

21 It should be emphasized that following the 26th Constitutional Amendment, Pakistan amended its **Constitution of 1973** to recognize in Article 9A that “every person shall be entitled to a clean, healthy and sustainable environment”, thereby adopting the language of the resolution.

22 *Ibidem*.

23 *Ibidem*.

24 It is crucial to highlight that Article 42 of the Russian Constitution of 1993 recognizes that “everyone has the right to a favorable environment, reliable information about its condition, and compensation for harm caused to their health or property by environmental violations”. This fact that this right has existed for nearly three decades and has been repeatedly adjudicated by the Supreme Court of Russia undermines Russian argument that the right is undefined. For instance, the Presidium of the Supreme Court of the Russian Federation stated on 24 June 2022, “Overview of judicial practice on the implementation of environmental protection legislation”, that the constitutional obligation is universal, applying to both individuals and legal entities, and aims to ensure the well-being of present and future generations. The preservation of nature and the environment requires monitoring activities that can harm ecosystems, utilizing technologies to mitigate detrimental impacts, and the limiting the use of biological resources within their natural capacity for restoration.

25 It should be noted that Article 46 of the Constitution of Belarus guarantees everyone the right to a favorable environment and to compensation for damage resulting from the violation of this right. Moreover, Article 1 of the Law “On Environmental Protection” defines a favorable environment as one where environmental quality ensures ecological safety, sustainable functioning of natural ecosystems, and preservation of natural and nature-anthropogenic objects. This refers to an environmental condition that protects citizens’ life and health, as well as the natural environment from harmful natural and man-made impacts. In an explanatory note issued on 23 August 2007, the Ministry of Natural Resources and Environmental Protection emphasized both anthropocentric and ecocentric dimensions of the right to a favorable environment. It clarified that a violation of this right can occur either when there is an actual harm or a threat of such harm to a citizen’s life and health, but also to the natural environment (soil, water, atmospheric air, flora, and fauna) due to direct or indirect environmental impacts from economic or other activities, as well as from accidents, disasters, or natural calamities, but also when there is a recognized threat of such harm.

26 *Ibidem*.

27 Regarding the norm-creating and norm-filling roles of soft law instruments like UNGA resolutions, see Villeneuve L., “Could the Progressive ‘Hardening’ of Human Rights Soft Law Impair its Further Expansion? Insights from the UN Declaration on the

Rights of Indigenous Peoples”, in *Tracing the Roles of Soft Law in Human Rights*, ed. S. Lagoutte, T. Gammeltoft-Hansen and J. Cerone, Oxford University Press, 2016, p. 215.

28 Terpan F., « The definition of soft law », in *Research Handbook on Soft Law*, ed. M. Eliantonio, E. Korkea-aho, U. Mörth, Edward Elgar Publishing, 2023, p. 43.

29 Conclusion 12 “Resolutions of international organizations and intergovernmental conferences” reflects the idea that resolutions or provision of a resolution can serve as evidence for the formation of customary international law: “2. A resolution adopted by an international organization or at an intergovernmental conference may provide evidence for determining the existence and content of a rule of customary international law, or contribute to its development. 3. A resolution adopted by an international organization may provide evidence for establishing a rule of customary international law or contribute to its development if it reflects a general practice accepted as law (*opinio juris*).”, International Law Commission, *Draft conclusions on identification of customary international law*, 2018.

30 See, for example, International Organisation of Employers and Konrad Adenauer Stiftung, “UNGA Resolution on the Human Right to a Clean, Healthy and Sustainable Environment. Considerations for Employers”, June 2024.

31 Resolution on the right to water. + UDHR

32 Schabas W. A., *The Customary International Law of Human Rights*, Oxford University Press, 2021, pp. 310-312.

33 UNGA, Resolution recognizing the human right to safe and clean drinking water and sanitation, A/RES/64/292, 28 July 2010.

34 For an overview of the right to water and sanitation at the time of the adoption of the UNGA resolution, see Amnesty International’s public statement, “[United Nations: Historic re-affirmation that rights to water and sanitation are legally binding](#)”, 1 October 2010.

35 See the report on progressive realization of the human rights to water and sanitation, Special Rapporteur on the human rights to safe drinking water and sanitation, Report, Progress towards the realization of the human rights to water and sanitation (2010-2020), A/HRC/45/11, 2020.

36 SR-Env, Report “Right to a healthy environment: good practices”, A/HRC/43/53, 2019; SR-Env, Report “The human right to a clean, healthy and sustainable environment: a catalyst for accelerated action to achieve the Sustainable Development Goals”, A/77/284, 2022. For the overview see: See, Ubushieva, B., and Golay, C., *The Human Right to a Clean, Healthy, and Sustainable Environment: Understanding its Scope, States’ Obligations, and Links with Other Human Rights*.

37 Article 38 of the Statute of the International Court of Justice defines international custom “as evidence of a general practice accepted as law”.

38 For the first time, the ICJ declared a human rights norm (prohibition of torture) to have customary international law status, noting that this “prohibition is grounded in a widespread international practice and on the *opinio juris* of States”, ICJ, Judgment, *Questions relating to the obligation to prosecute or extradite (Belgium v. Senegal)*, 20 July 2012, § 99. On this point see, Schabas W. A., *The Customary International Law of Human Rights*, p. 43.

39 *Ibidem*.

40 See the developments in the introduction. Also, SR-Env, Report, Overview of the implementation of the human right to a clean, healthy and sustainable environment, 2024, A/79/270.

41 SR-Env, “Expert seminar on the responsibility of business enterprises to respect the human right to a clean, healthy and sustainable environment”, A/HRC/55/41, 2024, p. 17.

42 Article 38 of the Arab Charter on Human Rights includes the right to a “safe environment” as part of the right to an adequate standard of living. Article 24 of the African Charter on Human and Peoples’ Rights (1981) affirms that “all peoples shall have the right to a general satisfactory environment favorable to their development”. Articles 18 and 19 of the Protocol to the African Charter on the Rights of Women in Africa (2003) further grants women the right to live in a “healthy and sustainable

environment” and to fully enjoy their right to sustainable development. Article 11 (1) of the Protocol of San Salvador, an additional protocol to the American Convention on Human Rights, guarantees “the right to live in a healthy environment”. Lastly, § 28 (f) of the ASEAN Human Rights Declaration incorporates the right to a “safe, clean, and sustainable environment” as a key aspect of the right to an adequate standard of living.

43 Council of Europe, Reykjavik Declaration “Untied Around Our Values”, Appendix V ‘The Council of Europe and the environment’, adopted during the Reykjavik Summit, 4th Summit of Heads of State and Government of the Council of Europe, 16-17 May 2023.

44 See, Ubushieva, B., and Golay, C., *The Human Right to a Clean, Healthy, and Sustainable Environment: Understanding its Scope, States’ Obligations, and Links with Other Human Rights*.

45 Please refer to the text below.

46 Some scholars argue that there is “compelling evidence” that the HR2HE has already gained its status of customary international law, see, Schabas W. A., *The Customary International Law of Human Rights*, Oxford University Press, 2021, p. 335.

47 Resolution A/HRC/76/300.

48 Article 38 of Statute of the ICJ.

49 See the request for advisory opinion, UNGA, Resolution 77/276 “Request for an advisory opinion of the International Court of Justice on the obligations of States in respect of climate change”, adopted by consensus on 29 March 2023, [pending](#).

50 SR-Env, Puentes Riaño A., Report, Overview of the implementation of the human right to a clean, healthy and sustainable environment, 2024, A/79/270.

51 The Legislative Assembly for the Australian Capital Territory, “[Explanatory Statement and Human Rights Compatibility Statement \(Human Rights Act 2004, s 37\) to Human Rights \(Healthy Environment\) Amendment Bill](#)”, 2023.

52 See the [site](#) of Government of Canada.

53 Government of Canada, [Strengthening protections from pollution and the right to a healthy environment](#), 2 October 2024.

54 Oceana Belize, “Constitutional Reform – Empowering Belizeans for a Sustainable Future”, see the [link](#) to the campaign advocating for the recognition of the substantive right to a healthy and quality environment in the Constitution.

55 For an overview see, SR-Env, Boyd D. R., UN Human Rights Special Procedures, [The right to a healthy environment. A user’s guide](#), 2024, p. 34; also, SR-Env, Puentes Riaño A., Report, *Overview of the implementation of the human right to a clean, healthy and sustainable environment*, 2024, A/79/270. For example, Tallinn Administrative Court (Estonia), *Fridays for Future Estonia v. Environmental Board*, pending, see, <https://climatecasechart.com/non-us-case/fridays-for-future-estonia-vs-environmental-board/>.

56 To explore the case law, refer to the excellent tool developed by NYU Law’s Right to a Healthy Environment (R2HE) Toolkit, in collaboration with the UN Environment Programme, see <https://www.r2heinfo.com>. This tool maps the legal recognition of the right, and analyzes significant R2HE case law and developments. See also, the [database](#) developed by Sabin Center for Climate Change Law at Columbia Law School and Arnold & Porter.

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58 Refer to databases mentioned above.

59 Supreme Court of Justice (Costa Rica), *Walter Brenes Soto v. Costa Rican Institute of Fisheries and Aquaculture and Others*, Resolución No 00912 - 2023, case 17-008322-1027-CA, 21 June 2023. For further legal analysis, see: Boyd D.R., De Bona M., Rodriguez-Garavito C., “20 Landmark Court Decisions on the Right to a Healthy Environment”, p. 96. See also the NYU Law’s Right to a Healthy Environment (R2HE)

Toolkit, in collaboration with the UN Environment Programme, <https://www.r2heinfo.com>.

60 Supreme Court of Justice (Panama), *Callejas v. Law No 406 – On Unconstitutionality of Mining Concession*, 27 November 2023. For the legal analysis, see: Boyd D.R., De Bona M., Rodríguez-Garavito C., “20 Landmark Court Decisions on the Right to a Healthy Environment”, p. 114.

61 First Specialized Constitutional Court of Lima (Peru), *Valdivia Herrera v. Ministry of the Environment*, Exp. 05865-2022-0-1801-JR-DC-01, 1 September 2022, see: <https://climatecasechart.com/non-us-case/valdivia-herrera-v-ministry-of-the-environment/>.

62 Chiang Mai Administrative Court (Thailand), *Residents of Omkoi v. Expert Committee on EIA Consideration and the Office of Natural Resources and Environmental Policy and Planning*, 23 September 2022, n° 1/2565, pending.

63 Court of Appeal (Republic of Seychelles), Ministry of Environment, Energy and Climate Change & Others v Woodlands Holdings Limited & Anor (SCA CL 01/2023), [2023], (Arising in CP 04/2021) ((SCA CL 01/2023) [2023] (Arising in CP 04/2021)) [2023] SCCA 57, 18 December 2023, see the [link](#).

64 *Ibidem*, § 15.

65 ECtHR, *Pavlov and others v. Russia*, 11 October 2022, app. n° 31612/09.

66 ECtHR, Gd. ch., *Verein Klimasenioren Schweiz and others v. Switzerland*, 9 April 2024, app. n° 53600/20.

67 As it was suggested by judge Krenč, Resolution 76/300 should be referenced under ‘Relevant international materials’ in his concurring opinion under *Pavlov and others v. Russia*, *ibidem*.

68 IACtHR, *Inhabitants of La Oroya v. Peru*, judgment of 27 November 2023, § 118.

69 *Ibidem*, § 120.

70 UNGA, Resolution 77/276 “Request for an advisory opinion of the International Court of Justice on the obligations of States in respect of climate change”, adopted by consensus on 29 March 2023, [pending](#).

71 Under Part VIII (A) “Human rights and climate change” of General Assembly Resolutions, as prescribed by Article 65 of the Statute of the ICJ. This provision ensures that any request for an advisory opinion is accompanied by all relevant documents that could illuminate the legal question.

72 See, for example, the Joint Statement of UN entities on the right to a healthy environment, prepared for the 46th Human Rights Council Session. The statement is joined by: International Labour Organization (ILO); Joint United Nations Programme on HIV/AIDS (UNAIDS); Office of the High Commissioner for Human Rights (OHCHR); Office of the Secretary-General’s Envoy on Youth (OSGEY); UN Special Representative of the Secretary-General on Violence Against Children (SRSG VAC); UN Women; United Nations Development Programme (UNDP); United Nations Economic Commission for Europe (UNECE); United Nations Economic Commission for Latin America and the Caribbean (UNECLAC); United Nations Educational, Scientific and Cultural Organization (UNESCO); United Nations Environment Programme (UNEP); United Nations High Commissioner for Refugees (UNHCR); United Nations International Children’s Emergency Fund (UNICEF); United Nations Population Fund (UNFPA); World Health Organization (WHO). See also, UN Network on Migration, Statement, “[Act Now: Migrant Inclusion in Climate Action Is An Obligation, Not An Option](#)”.

73 Sharm el-Sheikh Implementation Plan, Decision -/CP.27.

74 Decision adopted by the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement on its fifth session, United Arab Emirates, 30 November – 13 December 2023, FCCC/PA/CMA/2023/16/Add.1, 15 March 2024.

75 Decision adopted by the Conference of the Parties to the Convention on Biological Diversity, CBD/COP/DEC/15/4.

76 Conference on Chemicals Management, Resolution V/1.

77 Human Rights Watch, *UN Plastics Treaty Should Mandate Protection of Human Rights and Health. Draft Text Overlooks Human Rights Harm of Fossil Fuels and Petrochemicals*, 18 April 2024.

78 CRC, General Comment No. 26 on children’s rights and the environment, with a special focus on climate change, CRC/C/GC/26, 2023.

79 General recommendation No. 39 on the rights of Indigenous women and Girls, 26 October 2022, CEDAW/C/GC/39.

80 CESCR, Draft, General Comment on Economic, Social and Cultural Rights and the Environmental Dimension of Sustainable Development, 22 October 2024.

81 According to Annex of resolution 5/1 on the “Institution-building of the UN HRC”, the UPR review is based on the Charter of the UN, the Universal Declaration of Human Rights, Human rights instruments to which a State is party, and voluntary pledges and commitments made by States, including those undertaken when presenting their candidatures for election to the HRC, and international humanitarian law, A/HRC/RES/5/1.

82 HRC encourages States “(b) To address compliance with human rights obligations relating to the enjoyment of the human right to a clean, healthy and sustainable environment in the framework of human rights mechanisms, including the universal periodic review, and the submission of State party reports to relevant United Nations human rights treaty bodies”, “The human right to a clean, healthy and sustainable environment”, A/HRC/RES/52/23, 13 April 2023.

83 Recommendation made by Indonesia to El Salvador during the 43rd Regular Session of the HRC, A/HRC/43/5. Observation made by Fiji to Côte d’Ivoire during the 42nd Regular Session of the HRC, A/HRC/42/6.

84 Schabas W. A., *The Customary International Law of Human Rights*, Oxford University Press, 2021, pp. 330-335.

85 Recommendation made by Pakistan to Bhutan during the 42nd Regular Session of the HRC, A/HRC/42/8.

86 Formulation used by Bhutan, *ibidem*.

87 Recommendation made by Fiji to Mauritania during the 47th Regular Session of the HRC, A/HRC/47/6. Also: Myanmar, A/HRC/47/13.

88 Schabas W. A., *The Customary International Law of Human Rights*, Oxford University Press, 2021, p. 334.

89 Cameroon, Costa Rica, Egypt, Equatorial Guinea, France, Maldives, Peru, Portugal, Slovenia, Vanuatu made such recommendations to following countries: New Zealand, A/HRC/57/4; Cambodia, A/HRC/57/17; China, A/HRC/56/6; Germany, A/HRC/55/10; Canada, A/HRC/55/12; Cuba, A/HRC/55/17; France, A/HRC/54/5; United Arab Emirates, A/HRC/54/15; Israel, A/HRC/54/16; Liechtenstein, A/HRC/54/17; Japan, A/HRC/53/15; India, A/HRC/52/11; Poland, A/HRC/52/1; Indonesia, A/HRC/52/8; Iceland, A/HRC/50/7; Haiti, A/HRC/50/15.

90 Algeria, Bahamas, Burkina Faso, Colombia, Costa Rica, Democratic Republic of the Congo, Fiji, Gambia, Maldives, Marshall Islands, Mauritania, Morocco, Panama, Samoa, Slovenia, Somalia, Sudan, Timor Lest, Trinidad and Tobago, United Republic of Tanzania, Vanuatu, Zambia: Viet Nam, A/HRC/57/7; Uruguay, A/HRC/57/8; Vanuatu, A/HRC/57/10; Eritrea, A/HRC/57/14; Dominican Republic, A/HRC/57/16; Mauritius, A/HRC/56/8; Mexico, A/HRC/56/9; Chad, A/HRC/56/15; Congo, A/HRC/56/16; Colombia, A/HRC/55/7; Djibouti, A/HRC/55/11; Canada, A/HRC/55/12; France, A/HRC/54/5;

91 New Zealand, Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review, A/HRC/57/4/Add.1, §§ 81-86.

92 Chile, National report submitted pursuant to HRC resolutions 5/1 and 16/21, A/HRC/WG.6/46/CHL/1.

93 France, A/HRC/54/5.

94 SR-Env, Report, Overview of the implementation of the human right to a clean, healthy and sustainable environment, 2024, A/79/270.

95 On 10 March 2023, the Geneva Academy hosted an expert seminar titled "Identifying Enabling Conditions for the Recognition and Implementation of the Right to a Clean, Healthy and Sustainable Environment at National Level", held under the Chatham House rules. The Geneva Academy extends its gratitude to all the experts who participated in the seminar and provided valuable insights on the topic.

96 For example, Court of Appeal (Republic of Seychelles), *Ministry of Environment, Energy and Climate Change & Others v Woodlands Holdings Limited & Anor* (SCA CL 01/2023), [2023], (Arising in CP 04/2021) ((SCA CL 01/2023) [2023] (Arising in CP 04/2021)) [2023] SCCA 57, 18 December 2023, see the [link](#).

97 IACtHR, *Case of Indigenous Communities of the Lhaka Honhat (Our Land) Association v. Argentina*, 6 February 2020.

98 The similar challenge arises in the implementation of general measures in the case *Verein Klimaseniorinnen Schweiz and others v. Switzerland*. The Federal Council maintains that Switzerland meets the requirements of the ruling issued by the ECtHR regarding climate policy, as outlined in the Committee of Ministers' *Communication from Switzerland concerning the case of Verein KlimaSeniorinnen Schweiz and Others v. Switzerland*, 8 October 2024, DH-DD(2024)1123. However, civil society argues that Switzerland lacks the political will to fully comply with the judgment and has selectively chosen only a few limited measures to reduce the greenhouse gas emissions, CIEL, "[Switzerland's Refusal to Fully Comply with Groundbreaking Climate Ruling Undermines the Country's International Credentials](#)", 9 October 2024.

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UNPACKING THE HR2HE: ITS SCOPE, IMPLEMENTATION AND IMPACT

This [project of the Geneva Academy](#) started by clarifying the content of the HR2HE, including substantive and procedural aspects, related States' obligations, as well as its interconnections with other human rights. In a second phase, we evaluated the implementation of the HR2HE and how UNGA resolution A/76/300 that endorsed this human right has led to changes in domestic laws and policies, has influenced court cases, or has been referred to in decisions taken by regional and international human rights mechanisms. Such insights will be instructive for policy-makers, development programming agencies, environmental advocates, civil society, tribunals, and experts, as well as regional and international human rights mechanisms.

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