



Nederlands Juristen Comité voor de Mensenrechten
Dutch section of the International Commission of Jurists

**2011 OHCHR study
Human Rights and Environment**

**Stakeholder input by
the Dutch Section of the International Commission of Jurists (NJCM)
June 2011**

Response to the call for input by the Office of the UN High Commission for Human Rights in relation to the detailed analytical study on human rights and environment to be carried out on request of the UN Human Rights Council in Res. 16/11 of 24 March 2011.

Dutch section of the International Commission of Jurists
(Nederlands Juristen Comité voor de Mensenrechten, NJCM)
P.O. Box 9520
2300 RA Leiden
The Netherlands
Phone: +31 (0)71 527 8841
Fax: +31 (0)71 527 7383
Email: njcm@law.leidenuniv.nl
Website: www.njcm.nl

TABLE OF CONTENTS

THE RELATIONSHIP BETWEEN HUMAN RIGHTS AND ENVIRONMENT

A. HUMAN RIGHTS AND ENVIRONMENT: INTERDEPENDENT AND INTERRELATED.

B. VARIOUS DIMENSIONS OF THE LINK BETWEEN HUMAN RIGHTS AND ENVIRONMENT

- 1) *Adequate environmental protection as a precondition for the enjoyment of existing human rights*
- 2) *Existing human rights as a tool for achieving improved protection of the environment*
- 3) *A separate substantive human right to environment*
- 4) *Human rights and environment as interrelated through the concept of 'sustainable development' for the benefit of future generations*
- 5) *Human rights and environment as interrelated through the concept of the 'duties of mankind towards the environment'*

C. THE DESIRABILITY AND FEASIBILITY OF A SEPARATE RIGHT TO ENVIRONMENT

DISCUSSIONS ON THE RIGHT TO ENVIRONMENT OVER THE PAST DECADES

ADDED VALUE OF A SEPARATE HUMAN RIGHT TO A HEALTHY ENVIRONMENT?

- a) *The added value of a separate right to environment in relation to the use of procedural (civil and political) rights for the advancement of environmental protection*
- b) *The added value of a separate right to environment in relation to the environmental protection guaranteed under existing human rights*

DETERMINING THE SUBSTANTIVE CONTENT OF A SEPARATE RIGHT TO ENVIRONMENT: A JUSTICIABLE RIGHT?

Examples of European case-law using environmental quality standards to determine the interests of individuals in environmental protection

D. CONCLUSIONS AND RECOMMENDATIONS

ANNEX I: OVERVIEW OF ENVIRONMENTAL CASE-LAW FROM THE EUROPEAN COURT OF HUMAN RIGHTS AND THE EUROPEAN SOCIAL COMMITTEE

ANNEX II: LIST OF CONSTITUTIONAL PROVISIONS ON ENVIRONMENTAL RIGHTS AND DUTIES

A. HUMAN RIGHTS AND ENVIRONMENT: INTERDEPENDENT AND INTERRELATED

The links between human rights and adequate environmental protection are manifold and undeniable. They have been firmly established in scholarly debate and practice, while at the UN level the links between human rights and environmental protection have been studied and reiterated on numerous occasions.¹ The links between human rights and environmental protection were also confirmed in the most recent resolution of the Human Rights Council on 'Human Rights and Environment', Resolution 16/11 of 24 March 2011, UN. Doc. A/HRC/RES/16/11(preamble).²

In this resolution of 24 March 2011 the Human Rights Council (hereinafter: the HRC) requested the Office of the United Nations High Commissioner for Human Rights (hereinafter: the OHCHR) to 'conduct a detailed analytical study on the relationship between human rights and the environment, to be submitted to the HRC prior to its nineteenth session.' The present paper seeks to make a contribution to this study by providing the views of the Dutch Section of the International Commission of Jurists' (hereinafter: the NJCM)³ on:

- a) the development and consolidation of the links between human rights and environment as apparent in scholarly debate and practice (Part B);
- b) the recent developments on the establishment of a separate substantive 'right to environment'⁴ as apparent in scholarly debate and practice, in particular (Part C).

The NJCM is hereby responding to Point 1 of the call for input by civil society of the OHCHR.

The NJCM will recommend in particular that the detailed analytical study of the OHCHR:

1) Should build upon and go beyond the links between human rights and environment already affirmed and recognized in doctrine and practice over

¹ See e.g. the elaborate reports of UN Special Rapporteur Fatma Ksentini in the mid-1990s; the Reports on Human Rights and Environment of the UN Secretary General; the expert consultations on human rights and environment in 2002; and see also Dinah Shelton, 'Human Rights and Environment: Past, Present and Future Linkages and the Value of a Declaration', Background Paper (draft) for the UN High Level Expert Meeting on the New Future of Human Rights and Environment: Moving the Global Agenda Forward, Nairobi, 30 November – 1 December 2009, available via: <http://www.unep.org/environmentalgovernance/LinkClick.aspx?fileticket=vmj6UL3O5Ho%3d&tabid=2046&language=en-US>.

² Fourteenth, fifteenth and eighteenth preambular paragraphs of HRC Resolution 16/11 of 24 March 2011, UN. Doc. A/HRC/RES/16/11).

³ This report has been drafted on behalf of the NJCM Working Committee on Sustainable Development and Human Rights, by Ms. Marlies Hesselman, PhD Candidate at the University of Groningen and Mr. J.I. van de Venis, LL.M, Attorney-at-law at JustLaw - Corporate Law and Human Rights. This paper contains elements of a draft version of an article that is planned for further publication. This report can be cited as: 'Stakeholder input by the Dutch Section of the International Commission of Jurists (NJCM) in response to the 2011 OHCHR study on Human Rights and Environment, report drafted by M.M.E. Hesselman and J.I. van de Venis, June 2011', available from: http://www.njcm.nl/site/english/english_reports.

⁴ Throughout this paper the term 'right to environment' will be employed to refer to the concept of a separate 'human right to an environment of a particular quality'. This right and the different formulations of the right that are possible will be further explained in Part C.

the past years and systematize these links in a manner that can better guide the conduct of various actors in protecting the environment and human rights, including:

- States, both individually and jointly
- national, regional or international judicial (human rights) bodies
- the members of civil society, including businesses
- relevant international organizations

- 2) Should pay particular attention to the merits and feasibility of elaborating a separate substantive right to environment on the international plane, whether as a binding right or as a declaration of soft law. This right and the discussions surrounding this right are further discussed in a later part of the paper. However, practice and doctrine seem to suggest that such a right could be a valid addition to the present code of human rights and deserves further consideration as such.

B. VARIOUS DIMENSIONS OF THE LINK BETWEEN HUMAN RIGHTS AND ENVIRONMENT

As already mentioned, human rights and environmental protection are interdependent and interrelated in many ways. Over the past decades the links between human rights and environment have become more established due to a growing awareness of the mutually reinforcing links between the two values and the recognition that increased protection of both values would be an issue of primary concern for the international community for decades to come. This is without a doubt the reason why the HRC has also commissioned further studies into the matter at present. In previous debates at the UN level, the different dimensions of the link between human rights and the environment – consolidated through doctrine and practice – were also already extensively discussed and affirmed.⁵

Below a brief summary of the different dimensions of the links between human rights and environment as now generally accepted in doctrine and practice will follow, for the benefit of the upcoming OHCHR study.

As suggested, the NJCM recommends in particular that the OHCHR's detailed analytical study will affirm the links already accepted to date and work on elaborating and systematizing these links so as to guide the conduct of various actors active in the field of human rights and environmental protection. In particular the NJCM recommends that the study will focus on a further examination of the desirability of pursuing the third dimension mentioned below, i.e. the elaboration of a separate substantive human right to environment. Reasons for this recommendation will follow below.

1) Adequate environmental protection as a precondition for the enjoyment of existing human rights

The first dimension of the link between human rights and environment to be mentioned and which is already widely acknowledged in doctrine and practice, considers that proper and full enjoyment of existing human rights – such as the right to life, private life, health, food, water and proper sanitation, housing, work and development – cannot take place without taking into account adequate protection of the environment.⁶ The NJCM has reiterated the links between environmental protection and existing human rights in an earlier submission to the OHCHR, i.e. in the context of its 2008 study on human rights and climate change.⁷

Extensive scholarly works on the environmental dimension of existing human rights already exist and will not be repeated here, while many judicial bodies have recognized

⁵ See note 1 above; see also Dinah Shelton, 'Human Rights and the Environment: What specific environmental rights have been recognized?', *Denver Journal of International Law and Policy*, Vol. 35, 2006, pp. 130-131; Prudence Taylor, 'From environmental to ecological human rights : a new dynamic in international law ?', *The Georgetown International Environmental Law Review*, Vol. 10, No. 2, 1998, p. 338.

⁶ See e.g. Dinah Shelton, 'Human Rights and the Environment: What specific environmental rights have been recognized?', *Denver Journal of International Law and Policy*, Vol. 35, 2006, pp. 130-132.

⁷ See <http://www.njcm.nl/site/uploads/download/278>. See also the report of Stand Up For Your Rights on the links between human rights and environment in the dimension of climate change: <http://www.standupforyourrights.org/ip/uploads/downloads/SUFYR%20-%20The%20Human%20Side%20of%20Climate%20Change.pdf>.

this dimension in their jurisprudence as well.⁸ It is also pointed out that the Human Rights Council itself made explicit reference to this dimension in its resolution of March 2011 and as such it can no longer be denied.

The NJCM recommends that the OHCHR's detailed analytical study affirms the importance of environmental protection for the full enjoyment of existing human rights, and carries out a thorough examination of (recent) case-law on the matter. It would be useful if jurisprudential finding were systematized so as to better guide the conduct of various actors active in the field of human rights and environmental protection.

See Annex I attached for a list of relevant case law from the European Court of Human Rights and the European Social Committee. Interesting cases may also be found in other legal systems, such as the African regional human rights system,⁹ the Inter-American human rights system,¹⁰ or the Human Rights Committee.¹¹

2) Existing human rights as a tool for achieving improved protection of the environment

The second dimension of the link between human rights and environment, also widely recognized now, is the consideration that particular (human) rights can be used by individuals to achieve greater protection of the environment as such. The full enjoyment of these rights is not contingent on adequate environmental protection – as are the rights mentioned above –, but better environmental protection may be achieved *through* them.

The rights concerned with this dimension are in particular the (civil and political) rights of access to information, freedom of expression (public participation in decision-making) and the right of access to justice,¹² which are mostly enshrined and exercised in the context of traditional human rights treaties, but have also been reiterated in more environmentally oriented instruments such as Principle 10 of the 1992 'Rio Declaration on Environment and Development', paragraph 128 of the 2002 'World Summit on Sustainable Development Johannesburg Plan of Implementation', and the binding 1998 UNECE Aarhus Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters, which explicitly confers a number of so-called 'procedural environmental rights' on individuals and environmental

⁸ See e.g. Annex I attached, or notes 9-11 below.

⁹ E.g. African Commission on Human and Peoples' Rights, *Centre for Minority Rights Development (Kenya) and Minority Rights Group International on behalf of Endorois Welfare Council v. Kenya* (Endorois Community case), Communication No. 276/2003, 2 February 2010 and *The Social and Economic Rights Action Center and the Center for Economic and Social Rights v. Nigeria* (Ogoni case), Communication No. 155/96, 27 October 2001.

¹⁰ E.g. Inter-American Court of Human Rights, *Case of the Saramaka People v. Suriname*, Judgment of 28 November 2007; Inter-American Court of Human Rights, *Caso Pueblo Indígena de Sarayaku v. Ecuador*, Orders for provisional measures of 6 July 2004 and 17 June 2005; *Claude-Reyes et al v. Chile*, judgment of 19 September 2006; Inter-American Commission on Human rights *Maya Indigenous Communities of the Toledo District v. Belize*, Case 12.053, Report No. 40/04, 12 October 2004; *San Mateo de Hanchor v. Peru*, Petition No. 504/03, Report No. 69/04, admissibility decision of 15 October 2004.

¹¹ See e.g. United Nations Human Rights Committee: *Jouni Lämsman v. Finland* (Lämsman II case), 30 October 1996.

¹² See e.g. Dinah Shelton, 'Human Rights and the Environment: What specific environmental rights have been recognized?', *Denver Journal of International Law and Policy*, Vol. 35, 2006, pp. 130-143.

organizations.¹³ In addition, it is reiterated that this link has also been recognized by the HRC in its Resolution of 24 March 2011.

Although the conferral and use of 'procedural rights' to give individuals a say in environmental decision-making processes, has been widely accepted as a desirable and appropriate approach to linking human rights and environmental protection,¹⁴ it has also often been held that this approach has some short-comings, most notably because reliance on 'procedural environmental rights' of this kind can only offer limited guarantees in actually ensuring that a particular 'environmentally acceptable' substantive outcome will be achieved, i.e. no substantive limitations on the environmental decision-making process are recognized.¹⁵ As was affirmed by UNECE and others on this matter: procedural rights should not be considered ends in themselves, 'but are meaningful as means towards the end of protecting the individual's substantive right to live in a healthy environment.'¹⁶ The matter will be discussed further below in Part C.

The NJCM recommends that the detailed study of the OHCHR should include a further consideration of the use or conferral of 'procedural environmental rights' on individuals to achieve greater environmental protection. In particular the study should focus on the extent to which this approach is successful 'towards the end' of protecting actual interests of the individual in enjoying an environment of a particular 'healthy' quality.

3) A separate substantive human right to environment

The third, arguably more extensive, approach linking human rights and environment is then a 'separate substantive right to environment'. Although this right did not receive much attention at the international level since the 1990s – when the right was grappling with some legal and conceptual difficulties, and the first two approaches mentioned

¹³ *UNECE Convention on access to information, public participation in decision making and access to justice in environmental matters*, Aarhus, Denmark, adopted by the United Nations Economic Commission for Europe on 25 June 1998, *UN Treaty Series*, vol. 2161.

¹⁴ Pedersen, 'European environmental human rights and environmental rights: a long time coming?', *Georgetown International Environmental Law Review*, Fall, 2008, p. 71; Turner, *A substantive environmental right : an examination of the legal obligations of decision-makers towards the environment*, Alphen aan de Rijn, Kluwer Law International, 2009. p. 13, 64; Ataputtu, 'The right to a healthy life or the right to die polluted?: The emergence of a human right to a healthy environment under international law', *Tulane Environmental Law Journal*, 2002, p. 90.

¹⁵ Turner, *A substantive environmental right : an examination of the legal obligations of decision-makers towards the environment*, Alphen aan de Rijn, Kluwer Law International, 2009. p. 13, 64 e.v.; Dinah Shelton, 'Human Rights and Environment: Past, Present and Future Linkages and the Value of a Declaration', Background Paper (draft) for the UN High Level Expert Meeting on the New Future of Human Rights and Environment: Moving the Global Agenda Forward, Nairobi, 30 November – 1 December 2009, available via: <http://www.unep.org/environmentalgovernance/LinkClick.aspx?fileticket=vmj6UL3O5Ho%3d&tabid=2046&language=en-US>, p. 5-6; Dinah Shelton, 'Human rights, environmental rights, and the right to environment', *Stanford Journal of International Law*, vol. 28, no. 1, 1999, pp. 103-138; Dinah Shelton, 'Developing substantive environmental rights', *Journal of Human Rights and the Environment*, Vol. 1, no. 1, 2010, p. 91; Van Dyke, 'A proposal to introduce the right to a healthy environment in the European Convention regime', *Virginia Environmental Law Journal*, Vol. 13, 1994, p. 339; Shelton, 'Human rights, environmental rights, and the right to environment', *Stanford Journal of International Law*, vol. 28, no. 1, 1991, p. 121; Turner, 'The human right to a good environment: The sword in the stone', *Non-State Actors and International Law*, vol. 4, no. 3, 2004, p. 281.

¹⁶ Comments of UNECE in the Report of the Secretary-General prepared in accordance with Commission resolution 1996/13, Human Rights and Environment, UN. Doc. E/CN.4/1997/18, 9 December 1996, p. 7.

above gained more attention¹⁷ – the right has seen some major developments over the past two decades and is now accepted in many legal systems around the world. Indeed, both the American and African regional human rights systems incorporated a right to environment, as well as about 75 constitutions around the world.¹⁸ As such, it can be argued that its existence can no longer be denied at present. In fact, almost no constitution adopted or amended after the 1990s has failed to include such a provision.¹⁹

The NJCM considers that the overwhelming acceptance of the right to environment in legal documents, and the binding legal practice resulting from it in national and regional jurisprudence warrant a thorough reappraisal of the merits and feasibility of elaborating a right to environment on the international plane in the context of the upcoming study as well.

In this respect it is immediately recognized that a separate right to environment still poses a number of legal challenges that should be further analyzed. Part C of the position paper will contribute to the discussion by providing a brief analysis of the questions involved, and by describing some developments in recent practice and doctrine that are worthwhile to take into account.

4) Human rights and environment as interrelated through the concept of ‘sustainable development’ for the benefit of future generations

Human rights and the environment are also interrelated in a fourth dimension, i.e. through the concept of ‘sustainable development’ for the benefit of present and future generations.²⁰ The principle of ‘sustainable development’ requires that all efforts for development should be geared at equitably meeting the social (human rights), environmental and economic needs of present generations whilst not compromising the ability of future generations to meet their needs.²¹ This is also called an ‘integrationist approach’ (ILA New Delhi Principles on Sustainable Development).

The rights of future generations (or alternatively the *duties* of present generations to protect the rights of future generations) have been affirmed on many occasions at the

¹⁷ Dinah Shelton, ‘Developing substantive environmental rights’, *Journal of Human Rights and the Environment*, Vol. 1, no. 1, 2010, p. 91; Fitzmaurice, M., The European Convention on Human Rights and Fundamental Freedoms and the, Human Right to a Clean Environment: the English Perspective, in: Ndiaye & Wolfrum [eds.], *Law of the Sea, Environmental Law and Settlement of Disputes*, The Netherlands, Koninklijke Brill NV, 2007, p. 54,56.

¹⁸ African [Banjul] Charter on Human and Peoples’ Rights, Banjul, adopted by the Organization of African Unity on 27 June 1981, OAU Doc. CAB/LEG/67/3 rev. 5., Article 24; Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights, San Salvador, adopted by the Organization of American States, 17 November 1988, OAS Treaty Series No. 69, Article 11; See Annex II for a list of constitutions currently explicitly recognizing rights to environment.

¹⁹ Dinah Shelton, ‘Human Rights and the Environment: What specific environmental rights have been recognized?’, *Denver Journal of International Law and Policy*, Vol. 35, 2006, p. 116.

²⁰ Commission on Human Rights, Resolution 2003/71 on Human rights and the environment as part of sustainable development, Commission on Human Rights (2003); Commission on Human Rights, Resolution 1995/14 on Human Rights and the Environment (1995); See also e.g. Giorgetta, ‘The Right to a Healthy Environment, Human Rights and Sustainable Development’, *International Environmental Agreements: Politics, Law and Economics*, Vol. 2, 2002, pp. 173-194.

²¹ Principle 3 of the 1992 Rio Declaration on Environment and Development; Paragraph 5 of the 2002 Johannesburg Declaration on Sustainable Development; Principle 7 ILA New Delhi Principles on Sustainable Development.

international, regional and domestic level.²² Rights of or duties to future generations have also increasingly been explicitly articulated in relation to separate rights to environment. The Aarhus Convention presents an excellent example, stipulating that:²³

‘every person has the right to live in an environment adequate to his or her health and well-being, and the duty, both individually and in association with others, to protect and improve the environment for the benefit of present and future generations’.

Consider also for example the constitutional provisions in the constitutions of Albania, Argentina, Bolivia, Brazil, the Dominican Republic, East Timor and others.²⁴

The NJCM recommends that the OHCHR includes in its study a further consideration of the link between human rights and environment as manifesting in the concept of sustainable development, and in particular in the concept of the ‘rights of future generations’ or ‘the duties towards future generations’.

5) Human rights and environment as interrelated through the concept of the ‘duties of mankind towards the environment’

A last dimension in which human rights and environmental protection are coming together is the (emerging?) concept of ‘*human duties* to protect the environment as such’, i.e. not necessarily for the anthropocentric benefit of present and future generations, but for the benefit of nature in its own right.²⁵ ‘Human duties of environmental protection’ have at present been enshrined in a great number of domestic constitutions around the world, as well as received recognition on the international plane, e.g. in the context of the 1982 World Charter on Nature.²⁶ In fact very few constitutions that hold environmental provisions fail to include an affirmation of individual duties to defend, protect and preserve the environment.²⁷ As apparent from the provisions, duties to protect the environment are often linked to individual rights to protection of the environment.

²² See e.g. *Our Common Future: Report of the World Commission on Environment and Development* (Brundtland Report), UN Doc. A/42/427, 1987; General Assembly Resolution 42/187, ‘Report of the World Commission on Environment and Development’, adopted on 11 December 1987; Universal Declaration on the Responsibilities of the Present Generation towards Future Generations, adopted by the General Conference of UNESCO on 12 November 1997; United Nations Framework Convention on Climate Change, adopted on 9 May 1992, vol. 1771, p. 107, preamble and Article 3; UN General Assembly, Vienna Declaration and Programme of Action, 12 July 1993, UN Doc. A/CONF.157/23; UNECE Convention on access to information, public participation in decision making and access to justice in environmental matters, adopted by the United Nations Economic Commission for Europe on 25 June 1998, UN Treaty Series, vol. 2161; even the International Court of Justice now refers to it, *Pulp Mills on the River Uruguay (Argentina v. Uruguay)*, Order of 13 July 2006, par. 80 and judgment of 20 April 2010, par. 177.

²³ Preamble of the 1998 *UNECE Convention on access to information, public participation in decision making and access to justice in environmental matters*, Aarhus, Denmark, adopted by the United Nations Economic Commission for Europe on 25 June 1998, UN Treaty Series, vol. 2161.

²⁴ See Annex II for a full list with constitutional provisions on environmental rights and duties for further reference.

²⁵ Dinah Shelton, ‘Human Rights and the Environment: What specific environmental rights have been recognized?’, *Denver Journal of International Law and Policy*, Vol. 35, 2006, p. 130-132.

²⁶ 1982 UN World Charter on Nature, UN Doc. A/RES/37/7; 1992 UN Convention on Biological Diversity, UNTS, vol. 1760, p. 79; see Redgwell, in Anderson. & Boyle.[eds.], *Human Rights Approaches to Environmental Protection*, Oxford, Oxford University Press, 1996, p.71-87.

²⁷ See Annex II.

The NJCM recommends that the OHCHR includes in its study an examination of how human rights and environment are linked in the concept of ‘duties of environmental protection’, and considers in particular how duties of individuals for protection of the environment could be or have been operationalized to date.

In respect of the operationalization of duties, the NJCM recognizes that, while it may be difficult to hold individuals accountable for such duties in a legally binding manner – possibly going into the realm of ‘environmental crimes’ –, individuals could at least be enabled to take up their responsibilities and given an opportunity effectuate their duties in a legal manner in national decision-making processes. It has been held that this can be done by giving them access to information, public participation in decision-making, and access to justice in environmental decision-making procedures more broadly, i.e. without reference to their direct personal interests.²⁸

The NJCM recommends that the OHCHR studies how individuals can defend environmental interests more broadly through the exercise of existing human rights, or through a separate right to environment more specifically.

²⁸ See e.g. Prudence Taylor, ‘From environmental to ecological human rights : a new dynamic in international law?’, *The Georgetown International Environmental Law Review*, Vol. 10, No. 2, 1998, pp. 344, 352-353; Brandl and Bungert, ‘Constitutional entrenchment of environmental protection : a comparative analysis of experiences abroad’, *The Harvard Environmental Law Review*, Vol. 16, No. 1, 1992, p. 88; Anderson, Anderson and Boyle, [eds.], *Human Rights Approaches to Environmental Protection*, Oxford, Oxford University Press, 1998, p. 14.

C. THE DESIRABILITY AND FEASIBILITY OF A SEPARATE HUMAN RIGHT TO ENVIRONMENT

The next paragraphs will explain why the NJCM is of the opinion that it is appropriate for the upcoming detailed analytical study of the OHCHR to more fully explore the third dimension of the link between human rights and environment as supported by doctrine and practice, i.e. the elaboration of a separate substantive right to environment.

As already mentioned earlier, a closer study of the right seems appropriate because of the striking visibility of this right in various legal systems around the world and its continued acceptance over the past decade(s).²⁹ The existence of the right in so many legal systems can no longer be denied and warrants a reappraisal of the desirability and feasibility of further elaborating a right to environment on the international plane as well. A closer look at the desirability and feasibility of the right might also be warranted on account of the fact that many insist that a separate right to environment is desirable and necessary in order to fill some gaps of human rights and environmental protection currently left by the other approaches. These arguments will be examined in more detail below.

Of course, accepting that a healthy, good or ecologically balanced environment is a human right in itself will involve a number of important practical legal questions which will need to be further discussed. It will also require international recognition of the importance of the environment as a human rights value, which may be a subject for further discussion in the study of the OHCHR.

The NJCM recommends that the OHCHR carries out a detailed study of the developments on the right to environment in various legal systems around the world, taking into account in particular the manner in which individual claims for environmental protection have been conferred and honored around the world to date – whether in the context of specific rights to environment or not. In addition the NJCM recommends that the OHCHR studies the various views currently held on the reasons for (not) pursuing a separate right to environment at the national, regional or international level, and identifies the benefits and challenges currently perceived to the elaboration of such a right.

Below the present paper seeks to provide some initial thoughts and observations on the desirability and feasibility of a separate right to environment at the international level (over and above other dimensions of linking human rights and environment), as currently supported in scholarly debate and practice, in the hope that may guide further studies by the OHCHR into this matter.

DISCUSSIONS ON THE RIGHT TO ENVIRONMENT OVER THE PAST DECADES

This paper will not attempt to provide a full elaboration of the debates on desirability and feasibility of a right to environment over the past decades, but merely concedes that the right to environment is still subject to debate for a number of reasons, most importantly its added value, the manner in which it fits in with existing rights and approaches, its exact content, formulation, object and purpose of protection, and its legal enforceability, i.e. its 'justiciability'. Although in the past debates have also involved discussions on

²⁹ See under 3) in Part B and the developments mentioned there.

whether this right is a group right or an individual right, these discussions seem to have more or less been rendered moot by the fact that in almost all legal systems the right to environment has been considered a right of individuals, which can be exercised by individuals as such, or in groups.³⁰

It is important to note that discussions on the right to environment are complicated by the fact that over time the right has developed in a fragmented manner in various legal systems around the world, i.e formulations of the right have varied over time from the 'right to a healthy environment', to the right to a 'good', 'unpolluted', ecologically balanced', 'favourable', 'clean' or 'viable environment'.³¹ Shelton has observed on the matter more recently that formulations of the right to environment have been changing, increasingly moving away from the right to a 'healthy' or 'healthful' environment, to formulations of a right to an 'ecologically balanced' environment,³² suggesting that a more holistic view is taken of what the right to environment entails. Although the formulation of the right to environment has been thought to have some bearing on the meaning and content of the right,³³ it is not fully clear how judges would in each case be able to derive exact meaning and content from a right that is formulated in a particular (vague) manner and much discussion has been had on this.³⁴ Indeed, the question of how courts would be able to appropriately determine and enforce the content of a right to environment is a question that keeps returning in debates on the right to environment, and seems to present the biggest challenge to the acceptance of a right to environment in systems which presently do not yet contain such a right.³⁵

³⁰ The matter will not be further discussed here, but a list of constitutional provisions that can be used for further reference is currently under preparation and will be submitted for further reference as soon as possible.

³¹ See e.g. Dinah Shelton, 'Developing substantive environmental rights', *Journal of Human Rights and the Environment*, Vol. 1, no. 1, 2010, pp. 89-90.

³² Dinah Shelton, 'Developing substantive environmental rights', *Journal of Human Rights and the Environment*, Vol. 1, no. 1, 2010, pp. 90, 98.

³³ Dinah Shelton, 'Developing substantive environmental rights', *Journal of Human Rights and the Environment*, Vol. 1, no. 1, 2010, p. 90; See also Kravchenko, S. & Bonine, J.E., *Human Rights and Environment: Cases, Law and Policy*, Carolina Academic Press, 2008, pp. 67-79.

³⁴ See e.g. Van Dyke, A proposal to introduce the right to a healthy environment in the European Convention regime, *Virginia Environmental Law Journal*, Vol 13, 1994, p. 348; Dinah Shelton, 'Developing substantive environmental rights', *Journal of Human Rights and the Environment*, Vol. 1, no. 1, 2010, p. 89 e.v..

³⁵ Consider for example the recent discussions in the Council of Europe on the adoption of a right to a healthy environment in the context of the European Convention on Human Rights. See the following documents: *Preparation of an additional protocol to the European Convention on Human Rights, on the right to a healthy environment*, Opinion by Rapporteur Mr. Christopher Chope on behalf of the Committee on Legal Affairs and Human Rights, Doc. 12043, 29 September 2009; *Drafting an additional protocol to the European Convention on Human Rights concerning the right to a healthy environment*, Report by Rapporteur Mr. José Mendes Bota, on behalf of the Committee on the Environment, Agriculture and Local Regional Affairs of the Parliamentary Assembly of the Council of Europe, Doc 12003, 11 September 2009; *Environment and Human Rights*, Report by Rapporteur Mr. Erik Jurgens on behalf of the Committee on Legal Affairs and Human Rights of the Parliamentary Assembly of the Council of Europe, Doc 9833, 5 June 2003; *Environment and Human Rights*, Report by Rapporteur Mrs. Cristina Agudo on behalf of the Committee on the Environment, Agriculture and Local Regional Affairs of the Parliamentary Assembly of the Council of Europe, Doc 9791, 16 April 2003; See also the position paper of the NJCM submitted to the OHCHR in 2008 on the links between human rights and climate change, p. 6-10, 16, available from: <http://www.njcm.nl/site/uploads/download/278>.

This paper will continue to use the most neutral form of the formulation of the right to an environment of a particular quality currently circulating in debates on the matter: i.e. the 'right to environment'. Employment of this term indicates that this paper does not seek to make any propositions as to what might be the most appropriate formulation of the right. **The NJCM recommends however that formulations of the right to environment in various systems, and the approaches taken by courts in giving enforceable content to particular rights is further studied in the context of the upcoming study.**

Overall the NJCM recommends that the detailed analytical study of the OHCHR includes a further study into the questions of desirability as discussed above, and in particular examines the various reasons for states (not) to adopt a particular (constitutional) right to environment in domestic or regional systems, or at the international level. The NJCM recommends as well that the OHCHR study examines perceived benefits and challenges to the right to environment in relation to rights already in place, and considers how the right relates to the other dimensions of the link between human rights and environment as discussed above.

Below this paper will proceed to give some input on the above questions and provides some observations on a) the reasons generally supported for pursuing a separate right to environment over and above other approaches (desirability), b) developments found in 'environmental case-law' on the European continent, indicating the manner in which the European Court of Human Rights, the European Social Committee, and the Court of Justice of the European Union have recently started to deal with claims for environmental protection by individuals, and which could provide some indications on how a right to environment could be given justiciable content.³⁶

ADDED VALUE OF A SEPARATE HUMAN RIGHT TO A HEALTHY ENVIRONMENT?

As already mentioned, a main question that needs to be addressed in examining the desirability and feasibility of pursuing a right to environment at the international plane, is the question of the added value of the right in respect of the Bill of Rights already in place. Below some initial observations on the added value of a separate right to environment will be made, especially in respect of how such a right has generally been considered to complement existing rights and fill up some gaps of protection currently left by the various approaches of linking human rights and environment as described under 1 and 2 in the previous chapter.

- a) *The added value of a separate right to environment in relation to the use of procedural (civil and political) rights for the advancement of environmental protection.*

First of all, regarding the protection available to individuals in environmental matters under 'procedural human rights' of access to information, participation in decision-making, and access to justice, it has been held that this approach is not necessarily effective or acceptable from the viewpoint of providing actual substantive protection relating to the environment. Indeed it has been held by many that utilizing procedural rights will not always necessarily be effective in guaranteeing any substantively

³⁶ See on this point of view more specifically as well: Dinah Shelton, 'Developing substantive environmental rights', *Journal of Human Rights and the Environment*, Vol. 1, no. 1, 2010.

acceptable outcome.³⁷ States may aptly follow procedural rules, but without substantive limits there is little ground for challenging the substantive outcome of environmental decision-making procedures.³⁸ As was affirmed by the United Nations Economic Commission for Europe as well: 'procedural rights are not ends in themselves, but are meaningful as means towards the end of protecting the individual's substantive right to live in a healthy environment.'³⁹

Accepting that the right to environment will require the definition of some substantive limits on environmental decision-making processes, brings about a difficult question of how to determine the substantive environmental quality that individuals should be able to rely upon though, especially if such quality is not defined by direct unacceptable harm to life, health, home or property. More on this below.

b) *The added value of a separate right to environment in relation to the environmental protection guaranteed under existing human rights*

The practice of referring to existing human rights to complain about unacceptable environmental harm occurring, has also been criticized for ineffectiveness. In this respect it has been considered that existing rights can only offer limited or narrow protection against environmental harm, since individuals can only complain about environmental degradation when harm to their life, health or property has already materialized or is already directly under threat.⁴⁰ If a separate right to environment is recognized, then environmental degradation could become a cause for complaint in itself, giving individuals a broader basis to tackle environmental concerns, not having to wait for harm to materialize, and without having to prove harm to health or complex causality.⁴¹ This is especially beneficial in cases of longer-term and cumulative pollution, which, as affirmed by case-law of the European Court of Human Rights, is currently often not addressed under existing rights.⁴² Again it is recognized here that a challenge is presented by how to define the level of environmental harm that amounts to unacceptable harm under a right to environment in the abstract. However, the paragraphs below will describe how it has increasingly been supported in scholarly debate and practice that unacceptable environmental harm in the context of a right to environment is to be defined by reference to the various (objective) environmental

³⁷ Turner, *A substantive environmental right : an examination of the legal obligations of decision-makers towards the environment*, Alphen aan de Rijn, Kluwer Law International, 2009. p. 12-13,64; Kiss and Shelton, *International Environmental Law*, New York, Transnational Publishing, 2004, p. 710.

³⁸ See e.g. Dinah Shelton, 'Developing substantive environmental rights', *Journal of Human Rights and the Environment*, Vol. 1, no. 1, 2010, p. 91.

³⁹ Comments of UNECE in the Report of the Secretary-General prepared in accordance with Commission resolution 1996/13, Human Rights and Environment, UN. Doc. E/CN.4/1997/18, 9 December 1996, p. 7.

⁴⁰ See e.g. Ataputtu, 'The right to a healthy life or the right to die polluted?: The emergence of a human right to a healthy environment under international law', *Tulane Environmental Law Journal*, 2002, pp.111-112; Turner, 'The human right to a good environment: The sword in the stone', *Non-State Actors and International Law*, vol. 4, no. 3, 2004, p. 299; Desgagne, 'Integrating environmental values into the European Convention on Human Rights', *The American Journal of International Law*, vol. 89, no. 2, 1995, p. 182; Shelton, 'Human rights, environmental rights, and the right to environment', *Stanford Journal of International Law*, vol. 28, no. 1, 1991, p. 116; Anderson, in Anderson, M. & Boyle, A. [eds.], *Human Rights Approaches to Environmental Protection*, Oxford, Oxford University Press, 1998, pp. 7-8.

⁴¹ *Idem*.

⁴² *Ivan Atanasov v. Bulgaria*, No. 12853/03, § 76, 12 December 2010; Separate opinion of ECHR judge Zupančič in the case of *Băcilă v. Romania*, No. 19234/04, 30 March, 2010; Ataputtu, 'The right to a healthy life or the right to die polluted?: The emergence of a human right to a healthy environment under international law', *Tulane Environmental Law Journal*, 2002, pp.111-112.

quality standards, i.e. as elaborated on the national, regional and international plane in law and by appropriate scientific expert bodies.⁴³

DEFINING THE SUBSTANTIVE CONTENT OF A SEPARATE RIGHT TO THE ENVIRONMENT

As already mentioned a number of times above, proper definition of the substantive content of the right to environment has been a major issue in respect of the right to environment and in finding justiciable content of the right to environment. Especially if the right to environment is not to be defined by the immediate and arguably better quantifiable harm to life or health. In respect of the substantive protection to be accorded under a separate right to environment, the following questions have been brought to the fore over the past years, i.e.: A) is the substantive right to environment a right to protection, preservation or improvement of the environment? B) does the right give rise to a perfect, ideal, viable, healthy or good environment? C) does the substantive right require an environment that is healthy for human beings, or that also sustains life of other entities (i.e. is it anthropocentric or eco-centric in nature)?⁴⁴

The NJCM recommends that the study of the OHCHR could very usefully focus on a detailed analytical study of how various judicial bodies have dealt with the above questions, and in particular how they have been able to derive enforceable content from an abstractly formulated right to environment by reference to relevant objective environmental quality standards.

The next few paragraphs will consider how it is increasingly supported that the content of the right to environment could be defined by reference to objective environmental quality standards, as now promulgated at the national, regional and international level on a regular basis. The approach of utilizing such standards to find violation of human rights is becoming more common, and courts have increasingly employed various environmental quality standards in determining violations of human rights and in determining individual interests to protection of the environment on the basis of such standards.⁴⁵ Below an examination of case-law from the European continent will follow, in order to describe the trends that are developing there. The conclusions evidence that present case-law have included references to a large variety of domestic, regional and international environmental quality standards. References have included WHO or UNEP documents, relevant regional environmental standards and principles (e.g. as laid down in EU directives), international environmental obligations and principles (UNFCCC and Kyoto Protocol, and precautionary principle), other scientific evidence, and references to environmental impact assessments (EIAs).⁴⁶

⁴³ See on this argument generally: Dinah Shelton, 'Developing substantive environmental rights', *Journal of Human Rights and the Environment*, Vol. 1, no. 1, 2010, p. 89-90; but also Ataputtu, 'The right to a healthy life or the right to die polluted?: The emergence of a human right to a healthy environment under international law', *Tulane Environmental Law Journal*, 2002, pp.111-112.

⁴⁴ See e.g. Prudence Taylor, 'From environmental to ecological human rights : a new dynamic in international law ?', *The Georgetown International Environmental Law Review*, Vol. 10, No. 2, 1998, pp. 360-361.

⁴⁵ See generally: Dinah Shelton, 'Developing substantive environmental rights', *Journal of Human Rights and the Environment*, Vol. 1, no. 1, 2010, p. 89 e.v.

⁴⁶ Idem; See also Dinah Shelton., 'Human Rights and the Environment : Problems and Possibilities', *Environmental Policy and Law*, vol. 38, no. 1-2, 2008, p. 46; Dinah Shelton, 'Human Rights and Environment: Past, Present and Future Linkages and the Value of a Declaration', Background Paper (draft) for the UN High Level Expert Meeting on the New Future of Human Rights and Environment:

EXAMPLES OF EUROPEAN CASE-LAW USING ENVIRONMENTAL STANDARDS TO DETERMINE ENVIRONMENTAL INTERESTS OF INDIVIDUALS

European Court of Human Rights – *Tătar v. Romania* (2009), *Băcilă v. Romania* (2010), *Ivan Atanasov v. Bulgaria* (2010) and *Dubetska and others v. Ukraine* (2011) – right to private life

The first cases that evidence the use of environmental standards to find violations of human rights are the cases of *Tătar v. Romania* (2009),⁴⁷ *Băcilă v. Romania* (2010),⁴⁸ *Ivan Atanasov v. Bulgaria* (2010)⁴⁹ and *Dubetska and others v. Ukraine* (2011)⁵⁰ before the European Court of Human Rights. All four cases involved complaints harm to health resulting from unacceptable industrial pollution in the context of the right to private life under article 8 of the ECHR.⁵¹ In determining what constituted unacceptable environment harm and should lead to finding a violation of Article 8, the European Court of Human Rights relied extensively on relevant environmental quality standards and scientific evidence and reports on the harmful effects of environmental pollution. For example in the case of *Tătar v. Romania* (2009) – involving a complaint about freshwater pollution through release of high levels of sodium cyanide and heavy metals after an incident at a gold mine – the European Court of Human Rights considered ‘WHO determinations about the health consequences of exposure to sodium cyanide’,⁵² relied on findings about the causes and consequences of the accident as made by UNEP/OCHA and the EU,⁵³ and referred to ‘international standards regarding best practices for the mining industry, finding that the state had not taken sufficient action to protect the right to private and family life of the applicant in the face of environmental danger.’⁵⁴ In addition, the case was also a landmark case, in that the European Court of Human Rights for the first time explicitly recognized to the application of the ‘precautionary principle’ as a guiding principle in environmental decision-making.⁵⁵ Although in this the European Court of Human Rights still predominantly used scientific environmental standards and evidence to determine matters of causality, i.e. the actual effect of the environmental pollution on health of the applicant, below some cases are discussed which demonstrate how the court uses environmental quality standards more abstractly in determining whether there has been a violation of human rights interests.

Moving the Global Agenda Forward, Nairobi, 30 November – 1 December 2009, available via: <http://www.unep.org/environmentalgovernance/LinkClick.aspx?fileticket=vmj6UL3O5Ho%3d&tabid=2046&language=en-US>; Dinah Shelton, ‘Developing substantive environmental rights’, *Journal of Human Rights and the Environment*, Vol. 1, No. 1, 2010, pp. 89-120; IEAs are now a common tool in environmental law, and have recently confirmed by the International Court of Justice as mandatory as a matter of international law: *Pulp Mills on the River Uruguay (Argentina v. Uruguay)*, judgment of 20 April 2010, par. 204.

⁴⁷ *Tătar v. Romania*, No. 67021/01, 27 January 2009.

⁴⁸ *Băcilă v. Romania*, No. 19234/04, 30 March, 2010.

⁴⁹ *Ivan Atanasov v. Bulgaria*, No. 12853/03, 12 December 2010.

⁵⁰ *Dubetska and others v. Ukraine*, No. 30499/03, 10 February 2011.

⁵¹ It is interesting to note that domestically all the above mentioned states have recognized a separate substantive right to environment in their national constitutions, and that such rights were referred to in national proceedings. Domestic proceedings will not be discussed here, but may be worthwhile to consider in a more detailed study.

⁵² *Tătar v. Romania*, No. 67021/01, .§ 104, 27 January 2009..

⁵³ *Tătar v. Romania*, No. 67021/01, .§ 95, 27 January 2009.

⁵⁴ See Dinah Shelton, ‘Developing substantive environmental rights’, *Journal of Human Rights and the Environment*, Vol. 1, No. 1, 2010, pp. 106-107.

⁵⁵ *Ibid*; *Tătar v. Romania*, No. 67021/01, § 109, 120, 27 January 2009.

However, first the case of *Ivan Atanasov v. Bulgaria* (2010) must be mentioned – concerning a complaint about the alleged harmful effects on health of industrial sludge on a pond nearby the applicants home – in which the court demonstrates at the same time the possible short-comings of relying on existing rights under the ECHR to complain about inadequate environmental protection and the manner in which it entertains environmental quality standards in determining whether a violation of existing rights can be found. In this case the European Court of Human Rights took note of the fact that the industrial company did not operate in compliance with domestic regulations, among which the ‘Regulations on hygienic requirements for the protection of health in the urban environment’ promulgated by the Minister of Health,⁵⁶ but rejected the complaint of the applicant on the harmful operations of the industrial company by holding that ‘Article 8 is not engaged every time environmental degradation occurs; no right to nature preservation is included as such among the rights and freedoms guaranteed by the Convention. The State’s obligations under Article 8 come into play only if there is a direct and immediate link between the impugned situation and the applicants home or private or family life’.⁵⁷ ‘A mere allegation that the reclamation scheme did not comply with domestic rules [...] is not sufficient ground to assert that the applicants rights under Article 8 have been interfered with’.⁵⁸ In particular, the Court considered that ‘no materials in the case file show that the pollution in and around the pond [...] has had a sufficiently adverse impact on the applicants’ enjoyment of the amenities of his home and quality of his private and family life’ and that the applicant could not ‘show any actual harm to his health or even a short-term health risk, but *merely* feared negative consequences in the long term’ [emphasis added], i.e. he had ‘apparently not suffered any actual harm to date’.⁵⁹ As such the ‘in the absence of proof of any direct impact’ no violation of Article 8 was found. While this case demonstrates clearly the difficulty of establishing the causal link between violation of environmental standards and existing human rights, the case also demonstrates how environmental quality standards might be appropriately used to find that human rights are engaged, especially if a separate right to environment were to be recognized.

As already indicated, it seems that the European Court of Human Rights has recently started to take a more relaxed approach to causality requirements, and accords a bigger role to environmental quality standards and non-compliance therewith in finding that existing human rights are engaged. Indeed, in the very recent case of *Dubetska and others v. Ukraine* (2011), the Court considered that ‘while there is no doubt that industrial pollution may negatively affect public health in general and worsen the quality of an individual’s life, it is often impossible to quantify its effects in each individual case. As regards health impairment for instance, it is hard to distinguish the effect of environmental hazards from the influence of other relevant factors, such as age, profession or personal lifestyle. “Quality of life” in its turn is a subjective characteristic which hardly lends itself to a precise definition. [...] In assessing to what extent the applicants’ health was affected by the pollution complained about, the Court agrees with the Government that there is no evidence making it possible to establish quantifiable harm in the present case. It considers, however, that living in the area marked by pollution in clear excess of applicable safety standards exposed the applicants to an elevated risk to health.’⁶⁰ The Court finally held that ‘during the entire period taken into consideration [industries] have functioned not in compliance with the applicable domestic environmental regulations and the Government have failed either to facilitate the

⁵⁶ *Ivan Atanasov v. Bulgaria*, No. 12853/03, § 51, 12 December 2010.

⁵⁷ *Ivan Atanasov v. Bulgaria*, No. 12853/03, § 66, 12 December 2010.

⁵⁸ *Ivan Atanasov v. Bulgaria*, No. 12853/03, § 78, 12 December 2010.

⁵⁹ *Ivan Atanasov v. Bulgaria*, No. 12853/03, § 76, 12 December 2010.

⁶⁰ *Dubetska and others v. Ukraine*, No. 30499/03, § 106-111, 10 February 2011.

applicants' relocation or to put in place a functioning policy to protect them from environmental risks associated with continuing to live within their immediate proximity'.⁶¹ As such, taking into account the difficulties involved with managing the environment, and the margin of appreciation for states involved in dealing with such situations, the Court held that the state had ultimately failed to protect the right to private life of the applicant.⁶²

Noteworthy is as well the case of *Băcilă v. Romania (2010)*, in which it was clear that applicants were affected by the operation of an industrial plant in gross excess of applicable environmental standards. The complaint of the applicant pertained to the fact that the state had not acted in due diligence in ensuring that the impugned plant would reduce pollution levels to a level consistent with the level needed to ensure the well-being of the population.⁶³ The levels of permissible environmental harm in the operating permit were set *inter alia* by reference to the levels set at EU level and through the use of findings in an IEA carried out by a special institute.⁶⁴ In deciding on the merits of the case, and in finding that the state had not respected the interest of the applicant to 'live in a healthy and balanced environment',⁶⁵ the Court *inter alia* relied on domestic legal provisions determining unsafe levels of pollution, environmental studies commissioned by the authorities, relevant reports, statements or studies made by private entities, and medical certificates'.⁶⁶ This is the first and only case in which the European Court of Human Rights has so clearly affirmed existence of a right to environment. It remains to be seen how the Court will further elaborate on its recent case-law, and whether it will increasingly determine violations of human rights based on the extent to which states have failed to adequately implemented environmental standards and safety levels. It is recommended that the study of the OHCHR will pay attention to the developments.

European Court of Human Rights - *Fägerskiöld v. Sweden (2008)*, *Deés v. Hungary (2010)*, *Oluić v. Croatia (2010)*, *Mileva v. Bulgaria (2010)* – right to private life

The second batch of cases to be mented here are a number of recent noise pollution cases before the European Court of Human Rights i.e. the cases of *Fägerskiöld v. Sweden (2008)*,⁶⁷ *Deés v. Hungary (2010)*,⁶⁸ *Oluić v. Croatia (2010)*⁶⁹ and *Mileva v. Bulgaria (2010)*.⁷⁰

These cases are prime examples of the manner in which the European Court of Human Rights has successfully addressed the question of violation of Article 8 ECHR by reference to established scientific environmental quality standards. Traditionally, the European Court of Human Rights has determined whether noise pollution engages Article 8 ECHR by taking into account domestic standards for prevention of noise pollution, international (WHO) standards on noise levels and the levels of protection available in other European countries.⁷¹ The court will generally base its finding on a violation of Article 8 on the extent to which noise levels have exceeded particular

⁶¹ *Dubetska and others v. Ukraine*, No. 30499/03, § 154, 10 February 2011.

⁶² *Dubetska and others v. Ukraine*, No. 30499/03, § 155, 10 February 2011.

⁶³ *Băcilă v. Romania*, No. 19234/04, § 66, 30 March, 2010.

⁶⁴ *Băcilă v. Romania*, No. 19234/04, § 27-28, 30 March, 2010.

⁶⁵ *Băcilă v. Romania*, No. 19234/04, § 71, 30 March, 2010

⁶⁶ *Băcilă v. Romania*, No. 19234/04, § 63-72, 30 March, 2010.; See for a summary of this approach: *Dubetska and others v. Ukraine*, No. 30499/03, § 107, 10 February 2011.

⁶⁷ *Fägerskiöld v. Sweden* (dec.), No. 37664/04, 2 February 2008.

⁶⁸ *Deés v. Hungary*, No. 2345/06, 9 November 2010.

⁶⁹ *Oluić v. Croatia*, No. 61260/08, 20 May 2010.

⁷⁰ *Mileva and Others v. Bulgaria*, Nos. 43449/02 and 21475/04, 25 November 2010.

⁷¹ See most notably the case of *Fägerskiöld v. Sweden* (dec.), No. 37664/04, 2 February 2008.

domestic or international safety levels, as such considering in some cases that the interference was severe enough to engage Article 8 of the Convention on Human Rights (*Deés*),⁷² while in other cases it did not deem the level of disturbance sufficient (i.e. *Fägerskiöld*).⁷³

European Social Committee - *Marangopoulos Foundation for Human Rights v. Greece* (2006) – right to health

Another case which deserves attention in the present consideration of case-law involving the utilization and application of environmental quality standards in finding violations of human rights, is the case of *Marangopoulos Foundation for Human Rights v. Greece* (2006) before the European Social Committee.⁷⁴ In this case – concerning a complaint about the violation of the right to health in Article 11 of the European Social Charter on account of harmful emissions by lignite mining industries – the European Social Committee relied extensively on ('clear', 'undisputed' and 'unambiguous') environmental standards in law and scientific research in order to determine whether the state had discarded of its obligations under Article 11 of the European Social Charter.⁷⁵ In particular the Court relied on 'clear and widely established scientific evidence' in 'a recent WHO publication' on the impact of particles of NO_x and SO₂ gases on public health and life,⁷⁶ the obligations of climate change mitigation and attached emission limit values and targets for particles and gases under the UN Framework Convention on Climate Change (UNFCCC) and Kyoto Protocol,⁷⁷ as well as a number of EU directives on environmental protection (*inter alia* setting emissions limit values for the same substances),⁷⁸ and results of epidemiological studies.⁷⁹ The Committee found that in light of the non-compliance with the above mentioned standards and emissions limit values, and the inadequate efforts taken by the state to take such standards seriously, the right to health under the Charter – 'even taking into account the margin of discretion of national authorities in these matters' – was violated.⁸⁰

A final observation about this case that is worthwhile to make, is that the European Social Committee explicitly recognized the existence of a right to environment in this case, and considered that 'the Committee clarifies the interpretation of the right to healthy environment, by taking into account':⁸¹

'principles established in the case-law of other human rights supervisory bodies, namely the European Court of Human Rights, the Inter-American Court of Human Rights, and the

⁷² *Deés v. Hungary*, No. 2345/06, § 23-24, 9 November 2010.

⁷³ *Fägerskiöld v. Sweden* (dec.), No. 37664/04, 2 February 2008.

⁷⁴ Complaint No. 30/2005 *Marangopoulos Foundation for Human Rights (MFHR) v. Greece*, 6 December 2006.

⁷⁵ Complaint No. 30/2005 *Marangopoulos Foundation for Human Rights (MFHR) v. Greece*, 6 December 2006, §194-231. See also Dinah Shelton, 'Developing substantive environmental rights', *Journal of Human Rights and the Environment*, Vol. 1, No. 1, 2010, pp. 112-113.

⁷⁶ Complaint No. 30/2005 *Marangopoulos Foundation for Human Rights (MFHR) v. Greece*, 6 December 2006, § 200.

⁷⁷ Complaint No. 30/2005 *Marangopoulos Foundation for Human Rights (MFHR) v. Greece*, 6 December 2006, § 205-207.

⁷⁸ Complaint No. 30/2005 *Marangopoulos Foundation for Human Rights (MFHR) v. Greece*, 6 December 2006, § 207.

⁷⁹ Complaint No. 30/2005 *Marangopoulos Foundation for Human Rights (MFHR) v. Greece*, 6 December 2006, § 220.

⁸⁰ Complaint No. 30/2005 *Marangopoulos Foundation for Human Rights (MFHR) v. Greece*, 6 December 2006, § 221.

African Commission on Human and Peoples' Rights at the regional level, and the UN Committee on Economic Social Cultural Rights at the global level. In view of the scale and level of detail of the European Union's body of law governing matters covered by the complaint, it has also taken into account several judgments of the Court of Justice of the European Communities'.

This arguably evidences the consolidation of a right to environment in jurisprudence, and the various approaches that are taken in this regard. Unfortunately the European Social Committee did not explain how it has exactly drawn upon all the relevant cases to find the content of the right to environment.

Court of Justice of the European Union - *Dieter Janecek v. Freistaat Bayern* (2008) – interest directly derived from environmental standards

A last, very relevant case that can be mentioned in relation to developments on the European continent in respect of deriving individual interests from a state's compliance with environmental standards, is the case of *Dieter Janecek v. Freistaat Bayern* (2008), a decided case not by a human rights body, but by the Court of Justice of the European Union (CJEU).⁸² This Court arguably has done what the European Court of Human Rights to date has felt relatively constricted (perhaps with the exception of the latest case of *Dubetska and others v. Ukraine* as described earlier), in that the CJEU concluded that Janecek could rely directly on the EU Ambient Air Quality Directive and the non-compliance with the emission limit values enshrined in that directive for the protection of public health. More specifically, the CJEU held that Janecek could complain about the fact that measurements of a particulate matter measuring station located 900 meters from his home showed that emission limits values were exceeded, and demand that the state take extra measures for combating the pollution in line with the Directive. A such, mere violation of environmental standards was deemed sufficient for Janecek's interest, as a member of the public, to be engaged, i.e. he did not need to show actual harm to health. While the ruling is arguably based to some extent on the particularities of EU law, this judgment of the CJEU is significant from the perspective of accepting that individuals have a direct stake in the implementation of abstract environmental standards, i.e. without yet having sustained harm to health. This approach is more forward thinking than the approaches currently taken by the European Court of Human Rights – although arguably resonating with the considerations in *Dubetska* –, and could arguably provide some insights into how Courts could generally deal with complaints about unacceptable environmental degradation under human rights, and a right to environment more specifically.

⁸² Court of Justice of the European Union, Case C- 237/07 *Dieter Janecek v. Freistaat Bayern* (2008), ECR I-06221.

D. CONCLUSIONS AND RECOMMENDATIONS

In this 'position paper' the NJCM has sought to make a contribution to the upcoming study of the OHCHR on the links between human rights and environment, in particular by describing the links between human rights and environment currently accepted or forming in international legal doctrine and practice. This paper indicates that human rights and environment are intimately linked in a number of different manners, and that adequate protection of either value will benefit from linking up the two values. In fact, it is difficult to see the two values as separate issues, which can be addressed in completely different systems of law.

The NJCM recommends that the OHCHR study will systematize findings on the manner in which human rights and environmental protection are currently interrelated, hoping that the study of the OHCHR will be able to provide some guidance on how human rights and the environment can be beneficially linked in a manner that protection of either value will mutually reinforce the protection of the other.

In particular the NJCM recommends that the study of the OHCHR seriously explores the desirability and feasibility of elaborating a separate right to environment at the international level. Such an exploration seems warranted on account of the fact that this right is increasingly accepted and contemplated for incorporation at the domestic and regional level, and is supported by many as a valuable addition to the existing Bill of Rights, i.e. in terms of offering extra protection and remedying some of the gaps in protection currently left by other approaches.

The NJCM recognizes in this respect that the elaboration of a separate right to environment will involve a number of (complex) legal questions, which have already been subject to much debate. In order to advance the debates on the matter the paper sought to provide some further input for the upcoming study, identifying the questions that could be involved in discussing the desirability and feasibility of a separate environmental right and by describing an emerging trend indicating that individuals increasingly have been able to derive an interest in standing from state's non-compliance with national, regional, or international environmental standards in law and science. In addition it was considered above that courts have increasingly relied on such standards to find violations of human rights.

The NJCM recommends that the study of the OHCHR includes an exploration of how individuals could rely on various types of environmental quality standards in the context of a right to environment, also taking into account the extent to which citizens could appropriately obtain standing to complain about the non-implementation of broader oriented environmental standards, such as for the protection of bio-diversity, preservation of wild life, protection of coral reefs etc. Such an approach might be warranted from a more holistic perspective of the importance of environmental protection, or from a viewpoint of accepting that duties of human beings for the protection of nature exist – i.e. duties towards nature as such, or towards future generations.

CONCLUDING RECOMMENDATIONS TO THE OHCHR ON THE PLANNED STUDY ON THE LINK BETWEEN HUMAN RIGHTS AND ENVIRONMENT

The NJCM recommends to the OHCHR that in its upcoming study on the link between human rights and environment it:

1. Accepts and affirms the manifold links between human rights and environment as apparent from doctrine and practice, and builds upon the existing links by conducting a further study of recent developments in doctrine and environmental case-law.
2. Finds a way to systematize these links in a manner that can guide the conduct of states, individually and jointly, the work of national, regional and international (human rights) courts and supervisory bodies, the conduct of members of civil society, including businesses, and international organizations in better protecting the integrated objectives of human rights and environmental protection.
3. Explores in particular the desirability and feasibility of elaborating a separate right to environment on the international plane, taking into account, *inter alia*:
 - the perceived benefits and challenges of such a right in the view of UN members states and civil society;
 - the practice already available on the right to environment in those states that have adopted a separate right to environment;
 - the practice available from other case law, indicative of the manner in which courts have already dealt with individual claims for environmental protection
 - the manner in which courts have used environmental quality standards in finding violations of existing human rights.
4. Includes in the research the expertise of both human rights and environmental bodies.
5. Recommends the appointment of a Special Rapporteur on Human Rights and Environment, who would be responsible for conducting further study into the above matters on an ongoing basis.

ANNEX I

OVERVIEW OF ENVIRONMENTAL CASE-LAW FROM THE EUROPEAN COURT OF HUMAN RIGHTS AND THE EUROPEAN SOCIAL COMMITTEE

European Court of Human Rights, *López Ostra v. Spain*, No. 16798/90, 9 December 1994, Series A no. 303-C.

European Court of Human Rights, *Zander v. Sweden*, No. 14282/88, Series A no. 279-B.

European Court of Human Rights, *Balmer-Schafroth v. Switzerland*, No. 22110/93, ECHR 1997-IV.

European Court of Human Rights, *Guerra and Others v. Italy*, ECHR 1998-I.

European Court of Human Rights, *Bladet Tromso and Stensaas v. Norway*, No. 21980/93, ECHR 1999-I.

European Court of Human Rights, *Athanassoglou and others v. Switzerland*, No. 27644/95, ECHR 2000-IV.

European Court of Human Rights, *Hatton and Others v. the United Kingdom* [GC], No. 36022/97, ECHR 2003-VIII.

European Court of Human Rights, *Kyrtatos v. Greece*, No. 41666/9822, ECHR 2003-VI.

European Court of Human Rights, *Taşkın and Others v. Turkey*, No. 46117/99, ECHR 2004-X.

European Court of Human Rights, *Moreno Gomez v Spain*, No. 4143/02, ECHR 633.

European Court of Human Rights, *Okuy and others v. Turkey*, No. 36220/9, ECHR 2005-VII.

European Court of Human Rights, *Fadeyeva v. Russia*, No. 55723/00, ECHR 2005-IV.

European Court of Human Rights, *Öçkan and Others v. Turkey*, No. 46771/99, 28 March 2006.

European Court of Human Rights, *Ledyayeva and Others v. Russia*, Nos. 53157/99, 53247/99, 53695/00 and 56850/00, 26 October 2006.

European Court of Human Rights, *Giacomelli v. Italy*, No. 59909/00, ECHR 2006-XII.

European Court of Human Rights, *Lemke v. Turkey*, No. 17381/02, 5 June 2007.

European Court of Human Rights, *Hans Gaida v. Germany* (dec.), No. 32015/02, 2 July 2007.

European Court of Human Rights, *Fägerskiöld v. Sweden* (dec.), No. 37664/04, 2 February 2008.

European Court of Human Rights, *Furlepa v. Poland* (dec.), No. 62101/00, 18 March 2008.

European Court of Human Rights, *Budayeva and others v. Russia*, Nos. 15339/02, 11673/02, 15343/02, 20058/02, 21166/02, 20 March 2008.

European Court of Human Rights, *Borysiewicz v. Poland*, No. 71146/01, 1 July 2008.

European Court of Human Rights, *Tătar v. Romania*, No. 67021/01, 27 January 2009.

European Court of Human Rights, *Leon and Agnieszka Kania v. Poland*, 12605/03, 21 July 2009.

European Court of Human Rights, *Galev and Others v. Bulgaria* (dec.), No. 18324/04, 29 September 2009.

European Court of Human Rights, *Băcilă v. Romania*, No. 19234/04, 30 March, 2010.

European Court of Human Rights, *Oluić v. Croatia*, No. 61260/08, 20 May 2010.

European Court of Human Rights, *Deés v. Hungary*, No. 2345/06, 9 November 2010.

European Court of Human Rights, *Mileva and Others v. Bulgaria*, Nos. 43449/02 and 21475/04, 25 November 2010.

European Court of Human Rights, *Ivan Atanasov v. Bulgaria*, No. 12853/03, 12 December 2010.

European Court of Human Rights, *Dubetska and others v. Ukraine*, No. 30499/03, 10 February 2011.

European Social Committee, Complaint No. 30/2005 *Marangopoulos Foundation for Human Rights (MFHR) v. Greece*, 6 December 2006.

ANNEX II

LIST OF CONSTITUTIONAL PROVISIONS ON ENVIRONMENTAL RIGHTS AND DUTIES

This annex gives an overview of (individual) environmental rights and duties as presently found in national constitutions around the world. The annex is part of the June 2011 ‘position paper’ on the links between human rights and environment submitted earlier by the NJCM to the OHCHR.⁸³

This annex demonstrates that:

- Currently 79 constitutions explicitly recognize a ‘right to environment’ for individuals, groups, or communities in some form or other (see overview in Part One below);⁸⁴
- Alternatively, 61 constitutions affirm that individuals have a ‘duty’ to protect the environment;⁸⁵
- Of which 27 constitutions explicitly recognize this duty as related to a ‘right to environment’;⁸⁶
- Additionally, 22 constitutions recognize rights or duties of environmental protection towards future generations;⁸⁷
- Of which 10 constitutions explicitly link such rights or duties to a constitutional ‘right to environment’.⁸⁸

⁸³ ‘Stakeholder input by the Dutch Section of the International Commission of Jurists (NJCM) in response to the 2011 OHCHR study on Human Rights and Environment, report drafted by M.M.E. Hesselman and J.I. van de Venis, June 2011’, available from: http://www.njcm.nl/site/english/english_reports. The annex entails an enumeration of environmental rights and duties explicitly formulated as such in national constitutions. Constitutions which for example ‘only’ mention environmental protection as a state objective, but do not formulate any specific right or duty of environmental protection for individuals, groups or communities, are not included here. The purpose of this Annex is to provide an overview of the development of individual rights and duties of environmental protection, especially in relation to the development of an explicit ‘right to environment’.

⁸⁴ See for the meaning of ‘right to environment’: NJCM Stakeholder input, *supra* note 1, p. 11-13.

⁸⁵ Angola (article 39(4)), Argentina (article 41), Armenia (article 33(2)), Azerbaijan (article 78), Belarus (article 53), Bénin (article 27), Bhutan (article 5 and article 8), Bulgaria (article 55), Burkina Faso (article 29), Czech Republic (article 35 Charter of Fundamental Rights and Freedoms), Cameroon (preamble, article 65), Cape Verde (article 73), Chad (article 52), Comoros (preamble), Congo (article 53), Côte d’Ivoire (article 21), Croatia (article 70), Cuba (article 27), Ecuador (article 71), Finland (section 20), France (article 2 Charter for the environment), Gambia (article 220), Georgia (article 37(3)), Guatemala (article 97), Guyana (article 25), Haiti (article 51-I), India (article 51A), Kenya (article 69(2)), Kyrgyzstan (article 40), Macedonia (article 43), Mali (article 4), Moldova (article 37), Mongolia (article 17(2)), Montenegro (article 23), Mozambique (article 45 and 90(1)), Niger (article 35), Papua New Guinea, Panama (Article 119), Paraguay (article 38), Poland (article 86), Portugal (article 66), Republic of Korea (article 35), Romania (article 35), Russian Federation (article 58), Rwanda (article 49), Saint Vincent and Grenadines (article 14), São Tomé & Príncipe (article 49), Serbia (article 47), Seychelles (article 40), Slovakia (article 49), Southern Sudan (article 46), Spain (article 45), Sudan (article 11), Swaziland (article 63), Turkey (article 56), Uganda (article 17), Uruguay (article 47), Vanuatu (Article 7), Venezuela (article 127), Vietnam (article 29), Yemen (article 35).

⁸⁶ Angola (article 39), Argentina (article 41), Armenia (article 33(2)), Bénin (article 27), Burkina Faso (article 29), Cape Verde (article 73), Comoros (preamble), Croatia (article 70), France (article 1 and 2 Charter for the Environment), Georgia (article 37(3)), Kyrgyzstan (article 40), Macedonia (article 43), Mali (article 4), Montenegro (article 23), Mozambique (article 90(1)), Niger (article 35), Portugal (article 66), Republic of Korea (article 35), Romania (article 35), Rwanda (article 49), São Tomé & Príncipe (article 49), Serbia (article 47), Slovakia (article 49), Spain (article 45), Sudan (article 11), Turkey (article 56), Venezuela (article 127).

⁸⁷ See NJCM Stakeholder input, *supra* note 1, p. 8-9; See constitutional provisions of Albania (article 59(1)), Angola (article 41), Argentina (article 41), Bhutan (article 5(1)), Bolivia (article 33), Brazil (article 225), Costa Rica (article 65), Cuba (article 27), Georgia (article 37), Guyana (article 149J), Iran (article 50), Kenya (article 42), Maldives (article 22), Niger (article 35), Norway (article 110b), Papua New Guinea, Poland (article 179), South Africa (article 24), Southern Sudan (article 41), Timor-Leste (article 61), Vanuatu (article 7), Venezuela (article 127).

⁸⁸ Angola (article 39), Argentina (article 41), Bolivia (article 33), Brazil (article 225), Kenya (article 42), Norway (article 110b), Poland (article 179), South Africa (article 24), Timor-Leste (article 61), Venezuela (article 127).

PART ONE: Overview of constitutional provisions explicitly recognizing a 'right to environment'

- Albania** Part Two, Chapter IV, Article 56: "Everyone has the right to be informed for the status of the environment and its protection.";
Chapter V, Article 59(1): "The state, within its constitutional powers and the means at its disposal, aims to supplement private initiative and responsibility with: ...e) a healthy and ecologically adequate environment for the present and future generations;"⁸⁹
- Angola** Chapter II, Article 39: "(1) Everyone has the right to live in a healthy and unpolluted environment and the duty to defend and preserve it. (2) The state shall take the requisite measures to protect the environment and species of flora and fauna throughout national territory, maintain the ecological balance, ensure the correct location of economic activities and the rational development and use of all natural resources, within the context of sustainable development, respect for the rights of future generations and the preservation of species. (3) Acts that endanger or damage conservation of the environment shall be punishable by law."⁹⁰
- Argentina** First Part, Chapter II, Article 41: " All inhabitants are entitled to the right to a healthy and balanced environment fit for human development in order that productive activities shall meet present needs without endangering those of future generations; and shall have the duty to preserve it. As a first priority, environmental damage shall bring about the obligation to repair it according to law. The authorities shall provide for the protection of this right, the rational use of natural resources, the preservation of the natural and cultural heritage and of the biological diversity, and shall also provide for environmental information and education. The Nation shall regulate the minimum protection standards, and the provinces those necessary to reinforce them, without altering their local jurisdictions. The entry into the national territory of present or potential dangerous wastes, and of radioactive ones, is forbidden."⁹¹
- Armenia** Chapter II, Article 33(2): "Everyone shall have the right to live in an environment favorable to his/her health and well-being and shall be obliged to protect and improve it in person or jointly with others. The public officials shall be held responsible for hiding information on environmental issues and denying access to it."⁹²
- Azerbaijan** Second Part, Chapter III, Article 39: "I. Everyone has the right to live in a healthy environment. II. Everyone has the right to obtain information about the real condition of the environment and to receive compensation for the health or property damage caused by the violation of ecological law. III. No one may cause threat or damage to the environment and natural resources beyond the limits set by law. IV. The state guarantees the preservation of ecological balance and protection of the species of wild plants and animals determined by law."
Chapter IV, Article 78: "Every citizen is responsible for protection of environment."⁹³
- Belarus** Section II, Article 34.: "Citizens of the Republic of Belarus shall be guaranteed the right to receive, store and disseminate complete, reliable and timely information of the activities of

⁸⁹ Albanian Constitution (1998), available from: <http://www.president.al/english/pub/kushtetuta.asp>

⁹⁰ Angolan Constitution (2010), available from: http://www.wipo.int/wipolex/en/text.jsp?file_id=196467.

⁹¹ Constitution of the Argentine Nation (1994), available from:
http://www.argentina.gov.ar/argentina/portal/documentos/constitucion_ingles.pdf

⁹² Armenian Constitution (1995), available from:
<http://www.president.am/library/constitution/eng/?chapter=2&pn=4>

⁹³ Constitution of Azerbaijan (2009), available from:
http://www.constcourt.gov.az/en/download/legislation/constitution_final_2009.pdf

state bodies and public associations, on political, economic, cultural and international life, and on the state of the environment.

Article 46: “Everyone shall be entitled to a conducive environment and to compensation for loss or damage caused by the violation of this right. The State shall supervise the rational utilization of natural resources to protect and improve living conditions, and to preserve and restore the environment.”

Article 55: “It shall be the duty of everyone to protect the environment.”⁹⁴

Belgium

Title II, Article 23(4): “Everyone has the right to lead a life in keeping with human dignity. ... [including] the right to the protection of a healthy environment.”⁹⁵

Bénin

Title II, Article 27: “Every person has the right to a healthy, satisfying and lasting environment and has the duty to defend it.”⁹⁶

Bolivia

Chapter 15, Section 1, Article 33: “Las personas tienen derecho a un medio ambiente saludable, protegido y equilibrado. El ejercicio de este derecho debe permitir a los individuos y colectividades de las presentes y futuras generaciones, además de otros seres vivos, desarrollarse de manera normal y permanente.”

Article 34: “Cualquier persona, a título individual o en representación de una colectividad, está facultada para ejercitar las acciones legales en defensa del derecho al medio ambiente, sin perjuicio de la obligación de las instituciones públicas de actuar de oficio frente a los atentados contra el medio ambiente.”⁹⁷

Brazil

Title II, Chapter I, Article 5, Paragraph LXXIII: “qualquer cidadão é parte legítima para propor ação popular que vise a anular ato lesivo ao patrimônio público ou de entidade de que o Estado participe, à moralidade administrativa, ao meio ambiente e ao patrimônio histórico e cultural, ficando o autor, salvo comprovada má-fé, isento de custas judiciais e do ônus da sucumbência”

Title VII, Chapter VI, Article 225: “Todos têm direito ao meio ambiente ecologicamente equilibrado, bem de uso comum do povo e essencial à sadia qualidade de vida, impondo-se ao Poder Público e à coletividade o dever de defendê-lo e preservá-lo para as presentes e futuras gerações. § 1º - Para assegurar a efetividade desse direito, incumbe ao Poder Público: I - preservar e restaurar os processos ecológicos essenciais e prover o manejo ecológico das espécies e ecossistemas; II - preservar a diversidade e a integridade do patrimônio genético do País e fiscalizar as entidades dedicadas à pesquisa e manipulação de material genético; III - definir, em todas as unidades da Federação, espaços territoriais e seus componentes a serem especialmente protegidos, sendo a alteração e a supressão permitidas somente através de lei, vedada qualquer utilização que comprometa a integridade dos atributos que justifiquem sua proteção; IV - exigir, na forma da lei, para instalação de obra ou atividade potencialmente causadora de significativa degradação do meio ambiente, estudo prévio de impacto ambiental, a que se dará publicidade; V - controlar a produção, a comercialização e o emprego de técnicas, métodos e substâncias que comportem risco para a vida, a qualidade de vida e o meio ambiente; VI - promover a educação ambiental em todos os níveis de ensino e a conscientização pública para a preservação do meio ambiente; VII - proteger a fauna e a flora, vedadas, na forma da lei, as práticas que coloquem em risco sua função ecológica, provoquem a extinção de espécies ou submetam os animais a crueldade. § 2º - Aquele que explorar recursos minerais fica obrigado a recuperar o meio ambiente degradado, de acordo com solução técnica exigida pelo órgão público competente, na forma da lei. § 3º - As condutas e atividades

⁹⁴ Constitution of the Republic of Belarus (2004), available from:

http://aceproject.org/ero-en/regions/europe/BY/Constitution_Belarus.pdf/view

⁹⁵ Belgian Constitution (as last amended in 2008), available from:

http://www.dekamer.be/kvvcr/pdf_sections/publications/constitution/grondwetEN.pdf

⁹⁶ Constitution of Bénin (1990), available from:

<http://aceproject.org/ero-en/regions/africa/BJ/Benin%20Constitution%201990.doc/view>

⁹⁷ Bolivian Constitution (2009), available from:

<http://pdba.georgetown.edu/Constitutions/Bolivia/bolivia09.html>

consideradas lesivas ao meio ambiente sujeitarão os infratores, pessoas físicas ou jurídicas, a sanções penais e administrativas, independentemente da obrigação de reparar os danos causados. § 4º - A Floresta Amazônica brasileira, a Mata Atlântica, a Serra do Mar, o Pantanal Mato-Grossense e a Zona Costeira são patrimônio nacional, e sua utilização far-se-á, na forma da lei, dentro de condições que assegurem a preservação do meio ambiente, inclusive quanto ao uso dos recursos naturais. § 5º - São indisponíveis as terras devolutas ou arrecadadas pelos Estados, por ações discriminatórias, necessárias à proteção dos ecossistemas naturais. § 6º - As usinas que operem com reator nuclear deverão ter sua localização definida em lei federal, sem o que não poderão ser instaladas.”⁹⁸

- Bulgaria** Chapter Two, Article 55: “Citizens shall have the right to a healthy and favourable environment in accordance with the established standards and norms. They shall be obligated to protect the environment.”⁹⁹
- Burkina Faso** Title I, Chapter IV, Article 29: “Le droit à un environnement sain est reconnu; la protection, la défense et la promotion de l’environnement sont un devoir pour tous.”
Title I, Chapter IV, Article 30: “Tout citoyen a le droit d’initier une action ou d’adhérer à une action collective sous forme de pétition contre des actes: - portant atteinte à l’environnement ou au patrimoine culturel.”¹⁰⁰
- Cameroon** Preamble: “Every person shall have a right to a healthy environment. The protection of the environment shall be the duty of every citizen. The State shall ensure the protection and improvement of the environment.”
Part I, Article 24: “All people shall have the right to a general satisfactory environment favourable to their development.”
Part XII, Article 65: “The Preamble shall be part and parcel of this Constitution.”¹⁰¹
- Cape Verde** Chapter II, Title I, Article 22(2): “A todos é conferido, pessoalmente ou através de associações de defesa dos interesses em causa, o direito de promover a prevenção, a cessação ou a perseguição judicial das infracções contra a saúde, o ambiente, a qualidade de vida e o património cultural.”
Article 73: “Todos têm direito a um ambiente sadio e ecologicamente equilibrado e o dever de o defender e valorizar.”
Article 85: “Todo o cidadão tem o dever de ... i) Defender e promover a saúde, o ambiente e o património cultural.”¹⁰²
- Central African Republic** Title II, Article 9: “La République garantit à chaque citoyen le droit au travail, à un environnement sain, au repos et aux loisirs dans let des exigences du développement national. Elle lui assure les conditions favorables à son épanouissement par uneque efficiente de l’emploi.”¹⁰³
- Chad** Title II, Chapter I, Article 47: “Toute personne a droit à un environnement sain.”
Title II, Chapter II, Article 52: “Tout citoyen a le devoir de respecter et de protéger l’environnement.”¹⁰⁴

⁹⁸ Brazilian Constitution (as last amended in 2010), available from:

http://www.planalto.gov.br/ccivil_03/Constituicao/Constituicao.htm

⁹⁹ Bulgarian Constitution (as last amended in 2003), available from:

http://www.vks.bg/english/vksen_p04_01.htm#Chapter_Two__

¹⁰⁰ Constitution of Burkina Faso (as last amended in 2002), available from:

<http://presidence.bf/constitution.php?page=3&sid=22>

¹⁰¹ Constitution of Cameroon (1996), available from:

<http://confinder.richmond.edu/admin/docs/Cameroon.pdf>

¹⁰² Constitution of Cape Verde (2010), available from:

http://www.wipo.int/wipolex/en/text.jsp?file_id=181070

¹⁰³ Constitution of the Central African Republic (2004), available from:

http://www.law.yale.edu/RCW/rcw/jurisdictions/afm/centralafricanrepublic/car_const.pdf

- Czech Republic** Article 35 Charter of Fundamental Rights and Freedoms: “(1) Everyone has the right to a favorable environment. (2) Everyone has the right to timely and complete information about the state of the environment and natural resources. (3) No one may, in exercising her rights, endanger or cause damage to the environment, natural resources, the wealth of natural species, or cultural monuments beyond the extent set by a law.”¹⁰⁵
- Chile** Chapter III, Article 19(8): “La Constitución asegura a todas las personas: El derecho a vivir en un medio ambiente libre de contaminación. Es deber del Estado velar para que este derecho no sea afectado y tutelar la preservación de la naturaleza.
Article 20 : “...Procederá, también, el recurso de protección en el caso del N°8º del artículo 19, cuando el derecho a vivir en un medio ambiente libre de contaminación sea afectado por un acto u omisión ilegal imputable a una autoridad o persona determinada.”¹⁰⁶
- Colombia** Title II, Chapter III, Article 79: “Todas las personas tienen derecho a gozar de un ambiente sano. La ley garantizará la participación de la comunidad en las decisiones que puedan afectarlo. Es deber del Estado proteger la diversidad e integridad del ambiente, conservar las áreas de especial importancia ecológica y fomentar la educación para el logro de estos fines.”¹⁰⁷
- Comoros** Preamble: “Le peuple comorien, affirme solennellement sa volonté de :[...] le droit à un environnement sain et le devoir de tous à sauvegarder cet environnement. Ce préambule fait partie intégrante de la Constitution.”¹⁰⁸
- Congo** Title II, Article 53: “All persons have the right to a healthy environment that is favorable to their development. They have the duty to defend it. The State ensures the protection of the environment and the health of the population.”¹⁰⁹
- Costa Rica** Title V, Article 50: “Every person has the right to a healthy and ecologically balanced environment, being therefore entitled to denounce any acts that may infringe said right and claim redress for the damage caused.”¹¹⁰
- Cote d’Ivoire** Chapter 1, Article 19: “The right to a healthy environment is recognized to all..”
Chapter 2, Article 28: “The protection of the environment and the promotion of the quality of life are a duty for the community and for each physical or moral person.”¹¹¹
- Croatia** Chapter III, Section 3, Article 70: “Everyone shall have the right to a healthy life.

¹⁰⁴ Constitution of Chad (as last amended in 2005), available from:

http://www.eucom.eu/files/dmfile/tchad_constitution_15_juillet_2005_fr1.pdf

¹⁰⁵ Charter of Fundamental Rights and Freedoms of the Czech Republic (1993), available from:

http://www.concourt.cz/view/czech_charter

¹⁰⁶ Constitution of Chile (as last amended in 2011), available from:

<http://www.tribunalconstitucional.cl/index.php/normas/normas>

¹⁰⁷ Constitution of Colombia (2005), available from:

<http://pdba.georgetown.edu/Constitutions/Colombia/vigente.html>

¹⁰⁸ Constitution of the Comores (2001), available from:

<http://www.unhcr.org/refworld/docid/4c5829df2.html>

¹⁰⁹ Constitution of the Republic of the Congo (2006), available in French from:

<http://www.presidentrdc.cd/constitution.pdf>. Translation available from:

<http://www.constitutionnet.org/files/DRC%20-%20Congo%20Constitution.pdf>

¹¹⁰ Constitution of Costa Rica (1994), available from:

http://www.costaricalaw.com/constitutional_law/constitution_en_05.php

¹¹¹ Constitution of Cote d’Ivoire (2000), available in French from:

http://www.accpuf.org/images/pdf/cm/cotedivoire/031-tf-txt_const.pdf. Translation available from:

<http://www.constitutionnet.org/files/Cote%20D%27Ivoire%20Constitution.pdf>

The state shall ensure conditions for a healthy environment. Everyone shall, within the scope of their powers and activities, accord particular attention to the protection of human health, nature and the human environment.”¹¹²

Domenican Republic

Section IV, Article 66: “El Estado reconoce los derechos e intereses colectivos y difusos, los cuales se ejercen en las condiciones y limitaciones establecidas en la ley. En consecuencia protege:1) La conservación del equilibrio ecológico, de la fauna y la flora; 2) La protección del medio ambiente;3) La preservación del patrimonio cultural, histórico, urbanístico, artístico, arquitectónico y arqueológico.”

Article 67: “Constituyen deberes del Estado prevenir la contaminación, proteger y mantener el medio ambiente en provecho de las presentes y futuras generaciones. En consecuencia: 1) Toda persona tiene derecho, tanto de modo individual como colectivo, al uso y goce sostenible de los recursos naturales; a habitar en un ambiente sano, ecológicamente equilibrado y adecuado para el desarrollo y preservación de las distintas formas de vida, del paisaje y de la naturaleza [...]”¹¹³

Ecuador

Chapter II, Section 2, Article 14: “The right of the population to live in a healthy and ecologically balanced environment that guarantees sustainability and the good way of living (sumak kawsay), is recognized. Environmental conservation, the protection of ecosystems, biodiversity and the integrity of the country’s genetic assets, the prevention of environmental damage, and the recovery of degraded natural spaces are declared matters of public interest.”

Chapter VI, Article 66: “The following rights of persons are recognized and guaranteed: ...27. The right to live in a healthy environment that is ecologically balanced, pollution-free and in harmony with nature.”

Chapter VII (rights of nature), Article 71: “Nature, or Pacha Mama, where life is reproduced and occurs, has the right to integral respect for its existence and for the maintenance and regeneration of its life cycles, structure, functions and evolutionary processes. All persons, communities, peoples and nations can call upon public authorities to enforce the rights of nature. To enforce and interpret these rights, the principles set forth in the Constitution shall be observed, as appropriate. The State shall give incentives to natural persons and legal entities and to communities to protect nature and to promote respect for all the elements comprising an ecosystem.”¹¹⁴

El Salvador

Title II, Chapter II, First Section, Article 34: “Todo menor tiene derecho a vivir en condiciones familiares y ambientales que le permitan su desarrollo integral, para lo cual tendrá la protección del Estado.”¹¹⁵

Ethiopia

Chapter III, Part II, Article 44(1): “1. All persons have the right to a clean and healthy environment.”¹¹⁶

Finland

Section 20: “(1) Nature and its biodiversity, the environment and the national heritage are the responsibility of everyone.(2) The public authorities shall endeavour to guarantee for

¹¹² Constitution of Croatia (as last amended in 2010), available from: <http://www.sabor.hr/fgs.axd?id=17074>

¹¹³ Constitution of the Dominican Republic (2010), available from: <http://pdba.georgetown.edu/Constitutions/DomRep/vigente.html>

¹¹⁴ Constitution of Ecuador (2008), available from: <http://pdba.georgetown.edu/Constitutions/Ecuador/english08.html>

¹¹⁵ Constitution of El Salvador (as last amended in 2003), available from: <http://pdba.georgetown.edu/Constitutions/ElSal/constitucion2003.pdf>

¹¹⁶ Constitution of Ethiopia (1995), available from: <http://www.ethiobar.net/type/English/genifo/conchp32.htm>

everyone the right to a healthy environment and for everyone the possibility to influence the decisions that concern their own living environment.”¹¹⁷

France

Charter of the Environment of 2005, Article 1: “Each person has the right to live in a balanced environment which shows due respect for health.”

Article 2: “Each person has a duty to participate in preserving and enhancing the environment.”

Article 3: “Each person shall, in the conditions provided for by law, foresee and avoid the occurrence of any damage which he or she may cause to the environment or, failing that, limit the consequences of such damage.”

Article 4: “Each person shall be required, in the conditions provided for by law, to contribute to the making good of any damage he or she may have caused to the environment.”¹¹⁸

Gabon

Title I, Article 1: “La République gabonaise reconnaît et garantit les droits inviolables et imprescriptibles de l’Homme, qui lient obligatoirement les pouvoirs publics:.... (8) L’Etat, selon ses possibilités, garantit à tous, notamment à l’enfant, à la mère, aux handicapés, aux vieux travailleurs et aux personnes âgées, la protection de la santé, la sécurité sociale, un environnement naturel préservé, le repos et les loisirs.”¹¹⁹

Georgia

Chapter II, Article 37: “(3) Everyone shall have the right to live in healthy environment and enjoy natural and cultural surroundings. Everyone shall be obliged to care for natural and cultural environment. (4) With the view of ensuring safe environment, in accordance with ecological and economic interests of society, with due regard to the interests of the current and future generations the state shall guarantee the protection of environment and the rational use of nature. (5) A person shall have the right to receive a complete, objective and timely information as to a state of his/her working and living environment.”¹²⁰

Guinea

Title II, Article 19: “Le peuple de Guinée détermine librement et souverainement ses institutions et l’organisation économique et sociale de la Nation. Il a un droit imprescriptible sur ses richesses. Celles-ci doivent profiter de manière équitable à tous les Guinéens. Il a droit à la préservation de son patrimoine, de sa culture et de son environnement. Il a le droit de résister à l’oppression.”¹²¹

Guyana

Part I, Chapter IV, Article 25: “Every citizen has a duty to participate in activities designed to improve the environment and protect the health of the nation.”

Part II, Title I, Article 149J: “(1) Everyone has the right to an environment that is not harmful to his or her health or wellbeing. (2) The State shall protect the environment, for the benefit of present and future generations, through reasonable legislative and other measures designed to (a) prevent pollution and ecological degradation; (b) promote conservation; and (c) secure sustainable development and use of natural resources while promoting justifiable economic and social development (3) It shall not be an infringement of a person’s rights under paragraph (1) if, by reason only of an allergic condition or other peculiarity the environment is harmful to that person’s health or wellbeing.”¹²²

¹¹⁷ Constitution of Finland (as last amended in 2007), available from:

<http://www.finlex.fi/fi/laki/kaannokset/1999/en19990731.pdf>

¹¹⁸ Constitution of France with integrated Charter for the Environment (2005), available from:

<http://www.assemblee-nationale.fr/english/8ab.asp#Charter>

¹¹⁹ Constitution of Gabon (as last amended in 2000), available from:

http://www.assemblee.ga/article.php3?id_article=16

¹²⁰ Constitution of Georgia (as last amended in 2006), available from:

http://www.parliament.ge/files/68_1944_951190_CONSTIT_27_12.06.pdf

¹²¹ Constitution of Guinea (1994), available from:

<http://unpan1.un.org/intradoc/groups/public/documents/unpan/unpan002994.pdf>

¹²² Constitution of Guyana (1980), available from:

<http://www.parliament.gov.gy/constitution/constitutionindex.php>

- Hungary** Chapter I, Article 18: “The Republic of Hungary recognizes and shall implement the individual's right to a healthy environment.”
Chapter VII. Article 70/D: “(1) Everyone living in the territory of the Republic of Hungary shall have the right to the highest possible level of physical and mental health. (2) The Republic of Hungary shall implement this right through the organization of labor safety, health care institutions, medical care, through securing the opportunities for regular physical activity, as well as through the protection of the built and natural environment.”¹²³
- Indonesia** Chapter XA, Article 28H(1): “Every person shall have the right to live in physical and spiritual prosperity, to have a home and to enjoy a good and healthy environment, and shall have the right to obtain medical care”¹²⁴.
- Iraq** Section Two, Chapter One, Part Two, Article 33: “(1) Every individual has the right to live in safe environmental conditions. (2) The State shall undertake the protection and preservation of the environment and its biological diversity.”¹²⁵
- Kenya** Chapter Four, Part One, Article 42: “Every person has the right to a clean and healthy environment, which includes the right— (a) to have the environment protected for the benefit of present and future generations through legislative and other measures, particularly those contemplated in Article 69; and (b) to have obligations relating to the environment fulfilled under Article 70.”
Chapter Five, Part Two, Article 69: “(1) The State shall— (a) ensure sustainable exploitation, utilisation, management and conservation of the environment and natural resources, and ensure the equitable sharing of the accruing benefits; (b) work to achieve and maintain a tree cover of at least ten per cent of the land area of Kenya;(c) protect and enhance intellectual property in, and indigenous knowledge of, biodiversity and the genetic resources of the communities; (d) encourage public participation in the management, protection and conservation of the environment; (e) protect genetic resources and biological diversity; (f) establish systems of environmental impact assessment, environmental audit and monitoring of the environment; (g) eliminate processes and activities that are likely to endanger the environment; and (h) utilise the environment and natural resources for the benefit of the people of Kenya. (2) Every person has a duty to cooperate with State organs and other persons to protect and conserve the environment and ensure ecologically sustainable development and use of natural resources.”
Article 70: “(1) If a person alleges that a right to a clean and healthy environment recognised and protected under Article 42 has been, is being or is likely to be, denied, violated, infringed or threatened, the person may apply to a court for redress in addition to any other legal remedies that are available in respect to the same matter. (2) On application under clause (1), the court may make any order, or give any directions, it considers appropriate— (a) to prevent, stop or discontinue any act or omission that is harmful to the environment; (b) to compel any public officer to take measures to prevent or discontinue any act or omission that is harmful to the environment; or (c) to provide compensation for any victim of a violation of the right to a clean and healthy environment. (3) For the purposes of this Article, an applicant does not have to demonstrate that any person has incurred loss or suffered injury.”¹²⁶
- Kyrgyzstan** Article 48: “(1) Everyone shall have the right to environment favorable for life and health. (2) Everyone shall have the right to compensation of damage to health or property resulting

¹²³ Constitution of Hungary (as of January 2011), available from: <http://www.mkab.hu/index.php?id=constitution>

¹²⁴ Constitution of Indonesia (last amended in 2002), available from: <http://www.embassyofindonesia.org/about/pdf/IndonesianConstitution.pdf>;

¹²⁵ Constitution of Iraq (2005), available from: http://www.uniraq.org/documents/iraqi_constitution.pdf

¹²⁶ Constitution of Kenya (last amended in 2010), available from: http://www.kenyalaw.org/klr/fileadmin/pdfdownloads/Constitution_of_Kenya__2010.pdf

from actions in the area of nature management. (3) Everyone should care for the environment, flora and fauna.”¹²⁷

Latvia Chapter VIII, Article 115: “The State shall protect the right of everyone to live in a benevolent environment by providing information about environmental conditions and by promoting the preservation and improvement of the environment.”¹²⁸

Macedonia Chapter II, Part 2, Article 43: “Everyone has the right to a healthy environment to live in. Everyone is obliged to promote and protect the environment. The Republic provides conditions for the exercise of the right of citizens to a healthy environment.”¹²⁹

Maldives Chapter II, Article 22: The State has a fundamental duty to protect and preserve the natural environment, biodiversity, resources and beauty of the country for the benefit of present and future generations. The State shall undertake and promote desirable economic and social goals through ecologically balanced sustainable development and shall take measures necessary to foster conservation, prevent pollution, the extinction of any species and ecological degradation from any such goals.

Article 23(d): “Every citizen [has] the following rights pursuant to this Constitution, and the State undertakes to achieve the progressive realisation of these rights by reasonable measures within its ability and resources: (d) a healthy and ecologically balanced environment.”¹³⁰

Mali Title I, Article 15: “Toute personne a droit à un environnement sain. La protection, la défense de l'environnement et la promotion de la qualité de la vie sont un devoir pour tous et pour l'Etat.”¹³¹

Mexico Title I, Chapter I, Article 4: “Toda persona tiene derecho a un medio ambiente adecuado para su desarrollo y bienestar.”¹³²

Moldova Title II, Chapter II, Article 37: “(1) Every human being shall have the right to live in an ecologically safe and healthy environment, to consume healthy food products and to use harmless household appliances. (2) The State shall guarantee to anyone the right of free access and dissemination of the truthful information related to the environment state, living and working conditions, and the quality of food products and household appliances. (3) Concealment or forgery of the information regarding the factors detrimental to human health shall be prohibited by law. (4) Natural and legal entities shall be held liable for the damages caused to a person's health and property due to ecological trespasses.”

Title II, Chapter II, Article 59: “The protection of environment and the preservation of historical and cultural monuments shall represent a duty ascribed to each citizen.”

Title IV Article 126(2): “The state must ensure “(f) the restoration and protection of the environment, as well as the maintenance of ecological balance.”¹³³

Mongolia Chapter II, Article 16(2): “The citizens of Mongolia shall be guaranteed the privilege to enjoy the following rights and freedoms: ... Right to healthy and safe environment, and to be protected against environmental pollution and ecological imbalance.”

¹²⁷ Constitution of Kyrgyzstan, Original Russian version as adopted in 2010, available from: <http://24.kg/konstitucija2010/74533-v-kyrgyzstane-podgotovlen-okonchatelnyj-proekt.html>. Translation of Article 48 available from: <http://www.venice.coe.int/docs/2010/CDL%282010%29058-e.pdf>.

¹²⁸ Constitution of Latvia, available from: <http://www.satv.tiesas.gov.lv/?lang=2&mid=8>

¹²⁹ Constitution of Macedonia (1991), available from: <http://www.sobranie.mk/en/default-en.asp?ItemID=9F7452BF44EE814B8DB897C1858B71FF>

¹³⁰ Constitution of the Maldives (2008), available from: <http://www.maldivesinfo.gov.mv/home/upload/downloads/Compilation.pdf>

¹³¹ Constitution of Mali, available from: <http://unpan1.un.org/intradoc/groups/public/documents/cafrad/unpan002746.pdf>

¹³² Constitution of Mexico, available from: <http://www.diputados.gob.mx/LeyesBiblio/pdf/1.pdf>

¹³³ Constitution of Moldova: available from: <http://www.president.md/const.php?page=8200&lang=eng>

Article 17(2): "It is a sacred duty for every citizen to work, protect his/her health, bring up and educate his/her children and to protect nature and the environment."¹³⁴

Montenegro

Preamble: "The conviction that the state is responsible for the preservation of nature, sound environment, sustainable development, balanced development of all its regions and the establishment of social justice"

Part 2, Article 23: "Everyone shall have the right to a sound environment. Everyone shall have the right to receive timely and full information about the status of the environment, to influence the decision-making regarding the issues of importance for the environment, and to legal protection of these rights. Everyone, the state in particular, shall be bound to preserve and improve the environment."¹³⁵

Mozambique

Republic of, Title III, Chapter I, Article 45: "Every individual shall have the duty to: f) protect and conserve the environment."

Title III, Chapter IV, Article 81: "(1) All citizens shall have the right to popular action in accordance with the law, either personally or through associations for defending the interests in question. (2) The right of popular action shall consist of: ... b) The right to advocate the prevention, termination or judicial prosecution of offences against the public health, consumer rights, environmental conservation and cultural heritage."

Title III, Chapter V, Article 90(1): "All citizens shall have the right live in a balanced environment and shall have the duty to defend it."¹³⁶

Nepal

Part 3, Article 16(1): "Every person has the right to live in clean environment."¹³⁷

Nicaragua

Title IV, Chapter III, Article 60: "Los nicaragüenses tienen derecho de habitar en un ambiente saludable. Es obligación del Estado la preservación, conservación y rescate del medio ambiente y de los recursos naturales."¹³⁸

Niger

Title II, Article 35: "Toute personne a droit à un environnement sain. L'Etat a l'obligation de protéger l'environnement dans l'intérêt des générations présentes et futures. Chacun est tenu de contribuer à la sauvegarde et à l'amélioration de l'environnement dans lequel il vit. L'acquisition, le stockage, la manipulation et l'évacuation des déchets toxiques ou polluants provenant des usines et autres unités industrielles ou artisanales installées sur le territoire national sont réglementés par la loi. Le transit, l'importation, le stockage, l'enfouissement, le déversement sur le territoire national de déchets toxiques ou polluants étrangers, ainsi que tout accord y relatif constituent un crime contre la nation, puni par la loi. L'Etat veille à l'évaluation et au contrôle des impacts de tout projet et programme de développement sur l'environnement".

Article 36: "L'Etat et les autres collectivités publiques veillent à la lutte contre la désertification."

Article 37: "Les entreprises nationales et internationales ont l'obligation de respecter la législation en vigueur en matière environnementale. Elles sont tenues de protéger la santé humaine et de contribuer à la sauvegarde ainsi qu'à l'amélioration de l'environnement."

Title VII, Section Two, Article 149: "L'État exerce sa souveraineté sur les ressources naturelles et du sous-sol. L'exploitation et la gestion des ressources naturelles et du sous sol doit se faire dans la transparence et prendre en compte la protection de l'environnement, du patrimoine culturel ainsi que la préservation des intérêts des générations présentes et futures."¹³⁹

¹³⁴ Constitution of Mongolia, available from:

http://www.mfat.gov.mn/index.php?option=com_content&view=category&id=34&Itemid=53&lang=en

¹³⁵ Constitution of Montenegro, available from:

http://www.dri.co.me/english/index.php?option=com_content&task=view&id=81&Itemid=159

¹³⁶ Constitution of Mozambique, available from: <http://www.unhcr.org/refworld/docid/4a1e597b2.html>

¹³⁷ Interim Constitution of Nepal, available from: <http://www.nic.gov.np/download/interim-constitution.pdf>

¹³⁸ Constitution of Nicaragua (as last amended in 2010), available from:

<http://www.asamblea.gob.ni/opciones/constituciones/ConstitucionPolitica.pdf>

¹³⁹ Constitution of Niger (as last amended in 2010), available from:

- Norway** Section E, Article 110 b: “Every person has a right to an environment that is conducive to health and to a natural environment whose productivity and diversity are maintained. Natural resources should be managed on the basis of comprehensive long-term considerations whereby this right will be safeguarded for future generations as well. In order to safeguard their right in accordance with the foregoing paragraph, citizens are entitled to information on the state of the natural environment and on the effects of any encroachment on nature that is planned or carried out. The authorities of the State shall issue specific provisions for the implementation of these principles.”¹⁴⁰
- Paraguay** Part I, Title II, Chapter I, Section II, Article 7: “Toda persona tiene derecho a habitar en un ambiente saludable y ecológicamente equilibrado. Constituyen objetivos prioritarios de interés social la preservación, la conservación, la recomposición y el mejoramiento del ambiente, así como su conciliación con el desarrollo humano integral. Estos propósitos orientarán la legislación y la política gubernamental pertinente.”
- Article 8: “Las actividades susceptibles de producir alteración ambiental serán reguladas por la ley. Asimismo, ésta podrá restringir o prohibir aquellas que califique peligrosas. Se prohíbe la fabricación, el montaje, la importación, la comercialización, la posesión o el uso de armas nucleares, químicas y biológicas, así como la introducción al país de residuos tóxicos. La ley podrá extender ésta prohibición a otros elementos peligrosos; asimismo, regulará el tráfico de recursos genéticos y de su tecnología, precautelando los intereses nacionales. El delito ecológico será definido y sancionado por la ley. Todo daño al ambiente importará la obligación de recomponer e indemnizar.”
- Part I, Title II, Chapter II, Article 38: “Toda persona tiene derecho, individual o colectivamente, a reclamar a las autoridades públicas medidas para la defensa del ambiente, de la integridad del hábitat, de la salubridad pública, del acervo cultural nacional, de los intereses del consumidor y de otros que, por su naturaleza jurídica, pertenezcan a la comunidad y hagan relación con la calidad de vida y con el patrimonio colectivo.”¹⁴¹
- Peru** Title I, Chapter I, Article 2(22): “Every person has the right: ... to peace, tranquility, enjoyment of leisure time and to rest, as well as to a balanced and appropriate environment for the development of his life.”¹⁴²
- Philippines** Article II, Section 16: “The State shall protect and advance the right of the people to a balanced and healthful ecology in accord with the rhythm and harmony of nature.”¹⁴³
- Poland** Chapter II, Article 68: “(1) Everyone shall have the right to have his health protected. ... (4) Public authorities shall combat epidemic illnesses and prevent the negative health consequences of degradation of the environment.”
- Article 74: “(1) Public authorities shall pursue policies ensuring the ecological safety of current and future generations. (2) The protection of the environment is the duty of public authorities. (3) Everyone has the right to be informed of the condition and protection of the environment. (4) Public authorities shall support the activities of citizens to protect and improve the quality of the environment.”
- Article 86: “Everyone shall care for the quality of the environment and shall be held responsible for causing its degradation. The principles of such responsibility shall be specified by statute.”¹⁴⁴

http://www.gouv.ne/styles/images/doc_pdf/ConstitutionValidee.pdf

¹⁴⁰ Constitution of Norway (as last amended in 2007), available from: <http://www.stortinget.no/en/In-English/About-the-Storting/The-Constitution/The-Constitution/>

¹⁴¹ Constitution of Paraguay (1992), available from:

<http://www.redparaguay.com/constitucion/articulos1a100.asp>

¹⁴² Constitution of Peru (as last amended in 2008), available from:

http://www.congreso.gob.pe/_ingles/CONSTITUTION_29_08_08.pdf

¹⁴³ Constitution of the Philippines (1987), available from:

<http://www.chanrobles.com/philsupremelaw2.html>

¹⁴⁴ Constitution of Poland (1997), available from: <http://www.sejm.gov.pl/prawo/konst/angielski/kon1.htm>

Portugal

Article 9: "The fundamental tasks of the state shall be: d) To promote the people's well-being and quality of life and real equality between the Portuguese, as well as the effective implementation of economic, social, cultural and environmental rights by means of the transformation and modernisation of economic and social structures;"

Part I, Title II, Article 52(3): "Everyone shall be granted the right of *actio popularis*, to include the right to apply for the appropriate compensation for an aggrieved party or parties, in such cases and under such terms as the law may determine, either personally or via associations that purport to defend the interests in question. The said right shall particularly be exercised in order to: a) Promote the prevention, cessation or judicial prosecution of offences against public health, consumer rights, the quality of life or the preservation of the environment and the cultural heritage..."

Part I, Title III, Article 66: "(1) Everyone shall possess the right to a healthy and ecologically balanced human living environment and the duty to defend it. (2) In order to ensure enjoyment of the right to the environment within an overall framework of sustainable development, acting via appropriate bodies and with the involvement and participation of citizens, the state shall be charged with: a) Preventing and controlling pollution and its effects and the harmful forms of erosion; b) Conducting and promoting town and country planning with a view to a correct location of activities, balanced social and economic development and the enhancement of the landscape; c) Creating and developing natural and recreational reserves and parks and classifying and protecting landscapes and places, in such a way as to guarantee the conservation of nature and the preservation of cultural values and assets that are of historic or artistic interest; d) Promoting the rational use of natural resources, while safeguarding their ability to renew themselves and maintain ecological stability, with respect for the principle of inter-generational solidarity; e) Acting in cooperation with local authorities, promoting the environmental quality of rural settlements and urban life, particularly on the architectural level and as regards the protection of historic zones; f) Promoting the integration of environmental objectives into the various policies of a sectoral nature; g) Promoting environmental education and respect for environmental values; h) Ensuring that fiscal policy renders development compatible with the protection of the environment and the quality of life."¹⁴⁵

Republic of Korea

Chapter II, Article 35: "(1) All citizens shall have the right to a healthy and pleasant environment. The State and all citizens shall endeavor to protect the environment.(2) The substance of the environmental right shall be determined by Act."¹⁴⁶

Romania

Chapter II, Article 35: "(1) The State shall acknowledge the right of every person to a healthy, well preserved and balanced environment. (2) The State shall provide the legislative framework for the exercise of such right.(3) Natural and legal entities shall be bound to protect and improve the environment."¹⁴⁷

Russian Federation

Chapter II, Article 42: "Everyone shall have the right to a favourable environment, reliable information on the state of the environment and compensation for damage caused to his (her) health and property by violations of environmental laws."

Article 58: "Everyone shall have a duty to preserve nature and the environment and to treat natural resources with care."¹⁴⁸

Rwanda

Chapter II, Article 49: "Every citizen is entitled to a healthy and satisfying environment. Every person has the duty to protect, safeguard and promote the environment. The State

¹⁴⁵ Constitution of Poland (as last amended in 2005), available from:

http://app.parlamento.pt/site_antigo/ingles/cons_leg/Constitution_VII_revisao_definitive.pdf

¹⁴⁶ Constitution of the Republic of Korea (as last amended in 1987), available from:

http://www.ccourt.go.kr/home/att_file/download/Constitution_of_the_Republic_of_Korea.pdf

¹⁴⁷ Constitution of Romania (as last amended in 2003), available from:

<http://www.cdep.ro/pls/dic/site.page?id=371aw>

¹⁴⁸ Constitution of the Russian Federation (as last amended in 2001), available from:

<http://www.government.ru/eng/gov/base/54.html>

shall protect the environment. The law determines the modalities for protecting, safeguarding and promoting the environment.”¹⁴⁹

SãoTomé & Príncipe

Part II, Title III, Article 49: “(1) Todos têm direito à habitação e a um ambiente de vida humana e o dever de o defender. (2) Incumbe ao Estado programar e executar uma política de habitação inserida em planos de ordenamento do território.”¹⁵⁰

Senegal

Title II, Article 8: “La République du Sénégal garantit à tous les citoyens les libertés individuelles fondamentales, les droits économiques et sociaux ainsi que les droits collectifs. Ces libertés et droits sont notamment: le droit à un environnement sain.”¹⁵¹

Serbia

Chapter II, Article 74: “Everyone shall have the right to healthy environment and the right to timely and full information about the state of environment. Everyone, especially the Republic of Serbia and autonomous provinces, shall be accountable for the protection of environment. Everyone shall be obliged to preserve and improve the environment.”¹⁵²

Seychelles Republic of

Chapter III, Part I, Article 38: “The State recognises the right of every person to live in and enjoy a clean, healthy and ecologically balanced environment and with a view to ensuring the effective realization of this right the State undertakes - a. to take measures to promote the protection, preservation and improvement of the environment; b. to ensure a sustainable socio-economic development of Seychelles by a judicious use and management of the resources of Seychelles; c. to promote public awareness of the need to protect, preserve and improve the environment.”

Chapter III, Part II, Article 40: “It shall be the duty of every citizen of Seychellese. to protect, preserve and improve the environment...”¹⁵³

Slovakia

Part Two, Section Six, Article 44: “(1) Everyone shall have the right to favourable environment. (2) Everyone shall have a duty to protect and improve the environment and to foster cultural heritage. (3) No one shall imperil or damage the environment, natural resources and cultural heritage beyond the limits laid down by a law. (4) The State shall care for economical exploitation of natural resources, for ecological balance and on effective environmental policy, and shall secure protection of determined sorts of wild plants and wild animals.”. (5) Details on the rights and duties according to paragraphs 1 to 4 shall be laid down by a law.”

Article 45: “Everyone shall have the right to full and timely information about the environmental situation and about the reasons and consequences thereof.”¹⁵⁴

Slovenia

Section III, Article 72: “Everyone has the right in accordance with the law to a healthy living environment. The state shall promote a healthy living environment. To this end, the conditions and manner in which economic and other activities are pursued shall be established by law. The law shall establish under which conditions and to what extent a person who has damaged the living environment is obliged to provide compensation. The protection of animals from cruelty shall be regulated by law.”

Article 73: “Everyone is obliged in accordance with the law to protect natural sites of special interest, rarities, and cultural monuments. The state and local communities shall promote the preservation of the natural and cultural heritage.”¹⁵⁵

¹⁴⁹ Constitution of Rwanda (as last amended in 2005), available from:

<http://www.mod.gov.rw/?Constitution-of-the-Republic-of>

¹⁵⁰ Constitution of the Democratic Republic of São Tomé and Príncipe (as last amended in 2003), available from: http://www.wipo.int/wipolex/en/text.jsp?file_id=180006

¹⁵¹ Constitution of Senegal (as amended in 2001), available from: <http://www.gouv.sn/spip.php?article794>

¹⁵² Constitution of Serbia (2006), available from:

http://www.srbija.gov.rs/cinjenice_o_srbiji/ustav_odredbe.php?id=218

¹⁵³ Constitution of the Republic of the Seychelles (as last amended in 2000), available from:

http://www.ecs.sc/resources/Constitution_.pdf

¹⁵⁴ Constitution of the Slovak Republic (as last amended in 2004), available from:

www.vop.gov.sk/en/legal_basis/constitution.html

- South Africa** Chapter 2, Article 24: “Everyone has the right (a) to an environment that is not harmful to their health or well-being; and (b) to have the environment protected, for the benefit of present and future generations, through reasonable legislative and other measures that (i) prevent pollution and ecological degradation; (ii) promote conservation; and (iii) secure ecologically sustainable development and use of natural resources while promoting justifiable economic and social development.”¹⁵⁶
- Southern Sudan** Chapter I, Article 41: (1) Every person or community shall have the right to a clean and healthy environment. (2) Every person shall have the obligation to protect the environment for the benefit of present and future generations. (3) Every person shall have the right to have the environment protected for the benefit of present and future generations, through appropriate legislative action and other measures that: (a) prevent pollution and ecological degradation; (b) promote conservation; and (c) secure ecologically sustainable development and use of natural resources while promoting rational economic and social development so as to protect genetic stability and bio-diversity. (4) All levels of government shall promote energy policies that will ensure that the basic needs of the people are met while protecting and preserving the environment.”
- Chapter II, Article 46: “Every citizen shall in particular: ...(h) protect the environment and conserve natural resources.”¹⁵⁷
- Spain** Title I, Chapter III, Article 45: “(1) Everyone has the right to enjoy an environment suitable for the development of the person, as well as the duty to preserve it. (2) The public authorities shall watch over a rational use of all natural resources with a view to protecting and improving the quality of life and preserving and restoring the environment, by relying on an indispensable collective solidarity.(3) For those who break the provisions contained in the foregoing paragraph, criminal or,where applicable, administrative sanctions shall be imposed, under the terms established by the law, and they shall be obliged to repair the damage caused.”¹⁵⁸
- Sudan, Republic of the** Chapter II, Article 11: “(1)The people of the Sudan shall have the right to a clean and diverse environment; the State and the citizens have the duty to preserve and promote the country’s biodiversity. (2) The State shall not pursue any policy, or take or permit any action, which may adversely affect the existence of any species of animal or vegetative life, their natural or adopted habitat. (3) The State shall promote, through legislation, sustainable utilization of natural resources and best practices with respect to their management.”¹⁵⁹
- Thailand** Chapter III, Part 10, Section 57: “A person shall have the right to receive information, explanation, and reason from government agencies, State agencies, State enterprises, or local government before the approval or implementation of a project or activities which might have a serious impact on the environment, health, sanitary conditions, quality of life, or other important interests of his or her own or of the community, and shall also have the right to voice his or her own opinion to the responsible agency to be used as input appraising said project or activities. In making a plan for social, economic, political and cultural development, or in expropriation of private property by eminent domain, or in town planning, zoning, or in

¹⁵⁵ Constitution of Slovenia (as last amended in 2006), available from:

<http://www.dz-rs.si/index.php?id=351&docid=25&showdoc=1#2>

¹⁵⁶ Constitution of South Africa (as last amended in 2009), available from:

<http://www.info.gov.za/documents/constitution/1996/96cons2.htm>

¹⁵⁷ Transitional Constitution of the Republic of Southern Sudan, adopted in 2011, available from:

http://www.sudantribune.com/IMG/pdf/The_Draft_Transitional_Constitution_of_the_ROSS2-2.pdf

¹⁵⁸ Constitution of Spain (1978), available from:

http://www.congreso.es/portal/page/portal/Congreso/Congreso/Hist_Normas/Norm/const_espa_texto_ingle_s_0.pdf

¹⁵⁹ The interim national constitution of the Republic of the Sudan as adopted in 2005, available from:

http://www.sudan-embassy.de/c_Sudan.pdf

issuing regulations with an important impact on the benefits of the people, the State must organize comprehensive public hearings before implementation.”

Chapter III, Part 12, Section 66: “Persons so assembling to be a community, local community, or traditional community shall have the right to conserve or restore their customs, local knowledge, arts or good culture of their community and of the nation and participate in the management, maintenance, preservation, and exploitation of natural resources, environment, and biological diversity in a balanced fashion and persistently.”

Chapter III, Part 12, Section 67: “The rights of a person to give to the State and communities participation in the conservation, preservation and exploitation of natural resources and biological diversity and in the protection, promotion and preservation of the quality of the environment for usual and consistent survival in the environment which is not hazardous to his or her health and sanitary condition, welfare or quality of life shall be appropriately protected. Any project which may seriously affect the community in quality of the environment, natural resources, and health shall not be permitted, unless its impacts on the quality of the environment and health conditions of people in the community have been studied and evaluated; and procedures on public hearing from the people and those affected, including from an independent organization, consisting of representatives from private environmental and health organizations and from higher education institutions providing studies in the environmental, natural resources, and health field, have been obtained prior to the operation of such project or activity. The rights of a community to sue a government agency, State agency, State enterprises, local government, or other State agencies which are juristic persons, to perform the duties as provided by this provision shall be protected. [sic]”¹⁶⁰

Timor-Leste Part II, Title III, Section 61: “(1) Everyone has the right to a humane, healthy, and ecologically balanced environment and the duty to protect it and improve it for the benefit of the future generations. (2) The State shall recognise the need to preserve and rationalise natural resources. (3) The State should promote actions aimed at protecting the environment and safeguarding the sustainable development of the economy.”¹⁶¹

Togo Title II, Subsection I, Article 41: “Toute personne a droit à un environnement sain. L'Etat veille à la protection de l'environnement.”¹⁶²

Turkey Part II, Chapter Three, Section VIII, Part A, Article 56: “Everyone has the right to live in a healthy, balanced environment. It is the duty of the state and citizens to improve the natural environment, and to prevent environmental pollution....”¹⁶³

Turkmenistan Section II, Article 36: “Everyone has the right to favourable environment. The State supervises the management of natural resources in order to protect and improve living conditions, as well as environmental protection and regeneration.”¹⁶⁴

Uganda Chapter Three, Article 17: “(1) The duties of a citizen are— (j) to create and protect a clean and healthy environment.”
Chapter Four, Article 39: “Every Ugandan has a right to a clean and healthy environment.”¹⁶⁵

¹⁶⁰ Constitution of Thailand (2007), available from:
<http://www.constitutionalcourt.or.th/dmdocuments/Constitution2007byIFES.pdf>

¹⁶¹ Constitution of Timor-Leste (2001), available from:
<http://www.gov.east-timor.org/constitution/constitution-Timor-Leste.pdf>

¹⁶² Constitution of Togo (as last amended in 2002), available from:
<http://www.unhcr.org/refworld/country,LEGAL,,LEGISLATION,TGO,456d621e2,48ef43c72,0.html>

¹⁶³ Constitution of Turkey (as last amended in 2001), available from:
http://www.anayasa.gov.tr/images/loaded/pdf_dosyalari/THE_CONSTITUTION_OF_THE_REPUBLIC_OF_TURKEY.pdf

¹⁶⁴ Constitution of Turkmenistan (2008), available from:
<http://www.legislationline.org/documents/section/constitutions>

¹⁶⁵ Constitution of Uganda (2006), available from:

Ukraine

Chapter II, Article 50: "Everyone shall have the right to an environment that is safe for life and health, and to compensation for damages caused by violation of this right. Everyone shall be guaranteed the right of free access to information about the environmental situation, the quality of foodstuffs and consumer goods, as well as the right to disseminate such information. No one shall make such information secret."¹⁶⁶

Venezuela, Bolivarian Republic of

Title III, Chapter IX, Article 127: "Es un derecho y un deber de cada generación proteger y mantener el ambiente en beneficio de sí misma y del mundo futuro. Toda persona tiene derecho individual y colectivamente a disfrutar de una vida y de un ambiente seguro, sano y ecológicamente equilibrado. El Estado protegerá el ambiente, la diversidad biológica, genética, los procesos ecológicos, los parques nacionales y monumentos naturales y demás áreas de especial importancia ecológica. El genoma de los seres vivos no podrá ser patentado, y la ley que se refiera a los principios bioéticos regulará la materia. Es una obligación fundamental del Estado, con la activa participación de la sociedad, garantizar que la población se desenvuelva en un ambiente libre de contaminación, en donde el aire, el agua, los suelos, las costas, el clima, la capa de ozono, las especies vivas, sean especialmente protegidos, de conformidad con la ley."

Article 128: "El Estado desarrollará una política de ordenación del territorio atendiendo a las realidades ecológicas, geográficas, poblacionales, sociales, culturales, económicas, políticas, de acuerdo con las premisas del desarrollo sustentable, que incluya la información, consulta y participación ciudadana. Una ley orgánica desarrollará los principios y criterios para este ordenamiento."

Article 129: "Todas las actividades susceptibles de generar daños a los ecosistemas deben ser previamente acompañadas de estudios de impacto ambiental y socio cultural. El Estado impedirá la entrada al país de desechos tóxicos y peligrosos, así como la fabricación y uso de armas nucleares, químicas y biológicas. Una ley especial regulará el uso, manejo, transporte y almacenamiento de las sustancias tóxicas y peligrosas. En los contratos que la República celebre con personas naturales o jurídicas, nacionales o extranjeras, o en los permisos que se otorguen, que involucren los recursos naturales, se considerará incluida aun cuando no estuviera expresa, la obligación de conservar el equilibrio ecológico, de permitir el acceso a la tecnología y la transferencia de la misma en condiciones mutuamente convenientes y de restablecer el ambiente a su estado natural si éste resultara alterado, en los términos que fije la ley."¹⁶⁷

http://www.parliament.go.ug/images/abridged_constitution_2006.pdf

¹⁶⁶ Constitution of Ukraine (1996), available from:

http://www.kmu.gov.ua/document/110977042/Constitution_eng.doc

¹⁶⁷ Constitution of the Bolivarian Republic of Venezuela (as last amended in 2003), available from:

<http://www.gobiernoenlinea.ve/legislacion-view/sharedfiles/ConstitucionRBV1999.pdf>

PART TWO: Overview of constitutional provisions not recognizing a ‘right to environment’, but explicitly recognizing a ‘duty’ to protect the environment

- Bhutan** Article 5: “(1) Every Bhutanese is a trustee of the Kingdom’s natural resources and environment for the benefit of the present and future generations and it is the fundamental duty of every citizen to contribute to the protection of the natural environment, conservation of the rich biodiversity of Bhutan and prevention of all forms of ecological degradation including noise, visual and physical pollution through the adoption and support of environment friendly practices and policies. (2) The Royal Government shall: (a) Protect, conserve and improve the pristine environment and safeguard the biodiversity of the country; (b) Prevent pollution and ecological degradation; (c) Secure ecologically balanced sustainable development while promoting justifiable economic and social development; and (d) Ensure a safe and healthy environment.
Article 8(2): “A Bhutanese citizen shall have the duty to preserve, protect and respect the environment, culture and heritage of the nation.”¹⁶⁸
- Cuba** Chapter I, Article 27: “The State protects the environment and natural resources of the country. It recognizes their close link with the sustainable economic and social development for making human life more sensible, and for ensuring the survival, welfare, and security of present and future generations. It corresponds to the competent organs to implement this policy. It is the duty of the citizens to contribute to the protection of the water and the atmosphere, and to the conservation of the soil, flora, fauna, and all the rich potential of nature.”¹⁶⁹
- Gambia** Chapter XX, Article 220 (1): “The exercise and enjoyment of rights and freedoms are inseparable from the performance of duties and obligations, and accordingly, every citizen shall;(j) protect and conserve the environment of The Gambia.”¹⁷⁰
- Guatemala** Chapter II, Section Seven, Article 97: “Medio ambiente y equilibrio ecológico. El Estado, las municipalidades y los habitantes del territorio nacional están obligados a propiciar el desarrollo social, económico y tecnológico que prevenga la contaminación del ambiente y mantenga el equilibrio ecológico. Se dictarán todas las normas necesarias para garantizar que la utilización y el aprovechamiento de la fauna, de la flora, de la tierra y del agua, se realicen racionalmente, evitando su depredación.”¹⁷¹
- Haiti** Chapter III, Article 51-I: “Duties of the Citizen. Civic duties are the citizen's moral, political, social and economic obligations as a whole to the State and the country. These obligations are:(h) To respect and protect the environment.”¹⁷²
- India** Part IVA, Article 51A. It shall be the duty of every citizen of India: ... (g) to protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures.”¹⁷³

¹⁶⁸ Constitution of the Kingdom of Bhutan (2008), available from:
<http://www.constitution.bt/TsaThrim%20Eng%20%28A5%29.pdf>

¹⁶⁹ Constitution of Cuba (2002), available from:
<http://www.constitutionnet.org/files/Cuba%20Constitution.pdf>

¹⁷⁰ Constitution of the Gambia (as reprinted in 2002), available from:
<http://www.ncce.gm/files/constitution.pdf>

¹⁷¹ Constitution of Guatemala (1993), available from:
<http://www.cc.gob.gt/DocumentosCC/ConstitucionGuatemala.pdf>

¹⁷² Constitution of Haiti (1987), available from:
<http://pdba.georgetown.edu/Constitutions/Haiti/haiti1987.html>

Iran	Chapter IV, Article 50 : “The preservation of the environment, in which the present as well as the future generations have a right to flourishing social existence, is regarded as a public duty in the Islamic Republic. Economic and other activities that inevitably involve pollution of the environment or cause irreparable damage to it are therefore forbidden.” ¹⁷⁴
Kazakhstan	Section II, Article 38: “Citizens of the Republic of Kazakhstan must preserve nature and protect natural resources.” ¹⁷⁵
Lao People’s Democratic Republic	Chapter Two, Article 19. “All organisations and citizens must protect the environment and natural resources: land surfaces, underground [resources,] forests, animals, water sources and the atmosphere.” ¹⁷⁶
Lithuania	Chapter IV, Article 53: “... The State and each person must protect the environment from harmful influences.” ¹⁷⁷
Myanmar	Chapter VIII, Article 390: “Every citizen has the duty to assist the Union in carrying out the following matters :... (b) environmental conservation;...” ¹⁷⁸
Panama	Title III, Chapter 7, Article 119: “El Estado y todos los habitantes del territorio nacional tienen el deber de propiciar un desarrollo social y económico que prevenga la contaminación del ambiente, mantenga el equilibrio ecológico y evite la destrucción de los ecosistemas.” ¹⁷⁹
Papua New Guinea	Basic Social Obligations: “WE HEREBY DECLARE that all persons in our country have the following basic obligations to themselves and their descendants, to each other, and to the Nation:— ... (d) to protect Papua New Guinea and to safeguard the national wealth, resources and environment in the interests not only of the present generation but also of future generations...” ¹⁸⁰
Saint Vincent and Grenadines	Article 14: “This Constitution enjoins the organs of the State, other public authorities and the people to protect and enhance the environment.” ¹⁸¹
Swaziland	Chapter V, Article 63: “The exercise and enjoyment of rights and freedoms is inseparable from the performance of duties and obligations, and accordingly, it shall be the duty of every citizen to - ... (i) protect and preserve the environment.” ¹⁸²

¹⁷³ Constitution of India (1949), available from:

http://india.gov.in/govt/documents/english/coi_part_full.pdf

¹⁷⁴ Constitution of Iran (as last amended in 1989), available from:

http://www.iranchamber.com/government/laws/constitution_ch04.php

¹⁷⁵ Constitution of Kazakhstan (as last amended in 2011), available from:

<http://www.constcouncil.kz/eng/norpb/constrk/>

¹⁷⁶ Constitution of Lao Democratic People’s Republic (as last amended in 2003), available from:

<http://www.undplao.org/whatwedo/bgresource/demogov/Lao%20Constitution.pdf>

¹⁷⁷ Constitution of Lithuania (1992), available from: http://www.lrkt.lt/Documents2_e.html

¹⁷⁸ Constitution of Myanmar (2008), available from:

http://aceproject.org/ero-en/regions/asia/MM/Myanmar-Constitution-2010/at_download/file

¹⁷⁹ Constitution of Panama (2004), available from:

<http://pdba.georgetown.edu/Constitutions/Panama/constitucion2004.pdf>

¹⁸⁰ Constitution of Papua New Guinea (as amended up until the 22nd amendment), available from:

<http://www.igr.gov.pg/constitution.pdf>

¹⁸¹ Constitution of Saint Vincent and Grenadines (2009), available from:

<http://www.hsph.harvard.edu/population/womenrights/stvincent.constitution.09.pdf>

¹⁸² Constitution of Swaziland (2005), available from: <http://aceproject.org/ero-en/regions/africa/SZ/CONSTITUTION%20OF%20THE%20KINGDOM%20OF%20SWAZILAND%2005.pdf>

- Uruguay** Section II, Chapter II, Article 47: “La protección del medio ambiente es de interés general. Las personas deberán abstenerse de cualquier acto que cause depredación, destrucción o contaminación graves al medio ambiente. La ley reglamentará esta disposición y podrá prever sanciones para los transgresores.”¹⁸³
- Uzbekistan** Part II, Chapter 11, Article 50: “All citizens shall protect the environment.”¹⁸⁴
- Vanuatu** Chapter II, Part Two, Article 7: “Every person has the following fundamental duties to himself and his descendants and to others- ... (d) to protect the Republic of Vanuatu and to safeguard the national wealth, resources and environment in the interests of the present generation and of future generations.”¹⁸⁵
- Vietnam** Chapter III, Article 29: “(1) State organs, units of the armed forces, economic and social bodies, and all individuals must abide by State regulations on the rational use of natural wealth and on environmental protection. (2) All acts likely to bring about exhaustion of natural wealth and to cause damage to the environment are strictly forbidden.”¹⁸⁶
- Yemen** Chapter III, Article 35: “Environmental protection is the collective responsibility of the state and the community at large. Each individual shall have a religious and national duty to protect the environment.”¹⁸⁷

¹⁸³ Constitution of Uruguay (as last amended in 2004), available from:
<http://www.parlamento.gub.uy/constituciones/const004.htm>

¹⁸⁴ Constitution of Uzbekistan (as last amended in 2003), available from:
<http://www.gov.uz/en/constitution/>

¹⁸⁵ Constitution of Vanuatu (1993), available from: <http://www.parliament.gov.vu/constitution.html>

¹⁸⁶ Constitution of Vietnam (as last amended in 2001), available from:
http://www.servat.unibe.ch/icl/vm00000_.html

¹⁸⁷ Constitution of Yemen (2001), available from:
<http://www.unhcr.org/refworld/category,LEGAL,,,YEM,3fc4c1e94,0.html>