OHCHR Submission to the African Commission on Human and Peoples' Rights
***Working Group on Extractive Industries, environment and human rights violations in Africa (WGEI)* on the Right to a Clean, Healthy and Sustainable Environment**

September 2025

Introduction

OHCHR welcomes the resolution of the African Commission on Human and Peoples' Rights (the Commission) **ACHPR/Res.633 (LXXXIII) 2025** in which it determines to develop a General Comment on the protection and promotion of the right to environment in Africa and the decision of its *Working Group on Extractive Industries, environment and human rights violations in Africa (WGEI)* to focus its Intersession report on the right to a general satisfactory environment favourable to development.

OHCHR stands ready to support this work and through this brief submission we seek to share select information, judicial decisions and resources on the human right to a clean, healthy and sustainable environment for consideration.

The nature and content of the right to a healthy environment

The right to a healthy environment, like all human rights, is **inherent** to and **inalienable**. The principles of **universality, equality,** and **non-discrimination** means that we are all equally entitled to it, regardless of nationality, sex, national or ethnic origin, color, religion, language, or any other status. All human rights, including the right to a healthy environment, are **indivisible** and **interdependent.**

United Nations General Assembly (UNGA) resolution 76/300[1] universally recognizes the right to a clean, healthy and sustainable environment. In its Advisory Opinion on Obligations of States in respect of Climate Change the International Court of Justice reaffirms the universality of the right to a healthy environment finding that under international law, the human right to a clean, healthy and sustainable environment is essential for the enjoyment of other human rights.

Through Resolution 76/300, the UNGA "[*r]ecognizes* the right to a clean, healthy and sustainable environment as a human right" and "*[c]alls upon* States, international organizations" – including the ICC system – "and other relevant stakeholders to adopt policies, to enhance international cooperation, strengthen capacity-building and continue to share good practices in order to scale up efforts to ensure a clean, healthy and sustainable environment for all."[2]

The fundamental nature of the human right to a clean, healthy, and sustainable environment is also grounded in applicable treaties and the principles and rules of international law. Key elements of the human right to a clean, healthy, and sustainable environment include: clean air; a safe and stable climate; safe and sufficient water; healthy and sustainably produced food; non-toxic environments in which to live, work, study and play; healthy biodiversity and ecosystems; access to information, participation in decision-making, and access to justice and effective remedies, including the secure exercise of these rights free from reprisals and retaliation[3] – all of which find basis in human rights instruments,[4]

[1] A/RES/76/300.
[2] A/RES/76/300, paras. 1 and 4.
[3] UNEP, UNOHCHR, UNDP, *Information Note: What is the Right to a Healthy Environment?* (2023).
[4] *E.g.* Articles 2 (right to effective remedy, 6 (right to life), 15 (right to cultural life), 19 (access to information), and 25 (right to political participation) of the International Convention on Civil and Political Rights; Articles 7 (adequate working conditions); 11 (adequate standards of living); 12 (right to health) of the International Convention on Economic Social and Cultural Rights; and Article 29(1) of the Convention on the Rights of the Child.

including regional instruments,[5] and "the jurisprudence of the regional human rights courts and the national and international mechanisms and practices that have been developed in this field."[6] The Inter-American Court of Human Rights has recognized the human right to a clean, healthy, and sustainable environment "as an autonomous right [which] differs from the environmental content that arises from the protection of other rights, such as the right to life or the right to personal integrity."[7]

National recognition of the right to a healthy environment

The right to a clean, healthy, and sustainable environment has already been legally recognized by 164 UN Member States in varying formulations,[8] referring to a "clean," "favorable," "wholesome," "healthy," "safe," "satisfactory," "sustainable," or "ecologically balanced", "pleasant", and "satisfying and lasting" environment.[9] The widespread constitutional protection[10] of the human right to a clean, healthy, and sustainable environment is particularly notable, as "constitutions represent the highest and strongest laws in domestic legal systems[.]"[11] A constitution reflects "a society's values and aspirations"[12] and thus evidences the right's fundamental nature. Extensive domestic jurisprudence likewise protects the right to a clean, healthy, and sustainable environment.[13]

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[5] *Situation in the Republic of Burundi*, Pre-Trial Chamber III, ICC-01/17-X (25 October 2017), fns 169, 305, and 331. *See e.g.* Art. 24, African Charter on Human and Peoples' Rights (1981); Art. 11(1), Protocol of San Salvador to the American Convention on Human Rights (1988); Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (1998) (Aarhus Convention); Art. 18, Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (2003) (Maputo Protocol); Art. 38, Arab Charter on Human Rights (2004); Human Rights Declaration, Association of Southeast Asian Nations (2012); Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean (2018) (Escazú Agreement); Reykjavik Declaration, Council of Europe (2023).

[6] *The Prosecutor v. Thomas Lubanga Dyilo*, Trial Chamber I, ICC-01/04-01/06 (07 August 2012), para. 186. *See e.g. Social and Economic Rights Action Center (SERAC) and the Center for Economic and Social Rights (CESR) v. Nigeria,* African Commission on Human and Peoples' Rights, Communication No. 155/96 (2001); *Öneryıldız v. Turkey*, European Court of Human Rights, Application No. 48939/99 (2004); *Verein Klimaseniorinnen Schweiz and Others v. Switzerland*, European Court of Human Rights, Application No. 53600/20 (2024); *Community of La Oroya v. Peru*, Inter-American Court of Human Rights (2024); *Cannavacciuolo and Others v. Italy,* European Court of Human Rights, Application No. 51567/14 (2025).

[7] State Obligations in Relation to the Environment in the Context of the Protection and Guarantee of the Rights to Life and to Personal Integrity, Advisory Opinion OC-23/17, Inter-American Court of Human Rights, para. 63.

[8] A/HRC/43/53, para. 13 *cf.* OHCHR, Press Release, *Immediate action crucial to ensure right to healthy environment, says UN expert*, 18 October 2024.

[9] *See e.g.* Argentina, Environmental Law No. 25,675 (2002), Law 27,566 (2020); Bhutan, The National Environment Protection Act of Bhutan (2007); Canada, Canadian Environmental Protection Act (1999); Chile, Law 19.300 (2021); Dominican Republic, General Law 64-00 (2000); France, Environmental Code of France (2010); India, National Green Tribunal Act (2010); Indonesia, Law No. 32/2009 (2009); Fiji, Fiji Climate Change Act (2021); Kenya, Environmental Management and Coordination Act No. 8 (1999); The Philippines, Clean Air Act of the Philippines (1999), Climate Change Act (2009); South Africa, National Environmental Management Act (1998); National Health Act (2003), Integrated Coastal Management Act (2008); Tanzania, Environmental Management Act (2004); Uganda, National Environment Act (1995); Zambia, Environmental Management Act (2011); Zimbabwe, Environmental Management Act 13/2022 (2022).

[10] *See e.g.* Argentina (Article 41); Bolivia (Articles 9, 30, 33, 34); Brazil (Article 225); Chile (Articles 19(8), 20); Colombia (Article 79); Costa Rica (Article 50); Croatia (Article 69); Dominican Republic (Articles 67, 75); Ecuador (Articles 14, 15); Egypt (Article 69); Fiji (Section 40); Finland (Section 20); France (Law No. 2005-205); Guyana (Article 149J); India (Articles 21, 48A, 51A(g)); Indonesia (Article 28H(1)); Kenya (Articles 42, 70); Maldives (Article 23(a)); Mexico (Article 4); Nigeria (Articles 17(2), 20); Norway (Article 112); The Philippines (Article II, Section 16); Portugal (Articles 9, 52, 66); Slovenia (Article 72); South Africa (Section 24); Spain (Article 45); Uganda (Article 39); Venezuela (Article 127); Zimbabwe (Section 73).

[11] A/HRC/43/53, para. 10.

[12] Ibid.

[13] *See e.g. Beatriz Silva Mendoza & Others v. National State & Others*, Supreme Court, Argentina, M. 1569. XL (2008); *PSB et al. v. Brazil (on Climate Fund)*, Supreme Court, Brazil, ADPF 708 (2022); *Salamanca Mancera v. Presidencia de la República de Colombia*, Supreme Court, Colombia, T-622/18 (2018); *Future Generations v.*

The right to a healthy environment in the context of extractives

In the particular context of extractives, the UN Secretary-General's Panel on Critical Energy Transition Minerals has issued a report *Resourcing the Energy Transition: Principles to Guide Critical Energy Transition Minerals Towards Equity and Justice* which calls for human rights to be at the core of all value chains. Additional reports by the special procedures' mechanisms of the Human Rights Council and OHCHR highlight the critical relationship between human rights, including the right to a clean, healthy and sustainable environment and extractives.[14]

States' obligations with regard to the right to a healthy environment

With regards to State responsibility in respect of the right to environment, Art 24 of the African Charter states that States have the responsibility and duty to respect, protect, promote and fulfill the right of all to "a general satisfactory environment favorable to their development". In practice, this requires (1) preventing environmental harm through laws, standards and enforcement (including environmental and social impact assessment, disclosure and participation); (2) regulating private actors, particularly in the extractive sector, with effective oversight and sanctions; and (3) ensuring access to information, participation and remedy including judicial and non-judicial mechanisms and prompt remediation.[15] In *Social and Economic Rights Action Center (SERAC) and the Center for Economic and Social Rights (CESR) v. Nigeria,* for example, the Commission clarified that failure to prevent pollution, monitor operations, and consult affected communities violates Arts. 16 and 24 of the African Charter on Human and Peoples' Rights, and that Sates must take reasonable measures to secure this right.

These obligations apply to State agents or anyone acting on behalf of the State or exercising public authority.[16] They must be fulfilled with particular attention to the rights of marginalized groups, including women, Indigenous Peoples, local communities, children, and environmental human rights defenders. States should guarantee safe participation, non-discrimination, and protection of environmental human rights defenders (EHRDs) who speak out and advocate for measures to protect the environment and ensure the respect of human rights of affected people. They should also align environmental decision making with international and regional human rights standards and integrate

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Ministry of the Environment and Others, Supreme Court, Colombia (2018) STC 4360-2018; *Neubauer et al. v. Germany*, Constitutional Court, Germany, 1 BvR 2656/18 (2021); *M.C. Mehta v. Union of India*, Supreme Court, India, SC 1086 (1986); *Re. Court on Its Own Motion v. State of Himachal Pradesh and Others*, National Green Tribunal, India, O.A. No. 389/2018 (2018); *Greenpeace Mexico v. Ministry of Energy and Others*, First Circuit Collegiate Tribunal, Mexico, Amparo Directo en Revisión 104/2020 (2020); *Shrestha v. Office of the Prime Minister et al., Supreme Court*, Nepal, 074-WO-0283 (2018); *Urgenda Foundation v. State of the Netherlands*, Supreme Court, Netherlands (2015) ; *Jonah Gbemre v. Shell Petroleum Development Company of Nigeria Limited*, Federal High Court, Nigeria, FHC/B/CS/53/05; (2005) *Ashgar Leghari v. Federation of Pakistan*, Lahore High Court, Pakistan, W.P. No. 25501/2015 (2015); *Minors Oposa v. Secretary of the Department of Environmental and Natural Resources*, Supreme Court, Philippines, G.R. No. 101083 (1993); *Earthlife Africa v. Minister of Environmental Affairs*, High Court, South Africa, No. 65662/16 (2017); *The Trustees for the Time Being of Groundwork Trust and Another v. Minister of Environmental Affairs and Others*, High Court, South Africa, No. 39724/2019 (2022); *Held v. State of Montana*, District Court, USA, CDV-2020-307 (2023).

[14] *See e.g.* Secretary-General's 'Synthesis report on opportunities, best practices, actionable solutions, challenges and barriers relevant to just transition and the full realization of human rights for all people' (A/HRC/60/52); Report of the Special Rapporteur on the promotion and protection of human rights in the context of climate change on 'A human rights-based approach to the energy transition' (A/80/188); Report by the Working Group on business and human rights on 'Extractive sector, just transition and human rights' (A/78/155); Report of the Special Rapporteur on the human rights of Indigenous Peoples on 'Green financing – a just transition to protect the rights of Indigenous Peoples' (A/HRC/54/31)

[15] See African Commission on Human and Peoples' Rights, *State Reporting Guidelines and Principles on Articles 21 and 24 of the African Charter Relating to Extractive Industries, Human Rights, and the Environment*, May 2021, Banjul, The Gambia.

[16] Ibid, para. 40.

climate and biodiversity action with just-transition measures that prevent new harm and provide remedy where damage occurs.

Several international instruments confirm these core State duties. The Independent Panel on Climate Change (IPCC), for example, notes that every State has an "obligation to respect, protect and promote human rights, including in all actions undertaken to address environmental challenges, and to take measures to protect the human rights of all … and that additional measures should be taken for those who are particularly vulnerable to environmental degradation."[17] In their recent advisory opinions on climate change, the Inter-American Court of Human Rights, and the International Court of Justice further outlined what States' obligations are in relation to the right to a safe and healthy environment. These include obligations to prevent and mitigate climate harm, protect vulnerable groups, regulate corporate activities, and ensure access to remedies for victims of climate-related impacts.[18] These obligations are to all rights holders both inside and outside their territories, to whom states should be accountable for their contributions to climate change, including for failure to adequately regulate the emissions of businesses under their jurisdiction.[19]

The Aarhus Convention[20] and the Escazú Agreement[21] not only protect the rights to information, access to justice and public participation in environmental matters, but they also recognize the important role of EHRDs, who continue to face significant challenges in safeguarding the environment[22] and require protection in exercising their rights, including the right to a safe and healthy environment. Indeed, as required by the International Covenant on Civil and Political Rights, the UN Declaration on Human Rights Defenders, and other international instruments, States must respect, protect and fulfil the rights of environmental human rights defenders to participation, access to information, freedom of expression, assembly, and association, take action to protect defenders, including against threats to their lives or wellbeing, and provide access to justice and effective remedy when their rights are violated. States must also conduct timely investigations and prosecute those responsible for violence and intimidation. Further, it is essential to prevent strategic lawsuits against public participation and to ensure a safe, enabling environment for initiatives led by young people and children in defending the right to the environment.[23]

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[17] IPCC report (2022) p. 7. Available at https://www.ipcc.ch/report/ar6/wg2/downloads/report/IPCC_AR6_WGII_SummaryForPolicymakers.pdf

[18] See State Obligations in Relation to the Environment in the Context of the Protection and Guarantee of the Rights to Life and to Personal Integrity, Advisory Opinion OC-23/17, Inter-American Court of Human Rights, para. 63.

[19] See Committee on the Elimination of Discrimination Against Women (CEDAW), *General recommendation No. 37 (2018) on the gender-related dimensions of disaster risk reduction in the context of climate change*, paras. 43 and 49.

[20] UNECE, "Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention)", 25 June 1998, Aarhus, Denmark. Available at https://unece.org/DAM/env/pp/documents/cep43e.pdf.

[21] CEPAL, "Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean", 4 March 2018, Escazú, Costa Rica. Available at https://www.cepal.org/en/escazuagreement.

[22] Vanguard, 126 environment defenders killed in Africa – Global Witness report, 15 September 2025, available at https://www.vanguardngr.com/2025/09/126-environment-defenders-killed-in-africa-global-witness-report/#google_vignette.

[23] OHCHR and International Labour Organization, "Human Rights and a Just Transition," https://www.ohchr.org/sites/default/files/documents/issues/climatechange/information-materials/key-messages-hr-a-just-trans.pdf.