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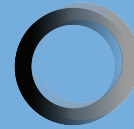
Jérémie Gilbert

Coordination

Farid Lamara (AFD)

Sarah Hayes (AFD)

Human Rights as a Prism for Analysing the Ecological Transition



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Human Rights as a Prism for Analysing the Ecological Transition

Author

Jérémie Gilbert,
University of Roehampton
(London)
Professor of Human Rights
Centre for Equality, Justice
and Social Change

Coordination

Farid Lamara (AFD)
Sarah Hayes (AFD)

Abstract

Combatting the ecological crisis and protecting human rights are interdependent challenges that require collective efforts by governments, international organisations, civil society, businesses and individuals. Most human rights are negatively affected by the ecological crisis. But on a more positive note, the international human rights normative framework highlights a number of avenues for ensuring an effective, sustainable, just and equitable ecological transition. Not only does the protection of the environment contribute to the realisation of human rights, but the protection of human rights also plays a role in preserving the environment, and presents avenues for ecological transition. The right to a clean, healthy and sustainable environment includes the fundamental rights to clean air, a safe climate, access to drinking water, healthy and sustainably produced food, non-toxic environments, and healthy biodiversity and ecosystems.

As this study underlines, a human rights-based approach calls on states to commit to the transition to agro-ecological food systems, to halt and reverse deforestation and land degradation, and to enhance adaptive capacities, particularly those of vulnerable and marginalised populations. By adopting a human rights-based approach to address the ecological crisis, this report offers guidelines for

assessing the capacity of human rights to serve as a compass for ensuring that the ecological transition is fair, sustainable and equitable. Many rights are directly concerned, and in particular several economic and social determinants of the right to health, such as access to nutritious food, drinking water, sanitation and housing. Addressing the global ecological crisis from a human rights perspective highlights the principles of universality and non-discrimination, while emphasising that these rights must be guaranteed to everyone, including members of vulnerable groups.

While almost everyone suffers the effects of environmental degradation, the consequences are most severe for those who are already marginalised or vulnerable. Those most at risk are often children and young people, the elderly, people with disabilities, people living in poverty, marginalised ethnic, racial and other minorities, Indigenous peoples, internally and cross-border displaced persons, refugees and migrants, and human rights defenders. Tackling inequalities in the face of the ecological crisis requires a human rights-based approach that integrates environmentally, socially and economically just solutions to ensure that no one is left behind in the transition to a more sustainable future. This report analyses how, in response to the various human rights impacts of the ecological crisis, both human rights doctrine and

jurisprudence are rapidly developing to promote a human rights-based approach to the ecological transition. By aligning just transition principles with human rights, policy-makers and stakeholders can work together to ensure that the move towards sustainability is socially just and does not compromise the rights and well-being of individuals and communities.

Keywords

Human rights, Ecological crisis

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Résumé

La lutte contre la crise écologique et la protection des droits humains sont des défis interdépendants qui nécessitent des efforts collectifs de la part des gouvernements, des organisations internationales, de la société civile, des entreprises, et des individus. La majorité des droits humains sont affectés négativement par la crise écologique. Mais de manière plus positive, le cadre normatif international des droits humains met en avant de nombreuses pistes pour assurer une transition écologique efficace, durable, juste et équitable. Non seulement la protection de l'environnement contribue à la réalisation des droits humains, mais la protection des droits humains joue un rôle dans la préservation de l'environnement, et présente des pistes pour la transition écologique. Le droit à un environnement propre, sain et durable intègre les droits fondamentaux à un air pur, à un climat sûr, à l'accès à l'eau potable, à une alimentation saine et produite de manière durable, à des environnements non toxiques, ainsi qu'à une biodiversité et à des écosystèmes sains.

Comme le souligne cette étude, une approche fondée sur les droits humains invite les États à s'engager pour la transition vers des systèmes alimentaires agro-écologiques, arrêter et inverser le processus de déforestation et de dégradation des sols, et améliorer les capacités d'adaptation, en particulier celles des populations vulnérables et marginalisées.

En adoptant une approche centrée sur la place des droits humains face à la crise écologique, ce rapport offre des pistes pour évaluer la capacité des droits humains à servir de boussole pour assurer que la transition écologique soit juste, durable, et équitable. De nombreux droits sont directement concernés, et particulièrement, plusieurs déterminants économiques et sociaux du droit à la santé, tels que l'accès à une alimentation nutritive, à l'eau potable, à l'assainissement et au logement. Aborder la crise écologique globale sous l'angle des droits humains permet de mettre en lumière les principes d'universalité et de non-discrimination, tout en soulignant que ces droits doivent être garantis à chacun, y compris aux membres des groupes vulnérables.

Si la quasi-totalité des individus subissent les effets de la dégradation de l'environnement, les conséquences sont plus graves pour les personnes qui se trouvent déjà dans des situations de marginalisation ou de vulnérabilité. Les personnes les plus exposées sont souvent les enfants et les jeunes, les personnes âgées, les personnes handicapées, les personnes vivant dans la pauvreté, les minorités ethniques, raciales ou autres minorités marginalisées, les peuples autochtones, les personnes déplacées - à l'intérieur d'un pays ou au-delà des frontières, les réfugiés et les migrants, ainsi que les défenseurs des droits humains. La lutte contre les inégalités face à la crise écologique exige une

approche fondée sur les droits humains qui intègre des solutions juste sur le plan environnemental, social et économique visant à garantir que personne n'est laissé pour compte dans la transition vers un avenir plus durable. Ce rapport analyse comment face aux différents impacts de la crise écologique sur les droits humains, aussi bien la doctrine que la jurisprudence des droits humains se développent rapidement pour mettre en avant une approche fondée sur les droits humains allant dans le sens de la transition écologique. En alignant les principes de la transition juste sur les droits humains, les décideurs politiques et les parties prenantes peuvent travailler ensemble pour s'assurer que l'évolution vers la durabilité est socialement juste et ne compromet pas les droits et le bien-être des individus et des communautés.

Mots-clés

Droits humains, Crises écologiques

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Introduction

The global ecological crisis, which refers to worldwide environmental challenges such as biodiversity loss, species extinction, deforestation and the general degradation of the planet's ecosystems, has profound implications for human rights. For several years, publications by the Intergovernmental Panel on Climate Change (IPCC) and the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services (IPBES) have illustrated the social and human impacts of climate change and biodiversity decline (IPBES, 2019) (IPCC, 2023). These impacts include potential threats to food security, access to water, health and other aspects of human well-being. The increased frequency and intensity of natural disasters, extreme weather events and rising sea levels can lead to loss of life, population displacement and outbreaks of disease. Air pollution and exposure to hazardous chemical products can also damage human health.

¹ Michelle Bachelet, 13 September 2021, 48th session of the United Nations Human Rights Council: <https://www.ohchr.org/en/2021/09/environmental-crisis-high-commissioner-calls-leadership-human-rights-council-member-states?LangID=E&NewsID=27443>

² The preamble of the 2015 Paris Climate Accords emphasises that “the Parties should [...] respect,

The links between the environment and human rights are becoming increasingly apparent as the ecological crisis intensifies. The United Nations Office of High Commissioner for Human Rights (OHCHR) has described the triple global crisis of climate change, biodiversity loss and pollution as the greatest threat to human rights.¹ The need to consider human rights was also recognised as an essential element of the fight against climate change in the Paris Climate Accords.² The global ecological crisis also has a direct impact on development. The disproportionate environmental risks faced by marginalised and vulnerable communities, particularly on the basis of ethnicity, income and other socio-economic factors, lead to profound inequalities in the face of the ecological crisis.

The emergence of the right to a clean, healthy and sustainable environment

Since the adoption of the Universal Declaration of Human Rights (UDHR) in

promote and consider their respective obligations on human rights, the right to health, the rights of indigenous peoples, local communities, migrants, children, persons with disabilities and people in vulnerable situations and the right to development, as well as gender equality, empowerment of women and intergenerational equity”.

1948, the substance of human rights has evolved enormously to include an increasingly marked environmental aspect, culminating in 2021, following several years of campaigning and persistent pressure by human rights and environmental defenders, when the United Nations Human Rights Council declared that the right to a clean, healthy and sustainable environment constitutes a fundamental right.³ This right was affirmed at global level by the adoption of a resolution by the UN General Assembly.⁴ The statement of this resolution is clear:

“Recognising further that environmental degradation, climate change, biodiversity loss, desertification and unsustainable development constitute some of the most pressing and serious threats to the ability of present and future generations to effectively enjoy all human rights.” (Preamble)

The adoption of this resolution reflects the growing interdependence between the norms relating to human rights and

environmental protection. More generally, the link between human rights and the right to a healthy environment is firmly established in international jurisprudence. At a national level, over 150 countries have recognised the right to a safe, clean, healthy environment.⁵

Ecological transition and human rights

Combatting the ecological crisis and protecting human rights are interdependent challenges that require collective efforts by governments, international organisations, civil society, businesses and individuals. The integration of human rights principles into environmental policies can help reduce the impact of the ecological crisis on vulnerable communities and protect the rights of current and future generations. This can serve as a compass to guide the necessary ecological transition of our economies.

The ecological transition is a move towards a new economic and social model that will offer a long-lasting, global solution to the threats which our planet

³ Resolution 46/7 on Human Rights and the Environment, A/HRC/46/L.6/Rev.1 (30 March 2021)

⁴ General Assembly, “The human right to a clean, healthy and sustainable environment”, Resolution A/76/L.75, (26 July 2022)

⁵ Report by the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment (A/HRC/43/53) (2020)

faces. The ecological transition aims to establish a resilient, sustainable development model that reconsiders the way in which we consume, produce, work and live together (OXFAM, 2022). The concept of a “just transition” is closely linked to human rights and responds to the need to ensure that the transition to a more sustainable, low-carbon economy is fair, inclusive and respectful of human rights. This means recognition that ceasing the use of fossil fuels and other unsustainable practices in order to address the ecological crisis may have significant social and economic consequences; these must be managed while taking into account respect for human rights.

On the occasion of the 75th anniversary of the UDHR, the Office of the High Commissioner for Human Rights (OHCHR) called for the development of an economy focused on human rights – in other words, an economy that places people and the planet at the heart of economic policies and models, investment decisions and consumer choices, while respecting the planet’s

ecological balance.⁶ This approach emphasises that economic and environmental objectives should not be pursued to the detriment of human rights, but rather should be integrated in a mutually reinforcing manner. This study focuses on this idea of mutual reinforcement, with the objective being to explore not only how human rights are impacted by the global ecological crisis, but also how human rights can serve as a compass to guide the necessary radical changes to our ways of relating to nature, while ensuring respect for fundamental rights.

Study objectives and methodology

Based on the observation made at the 2021 “Human Rights and Development” conference that a just transition implies emancipation from an overly anthropocentric view of human rights in order to make more of the link with the rights of nature, this study aims to pursue a reflection on this relationship between development, human rights and the rights of nature by placing it in the context of the urgency of the ecological transition. This reflection takes place on two levels.

⁶ See Human Rights 75 Initiative: <https://www.ohchr.org/en/human-rights-75>

Initially, we need to determine the impact of the ecological crisis on human rights, in order to then ascertain which rights and which populations are most affected.

It is not the sole objective of this report to be alarmist, it also intends to shed light on the capacity of human rights to act as a lever, compass or catalyst for ecological transition. For this purpose, the analysis is carried out in two stages, initially with this first research paper focusing on the impact of the ecological crisis on human rights in order to explore the opportunities offered by human rights doctrine and jurisprudence to remedy the impact of the various ecological crises on fundamental rights. To complete this reflection on the role of human rights in the face of the ecological crisis, a second study will explore how a just transition implies emancipation from an overly anthropocentric view of human rights in order to make more of the link with the rights of nature.⁷

⁷ The second study, scheduled for March 2024, considers the intrinsic links between conventional human rights, the right to a healthy environment and the rights of nature.

⁸ See, in particular, the Report of the Independent Expert on the issue of human rights obligations

This first study is based on a meticulous review and in-depth analysis of the work of international bodies, multiple works by United Nations institutions, notably under the auspices of the Office of the High Commissioner for Human Rights (OHCHR), and the jurisprudence of international courts and tribunals. This allows an analysis of the different approaches put forward on the link between human rights and the ecological crisis. The review of the activities of these institutions and mechanisms to protect human rights at an international level is intended to be analytical rather than exhaustive. It is not the objective to review the human rights standards and procedures that relate to environmental protection, as a very comprehensive inventory of this has been conducted by various UN mechanisms.⁸ There are also very many works and analyses that explore the links between environmental law and human rights (Knox *et al.*, 2018) (Boyle, 2011) (Gear *et al.*, 2015). Nevertheless, although the literature on the subject is very rich, the analysis

relating to the enjoyment of a safe, clean, healthy and sustainable environment (A/HRC/25/53) (30 December 2013), as well as all reports by the Special Rapporteur on the environment and human rights.

generally focuses on specific issues such as climate change and the impact of pollution and biodiversity loss, and rarely adopts a more general reflection on the relationship between human rights and the ecological transition. By adopting an approach that is more focused on the place of human rights in the face of the ecological crisis, this report offers guidelines for assessing the capacity of human rights to serve as a mobilising force to ensure that the ecological transition is fair, sustainable and equitable.

1. The right to an environment of a quality that permits a life of dignity

The ecological crisis has profound repercussions for human rights. The impacts are vast and multiform, affecting a multitude of rights, including the right to life, health, food, water, shelter and a clean environment. A clean, healthy and sustainable environment is both a right and a necessary condition for the full enjoyment of a wide range of rights. As human beings, we depend very considerably on nature for our basic needs; it gives us, among other things, food, water, shelter and clothing. These vital functions of nature are threatened by pollution and environmental degradation, with significant consequences for human rights.⁹ As the Human Rights Committee (HRC) recently recalled in its general comment on the right to life, environmental degradation, climate change and unsustainable development are some of the most pressing threats to the capacity of present and future generations to enjoy the right to life.¹⁰ The right to an environment of a quality that permits a life of dignity was proclaimed at international level by the declaration adopted by the United Nations Conference on the Human Environment in Stockholm in June 1972. Since then, numerous international bodies and courts have recognised that environmental degradation has a direct impact on the right to a sufficient standard of living, this being established as a minimum in terms of the right to adequate food, clothing and housing.¹¹ A life of dignity means the right to an adequate standard of living for physical, mental, spiritual, moral and social development (Daly, 2022). This includes the right of all persons to an adequate standard of living for themselves and their

⁹ See the annual reports of the various Special Rapporteurs on the subject, in particular the Special Rapporteur on Human Rights and the Environment; the Special Rapporteur on Toxics and Human Rights; and the Special Rapporteur on the Promotion and Protection of Human Rights in the Context of Climate Change. Moreover, several other Special Rapporteurs of the United Nations human rights system have mandates that overlap with issues linked to the ecological crisis; these include the Special Rapporteurs on Health, Food, Drinking Water and Sanitation, as well as on Indigenous Peoples.

¹⁰ Human Rights Committee, General comment No. 36 – UN doc. CCPR/C/GC/36 (2019)

¹¹ See *Portillo Cáceres and others v Paraguay*, para. 7.4; Inter-American Court of Human Rights, Advisory Opinion on the Environment and Human Rights, OC-23/17, 15 November 2017, series A, no. 23; *Kawas Fernández v Honduras*, Judgment of 3 April 2009, Series C, no. 196, para. 148; African Commission on Human and Peoples' Rights, General Comment no. 3 on the African Charter on Human and Peoples' Rights on the right to life (art. 4), para. 3 European Court of Human Rights, *Cordella and others v Italy* (application nos. 54414/13 and 54264/15), Judgment of 24 January 2019, para. 157.

families. Many rights are directly concerned, in particular several economic and social determinants of the right to health, such as access to nutritious food, drinking water, sanitation and housing.

1.1. The right to sufficient, safe and adequate food

The right to food, enshrined in Article 11 of the International Covenant on Economic, Social and Cultural Rights, incorporates the concept of sufficient, healthy and adequate food. In its General Comment no. 12 (1999) on the right to adequate food, the Committee on Economic, Social and Cultural Rights gives concrete meaning to this right, stressing that it must not give rise to a narrow or restrictive interpretation and that the concept of a right to adequate food refers not only to the notion of quantity, but also to that of quality. The Committee also considers that this right encompasses the right to food that is free from harmful substances.

Food production, food security and the enjoyment of the right to food are affected by changing rainfall patterns, rising temperatures, extreme weather events, droughts, floods, algal blooms and salinisation. The effects of climate change are influencing major crops and other sources of food, intensifying both food shortages and the main factors associated with food insecurity, such as poverty and conflict. According to the World Food Programme, some 345 million people faced acute food insecurity in 2023, more than twice as many as in 2020, and climate change is expected to expose a further 80 million people to the risk of famine by the middle of the century. The increasing frequency and severity of droughts, attributed to climate change, represent a major threat to the right to food. Benyam Dawit Mezmur, a member of the Committee on the Rights of the Child, pointed out that recent projections suggest that children born in 2020 are likely to endure almost three times as many droughts and crop failures as their grandparents, with the children of low-income countries carrying the burden of the environmental crisis.¹²

¹² High Commissioner for Human Rights: the environment is dying and the right to food is comprehensively threatened by climate change – the world demands action now (3 July 2023): <https://www.ohchr.org/en/news/2023/07/high-commissioner-human-rights-environment-dying-and-right-food-comprehensively>

An observation is that agribusiness is one of the main contributors to climate change and environmental degradation, given that agriculture and livestock farming in particular are significant emitters of greenhouse gases and therefore major contributors to global warming (Blanfort *et al.*, 2015) (Naqvi, 2011) (Lenka, 2015). Several United Nations institutions have recognised the urgent need to transform industrial food systems, emphasising that, in light of the impact of different environmental pressures on the right to food, human rights encourage the transition to more environmentally-friendly food systems.¹³ This approach is as much economic as it is social and environmental.

Another observation concerns the excessive use of food production methods that are based on approaches that are harmful to the environment, including pesticides, with several UN reports emphasising the inequalities between rich and poor countries, and the disproportionate impact on the poorest populations. The great majority of pesticide poisonings and deaths occur in low- and middle-income countries, where health, safety and environmental regulations are less strict. Furthermore, pesticides considered to be extremely hazardous, the use of which is not or no longer permitted in industrialised countries, are very frequently exported to developing countries (Sakar *et al.*, 2021). The harmful nature of these products affects both humans and ecosystems. In 2017, the Special Rapporteur on the right to food analysed the impact of the use of pesticides in detail, emphasising that all people have the right to protection against the excessive or inappropriate use of pesticides.¹⁴ The report highlights the role of agribusiness in denying the dangers of certain pesticides and the extent of their effects, as well as the aggressive marketing tactics employed by the powerful chemical industry to influence political decision makers and challenge scientific evidence.¹⁵

¹³ See, for example, the Voluntary Guidelines to support the progressive realisation of the right to adequate food in the context of national food security, adopted at the 127th session of the FAO Council, November 2004.

¹⁴ Report of the Special Rapporteur on the right to food, A/HRC/34/48 (24 January 2017). The report was drawn up in collaboration with the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes.

¹⁵ The report also highlights that “arguments suggesting that pesticides are needed to safeguard the right to food and food security clash with the right to health, in view of the myriad negative health impacts associated with certain pesticide practices.” (para. 42)

Faced with this observation, a human rights-based approach suggests practical steps for protecting the right to sufficient, healthy and adequate food. Firstly, there is a call to move towards agriculture that does not use pesticides that are harmful to human health and the environment. This call highlights the excessive use of food production methods based on approaches that are harmful to the environment, including pesticides. The recommendations for pesticide-free agriculture propose a transition to sustainable agricultural practices (such as organic farming, biodynamics, agroecology, high environmental value agriculture, ecologically intensive agriculture) that take into account resource scarcity and climate change. On this subject, Olivier De Schutter, the former Special Rapporteur on the right to food, emphasised how agroecology, while improving the quality of the soil, surface water and groundwater, also contributes to improving the livelihoods of small-scale farmers and people living in poverty.¹⁶ As he explains, agroecology “can lead to modes of production that are highly productive, highly sustainable and which contribute to the reduction of rural poverty and, consequently, the achievement of the right to food.” (De Schutter, 2017).

There is indeed a close link between human health and production methods that respect the environment. Agroecology, for example, offers an approach that respects both the health of the planet and fundamental rights (Timmermann, Georges, 2015). There are an increasing number of indications from UN bodies that the right to food includes the right to healthy food produced using sustainable methods. This reflection also forms part of a wider framework of emphasising the rights of small farmers in the face of the domination of food production systems by agribusiness giants (Golay, 2010). It is in this context that the United Nations Declaration on the Rights of Peasants was adopted by the General Assembly in 2018. This highlights forms of agricultural production based on sustainable methods that are as respectful of health as they are of preserving the environment.¹⁷ In general, the right to food is evolving to support and form part of a transition of agriculture towards

¹⁶ Report by the Special Rapporteur on the right to food, Olivier De Schutter, A/HRC/16/49 (20 December 2010)

¹⁷ United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas, Resolution adopted by the General Assembly on 17 December 2018, A/RES/73/165

methods that are more respectful of the planet and that highlight the rights of small farmers in respect of the agribusiness markets.

1.2. The right to water and restoration of aquatic ecosystems

The Committee on Economic, Social and Cultural Rights adopted General Comment no. 15 on the right to water, stressing that “the right to water is indispensable for leading a life in accordance with human dignity”.¹⁸ The right to water encompasses the right of all persons to sufficient, healthy, acceptable and physically accessible water for personal and domestic use. In 2010, the United Nations General Assembly adopted a resolution recognising that “the right to drinking water and sanitation is a human right that is essential for the full enjoyment of life and the exercise of all human rights”. The right to healthy, clean drinking water is closely linked to the right to a clean, safe, healthy and sustainable environment, as water is a natural resource the quality and quantity of which depend entirely on the environment.

The majority of the planet’s aquatic ecosystems are under threat due to exponential levels of pollution combined with increased risks due to climate change. Climate change and the many forms of pollution affecting aquatic ecosystems have an impact on the water cycle, influencing the timing, location and quantity of precipitation, thus affecting access to water for numerous populations.¹⁹ By 2040, nearly 600 million children will be living in regions where water resources will be extremely limited (UNICEF, 2017).

The global water crisis, together with the negative effects of water pollution, has serious consequences for the enjoyment of numerous rights.²⁰ The European Court of

¹⁸ General Comment no. 15 (2002) on the right to water.

¹⁹ A practical example is the situation of the “flying rivers” of the Amazon, where deforestation is endangering the “phenomenon through which water evaporates in the Atlantic and is transported by the Amazon through the cloud system to the Andes, thus irrigating the Americas. Some 350 million people depend on this last flying river for drinking water, as does 65 per cent of food production in Latin America and 70 per cent of the region’s GDP.” Source: Proceedings of the AFD Human Rights and Development Conference, December 2021, p. 103.

²⁰ See the Report of the Special Rapporteur on “Human rights and the global water crisis”, A/HRC/46/28 (2021)

Human Rights has ruled that water pollution may violate several human rights, including the right “to the enjoyment of a healthy and protected environment.”²¹

The Special Rapporteur on the human rights to safe drinking water and sanitation highlighted in a 2023 report that the problem of access to safe drinking water is largely the result of overexploitation and the pollution of aquatic ecosystems.²² One of the findings is that the failure to respect the right to drinking water is not linked to the unavailability of water, but rather to poor governance. As the report emphasises, it is simplistic and misleading to claim that the global water crisis is the result of a shortage of fresh water on the planet. This assertion obscures the real problems, which are linked to pollution, overexploitation and the poor management of rivers, lakes, wetlands and aquifers. There is a convergence between the challenge of respecting the rights of people living in poverty with limited access to water, and the restoration of aquatic ecosystems. As the Special Rapporteur concludes, “ensuring drinking water to the 2 billion people without guaranteed access to it, most of them severely impoverished, is only possible if progress is made in restoring the good condition of the aquatic ecosystems that supply their water.”²³ More generally, there is little doubt that respect for the right to water represents one of the major challenges in the fight against the degradation of aquatic systems.

1.3. The right to health and a liveable environment

As Article 25 of the Universal Declaration of Human Rights proclaims: “Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care...”. The right to enjoy an optimal standard of physical and mental health includes the enjoyment of a variety of facilities, goods, services and conditions which are necessary for the achievement of the best standard of health possible, including a healthy

²¹ Tătar v Romania (application no. 67021/01), 27 January 2009.

²² See the 2023 report: <https://www.ohchr.org/en/documents/thematic-reports/ahrc5432-fulfilling-human-rights-those-living-poverty-and-restoring>

²³ Report of the Special Rapporteur on the human rights to safe drinking water and sanitation, Pedro Arrojo Agudo: “Fulfilling the human rights of those living in poverty and restoring the health of aquatic ecosystems: two converging challenges”, A/HRC/54/32 (20 July 2023)

environment. As the COVID-19 pandemic highlighted, the risks associated with environmental deterioration and the erosion of biodiversity are contributing to an increase in zoonoses which can jump from animals to humans and cause viral epidemics. Pollution associated with industrial activities, including exposure to toxic substances and hazardous waste, entails threats to health, often leading to negative effects, even a long time after exposure.

Climate change has a direct impact on the right to health, not only through premature death but also due to increased incidences of respiratory and cardiovascular diseases, malnutrition, suppression of growth, emaciation, allergies, injuries and mental illness. Many UN institutions have highlighted climate change as the greatest threat to global health in the twenty-first century, and may reverse fifty years of progress in this field.²⁴ In this context, the right to health has been interpreted to include the right to breathe clean air²⁵ as well as the right to live in a safe climate.²⁶ The OHCHR noted six effects on health: heat-related deaths, air pollution, extreme weather events and natural disasters, the increase of vector-borne diseases, nutrition, and mental health.²⁷

The ecological crisis has consequences for the right to mental health (Guernut, Baleige, 2020). Several scientific studies have confirmed that the impacts of climate change have significant harmful effects on mental health, particularly among young people. In 2022, the Intergovernmental Panel on Climate Change (IPCC) highlighted that: "Mental health challenges, including anxiety and stress, are expected to increase under further global warming in all assessed regions, particularly for children, adolescents, the elderly, and those with underlying health conditions (very high degree of confidence)."²⁸ Despite recognition of the multiple impacts of the

²⁴ See "Analytical study on the relationship between climate change and the human right of everyone to the enjoyment of the highest attainable standard of physical and mental health", Report of the Office of the United Nations High Commissioner for Human Rights, A/HRC/32/23 – as well as the Report of the Special Rapporteur, A/HRC/40/55 (8 January 2019)

²⁵ A/HRC/40/55

²⁶ A/74/161

²⁷ A/HRC/32/23, paras.15-17

²⁸ Working Group II Contribution to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change, 2022, Impacts, Adaptation and Vulnerability: Summary for Policymakers, B.4.4, p. 15.

various environmental crises on the right to health, the report by the Special Rapporteur on the right to health made a severe assessment: “the failure of the international community to take the health impact of global warming seriously will endanger the lives of millions of people across the world.”²⁹

1.4. The right to a healthy, ecological habitat

The International Covenant on Economic, Social and Cultural Rights sets out that all persons have the right to adequate housing. The Committee on Economic, Social and Cultural Rights has emphasised that the right to adequate housing goes beyond the simple right to have a roof over one’s head and includes the right to a healthy habitat, including the right to live in an unpolluted habitat.³⁰ The current and anticipated effects of climate change present serious risks to the right to housing. Natural disasters such as hurricanes, floods and forest fires can cause massive destruction of property and displace communities, threatening their right to housing. Floods and landslides, caused by increased precipitation intensity, as well as rising sea levels and storm surges in coastal areas, can have serious repercussions on housing and service infrastructures, such as drainage and sanitation networks. The availability of resources, services, materials, facilities and infrastructures, as well as habitability, can be affected by environmental damage such as soil and water pollution, or the inappropriate disposal of toxic and hazardous waste. Events linked to climate change often disproportionately affect the most vulnerable populations whose housing conditions are already precarious and often unhealthy. It is these populations who are most directly affected when their habitats become threatened or uninhabitable due to pollution or climate change. This raises questions of environmental justice and equity. The poorest people are the most likely to suffer the negative effects of climate change, including their right to adequate housing.

In this context, and in order to counter all these negative effects, the Special Rapporteur on housing proposes to explore how the right to housing can become a

²⁹ A/62/214.

³⁰ E/1992/23, annexe III.

driver for a just transition.³¹ The published report underlines that not only does the climate crisis seriously threaten the exercise of the right to adequate housing, but also that the housing construction industry contributes significantly to climate change.³² It is on this point that it is suggested that an approach should be adopted that promotes the right to healthy, ecological housing. The report calls for a just transition to climate-resilient, carbon-neutral housing. The report also illustrates that this includes ensuring that all climate mitigation and adaptation projects conform with the right to adequate housing, adopting energy efficiency standards and highlighting the need for States to invest in the development of new social housing that is carbon neutral, climate resilient and affordable for all. The report emphasises that the costs of such a transition in the housing sector must be shared fairly between and within countries, as well as between public authorities, taxpayers, homeowners and tenants or other affected groups, to guarantee that no one is left behind.

³¹ Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, Balakrishnan Rajagopal – A/HRC/52/28 (23 December 2022)

³² All stages of housing construction, management and demolition have an impact – in 2020, building use and construction accounted for at least 37% of carbon dioxide emissions related to energy.

2. Inequalities in the face of the ecological crisis and populations that are particularly exposed

While almost everyone suffers the effects of environmental degradation on their human rights, the consequences are most severe for those who are already marginalised or vulnerable. Those most at risk to the triple global crisis are often children and young people, the elderly, disabled people, people living in poverty, marginalised ethnic, racial and other minorities, Indigenous peoples, internally and cross-border displaced persons, refugees and migrants, as well as human rights defenders. Furthermore, as the UN Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance has pointed out: “The global ecological crisis is simultaneously a racial justice crisis.”³³ The report analyses innumerable studies that highlight how the devastating effects of the ecological crisis disproportionately affect groups that have been marginalised on the basis of race, ethnicity and nationality, who are victims of discrimination and exclusion and who suffer systemic inequalities.

2.1. Poverty and environmental inequality

We are not all equal in the face of the ecological crisis, and in particular in respect of the consequences of climate change. Climate change disproportionately affects communities living in countries that have often contributed the least to the problem, thus mostly the populations of the poorest countries.³⁴ Furthermore, these communities often lack the resources to adapt to climate change and attenuate its effects, further hindering their prospects of development. The uneven distribution of the effects of climate change on individual rights (health, life, livelihoods) is an issue that reflects a more general political and social process.³⁵ In a report on climate

³³ “Ecological crisis, climate justice and racial justice”, Report of the UN Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, E. Tendayi Achiume, UN Doc. A/77/549 (25 October 2022)

³⁴ Human Rights Council, “Climate Change and Poverty: Report of the UN Special Rapporteur on Extreme Poverty and Human Rights”, A/HRC/41/39 (17 July 2019)

³⁵ See, for example, the report of the Working Group of Experts on People of African Descent – A/HRC/48/78

change, the UN Special Rapporteur on extreme poverty set out that if human rights are not taken into account in the responses to climate change, the inequality resulting from climate change could become a form of “climate apartheid”; the more wealthy would have the means to protect themselves against the worst effects of climate change, whereas the poorest would suffer terribly.³⁶

International institutions have, in particular, stressed two issues in the face of the ecological crisis. The first concerns what has been called “environmental racism” (Bullard, D, 2002).³⁷ While all human beings are exposed to pollution and toxic chemicals, the burden of contamination falls disproportionately on individuals, groups and communities who are already suffering systemic poverty, discrimination and marginalisation. Broadly speaking, the most polluting and hazardous facilities, such as open-cast mines, smelters, oil refineries, chemical plants and waste dumps, are usually sited close to the habitat of the poorest, most disadvantaged communities, and generally have an impact on minority race communities (Waldron, 2021) (Van Sant *et al.*, 2021). This observation also applies to adaptation policies, which often have a disproportionate impact on certain marginalised or disadvantaged groups. Indeed, the priorities of adaptation policies and measures are also important in that they should not be oriented towards protecting the property and living areas of the politically and economically most powerful groups rather than impoverished communities and marginalised, disadvantaged people.

The second issue highlighted was the impact of waste management, and in particular the flow of toxic waste from rich countries to poor countries; this particularly affects the most marginalised, poorest populations in these countries.³⁸

Waste from the richest countries, as well as the most toxic waste, is sent to the

³⁶ A/HRC/41/39.

³⁷ The term “environmental racism” describes institutionalised discrimination in the form of any environmental “policy, practice or directive that differentially affects or disadvantages (whether intended or unintended) individuals, groups or communities based on race or colour”. – Robert D. Bullard, “Confronting environmental racism in the twenty-first century”, *Global Dialogue*, vol. 4, no 1 (winter 2002), p. 35.

³⁸ In this respect, see the guidelines for good practice on the obligations related to the environmentally sound management and disposal of hazardous substances and wastes published by the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes – A/HRC/36/41 (20 July 2017).

poorest regions, where communities suffer extreme exposure to pollution and toxic substances. The report goes further, highlighting the emergence of “sacrifice zones” – heavily contaminated areas and locations that have become (or are becoming) uninhabitable due to extreme weather events or slow-onset disasters caused by the climate crisis.³⁹ These zones are generally chosen precisely because they are considered to be “detached”, in other words places where the residents tend to be poor and lack political power. Choices are also generally made on the basis of ethnic, religious, racial and social class criteria.⁴⁰

Environmental racism, climate apartheid, and sacrifice zones are merely illustrations of a deeper problem concerning the effect of the ecological crisis on inequalities and the disproportionate impact on certain populations that are vulnerable, marginalised and the most poor. These inequalities are reflected not only in living conditions and development, but also in the capacity to react and implement measures for protection, mitigation and adaptation in the face of the crisis. A distinction can be drawn between “ecological inequalities” and “environmental inequalities”. As Cyria Emelianoff emphasises, the term environmental inequalities expresses the idea that populations or social groups are not equal in the face of pollution, contamination and environmental risks. In other words, “environmental inequality is an inequality in the face of environmental goods and evils”, whereas the concept of ecological inequality is more concerned with inequalities resulting from the capacity to adapt and change in view of the crisis, particularly in the distribution of “rights to pollute”. (Emelianoff, 2006) (Durand and Jaglin, 2012). This analysis emphasises the fact that we are not all exposed to the consequences of the ecological crisis in the same manner, as well as highlights the inequalities with regards to the means deployed to deal with the crisis, and also the inequalities in view of the impact of implementing policies to address the ecological crisis. This dualism of inequalities in respect of the ecological crisis was underlined by the

³⁹ See: The Right to a Clean, Healthy and Sustainable Environment: Non-Toxic Environment, 12 January 2022, A/HRC/49/53

⁴⁰ For a detailed analysis, see: United Nations Special Rapporteur on Human Rights and the Environment, Additional Sacrifice Zones, 3 February 2022, UN Doc. Annex 1 to A/HRC/49/53; and also McKenna Hadley-Burke (2022), Sacrifice Zones: 50 of the Most Polluted Places on Earth. OHCHR.

adoption of a resolution by the Parliamentary Assembly of the Council of Europe in 2021, which stressed that “Individuals affected by inequalities in access to environmental rights are caught up in a ‘vicious circle’ of multiple discrimination. (...) Disadvantaged groups are more exposed to the adverse effects of climate change, which in turn increases their vulnerability to damage caused by natural hazards and lowers their capacity to cope and recover.”⁴¹

2.2. Indigenous peoples

Indigenous peoples are among the first to be confronted by the direct consequences of climate change, and also more generally of pollution, deforestation and attacks against nature. Ecological crises, in particular deforestation and resource exploitation, directly threaten the territories of Indigenous peoples. Biodiversity loss and the destruction of natural habitats have direct consequences for indigenous ways of life. Many Indigenous peoples depend on ecosystems that are highly exposed to climate change, deforestation and mineral extraction and are therefore particularly threatened by the degradation of land, water and biodiversity. The conversion of forest land to agricultural use is often linked to land grabs and violence that affect Indigenous populations in particular and accelerate climate change and the collapse of biodiversity.

International institutions have recognised this impact, and the corpus of human rights has developed considerably in this respect, notably with the 2007 adoption of the United Nations Declaration on the Rights of Indigenous Peoples. This declaration recognises the relationship between the rights of Indigenous peoples and their links to nature, emphasising that cultural ties with natural entities are at the root of the social, cultural and religious practices and expression of the cultural identity of Indigenous peoples. Despite legal developments regarding the rights of Indigenous peoples in international law – many such people continue to be violently dispossessed of their land for the exploitation of the natural resources found on their

⁴¹ Parliamentary Assembly, Combating inequalities in the right to a safe, healthy and clean environment, Resolution 2400 (2021), para. 8

territories. Many Indigenous people also face violence and the risks of intimidation, assault and murder when defending their communities against illegal logging, mining and agricultural incursions on their lands.

While, as stressed by IPBES, there is a close link between the legal recognition of indigenous peoples' rights and the improved preservation of biological diversity, the rights of indigenous peoples are often ignored or breached to allow the exploitation of their lands.⁴² As the 2019 Report by the Special Rapporteur on the environment specified: "Forests that are legally owned and/or designated for use by indigenous peoples and local communities deliver a wide range of ecological and social benefits, including lower rates of deforestation and forest degradation, greater investments in forest restoration and maintenance, improved biodiversity conservation, lower carbon emissions and more carbon storage, reduced conflict and poverty reduction."⁴³

Furthermore, Indigenous peoples are not just affected by the consequences of ecosystem degradation, they are often excluded from environmental decision-making processes, including measures to mitigate and adapt to climate change. Although international law recognises the right of Indigenous peoples to have their free, prior and informed consent considered in all decisions affecting their territories, decisions to exploit their lands or initiate development or extraction projects, which very often result in the pollution of these lands or the destruction of ecosystems, are often imposed in a violent manner.

Another consequence of the ecological crisis on the rights of Indigenous peoples concerns the impact of the development of carbon markets. These carbon markets, which are trading systems through which countries, companies, individuals or other entities can buy or sell units of greenhouse gas emissions, have a direct impact on the rights of Indigenous peoples, as their lands and forests suddenly become the

⁴² See the Global Assessment Report on Biodiversity and Ecosystem Services, Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services, 2019.

⁴³ Report by the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment – A/HRC/43/53 (2019), para. 109

subject of financial speculation (Aguilar-Støen, 2017) (Delgado Pugley, 2014). Not only does this purely financial approach reduce forests solely to their carbon value, it also leads to the expropriation of Indigenous peoples from their ancestral lands. Indigenous communities face a notable lack of participation in carbon markets, and in the majority of cases Indigenous peoples risk not benefiting equitably from the revenue generated by carbon pricing. The financial power of these carbon markets often translates into completely asymmetrical relationships that do not take into account the lack of recognition of the property rights of many Indigenous peoples over their land, for which they are fighting. This makes them more vulnerable, as the markets encourage the exploitation of their land, sometimes leading to expropriation. It is essential that the mechanisms of carbon markets take these concerns into account and make sure that the rights of Indigenous peoples are respected. This requires transparent consultation, prior informed consent and recognition of the customary rights and traditional knowledge of Indigenous peoples. Initiatives must also incorporate measures to avoid the dispossession of land and promote an equitable distribution of the economic benefits.

2.3. Women and girls

The IPCC has emphasised that women and girls are often more affected by environmental degradation than men, particularly in regions where dependence on agricultural subsistence and forestry is higher, but it has also found that empowering women increases adaptability.⁴⁴ The greater impact of the ecological crisis on women and girls has also been highlighted by many UN bodies, emphasising that women are often among those most exposed to environmental degradation, in particular because they are the main providers of food, water and energy; many women also lack access to land and other assets and are overrepresented in precarious, poorly-paid jobs in the informal economy and agriculture. By exacerbating threats to land, water, species and livelihoods, climate change affects

⁴⁴ Intergovernmental Panel on Climate Change, 2019, Desertification in the Special Report on Climate Change, Desertification, Land Degradation, Sustainable Land Management, Food Security, and Greenhouse Gas Fluxes in Terrestrial Ecosystems, pp. 251, 257, 286

women whose ways of life and subsistence, and those of their families and communities, depend on ecosystems.

The UN Committee on the Elimination of Discrimination against Women has highlighted the adverse effects of deforestation on the rights of women and girls, particularly in indigenous communities.⁴⁵ Water scarcity increases the workload for women, who are often primarily responsible for collecting this resource.⁴⁶ Environmental degradation, particularly pollution, toxicity and climate change, can also have a direct impact on women's health, increasing the risk of maternal morbidity and mortality and threatening women's right to health and life.

The Special Rapporteur on violence against women and girls observed that violence against women as the result of climate change was a distinct phenomenon caused by the feminisation of vulnerability, including the availability, accessibility, consumption and production of food as well as disproportionate effects on physical and mental health, including access to sexual and reproductive health services.⁴⁷ In general terms, the consequences of climate change exacerbate the various forms of discrimination, intensifying the vulnerability of women and girls to climate change.

At the same time, the exclusion of women from climate initiatives compromises the effectiveness of these actions and aggravates harm associated with the climate. Another discriminatory element concerns environmental decision-making policies, in which women are often underrepresented. This aspect was analysed in detail in the 2023 report of the Special Rapporteur on the environment, which emphasises that the majority of laws, policies, procedures and budgets relating to climate and the environment do not take gender issues into account, in this way perpetuating discrimination against women.⁴⁸ The report also stresses the importance of respecting women's rights to participate in drawing up and applying environmental and climate policies. It highlights that such participation translates into the

⁴⁵ General recommendation no. 39 (2022), CEDAW/C/CIV/CO/4 and CEDAW/C/GUY/CO/9.

⁴⁶ A/HRC/41/26 – para. 9

⁴⁷ See A/77/136. See also A/HRC/41/26: <https://undocs.org/en/A/HRC/41/26>

⁴⁸ Women, girls and the right to a clean, healthy and sustainable environment – A/HRC/52/33 (January 2023)

implementation of more rigorous ecological standards, the strengthening of community resilience and a more equitable distribution of the benefits of nature.⁴⁹

2.4. Children and younger generations

Children are also particularly exposed to the consequences of the ecological crisis. As an OHCHR report sets out: “Children are disproportionately affected by changes in their environment, due to their unique metabolism, physiology and developmental needs.”⁵⁰ The Special Rapporteur on human rights and the environment puts forward four main environmental factors that may breach children’s rights: air pollution; water pollution; climate change; and chemical products, toxic substances and waste. Furthermore, demographic projections show that in many countries considered to be highly vulnerable to climate change, the proportion of children in the total population is high.

The Convention on the Rights of the Child explicitly addresses environmental issues in Article 24 (2) (c), under which States are required to take measures to combat disease and malnutrition, taking into account the dangers and risks of environmental pollution, and in Article 29 (1) (e), under which they are required to direct children’s education towards the development of a culture of peace and respect for the natural environment. In its General Comment adopted in 2023 on children’s rights and the environment, the Committee on the Rights of the Child emphasises the urgent need to address the adverse effects of environmental degradation, with a special focus on climate change and on the enjoyment of children’s rights, and clarifies the obligations of States to address environmental harm and climate change in order to ensure the respect of these rights.⁵¹

⁴⁹ Studies have revealed interesting correlations, such as the association between the assumption of key political positions by women and the reduction of the national carbon footprint. Similarly, links have been established between the increased presence of women in parliaments and the ratification of environmental treaties. In addition, higher percentages of women on boards of directors have been associated with better reporting of information on carbon emissions. – see: Global Gender and Climate Alliance, *Gender and Climate Change: A Closer Look at Existing Evidence* (2016), available at <http://wedo.org/wp-content/uploads/2016/11/GGCA-RP-FINAL.pdf>

⁵⁰ Analytical study on the relationship between climate change and the full and effective enjoyment of the rights of the child – Report of the United Nations High Commissioner for Human Rights – A/HRC/35/13 – para. 4

⁵¹ General Comment no. 26 on children’s rights and the environment, 2023

There are also a growing number of legal cases involving children's rights in respect of the consequences of climate change. For example, in 2021, the Committee on the Rights of the Child received a complaint from sixteen children from twelve countries against Argentina, Brazil, France, Germany and Türkiye. The authors set out that, in causing and perpetuating climate change, the States concerned had failed to take the necessary preventive and precautionary measures to respect and protect their rights, in particular their rights to life, health and culture.⁵² Ultimately, although the Committee deemed the communication inadmissible for failure to exhaust domestic remedies, the members of the Committee nevertheless stressed that the States concerned did indeed exercise effective control over the activities that are at the origin of the emissions contributing to the reasonably foreseeable harm caused to children outside their territory. This judgment therefore recognised that a sufficient causal link had been established between the harm alleged by the sixteen children and the acts or omissions of the five States in order to establish jurisdiction, and that the children had sufficiently justified that the harm they had personally suffered was significant.

Rulings of this kind concerning children's rights in the context of climate change are becoming increasingly frequent, including at national level (Daly, 2022).⁵³ These decisions concerning children's rights emphasise that the principle of the best interests of the child should constitute a forceful argument for States to strengthen measures to mitigate climate change (Daly, 2023). Furthermore, it should be noted that many children and young people are involved in environmental defence actions, including demonstrations, dialogues with the authorities and legal proceedings (Kotzé and Knappe, 2023). Children and young people from all around the world have expressed deep concern about the environmental and climate crisis.

⁵² UN Doc. CRC/C/88/D/104/2019 (11 November 2021):

<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=27644&LangID=E>

⁵³ For example, in the case of *Held v State*, a Montana (USA) court of the first instance ruled that a provision of Montana law prohibiting the consideration of greenhouse gas emissions and the corresponding effects of climate change in environmental studies violated the right of children to a clean, healthy environment under the Constitution of Montana. See: *Held v Montana*, No. CDV-2020-307 (1st Dist. Ct. Mont., 14 Aug 2023).

2.5. Migrants and refugees

As the ecological crisis intensifies, the number of “climate refugees” continues to grow. These are individuals and communities compelled to flee their homes due to environmental changes such as rising sea levels or prolonged drought. According to the 2022 IPCC report, over the next 30 years, 143 million people are likely to be uprooted by rising sea levels, drought, extreme temperatures and other climate-related disasters.⁵⁴ As the Special Rapporteur on human rights in the context of climate change said when presenting his first report to the UN General Assembly: “We are faced with an intolerable wave of people moving from their homes due to the impacts of climate change”. The analysis also shows that these are not always people crossing international borders, but rather are significant populations who find themselves displaced within their own countries due to the effect of climate-related disasters. Of 59.1 million people displaced in their own country in 2021, most were displaced due to climate-related disasters. Furthermore, as the OHCHR has pointed out, countries that are highly vulnerable to climate change and with poor adaptability are the source of 90% of refugees and host around 70% of internally displaced people.⁵⁵

Although the consequences of displacement due to ecological conditions are already tangible, there is no legal definition for climate change refugees, as they are not defined as refugees under the UN Refugee Convention, and “consequently, these people risk falling through the protective net”.⁵⁶ This lack of recognition of the situation created by climate change – as well as the other consequences of the ecological crisis – that has forced many populations to move, often on a permanent basis, has created a legal void that leaves these populations unprotected and often without rights in their new environment.

⁵⁴ Report by the Intergovernmental Panel on Climate Change, “Impacts, adaptation and vulnerability” (28 February 2022).

⁵⁵ UNHCR, 2021, “Displaced on the frontlines of the climate emergency”, storymap based on 2019 data, <https://storymaps.arcgis.com/stories/065d18218b654c798ae9f360a626d903>

⁵⁶ Press release: <https://www.ohchr.org/en/press-releases/2022/06/intolerable-tide-people-displaced-climate-change-un-expert>

This complexity, linked to the displacements of populations due to climate change, and the fact that the people affected are not considered as refugees, was highlighted in a recent decision by the Human Rights Committee. This underlined the difficulty of defining when living conditions become impossible – thus leading to the realisation of the right to asylum, or at least a right not to be sent back to a country where there is no longer any chance of being able to live a dignified, healthy life. In the decision, *Teitiota v New Zealand*, the question was whether the effects of climate change could expose individuals to a breach of their right to life or the right to the prohibition of torture or ill-treatment, thus triggering non-refoulement obligations.⁵⁷ In this case, the author was a Kiribati national who had applied for refugee status in New Zealand on the grounds that his native island was becoming uninhabitable due to the consequences of climate change. The Committee found that the risk to Mr Teitiota in his home country was not sufficiently “imminent” to prevent his return. Although the Committee recognised that climate change could lead to a shortage of drinking water, and reduce the possibility of producing the resources needed for food in this case, it considered that the risk was not sufficiently personal and/or immediate (paras. 9.7–9.12). This notion of immediate consequence illustrates the fact that the law was generally designed to deal with past, or at least imminent, harm, and not with incidents projected into the future. However, the impacts of climate change are not always imminent, but instead develop gradually. This case illustrates the difficulty of securing protection against climate change by means of international refugee law. The urgent need to respond to a situation that seems inextricable – it is now certain that even if it is possible to tackle the consequences of climate change, the fate of the increasing numbers of people whose living conditions are so affected that they can no longer live decently on their land remains a huge problem, adding to the global refugee crisis. As an OHCHR study on the subject concludes: “If people who leave their countries because of the adverse effects of climate change do not fall under the legal category of refugees and have no other

⁵⁷ *Ioane Teitiota v New Zealand*, UN. Doc. CCPR/C/127/D/2728/2016 – 7 January 2020.

means of migrating in a safe, orderly or regular manner, it is then particularly important to ensure that their human rights are respected, protected and fulfilled.”⁵⁸

Broadly speaking, the situation of inequality in the face of the impact of climate change, but also more generally of the global ecological crisis, demonstrates the need for a human rights-based approach to ensure that the most exposed populations are not disregarded in the ecological transition. Tackling inequalities in the face of the ecological crisis requires a human rights-based approach that integrates environmentally, socially and economically just solutions to ensure that no one is left behind in the transition to a more sustainable future. It is on this subject that the analysis turns to explore how human rights can become a lever to ensure a just, equitable ecological transition that takes into consideration the situation of the most exposed populations.

⁵⁸ Annual report of the United Nations High Commissioner for Human Rights, “Addressing human rights protection gaps in the context of migration and displacement of persons across international borders resulting from the sudden-onset and slow-onset adverse effects of climate change and the necessary means of implementation of adaptation and mitigation plans of developing countries to bridge the protection gaps”, A/HRC/38/21 (23 April 2018), para. 39.

3. Guidelines for a human rights-based approach to the ecological transition

In response to the various human rights impacts of the ecological crisis, and in view of the growing inequalities of these impacts, both human rights doctrine and jurisprudence are rapidly developing to promote a human rights-based approach to the ecological transition. In this respect, the recognition of a right to a clean, healthy and sustainable environment is doubly significant, not only because it puts a legal stamp on the need to respect, protect and implement human rights to combat the harmful effects of the ecological crisis, but also because it places human rights at the centre of the ecological transition. The right to a clean, healthy and sustainable environment can indeed become a catalyst to intensify the measures needed for ecological transition. It allows the emergence of guidelines to act as a lever for the transition to clean energies and the adoption of strategies and programmes that aim to guarantee the sustainable use of natural resources as well as combatting pollution and the toxicity of ecosystems. In order to consider what a human rights-based approach means in practice, this analysis now turns towards specific aspects that have been presented on the role that human rights can play with regard to the climate emergency, biodiversity collapse and omnipresent toxic pollution.

3.1. Climate justice and energy transition

Climate litigation has developed exponentially over recent years, with very many climate-related cases worldwide, giving rise to a rich and varied body of transnational jurisprudence (Burger and Tigre, 2023).

The preponderance of human rights in these cases can in part be explained by the fact that there are very few avenues of redress for citizens in respect of the implementation of effective policies for the energy transition (Rodríguez-Garavito, 2022). These cases are directed as much against States for the failings of their climate policies, as against corporations, such as the “Carbon Majors” who, through their activities, are participating in climate degradation. There are now very many rulings on the subject, and many cases are in progress. For example, the European

Court of Human Rights is currently examining a case brought by six young people that accuses 32 states of failing to limit global warming. These cases merely illustrate the situation; in 2023 alone, over 200 new litigations were recorded (Setzer and Higham, 2023). These national and transnational cases have allowed the objectives of the global climate framework to be advanced, while raising public awareness of the devastating effects of climate change and increasing the visibility of marginalised groups. The cases are also contributing greatly to advancing reflections on the relationship between human rights and climate change, thus shaping international law on climate justice, and putting forward several routes for human rights to contribute to the energy transition.

A first consideration is to explore the position of human rights on the issue of oil: does respecting, protecting and realising human rights imply moving away from economies based on fossil fuels? Although up to now the approach of the courts has been to emphasise the need for the various actors (state and industrial) to favour a transition towards non-fossil energy, the line does not seem to have been crossed in regards to ruling whether an economy based on fossil fuels is in itself a breach of human rights. While the courts have not yet gone this far, the UN's independent human rights institutions have pushed further in this direction, with an increasing number of declarations underlining the incompatibility of achieving human rights and the continued exploitation of fossil fuels. For example, in 2020, the independent expert on human rights and solidarity stressed that the exploitation of fossil fuels should be "radically transformed to avoid further dangerous climate change" and that continued investment, subsidisation and exploitation of fossil fuels "endangers the fundamental human rights of everyone around the world." Similarly, in 2022, the Special Rapporteur on human rights in the context of climate change recommended that the General Assembly pass a resolution to ban any further development of fossil fuel mining and other harmful mitigation actions. More recently, in its General Comment of 2023, the Committee on the Rights of the Child emphasised that States should immediately take steps to progressively and "equitably phase out the use of coal, oil and natural gas, ensure a fair and just transition of energy sources and invest

in renewable energy, energy storage and energy efficiency to address the climate crisis”.

In general terms, these declarations by international human rights institutions highlight the fact that our dependence on oil and other fossil fuels must be ended as a matter of urgency in order to guarantee the full respect of human rights. However, it is not a matter of suddenly abandoning all use of fossil fuels, which would have dramatic consequences for many populations in terms of accessing energy. Rather it is about ensuring a fair, rights-based transformation that emphasises the need to invest in solar, wind and thermal energy, as well as improving energy productivity, in this way guaranteeing affordable, clean energy for all. In this context, adopting a human rights-based approach to energy transition policies means guaranteeing a right of access to “clean” energy. Access to energy is an implicit attribute of several rights, such as the rights to an adequate standard of living, health, housing and food. Everyone has the right to an energy source that is accessible (physically safe and economically affordable), acceptable (adequate, reliable and of sufficient quality) and sustainable (economically viable and environmentally friendly) for personal or domestic use (Löfquist, 2018) (Huhta, 2023) (Wewerinke-Singh, 2022).

This does not mean that renewable energy projects are not without undesirable social and environmental attributes, as illustrated by the jurisprudence on the “just transition”. Renewable energy projects can indeed have detrimental effects on certain human rights. A vast body of “just transition litigation” is developing, including cases opposing projects such as hydroelectric dams, biomass power plants and wind farms (Savaresi, 2023). The cases do not directly oppose clean energy projects but instead target the processes and indirect impacts that these projects may have on ways of life and the environment. One example concerns a case considered by the Norwegian Supreme Court on the consequences of the construction of two wind farms on the access of Sami reindeer herders to grazing land. Another issue which has recently come to light concerns the impact of the acquisition of agricultural land for the production of biofuels. As noted by the Special Rapporteur on the right to food, an increase in the production of biofuel has led to a reduction in the land and water

resources available for food production, and has also contributed to an increase in food prices, representing a negative impact on the fulfilment of the right to food. Recognition of the fact that transitions may potentially create new injustices is at the heart of the just transition – highlighting the danger of creating “new injustices and vulnerabilities, while also failing to address pre-existing structural drivers of injustice in energy markets and the wider socio-economy” (Sovacool *et al.*, 2019). It is within this logic of a just and equitable transition to renewable energies that a human rights-based approach exists.

Similarly, the transition to renewable energy requires minerals and other materials in order to construct new technologies. For example, electric vehicle batteries necessitate the extraction of rare minerals. A report published in 2022 set out 510 allegations of abuse related to the exploitation of transitional minerals between 2010 and 2022, including threats to land rights, labour rights, the right to drinking water and the rights of Indigenous peoples (Arrobas *et al.*, 2017). Worldwide, an estimated 54% of extraction projects for critical minerals are located on the lands of Indigenous peoples. This poses a serious risk to these peoples’ rights by endangering their access and rights to their customary lands, entailing the loss of their traditional livelihoods (Owen *et al.*, 2023). Despite the growing need for essential materials for electric vehicles and other renewable energy technologies, a just and equitable energy transition requires that all projects for the extraction, processing and recovery of such minerals should fully respect human rights.

Another danger of the energy transition concerns the toxic waste created by the transition. In a 2023 report, the Special Rapporteur on the implications for human rights of hazardous substances and wastes emphasised the harmful effects of certain solutions proposed in the fight against climate change. The report points out that “States and enterprises are mobilising to develop new technologies and innovations to reduce greenhouse gases. However, we are witnessing proposals and the application of climate change mitigation technologies that risk exacerbating toxic pollution.” When it comes to an equitable energy transition, the way in which the benefits and burdens of the transition to net-zero consumption are distributed is a

matter of debate. The fight against climate change requires radical transformations in the generation and consumption of energy. However, both access to the current energy system and energy distribution are exceedingly unequal. A just transition to a low-carbon future inevitably raises questions about the justice of access to energy and about the way in which the transition is implemented. It is not a matter of responding solely to immediate environmental risks, but of including forward-looking approaches in terms of socio-economic justice and sustainability, such as the transition from an extractive to a regenerative economy. This means recognising that climate crises exacerbate existing social inequalities – and consequently advocating policies that mitigate the effects of climate change and adapt society to the emerging reality of this long-term change.

3.2. The right to a non-toxic, non-plastic environment

Another contribution that human rights makes to the transition concerns the impact of chemicals, hazardous waste and, more generally, plastic pollution on the environment. As David Ogden, Deputy Executive Secretary of the Basel, Rotterdam and Stockholm Conventions (the main international agreements on chemical and toxic hazards) has emphasised, the impact of chemicals and waste on millions of people demands that human rights are at the heart of discussions on chemicals and waste management. The need to adopt a human rights-based approach for the management of toxic waste was highlighted by the Special Rapporteur on human rights and the environment and the Special Rapporteur on toxics and human rights, who presented a joint report advocating the recognition of the “right to a non-toxic environment”. While stressing the international obligations of States to ensure the prevention of pollution, the elimination of the use of toxic substances and the rehabilitation of contaminated sites, the report also highlights the fact that up to now, instruments relating to chemicals have mostly been based on the concept of the management, reduction and minimisation of risk, but not necessarily on the need for a complete change of direction. As the UN Special Rapporteur on toxics, Marcos Orellana, emphasises, this vision of the reduction and control of pollution is based on the hypothesis that the planet is capable of absorbing this pollution without

exceeding its planetary boundaries. However, current scientific evidence shows that planetary boundaries are being exceeded in terms of chemicals and waste, leading to the call for an urgent change of course. This change of course could be guided by a human rights-based approach, and in particular by the interpretation that the right to a healthy environment also means the right to a non-toxic environment.

This right to a non-toxic environment also concerns the fight against pollution created by plastic. Research shows that around 430 million tonnes of plastic is produced every year and, if no urgent action is taken, this figure could triple by 2060. Under a business-as-usual scenario, plastics would be responsible for 19% of global greenhouse gas emissions allowed within the scope of a 1.5 degree scenario by 2040, and the sheer volume produced and thrown away each year has negative impacts on ecosystems, flora and fauna, climate, human health and the economy (Lavers *et al.*, 2022). Plastic pollution is not solely a threat to our environment, it is also a threat to people, because every stage of the life cycle of plastic has an impact on human rights. These adverse effects are due to the toxic pollution released during manufacture, exposure to the toxic additives in plastic consumer products and the poor management of waste. Plastic pollution is a cross-cutting phenomenon that has considerable repercussions for a wide range of human rights, including the right to life, health, adequate housing, education and a healthy environment. On this subject, Marcos Orellana concludes that: “the only way to respond to the global plastics crisis is to transition towards a chemically-safe circular economy that addresses all stages of the plastics cycle.”

3.3. Rights to information, to participation and to the defence of rights

The ecological crisis has repercussions on fundamental democratic rights such as the right to information and participation in drafting policy and decision-making. The importance of participation and access to information within the scope of environmental affairs has been reaffirmed on several occasions, notably under Principle 10 of the Rio Declaration, the Paris Agreement, the Aarhus Convention and the Escazù Agreement (Medici-Colombo and Ricarte, 2023). Furthermore, the African

Convention on the Conservation of Nature and Natural Resources, adopted by the Assembly of the African Union, also emphasises the right to information and participation. This Convention underlines the obligation of States Parties to adopt the necessary legislative and regulatory measures to ensure the timely dissemination of information on the environment and allow public access to such information, public participation in decision-making and access to justice. All of these conventions emphasise that the procedural and participatory rights of the public include the right of access to information, the right to participate in decision-making processes and the right of access to justice in environmental matters. They also include the right not to be persecuted, penalised or harassed for seeking to exercise these rights. Access to information on environmental issues is essential to allow individuals and communities to be able to make informed decisions about their environments, as well as to facilitate access to effective means of redress.

All these obligations of transparency, access to information and participation are essential to the process of ecological transition. Active participation and citizen engagement are the cornerstone of the ecological transition, and a human rights-based approach supports the integration of citizens into the decision-making process. As a recent OHCHR report outlines: “Meaningful, informed and effective participation of all people is not just their human right, it also leads to more effective, equitable and inclusive environmental action.” The process of transition to a more sustainable economy must be transparent, and the communities concerned must have access to information and the opportunity to participate in making decisions that affect their lives and environment. The right to participate in public affairs and make decisions is essential to drawing up strategies and policies in favour of a just transition.

Another important issue in respect of the right to participate in the ecological transition concerns the right of freedom of expression, the right of assembly and, in particular, the right to demonstrate. Faced with the environmental and climate crisis, instances of civil disobedience have multiplied around the world in recent years, leading to an increase in repressive methods in terms of judicial, legislative and

police measures (Jadoul, 2021). Although international standards establish that States must guarantee the right to peaceful assembly, restrictions on this right when it comes to demonstrations against the consequences of the ecological crisis often come into force even before a demonstration has taken place. As Dunja Mijatović, the Council of Europe's Commissioner for Human Rights, notes, many peaceful environmental activists have been prevented from taking part in environmental summits, placed under house arrest, kept under surveillance, physically assaulted, and have had laws applied that prevent them from doing their work. This repression takes place within a more general framework of repression against rights defenders, and in particular human rights defenders connected to the environment, who are among those most exposed to the risk of repression and intimidation. In this regard, the Human Rights Council recalled in a resolution that "human rights defenders, including environmental human rights defenders, must be ensured a safe and enabling environment to undertake their work free from hindrance and insecurity, in recognition of their important role in supporting States to fulfil their obligations under the Paris Agreement and to realise the 2030 Agenda for Sustainable Development...". In general terms, the repression of environmental rights defenders, as well as drastic restrictions on the right to peaceful demonstration and the freedoms of assembly and expression, are all part of a framework of limitations on the right to participate in making environmental decisions that is guaranteed by international human rights law, and which rightly forms an essential element of ensuring a just and sustainable ecological transition.

3.4. The right to ecological development

The right to development is often associated with the objectives of improving living standards, reducing poverty and achieving a better quality of life for the populations of developing countries. Although emphasis is often placed on the economic, social, cultural and political dimensions of the right to development, it is also necessary to focus on the ecological nature of development. An increasing number of analyses are highlighting a right to ecological development. As Olivier De Schutter's analysis shows, the idea of development is no longer based solely, as it was in the previous

century, on the imperative of economic growth, it is also measured in terms of its contribution to social justice and the ecological transformation of societies (De Schutter, 2022). The ecological crisis reinforces social and economic inequalities, with a detrimental impact on the right to development. These inequalities are also reinforced by the means chosen to fight against and mitigate the effects of the ecological crisis (see the section on environmental and ecological inequalities).

The right to development recognises that everyone has the right to participate in, contribute to and enjoy development, and that development must be exempt from all discrimination and benefit all individuals and communities. The right to development, which is both an end in itself and a foundation for the achievement of other human rights, is increasingly shaped to take into account the need for a new approach to development that includes an ecological dimension. The right to development, in the same way as all our economic and social rights, is based on “progressive realisation”, and on the obligation of States to act to the maximum of their available resources to allow the progressive realisation of our rights. Considering the planetary boundaries and the need to ensure intra- and intergenerational equity, there are limits to progressive realisation and to the continuous improvement of living conditions, which must be taken into account.

The Committee on Economic, Social and Cultural Rights has focused on this issue, emphasising that the concept of “maximum” available resources raises questions about the appropriate levels of use of natural resources as well as the levels of sustainable production and consumption. The Committee underlined that unlimited economic and social growth may perpetuate unsustainable development models and have a negative impact on future generations, as the unsustainable use of resources may limit the future “availability of resources” that would be necessary for the progressive realisation of the rights established in the Covenant.

This reflection is set within a broader framework of a revision of the meaning of the right to development – which includes a right to ecological development. According to an analysis by Alexis Gonin: “Among the very many formulations of projects for

ecological transition, we can distinguish two major trends. The first, which can be called ecological modernisation, seeks to reconcile current modes of development with preservation of the environment. Above all, the transition is based on technical innovation, with the objective of decarbonising the economy and preserving biodiversity in certain protected areas. The second trend is a more cross-cutting and radical project that combines ecological objectives with those of reducing socio-economic inequalities and deepening democracy.” (Gonin, 2021). It is in this cross-cutting project that human rights can act not only as a compass, but also as a lever for an ecological approach to development, highlighting the need to find a balance between human development and economic progress on the one hand, and environmental protection and sustainability on the other. Defenders of human rights and the environment are often accused of being “anti-development”, when in fact it is a particular model of development that communities oppose: development that is non-consultative, destructive, short-sighted and unsustainable.

3.5. The rights of future generations

As noted by the International Court of Justice (ICJ): “the environment is not an abstraction but represents the living space, the quality of life and the very health of human beings, including generations unborn.” Many international texts stress the rights of future generations, such as the Rio Declaration, which sets out that “the right to development must be fulfilled so as to equitably meet developmental and environmental needs of present and future generations”. Similarly, UNESCO’s Declaration on the Responsibilities of the Present Generation Towards Future Generations emphasises the need for present generations to preserve “living conditions, particularly the quality and integrity of the environment”. The Aarhus Convention stresses the obligation “to contribute to the protection of the right of every person of present and future generations to live in an environment adequate to his or her health and well-being”, and the Escazú Agreement stipulates that one of these objectives is “contributing to the protection of the right of every person of present and future generations to live in a healthy environment and to sustainable development” (Gaillard, 2019) (Djemni-Wagner, 2023).

The rights of future generations have been asserted in a number of court decisions, and there are very many legal actions on behalf of future generations currently in progress. These actions are based on provisions relating to human rights, for example a ruling by the German Constitutional Court which declared the federal law on climate protection partially unconstitutional because it did not sufficiently protect young people against future violations and limitations of their existing fundamental rights as a result of climate change. Similarly, a case before the South African High Court concerning an environmental assessment of a power plant, referred to the constitutional right to environmental protection “in the interests of present and future generations [including guaranteeing] ecologically sustainable development and use of natural resources while promoting justified economic and social development.” In a historic victory for future generations, a court in Montana, USA, found that state laws promoting fossil fuels violated the right to a clean, healthy environment protected by the Constitution of Montana. The decision of 14 August 2023 was in respect of a case brought by Our Children’s Trust on behalf of sixteen young people in Montana, and it expressly recognised the State’s obligation to protect the environment for future generations.

These different cases illustrate the increased engagement of the courts with the rights of future generations, underlining the growing normative developments on the duty to protect nature for future generations. This duty is founded on the concept of intergenerational equity. Although there is some debate about where to draw the line between the rights of future generations and the concept of intergenerational equity, which is often taken to refer to those “not yet born”, both movements are based on the same principle that we have inherited the Earth from previous generations and have an obligation to pass it on to future generations in good condition (Brown-Weiss, 2008) (Lefebvre, 2012). As noted by John Knox, the former UN Special Rapporteur on human rights and the environment: “we don’t have to look far to see the people whose future lives will be affected by our actions today. They are already here.”

3.6. Corporate responsibility, human rights and the duty of care

Many analyses and studies have clearly demonstrated the role of corporations and multinational companies in the ecological crisis, and climate change in particular (Wright, D. Nyburg, 2015) (Marjanac and Patton, 2018 (Ekwursel *et al.*, 2017)). One of the main drivers of environmental degradation has been the exploitation of natural resources. In many cases, however, these activities are undertaken by private or non-state actors. The industries concerned include fishing, forestry, agriculture and the extractive industries. Corporations are implicated in many environmental problems, including deforestation, species extinction, plastic pollution, collapses of tailings ponds, oil spills, electronic waste and forever chemicals. Many of these problems affect the right of people to live in a clean, healthy and sustainable environment. The negative impact of corporations is not only apparent in terms of ecosystem degradation, but also, in the wake of projects to exploit resources, in restrictions placed on the access of local communities to the resources upon which they have traditionally depended.

Corporate responsibility in terms of human rights has been developing rapidly for a number of years, in particular with the process to adopt a treaty on the subject at international level. In the absence of such a treaty, a voluntary framework has been drawn up inviting corporations to respect human rights. The United Nations Guiding Principles, which were unanimously endorsed by the Human Rights Council in 2011, establish a global standard for the responsibility of corporations to respect human rights in all their operations. Corporate responsibility requires companies to avoid causing or contributing to negative impacts on human rights through their activities, and to make every effort to prevent or mitigate negative impacts that are directly linked to their operations, products or services through their business relationships.

This corporate responsibility framework has been tested in numerous cases on the environmental impact and role of companies in the transition (Macchi, 2021) (Macchi and Bernaz, 2021). By way of illustration, in 2022, the Philippines Commission on Human Rights ruled that major fossil fuel companies could be held liable for impacts on

human rights related to the climate. The Commission found that companies “may be required to conduct human rights due diligence and be held liable for their incapacity to remedy human rights violations arising from their commercial activities”. More importantly, however, the Commission drew up recommendations that went beyond climate due diligence, underlining the obligation of corporations to renounce activities that ran counter to climate science; to stop exploring for new oil fields, keep fossil fuels in the ground and transition to alternative energies; and further to engage with experts, civil society and other stakeholders on an ongoing basis to continually assess and improve the corporate response. This ruling underlines the relevance of a human rights-based approach in order to frame the responsibility of corporations in the transition. There are a growing number of legal cases that highlight the direct responsibilities of companies to adopt a more proactive approach based on respect for human rights (Van Asselt, 2021) (Macchi, 2021).

3.7. International cooperation

Another subject highlighted by the international human rights system is the obligation of international cooperation to combat the negative effects of the triple ecological crisis. The International Covenant on Economic, Social and Cultural Rights requires States to mobilise, both individually and through international assistance and cooperation, the maximum amount of available resources for the progressive achievement of economic, social and cultural rights. This obligation to cooperate incorporates recommendations to cooperate more extensively to implement the measures required for a just and equitable ecological transition. As emphasised by the Office of the United Nations High Commissioner for Human Rights, this includes adequate financing by those who can best afford it of climate change mitigation, adaptation, and loss and damage. Numerous UN bodies have stressed that climate change, pollution and biodiversity loss are clearly examples of pressing global threats to human rights that mean that States must work together and that all countries must cooperate as far as possible and participate in effective, appropriate international action.

In the context of climate change, the UN Framework Convention on Climate Change emphasises the need to take into account past and present greenhouse gas emissions and the principle of common but differentiated responsibilities and the respective capabilities of States, bearing in mind different national circumstances. This “collective obligation” and “joint responsibility” is shared by human rights bodies, highlighting the need to cooperate in good faith to set up and fund global measures to remedy the environmental damage suffered by people in vulnerable situations. In accordance with the principles of equity, common but differentiated responsibilities, respective capabilities and polluter pays, wealthier States with greater current and historical liabilities for climate change have greater responsibilities to provide resources to less wealthy and less liable States in order to remedy the harm to human rights caused by loss and damage. Another crucial element of international cooperation concerns the anchoring of climate finance mechanisms in a human rights-based approach. Finally, within the scope of their international cooperation and assistance obligations for the achievement of human rights, high-income States should also support adaptation efforts, in particular in developing countries, by facilitating the transfer of green technologies and contributing to the Green Climate Fund. As the Committee on Economic, Social and Cultural Rights emphasises, this obligation arises directly from the right to enjoy the benefits of scientific progress that results from international cooperation in the scientific field (art. 15 of the International Covenant).

Conclusion

There is little doubt that our contemporary history is defined in terms of multifaceted environmental crises that require profound social, economic, political and legal change. The majority of human rights are negatively affected by this triple ecological crisis. But on a more positive note, the international human rights normative framework highlights a number of avenues for ensuring an effective, sustainable, just and equitable ecological transition. In this respect, rather than just noting the negative effects on our rights, it is important to also highlight the role of a human rights-based approach as a catalyst for guiding us towards a (just) transition and transformative governance. Not only does the protection of the environment contribute to the realisation of human rights, but the protection of human rights also plays a role in preserving the environment, and presents avenues for ecological transition. The right to a clean, healthy and sustainable environment includes the fundamental rights to clean air, a safe climate, access to drinking water, healthy and sustainably produced food, non-toxic environments, and healthy biodiversity

and ecosystems. As David Boyd, Special Rapporteur on the environment, writes: “The application of a rights-based approach puts a human face on the triple environmental crisis, prioritises the improvement of conditions for the poorest and most vulnerable, emphasises the need for capacity-building (of both rights holders and duty bearers), catalyses ambitious action, increases accountability and empowers people, especially from disadvantaged communities, to become involved in designing and implementing solutions.”

As this study emphasises, many practical avenues have been put forward to encourage States to allocate as many financial and material resources as possible to the transition to renewable energies and clean transport, as well as to support the transition to agroecological food systems, halt and reverse deforestation and land degradation, and improve adaptive capacities, in particular those of vulnerable and marginalised populations. Addressing the global ecological crisis from a human rights perspective highlights the principles of universality and non-discrimination, while emphasising that these rights must be

guaranteed to everyone, including members of vulnerable groups. By aligning just transition principles with human rights, policymakers and stakeholders can work together to ensure that the move towards sustainability is socially just and does not compromise the rights and well-being of individuals and communities.

The development of human rights in relation to ecological issues also opens up a reflection on our relationship with nature. In general terms, the political, legal and economic approach to the ecological crisis is largely anthropocentric, stressing the dangers to human life and justifying the protection of nature primarily in terms of the benefits humans derive from it. A just transition implies emancipation from an overly anthropocentric view of human rights in order to make more of the link with the rights of nature. The inclusion of a fundamental right to a healthy environment in the principal

environmental agreements and processes invites us to rethink the relationship between humans and nature, no longer considering a purely anthropocentric angle, but also recognising the fundamental rights of nature. By acknowledging the importance of cultural, social and spiritual links with nature, human rights have started the process of opening up to the concept that nature also has rights outside purely human interests by emphasising the relationship of interdependence between humans and nature. This opens the door to an approach that recognises that nature must also be considered as having fundamental rights. It is to this subject that the second part of this reflection on the links between human rights and ecological issues will turn in the next report, considering the intrinsic links between conventional human rights, the right to a healthy environment and the rights of nature.

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