



The human right to the environment in Latin America and the Caribbean, and its relationship with food and agriculture



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The right to a clean, healthy and sustainable environment is a human right. This has been recognized by the United Nations General Assembly (UNGA) in a resolution adopted on 28 July 2022. This recognition is of particular importance as there is a need to take measures at the national, regional and international levels to tackle problems such as environmental degradation, biodiversity loss and the impacts of climate change, which threaten the full enjoyment of various human rights, including the right to adequate food.

This Legal Brief aims to highlight the importance of the human right to the environment in Latin America and the Caribbean, and its relationship with food, agriculture and other areas relevant to the Food and Agriculture Organization of the United Nations (FAO) mandate.



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What is the environment, and what is its relationship with food and agriculture?

The environment encompasses the totality of physical, biological and human conditions or components that surround living beings, and that directly influence their activities and development (OECD, 1997).² Its relationship with food and agriculture is characterized by interdependence. Food originates from and is part of the environment, and all activities that constitute agrifood systems (production, processing, distribution and consumption of food) require environmental components. Consequently, **without an environment that meets the appropriate conditions, the supply, quality and safety of food are jeopardized.**

Agriculture, influenced by consumer behaviour and food environments, contributes to total greenhouse gas emissions. This has an impact on the quantity, availability and quality of water, biodiversity and carbon storage in the soil, among other environmental consequences. The Intergovernmental Panel on Climate Change (IPCC) has estimated that agriculture, forestry and other land uses account for approximately 23 percent of anthropogenic emissions of carbon dioxide (CO₂), methane (CH₄) and nitrous oxide (N₂O) (IPCC, 2019).

The COVID-19 pandemic highlighted the need for an environment that meets the prerequisites for increasing the resilience of agrifood systems. Strengthening the legal protection of the environment will improve the capacity of countries and their populations to respond effectively to future pandemics, especially among the most vulnerable (UNEP, n.d).

FAO has recognized the pivotal role of the environment within its mandate, as emphasized in its [Strategic Framework 2022–2031](#). This framework seeks to support the [2030 Agenda for Sustainable Development](#) (2030 Agenda) by advancing more efficient, inclusive, resilient and sustainable agrifood systems to achieve better production, better nutrition, **a better environment** and a better life, leaving no one behind.

In this context, FAO has developed a [Strategy on Climate Change 2022–2031](#). The strategy echoes the recognition expressed in the Paris Agreement regarding the fundamental priority of safeguarding food security and ending hunger. It presents the role of agrifood systems as part of the solution to climate change and seeks synergies with the missions of other organizations and related agreements (FAO, 2022).

In the case of the Latin American and Caribbean region, this issue holds particular relevance for the realization of its three Regional Initiatives: 1) Sustainable agrifood systems for healthy diets for all; 2) Prosperous and inclusive rural societies; and 3) Sustainable and resilient agriculture (FAO Regional Conference for Latin America and the Caribbean, 2022).

² Physical components include air, soil, climate and water, while biological components include plant and animal species, ecosystems and habitats. Activities such as livestock farming, agriculture, construction development or natural resource management, among others, pertain to the human dimension of the environment.

International environmental protection

Since the 1972 [Declaration of the United Nations Conference on the Human Environment \(Stockholm Declaration\)](#) and the 1992 [Rio Declaration on Environment and Development](#), the importance of safeguarding the environment and its components has gained increasing prominence, both at the international and national level.

At the international level, various treaties address environmental issues in areas such as:

- Climate change: 1992 [United Nations Framework Convention on Climate Change](#); the 1998 [Kyoto Protocol](#); and the 2015 [Paris Agreement](#);
- Biological diversity: 1992 [Convention on Biological Diversity](#);
- Desertification: 1994 [United Nations Convention to Combat Desertification](#);
- Air pollutants: 1985 [Vienna Convention for the Protection of the Ozone Layer](#); and the 1987 [Montreal Protocol on Substances that Deplete the Ozone Layer](#);
- Pesticides and industrial chemicals: 1998 [Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade](#); and the 2001 [Stockholm Convention on Persistent Organic Pollutants](#), among others.

The protection and conservation of the environment also form an integral part of the mandate of various United Nations agencies and have been incorporated into the 2030 Agenda.

FAO and [Committee on World Food Security \(CFS\)](#) instruments that recognize the relationship between the environment, food and agriculture

These include the following voluntary guidelines and codes of conduct (soft law instruments that are not legally binding): the [Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security](#); the [Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security](#); the [Voluntary Guidelines Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication](#); the [Voluntary Guidelines for Agro-Environmental Policies in Latin America and the Caribbean](#); the [Voluntary Guidelines for Sustainable Soil Management](#); the [Voluntary Guidelines on Food Systems and Nutrition](#); the [Code of Conduct for Responsible Fisheries](#); the [International Code of Conduct on Pesticide Management](#); and the [Voluntary Code of Conduct for Food Loss and Waste Reduction](#), among others.

Furthermore, the environment has an interdependent relationship with human rights. While international environmental law initially evolved alongside international human rights law, today, this interrelationship is widely recognized (Knox and Morgera, 2022).

Since 1981, the right to a clean, healthy and sustainable environment has been recognized in various regional human rights instruments and treaties. These include the 1981 [African Charter on Human and Peoples' Rights](#) (Article 24), the 1986 [Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights "Protocol of San Salvador"](#) (Article 11), the 1998 [Aarhus Convention](#) (Article 1), the 2004 [Arab Charter on Human Rights](#)

(Article 38), the 2012 [ASEAN Human Rights Declaration](#) (Principle 28.f) and the 2018 [Escazú Agreement](#) (Article 1).

Furthermore, this right has been enshrined in the legislation of over 156 states (UN Special Rapporteur on Human Rights and the Environment, 2022).

The human right to a clean, healthy and sustainable environment in the universal human rights system

The universal human rights system has also witnessed significant regulatory developments in recent decades, leading to the global recognition of this right. Notably, various independent experts and special rapporteurs within the United Nations have addressed environmental issues. These include the Special Rapporteur on Toxics and Human Rights; the Special Rapporteur on the rights of Indigenous Peoples; the Special Rapporteur on Human Rights Defenders, and the Special Rapporteur on the Right to Food.

In 2012, the United Nations Human Rights Council (UNHRC) established the mandate of the Special Rapporteur on Human Rights and the Environment. In 2018, the rapporteur presented the [Framework Principles on Human Rights and the Environment](#), laying down the fundamental obligations of states in relation to the enjoyment of this right. Its objective is to provide clarity and facilitate the implementation of these obligations.

In 2021, the Council established the mandate of the UN Special Rapporteur on Climate Change (UNHRC, 2021b). His second report deals with the promotion and protection of human rights in the context of climate change mitigation (UN Special Rapporteur on Human Rights and Climate Change, 2023).

The United Nations Human Rights Committee (HRC), responsible for overseeing the obligations of States Parties to the 1966 [International Covenant on Civil and Political Rights](#), has also acknowledged the interconnection between the environment and other human rights.

In 2019, this Committee adopted General Comment No. 36 on the right to life, emphasizing:

The duty to protect life also implies that States parties should take appropriate measures to address the general conditions in society that may give rise to direct threats to life or prevent individuals from enjoying their right to life with dignity (HRC, 2019b, para. 26).

These threats include factors such as environmental degradation. The Committee further underscored that “environmental degradation, climate change and unsustainable development constitute some of the most pressing and serious threats to the ability of present and future generations to enjoy the right to life” (HRC, 2019b).

In the context of reviewing individual complaints, the Committee has also adjudicated cases that illuminate the connection between the environment and the right to life (Article 6 of the Covenant); the right to respect of privacy, family and home (Article 17); and the right of ethnic, religious or linguistic minorities to enjoy their own culture (Article 27). These decisions address situations where death, poisoning and serious environmental damage have been induced by

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extensive and illegal crop fumigation with “agrochemicals” (HRC, 2019a, *Case of Portillo Cáceres and others v Paraguay*) in territories inhabited by Indigenous Peoples (HRC, 2022, *Case of Benito Oliveira Pereira and others v Paraguay*), and in cases of harm attributable to the effects of climate change affecting Indigenous Peoples residing in low-lying islands prone to flooding due to sea level rise (HRC, 2023, *Case of Daniel Billy and others v Australia* [Torres Strait Islander Petition]).

The broader and most recent normative development lies in the resolutions adopted by the Human Rights Council in 2021 ([A/HRC/48/L.23/Rev.1](#)) and the UNGA on 28 July 2022 ([A/RES/76/300](#)). Echoing the Council’s resolution, the General Assembly resolution acknowledges that all individuals have the right to a clean, healthy and sustainable environment. This constitutes a milestone as it represents the first global recognition of this right as a human right and autonomous right.

It should be noted that both the Human Rights Council and General Assembly resolutions acknowledge the relationship between the right to the environment and other human rights, including the right to adequate food, which is fundamental to FAO’s mandate.

The human right to adequate food is:

[T]he right to have regular, permanent and free access, either directly or by means of financial purchases, to quantitatively and qualitatively adequate and sufficient food corresponding to the cultural traditions of the people to which the consumer belongs, and which ensures a physical and mental, individual and collective, fulfilling and dignified life free of fear (UN Special Rapporteur on the Right to Food, 2001).

The interdependence between the right to food and the right to the environment, especially in the context of climate change, has been acknowledged. The Rapporteur has highlighted that **“climate change is undermining the right to food, with disproportionate impacts on those who have contributed least to global warming and are most vulnerable to its harmful effects”** (UN Special Rapporteur on the Right to Food, 2015, para. 3).

The human right to a clean, healthy and sustainable environment also encompasses procedural rights, including right to information, public participation and access to justice (United Nations Special Rapporteur Human Rights and the Environment, 2019). In this regard, two regional treaties are particularly relevant: the [Aarhus Convention](#), a European treaty in force since 2001; and the [Escazú Agreement](#), the first exclusively environmental treaty at the regional level of Latin America and the Caribbean, which entered into force in 2021.

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The right to a healthy environment in the Inter-American human rights system

In Latin America and the Caribbean, the 1988 [Additional Protocol to the American Convention on Human Rights in matters of Economic, Social and Cultural Rights](#) “Protocol of San Salvador” recognizes the right to a “healthy” environment (Article 11).

Various decisions by the Inter-American Commission on Human Rights (IACHR, 2021a) and the Inter-American Court of Human Rights (I/A Court HR) have delved into the content and scope of this right and the obligations of states regarding its protection, preservation and improvement.

The Commission has also addressed the scope of states’ obligations in the context of the climate emergency (IACHR, 2021b).

The Court has underscored the importance of natural resources for agricultural and fishing activities and the subsistence and nutrition of individuals, particularly those belonging to Indigenous Peoples. Specific relevant cases include:

Selected jurisprudence of the Inter-American Court on the environment and its relationship with food and agriculture	
Year	Name and date of the judgement
2005	<i>Yakye Axa Indigenous Community v. Paraguay</i> . Judgement of 17 June 2005.
2006	<i>Sawhoyamaya Indigenous Community v. Paraguay</i> . Judgement of 29 March 2006.
2007	<i>Saramaka People v. Suriname</i> . Judgement of 28 November 2007.
2012	<i>Kichwa Indigenous People of Sarayaku v. Ecuador</i> . Judgement of 27 June 2012.
2020	<i>Indigenous Communities of the Lhaka Honhat (Our Land) Association v. Argentina</i> . Judgement of 6 February 2020.

In non-contentious matters, the I/A Court HR, through the 2017 [Advisory Opinion](#) on “the Environment and Human Rights”, acknowledged a healthy environment as a human right, both at the collective and individual levels. The Court emphasized that, collectively, this right constitutes a universal interest explicitly recognized for present and future generations. Additionally, **the Court reiterated the interdependence and indivisibility of human rights, with a particular emphasis on the vulnerability of the right to food to environmental impacts.**

Furthermore, the Court stressed the need to recognize this right in the broadest possible sense to prevent arbitrary discrimination affecting population groups in situations of heightened vulnerability.

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PARLATINO Model Law on Climate Change and Food and Nutritional Security

In 2021, the [Latin American and Caribbean Parliament \(PARLATINO\)](#) approved the [Model Law on Climate Change and Food and Nutrition Security](#) (available only in Spanish). Its objective is to assist member countries in aligning their domestic regulatory frameworks with new international instruments on climate change. This marks the first regional law to comprehensively address climate change, considering its impacts on food security and nutrition. PARLATINO received technical assistance for developing this law from the Legal Office's Development Law Service of FAO, the Spanish Agency for International Development Cooperation AECID Support Project for the Hunger-Free Latin America and the Caribbean Initiative, the Mexican Agency for International Development Cooperation (AMEXCID) Mesoamerica Without Hunger Programme, and the United Nations Environment Programme.

The model law explicitly acknowledges the significance of the right to adequate food, the right to a healthy environment and access to drinking water, as well as the sustainable management of natural resources within the context of climate-related matters. Furthermore, the law recommends the adoption of National Climate Change Programmes featuring mitigation and adaptation measures designed to ensure the food and nutritional security of all segments of society without any form of discrimination (PARLATINO, 2021).

Recognition of the right to the environment at the constitutional level in Latin America and the Caribbean

As of 2022, 110 States have granted constitutional protection to the right to the environment (UN Special Rapporteur on Human rights and the Environment, 2022). In Latin America and the Caribbean, this right is recognized in the constitutions of 21 countries: Argentina, Belize, Bolivia (Plurinational State of), Brazil, Chile, Colombia, Costa Rica, Cuba, Ecuador, El Salvador, Guatemala, Guyana, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, the Dominican Republic and Venezuela (Bolivarian Republic of).³

These countries have adopted different approaches to constitutional recognition. Some countries directly safeguard various aspects related to the environment. In this group, **Panama** explicitly recognizes the relationship between the right to a healthy environment and food in its Constitution, establishing that it is the fundamental duty of the state to ensure that the population lives in a healthy environment free from pollution, where the air, water and food meet the requirements for the adequate development of human life (Article 118). In several constitutions, the environmental component has been incorporated into the recognition of the rights of Indigenous Peoples, such as **Argentina** (Article 75.17), **Bolivia (Plurinational State of)** (Articles 30.II, 304 and 403), **Brazil** (Article 231§3), **Colombia** (Article 330.5) and **Ecuador** (Article 57).

Other countries have protected specific components of the environment, such as water or air (Article 19 No. 8 of the Constitution of **Chile**; Article 145 of **Honduras**; Article 118 of **Panama**),

³ Information as of August 2022.

or in direct relation to climate change (Article 16, letter f of the Constitution of **Cuba**), and the development of individuals and communities of present and future generations, as well as other living beings (Article 33 of the **Plurinational State of Bolivia**). The Constitution of **Ecuador** (Article 71) goes further, recognizing that nature itself has rights.

Constitutional recognition of the right to a clean, healthy and sustainable environment has coincided with the explicit recognition of the right to adequate food in the region. To date, 15 Latin American and Caribbean states have incorporated this right into their constitutions.⁴ **The explicit recognition of both rights provides the highest level of legal recognition and protection, facilitating the interpretation of related laws and strengthening their protection** by judicial means. Additionally, constitutional recognition should include the fundamental elements of both rights: a “clean, healthy and sustainable” environment in the case of the right to the environment; and “adequate” in the case of the right to food.

Expanding the recognition and scope of the right to a clean, healthy and sustainable environment and the right to adequate food within national legal systems serves as a vital tool for addressing issues such as climate change, environmental degradation or biodiversity loss, which can lead to situations of food insecurity and malnutrition. It is particularly valuable for preventing and recovering from events such as the COVID-19 pandemic, increasing resilience among nations and their populations against future pandemics. Finally, constitutional recognition of both rights must be accompanied by a national legal framework consisting of laws, regulations, decrees and judicial mechanisms to ensure their proper application and enforcement.

The explicit recognition of the rights to the environment and to food provides the highest level of recognition and legal protection. It also facilitates the interpretation of laws and strengthens the respect of these rights

⁴ These countries are: Bolivia (Plurinational State of), Brazil, Colombia, Costa Rica, Cuba, Ecuador, Guatemala, Guyana, Haiti, Honduras, Mexico, Nicaragua, Panama, Paraguay and Suriname. Information as of March 2023.

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Key messages

- **Everyone has the human right to a clean, healthy and sustainable environment, as acknowledged in UNGA Resolution A/RES/76/300 of 28 July 2022. This recognition marks a significant milestone and could serve as a catalyst to accelerate efforts to ensure the effective realization of this right.**
- **Within the Inter-American Human Rights System, the 1988 Protocol of San Salvador explicitly recognizes the right to a “healthy” environment. Various decisions from the Commission and the Court of Human Rights have elaborated on the content and scope of this right and its relationship with other substantive rights, such as the right to adequate food.**
- **Environmental protection is pivotal for the effective exercise of substantive rights, including the right to adequate food. Simultaneously, the full exercise of these substantive rights and procedural rights (e.g. access to information, public participation and justice) contributes to the preservation of the environment and its components.**
- **The right to a clean, healthy and sustainable environment and the right to adequate food are interdependent. A clean, healthy and sustainable environment is necessary for feeding the population and developing agriculture. Likewise, food and agriculture must be developed in a sustainable manner to ensure a clean, healthy and sustainable environment.**
- **Globally, 156 countries enshrine the right to the environment in their legislation. In Latin America and the Caribbean, 21 countries explicitly recognize the right to the environment in their constitutions, while 15 countries recognize the right to adequate food. Integrating the principal regulatory and jurisprudential advancements concerning the right to a clean, healthy and sustainable environment at the constitutional and legal level contributes to the progressive realization, justiciability and enforceability of this right at the national level.**
- **Expanding the scope of this right within national legal systems is an important tool for addressing issues such as climate change, environmental degradation or biodiversity loss. It is particularly useful for preventing and recovering from events like the COVID-19 pandemic, increasing resilience among nations and their populations against future pandemics.**
- **In recognizing these rights, it is imperative to highlight the role played by historically marginalized groups, including Indigenous Peoples, rural communities and women.**