



ENVIRONMENT AND HUMAN RIGHTS

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Academic year 2023/2024
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UN



United Nations

A/HRC/19/34



General Assembly

Distr.: General
16 December 2011

Original: English

Human Rights Council
Nineteenth session
Agenda items 2 and 3
**Annual report of the United Nations High Commissioner
for Human Rights and reports of the Office of the
High Commissioner and the Secretary-General**
**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

**Analytical study on the relationship between human rights
and the environment**

Report of the United Nations High Commissioner for Human Rights

Summary

The present report is submitted in accordance with resolution 16/11 of the Human Rights Council. This analytical study examines the key components of the relationship between human rights and the environment, with emphasis on the following themes: the conceptual relationship between human rights and the environment; environmental threats to human rights; mutual reinforcement of environmental and human rights protection; and extraterritorial dimensions of human rights and the environment.

**Resolutions on human rights
and the environment**

Year	Symbol Number	Title
2021	A/HRC/RES/46/7	Resolution adopted by the Human Rights Council on 23 March 2021
2018	A/HRC/RES/37/8	Resolution adopted by the Human Rights Council on 22 March 2018
2017	A/HRC/RES/34/20	Resolution adopted by the Human Rights Council on 24 March 2017
2016	A/HRC/RES/31/8	Resolution adopted by the Human Rights Council on 23 March 2016
2015	A/HRC/RES/28/11	Resolution adopted by the Human Rights Council on 26 March 2015
2014	A/HRC/RES/25/21	Resolution adopted by the Human Rights Council on 28 March 2014
2012	A/HRC/RES/19/10	Resolution adopted by the Human Rights Council on 22 March 2012

<i>Date</i>	<i>Monitoring Body</i>		
ICERD	International Convention on the Elimination of All Forms of Racial Discrimination	21 Dec 1965	CERD
ICCPR	International Covenant on Civil and Political Rights	16 Dec 1966	CCPR
ICESCR	International Covenant on Economic, Social and Cultural Rights	16 Dec 1966	CESCR
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women	18 Dec 1979	CEDAW
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	10 Dec 1984	CAT
CRC	Convention on the Rights of the Child	20 Nov 1989	CRC
ICMW	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families	18 Dec 1990	CMW
CPED	International Convention for the Protection of All Persons from Enforced Disappearance	20 Dec 2006	CED
CRPD	Convention on the Rights of Persons with Disabilities	13 Dec 2006	CRPD

Independent expert on human rights obligations relating to the enjoyment of a safe, clean, healthy, and sustainable environment

- Established by Human Rights Council in 2012 (Res. 19/10)
- Mandate holder: Mr John Knox (2012 – 2018)
- Current mandate holder: David R. Boyd (2018 -)



Functions of special procedures:

- Undertake country visits.
- Act on individual cases of reported violations and concerns of a broader nature by sending communications to states and others.
- Contribute to the development of international human rights standards.
- Engage in advocacy, raise public awareness, and provide advice for technical cooperation.

A/HRC/25/53. Report of the Independent Expert on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy, and sustainable environment, John H. Knox . Mapping report.

11 special procedures of the Human Rights Council whose mandates are particularly relevant to the nexus of human rights and the environment:

- 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.
- The Special Rapporteur on the right to education.
- The Special Rapporteur on extreme poverty and human rights.
- The Special Rapporteur on the right to food.
- The Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.
- The Special Rapporteur on the situation of human rights defenders.
- The Special Rapporteur on the human rights of internally displaced persons.
- The Independent Expert on minority issues.
- The Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes.
- The Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises, and the Working Group on this issue.
- The Special Rapporteur on the human right to safe drinking water and sanitation.

FRAMEWORK PRINCIPLES ON HUMAN RIGHTS AND THE ENVIRONMENT

2018 | The main human rights obligations relating to the enjoyment
of a safe, clean, healthy and sustainable environment.

A/HRC/37/59 (2018)

The principles set out the basic obligations of states under human rights law as they relate to the enjoyment of a safe, clean, healthy, and sustainable environment. Each principle has a commentary that clarifies its meaning.

16 principles

11. 'An unusual aspect of the development of human rights norms relating to the environment is that they have not relied primarily on the explicit recognition of a human right to a safe, clean, healthy and sustainable environment — or, more simply, a human right to a healthy environment. Although this right has been recognised, in various forms, in regional agreements and in most national constitutions, it has not been adopted in a human rights agreement of global application, and only one regional agreement, the African Charter on Human and Peoples' Rights, provides for its interpretation in decisions by a review body'.

1. **States should ensure a safe, clean, healthy and sustainable environment in order to respect, protect and fulfil human rights.**
2. **States should respect, protect, and fulfil human rights to ensure a safe, clean, healthy, and sustainable environment.**
3. States should **prohibit discrimination** and ensure equal and effective protection against discrimination in relation to the enjoyment of a safe, clean, healthy, and sustainable environment.
4. States should provide a safe and enabling environment in which individuals, groups, and organs of society that work on human rights or environmental issues can **operate free from threats, harassment, intimidation, and violence.**
5. States should respect and protect the rights **to freedom of expression, association, and peaceful assembly in relation to environmental matters.**
6. To avoid undertaking or authorising actions with environmental impacts that interfere with the full enjoyment of human rights, **states should require the prior assessment of the possible environmental impacts of proposed projects** and policies, including their potential effects on the enjoyment of human rights.
7. States should provide for **education and public awareness on environmental matters.**
8. States should **provide public access to environmental information** by collecting and disseminating information and by providing affordable, effective, and timely access to information to any person upon request’.

9. 'States should provide for and facilitate **public participation** in decision-making related to the environment, and take the views of the public into account in the decision-making process.
10. States should provide for **access to effective remedies** for violations of human rights and domestic laws relating to the environment.
11. States should establish and maintain substantive **environmental standards that are non-discriminatory, non-retrogressive, and otherwise respect, protect, and fulfil human rights.**
12. **States should ensure the effective enforcement of their environmental standards against public and private actors.**
13. States should cooperate with each other to establish, maintain, and enforce effective international legal frameworks to **prevent, reduce, and remedy transboundary and global environmental harm** that interferes with the full enjoyment of human rights.
14. States should take additional measures to protect the rights of those who are **most vulnerable** to, or at particular risk from, environmental harm, taking into account their needs, risks and capacities.
15. States should ensure that they comply with their obligations to **indigenous peoples and members of traditional communities.**
16. **States should respect, protect, and fulfil human rights in the actions they take to address environmental challenges and pursue sustainable development'.**

UN RECOGNITION of the right to live in a clean, healthy, and sustainable environment

- Resolutions from the Human Rights Council in 2021 (A/HRC/RES/48/13).
- Resolution from the General Assembly in 2022 (A/RES/76/300).



Human Rights Council
Forty-eighth session
13 September–11 October 2021
Agenda item 3
**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

**Resolution adopted by the Human Rights Council
on 8 October 2021**

48/13. The human right to a clean, healthy and sustainable environment



Seventy-sixth session
Agenda item 74 (b)
**Promotion and protection of human rights: human
rights questions, including alternative approaches for
improving the effective enjoyment of human rights and
fundamental freedoms**

**Resolution adopted by the General Assembly
on 28 July 2022**

[without reference to a Main Committee (A/76/L.75 and A/76/L.75/Add.1)]

76/300. The human right to a clean, healthy and sustainable environment

A/HRC/RES/7/23 – Human rights and climate change (2008)

- *‘Decides to request the Office of the United Nations High Commissioner for Human Rights, in consultation with and taking into account the views of states, other relevant international organisations, and intergovernmental bodies including the Intergovernmental Panel on Climate Change and the secretariat of the United Nations Framework Convention on Climate Change, and other stakeholders, to conduct, within existing resources, a **detailed analytical study on the relationship between climate change and human rights**, to be submitted to the Council prior to its tenth session’. = A/HRC/RES/10/61 (Report of the Office of the United Nations High Commissioner for Human Rights on the relationship between climate change and human right).*

HUMAN RIGHTS COUNCIL RESOLUTIONS – CLIMATE CHANGE:

A/HRC/RES/10/4; A/HRC/RES/18/22; A/HRC/RES/26/27; A/HRC/RES/29/15; A/HRC/RES/32/33; A/HRC/RES/35/20; A/HRC/RES/38/4; A/HRC/RES/41/21; A/HRC/RES/44/7; A/HRC/RES/47/24; A/HRC/RES; among others.

Special Rapporteur on the promotion and protection of human rights in the context of climate change

- Established by Human Rights Council in 2021 (Res. 48/14).
- Mandate holder: IAN FRY (2022- 2023).
- Current mandate holder: VACANT (application process).

Thematic reports: A/78/255 ‘Exploring approaches to enhance climate change legislation, supporting climate change litigation and advancing the principle of intergenerational justice’; A/HRC/53/34 ‘Providing legal options to protect the human rights of persons displaced across international borders due to climate change’.

Report of the Special Rapporteur on the promotion and protection of human rights in the context of climate change, Ian Fry

Exploring approaches to enhance climate change legislation, supporting climate change litigation and advancing the principle of intergenerational justice

Summary

In the present report, the Special Rapporteur on the promotion and protection of human rights in the context of climate change, Ian Fry, reviews current efforts by Governments to include human rights considerations in climate change-related legislation and reflect them in constitutions. He also reviews the application of human rights obligations in climate change litigation and explores the various limitations of litigation owing to substantive and procedural blockages. In the report, he notes the critical role of litigation in placing obligations on Governments, corporations and society as a whole to take decisive action to address climate change and the respective human rights obligations that underpin their corresponding responsibilities. Lastly, he explores the application of the principle of intergenerational equity and how it is evolving into intergenerational justice. The present report is a snapshot of current trends with respect to legislation, litigation and intergenerational justice. It is aimed at providing direction on incorporating human rights considerations into those three elements and is not intended to be a comprehensive review of those elements.

COUNCIL OF EUROPE

The Environment and Human Rights

HELP
Human Rights Education for Legal Professionals
Council of Europe



MANUAL ON HUMAN RIGHTS AND THE ENVIRONMENT (3rd edition)

► Principles emerging from the case law of the European Court on Human Rights and the conclusions and decisions of the European Committee of Social Rights

<https://www.coe.int/en/web/help/-/the-environment-and-human-rights-new-free-council-of-europe-help-online-course>

Human rights and the environment, a priority for the Council of Europe

Biodiversity loss, species extinction, climate change and the general degradation of the world's ecosystems have a profound global impact on the enjoyment of human rights. Addressing the challenges they pose to the protection of human rights has become a priority for the Council of Europe, especially as their impact will continue to grow in the years to come.

The jurisprudence of the [European Court of Human Rights](#) and the conclusions of the [European Committee of the European Social Charter](#) affirm the undeniable inter-connections between environmental protection and human rights.

Successive presidencies of the Council of Europe and the Organisation's bodies have called for the strengthening of existing legal tools in order to help European states meet the considerable challenges posed by environmental degradation and to enhance the protection of human rights on the continent.

European Convention on HR

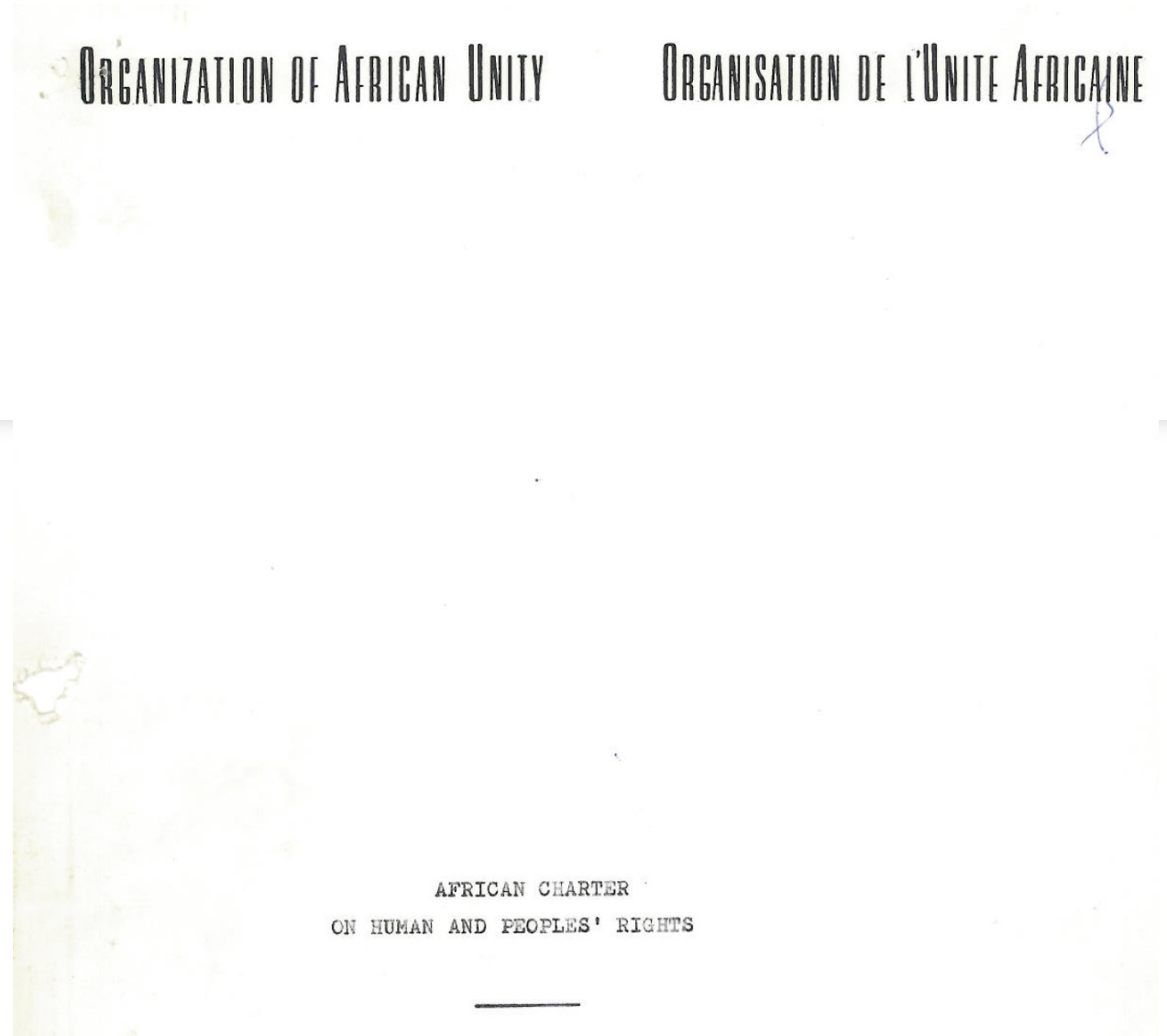
- Right to life.
- Right not to be subjected to inhuman or degrading treatment.
- Right to respect for private and family life and the home.
- Protection of property.
- Right to receive and impart information and ideas – freedom of expression.
- Decision-making processes in environmental matters and public participation.
- Access to justice.

Revised European Social Charter

- Right to just conditions of work and to safe and healthy working conditions.
- Right to protection of health.
- Right to housing.

AFRICAN UNION

AFRICAN CHARTER ON HUMAN AND PEOPLES' RIGHTS (1981)



Article 24

‘All peoples shall have the right to a general satisfactory environment favourable to their development’

= Peoples’ right - not an individual right

State Reporting Guidelines and Principles on
Articles 21 And 24 of the African Charter relating
to Extractive Industries, Human Rights and the
Environment

Call for Comments to the ‘Study on the Impact of
Climate Change on Human and Peoples’ Rights in
Africa’

AFRICAN
COMMISSION ON
HUMAN AND
PEOPLES’ RIGHTS

AMERICAN STATES ORGANISATION

INTERAMERICAN COURT OF HUMAN RIGHTS

Article 11 of the Protocol of San Salvador:

1. Everyone shall have the right to live in a healthy environment and to have access to basic public services.
2. The states parties shall promote the protection, preservation, and improvement of the environment.

ORGANIZATION OF AMERICAN STATES

INTERAMERICAN COURT OF HUMAN RIGHTS

INTER-AMERICAN COURT OF HUMAN RIGHTS

**ADVISORY OPINION OC-23/17
OF NOVEMBER 15, 2017
REQUESTED BY THE REPUBLIC OF COLOMBIA**

THE ENVIRONMENT AND HUMAN RIGHTS

**(STATE OBLIGATIONS IN RELATION TO THE ENVIRONMENT IN THE CONTEXT OF
THE PROTECTION AND GUARANTEE OF THE RIGHTS TO LIFE AND TO PERSONAL
INTEGRITY: INTERPRETATION AND SCOPE OF ARTICLES 4(1) AND 5(1) IN
RELATION TO ARTICLES 1(1) AND 2 OF THE AMERICAN CONVENTION
ON HUMAN RIGHTS)**

INTER-AMERICAN COURT OF HUMAN RIGHTS

**CASE OF THE INDIGENOUS COMMUNITIES OF THE LHAKA HONHAT (OUR
LAND) ASSOCIATION V. ARGENTINA**

**JUDGMENT OF FEBRUARY 6, 2020
(Merits, reparations and costs)**

Autonomous right + relation between environment and human rights
'69. Many other rights may be affected by failure to comply with these obligations, including the economic, social, cultural, and environmental rights protected by the Protocol of San Salvador, the American Convention, and other treaties and instruments; specifically, the right to a healthy environment'.

THE COURT APPLIED THE RIGHT AND
FOUND THAT IT HAD BEEN VIOLATED

Request for an advisory opinion on the scope of the state obligations for responding to the climate emergency

Filing Date: **2023**

Status: **Pending**

Case Categories: [Advisory Opinions](#)

Jurisdictions: [Inter-American System of Human Rights](#) > [Inter-American Court of Human Rights](#)

Principal Laws: [American Convention on Human Rights](#) > [San Salvador Protocol](#)
[Escazú Agreement](#)

Summary:

On January 9, 2023, Chile and Colombia signed a joint advisory opinion request to be presented before the Inter-American Court of Human Rights (IACtHR), aiming to clarify the scope of the state obligations for responding to the climate emergency under the frame of international human rights law. The request acknowledged the human rights effects of the climate emergency, especially highlighting the vulnerability of communities and ecosystems in Latin America. In this line, Colombia and Chile emphasized the need for regional standards to accelerate action to confront climate change. The applicants mentioned the Advisory Opinion OC-23/17 requested by Colombia, where the IACtHR recognized the right to a healthy environment and the relation between environment and human rights. The request identifies the IACtHR as the suitable body to determine guidelines for creating and implementing climate policies based on a human rights approach.

<https://climatecasechart.com/non-us-case/request-for-an-advisory-opinion-on-the-scope-of-the-state-obligations-for-responding-to-the-climate-emergency/>

ANOTHER PARADIGM: RIGHTS OF NATURE - LEGAL PERSONIFICATION OF NATURE

- Attribution of rights to nature.
- Ecocentrism - legal protection mechanism.
- Protection of traditional lands, but with western legal mechanism.
- Problem: articulating who can claim protection and how.
- Examples:
 - India, Ganges, and Yamuna rivers (2017) – jurisprudential recognition (decision appealed to the Supreme Court)
 - Ecuador (2011) – constitutional recognition of the rights of nature (high number of court cases).
 - Spain (2023) – legal recognition of the protection of the Mar Menor – 3/2020 ACT PROTECTION – 19/2022 RECOGNITION OF LEGAL PERSONALITY.

The Mar Menor Lagoon Enjoys Legal Standing: and now, what?

On 30th September, the Spanish Parliament has completed the 'Mar Menor Act' ([Ley 19/2022, of 30 September](#)), granting legal personality to the lagoon of the Mar Menor and its basin. It is the first legal text in Europe which gives rights and legal standing to a natural body. Notably, the process was initiated by a public campaign triggering the legislative procedure. As legal scholars, we fear that this move, although it constitutes a strong expression of ecological awareness, will not solve the lagoon's serious environmental deterioration.

Decades of Foreseeable Deterioration

The [Mar Menor lagoon](#) is located in Murcia in Southeastern Spain. It is the largest permanent saltwater lagoon in Europe, a unique natural enclave of great ecological value. Years before, it was characterised as a paradisiacal destination, surrounded by nature, indigenous species and crystal-clear waters that created a very unique ecosystem. However, the current situation reflects an increasingly alarming reality that requires urgent action to overcome this permanent environmental crisis.

The ecosystem has long suffered from deterioration. In particular, the eutrophication of its waters has been a problem, resulting in [episodes of anoxia](#). Continuous political errors and flagrant breaches of environmental law are made responsible for this catastrophic result, multiplying popular expressions of distrust in our legal-political system. Facing these events, environmental lawyers have long reported many of these political and legal blunders that have caused this disastrous result.

Recognising Nature's Rights: Yeas and Nays

There are other tendencies that try to solve the aforementioned crisis of Environmental Law, taking the recognition of legal status to natural entities a possible way to move ahead. This is the way taken in the Mar Menor drama as the [Recognition of the legal personality and rights of the Mar Menor and its Basin Act](#) establishes.

This trend, inspired by iusphilosophical [Ecological Justice](#), occupies lawyers all over the world and finds its rationale in the intrinsic value of nature and in the principle of equality, attempting to transcend the paradigm of human rights as a conception inspired by an anthropocentric vision of "old" environmental law. In general terms, the recognition of rights to nature is based on three ideas that are identified with the aforementioned criticism of anthropocentrism, of property rights and of unlimited economic growth, and proposes, as opposed to this paradigm, an ecocentric perspective that prioritises the intrinsic value of nature and the limitations imposed by the capacity of the Environment to satisfy present and future needs, which are erected as a moral duty (Vicente Giménez/Salazar Ortuño). Trying to evaluate this point of view, Belloso suggests that "the attribution of rights to non-human realities must be placed in the appropriate context (cultural and philosophical) to understand in due measure the reason for certain legislations, constitutional designs, judicial decisions and doctrinal constructions". And he adds that in the face of an inflation of rights holders, to the detriment of human rights themselves ... "it is not so much a question of recognizing them as subjects of rights but of taking advantage of such legal fictions to provide them with full and effective protection. In any case, a strategy that moves from the moral to the juridical plane, and that protects nature and the ecological sphere in general, is imperative and urgent, so as to facilitate the adequate coexistence of human beings with all other living beings on Earth. Ecology, as the interaction of mankind with the planet Earth, is part of a whole, and makes it necessary for the law to adopt this approach" (Belloso Martín).



Article 1.

The legal personality of the Mar Menor lagoon and its basin is declared, which is recognized as a subject of rights.

For the purposes of this law, it will be understood that the Mar Menor basin is made up of:

a) The biogeographic unit consisting of a large inclined plan of 1,600 km² with northwest-southeast direction, limited to the north and northwest by the last eastern foothills of the Betic mountain ranges constituted by the pre-coastal mountains (Carrascoy, Cabezos del Pericón and Sierra de los Victorias, El Puerto, Los Villares, Columbares and Escalona), and to the south and southwest by coastal mountain ranges (El Algarrobo, Sierra de la Muela, Pelayo, Gorda, Sierra de La Fausilla and the Sierra de Cartagena-La Unión mining range, with its last foothills in Cabo de Palos), and including the water basin and its drainage networks (ramblas, riverbeds, wetlands, cryptohumedals, etc.).

b) The set of aquifers (Quaternary, Pliocene, Messinian and Tortonian) that can affect the ecological stability of the coastal lagoon, including the intrusion of Mediterranean seawater.

Article 3.

1. The representation and governance of the Mar Menor lagoon and its basin, is concretized in three figures: A Committee of Representatives, composed of representatives of the Public Administrations that intervene in this area and of the citizens of the riveride municipalities; a Monitoring Commission (the guardians of the Mar Menor Lagoon); and a Scientific Committee, which will be part of an independent commission of scientists and experts, universities and research centers.

The three bodies referred to, Committee of Representatives, Monitoring Committee and Scientific Committee, will form the Tutoring of the Mar Menor.

Murcia Region

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OSCAR AWARDS 'Oppenheimer' sweeps the Oscars with seven awards · Check the complete list of winners

A judge applies for the first time the Legal Personality of the Mar Menor

After two decades, the Government of the Region of Murcia declared in 2022 the works and actions to seal the Jenny raft as an emergency, a month after Examining Court number 4 of Cartagena gave it 20 days to comply with this precautionary measure

Newspaper library - [The Jenny raft, two decades without sealing "the biggest environmental botched" of the Sierra Minera of Cartagena](#)



In the judicial order, the judge indicates that ‘given the state of the case, under the provisions of Act 19/2022 of 30 September, in order to safeguard the rights of the Mar Menor that may have been affected by the action of those investigated, a series of actions, in accordance with the provisions of Articles 109 and 110 of the LECrim, for the entity representing the Mar Menor, through its committee of representatives provided for in Article 3 of the aforementioned law, was presented to the General State Administration (Ministry of Ecological Transition and State Advocacy, Central Services) as well as the CARM (Directorate General of the Mar Menor and Legal Services)’.

CLIMATE JUSTICE...



[Generation Now: The Fight For Climate Justice | TIME \(video\)](#)

CLIMATE LITIGATION



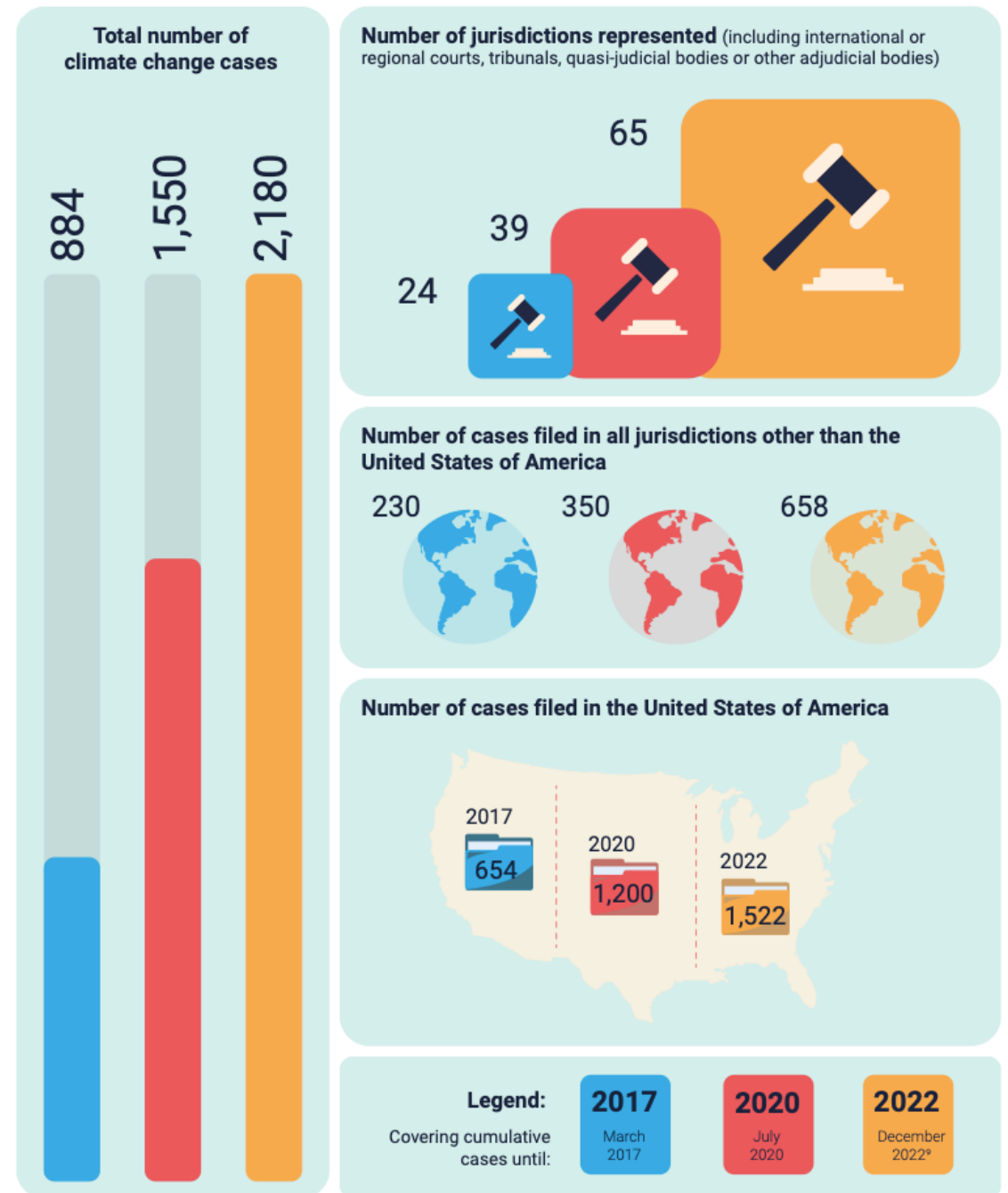
This concept refers to legal proceedings in which social or environmental organisations, and even individuals, act against administrative inactivity in the fight against climate change or against the actions of the administration that may be considered contrary to it (administrative proceedings against the state)

The concept has been extended to proceedings against polluting corporations (civil proceedings).

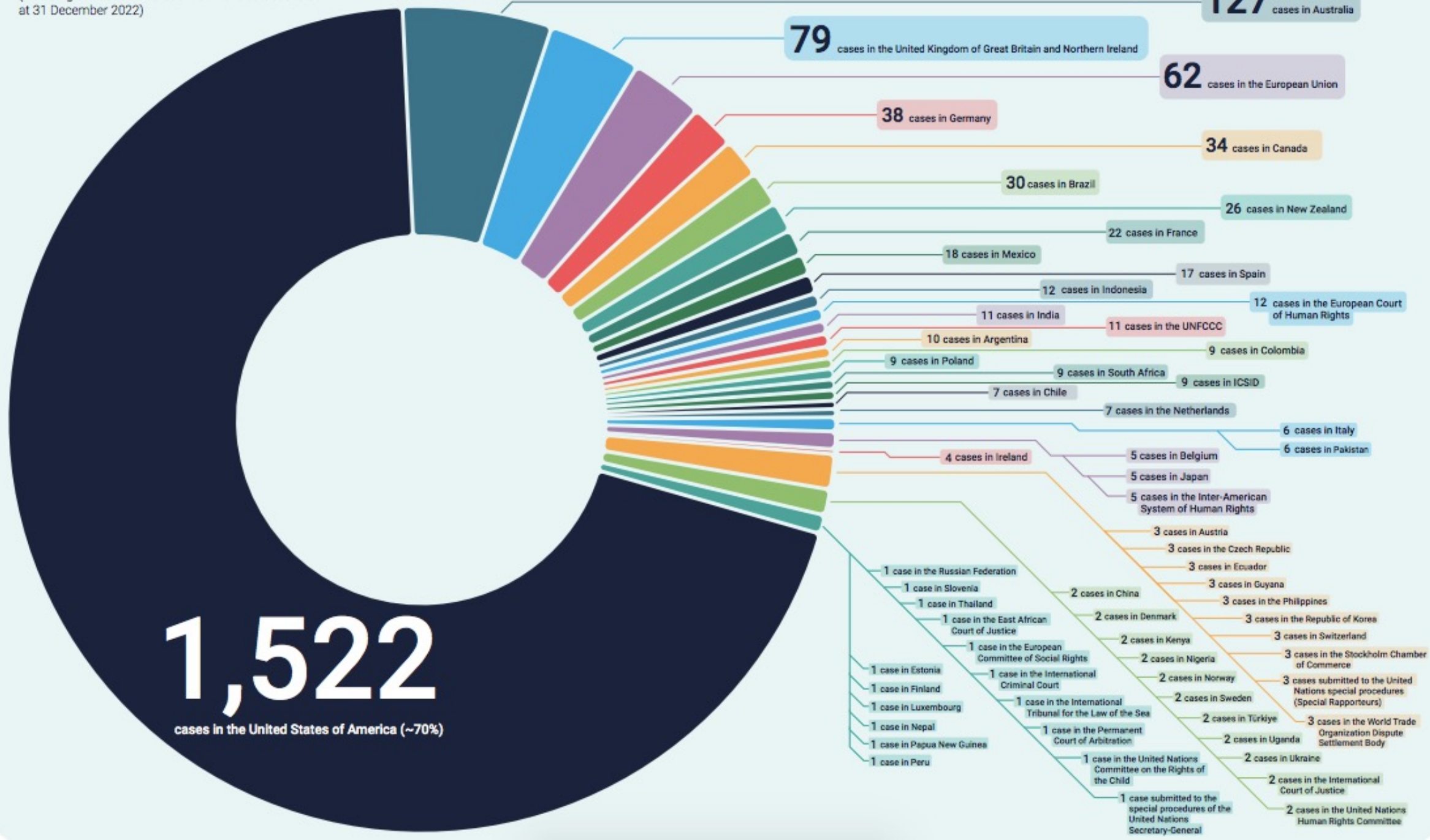
The aim is to increase climate action by implementing existing legislation or by including climate targets in other legislation. Compensation for damages may also be sought.



Figure 1. **Growth of climate litigation** as represented in UNEP's 2017, 2020 and 2023 Litigation Reports



(including all cases in the Sabin Center's databases as at 31 December 2022)



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First climate litigation in Spain: the Supreme Court agrees with the Government in front of ecologists

The Contentious-Administrative Chamber considers that the state plan to combat climate change complies with the commitments as a member of the EU

LEGAL ARGUMENTATION

- Questioning climate action: policies and projects/prevention of business activity.
- Standards for the Quantification of Emission Reduction Obligations (International Commitments and National Adoption/Implementation) – International Climate Change Regime.
- United Nations Framework Convention on Climate Change; Kyoto Protocol; Paris Agreement.
- Regional compromises (EU, for example).
- National legislation/action plans.
- Human rights approach (HR impact).
- Principles of environmental law.

ECOFEMINISM: THE MINDSET OF THE FUTURE



ECOFEMINISM

[Vandana Shiva \(video\)](#)

[Yayo Herrero \(video\)](#)

