

## **Draft International Covenant on Environmental Rights**

**28 March 2024**

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## Preamble

The Parties to the present Covenant,

1. *Considering* that, in accordance with the principles proclaimed in the International Covenants on Civil and Political Rights and on Economic, Social, and Cultural Rights, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world, and *recognizing* that these rights derive from the inherent dignity of the human person,<sup>1</sup>
2. *Considering* that in accordance with the Charter of the United Nations, peoples are determined to promote social progress and better standards of life in larger freedom<sup>2</sup> and to promote universal respect for and observance of human rights and fundamental freedoms,<sup>3</sup>
3. *Recognizing* that, in accordance with the Universal Declaration of Human Rights, the ideal of free human beings enjoying freedom from fear and want can only be achieved if conditions are created whereby all people may enjoy their environmental rights, as well as their civil and political rights and their economic, social and cultural rights,<sup>4</sup>
4. *Reaffirming* that all human rights and fundamental freedoms, including the right to a clean, healthy and sustainable environment, are universal, indivisible and interdependent and that it is the responsibility of the States, individuals, and other public and private entities to respect, protect and promote these rights,<sup>5</sup>
5. *Convinced* that peace, the environmental rule of law, respect for human rights, sustainable environmental development, the right to development, and environmental protection in a viable planet within planetary boundaries are indivisible,<sup>6</sup>
6. *Recognizing* that, in accordance with the Universal Declaration of Human Rights, everyone has the right to a standard of living adequate for their health and well-being and that of their family,<sup>7</sup>
7. *Considering* that the environment is understood in all its dimensions including lands, waters, oceans, atmosphere and outer space, and that the right to a clean, healthy and sustainable environment applies to all environmental resources, whether held publicly, privately, under customary law, or as common goods,

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<sup>1</sup> International Covenant on Economic, Social and Cultural Rights, 16 December 1966 (“ICESCR”), Preamble; International Covenant on Civil and Political Rights, 16 December 1966 (“ICCPR”), Preamble.

<sup>2</sup> United Nations Charter, Preamble, para. 4.

<sup>3</sup> United Nations Charter, Art. 55 and Universal Declaration of Human Rights, 10 December 1948 (“UDHR”), Preamble.

<sup>4</sup> Id.

<sup>5</sup> United Nations General Assembly Resolutions 32/130 of 16 December 1977 and 41/117 of 4 December 1986.

<sup>6</sup> Rio Declaration on Environment and Development, adopted by the United Nations Conference on Environment and Development on 14 June 1992 (“Rio Declaration”), Principle 25; on the right to development, several resolutions of the United Nations General Assembly, the latest being Resolution 78/203 of 19 December 2023; as well as of the Human Rights Council, the latest being Resolution 51/7 of 6 October 2022.

<sup>7</sup> UDHR, Art. 25-1.

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8. *Deeply concerned* by the risks facing humanity and nature, in particular by the amplified frequency and intensity of disasters including those induced by climate change; the accelerated loss of biodiversity; degradation of air, lands and oceans; and the global spread of pandemics and infectious diseases, all of which increasingly affect the full enjoyment of all human rights, including the right to a clean, healthy and sustainable environment, and represent a vital threat to present and future generations,<sup>8</sup>
9. *Noting* that environmental degradation, which necessarily affects all humanity, is often accompanied by direct or indirect violations of human rights, particularly the right to life, the right to health, the right to water, the right to food, the right to respect for private life, and procedural rights,<sup>9</sup>
10. *Noting* also, reciprocally, that some human rights abuses are accompanied by destruction of the environment,
11. *Considering* that human rights are a form of resilience in the face of environmental degradation,<sup>10</sup>
12. *Noting* the right of everyone to live in harmony with nature and within planetary boundaries,<sup>11</sup> fostered through a symbiotic connection between human beings and natural ecosystems, in a mutually beneficial relationship,
13. *Recalling* the international consensus existing since the Stockholm Declaration of 1972, according to which each person has the fundamental right to an environment of quality that permits a life of dignity and well-being, which was further elaborated and fully acknowledged by the General Assembly of the United Nations Resolution 76/300 and the Human Rights Council Resolution 48/13 guaranteeing the right to a clean, healthy, and sustainable environment,
14. *Noting* that the human right to a healthy environment is recognized by several international and regional conventions, and by the constitutions of the majority of Member States of the United Nations,

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<sup>8</sup> Draft Universal Declaration of Humankind Rights, Preamble, para. 7, presented by F. Hollande, President of the French Republic to the Secretary General of the United Nations, 28 April 2016; United Nations General Assembly Resolution 78/153 - Protection of global climate for present and future generations of humankind, A/RES/78/153, 19 December 2023; Human Rights Council Resolution 53/6 - Human rights and climate change, A/HRC/RES/53/6, 12 July 2023; thematic reports of the Special Rapporteur for Human Rights and the Environment addressing: toxic contamination (A/HRC/49/53, 2022), healthy food (A/76/179, 2021), water crisis (A/HRC/46/28, 2021), clean air (A/HRC/40/55, 2019), climate change (A/74/161, 2019; A/HRC/31/52, 2016), and biodiversity (A/HRC/34/49, 2017); summary of the expert seminar on human rights and environmental conservation in the prevention of future pandemics, A/HRC/52/44, 2022; reports of the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes related to: climate change (A/HRC/54/25, 2023), indigenous peoples' rights (A/77/183, 2022), mining (A/HRC/51/35, 2022), and plastics (A/76/207, 2021); first report by the Special Rapporteur on the promotion and protection of human rights in the context of climate change (A/77/226, 2022).

<sup>9</sup> David R. Boyd, Human rights depend on a healthy biosphere, A/75/161, 2020; Tlaleng Mofokeng, Food, nutrition and the right to health, A/78/185, 2023.

<sup>10</sup> Council of Europe, Ethical principles on disaster risk reduction and people's resilience, EUROPA, Strasbourg, 2011.

<sup>11</sup> Stockholm Declaration, Principle 1; Rio Declaration, Principle 1; Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters of 1998 ("Aarhus Convention"), Art. 1; African Charter on Human and People's Rights, Art. 24; Escazú Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean of 2018 ("Escazú Agreement"), Art. 1; United Nations General Assembly Resolution 76/300; Human Rights Council Resolution 48/13.

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15. *Considering* that broad freedoms of association, the right to defend environmental rights, and the rights to information, participation, and access to justice, are recognized by international and regional human rights instruments,

16. *Recognizing* that peace, development, and environmental protection are interdependent and indivisible,<sup>12</sup>

17. *Considering* that it is now urgent to establish, in a universal Covenant, international rules for the human right to a clean, healthy and sustainable environment, binding on States, individuals, and other public and private entities, and enforceable by them,

Agree upon the following articles:

## **PART I : RIGHTS AND DUTIES**

### **Article 1. Right to a clean, healthy, and sustainable environment**

1. Every person and all peoples have the right to live in a clean, healthy and sustainable environment. These include a safe, stable climate; healthy ecosystems and biodiversity, non-toxic environments; clean air; safe and sufficient water; and healthy and sustainably produced food.

2. The right to a clean, healthy and sustainable environment shall be respected, protected and fulfilled effectively and equitably, ensuring individual and collective health, safety, security, livelihood and wellbeing for present and future generations, in harmony with nature.<sup>13</sup>

3. The realization and enjoyment of the right to a clean, healthy and sustainable environment shall be fostered through a symbiotic connection between human beings and natural ecosystems, in a mutually beneficial relationship based on the recognition and enforcement of the rights of nature.

4. Every person and all peoples have the obligation to protect the environment and to contribute to its improvement.

### **Article 2. Environment-related human rights**

1. Every person and all peoples have environment-related human rights, including:

- a) the right to the highest attainable standard of physical and mental health conducive to well-being at all ages underpinned by the principles of the “One Health” approach;<sup>14</sup>
- b) the right to safe and affordable drinking water that is adequate and equitable for sanitation and hygiene;
- c) the right to healthy and nutritious food in sufficient quantity and secured through sustainable food systems that are fit to meet environmental challenges; and

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<sup>12</sup> Rio Declaration, Principle 25.

<sup>13</sup> Stockholm Declaration, Principle 1; Rio Declaration, Principle 1; Aarhus Convention, Art. 1; African Charter on Human and People’s Rights, Art. 24; Escazú Agreement, Art. 1; United Nations General Assembly Resolution 76/300; Human Rights Council Resolution 48/13.

<sup>14</sup> ICESCR, Art. 12; Committee on Economic, Social and Cultural Rights, General Comment No. 14, 2000; 2030 Agenda, SDG 3; United Nations Environment Assembly Resolution 3/4 - Environment and Health, UNEP/EA.3/Res.4, 30 January 2018; Human Rights Council Resolution 51/21 - The right of everyone to the enjoyment of the highest attainable standard of physical and mental health, A/HRC/RES/51/21, 7 October 2022.

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d) the right to adequate, safe and affordable housing.

2. Parties shall 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<sup>15</sup>.

**Article 3. Right to a heightened level of environmental protection and to non-retrogression**

1. Every person and all peoples have the right to a heightened level of protection of the environment and to non-retrogression in the levels already attained.<sup>16</sup>

2. Parties shall adopt measures necessary to effectively combat threats to the environment in order to ensure a heightened level of protection.<sup>17</sup> These measures may not result, directly or indirectly, in the relocation or transfer to other States of any activities and substances that cause severe environmental degradation or are known to be harmful to human health.<sup>18</sup>

**Article 4. Right to prevention of environmental degradation<sup>19</sup>**

1. Every person and all peoples have a right to have measures taken to prevent all environmental harm that interferes with the full enjoyment of human rights.<sup>20</sup>

2. To this end, every person and all peoples have a duty to prevent degradation to the environment.

3. Every person and all peoples, as well as Parties within the limits of their jurisdictions, shall ensure that their activities, and those activities under their control, do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction.

**Article 5. Right to precautionary measures<sup>21</sup>**

1. To avoid environmental degradation or to protect any of the rights recognized in the present Covenant, every person has the right to have precautionary measures taken, in line with the rights protected in the present Covenant.

2. To this end, every person has a duty to take necessary precautionary measures.

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<sup>15</sup> Framework Principles on Human Rights and the Environment, A/HRC/37/59 (2018), Principle 14.

<sup>16</sup> Rio+20 Outcome Document, 2012, para. 20. Reports of John H. Knox A/HRC/25/53, 30 December 2013, para. 55; A/HRC/ 31/52, 1 February 2016, paras. 67, 68, 75; IUCN Resolutions 5.128 of the World Congress in Jeju in 2012 and 0.82 of the World Congress in Hawaii in 2016; European Parliament resolution of 29 September 2011 on developing a common EU position ahead of the United Nations Conference on Sustainable Development (Rio+20), para. 97; IUCN, Draft International Covenant on Environment and Development, 2015 (“IUCN Draft”), Art. 10; Paris Climate Agreement, Art. 4-3; Escazú Agreement, Art. 3-c.

<sup>17</sup> Rio Declaration, Principle 11.

<sup>18</sup> Rio Declaration, Principle 14; IUCN Draft, Art. 18.

<sup>19</sup> Stockholm Declaration, Principle 21; Rio Declaration, Principle 2; IUCN Draft, Art. 14.

<sup>20</sup> Framework Principles on Human Rights and the Environment, A/HRC/37/59 (2018), Principles 1 and 2.

<sup>21</sup> Principle 15 of the Rio Declaration; Art. 6 of the IUCN Draft; Art. 5 of the 2005 French Charter on the Environment; para. 158 of the Rio+20 Outcome Document; Art. 3-3 of the United Nations Framework Convention on Climate Change (“UNFCCC”); Art. 1 of the Cartagena Protocol on Biosafety; Art. 1 of the Stockholm Convention on Persistent Organic Pollutants; Art. 7-c of the Agreement on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction (“BBNJ Agreement”).

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**Article 6. Right to remedy against environmental degradation and reparation of damages**

1. Every person and all peoples have the right to claim that, in accordance with the Polluter Pays Principle, the costs of preventing environmental degradation and the costs of repairing environmental degradation are borne by the polluter.<sup>22</sup>
2. Every person and all peoples have the right to reparation for damage to the environment, primarily by restoration to its prior condition,<sup>23</sup> or to due compensation for harm suffered as a result of such damage

**Article 7. Right to environmental and social impact assessment<sup>24</sup>**

1. Every person and all peoples have the right to have prior environmental and social impact assessments conducted for projects, plans, programs, policies, and activities that may adversely affect the environment or may interfere with the full enjoyment of human rights.<sup>25</sup>
2. Environmental and social impact assessments shall include transboundary impacts and potential responsibilities. In this context, Parties shall notify concerned States of projects likely to affect them and hold consultations promptly and in good faith.

**Article 8. Right to development in harmony with nature and environmental sustainability<sup>26</sup>**

1. Every person and all peoples have an inalienable right to development in harmony with nature and environmental sustainability, which is indivisible from and interrelated with all other human rights and fundamental freedoms, including the rights set forth in the present Covenant.
2. In guaranteeing the right to development in harmony with nature and environmental sustainability, Parties shall adopt measures in line with the rights and duties provided for in the present Covenant.
3. So that the rights set forth in the present Covenant are protected for the benefit of present and future generations, Parties shall ensure that all public policies and all development processes integrate long-term environmental sustainability.<sup>27</sup>

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<sup>22</sup> Rio Declaration, Principle 16; Convention on the Law of Non-Navigational Uses of International Watercourses, Art. 21; IUCN Draft, Art. 29; on the internalization of costs of prevention and pollution controls as well as the costs of environmental damage, recommendation of the OECD C (90) 177 (final) of 1991.

<sup>23</sup> Stockholm Declaration, Principle 21; Rio Declaration, Principle 2; International Court of Justice, *Certain Activities Carried Out by Nicaragua in the Border Area (Costa Rica v. Nicaragua)*, 2 February 2018.

<sup>24</sup> Rio Declaration, Principles 17 and 19; IUCN Draft, Art. 46; Report of John H. Knox, A/HRC/25/53, 30 December 2013, para. 30; Espoo Convention on Environmental Impact Assessment in a Transboundary Context and its Kiev Protocol on Strategic Environmental Assessment; Convention on Biological Diversity, Art. 14-1; UNFCCC, Art. 4-1; Law of the Sea Convention, Art. 206; BBNJ Agreement, Part IV; International Court of Justice, *Pulp Mills on the River Uruguay (Argentina v. Uruguay)*, 20 April 2010.

<sup>25</sup> Framework Principles on Human Rights and the Environment, A/HRC/37/59 (2018), Principle 8.

<sup>26</sup> Declaration on the Right to Development, United Nations General Assembly Resolution 41/128, 4 December 1986; African Charter on Human and People's Rights, Art. 22; Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, Art. III; Rio Declaration, Principle 3; Human Rights Council Resolution 53/28 - The contribution of development to the enjoyment of all human rights, 14 July 2023; Draft international covenant on the right to development, Report by the Chair-Rapporteur of the Working Group on the Right to Development, A/HRC/54/50, 18 July 2023, Art. 4; IUCN Draft, Art. 11; 2030 Agenda, para. 35.

<sup>27</sup> 2030 Agenda, paras. 18, 50, 53; UNEP Governing Council Decision 27/9 - Advancing justice, governance and law for environmental sustainability, UNEP/GC.27/17, 12 March 2013; Rio Declaration, Principles 3 and 4.

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**Article 9. Rights relating to opinion and expression on environmental matters<sup>28</sup>**

1. Every person and all peoples have the right to hold and express opinions and to communicate and impart ideas and information about the environment.
2. Parties shall take all necessary measures to ensure that these rights are effectively fulfilled.

**Article 10. Right to environmental information**

1. Every person and all peoples have the right, without having to prove an individual interest, to affordable, effective, and timely access to information on the environment, including information about hazardous materials and activities, and to obtain and disseminate it.<sup>29</sup>
2. Parties shall ensure the public's right of access to environmental information in their possession, control or custody, in accordance with the principle of maximum disclosure.<sup>30</sup>
3. Such information shall be disclosed in a way that is pertinent, comprehensible, and available at a reasonable cost, including through information and communications technologies.<sup>31</sup>
4. Parties shall facilitate, in particular, access to environmental information for persons or groups in vulnerable situations, taking into account recognized rights of indigenous and tribal people, establishing procedures for the provision of assistance, considering their conditions and specificities.<sup>32</sup>
5. Parties shall guarantee, to the extent possible within available resources, that the competent authorities generate, collect, publicize and disseminate environmental information relevant to their functions and periodically update this information.<sup>33</sup>

**Article 11. Right to participation in environmental decision-making<sup>34</sup>**

1. Every person and all peoples have the right to participate effectively, from an early stage, in decision-making processes at the local, national, and international levels regarding specific administrative decisions or general decisions.
2. The right to participation shall particularly apply to decision-making in projects, activities, strategies,<sup>35</sup> plans, programs, policies, and laws that are likely to have an impact on the protection, use, and management of the environment.
3. Parties shall ensure the public's right to open and inclusive participation in environmental decision-making processes<sup>36</sup> that is adapted to the social, economic, cultural, geographical and gender characteristics of the public.<sup>37</sup>

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<sup>28</sup> UDHR, Art. 19; ICCPR, Art. 19; Human Rights Council Resolution 50/15 - Freedom of opinion and expression, A/HRC/RES/50/15, 8 July 2022.

<sup>29</sup> Framework Principles on Human Rights and the Environment, A/HRC/37/59 (2018), Principle 7.

<sup>30</sup> Escazú Agreement, Art. 5.1.

<sup>31</sup> UDHR, Art. 19; ICCPR, Art. 19; Aarhus Convention, Arts. 4 and 5; Escazú Agreement, Arts. 5 and 6; United Nations General Assembly Resolution 78/243 - Information and communications technologies for sustainable development, 22 December 2023.

<sup>32</sup> Escazú Agreement, Art. 5.3.

<sup>33</sup> Escazú Agreement, Art. 6.1.

<sup>34</sup> Aarhus Convention, Arts. 6-8 and 8; Escazú Agreement, Art. 7.

<sup>35</sup> Escazú Agreement, Art. 7.3.

<sup>36</sup> Escazú Agreement, Art. Art. 7.2.

<sup>37</sup> Escazú Agreement, Art. 7.10.

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4. In developing decisions on environmental matters, Parties shall duly take into consideration the outcomes of public participation.

**Article 12. Right of access to justice in environmental matters<sup>38</sup>**

1. Every person and all peoples have the right, without reprisal, threats, or violence, to prompt, adequate and effective remedy before judicial bodies or any other independent body for claims concerning the protection and restoration of the environment and rights protected in the present Covenant.<sup>39</sup>

2. Victims of transboundary environmental damage shall have the right of access to remedies in the State Party of origin.<sup>40</sup>

3. Parties shall guarantee the right of access to justice of persons or groups in vulnerable situations by establishing support mechanisms including, as appropriate, free linguistic, technical, and legal assistance.<sup>41</sup>

**Article 13. Right to environmental education**

1. Every person has the right to lifelong education and training in environmental and climate matters.<sup>42</sup>

2. Environmental education shall emphasize the acquisition of knowledge relating to balanced environmental uses and on the different management methods that are respectful of the natural environment.

**Article 14. Gender parity and gender-transformative measures in environmental matters**

1. Every person has the right to gender equality and gender-responsive action to address climate change and environmental degradation. People of all genders have equal rights to empowerment, leadership, decision-making and full, equal and meaningful participation, and to equal opportunities to be managers, leaders, and defenders of natural resources and agents of change in safeguarding the environment.<sup>43</sup>

2. Parties shall implement gender-transformative measures, meaning steps capable of changing norms and systems that perpetuate gender inequality, and address the root causes of

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<sup>38</sup> Escazú Agreement, Art. 8.

<sup>39</sup> UDHR, Art. 8; ICCPR, Art. 2-3; United Nations General Assembly Resolution 60/147 of 16 December 2005 on “Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law”; Rio Declaration, Principle 10; Aarhus Convention, Art. 9-4; IUCN Draft, Art. 61; Escazú Agreement, Art. 8; Framework Principles on Human Rights and the Environment, A/HRC/37/59 (2018), Principle 10.

<sup>40</sup> IUCN Draft, Art. 62; Helsinki Convention on Transboundary Effects of Industrial Accidents, Art. 9.

<sup>41</sup> Escazú Agreement, Art. 8.5.

<sup>42</sup> ICESCR, Art. 13; IUCN Draft, Art. 54; Human Rights Council Resolution 53/7 - The right to education, A/HRC/RES/53/7, 12 July 2023, recognizing in the Preamble “the negative impact of climate change and natural disasters on the full realization of the right to education, as well as the role of education in promoting awareness about climate change mitigation and adaptation.” Likewise, United Nations General Assembly Resolution 78/156 - Education for sustainable development in the framework of the 2030 Agenda for Sustainable Development, A/RES/78/156, 19 December 2023, recognized “the role of education for sustainable development in promoting and enhancing public awareness [...] of combating climate change, of conserving biodiversity and ecosystems, of building disaster-resilient communities [...]” See also: Framework Principles on Human Rights and the Environment, A/HRC/37/59 (2018), Principle 6.

<sup>43</sup> United Nations General Assembly Resolution 76/300 (2022) at 2.



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gender-based discrimination, including those related to the right of women and girls to a clean, healthy and sustainable environment.

**Article 15. Environmental rights of children and youth<sup>44</sup>**

1. Children and youth have the right to a clean, healthy and sustainable environment, including clean air, a safe and stable climate, healthy ecosystems and biodiversity, safe and sufficient water, healthy and sustainable food and non-toxic environments. This right is directly linked to, in particular, the rights to life, survival and development, to the highest attainable standard of health, taking into consideration the dangers and risks of environmental pollution, to an adequate standard of living, and to education, including the development of respect for the natural environment.<sup>45</sup>

2. Children and youth have a right to have environmental decisions, including laws, regulations, policies, standards, guidelines, plans, strategies, budgets, international agreements and the provision of development assistance being made in their best interests. Where an environmental decision may have a significant impact on children and youth, it is necessary to provide opportunities for their effective and meaningful participation.<sup>46</sup>

3. Children and youth have rights to access to information, participation in decision making and child-friendly access to justice, with effective remedies, which are essential to their empowerment, including through education, to become agents of their own destiny.<sup>47</sup>

**Article 16. Rights of environmental human rights defenders<sup>48</sup>**

1. Environmental human rights defenders, including whistleblowers, have the right to a safe and enabling environment to undertake their work free from hindrance and insecurity.<sup>49</sup>

2. Environmental human rights defenders have the right to protection and safety in exercising, inter alia, the rights to freedom of opinion, expression, peaceful assembly and association, online and offline, which are essential for the promotion and protection of human rights and the protection and conservation of the environment.<sup>50</sup>

3. Taking into account State obligations in the field of human rights, including their international obligations, their constitutional principles and the basic concepts of their legal systems, Parties shall take adequate and effective measures to recognize, protect and promote all the rights of environmental human rights defenders, including their right to life, personal

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<sup>44</sup> General comment No. 26 (2023) on children's rights and the environment, with a special focus on climate change, CRC/C/GC/26; Human Rights Council Resolution 45/30 - Rights of the child: realizing the rights of the child through a healthy environment, 7 October 2020; United Nations General Assembly Resolution 78/187 - Rights of the child, 19 December 2023.

<sup>45</sup> General comment No. 26, at paras. 63-64.

<sup>46</sup> Id. at para. 16, referring to the Convention on the Rights of the Child, Art. 3.

<sup>47</sup> Id. at para. 66.

<sup>48</sup> United Nations General Assembly Resolution 78/216 - Implementing the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms through providing a safe and enabling environment for human rights defenders and ensuring their protection, A/RES/78/216, 19 December 2023; Human Rights Council Resolution 40/11 - Recognizing the contribution of environmental human rights defenders to the enjoyment of human rights, environmental protection and sustainable development, A/HRC/RES/40/11, 21 March 2019; Escazú Agreement, Art. 9.

<sup>49</sup> Human Rights Council Resolution 40/11 - Recognizing the contribution of environmental human rights defenders to the enjoyment of human rights, environmental protection and sustainable development, A/HRC/RES/40/11, 21 March 2019, para. 2.

<sup>50</sup> Id. at para. 2.

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integrity, freedom of opinion and expression, peaceful assembly and association, and free movement, as well as their ability to exercise their access rights.<sup>51</sup>

4. Parties shall take appropriate, effective, and timely measures to prevent, investigate and punish attacks, threats or intimidation that environmental human rights defenders may suffer while exercising the rights set out in the present Covenant.<sup>52</sup>

5. Every person and all peoples have the right to non-violent civil disobedience in the context of ecologic emergency.

**Article 17. Environmental rights of indigenous and tribal peoples**

1. Indigenous and tribal peoples, as distinct groups of people, and because of their traditions and customs, have the right to protection of their environment, their lands, territories, and resources,<sup>53</sup> taking into account their endogenous legal order.

2. Indigenous and tribal peoples they have the right to equitably share the benefits from activities relating to their lands, territories, and resources.<sup>54</sup>

3. Indigenous and tribal peoples are entitled to have access to natural resources essential to their subsistence and their culture.

4. Indigenous and tribal peoples have the right, in the case of forced displacement, to an adequate and safe place to live that permits their effective use of natural resources consistent with their livelihoods and lifestyles.

5. Indigenous and tribal peoples have the right to free, prior and informed participation and consent in all decisions affecting their environmental rights.<sup>55</sup>

**Article 18. Rights of persons in disaster situations and of environmentally displaced persons**

1. Persons vulnerable to disasters have the right to prior detailed information about the current risks and previous losses regarding health and environment, to a rapid and effective warning system, and to urgent relief support.<sup>56</sup>

2. Parties shall ensure that all human rights provided in the present Covenant and under international law, including international humanitarian law, are guaranteed to persons vulnerable to disasters.

3. All civil, political, social, economic, cultural, and environmental rights are guaranteed to persons displaced, whether voluntarily or by force, internally or internationally, as a result of sudden or progressive changes to their environment.

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<sup>51</sup> Escazú Agreement, Art. 9.

<sup>52</sup> Id.

<sup>53</sup> Rio Declaration, Principle 22; IUCN Draft, Art 16; United Nations General Assembly Resolution 61/295 - United Nations Declaration on the Rights of Indigenous Peoples, 13 September 2007, A/RES/61/295; United Nations General Assembly Resolution 78/189 - Rights of Indigenous Peoples, 19 December 2023, A/RES/78/189; Human Rights Council Resolution 51/18 - Human rights and Indigenous Peoples, 6 October 2022, A/HRC/RES/51/18.

<sup>54</sup> Framework Principles on Human Rights and the Environment, A/HRC/37/59 (2018), Principle 15.

<sup>55</sup> ILO Indigenous and Tribal Peoples Convention, 1989 (No.169).

<sup>56</sup> Rio Declaration, Principle 18; International Law Commission, Draft articles on the protection of persons in the event of disasters, 2016 ("ILC Draft"), Art. 9-2; European Court of Human Rights, *Tatar v Romania*, 27 January 2009, para. 122; 2030 Agenda, SDGs 11 and 13.

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4. Internally and internationally displaced persons have the right to a special legal status to guarantee their human dignity and their fundamental human rights and to ensure their “regular safe stay” during their displacement.<sup>57</sup>

**Article 19. Non-discrimination**

Parties shall guarantee that the rights set forth in the present Covenant shall be exercised without discrimination whatsoever based on race, gender, age, language, religion, political or other opinion, national or social origin, property, birth or other status.<sup>58</sup>

**Article 20. Equity and solidarity**

Parties shall ensure that the rights and duties set forth in the present Covenant shall be exercised with intergenerational equity and solidarity. They shall fulfill their obligations by taking into account their common but differentiated responsibilities.<sup>59</sup>

## PART II : INTERNATIONAL COOPERATION

**Article 21. Duty to cooperate**

1. Parties shall cooperate with each other, through joint and separate action, for the creation of international conditions favorable for the realization of the rights set forth in the present Covenant.

2. To this end, Parties shall cooperate, according to their respective capabilities, in a spirit of global partnership and in good faith, to monitor, assess, conserve, protect and restore the health and integrity of the Earth’s systems, taking into account the needs, risks, and capacities of people who have been historically discriminated against or are in vulnerable situations.

3. In implementing environmental agreements and other international obligations relating to the environment, Parties to the present Covenant shall endeavor to enhance environmental rights for all people.

**Article 22. Duty to provide assistance for the implementation of environmental rights**

With a view to ensuring the full realization of the rights recognized in the present Covenant, Parties shall take concrete and targeted steps, individually and jointly, to assist other States, as needed, through all appropriate means, including exchange of knowledge and best practices, public awareness, institutional and legal strengthening, technology transfer, capacity-building, and engagement with civil society.<sup>60</sup>

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<sup>57</sup> Draft Convention on the status of environmentally displaced persons, fourth edition, 2018 (<https://drive.google.com/file/d/1yRc7aggqpZicRFOLPS56n6f12tZWkhQI/view>); Report of John H. Knox A/HRC/31/52, 1 February 2016, paras. 24 and 61.

<sup>58</sup> ICESCR, Art. 2-2; ICCPR, Art. 26; IUCN Draft, Art. 62; Framework Principles on Human Rights and the Environment, A/HRC/37/59 (2018), Principle 3.

<sup>59</sup> World Charter for Nature, Principles 1-6; UNFCCC, Art. 3-1; IUCN Draft, Art. 5; Charter of Fundamental Rights of the European Union, Art. 37; Escazú Agreement, Art. 3; BBNJ Agreement, Art. 7.

<sup>60</sup> ICESCR, Art 2-1; Rio Declaration, Principle 9.

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**Article 23. Cooperation in case of disasters and emergencies**

1. Parties shall expeditiously notify potentially affected States and relevant international organizations of any environmental and climate emergency and any disaster or any risk thereof, originating within their jurisdiction or control, which may negatively affect the enjoyment of the rights set forth in the present Covenant.
2. Parties shall immediately alert all relevant populations and take all necessary measures to mitigate harmful effects of such disasters and emergencies, and consult with potentially affected States at an early stage and in good faith.<sup>61</sup>
3. Parties shall assist one another and ensure respect for human rights and ecosystem integrity in rescue and relief operations.<sup>62</sup>

## PART III : IMPLEMENTATION

**Article 24. Obligation of effective implementation**

Parties shall effectively implement the rights and duties set forth in the present Covenant. They shall adopt all measures necessary to this end.

**Article 25. Restriction to limitations of rights**

Enjoyment of the rights set forth in the present Covenant may only be subjected to such limitations as are determined by law only in so far as this may be compatible with the nature of these rights and solely for the purpose of promoting environmental protection and the general welfare in a democratic society.<sup>63</sup>

**Article 26. Interpretation and application of the Covenant**

1. Nothing in the present Covenant may be interpreted as implying for any State, organ, corporation, group, or person any right to engage in any activity or to perform any act aimed at impairing the rights or freedoms recognized herein, or at their limitation to a greater extent than is provided for in the present Covenant.<sup>64</sup>
2. Nothing in the present Covenant may be interpreted to limit the ability of Parties to take stronger measures to protect the rights guaranteed herein.
3. The present Covenant may not be interpreted as limiting the rights of nature or of any elements thereof when they are recognized by a Party or in international law.<sup>65</sup>

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<sup>61</sup> IUCN Draft, Art 19.

<sup>62</sup> Rio Declaration, Principle 18; ILC Draft, Arts. 11, 12; IUCN Draft, Art. 19; Sendai Framework for Disaster Risk Reduction 2015-2030; United Nations General Assembly Resolution 77/164 - Disaster risk reduction, A/RES/77/164, 14 December 2022.

<sup>63</sup> ICESCR, Art. 4; Protocol of San Salvador on Economic, Social, and Cultural Rights, Art. 5; European Convention of Human Rights, Art. 8; Human Rights Council Resolution 52/22 - Human rights, democracy and the rule of law, 3 April 2023.

<sup>64</sup> ICESCR, Art. 5-1.

<sup>65</sup> The rights of nature are constitutionally and/or legally protected in various countries, including Bolivia, Ecuador, Panama, Uganda, etc.

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4. The following principles shall guide the interpretation of the obligations of Parties under the present Covenant:<sup>66</sup> the principle of common but differentiated responsibilities and respective capabilities;<sup>67</sup> the intergenerational right to live in harmony with nature; the interdependence of all people and their environment.<sup>68</sup>

5. Any doubt in the interpretation and application of the present Covenant shall be resolved in a way most likely to promote the protection of nature and the full enjoyment of environmental rights by present and future generations.<sup>69</sup>

## **PART IV : MONITORING AND COMPLIANCE**

### **Article 27. Committee on Environmental Rights**

1. The Committee on Environmental Rights (hereinafter referred to as “the Committee”) is hereby established to monitor and control compliance with the rights and obligations under the present Covenant.

2. The Committee shall consist of eighteen experts of high moral standing and recognized competence and experience in the field of environmental rights.

3. The members of the Committee shall be elected by Parties from among their nationals and shall serve in their personal capacity, consideration being given to equitable geographical distribution and balanced gender representation, as well as to representation of the different forms of civilization and of the principal legal systems.

4. The members of the Committee shall be elected by secret ballot from a list of persons nominated by Parties. Each Party may nominate one person from among its own nationals.

5. The initial election to the Committee shall be held no later than six months after the date of the entry into force of the present Covenant and thereafter every second year. At least four months before the date of each election, the Secretary-General of the United Nations shall address a letter to Parties inviting them to submit their nominations within two months. The Secretary-General shall subsequently prepare a list in alphabetical order of all persons thus nominated, indicating the Parties which have nominated them, and shall submit it to the Parties to the present Covenant.

6. The elections shall be held at meetings of Parties convened by the Secretary-General of the United Nations. At those meetings, for which two thirds of Parties shall constitute a quorum, the persons elected to the Committee shall be those who obtain the largest number of votes and an absolute majority of the votes of the representatives of Parties present and voting.

7. The members of the Committee shall be elected for a term of four years. They shall be eligible for re-election if renominated. The term of five of the members elected at the first election shall expire at the end of two years; immediately after the first election, the names of these five members shall be chosen by lot by the Chairperson of the meeting.

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<sup>66</sup> Stockholm Convention, Preamble, para. 13; Paris Climate Agreement, Preamble, para. 3; UNFCCC, Art. 3.

<sup>67</sup> Rio Declaration, Principle 7.

<sup>68</sup> Convention on Wetlands of International Importance Especially as Waterfowl Habitat (1971, amended 1982 & 1987), Preamble.

<sup>69</sup> IUCN World Declaration on the Environmental Rule of Law (2016), Principle 5.

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8. If a member of the Committee dies or resigns or declares that for any other cause he or she can no longer perform the duties of the Committee, the Party which nominated the member shall appoint another expert from among its nationals to serve for the remainder of the term, subject to the approval of the Committee.
9. The Committee shall establish its own rules of procedure.
10. The Committee shall elect its officers for a period of two years.
11. The meetings of the Committee shall normally be held at United Nations Headquarters or at any other convenient place as determined by the Committee. The Committee shall normally meet annually. The duration of the meetings of the Committee shall be determined, and reviewed, if necessary, by a meeting of the Parties to the present Covenant, subject to the approval of the General Assembly of the United Nations.
12. The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under the present Covenant.
13. With the approval of the General Assembly of the United Nations, the members of the Committee shall receive emoluments from United Nations resources on such terms and conditions as the General Assembly may decide.<sup>70</sup>

**Article 28. Reports to the Committee<sup>71</sup>**

1. Parties to the present Covenant shall submit every two years reports on the measures adopted and on the progress made to promote implementation and ensure respect for the rights and duties set forth in the present Covenant.
2. The reports shall describe the effectiveness of the measures taken and any difficulties faced by Parties in the fulfillment of obligations under the present Covenant.
3. All reports shall be submitted to the Secretary General of the United Nations who shall transmit copies to the Economic and Social Council and to the Committee.
4. The Secretary General of the United Nations may, after consultation with the Committee, transmit to the specialized agencies concerned copies of the reports, or such parts thereof, as may fall within their field of competence.
5. The Committee is responsible for reviewing all reports submitted by Parties and making recommendations to the Economic and Social Council.
6. Parties shall submit to the Economic and Social Council comments on any recommendation made under paragraph 5 or any mention of a recommendation contained in a report of the Committee.

**Article 29. Inter-State communications**

Any Party to the present Covenant may submit to the Committee claims of violations of the present Covenant by another Party.

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<sup>70</sup> Convention on the Rights of the Child, Art. 43; Convention on the Rights of Persons with Disabilities, Art. 34.

<sup>71</sup> ICCPR, Art. 40; ICESCR, Art. 17.

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### **Article 30. Individual communications**

1. The Committee shall consider any communications received from or on behalf of individuals or groups, under the jurisdiction of a Party, who claim to be victims of a violation by that Party, of one of the rights or obligations set forth in the present Covenant.
2. A communication may only be submitted on behalf of individuals or groups of individuals with their consent, unless the author can justify acting on their behalf without such consent.<sup>72</sup>

### **Article 31. Procedure**

Communications submitted pursuant to Articles 29 and 30 shall be dealt with in accordance with the procedure set out in the Annex to the present Covenant.

### **Article 32. Protection measures**

Parties shall take all appropriate measures to ensure that individuals under their jurisdiction are not subjected to any form of ill-treatment or intimidation as a consequence of communicating with the Committee pursuant to Articles 29 and 30 of the present Covenant.<sup>73</sup>

### **Article 33. Expert advice**

1. The Committee shall transmit, as it may consider appropriate, and with the consent of the Party concerned, to United Nations specialized agencies, funds and programmes and other competent bodies, its views or recommendations concerning communications and inquiries that indicate a need for technical advice or assistance, along with the Party's observations and suggestions, if any, on these views or recommendations.
2. The Committee may also bring to the attention of such bodies, with the consent of the Party concerned, any matter arising out of communications considered under the present Covenant which may assist them in deciding, each within its field of competence, on the advisability of international measures likely to contribute to assisting Parties in achieving progress in implementation of the rights recognized in the present Covenant.
3. A trust fund shall be established in accordance with the relevant procedures of the General Assembly of the United Nations, to be administered in accordance with the financial regulations and rules of the United Nations, with a view to providing expert and technical assistance to Parties, with the consent of the Party concerned, for the enhanced implementation of the rights set forth in the present Covenant, thus contributing to building national capacities in the area of environmental rights in the context of the present Covenant.
4. The provisions of this Article are without prejudice to the obligations of each Party to fulfill its obligations under the present Covenant.<sup>74</sup>

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<sup>72</sup> ICESCR, Optional Protocol, Art. 2.

<sup>73</sup> ICESCR, Optional Protocol, Art. 13.

<sup>74</sup> ICESCR, Optional Protocol, Art. 14.

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In its annual report, the Committee will include a summary of its activities under the present Covenant.<sup>75</sup>

**PART V : FINAL PROVISIONS****Article 35. Signature, ratification, approval, acceptance, and accession**

1. The present Covenant shall be open for signature by any State Member of the United Nations and its specialized agencies and by regional integration organizations from \_\_\_\_\_ to \_\_\_\_\_ at \_\_\_\_\_.<sup>76</sup>
2. The present Covenant shall be subject to ratification, approval or acceptance by States and regional integration organizations. It shall be open for accession by States and regional integration organizations from the day after the date on which the Covenant is closed for signature. Instruments of ratification, approval, acceptance, and accession shall be deposited with the Depositary.<sup>77</sup>
3. The Depositary shall inform all States and regional integration organizations that have signed, ratified, approved, accepted, or acceded to the present Covenant of the deposit of each instrument of ratification, approval, acceptance, or accession.
4. “Regional integration organization” shall mean an organization constituted by sovereign States of a given region, to which its member States have transferred competence in respect of matters governed by the present Covenant. Such organizations shall declare, in their instruments of ratification, approval, acceptance or accession, the extent of their competence with respect to matters governed by the present Covenant. Subsequently, they shall inform the Depositary of any relevant modification in the extent of their competence.<sup>78</sup>
5. References to “Parties” in the present Covenant shall include regional integration organizations within the limits of their competence.<sup>79</sup>
6. Regional integration organizations, in matters within their competence, shall exercise their right to vote with a number of votes equal to the number of their Member States which are Parties to the present Covenant. Those organizations shall not exercise their right to vote in cases where their Member States exercise theirs, and conversely.<sup>80</sup>

**Article 36. Entry into force**

1. The present Covenant shall enter into force on the thirtieth day after the deposit with the Depositary of the thirtieth instrument of ratification, approval, acceptance, or accession.

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<sup>75</sup> ICESCR, Optional Protocol, Art. 15.

<sup>76</sup> ICESCR Art. 26; Convention on the Rights of Persons with Disabilities, Art. 42; BBNJ Agreement, Art. 65.

<sup>77</sup> Convention on the Rights of Persons with Disabilities, Art. 43; BBNJ Agreement, Art. 66.

<sup>78</sup> Convention on the Rights of Persons with Disabilities, Art. 44-1; BBNJ Agreement, Art. 67-2.

<sup>79</sup> Convention on the Rights of Persons with Disabilities, Art. 44-2.

<sup>80</sup> Convention on the Rights of Persons with Disabilities, Art. 44-4; BBNJ Agreement, Art. 64-2.



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2. For each State or regional integration organization ratifying, approving, accepting, or acceding to the present Covenant after the deposit of the thirtieth such instrument, the Covenant shall enter into force on the thirtieth day after the date of the deposit of its own such instrument.<sup>81</sup>

3. For the purposes of paragraphs 1 and 2 above, any instrument deposited by a regional integration organization shall not be counted as additional to those deposited by Member States of that organization.<sup>82</sup>

### **Article 37. Provisional application**

1. The present Covenant may be applied provisionally by a State or regional integration organization by notifying the Depositary in writing at the time of signature or deposit of its instrument of ratification, approval, acceptance, or accession. Such provisional application shall become effective from the date of receipt of the notification by the Depositary.

2. Provisional application by a State or regional integration organization shall terminate upon the entry into force of the present Covenant for that State or regional integration organization or upon notification by that State or regional integration organization to the Depositary in writing of its intention to terminate its provisional application.<sup>83</sup>

### **Article 38. Depositary**

The Secretary-General of the United Nations shall be the Depositary of the present Covenant.<sup>84</sup>

### **Article 39. Reservations**

No reservation may be made to the present Covenant.<sup>85</sup>

### **Article 40. Amendments**

1. Any Party to the present Covenant may propose an amendment and file it with the Secretary General of the United Nations. The Secretary General shall thereupon communicate any proposed amendments to Parties, asking them to indicate whether they favor convening a conference of Parties for the purpose of considering and deciding upon the proposals. Within four months from the date of such communication, if at least one third of the Parties favor such conference, the Secretary General shall convene the conference under the auspices of the United Nations. Any amendment adopted by the majority of Parties present and voting at the conference shall be submitted for approval to the General Assembly of the United Nations.<sup>86</sup>

2. Amendments come into force when approved by the General Assembly of the United Nations and accepted by two thirds of the Parties to the present Covenant.

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<sup>81</sup> Convention on the Rights of Persons with Disabilities, Art. 45; BBNJ Agreement, Art. 68-2.

<sup>82</sup> Convention on the Rights of Persons with Disabilities, Art. 44-3; BBNJ Agreement, Art. 68-3.

<sup>83</sup> BBNJ Agreement, Art. 69; Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal Unreported and Unregulated Fishing (2009), Art. 32; Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea Relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (1995), Art. 41; Agreement relating to the implementation of Part XI of the United Nations Convention on the Law of the Sea (1994), Art. 7.

<sup>84</sup> Convention on the Rights of Persons with Disabilities, Art. 41.

<sup>85</sup> Convention on Biological Diversity, Art. 37; UNFCCC, Art. 24; Paris Climate Agreement, Art. 29; Escazú Agreement, Art. 23.

<sup>86</sup> ICESCR, Art. 29.

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3. An amendment adopted and approved in accordance with paragraph 1 shall enter into force on the thirtieth day after the number of instruments of acceptance deposited reaches two thirds of the number of Parties at the date of adoption of the amendment. Thereafter, the amendment shall enter into force for any Party on the thirtieth day following the deposit of its own instrument of acceptance. An amendment shall be binding only on those Parties which have accepted it.<sup>87</sup>

**Article 41. Notifications by the Depositary**

Irrespective of the notifications provided for in paragraph 3 of Article 35, the Depositary shall inform all States and regional integration organizations referred to in paragraph 1 of Article 35 of:

- a) the signatures to the present Covenant and the instruments of ratification, approval, acceptance, and accession deposited under Article 35;
- b) the date on which the present Covenant shall enter into force in accordance with Article 36 and the date for the entry into force of any amendments under Article 40.

**Article 42. Authentic texts**

- 1. The present Covenant, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the United Nations archives.
- 2. The Depositary shall transmit certified copies of the present Covenant to all States and regional integration organizations referred to in Article 35, paragraph 1.

In witness thereof the undersigned plenipotentiaries, being duly authorized thereto by their respective Governments, have signed the present Covenant.

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<sup>87</sup> Convention on the Rights of Persons with Disabilities, Art. 47.

*Draft International Covenant on Environmental Rights***Annex - Communications procedure*****A - Individual communications*****Article 1. Submission**

Individual communications under Article 30 of the present Covenant may be submitted by or on behalf of individuals or groups of individuals, under the jurisdiction of a Party, claiming to be victims of a violation of any of the rights set forth in the present Covenant by that Party. Where a communication is submitted on behalf of individuals or groups of individuals, this shall be with their consent unless the author can justify acting on their behalf without such consent.<sup>88</sup>

**Article 2. Admissibility**

1. The Committee shall not consider a communication unless it has ascertained that all available domestic remedies have been exhausted. This shall not be the rule where the application of such remedies is unreasonably prolonged.
2. The Committee shall declare a communication inadmissible when:
  - a) It is not submitted within one year after the exhaustion of domestic remedies, except in cases where the author can demonstrate that it had not been possible to submit the communication within that time limit;
  - b) The facts that are the subject of the communication occurred prior to the entry into force of the present Covenant for the Party concerned, unless those facts continued after that date;
  - c) The same matter has already been examined by the Committee or has been or is being examined under another procedure of international investigation or settlement;
  - d) It is incompatible with the provisions of the present Covenant;
  - e) It is manifestly ill-founded, not sufficiently substantiated or exclusively based on reports disseminated by mass media;
  - f) It is an abuse of the right to submit a communication; or when
  - g) It is anonymous or not in writing.<sup>89</sup>

**Article 3. Clear disadvantage**

The Committee may, if necessary, decline to consider a communication where it does not reveal that the author has suffered a clear disadvantage, unless the Committee considers that the communication raises a serious issue of general importance.<sup>90</sup>

**Article 4. Interim measures**

1. At any time after the receipt of a communication and before a determination on the merits has been reached, the Committee may transmit to the Party concerned, for its urgent

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<sup>88</sup> ICESCR, Optional Protocol, Art. 2.

<sup>89</sup> ICESCR, Optional Protocol, Art. 3.

<sup>90</sup> ICESCR, Optional Protocol, Art. 4.

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consideration, a request that the Party take such interim measures as may be necessary in exceptional circumstances to avoid possible irreparable damage to the victim or victims of the alleged violations.

2. Where the Committee exercises its discretion under paragraph 1, this does not imply a determination on admissibility or on the merits of the communication.<sup>91</sup>

**Article 5. Transmission**

1. Unless the Committee considers a communication inadmissible without reference to the Party concerned, the Committee shall bring any communication submitted to it confidentially to the attention of the Party concerned.

2. Within six months, the receiving Party shall submit to the Committee written explanations or statements clarifying the matter and the remedy, if any, that may have been provided by that Party.<sup>92</sup>

**Article 6. Friendly settlement**

1. The Committee shall make available its good offices to the parties concerned with a view to reaching a friendly settlement of the matter on the basis of the respect for the obligations set forth in the present Covenant.

2. An agreement on a friendly settlement closes consideration of the communication under the present Covenant.<sup>93</sup>

**Article 7. Examination**

1. The Committee shall examine communications received under Article 30 of the present Covenant in the light of all documentation submitted to it, provided that this documentation is transmitted to the parties concerned.

2. The Committee shall hold closed meetings when examining communications under the present Covenant.

3. When examining a communication under the present Covenant, the Committee may consult, as appropriate, relevant documentation emanating from other United Nations bodies, specialized agencies, funds, programmes and mechanisms, and other international organizations, including from regional human rights systems, and any observations or comments by the Party concerned.

4. When examining communications under the present Covenant, the Committee shall consider the reasonableness of the steps taken by the Party in accordance with Part I of the present Covenant. In doing so, the Committee shall bear in mind that the Party may adopt a range of possible policy measures for the implementation of the rights set forth in the present Covenant.<sup>94</sup>

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<sup>91</sup> ICESCR, Optional Protocol, Art. 5.

<sup>92</sup> ICESCR, Optional Protocol, Art. 6.

<sup>93</sup> ICESCR, Optional Protocol, Art. 7.

<sup>94</sup> ICESCR, Optional Protocol, Art. 8.

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## **Article 8. Follow-up**

1. After examining a communication, the Committee shall transmit its views on the communication, together with its recommendations, if any, to the parties concerned.
2. The Party concerned shall give due consideration to the views of the Committee, together with its recommendations, if any, and shall submit to the Committee, within six months, a written response, including information on any action taken in the light of the views and recommendations of the Committee.
3. The Committee may invite the Party concerned to submit further information about any measures the Party has taken in response to its views or recommendations, if any, including as deemed appropriate by the Committee, in the Party's subsequent reports under Article 28 of the present Covenant.<sup>95</sup>

## ***B - Inter-State communications***

### **Article 9. Procedure**

Inter-State communications under Articles 29 of the present Covenant shall be dealt with in accordance with the following procedure:

- a) If a Party considers that another Party is not fulfilling its obligations under the Covenant, it may, by written communication, bring the matter to the attention of that Party. The Party may also inform the Committee of the matter. Within three months after the receipt of the communication, the receiving Party shall afford the Party that sent the communication an explanation, or any other statement in writing, clarifying the matter, which should include, to the extent possible and pertinent, reference to domestic procedures and remedies taken, pending or available in the matter;
- b) If the matter is not settled to the satisfaction of both Parties concerned within six months after the receipt by the receiving Party of the initial communication, either Party shall have the right to refer the matter to the Committee, by notice given to the Committee and to the other Party;
- c) The Committee shall deal with a matter referred to it only after it has ascertained that all available domestic remedies have been invoked and exhausted in the matter. This shall not be the rule where the application of the remedies is unreasonably prolonged;
- d) Subject to the provisions of subparagraph (c), the Committee shall make available its good offices to the Parties concerned with a view to a friendly solution of the matter on the basis of the respect for the obligations set forth in the present Covenant;
- e) The Committee shall hold closed meetings when examining communications under the present Article;
- f) In any matter referred to it in accordance with subparagraph (b), the Committee may call upon the Parties concerned, referred to in subparagraph (b), to supply any relevant information;

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<sup>95</sup> ICESCR, Optional Protocol, Art. 9.

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- g) The Parties concerned, referred to in subparagraph (b), shall have the right to be represented when the matter is being considered by the Committee and to make submissions orally and/or in writing;
- h) The Committee shall, with all due expediency after the date of receipt of notice under subparagraph (b), submit a report;
- i) In every matter, the report shall be communicated to the Parties concerned.<sup>96</sup>

**Article 10. Inquiry**

1. If the Committee receives reliable information indicating grave or systematic violations by a Party of any of the rights set forth in the present Covenant, the Committee shall invite that Party to cooperate in the examination of that information and, to this end, to submit observations about the information concerned.
2. Taking into account any observations that may have been submitted by the Party concerned as well as any other reliable information available to it, the Committee may designate one or more of its members to conduct an inquiry and to report urgently to the Committee. Where warranted and with the consent of the Party, the inquiry may include a visit to its territory.
3. Such an inquiry shall be conducted confidentially, and the cooperation of the Party concerned shall be sought at all stages of the proceedings.
4. After examining the findings of such an inquiry, the Committee shall transmit these findings to the Party concerned together with any comments and recommendations.
5. The Party concerned shall, within six months of receiving the findings, comments and recommendations transmitted by the Committee, submit its observations to the Committee.
6. After such proceedings have been completed with regard to an inquiry made in accordance with paragraph 2, the Committee may, after consultations with the Party concerned, decide to include a summary account of the results of the proceedings in its annual report.<sup>97</sup>

**Article 11. Follow-up**

1. The Committee may invite the Party concerned to include in its report under Article 28 of the present Covenant details of any measures taken in response to an inquiry conducted under Article 10.
2. The Committee may, if necessary, after the end of the period of six months referred to in Article 10, paragraph 6, invite the Party concerned to inform it of the measures taken in response to such an inquiry.<sup>98</sup>

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<sup>96</sup> ICESCR, Optional Protocol, Art. 10.

<sup>97</sup> ICESCR, Optional Protocol, Art. 11.

<sup>98</sup> ICESCR, Optional Protocol, Art. 12.