

Human Rights Centre Clinic

Implementing the Right to a Healthy Environment at the National Level

Partners: [Earth Law Center](#), [Lawyers for Nature](#)

About Earth Law Center and Lawyers for Nature

[Earth Law Center](#) is a US-based legal non-profit building an international grassroots movement that speaks to the responsibility human beings have to their natural environment. Earth Law takes its name from Earth Jurisprudence, a legal philosophy declaring that the welfare of each individual species is dependent on the welfare of the Earth as a whole. Earth Law puts this philosophy into practice by protecting, restoring, and stabilising the functional interdependency of Earth's ecosystems. It does this by speaking for the rights of those ecosystems to thrive and may be expressed in constitutional, statutory, customary, and common law, as well as in treaties and other agreements both public and private. Earth law is both a departure from environmental law and a new context for its extension. They adopt an ecocentric approach to the environment: They consider ecosystems to have intrinsic value beyond their service to mankind's so-called "progress" and thus mass environmental destruction to be a crime not only against human prosperity but also against nature itself.

[Lawyers for Nature](#) is a UK-based Community Interest Company whose origins lie in the successful legal assistance given by co-founder, Barrister Paul Powlesland, to a grassroots campaign to save thousands of street trees from being felled in Sheffield. They aim to democratise access to legal support for those seeking to defend the natural world. Lawyers for Nature work with a variety of clients from corporations to community groups and individuals to promote protection of nature and reform of environmental law.

Project overview

In [Resolution 48/13](#), of October 2021, the UN Human Rights Council recognised the right to a clean, healthy and sustainable environment as a human right that is important for the enjoyment of other human rights. The Human Rights Council also encouraged States to work together, as well as with civil society and other stakeholders to implement this right nationally.

The Human Rights Centre Clinic will examine the implications of the international recognition of the right to a healthy environment at the level of national laws and policies, with a particular focus on the UK. The project will include comparative research of States that are already taking action, as well as a strategic mapping exercise of the UK's response to these global challenges.

This project will be carried out in partnership with the [Law Clinic](#) of the University of Essex.

Background

The human right to a clean, healthy and sustainable environment has become a focal point for the UN and a number of States in the last decade. The right is now recognised as a human right by the UN General Assembly: [Resolution 76/300](#), of 28 July 2022. The Human Rights Council resolution in October 2021 encourages States to fulfil their human rights obligations in this regard.

This project aims to conduct a review of those States already taking action to meet their obligations and conduct a comparative research project on them. The project team hope to learn a number of points including, a) the current scope and boundaries of the right, b) the efforts being undertaken by those States committed to upholding the right, and c) the possibilities for the UK to become a leading State in regard to this right.

Specifically, the project will look at the law and policy emerging in both public constitutional law and private law. A review of the same is undertaken to consider the benefits of a proactive approach in law to this human right.

This project will look at potential implications of this for the UK legal system and policy makers.

Project Output

The specific issues the project seeks to address are as follows:

- Implications of the international recognition of the right to a healthy environment at the level of national laws and policies, with a particular focus on the UK.
- Identification and synthesis of comparative research of States that are already taking action in this area.
- Strategic mapping exercise of the UK's response to this global challenge.

The HRC Clinic project's findings will be presented in a 10,000-12,000-word report, to be presented in June 2023, as well as two 1,000 word blog posts in March and May 2023. The blog posts can be either written or video blogs or a mixture of both. They may be reposted on partners' websites.

The methodology used to complete the project will be a mix of empirical, doctrinal and comparative analysis. Investigation into countries that are already engaged and occasionally compliant will be undertaken and compared with the UK position. For example, the HRC Clinic will monitor the outcomes of the Irish Citizens' Assembly on Biodiversity Loss that will conclude in November 2022. The Irish

Government's actions on the Assembly's recommendations will be an informative example of what is possible in a neighbouring country to the UK.

The HRC Clinic will also study the thematic and country reports of the UN Special Rapporteur on human rights and the environment to identify international best practices on tackling the climate and biodiversity crises and consider how they might be adopted in the UK.

Partners will use this research to inform their own project work with government and community groups. The outputs may be published on websites and used as training materials. Partners may also use the material as part of submissions to any upcoming UN thematic reports.

The Human Rights Clinic Team will work in parallel with Undergraduate students from the Law Clinic on this project. Each team will work independently but they will have the same supervisor and they will complement each other's work.

Timeline

Phase 1: November – December 2022:

- Preliminary research, understanding the project and developing research/report outline.
- Identifying a list of experts for interviews and questionnaires.
- Securing ethical approval, if necessary.
- Outline and bibliography to be submitted to partners for comments.

Phase 2: January – March 2023

- Carrying out the interviews online.
- Research and data gathering.
- Report writing.
- Submission of the first full draft to the partners.
- Blog 1 to be written up and posted on partners' websites.

Phase 3: April – June 2023

- Revision and finalising the research report based on input from partners.
- Presentation of the research to partners. Potentially an invitation event to those working in climate justice in the UK.
- Blog 2 to be recorded or written up and presented by partners on websites.

Essential sources

- Balfour-Lynn, Harry and Willman, Sue, *The Right to a Healthy Environment in the United Kingdom: Supporting the Proposal for a New Protocol to the European Convention on Human Rights* (May 3, 2022). <http://dx.doi.org/10.2139/ssrn.4099619>
- UN Special Rapporteur on Human Rights and the Environment <https://www.ohchr.org/en/special-procedures/sr-environment>
- The Irish Citizens' Assembly on Biodiversity Loss <https://www.citizensassembly.ie/en/assembly-on-biodiversity-loss/> and <https://twitter.com/CitizAssembly>
- David Boyd, *The Rights of Nature*, ECW Press, 2017.
- David Boyd, "Catalyst for Change: Evaluating 40 years of experience in implementing the right to a healthy environment", in *The Human Right to a Healthy Environment* (ed. John H. Knox and Ramin Pejan), CUP, 2018. <https://www-cambridge-org.uniessexlib.idm.oclc.org/core/books/human-right-to-a-healthy-environment/catalyst-for-change/46EB145CB4BEB4B596B25E4718DD3A6B>
- John H. Knox, *Constructing the Human Right to a Healthy Environment*, *Annual Review of Law and Social Science*, Vol. 16(1), pp. 79-95 (2020). <https://www.annualreviews.org/doi/abs/10.1146/annurev-lawsocsci-031720-074856>
- Elena Cima, *The right to a healthy environment: Reconceptualizing human rights in the face of climate change*, *Review of European Community & International Environmental Law*, Vol. 31(1), pp. 38–49 (2022). <https://onlinelibrary.wiley.com/doi/full/10.1111/reel.12430>
- Erik da Luz Scherf & Marcos Vinicius Viana da Silva, *Dream the impossible dream? An ecosocialist account of the human right to a healthy environment*, *Revista Direito Ambiental e Sociedade*, Vol. 10(2) (2020). <https://onlinelibrary-wiley-com.uniessexlib.idm.oclc.org/doi/full/10.1111/reel.12430>
- Mara Tignino & Makane Moïse Mbengue, *Climate change at the crossroads of human rights: The right to a healthy environment, the right to water and the right to development*, *Review of European Community & International Environmental Law*, Vol. 31(1), pp. 3-6 (2022). <https://onlinelibrary.wiley.com/doi/abs/10.1111/reel.12440>
- Sumudu Atapattu & Andrea Schapper, *Human Rights and the Environment*, Routledge, 2019, Chapter 2 and 9. <https://doi-org.uniessexlib.idm.oclc.org/10.4324/9781315193397>
- Erin Daly and James R. May, "The Indivisibility of Human Dignity and Sustainability", in *The Cambridge Handbook of Environmental Justice and Sustainable Development* (ed. Sumudu Atapattu, Carmen González / Sara L. Seck), CUP, 2021. <https://www-cambridge-org.uniessexlib.idm.oclc.org/core/books/cambridge-handbook-of-environmental-justice-and-sustainable-development/indivisibility-of-human-dignity-and-sustainability/568EBE034DD1854ECE6D8EFDB4C53932>
- György Marinkás, *The Right to a Healthy Environment as a Basic Human Right - Possible Approaches Based on the Practice of the Human Rights Mechanisms, with Special Regard to*

the Issues of Indigenous Peoples, Journal of Agricultural and Environmental Law, Vol. 15(29) (2020), pp. 133–151. <https://ojs3.mtak.hu/index.php/JAEL/article/view/4979>
Kent Buse & Sofia Gruskin, "The right to a healthy environment: making it matter" BMJ 2021; 375
doi: <https://doi.org/10.1136/bmj.n3076>

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