



EHRD Resource Paper: What are my rights?

The right to effective remedy

I. Effective remedy

To protect the environment and the human rights that depend on it, everyone has the human right to an effective remedy for violation of their rights.

The [Universal Declaration of Human Rights](#) (art. 8) states: “Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.” This protection is repeated in many human rights treaties, including the [International Covenant on Civil and Political Rights](#) (art. 2(3)).

II. International human rights law

Human rights bodies have applied this principle to [human rights infringed by environmental harm](#). Examples include:

- The [Committee on Economic, Social and Cultural Rights](#) (pp. 28-30) has urged States to provide for “adequate compensation and/or alternative accommodation and land for cultivation” to indigenous communities and local farmers whose land is flooded by large infrastructure projects, and “just compensation [to] and resettlement” of indigenous peoples displaced by forestation.”
- The [Special Rapporteur on the situation of human rights defenders](#) (paras. 70-73) has stated that States must implement mechanisms that allow defenders to communicate their grievances, claim responsibilities, and obtain effective redress for violations, without fear of intimidation.
- Other special rapporteurs, including those for housing, education, and hazardous substances and wastes, have also emphasized the importance of access to remedies within the scope of their mandates. (See [Individual Report on Special Procedures](#), sec. III.A.3.)
- At the regional level, the [European Court of Human Rights](#) has stated that individuals must “be able to appeal to the courts against any decision, act or omission where they consider that their interests or their comments have not been given sufficient weight in the decision-making process.”
- The Inter-American Commission on Human Rights and the Inter-American Court of Human Rights have stated that the American Convention on Human Rights requires States to provide access to judicial recourse for claims alleging the violation of their rights as a result of environmental harm ([Individual Report no. 13, sec. III.A.3](#)).

- The [Court of Justice of the Economic Community of West African States](#) has stressed the need for the State to hold accountable actors who infringe human rights through oil pollution, and to ensure adequate reparation for victims.

III. International environmental law

International environmental instruments support an obligation to provide for effective remedies. Examples include:

- [Principle 10 of the Rio Declaration states](#): “Effective access to judicial and administrative proceedings, including redress and remedy, shall be provided.”
- The [Aarhus Convention](#) on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters, which has many parties among countries in Europe and central Asia, includes detailed obligations on access to remedies (art. 9).
- Countries in Latin America and the Caribbean are currently negotiating [another regional agreement](#) on rights of access to information, participation, and remedy.
- Many other multilateral environmental agreements establish obligations for States to provide for remedies in specific areas. Examples include:
- The [United Nations Convention on the Law of the Sea](#) requires States to ensure that recourse is available within their legal systems to natural or juridical persons for prompt and adequate compensation or other relief for damage caused by pollution of the marine environment (art. 235)
- Some agreements establish detailed liability regimes for environmental harm of particular kinds; a leading example is the [International Convention on Civil Liability for Oil Pollution Damage](#).

IV. National environmental law

At the national level, many but not all States have adopted legal procedures that provide for effective remedies for violations. Good practices include specialized environmental courts, relaxed requirements for standing for plaintiffs in environmental cases, and national human rights commissions that hear environmental claims. Examples of these and other good practices are available at the website of [the United Nations Special Rapporteur on human rights and the environment](#).