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**Promotion and protection of all human rights, civil,  
political, economic, social and cultural rights,  
including the right to development**

### **Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment**

#### **Note by the Secretariat**

The Secretariat has the honour to transmit to the Human Rights Council the report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, John H. Knox, prepared pursuant to Council resolution 28/11. Drawing on an expert seminar, a public consultation and more than 40 written submissions, the report describes possible methods of implementing human rights obligations relating to the enjoyment of a healthy environment. The proposals are addressed to: (a) the Council, the United Nations Environment Programme, the United Nations Development Programme and other intergovernmental organizations; (b) regional human rights bodies and other regional organizations; (c) Governments and national human rights institutions; (d) civil society organizations; and (e) the Special Rapporteur himself.



## **Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment**

### **I. Introduction**

1. In its resolution 19/10, the Human Rights Council decided to appoint an independent expert with a mandate to study the human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, and to identify and promote best practices on the use of human rights obligations and commitments to inform, support and strengthen environmental policymaking.
2. In March 2014, the Independent Expert presented a mapping report that reviews the statements of human rights bodies, as well as views gathered in regional consultations with Governments, civil society organizations, international organizations and academics, on the obligations of States under international human rights law relating to the environment (A/HRC/25/53).
3. The diverse sources reviewed indicate a growing level of consensus about how human rights norms apply to environmental issues. There is agreement that environmental degradation can and does interfere with the enjoyment of a wide range of human rights. To protect against such interference, human rights bodies have stated that Governments have: (a) procedural obligations, including to make environmental information publicly available, to facilitate public participation in environmental decision-making and to provide access to legal remedies; (b) substantive obligations to adopt institutional frameworks to protect against environmental harm that may infringe on enjoyment of human rights; and (c) heightened obligations to protect those who are most vulnerable to such harm.
4. Many Governments, international organizations, corporations and civil society organizations are already employing human rights perspectives to address environmental problems. In March 2015, the Independent Expert presented a report to the Human Rights Council in which he identified more than 100 good practices with respect to each of the above obligations, in every region of the world (A/HRC/28/61). In addition to being available on the website of the United Nations, descriptions of the practices are now accessible through a stand-alone dedicated website, [www.environmentalrightsdatabase.org](http://www.environmentalrightsdatabase.org), which allows the practices to be easily searched.
5. In its resolution 28/11, the Human Rights Council renewed the mandate and changed the title of the mandate holder to Special Rapporteur. In that same resolution, the Council requested the Special Rapporteur to continue to study human rights obligations relating to the environment and to identify good practices in the use of such obligations, but also to promote and report on the realization of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, to disseminate his findings by continuing to give particular emphasis to practical solutions with regard to their implementation and to work on identifying challenges and obstacles to the full realization of such obligations. The human rights norms relating to the environment continue to develop and evolve and, with a view to further clarifying the applicable obligations, the Special Rapporteur continues to examine thematic issues, including climate change and ecosystem protection. As recognized in resolution 28/11, however, many of the human rights norms relating to environmental protection are clear enough that it is appropriate to examine how they can be better promoted and implemented.
6. To that end, the Human Rights Council requested the Special Rapporteur and the Office of the United Nations High Commissioner for Human Rights (OHCHR) to convene

an expert seminar on the effective implementation of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, challenges thereto and the way forward, on the basis of the findings of the mandate holder.

7. In accordance with that request, the Special Rapporteur, with the support of OHCHR and the United Nations Environment Programme (UNEP), organized a meeting of more than 20 experts on 26 and 27 October 2015. He also held a public consultation on 28 October. In addition, the Special Rapporteur received more than 40 written submissions. At the meetings and through the submissions, he received valuable input from representatives of Governments, civil society organizations, international organizations and academics.

8. Drawing on all of those sources, the present report describes possible methods of implementing human rights obligations relating to the enjoyment of a healthy environment. Although the methods listed are not exhaustive, they give a wide range of approaches that would further the following goals, among others: (a) disseminating information about the human rights norms relating to the environment; (b) building capacity; (c) protecting the rights of those who are most vulnerable; and (d) strengthening cooperation between different actors.

9. The report is addressed to all those in a position to implement human rights norms in relation to the environment. Proposals are organized in categories corresponding to the actors that could carry them out, including: (a) the Human Rights Council and other intergovernmental organizations; (b) regional human rights bodies and other regional organizations; (c) Governments and national human rights institutions; (d) civil society organizations; and (e) the Special Rapporteur himself.

10. At the outset, the Special Rapporteur highlights three general points that were emphasized by many of the interlocutors in this process. First, the methods of implementation are not “either/or” alternatives. They complement one another. To promote the full enjoyment of human rights relating to the environment, actors should pursue multiple methods of implementation.

11. Second, the Special Rapporteur draws attention to the relevance of the new Sustainable Development Goals, which provide an overall framework for development policy over the next 15 years. Virtually all of the suggested methods of implementing human rights norms relating to the environment would also support achievement of the Sustainable Development Goals.

12. Third, many interlocutors stressed that a human rights perspective on environmental protection not only promotes human dignity, equality and freedom — the benefits of implementing all human rights — but also improves the effectiveness of policymaking generally. Ensuring that those most affected by development and environmental policies are able to obtain information, freely express their views and participate in the decision-making process makes the policies more robust and sustainable. Assessing development and environmental policies in the light of human rights, including the rights to life, health and an adequate standard of living, helps to ensure that the policies directly improve the lives of human beings who depend on a healthy environment — which is to say, all human beings.

## **II. Implementing human rights obligations relating to the environment**

13. The following sections describe the proposals for implementation of human rights obligations relating to the environment that could be carried out by: (a) intergovernmental organizations, including the Human Rights Council; (b) regional bodies; (c) Governments and national human rights institutions; and (d) civil society organizations.

## **A. International actors**

### **1. Human Rights Council**

14. A common theme in the proposed methods of implementation is the importance of raising awareness of the human rights norms relating to the environment. A number of participants suggested that one way to achieve this goal would be through the adoption of a new international instrument, which could take the form of a treaty or a declaration prepared by the Human Rights Council. Most participants who raised this idea were more interested in a declaration; few expressed the view that the time was right to draft a legally binding treaty. Those who supported a new instrument argued that it would highlight the connection between human rights and environmental protection, help to shape national laws and enhance implementation at multiple levels. In combination with this proposal, some also expressed the view that recognition by the United Nations of a human right to a healthy environment would be an important way to promote the nexus between human rights and environmental protection. Others, however, noted that the norms in this area are still developing and stated that trying to codify the norms prematurely could interfere with their further development.

15. The Special Rapporteur recognizes that the negotiation and adoption of a treaty or a declaration is a political decision entrusted to the discretion of Governments. His own opinion is in accord with those who believe that the time is not right for the United Nations to undertake a new treaty on this issue. Although the question is closer with respect to a declaration, the Special Rapporteur believes that at this moment such an effort would probably also be premature. Some of the human rights norms relating to the environment are now well established, but others require further clarification, and still others are evolving. While a declaration could certainly have the benefits its proponents describe, it would also become a central point of attention for the period of its negotiation, which might distract from the continuing development of the norms at the national, regional and international levels. The Special Rapporteur believes that, at this point in their evolution, some issues might better be resolved organically through their continued consideration by a variety of human rights bodies, rather than be addressed in an intergovernmental negotiation. This assessment could change as the field continues its rapid development.

16. Another common theme in the discussion was the importance of continuing to provide forums in which the human rights community and the environmental community could come together to share views and experiences. The Special Rapporteur has endeavoured to provide such forums through his consultations. He received a number of proposals for the Human Rights Council to provide such forums more directly. In particular, it was suggested that the Council establish an international forum, such as the annual Forum on Business and Human Rights, which would focus on human rights and the environment. Furthermore, such a forum could emphasize South-South dialogue and cooperation in this area. The forum could either be established separately from the Forum on Business and Human Rights, or perhaps as an adjunct to it.

17. Another proposal to this end was the organization of a panel discussion at a Human Rights Council session on methods of strengthening implementation of the human rights relating to the environment. A model could be the panel discussions that the Council has held on climate change and human rights. A new panel on implementation could bring together a diverse range of stakeholders, which could help build bridges between the development and the environment communities.

18. A third set of proposals had to do with greater use of the universal periodic review mechanism as an effective tool to examine the compliance of States with human rights obligations related to the environment and to promote better environmental policies at the national level. States have already used the review process to raise awareness of

environmental threats to the enjoyment of human rights (see A/HRC/25/53, para. 18), but more could be done in that process to examine the application of human rights to environmental issues.

19. Finally, a recurring theme in almost all of the Special Rapporteur's consultations since 2012 has been the threats to environmental human rights defenders. Those who are working on the front lines of environmental protection are most at risk of threats, violence and murder. The Special Rapporteur has repeatedly said that States need to do more to protect environmental human rights defenders. One important step in that regard would be for the Human Rights Council to adopt a resolution in which it recognized the important contributions of environmental human rights defenders and addressed the criminalization, harassment and even death that they often face. The resolution could build on General Assembly resolution 70/161, which was adopted on 17 December 2015.

## 2. Other intergovernmental organizations

20. As important a role as the Human Rights Council plays in this area, a human rights perspective on environmental issues can only be implemented effectively if and when it is mainstreamed into the work of development, financial and environmental agencies. In particular, mainstreaming a human rights perspective across the work of different United Nations agencies and reducing fragmentation of human rights activities across different parts of the United Nations system is a prerequisite to achieve effective implementation.<sup>1</sup>

21. As the examples below illustrate, many positive steps have already been taken in this respect. However, more could be done by United Nations bodies and specialized agencies, multilateral environmental agreements, international financial institutions and regional development agencies. The following discussion is far from exhaustive, but it describes some important ongoing activities and additional proposals.

### *United Nations Environment Programme*

22. Over the past decade, UNEP has carried out a number of important initiatives towards the implementation of human rights obligations relating to the environment. Some of its work has helped to clarify the relationship between the two fields. For example, in 2012, UNEP and OHCHR submitted a joint report on human rights and the environment to the United Nations Conference on Sustainable Development.<sup>2</sup> In 2014, UNEP published a compendium of sources on human rights and the environment, including decisions by regional human rights tribunals and human rights treaty bodies.<sup>3</sup> Most recently, UNEP published a study of climate change and human rights for the climate negotiations in Paris in December 2015.<sup>4</sup>

23. UNEP has also shared information and experience with other United Nations agencies. For example, it has participated in side events at the Human Rights Council and

<sup>1</sup> See Universal Rights Group, "The Human Rights Council at 10: improving relevance, strengthening impact", available from [www.universal-rights.org/urg-policy-reports/glion-human-rights-dialogue-human-rights-council-10-improving-relevance-strengthening-impact/](http://www.universal-rights.org/urg-policy-reports/glion-human-rights-dialogue-human-rights-council-10-improving-relevance-strengthening-impact/).

<sup>2</sup> *Human Rights and the Environment, Rio+20: Joint Report OHCHR and UNEP*. Available from [www.unep.org/environmentalgovernance/Portals/8/publications/JointReport\\_OHCHR\\_HRE.pdf](http://www.unep.org/environmentalgovernance/Portals/8/publications/JointReport_OHCHR_HRE.pdf).

<sup>3</sup> *UNEP Compendium on Human Rights and the Environment: Selected International Legal Materials and Cases*. Available from [www.unep.org/environmentalgovernance/Portals/8/publications/UNEP\\_Compndium\\_HRE.pdf](http://www.unep.org/environmentalgovernance/Portals/8/publications/UNEP_Compndium_HRE.pdf).

<sup>4</sup> UNEP, *Climate Change and Human Rights*, 2015. Available from [www.unep.org/newscentre/default.aspx?DocumentID=26856&ArticleID=35630](http://www.unep.org/newscentre/default.aspx?DocumentID=26856&ArticleID=35630).

has introduced human rights concerns into side events at UNEP meetings. The second meeting of the United Nations Environment Assembly, in May 2016, will provide another opportunity to increase awareness among Governments and other stakeholders and promote the implementation of human rights obligations relating to the environment.

24. Throughout the mandate of the Special Rapporteur, UNEP has been a key partner in his work to identify and disseminate information about good practices in the use of human rights obligations relating to environmental protection. UNEP supported the regional consultations and expert meetings that provided much of the basis for the report on good practices presented to the Human Rights Council in March 2015. Participants in the expert meeting encouraged UNEP to continue to identify and disseminate such good practices, including in particular the good practices of corporations.

25. UNEP has also contributed in many ways to mainstreaming a human rights perspective in environmental governance. For example, in 2010, the UNEP Governing Council adopted the Bali Guidelines for the Development of National Legislation on Access to Information, Public Participation and Access to Justice in Environmental Matters, comprising 26 voluntary guidelines for States on promoting the effective implementation of Principle 10 of the 1992 Rio Declaration on Environment and Development within their national legislative frameworks. Although Principle 10 does not explicitly refer to human rights, its implementation furthers the realization of human rights to information, participation and effective remedy. In 2015, UNEP published a guide to the Bali Guidelines that includes case examples and jurisprudence from a wide range of national and international practice.<sup>5</sup>

26. Going forward, UNEP has identified several areas in which it can continue to contribute to the mainstreaming of a human rights perspective in environmental policymaking. For example, it intends to work with the Special Rapporteur and OHCHR, as well as other partners, to mainstream environmental and human rights norms in the implementation and monitoring of the Sustainable Development Goals. In addition, participants at the expert meeting suggested that UNEP could examine how human rights could be mainstreamed into environmental impact assessments, including under multilateral environmental agreements. Other areas of potential cooperation with other partners are described below.

#### *United Nations Development Programme*

27. The work of the United Nations Development Programme (UNDP) is highly relevant to the implementation of rights related to the environment. UNDP has extensive experience building capacities for implementing global norms and frameworks, including through providing technical assistance to implement multilateral environmental agreements. Furthermore, its strategic plan for 2014-2017, which is geared towards the post-2015 development agenda, incorporates human rights and environmental concerns, particularly in relation to marginalized persons and communities living in vulnerable situations.<sup>6</sup>

28. UNDP incorporates a human rights perspective into its environmental capacity-building in many respects. For example, UNDP provides capacity development on the role of parliaments on scaling up financing for the green agenda and providing oversight of

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<sup>5</sup> *Putting Rio Principle 10 into Action: An Implementation Guide for the UNEP Bali Guidelines* (October 2015). Available from [www.unep.org/civil-society/Implementation/Principle10/tabid/105013/Default.aspx](http://www.unep.org/civil-society/Implementation/Principle10/tabid/105013/Default.aspx).

<sup>6</sup> See UNDP, *Environmental Justice: Comparative Experiences in Legal Empowerment*. Available from [www.undp.org/content/undp/en/home/librarypage/democratic-governance/access\\_to\\_justiceandruleoflaw/environmental-justice---comparative-experiences/](http://www.undp.org/content/undp/en/home/librarypage/democratic-governance/access_to_justiceandruleoflaw/environmental-justice---comparative-experiences/).

national goals, regulations and implementation by national development agencies. UNDP also has an important capacity-building programme for civil society organizations on environmental governance that supports their gaining access to information, participation and remedy. Other examples of national projects that incorporate a rights-based approach include its support of a constitutional commission on the rights of future generations in Tunisia, which may be the first of its kind in any country, and the development in China of an environmental justice programme with the Centre for Legal Assistance to Pollution Victims.

29. The work of UNDP on governance provides a particularly useful platform for cooperation with partners at the local and national levels on issues of human rights and the environment. UNDP recently launched a programme on strengthening environmental governance in the extractive sector that includes country-level programmes in Colombia, Kenya, Mongolia and Tunisia.

30. UNDP will continue to play a key role in supporting capacity-building for civil society organizations and State institutions, including the judiciary, on environmental protection; working with local civil society organizations to develop national assessments on governance implementation; and setting up round-table discussions to explore links between local projects and international norms on human rights and environmental protection. Proposals by other interlocutors included conducting a “lessons learned” study of the work of UNDP in these related areas, so that its experiences can be more widely disseminated.

#### *United Nations Children's Fund*

31. The approach of the United Nations Children's Fund (UNICEF) to environmental sustainability emphasizes the explicit recognition of children's rights in the environmental context, given their vulnerabilities to climate and environmental impacts and their specific needs. UNICEF has developed many tools, including reports, technical briefings, and handbooks, to provide technical assistance to partners that are relevant to implementing children's rights in relation to the environment. These tools cover a wide range of issues from water and sanitation to climate change education, sustainable energy and disaster risk reduction.

32. At the country level, UNICEF has worked with Governments to incorporate a child rights approach within national legislation. For example, the UNICEF office in Viet Nam worked closely with the Government on its 2014 environmental law, which includes a chapter on green growth and climate change, as well as principles related to the role of civil society, gender equality and respect for the best interest of children. With UNICEF support, the Ministry of Education also approved a curriculum for formal education that includes competencies on environmental education and climate change, promoting children as critical agents of change. In Zimbabwe, UNICEF supported the development of the Government's National Climate Change Response Strategy, which provides a framework for climate change adaptation and mitigation.

#### *Office of the United Nations High Commissioner of Human Rights*

33. In accordance with requests from the Human Rights Council (Council resolutions 6/20, 12/15, 18/14 and 24/19), OHCHR has convened five biennial meetings of the United Nations and regional human rights mechanisms to share information and enhance cooperation. The meetings can focus on specific themes. For example, in 2016, the theme will be civil society organizations and human rights defenders. For the meeting in 2018, OHCHR could suggest that the mechanisms consider examining the relationship of human rights and the environment. A similar opportunity might be provided by the annual meeting of the International Coordinating Committee of National Institutions for the Promotion and

Protection of Human Rights, which is usually held with OHCHR support in conjunction with the March session of the Human Rights Council. Each annual meeting provides a venue to share information on thematic issues, and a future meeting could provide an opportunity to discuss ways that national human rights institutions could support the implementation of human rights relating to the environment.

#### *Human rights treaty bodies*

34. Human rights treaty monitoring bodies have contributed significantly to clarifying State obligations in connection to human rights relating to the environment. The Special Rapporteur has developed five reports on the work of the Human Rights Committee, the Committee on Economic, Social and Cultural Rights, the Committee on the Elimination of Racial Discrimination, the Committee on the Elimination of Discrimination against Women and the Committee on the Rights of the Child. Each of the reports looks at the relevant interpretations of their respective treaties by the committees in their country reports, views on communications and general comments.<sup>7</sup>

35. In addition to continuing to receive communications on environmental issues, treaty bodies could further the implementation of human rights obligations relating to the environment by holding days of general discussion and issuing general comments on the relationship of human rights and the environment. Days of general discussion present an opportunity to develop a deeper understanding of the application of a convention to specific issues. These meetings are open to public participation, including representatives from Governments, United Nations mechanisms, United Nations bodies and specialized agencies, civil society organizations and national human rights institutions. Interested individuals and organizations can submit written contributions and participate in the discussions. Potential outcomes include recommendations, calls for further studies and the drafting of general comments.

36. The Special Rapporteur will participate in a day of general discussion that the Committee on the Rights of the Child plans to hold in September 2016, with a specific focus on the human rights of the child to enjoy a healthy environment. The Committee on Economic, Social and Cultural Rights is also considering the preparation of a general comment that would address environmental issues.

#### *International Organization for Migration*

37. Since the early 1990s, the International Organization for Migration (IOM) has had a wide-ranging policy, research and operational programme on migration, environment and climate change. IOM has developed projects in over 40 countries, including in Africa, Asia, Latin America and the Pacific.<sup>8</sup>

38. Together with a group of six partners, IOM is currently implementing a three-year research project funded by the European Union that aims at building knowledge on the linkages between migration and environmental change, including climate change. The programme has three main components: (a) strengthening knowledge and information sharing; (b) providing capacity-building for Governments; and (c) facilitating policy

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<sup>7</sup> The reports are available from <http://srenvironment.org/mapping-report-2014-2/> and [www.ohchr.org/EN/Issues/Environment/SREnvironment/Pages/MappingReport.aspx](http://www.ohchr.org/EN/Issues/Environment/SREnvironment/Pages/MappingReport.aspx).

<sup>8</sup> See *Migration, Environment and Climate Change: Assessing the Evidence*, p. 5. Available from [http://publications.iom.int/system/files/pdf/migration\\_and\\_environment.pdf](http://publications.iom.int/system/files/pdf/migration_and_environment.pdf).

coherence and cooperation at the national and regional levels. It covers six countries: the Dominican Republic, Haiti, Kenya, Mauritius, Papua New Guinea and Viet Nam.<sup>9</sup>

#### *Multilateral environmental agreements*

39. A number of participants stressed the importance of mainstreaming a human rights perspective in multilateral environmental agreements. One way to do this is to include, where appropriate, a reference to human rights in the text of an agreement itself. Even without such references, however, the implementation of environmental agreements can do a great deal to protect human rights by improving the environment on which they depend. To that end, a useful step (which could also be taken by Governments and other international bodies) is the collection of disaggregated data on the effects on vulnerable groups of the environmental harm addressed by the agreements. Another proposal refers specifically to the requirements in most multilateral environmental agreements that the parties report on their performance. It was suggested that the secretariats of such agreements could develop a harmonized methodology to assist States in meeting their reporting obligations, which would ensure that the reporting is done in a participatory manner.

#### *Cooperation among intergovernmental agencies*

40. The Special Rapporteur draws attention to the advantages of strengthening collaboration among the different agencies working in this area. Interagency cooperation has proved to be an effective way to implement human rights obligations related to the environment.

41. For example, over the past decade, the joint Poverty-Environment Initiative of UNDP and UNEP has provided financial and technical support to assist government decision makers and other stakeholders to manage the environment in ways that improve livelihoods and lead to sustainable growth. It has developed a flexible programmatic model for poverty-environment mainstreaming that incorporates gender and a rights-based approach. In the Philippines, the Initiative has provided technical assistance to promote responsible mining practices and to help stop and reverse the destruction of biodiversity and ecosystems. In the Lao People's Democratic Republic, the Initiative has worked with the Ministry of Natural Resources and Environment to establish procedures to carry out an environmental and social impact assessment, monitor processes for investment projects and increase community participation in economic development.<sup>10</sup>

42. Another example of collaboration in this area is the recent initiative of the United Nations Institute for Training and Research to work with UNDP and UNEP, as well as the Special Rapporteur, to develop training materials and programmes on human rights and the environment, to inform a variety of actors, including State agencies, the judiciary and civil society organizations.

43. A number of additional proposals could also be implemented by agencies working together. Many of the suggestions received by the Special Rapporteur concerned cooperation in the provision of technical assistance. For example, it was suggested that UNDP and other agencies, including UNEP, could jointly strengthen the use of United Nations country offices to promote implementation of the rights relating to environment. More generally, methods of implementing human rights relating to the environment that could benefit from agency cooperation include:

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<sup>9</sup> More information is available from [www.iom.int/meclep](http://www.iom.int/meclep).

<sup>10</sup> More information is available from [www.unpei.org](http://www.unpei.org).

- Developing model constitutional provisions, including with respect to the right to a healthy environment
- Drafting model legislation, including in areas such as climate change and migration and human rights defenders
- Producing handbooks clarifying the application of human rights norms to specific environmental issues, such as the regulation of toxic substances
- Organizing training sessions for national human rights institutions and the judiciary on the application of human rights to the environment
- Developing a database of jurisprudence related to human rights and the environment
- Publishing information on how different countries are implementing human rights related to the environment

44. In addition to inter-agency cooperation, some interlocutors proposed the creation of new international mechanisms. Three examples are:

- The establishment of a special fund for the protection of environmental human rights defenders at risk, which could enable organizations to support human rights defenders under pressure or threat by providing emergency assistance for temporary relocation and legal fees
- A mechanism that could provide technical assistance to States on implementing obligations relating to human rights and the environment, and that could emphasize South-South dialogue and cooperation
- A new judicial body to hear international claims for violations of human rights relating to the environment that could supplement existing national and regional tribunals

## **B. Regional bodies**

### **1. Regional human rights bodies**

45. Regional human rights bodies continue to provide crucial methods of implementing human rights relating to the environment. Regional bodies in Africa, the Americas and Europe have done a great deal to clarify the application of human rights norms to environmental issues, including through their decisions on complaints and their publication of resolutions and reports. Those contributions have been described in earlier reports of the Special Rapporteur, which were summarized in the mapping report (A/HRC/25/53).<sup>11</sup>

46. The regional commissions also establish special mechanisms, some of which can address environmental issues. For example, in 2009 the African Commission on Human and Peoples' Rights established a Working Group on Extractive Industries, Environment and Human Rights Violations, whose mandate includes examining the impact of extractive industries in Africa and researching violations of article 24 of the African Charter, which recognizes the right of peoples to a satisfactory environment. The Working Group has conducted a number of research projects, including through a mission to Zambia in 2014. It was suggested that the Commission could consider creating another mandate with a focus on environmental issues generally, or requesting the Working Group to broaden its focus beyond extractive industries to address a wider variety of environmental issues.

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<sup>11</sup> The reports are available from <http://srenvironment.org/mapping-report-2014-2/> and [www.ohchr.org/EN/Issues/Environment/SREnvironment/Pages/MappingReport.aspx](http://www.ohchr.org/EN/Issues/Environment/SREnvironment/Pages/MappingReport.aspx).

47. The Inter-American Commission on Human Rights established the Office of the Special Rapporteur on Economic, Social, and Cultural Rights in November 2012. Pursuant to his mandate, he has expressed interest in examining the implementation of the right to a healthy environment, in line with the Protocol of San Salvador to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights.

48. The Inter-American Commission has held a number of thematic hearings in relation to the situation of human rights defenders working on environmental related issues. For example, in 2015, it held a hearing on the situation of environmental human rights defenders in relation to extractive industries and another hearing on the situation of defenders of women's rights and the environment. In the past few years, the Commission has also held many hearings in relation to defenders working on environmental issues in specific countries. The Commission has also held hearings on the effects that extractive industries have on the enjoyment of human rights, such as access to water.

49. In addition, the Inter-American Commission often issues precautionary measures to protect the lives of environmental human rights defenders. A recent example is the 2015 case of *Kevin Donaldo Ramírez and family v. Honduras*, in which the Commission requested the State to adopt measures to protect an environmental human rights defender and his family, who had been harassed and subjected to acts of violence for his activities.

## 2. Other regional bodies

50. Human rights obligations relating to the environment have also been implemented through regional agreements on the rights to information, participation and remedy. The leading example is the Aarhus Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters, adopted by States members of the Economic Commission for Europe. In addition to setting out clear standards, the Convention establishes a Compliance Committee that can receive communications by members of the public and deliver non-binding recommendations. The credibility that the Committee enjoys among the contracting parties, other international courts and civil society has been a significant factor promoting implementation of the Committee's findings. The parties to the Aarhus Convention have also established the Task Force on Access to Justice in Environmental Matters, which provides a platform for sharing information, experiences and good practices in relation to access to justice in environmental matters.

51. A more recent initiative is the negotiation by 20 States members of the Economic Commission for Latin America and the Caribbean of a regional agreement on the rights to information, participation and remedy. The negotiators hope to conclude the agreement by December 2016. When adopted, the agreement will provide invaluable support to secure the effective enjoyment of those rights. It will also help to enhance domestic laws implementing multilateral environmental agreements and domestic policies in other areas, including climate change, chemicals and waste management, and biological diversity.

52. Other regional bodies, such as the Association of Southeast Asian Nations (ASEAN), could consider the adoption of similar regional conventions and agreements. For example, an ASEAN agreement could not only strengthen the implementation of procedural rights, including rights related to participation and access to information, but also build on its 2007 Declaration on Environmental Sustainability. Similarly, ASEAN could consider the development of a framework agreement on principles and procedures for environmental impact assessments. The framework could set out guidelines to identify projects that would require such assessments and provide minimum standards for public participation. Such an agreement could also strengthen and clarify ASEAN environmental quality standards and guidelines to assist project proponents, as well as set out specific procedures for environmental impact assessments addressing projects with direct

transboundary impacts. Such a regional agreement would complement ongoing efforts by the ASEAN Intergovernmental Commission on Human Rights to integrate a human rights perspective on environmental and climate change policymaking.

53. In addition, regional bodies could further the implementation of human rights norms relating to the environment by, among other things: (a) building capacity for the judicial sector to understand the relationship between human rights and the environment; and (b) supporting national efforts to implement human rights and environmental principles into national laws, including by increasing dialogue and cooperation between different ministries.

## **C. National actors**

54. States are already undertaking a wide array of measures to implement human rights obligations relating to the environment, as explained in the report of the Special Rapporteur on good practices (A/HRC/28/61). But much remains to be done to adopt those good practices more widely and to ensure their effective implementation.

### **1. State institutions**

55. A number of interlocutors urged States that have not yet done so to consider adopting a right to a healthy environment into their national constitution. Experts have identified many potential benefits of adopting a constitutional environmental right, including that the recognition of such rights can lead to the enactment of stronger environmental laws; provide a safety net to protect against gaps in statutory environmental laws; raise the profile and importance of environmental protection as compared with competing interests, such as economic development; and create opportunities for better access to justice and accountability. Whether or not States adopt a constitutional right to a healthy environment, States should adopt strong environmental laws ensuring, among other things, rights to information, participation and remedy. In the report on good practices, the Special Rapporteur provides several examples of such laws.

56. States should also consider establishing dedicated environmental courts and/or modifying standing requirements to facilitate the resolution of environmental cases. Examples of such courts include the Land and Environment Court of New South Wales, Australia, created in 1980; the Environmental Administrative Tribunal of Costa Rica, established in 1995, and the National Green Tribunals of India, established in 2011. At the administrative level, a human rights perspective should be mainstreamed not only in environmental agencies, but also in development agencies of all kinds.

57. To strengthen implementation, States also need to create an enabling environment with appropriate safeguards for environmental human rights defenders. An important step is to ensure that the principles of 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 are enshrined in national law, and to establish and strengthen protection programmes and mechanisms for human rights defenders, including environmental defenders.

58. Furthermore, States should continue to cooperate with the national and regional country offices of UNDP, UNEP and OHCHR to mainstream a human rights perspective into their environmental programmes and activities. A potential area of collaboration is building the capacity of law students, advocates, judges, national human rights institutions, policymakers and other relevant actors to apply human rights norms in their decision-making.

59. Finally, implementation of the Sustainable Development Goals is highly important to the promotion of human rights and environmental protection. Accordingly, integrating the Goals into national priorities provides an opportunity for States to advance human rights related to the environment.

## 2. National human rights institutions and ombudspersons

60. In his report on good practices, the Special Rapporteur underlined the importance of using national human rights institutions to address environmental issues. Many of these bodies have jurisdiction to examine alleged violations of rights related to the environment and are increasingly focusing on environmental concerns. To highlight one of many possible examples, Hungary established an ombudsperson for future generations in 2007, which has the authority to initiate or participate in investigations upon receiving complaints, to submit petitions to the constitutional court and to initiate intervention in public administrative court cases regarding environmental protection. National human rights commissions that have not already done so should strongly consider addressing environmental concerns within their mandates, and their efforts in this respect should be supported by national governments.

## D. Civil society organizations

61. Civil society organizations have engaged in many exemplary practices to facilitate the implementation of human rights related to the environment, including facilitating public participation, providing technical assistance to government institutions, training relevant actors and adopting measures to protect human rights defenders. In addition, civil society organizations have been very active participants in international meetings and have contributed to the development of instruments such as the Extractive Industries Transparency Initiative, the United Nations Global Compact and the Guiding Principles on Business and Human Rights. Examples of their good practices are listed in the report of the Special Rapporteur on good practices and at [www.environmentalrightsdatabase.org](http://www.environmentalrightsdatabase.org). The report and database also include examples of good practices by other non-State actors, including corporations, which have responsibilities under the Guiding Principles to respect human rights, including those relating to environmental protection.

62. Although there are too many examples to list them all here, this section highlights three methods of implementation that are particularly useful models.

63. First, civil society organizations have taken the lead in pioneering efforts to protect environmental human rights defenders from harassment and violence. Groups such as the Fédération internationale des ligues des droits de l'homme, the Organisation mondiale contre la torture, FORUM-ASIA, Protection International, the Environmental Law Alliance Worldwide, Front Line Defenders and the Women Human Rights Defenders International Coalition provide a wide range of services to environmental defenders, including relocation support, legal assistance, training, and publicity (see A/HRC/28/61, para. 54). Particularly noteworthy as an effort to raise awareness of the problem are the efforts of the organization Global Witness, which has called attention to the situation of environmental human rights defenders in a series of well-researched reports and campaigns.<sup>12</sup>

<sup>12</sup> See *Deadly Environment: The Dramatic Rise in Killings of Environmental and Land Defenders 1.1.2002-31.12.2013* (April 2014), available from [www.globalwitness.org/en-gb/campaigns/environmental-activists/deadly-environment/](http://www.globalwitness.org/en-gb/campaigns/environmental-activists/deadly-environment/); and *How Many More? 2014's Deadly Environment: the Killing and Intimidation of Environmental and Land Activists, with a Spotlight on Honduras* (April

64. Second, in 2015 the World Resources Institute and The Access Initiative published the Environmental Democracy Index,<sup>13</sup> which measures country-specific realization of the procedural rights of access to information, access to justice and public participation relating to environmental protection, according to an analysis of national laws and regulations. The index provides a useful tool for identifying gaps and charting progress.

65. Third, conservation organizations are increasingly relying on a human rights perspective in their work. For example, the Conservation Initiative on Human Rights brings together eight organizations working in this area<sup>14</sup> that have agreed to uphold international proclaimed human rights to guide their policies and to advance the idea that human rights are essential to conservation work. The diverse partnerships of the Initiative across different regions and sectors offer an effective model for sharing information and experiences among various actors and exercising influence at many different levels. Since the creation of the Initiative, all the organizations involved have strengthened human rights integration in their policies and frameworks.

66. For example, Conservation International trains staff at its headquarters and field offices on how to integrate a rights-based approach into all aspects of their work. The mission and policies of the International Union for the Conservation of Nature explicitly recognize the importance of respecting rights in the practice of conservation and call for the organization to work towards ensuring that rights are respected for the sustainable and equitable use, management, governance and conservation of natural resources. The organization has adopted an environmental and social standard system that uses rights-based safeguards to ensure that all of its projects fully respect the human rights of all communities and individuals linked to its conservation interventions, and that contribute as much as possible to the realization of their rights. Similarly, the World Wide Fund for Nature has taken a number of steps to build institutional knowledge, internal policy, and external engagement to proactively build human rights and social development into its conservation work. The Special Rapporteur intends to work with these and other conservation organizations to support and promote their efforts to incorporate rights-based perspectives.

### **III. Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment**

67. From the beginning of the mandate, the Special Rapporteur has believed that clarifying human rights obligations relating to the environment, as well as identifying good practices in the use of such obligations, are necessary (although not sufficient) factors in promoting implementation of those norms. In accordance with Human Rights Council resolution 28/11, he intends to continue to clarify human rights norms and identify good practices. In the other report he is presenting to the Council at its thirty-first session, he addresses the application of human rights principles to climate change, and in 2016 he intends to examine the relationship of human rights with the protection of ecosystems and biological diversity. Where the norms already appear to be clear and well understood, the

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2015), available from [www.globalwitness.org/en/campaigns/environmental-activists/how-many-more/](http://www.globalwitness.org/en/campaigns/environmental-activists/how-many-more/).

<sup>13</sup> Available from [www.environmentaldemocracyindex.org](http://www.environmentaldemocracyindex.org).

<sup>14</sup> Birdlife International, Conservation International, Fauna & Flora International, International Union for Conservation of Nature, The Nature Conservancy, Wetlands International, Wildlife Conservation Society and World Wide Fund for Nature.

Special Rapporteur has strongly encouraged their full implementation. For example, he has repeatedly expressed his concerns about the failures of States to meet their obligations to protect environmental human rights defenders, and he has identified good practices to improve their protection.

68. In response to the request in Human Rights Council resolution 28/11 for an increased emphasis on implementation, the Special Rapporteur has taken a more active role in initiating communications to Governments about complaints of human rights violations relating to the environment. He has requested countries to offer invitations to conduct country missions, and he also intends to visit international institutions where appropriate. In that respect, he has already had discussions with the secretariat of the United Nations Framework Convention on Climate Change, which he hopes to visit in the second quarter of 2016.

69. A number of other useful suggestions for the Special Rapporteur emerged from the expert meeting, the public consultation and the written submissions. For example, many participants urged him to develop and disseminate guidelines to facilitate better understanding of the human rights obligations relating to the environment. There was a consensus that such guidance should succinctly summarize the relevant norms, be clear and easy to understand, explain the benefits of a human rights perspective on environmental issues and include a section on environmental human rights defenders in particular.

70. Another suggestion is to develop handbooks or other accessible tools, such as short briefing papers and case studies. The goal would be to explain in clear terms the human rights principles relevant to environmental issues, perhaps aimed at specific audiences. These publications could be complemented with a series of short videos to help advance knowledge on specific environmental related issues.

71. Participants also noted the need to share knowledge concerning national and international jurisprudence in relation to environmental matters. It was suggested that a useful resource would be a database of rulings by national judiciaries, regional and international courts, as well as other human rights bodies, similar to the one developed by the Special Rapporteur concerning good practices. Such a database, which could be developed in conjunction with other partners, would not only be relevant for judges and lawyers, but also for parliamentarians, national human rights institutions and advocates working in this area. An additional proposal was to include in the existing database on good practices more information on the practices of indigenous peoples regarding the implementation of national and international obligations in the promotion of a safe and sustainable environment.

72. The dissemination of model constitutional provisions and legislation was also suggested, as a means of supporting Governments in their implementation of norms relating to the environment. A cautionary point is that implementation is often more successful when legislation is developed through a process that includes the participation of local and national communities. Therefore, any model provisions should be used as a draft, or checklist, which could inform the development of laws within a country through a participatory process.

73. The Special Rapporteur was urged to continue to promote the protection of environmental human rights defenders, in coordination with other special procedure mandate holders, including the Special Rapporteur on the situation of human rights defenders, with the goal of encouraging States to fulfil their obligation to create an enabling environment for human rights defenders working in this area. In this respect, some specific suggestions were made, including the creation of a comprehensive global study that monitors and investigates the criminalization and intimidation of environmental defenders. The study could identify the State and non-State actors that are involved as perpetrators,

institutional deficits that lead to a lack of protection, violations of international law and domestic laws that allow for targeting of environmental defenders. In addition, it was suggested that a database could be established to make environmental defenders more visible, to centralize the efforts of organizations that are tracking threats and other incidents and to publicize their situation so that international attention can help to promote their safety.

74. Another proposal was to strengthen collaboration with other human rights mechanisms, including the Working Group on the issue of human rights and transnational corporations and other business enterprises. A number of issues relating to corporations and environmental protection directly concern human rights and deserve further attention. It was suggested that the Special Rapporteur could develop guiding questions for the Working Group and other mechanisms to help them to continue to integrate human rights related to the environment into their work.

75. The Special Rapporteur received many other suggestions concerning areas that need further clarification and analysis, including with respect to the protection of ecosystems, transboundary environmental harm, chemical and waste management, air pollution control, the human rights dimensions of hydraulic fracturing (fracking), the right to a remedy in cases involving environmental destruction, children's rights in relation to the environment and the situation of environmental migrants.

76. The Special Rapporteur also received a number of proposals for the implementation of human rights obligations relating to the protection of indigenous peoples from environmental harm, which reflect the close relationship those peoples often have with the environment. While these proposals would certainly promote the implementation of human rights obligations relating to the environment, they may fall more squarely within the mandate of the Special Rapporteur on the rights of indigenous peoples. They include: (a) collaborating with the United Nations Educational, Scientific and Cultural Organization to establish regulations based on indigenous knowledge of environmental protection of world heritage sites, to identify new sites of world natural heritage and to protect endangered world heritage sites; (b) promoting the explicit and active participation of indigenous peoples in international forums; and (c) developing a compendium of best practices concerning free, prior and informed consent in the context of extractive activities and other projects affecting land and human rights.

77. Finally, a number of participants urged the Special Rapporteur to examine the environmental safeguards adopted by international financial institutions. The view was expressed that the proliferation of such safeguards has become confusing and that it is important to promote their consistent and effective implementation.

#### **IV. Conclusions and recommendations**

**78. The Special Rapporteur expresses his gratitude to everyone who contributed to the present report, including the participants in the expert meeting and the public consultation and those who provided written submissions. As more institutions and people around the world apply a human rights perspective on environmental issues, their experiences provide valuable models for others.**

**79. The many suggestions for methods of implementation of human rights obligations relating to the environment should be considered and promoted by all those in a position to do so, including the Human Rights Council, other international and regional organizations, national Governments, and civil society organizations, within their own spheres.**

80. The Special Rapporteur will draw on these proposals as a guide to his own work on implementation and in continuing to work with other partners, including United Nations agencies, treaty bodies, regional organizations and secretariats of multilateral environmental agreements, as well as national Governments and civil society organizations. Among other initiatives, he will prioritize the development and dissemination of clear guidance about human rights norms relating to the environment, and good practices in the use of those norms, that is easy to understand and apply.

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