

PUBLIC CONSULTATION ON BIODIVERSITY AND HUMAN RIGHTS

Concept note

13:00 to 15:30 on 22 September 2016
Room XXIII, Palais des Nations

1. Background

The Human Rights Council established the mandate for the Independent Expert on human rights and the environment during its 19th session in 2012 and appointed Mr. John Knox,¹ a professor at Wake Forest University, to the position.² In 2015, the Human Rights Council decided to extend the mandate of the current mandate holder as a Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment for a period of three years.³

The Human Rights Council requested the Special Rapporteur in its resolution 28/11, among other things, to:

- Continue to study the human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment;
- Continue to identify, promote and exchange views on good practices relating to human rights obligations and commitments to inform, support and strengthen environmental policy making, especially in the area of environmental protection;
- Promote and report on the realization of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, and to disseminate his findings by, inter alia, continuing to give particular emphasis to practical solutions with regard to their implementation;
- Work on identifying challenges and obstacles to the full realization of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment and protection gaps thereto, including in the context of sustainable development.

In the fulfilment of his mandate, the Special Rapporteur has clarified human rights obligations of States with regard to matters relating to the environment. The diverse sources he reviewed indicate a growing level of consensus about how human rights norms apply to environmental issues. The conclusions of his study can be summarized in three sets of duties: procedural obligations; substantive obligations; and obligations relating to those in vulnerable situations.⁴

The consultation on biodiversity and human rights builds upon the previous studies of the Special Rapporteur by continuing to examine the relationship between human rights obligations and the environment, with a focus on the protection of ecosystems and biological diversity.

¹ See, <http://www.ohchr.org/EN/Issues/Environment/SREnvironment/Pages/JohnKnox.aspx>

² A/HRC/RES/19/10

³ A/HRC/RES/28/11

⁴ For more information, see the Special Rapporteur's mapping report (A/HRC/25/53) or <http://www.ohchr.org/EN/Issues/Environment/SREnvironment/Pages/MappingReport.aspx>

Biodiversity and Human Rights

In response to increasing threats to biodiversity and ecosystems in the past decades, the global community has taken a number of important actions. Examples include the Convention on Biological Diversity, which entered into force in 1993 and is now one of the most widely ratified treaties in the world. Conservation of biological diversity was the subject of Chapter 15 of Agenda 21, which was adopted at the United Nations Conference on Environment and Development in 1992 in Rio de Janeiro, and at the Rio+20 Conference in 2012, Member States recognized “the severity of global biodiversity loss and degradation of ecosystems” and emphasized the adverse impact that this situation has on “food security and nutrition, provision of and access to water, health of the rural poor and of people worldwide, including present and future generations.” Goal 15 of the 2030 Agenda for Sustainable Development Goals (SDGs) is devoted to “protect, restore and promote sustainable use of terrestrial ecosystems, sustainably manage forests, combat desertification, and halt and reverse land degradation and halt biodiversity loss”.

The loss of biodiversity may interfere with the enjoyment of a wide range of human rights, including the rights to life, health, food, livelihood, water, housing, and culture. The rights of indigenous peoples and others particularly reliant on healthy ecosystems are especially subject to threat. Biodiversity and human rights are closely linked and interdependent. The full enjoyment of many human rights depends on healthy ecosystems; at the same time, effective biodiversity policies depend on the exercise of human rights, including rights to information and participation, and require taking into account the rights of those who live in protected areas or who are otherwise directly affected by the policies.

Despite the close linkages, the two areas have often developed in parallel and in isolation from each other. Their relationship is not always well-understood or clearly defined. There is a gap in assessing biodiversity/ecosystems policies from a human rights perspective. Furthermore, there is a need to clarify States’ human rights obligations pertaining to policies on biodiversity/ecosystems.

Recently, there have been noticeable developments in assessing the two discourses in an integrated manner. For instance, the report of the Special Rapporteur on the rights of Indigenous Peoples, Ms. Victoria Tauli-Corpuz, provides a valuable contribution to the clarification of this field.⁵ In her report, she examines conservation measures and their impact on indigenous peoples’ rights with a view to further promote a human rights-based paradigm in conservation. Such work provides a valuable platform for all interested in the agenda, including the Special Rapporteur on human rights and the environment, to build upon.

Through this consultation, the Special Rapporteur seeks to clarify human rights obligations relating to biodiversity by exploring the relationship of the two and by assessing the effects of biodiversity on the enjoyment of human rights. He is interested in examining the legal framework, identifying gaps and analysing how human rights

⁵ See, A/71/229. Full report is assessable at <http://www.ohchr.org/EN/Issues/IPeoples/SRIndigenousPeoples/Pages/AnnualReports.aspx#ga>

obligations in biodiversity policies and programmes are implemented at various levels (e.g., at the national, local and municipal levels) and by different government bodies (e.g., ministries of environment, development, agriculture, mining, etc.) in practice. He is also interested in clarifying heightened obligations of States in protecting individuals and groups who are in a vulnerable situation.

To highlight several possible avenues of discussion:

- What obligations do States have in the protection of biological diversity and ecosystems? For example, do procedural and substantive obligations under international law establish protections against the adverse effects of loss of biodiversity and degradation of ecosystems, and if so, how?
- To what extent does the loss of biological diversity interfere with the enjoyment of human rights? Which rights are primarily at stake?
- How can biological diversity and a healthy ecosystem help promote the enjoyment of human rights?
- Which groups are particularly vulnerable to the loss of biodiversity, including but not limited to indigenous peoples? How are they (or are they not) provided with heightened protection?
- To what extent are businesses involved in biodiversity-related matters? How are their activities assessed in accordance with the UN Guiding Principles on Business and Human Rights?⁶
- What are the challenges and obstacles in integrating a human rights-based approach in biodiversity-related issues?
- What steps have been taken to protect environmental human rights defenders working on biodiversity and conservation issues, including any efforts by Governments or others to create a safe and enabling environment for them to freely exercise their rights without fear?
- How should a human rights perspective inform international cooperation to address biological diversity, including through the relevant international conventions?
- What additional measures can all relevant stakeholders (e.g., States, United Nations human rights system, IOs, CSOs, private actors, etc.) take to address the protection of biological diversity and ecosystems?

With respect to all of these questions, the discussion will aim not only to identify possible obligations or challenges but also to identify good practices⁷ related to using a human rights approach to promote biological diversity.

⁶ For more info, see

http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf

2. Objectives of the consultation

The objectives of this consultation are to:

- i) Clarify the linkages between biodiversity and human rights;
- ii) Identify how the loss of biodiversity and the degradation of ecosystems interfere with the enjoyment of human rights;
- iii) Clarify human rights obligations applicable to biodiversity-related matters;
- iv) Discuss how to enable States to fulfil their human rights obligations through biodiversity-related policies and programmes;
- v) Identify good practices at the international, regional and national levels related to the protection of biodiversity/ecosystems;
- vi) Offer a platform for dialogue between participants, including facilitating the exchange of experiences, knowledge and lessons learned; and
- vii) Increase awareness of a human rights based approach to biodiversity policy development and protection.

3. Outputs

This consultation will inform the work of the Special Rapporteur in studying the human rights obligations pertaining to biodiversity and ecosystem. Discussions, challenges and lessons learned identified during the consultation will be incorporated in the Special Rapporteur's report to the Human Rights Council, to be presented in March 2017.

4. Participation

The consultation is open to States, International Organizations, National Human Rights Institutions, members of civil society organizations, academics and all other interested stakeholders.

⁷ For further information on how the Special Rapporteur had defined good practices, please see: <http://www.ohchr.org/EN/Issues/Environment/SREnvironment/Pages/GoodPractices.aspx>