

The Human Rights Basis for the Environmental Pillar

**Open-ended Working Group Side Event:
A transformative post-2015 human rights vision requires
innovative linkages with environmental issues**

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relating to the enjoyment of a safe, clean, healthy and sustainable environment

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Thank you very much for coming to this side-event today.

The three pillars of sustainable development – economic development, social justice and environmental protection – all rest on a common base: respect for human rights. The importance of human rights for economic and social development is well-known. What is less clearly understood, however, is the importance of human rights for the third pillar of sustainable development – environmental protection.

The recognition of a link between human rights and the environment is not new. Forty years ago, at the first major international environmental conference, the international community adopted the Stockholm Declaration, which states:

“Both aspects of man's environment, the natural and the man-made, are essential . . . to the enjoyment of basic human rights – even the right to life itself.”

But the relationship between human rights and the environment is still less well-known than it should be. Too often, those concerned with human rights and those concerned with environmental protection have focused on one to the exclusion of the other.

Why does this matter? What exactly does a human rights perspective add to environmental policy? Let me suggest three answers.

First, a human rights perspective demonstrates the fundamental importance of environmental protection to the dignity, equality, and freedom of human beings. In other words, it makes clear that protecting the environment is imperative, morally and legally, in order to protect and fulfill rights to life, health, property and, indeed, all rights set out in the Universal Declaration of Human Rights.

Today, we see countless examples of ways that the failure to protect the environment interferes with the enjoyment of particular human rights.

- o When toxic substances are dumped in countries that have not accepted them and do not have adequate facilities to treat them, with the result that individuals living near the waste site become sick and even die, those individuals' human rights to **life and health** have been abused.
- o When hazardous waste sites are located in the communities of disfavored minorities, or resources are extracted from the territory of indigenous peoples without their agreement, then their right to enjoy their **property** without discrimination has been infringed.
- o When governments around the world fail to restrict emissions of greenhouse gases, jeopardizing the continued existence of vulnerable communities in the Arctic and in low-lying coastal areas, among others, they fail to protect many human rights, including rights to **life, health, property, development, and self-determination**.
- o When individuals cannot find out basic facts about the environmental risks of proposed projects in their communities, and are unable to participate in the decision-making procedures that determine whether to approve the projects, they are denied their rights to **information** and to **participation**.
- o And when individuals try to speak out against proposed projects that would harm their local environment, but suffer threats and violence by those who would silence their voices, then their human rights to **expression and association**, as well as their **rights to life and to physical integrity**, have been violated.

Many States have underscored the importance of environmental protection by adopting an explicit human right to a healthy environment. More than 90 States have adopted the right in their national constitutions. States have also incorporated the right in regional instruments, including in Africa, the Americas, Asia, and Europe. By adopting this right at the constitutional or international level, countries have announced that they believe that the right to live in a satisfactory environment is of the same fundamental importance as other human rights.

The second attribute of a human rights perspective on environmental issues is that it provides minimum substantive standards that environmental policies must strive to meet. Even without adoption of an explicit new right to a healthy environment, it has become clear that existing human rights, such as rights to life, health, and property, can be infringed by environmental harm.

As a result, States have obligations under human rights law with respect to such harm – duties to refrain from causing the harm themselves, and to protect against harm caused by others. The precise contours of these duties have not always been clear, but they are rapidly becoming clearer, as human rights tribunals and expert bodies apply human rights norms to environmental problems.

As part of my mandate for the UN Human Rights Council, I have been asked to clarify the human rights obligations relating to the environment. In my next report, to be presented in March, I will provide a map of those obligations. Let me highlight a few of the main points.

Perhaps most important, States have an obligation to adopt legal frameworks aimed at reducing and eliminating environmental harm that adversely affects human rights. States have some discretion to strike a balance between environmental protection and other interests, such as economic development and the rights of others. But the balance cannot be unreasonable, or result in unjustified, foreseeable infringements of human rights. And after a State has adopted standards of environmental protection into its law, it must implement and comply with those standards. Moreover, States' obligations in this respect extend beyond their own actions, to include regulating environmental harm caused by private actors.

The third advantage of a human rights perspective is that it makes clear that States have obligations to facilitate procedural rights whose implementation is vital to environmental policy-making. In general, these are rights whose free exercise makes policies more transparent, better informed and more responsive. Specifically, human rights law imposes obligations on States to:

- (1) assess environmental impacts and make environmental information public;
- (2) facilitate public participation in environmental decision-making, including by protecting the rights of freedom of expression and association; and
- (3) provide access to remedies for harm.

The obligations have been elaborated not only by human rights bodies, but also in international environmental instruments such as Principle 10 of the 1992 Rio Declaration. In addition to their bases in civil and political rights, these duties have been clarified and extended in the environmental context, in order to protect the entire range of human rights at risk of infringement from environmental harm.

When directed at environmental issues, the exercise of procedural rights results in policies that better reflect the concerns of those most affected. As a result, they better safeguard rights to life and health, among others, from infringement through environmental harm. The converse is also true. Failure to meet procedural obligations can result in a degraded environment that interferes with the full enjoyment of human rights.

In short, human rights and the environment are not only interrelated, they are interdependent. A healthy environment is fundamentally important to the enjoyment of human rights, and the exercise of human rights is necessary for a healthy environment.

These rights belong to everyone in the world. But it is important to note that human rights law also requires additional protections for those in vulnerable situations, including women, children, and indigenous peoples.

Each of these three points is relevant to the SDGs.

First, the relationship of human rights and the environment underlines the critical importance of including strong commitments to environmental protection. The MDGs did not go nearly far enough in this direction. We are failing to safeguard the environment, and the result is that we are contributing to major violations of human rights to life, health, food, water, and housing, among others. Those rights cannot be fulfilled without greater effort to protect the environment.

Second, the SDGs should reflect the need for States to incorporate environmental protection into their law and to take concrete, concerted action to better implement those protections. Again, this is not just a nice idea; it is required by human rights law.

Third, the SDGs should include criteria for good governance, which address the provision of environmental information, public participation, and remedies for environmental harm.

Thank you again, very much, and I look forward to hearing others' comments and questions.