

**Outcome Document of the High Level Expert Meeting on the
New Future of Human Rights and Environment:
An Agenda for Moving Forward**

Nairobi, 30 November – 1 December 2009

From 30 November to 1 December 2009, the United Nations Environment Programme and the Office of the United Nations High Commissioner for Human Rights jointly organized a two-day expert seminar on human rights and the environment. The objective of the meeting was to review recent developments concerning the relationship between human rights and the environment and to discuss ways and means to promote integrated strategies and policies for the protection of human rights and the environment.

The key goals of the meeting were:

- An experts' discussion on and appraisal of existing linkages between the human rights and environment agendas; and
- To provide high level expert guidance for UNEP, OHCHR and other organizations to develop their strategies on human rights and environment.

I. Review

The meeting of experts acknowledged that the link between environmental quality and human rights had been recognized at least since the Stockholm and Rio Declarations. There had since been a progressive development of this link in international and regional instruments, as well as in national, regional and international case law, strengthening this relationship. Given the growing human impact of environmental problems and specific concerns about environmental crime, human security, and social equity, there was an increasing need to re-examine the current state of international law in this area and how the link between human rights and the environment could be further clarified and strengthened.

The urgency of climate change had raised the profile of these issues on the human rights agenda. In particular, the landmark consensus resolution of the United Nations Human Rights Council on human rights and climate change (resolution 10/4 of 25 March 2009), recognized that climate change-related effects have a range of direct and indirect implications for the effective enjoyment of human rights. This growing attention to the relationship between climate change and human rights has further underlined the need for clarification of the wider linkage between human rights and the environment.

The experts were in general agreement that the time was ripe to deepen understanding of the direct and indirect links between the protection of the environment and the enjoyment of human rights and build on the work of the Office of the High Commissioner for Human Rights and the Human Rights Council, as well as UNEP's and the international community's achievements in the environmental field. This should include looking at the obligations and responsibilities of States and other actors under human rights treaties and multilateral environmental agreements

and assessing and reexamining how human rights bear on environmental problems and environmental governance in an operational manner. There was also an opportunity to move this agenda forward in a possible Rio+20 Global Summit.

II. Potential Strategies

Experts were in general agreement on the need to take stock of the progress that had been made, identify gaps and limitations of current approaches, and to seek codification of and further elaboration of the links between human rights and environmental protection. Experts highlighted three general pathways; the first focused on using human rights in a procedural manner to help protect environmental quality, the second involved using existing human rights for the purpose of protecting the environment, and the third involved developing a substantive right to a certain quality of environment. In light of this, experts suggested ambitious and pragmatic options for moving this agenda forward:

1. Promote the development and adoption of a declaration on human rights and the environment involving experts, institutions, governments and other interested stakeholders. A declaration would:
 - a. Focus on what was already legally binding;
 - b. Clarify a coherent approach to balancing the environment, development, and human rights, within the context of developing international policy coherence for sustainable development management; and
 - c. Provide additional guidance for judges and regulators in diverse forums.
2. Explore the development of a resolution on human rights and the environment at the Human Rights Council and/or the UNEP Governing Council and possibly recommend such a resolution to the UN General Assembly for consideration. A resolution would have the same goals as a declaration.
3. Establish a group of international experts to examine current progress and to review international law on human rights and environment, with a view to producing a comprehensive text which would address gaps in existing law in a systematic way to enhance compliance. The report would also examine how to use existing human rights standards to protect against environmental harm. This could be mandated by an express declaration of an intergovernmental body such as the UNEP Governing Council or the Human Rights Council.
4. Consider advocating for the appointment of a Human Rights Council Special Rapporteur on human rights and the environment to systematically draw together the different human rights and environmental issues that were being addressed in a fragmented manner.

III. Roadmap for moving forward

The expert meeting proposed a preliminary roadmap of options for moving forward on some or all of the strategies in the short and long term. The options presented were not intended to be

mutually exclusive; for example, one way to proceed could be to conduct a high level meeting to produce an expert review, which would then feed into a joint report between OHCHR and UNEP. Both agencies could explore ways of seeking a mandate from their governing bodies to develop a joint report and present recommendations. Whichever strategy was chosen, in all instances, widespread stakeholder participation would be required in the implementation of a roadmap going forward. Experts proposed the following preliminary roadmap:

- A review of international, national and regional case law and practice with a view to understanding how linkages between human rights and environmental linkages have already been demonstrated and implemented in practice. This process would:
 - Be advised by an expert group, including some government representation;
 - Draw from this analysis principles for a declaration or resolution on the link between human rights and the environment, and consider the development of a right to a certain quality of environment; and
 - Consider development of an action programme on how to operationalise these principles at local, national, regional and international levels.
- The development of a joint OHCHR-UNEP report looking at existing human rights jurisprudence and examining how the linkages between human rights and the environment are already demonstrated in instruments and case law. The report would examine jurisprudence at the regional and national level, identify gaps and consider what other institutions and intergovernmental agencies are doing in this area.
- An exploration of emerging rights' concepts related to the environment (for example intergenerational equity, environmental governance, right to a certain quality of environment) and alternative ways for conceptualizing the environment, including the model of ecosystem services. This would involve:
 - Cooperation with Human Rights Council special procedures mechanisms on relevant topics, such as toxic waste, the right to food, the right to health and the right to water; and
 - Examining the potential for a right to ecosystem services, and the linkages between the ecosystem services and human well-being.
- A strengthened collaboration between OHCHR and UNEP to promote UN inter-agency cooperation, including within the UN Development Group, develop guidelines and propose actions to be taken within the UN Development Assistance Framework. This would include promoting the development of integrated guidance on the practical application of human rights and environment principles for UN development cooperation at the country level.