

**MEETING OF EXPERTS ON HUMAN RIGHTS AND THE ENVIRONMENT
14-15 JANUARY 2002**

CONCLUSIONS

INTRODUCTION

1. In accordance with Decision 2001/III of the UN Commission on Human Rights, the United Nations High Commissioner for Human Rights and the Executive Director of the United Nations Environment Programme jointly organized a one-day Expert Seminar on Human Rights and the Environment (16 January 2002). This Seminar was preceded by a two-day Preparatory Meeting of experts (14-15 January 2002). The object of the meeting and seminar was to review and assess progress achieved since the 1992 United Nations Conference on Environment and Development (UNCED) in promoting and protecting human rights in relation to environmental questions and in the framework of Agenda 21.
2. During the two-day Meeting participants reviewed progress made since UNCED at the international level. In particular, they examined multilateral environmental agreements developed since 1992; considered the activities of global and regional human rights bodies and the jurisprudence that some of them have developed; and assessed the activities of international organizations and agencies. Experts at the meeting also examined the developments that have occurred at the national level, in particular through constitutional law, legislation, administrative practices and decisions, and the case law of municipal courts.
3. These sets of national and international developments indicate the close connection between the protection of human rights and environmental protection, in the context of sustainable development. They reflect the growing interrelationship between approaches to ensuring human rights and environment protection, as well as the synergies that have developed between these previously distinct fields.

REVIEW

4. The meeting of experts recognized that since 1992 important developments have occurred at the national and international levels. These indicate a growing interconnectedness between the fields of human rights and environmental protection. The overall context for these developments is the concept of sustainable development, which requires that different societal objectives be treated in an integrated manner.

5. The experts noted in particular that the linkage of human rights and environmental concerns, approaches and techniques is reflected in developments relating to procedural and substantive rights, the activities of international organisations, and in the drafting and application of national constitutions.
6. The experts found that at the national and international levels Principle 10 of the Rio Declaration (on access to information, participation and effective remedies) has played an important role in fostering connections between human rights and environmental approaches. The experts observed that multilateral agreements at the global and regional level have developed Principle 10 of the Rio Declaration by establishing mechanisms for the exercise of procedural rights, in particular the right to environmental information and to public participation in decision-making. This was reflected, for example, in the 1998 Aarhus Convention on Access to Information, Public Participation and Access to Justice in Environmental Matters, which aims to provide effective means for the exercise of procedural rights in the field of the environment. Other international developments, for example treaties dealing with civil liability regimes, have developed mechanisms of redress for individuals in relation to environmental and related harms.
7. At the global level, some human rights treaties included the value of the environment to their systems of protection, such as the Convention on the Rights of the Child and ILO Convention 169 concerning Indigenous and Tribal Peoples in Independent Countries. The experts noted that at the regional level, the African Charter on Human and Peoples' Rights and the Protocol of San Salvador to the American Convention on Human Rights expressly recognize the right to live in a healthy or satisfactory environment. Similarly, a number of environmental treaties embody human rights approaches.
8. From a review of the decisions of international treaty bodies (including courts and commissions), the experts noted that in the last decade there has been a substantial body of case-law and decisions that recognise the violation of a fundamental human right as the cause, or result, of environmental degradation. A significant number of decisions at the national and international levels have identified environmental harm to individuals or communities, especially indigenous peoples, arising as a result of violations of the rights to health, to life, to self determination, to food and water, and to housing. Particularly in the European system, a clear connection had been made between a violation of the right to privacy and home life and the right not to be subject to pollution, including the right to know whether pollution is likely to affect a particular individual or community.
9. Many international organizations and UN agencies have also addressed the connection between human rights and the environment in their organizational structures and activities, particularly through the adoption of policies that favor access to environmental information and public participation in their procedures, but also through their policies aimed at sustainable development and poverty alleviation.

10. At the national level, the right to a healthy environment (or a related formulation) has been formally recognized in most national constitutions enacted since 1992. In many constitutions this right permits individuals or groups to file legal actions to protect the environment or fight against pollution. Over the past ten years there has been a growing domestic case-law indicating the potential role that environmental rights may have for achieving practical protections. That case-law may also be relevant for international jurisprudence.
11. The experts also noted the progress which has made in the context of the UN Sub-Commission on the Prevention of Discrimination and Protection of Minorities, the UN Sub-Commission for the Promotion and Protection of Human Rights, and the Commission on Human Rights, towards understanding the interconnections between human rights and environmental protection, particularly through the work of the Special Rapporteur on Human Rights and the Environment, and currently the work of Special Rapporteur on Adverse Effects of the Illicit Movement and Dumping of Toxic and Dangerous Products and Wastes on the Enjoyment of Human Rights.

ASSESSMENT

12. The experts recognised that respect for human rights is broadly accepted as a precondition for sustainable development, that environmental protection constitutes a precondition for the effective enjoyment of human rights protection, and that human rights and the environment are interdependent and inter-related. These features are now broadly reflected in national and international practices and developments.
13. The experts noted the broad recognition that poverty is at the center of a number of human rights violations and is at the same time a major obstacle to achieving sustainable development and environmental protection. A rights-based approach can enhance the impact of policies and programmes at the national and international levels on this matter. In this regard, the Experts noted with concern that in certain jurisdictions individuals and groups associated with the protection and promotion of human rights and the environment were being prevented from carrying out their legitimate activities.
14. In relation to procedural matters, the experts noted that broad recognition of the linkage between human rights and the environment since UNCED has come through the development of Principle 10 of the Rio Declaration on Environment and Development. States and international organizations are increasingly recognizing the rights of access to information, public participation, and access to justice. A notable example of such progress was the entry into force of the 1998 Aarhus Convention. The experts recognised the need for further developments in this respect, including through the adoption of new international legal instruments (at regional levels or, some suggest, the

global level) to provide effectively for rights of access to information, public participation in decision-making, and access to justice.

15. In relation to substantive matters, a growing body of case law from many national jurisdictions is clarifying the linkages between human rights and the environment, in particular by: 1) recognizing the right to a healthy environment as a fundamental human right; 2) allowing litigation based on this right, and facilitating its enforceability in domestic law by liberalizing provisions on standing; 3) acknowledging that other human rights recognized in domestic legal systems can be violated as a result of environmental degradation. The experts recognised the important role that the judiciary (national and international) can play in this regard, and emphasized the need to sensitize and provide further training to judges, lawyers and public officials.
16. The experts noted the particular lessons which may be gained from the experiences of indigenous peoples, which appear particularly relevant to a broader understanding of the relationship between human rights and the environment. In this regard the experts noted the particular importance of the principle of self-determination and the rights associated with the ownership, possession and use of traditional lands, territories and resources.

VIEWS OF THE EXPERTS

17. During the course of the two-day meeting, the experts put forward suggestions for future developments.
18. The Experts recognised that normative links between the human rights and environmental fields need to be reinforced, beyond existing guarantees provided in national and international instruments and practices. Specifically, and in the context of the forthcoming World Summit on Sustainable Development:
 - With regard to procedural and substantive rights there is a need:
 - to enhance public awareness, especially in the corporate sector, of the connections between human rights protection and environmental protection, and
 - to ensure that persons promoting the protection of human rights and the environment are not penalized, persecuted or harassed for their activities.
 - There is a need for more certainty and consistency at the national and international levels respecting procedural (participatory) rights, *inter alia* by:
 - the adoption of new instruments, mechanisms and procedures to implement Principle 10 of the Rio Declaration, and

- facilitating and improving rights of access to information, effective participation in decision-making and access to justice and other remedies in national and international fora and instruments, and
 - creating greater awareness of the need to avoid merely pro-forma provisions on participation (especially in national systems).
- With regard to substantive rights, further steps need to be taken to:
 - affirm the link between human rights and environmental protection as an essential tool in the eradication of poverty and achievement of sustainable development;
 - treat economic, environmental and human rights norms in an integrated manner, and develop legal and other concepts and techniques for achieving such integration;
 - recognize the environmental dimension in the effective enjoyment of human rights protection and promotion and the human rights dimension in environmental protection and promotion, in part by developing rights-based approaches to environmental protection and promotion of sustainable development;
 - support the growing recognition of a right to a secure, healthy and ecologically sound environment, either as a constitutionally guaranteed entitlement/right or as a guiding principle of national and international law;
 - emphasize the responsibility of private actors and develop effective mechanisms to prevent and redress environmental degradation, including remedies for victims, in national and international instruments in the field of environment and human rights;
 - consider more broadly the catalogue of substantive human rights which can be marshaled to assist in achieving environmental protection, with particular reference *inter alia* to the rights of indigenous peoples' and other vulnerable groups; and
 - identify and move to correct gaps and limitations in substantive protections, with a view to strengthening international instruments and further normative developments aiming at consistency and equality in the application of minimum standards of environmental protection within the framework of human rights protection.
- With regard to institutional arrangements, the linkage between human rights and the environment is in need of reinforcement. This could be achieved by:
 - Ensuring that environmental bodies and procedures are fully aware of the increasing environmental role played by human rights bodies and procedures, and that human rights bodies are fully aware of the increasing human rights role played by environmental institutions and procedures;

- Ensuring greater emphasis on environmental protection in the work of human rights bodies and procedures, particularly by encouraging closer engagement of UNEP in the work of the human rights treaty bodies, and the closer engagement of OHCHR in the work of the secretariats to multilateral environmental agreements;
 - Establishing a formal institutional relationship between OHCHR and UNEP with a view to strengthening the links and connections between human rights and environmental issues;
 - Coordinating efforts between OHCHR and UNEP and operational and financial institutions in appropriate aspects of their respective activities, including by
 - exchanging information, sharing expertise, and enhancing arrangements for monitoring and reporting systems;
 - developing arrangements for assisting capacity-building (including technical cooperation) to promote an integrated approach to human rights and environmental protection, especially in the developing countries;
 - promoting programmes to sensitize decision makers, including public officials, legislators and members of the judiciary, as to the need to develop a sense of commitment to the protection of human and environmental rights and to adopt more holistic approaches for integrating the requirements of sustainable development in the interpretation and application of national and international norms for the protection of those rights and sustainable development concepts;
 - enhancing mechanisms for receiving and addressing citizens' complaints in the field of human rights and the environment;
 - Impressing on governments and civil society the need to include in the information they provide to the human rights mechanisms specific references to environmental factors;
 - Publishing the results of the Seminar, including on the OHCHR and UNEP web-sites.
- The OHCHR and UNEP should seek to ensure that the subject of human rights and the environment be fully addressed at the upcoming World Summit on Sustainable Development in Johannesburg, and that appropriate steps are taken at the Summit to promote and protect human rights and environment following the Summit.