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BACKGROUND PAPER No. 3

The Intersection of Human Rights and Environmental Issues: A review of institutional developments at the international level

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EXECUTIVE SUMMARY

In accordance with the terms of reference provided by the Office of the High Commissioner on Human Rights, the objective of this paper is to present a review of institutional developments at the international level which illustrate the intersection of human rights and environmental issues. Its aim is to provide a concise overview of major developments and trends over the last decade, which reflect the human rights implications of decisions relating to the environment, and the environmental implications of decisions related to human rights. The review focuses on instances where the language of human rights is used, but also presents relevant cases where the link between environmental and human rights issues is clearly made.

This report provides an overview of the activities of major international organizations (IOs) and agencies of the United Nations whose objectives are not directly related to the protection of human rights. It does not seek to review exhaustively all institutional initiatives or to focus on historical developments since the adoption of Agenda 21. Instead, it purports to provide a general outlook on *major trends* in the field of human rights and the environment, based on a systematic examination of diverse actions and initiatives that have originated in recent years in the wide range of international organizations and UN agencies. Only key or particularly illustrative developments will be described.

Findings from this review of developments that demonstrate a linkage between human rights and environmental concerns are presented whenever possible under the heading of the human right most directly related to the activity of a given international organization or agency. Other perspectives could have been adopted in categorizing actions by international bodies, but a human rights approach has been chosen that takes into account primarily the mandate provided by the Commission on Human Rights in its Decision 2001/111, which lays the basis for the elaboration of the present report.

The reader should keep in mind that although the activities of international bodies have been quite thoroughly researched, only a portion of the information available is presented. Moreover, such information has been analysed and organized in a rather free manner, with the objective of facilitating the work and debate of participants in the Seminar on Human Rights and the Environment convened by the OHCHR and UNEP.

Preliminary conclusions and elements for the debate

On knowledge

- No IO or UN agency whose competence is not related to the field of human rights recognizes or expressly addresses the right to a healthy environment.

However, when commenting on the work of the UN Special Rapporteur on Human Rights and the Environment or responding to the Secretary-General's call for comments on progress achieved since UNCED in promoting and protecting human rights in relation to environmental questions and in the framework of Agenda 21, several of them (Division for Sustainable Development, Division for the Advancement of Women, Economic Commission for Europe, UNEP and WHO) acknowledged the existence of a right to a safe and healthy environment.

- Most IOs and agencies establish a linkage between human rights and environmental protection as a means, or justification, to carry out their objectives.
 - There is widespread recognition of the rights of access to environmental information and of participation in decision-making and most bodies have incorporated some more or less developed tools to ensure the realization of these rights.
 - Several IOs explicitly address the issue of environmental protection in relation to certain human rights that are in their field of competence. On occasions the linkage is established explicitly, such as by the WHO with regard to the right to health, or by the FAO on the right to food. Indirect but evident linkages are also present in, for example, the poverty alleviation policies of multilateral financial institutions.
- When formulating any linkages between human rights and the environment, international bodies frequently introduce a reference to a third element: development or *sustainable* development. From the practice of such organizations and agencies, and particularly when considering such intersections in the context of Agenda 21, the development factor is inseparable from the others.

At times, some organizations such as the IMF or the WHO have drawn attention to the highly complex cause-effect relationship between environment and development.

On actions

- Most IOs and agencies whose main field of competence is not the environment have established a specific department to consider the interface between their main subject area of competence and the environment. It is generally through the activities carried out in these departments that they directly or indirectly touch upon the linkage between human rights and the environment.
- A large number of international bodies have also developed specific policies, strategies or guidelines linking their field of expertise with the environment. Although some policies predate UNCED, in the last decade they have been clearly developed, refined and frequently imbued with a greater “human rights content”. This has occurred, for example, by linking the activities by the IO aimed at protecting a certain human right with environmental protection, or by strengthening the exercise of procedural rights, such as the right to information on the environment or public participation, vis-à-vis the activities of the international body.

It can be asserted that a vast range of policies and mechanisms relevant to human rights and the environment are in place. However, the existence of formal instruments does not mean that they are necessarily effective. Attention should be paid to different understandings of certain concepts, such as access to information or participation, which have not yet acquired a uniform meaning.

OBJECTIVE, APPROACH AND STRUCTURE OF THE PAPER

Objective

In accordance with the terms of reference provided by the Office of the High Commissioner on Human Rights, the objective of this paper is to present a review of institutional developments at the international level which illustrate the intersection of human rights and environmental issues. Its aim is to provide a concise overview of major developments and trends over the last decade, which reflect the human rights implications of decisions relating to the environment, and the environmental implications of decisions related to human rights. The review focuses on instances where the language of human rights is used, but also presents relevant cases where the link between environmental and human rights issues is clearly made.

This report provides an overview of activities of major international organizations (IOs) and agencies of the United Nations whose objectives are not directly related to the protection of human rights.¹ It does not seek to review exhaustively all institutional initiatives or to focus on historical developments since the adoption of Agenda 21. Instead, it purports to provide a general outlook on major trends in the field of human rights and the environment, based on a systematic examination of diverse actions and initiatives that have originated in recent years in the wide range of international organizations and UN agencies. Only key or particularly illustrative developments will be described. This report will not review international treaties, which will be dealt with elsewhere in the Background Papers.

¹ The activities of UN human rights bodies are reviewed elsewhere in the background papers. For a general description of the treatment by these bodies of human rights and environment issues in the past ten years, see the reports of the Sierra Club Legal Defense Fund (currently the Earthjustice Legal Defense Fund) submitted annually to the UN Sub-Commission for the Promotion and Protection of Human Rights and to the UN Commission on Human Rights since the early 1990s. See also the preliminary and final reports of the UN Special Rapporteur on Human Rights and the Environment. On procedural rights, see also reports by the Center for International Environmental Law (CIEL) referred to below.

Approach

This paper has examined the activities of the following international organizations and agencies: African Development Bank (ADB), Asian Development Bank (AFDB), Council of Europe, UN Economic Commission for Latin America and the Caribbean (ECLAC), European Bank for Reconstruction and Development (EBRD), UN Economic Commission for Europe (ECE), European Community (EC), Food and Agriculture Organization (FAO), Global Environmental Facility (GEF), Inter-American Development Bank (IADB), International Labour Organization (ILO), International Monetary Fund (IMF), Organization for Economic Cooperation and Development (OECD), Organization of American States (OAS), United Nations Commission for International Trade Law (UNCITRAL), United Nations Development Programme (UNDP), United Nations Economic Commission for Asia (UNECA), United Nations Educational, Scientific and Cultural Organization (UNESCO), United Nations Environmental Programme (UNEP), UN High Commissioner on Human Rights, World Bank (WB), World Health Organization (WHO), World Meteorological Organization (WMO), World Tourism Organization, World Trade Organization (WTO).

Findings from this review of developments that demonstrate a linkage between human rights and environmental concerns are presented whenever possible under the heading of the human right most directly related to the activity of a given international organization or agency. Other perspectives could have been adopted in categorizing actions by international bodies – most notably the structure provided by Agenda 21, but a human rights approach has been chosen that takes into account primarily the mandate provided by the Commission on Human Rights in its Decision 2001/111, which lays the basis for the elaboration of the present report. The Commission’s decision calls for the review and assessment of “progress achieved since the 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”, therefore identifying human rights as the central element for examination.

Given the conciseness of this report and the existence of other sources that provide for adequate theoretical analysis of the linkage between human rights and the environment, this paper provides no justification for the classification of a given action or initiative under the heading of a certain human right. Whenever certain interesting developments cannot be easily categorized under

human rights, a special heading is created. Considering the scope of this paper, it is not possible to provide an assessment of the effectiveness of actions taken by international organizations and agencies.

Headings corresponding to different human rights have been created whenever the activity of a certain IO or agency has established a linkage with it. This paper does not undertake a comprehensive review of all human rights intersecting with environmental protection. Moreover, the definition of human rights is based on the activity of the international body itself, and not necessarily on the principal international human rights instruments.

To carry out this overview, the following sources of information have been consulted: official documents from UN bodies and international organizations, including decisions by ECOSOC and the Commission on Human Rights and reports by the Secretary General; notes verbales on the question of human rights and the environment submitted by UN departments and bodies at the request of the Secretary General; and reports and other publications printed on paper or posted on the internet by the relevant IOs and agencies. Some secondary sources of information have been consulted, for example reports by specialized non-governmental organizations (NGOs) such as Earthjustice Legal Defense Fund and CIEL. Given the scope of this report, minimal reference to sources of information is made at this stage.

The reader should keep in mind that although the activities of international bodies have been quite thoroughly researched, only a portion of the information available is presented. Moreover, such information has been analysed and organized in a rather free manner, with the objective of facilitating the work and debate of participants in the Seminar on Human Rights and the Environment convened by the OHCHR and UNEP.

Structure

The report is organized in different sections corresponding to different human rights or other relevant categories. Under each section, headings appear for each of the principal IOs or agencies active in the field. To distinguish more clearly activities related to human rights from other activities where an interesting linkage is made between human rights and environmental protection, the paper is organized in two main chapters, one on “Rights” and the other on

“Linkages”. Individual sections in each chapter describe briefly key actions or policies undertaken, such as institutional arrangements that address specifically environment/human rights matters; internal procedures to facilitate, for example, access to environmental information; specific declarations of principles or guidelines linking human rights and the environment; awareness-raising and communication activities; or joint actions with other IOs or UN bodies. Stress is placed on providing examples of policies, statements, etc. that afford a substantive insight into the interface between human rights and the environment – rather than on action-oriented examples.

SECTION I: RIGHTS

The relationship between human rights and the environment is considered by IOs or UN agencies whose principal objective is not the protection of human rights usually in terms of a specific human right or aspect of human existence. Just by way of introduction, it is interesting to refer to a rather recent initiative at the OAS level which, in justifying the interest of the organization in exploring the link between human rights and the environment, refers to a wide range of rights to be examined in the sections below. Resolution 1819 of the General Assembly of the OAS of June 2001 asserts, among other things,

That the effective enjoyment of all human rights, including the right to education and the rights of assembly and freedom of expression, as well as full enjoyment of economic, social, and cultural rights, could foster better environmental protection by creating conditions conducive to modification of behavior patterns that lead to environmental degradation, reduction of the environmental impact of poverty and of patterns of unsustainable development, more effective dissemination of information on this issue, and more active participation in political processes by groups affected by the problem [...]²

² AG/RES. 1819 (XXXI-O/01), Human rights and the environment (resolution adopted at the third plenary session, held on 5 June 5 2001.)

RIGHT TO A HEALTHY ENVIRONMENT

There is no specific recognition of the right to a healthy or adequate environment in the policies or activities of any of the organizations, departments and agencies reviewed. However, it is interesting to note that some of them did not hesitate to acknowledge the existence of such a right when responding to the Secretary-General's call to comment on the 1994 final report of the Special Rapporteur on human rights and the environment of the then Sub-Commission on Prevention of Discrimination and Protection of Minorities, Mrs. Fatma Zohra Ksentini.³

For example, the Division for Sustainable Development (DSD), linking the content of the Special Rapporteur's report with Agenda 21 and issues of intergenerational equity, responds that "[t]he present mode of development denies future *generations the right to inherit a healthy and clean environment.*"⁴

In its note verbale the Division for the Advancement of Women states:

“In the environmental sphere, the Beijing Declaration and Platform for Action have recognized that women are more than just passive beneficiaries of the right to a healthy and balanced environment.”⁵

The Economic Commission for Europe indicated that it considered the possibility of including the recognition of the human right to a healthy environment in its convention –then in the drafting stage—on access to environmental information and public participation in decision-making. It stated:

³ UN Doc. E/CN.4/Sub.2/1994/9 and Corr.1.

⁴ Emphasis added. Summary of note verbale in E/CN.4/1996/23.

⁵ Emphasis added. Summary of note verbale in E/CN.4/1996/23.

The inclusion of provisions to this effect in the ECE convention would support ongoing efforts of the United Nations human rights bodies to elaborate universal norms with respect to the right to a healthy environment. It would not interfere or preclude any parallel developments in other forums.

The recognition of the right to a healthy environment in the convention would add weight to the operative provisions for the implementation of the procedural rights of access to information, participation in decision-making and access to justice by strengthening the legal and philosophical underpinning of these rights. It would indicate that these procedural rights are not ends in themselves, but are meaningful as means towards the end of protecting the individual's substantive right to live in a healthy environment.

In 1999, UNEP, when reporting on its activities in the field of human rights and the environment during the previous two years, stated that among its activities it included:

providing advisory services to sensitize Governments with regard to the need to incorporate in the Constitution, in framework environmental laws or in international environmental instruments, provisions on the individual's *right to a clean and healthy environment* [. . .]⁶

In December 2001, in response to the Secretary-General's request to UN bodies and agencies and IOs to provide comments on progress achieved since UNCED in promoting and protecting human rights in relation to environmental questions and in the framework of Agenda 21, the WHO replied:

Human rights and sustainable development are intimately linked, especially as concerns the health aspects. The right to health and indeed to life cannot be achieved without basic rights to a safe and healthy environment, including water, air and land; and to the life-supporting systems that sustain life on earth for future generations.

⁶ Emphasis added. Summary of note verbale in E/CN.4/1999/

RIGHT TO AN ADEQUATE STANDARD OF LIVING (POVERTY, ENVIRONMENT AND DEVELOPMENT)

The relationship between poverty and sustainable development is a central issue for the World Summit on Sustainable Development, to an even greater extent than at UNCED 10 years ago. Poverty is the other side of the coin to development, but also to sustainability. The relationship between poverty and the potential infringement of human rights is self-explanatory, particularly when considering not only the right to an adequate standard of living, but also the rights to health, food, shelter and even education. Poverty and environmental degradation are often bound together in a mutually reinforcing vicious circle, and thus human rights abuses related to poverty can be both cause and effect of environmental problems.

Most IOs and UN agencies with a mandate to address development-related issues, and multilateral financial institutions in particular, have placed the issue of poverty high up on their agendas and programmes of action, particularly in preparation for the Rio+10 process. Most of them establish an explicit link between poverty and the environment, explaining how the poor suffer more harshly the consequences of environmental problems and frequently adopting approaches similar to those introduced in the 1987 report from the World Commission on Environment and Development (Brundtland report, *Our common future*). This is the case of, for example, the World Bank, the IMF and the regional development banks in Asia and Africa.

Certain specialized agencies and IOs complement this approach by establishing, when appropriate, a third linkage with their particular field of competence, be it for example health in the case of the World Health Organization (WHO) or food in the case of the Food and Agricultural Organization (FAO). Activities of organizations such as the latter, whose objectives include the protection of a certain good or value that is also protected as a human right, will be examined separately below in relation to the specific right under consideration.

When addressing the issue of poverty, human rights language is rarely used. However, this does not preclude some clear-cut links being made between the alleviation of poverty and the attainment of sustainable development, taking into consideration the human rights implications of

such a connection. In addition to reports and general policy documents prepared by the above mentioned organizations, some interesting developments regarding the – direct or indirect – guarantee of the right to an adequate standard of living in relation to the protection of the environment include:

The World Bank

New environmental strategy. This new strategy approved on 17 July 2001 places emphasis on developing country priorities with three objectives, including “improving the quality of life — people’s health, livelihood and vulnerability — affected by environmental conditions”.

The Bank claims to be changing its approach, shifting from the initial introduction of a series of safeguard policies to limit damage to the environment (such as the requirement for environmental assessments of projects) to considering that environmental policy can make a positive contribution to the quality of life in developing nations. In the last decade the World Bank has been refining its guidelines and more recently has made efforts to distinguish more clearly between mandatory “policies” and “procedures” and non-mandatory “good practice”, thus removing ambiguities and making environmental safeguards more effective.

RIGHT TO FOOD

Food and Agriculture Organization

Right to food. The FAO formulates unambiguously its policies in relation to the human right to food, as a right intrinsically linked to the right to life and of course to an adequate standard of living.

Adequate food. The FAO explains the meaning of the right of everyone to adequate food, as stated in the International Covenant on Economic, Social and Cultural Rights (1966), in terms closely linked to environmental protection:

“people should have physical and economic access at all times to food that is adequate in quantity and quality for a healthy and active life. For food to be considered adequate, it must also be culturally acceptable and it must be produced in a manner that is environmentally and socially sustainable.”

To ensure the right to adequate food, FAO stresses the importance of *food safety* and of ensuring an *enabling environment*.

Food safety. “Food quality and safety are important aspects of the right to food. Food safety implies the absence or safe levels of contaminants, bacteria, naturally occurring toxins or any other substance that may make food injurious to health.”

In this context, to protect the health of consumers (and ensure fair practices in the food trade), FAO and the WHO established the Codex Alimentarius Commission in 1962, which has, inter alia, issued guidelines on evaluation of pesticides; established limits for pesticide residues and prepared guidelines for contaminants.

Enabling environment. In the 1996 Rome Declaration on World Food Security (World Food Summit 1996) State representatives committed themselves to “ensure an enabling political, social, and economic environment designed to create the best conditions for the eradication of poverty and for durable peace, based on full and equal participation of women and men, which is most conducive to achieving sustainable food security for all.” The 1996 Plan of Action as well as the FAO Strategic Framework for the period 2000-2015 establish a clear connection between ensuring sustainable development and environmental practices and the access to adequate food.

Food security. FAO also acknowledges the link between conflicts over natural resources, damage to the environment and realization of the right to food. It states that in situations of crisis such as civil conflict or natural disasters the right to food is most likely to be violated. A State’s failure to call for adequate and timely international assistance during an emergency may also be a violation of the obligation to fulfil the right to food. Scarcity can also breed conflict, and these conflicts can destroy productive capacities and damage the environment, making it difficult for people to sustain their livelihoods and achieve food security.

RIGHT TO WATER

Second World Water Forum

The formulation of a right to water is permeating intergovernmental bodies. For example, at the Second World Water Forum in March 2000 (convened jointly by, among others, FAO, UNDP, UNEP, UNESCO, UNICEF, WHO and WB), working groups and conference materials expressed the view that “clean and adequate water supplies should be considered fundamental to the successful exercise of human rights” (Forum’s Thematic Session on Meeting Basic Needs) and that “the right of access to fresh water should be “part and parcel of the human rights system”.⁷

Although the Ministerial Declaration from the conference did not include any human rights language, it stated that to achieve water security, governments need to face, among other things, the challenge of meeting basic needs, and to this end:

recognize that access to safe and sufficient water and sanitation are basic human needs and are essential to health and well-being, and to empower people, especially women, through a participatory process of water management.

World Health Organization

Safe drinking water. One of the primary goals of WHO and its Member States is that "all people, whatever their stage of development and their social and economic conditions, have the right to have access to an adequate supply of safe drinking water.”

Since 1958, WHO has been developing *International Standards for Drinking-Water*. They are revised periodically and since 1984 are named *Guidelines for drinking-water quality*.

⁷ See Earthjustice Legal Defense Fund, *Issue paper on Human Rights and the Environment, Materials for the Fifty-Seventh Session of the United Nations Commission on Human Rights* (2001), at 30.

RIGHT TO HEALTH

UN High Commissioner on Refugees

In its Environmental Guidelines, the UNHCR clearly establishes the links between environmental degradation and human rights, especially the right to health. It states that “it has become clear that refugee-related environmental impacts can have serious negative implications for the health and well-being of the local population as well as that of the refugees.”

World Health Organization

As mentioned above, the WHO, when responding to the Secretary-General’s request to UN bodies and agencies and IOs to provide comments on progress achieved since UNCED in promoting and protecting human rights in relation to environmental questions and in the framework of Agenda 21, the WHO did not hesitate to acknowledge the existence of “basic rights to a safe and healthy environment”. Moreover, in its note it added that the

sustained good health of any population, over time, requires a stable and productive natural environment that: (i) yields assured supplies of food and fresh water; (ii) has a relatively constant climate in which climate-sensitive physical and biological systems do not change for the worse; and (iii) retains biodiversity [...]. The stability and equity of the social environment (i.e. “social capital”) is also fundamentally important to population health.

The activities of the WHO touch upon a large number of aspects relevant to the human rights and environment debate, and the organization frequently collaborates with other IOs and UN agencies to this end. WHO has carried out also a wide range of actions: from establishing a special department to deal with environmental concerns to setting specific policies and strategies, carrying out and disseminating research, or providing technical advice on issues such as sanitation. The following are some examples.

Policy. The WHO has stated that it is “cognizant of the relevance of human rights to the protection of the human environment in general and to sustainable environmental policies in particular.” In the last decade, it formulated a new WHO Global Strategy for Health and

Environment which was endorsed by the forty-sixth World Health Assembly in May 1993. The Strategy provides a unifying framework for WHO's activities and has the following three goals: to achieve a sustainable basis for health for all; to provide an environment that promotes health; and to make all individuals and organizations aware of their responsibility for health and its environmental basis.⁸

The WHO also reports that certain charters developed under its auspices of WHO (i.e. the Pan-American Charter on Health and Environment in Sustainable Human Development and the European Charter on Environment and Health) include a focus on aspects that are directly or indirectly related to human rights.

CULTURAL RIGHTS

Reference to these rights is most often made when considering the rights of indigenous peoples and local communities. Such rights are taken into account in the policies of certain multilateral financial institutions, and also in the activities of certain treaty bodies such as the Secretariat of the Biodiversity Convention –not examined in this review. Some reference is made thereto below, when considering indigenous peoples in the section “Major groups”.

World Tourism Organization

The United Nations designated 2002 as the International Year of Ecotourism, and its Commission on Sustainable Development requested international agencies, governments and the private sector to undertake supportive activities. The main action is taken by the World Tourism Organization and UNEP.

When providing a concept for *ecotourism*, the World Tourism Organization explains that

⁸ See summary of WHO's note verbale in E/CN.4/1997/18.

Sustainable tourism [. . .] is envisaged as leading to management of all resources in such a way that economic, social and aesthetic needs can be fulfilled while maintaining cultural integrity, essential ecological processes, biological diversity and life support systems.

Ecotourism requires, moreover, the minimization of the “negative impacts upon the natural and socio-cultural environment”, consideration of “indigenous and traditional rights in areas suitable for ecotourism development” and “efficiency and fairness of the current concept of protected areas for protection of biological and cultural diversity”.

ACCESS TO INFORMATION

Substantial improvements have taken place in the last decade to ensure access to information on the activities of international bodies, particularly as a result of the development of information technologies and most notably of the introduction of the Internet.⁹ A large amount of documents and data are readily available on the World Wide Web and also can be provided on request, particularly if requests are concrete. However, organizations reserve for themselves the right not to provide information on the basis of confidentiality. A number of IOs, such as the EBRD, IDB and the WB, have developed information disclosure policies, but this practice is not generalized among IOs.

Notwithstanding the significant improvements that have taken place to this end in recent years, there has been some criticism of the transparency and information disclosure of some bodies, particularly certain multilateral financial institutions. It has been held, for example, that a significant number of internal documents are not yet readily available and that policies and procedures from certain development banks are not easily available to the local communities

⁹ Claudia Saladin & Brennan Van Dyke, *Implementing the Principles of the Public Participation Convention in International Organizations*, prepared for European ECO Forum, Center for International Environmental Law, June 1998.

potentially affected by projects, particularly because they are not translated into local languages.¹⁰

EBRD

In line with its *Policy on Disclosure of Information*, the Bank reports that it will implement procedures to ensure that information is provided to interested parties concerning the Bank's environmental activities. In accordance with its Agreement, the EBRD will incorporate in its *Annual Report* a section on the impact of the Bank's activities on the environment of its countries of operations. In addition, it will report regularly on its environmental work – for example through its *Transition Report* and through the mechanism of the *Environments in Transition* periodical. Environmental issues will be summarized in the Bank's Project Summary documents which will be available from the EBRD's Publications Desk and in its Business Information Centre (BIC). The EBRD will publish fact sheets related to its work in the environmental sector for use by the public and will make available in-depth reports on some of its technical cooperation initiatives.

IDB

Information concerning the Bank's operational activities will be made available to the public in the absence of a compelling reason for confidentiality (*operational policy 102 on disclosure of information*). According to the Bank, this policy is based on the premise that: (a) the effectiveness of projects supported by the Bank will be strengthened by public access to information and consultation with affected populations; and (b) broad availability to the public of information about the Bank's projects will increase understanding and support of the Bank's mission and increase transparency and accountability.

¹⁰ Clark, Dana L., *A Citizen's Guide To The World Bank Inspection Panel*, 2nd edition, Center for International Environmental Law, October 1999.

OECD

Further to the *Recommendation on Environmental Information* adopted by OECD Environment Ministers and the OECD Council in 1998, OECD is systematically reviewing progress concerning the availability of and access to environmental information, as well as the degree to which stakeholders and the public participate in environmental decision making processes.

The OECD has asserted that “access to environmental information has become a right of citizens in OECD countries. It is recognized as a fundamental tool to carry out more responsive and cost-effective environmental policies at international, national and sub-national levels.”

Availability of and access to information as well as participatory approaches are systematically reviewed in the social chapters of country *Environmental Performance Reviews*.

World Bank

In August 2001 the World Bank’s Board of Executive Directors approved revisions to the Bank’s *policy on the disclosure of information*. According to Bank sources, the revisions include: the release of a greater number of project-related documents; disclosure of the Chairman's summaries of Board discussions on Country Assistance Strategies (CASs) and Sector Strategy Papers (SSPs); and a more systematic approach to accessing Bank archives.

“The Bank recognizes that transparency and accountability are crucial to development effectiveness, and will continue to review the provisions and implementation of its disclosure policy on a regular basis in the coming years,” says World Bank President James D. Wolfensohn.

PUBLIC PARTICIPATION

Participatory mechanisms are now present in the activities of most IOs and UN agencies. This has certainly been a clear contribution of the UNCED process, which has led to the adoption of a variety of procedures. Multilateral banks, and particularly those acting in developing countries,

have established mechanisms that foresee public consultations regarding development projects (in different phases of their design and implementation) and, overall, most international bodies design initiatives that allow for the participation of the public: seminars and workshops open to concerned communities and/or NGOs; debates over the Internet; consultations regarding the development of new regulations or procedures, etc.

Division for the Advancement of Women

Responding to the UN Special Rapporteur's final report on human rights and the environment, this department stated that "as producers, consumers, caretakers of their families and educators, [women] play a powerful role in promoting sustainable development. Consequently, respect for women's rights in the environmental field covers a wider range of rights such as the right to be recognized and participate in decision-making, as well as the right to have their interests and concerns taken into account in environmental policies."¹¹

Division for Sustainable Development

In its note verbale the DSD explains that the Commission on Sustainable Development tries to further promote the idea of genuine involvement of major groups in the developmental processes:

This commitment comes from the understanding that, without the real participation of civil society, the efforts aimed at protecting the environment and improving living conditions cannot be productive and that full enjoyment of human rights is possible only if an individual takes an active role in shaping his/her fate and that of the social group to which he or she belongs.

EBRD

According to the EBRD, "public consultation is a way of improving the quality of operations." In the case of major operations that have been classified as requiring an Environmental Impact Assessment, those potentially affected will have the opportunity to express their concerns and views about issues such as operation design, including location, technological choice and timing,

¹¹ Summary of note verbale in E/CN.4/1996/23.

before a financing decision is made. As a minimum, sponsors must ensure that national requirements for public consultation are met. In addition, sponsors will have to follow the EBRD's own public consultation procedures as described in the *Bank's Disclosure of Information Policy* and *Environmental Procedures*. The Bank's Board of Directors will take into account the comments and opinions expressed by consultees, and the way these issues are being addressed by sponsors, when considering whether to approve an operation. These meetings are held without public participation.

Food and Agriculture Organization

The FAO has developed an extensive programme to foster public participation, reflected, inter alia, in a complete web site on public participation.¹² The FAO People's Participation Programme has the following principal elements:

Focus on the rural poor. PPP beneficiaries include immigrant settlers, artisanal fishing communities and subsistence farmers. Small groups. The key element in PPP is the formation of small homogeneous self-help groups. Some 1 080 such groups have been formed. Local implementing agencies. Projects are implemented by government ministries, semi-government institutions or NGOs. Group promoters (GPs). Some 130 GPs assist in group development and in linking groups to government services. Income-generation. Assisted by government services, groups undertake additional income-generating activities to build up and diversify their economic base. Most groups are engaged in staple food and animal production. Group savings. Group savings serve as additional credit, cover loan defaults and build up groups' capital base. By 1990, PPP participants had saved a total of \$68 000. Group credit. To facilitate credit for PPP groups, FAO covers the banks' risk of defaults. Thanks to these arrangements, PPP groups received total credit of \$350 000 in 1989. Training. PPP members' organizational and production skills are improved through field workshops covering topics such as project planning, recordkeeping, food storage and soil conservation.

¹² <http://www.fao.org/participation/default.html>.

OAS

The OAS approved in April 2000 the *Inter-American Strategy for the Promotion of Public Participation in Decision-Making for Sustainable Development (ISP)*, with the support of UNEP/GEF, USAID, and UNESCO. It is to be implemented through specific projects, which will be individually funded by international and bilateral organizations and private corporations.

UNCTAD

When commenting on the final report on human rights and the environment, UNCTAD pointed out that

under its activities on the management of commodity resources and sustainable development, the organization is concerned with, inter alia, the right of all persons to meaningful participation in planning and decision-making with regard to the exploitation of natural resources and the impact of this activity on the environment and development, including the right to information for that end.¹³

World Bank

There is a vast range of initiatives in place in the World Bank to promote public participation and dialogue.¹⁴ Among them, we can identify: Participatory Rural Appraisal Methods for Impact

¹³ Summary of note verbale in E/CN.4/1997/18, 9 December 1996.

¹⁴ *Operational Collaboration at the Country Level*: Background on the World Bank-Society Collaboration; Civil Society Involvement in World Bank-Funded Projects; Civil Society Participation and Disclosure of Country Assistance Strategies; Participation in Poverty Reduction Strategy Papers. *Global Policy Dialogue with Civil Society*: NGO-World Bank Committee and Future Global Policy Dialogue; Dialogue with Civil Society on World Bank Sector Strategies and Operational Policies; World Bank-Trade Union Dialogue; Civil Society in the Global Development Gateway; Structural Adjustment Participatory Review Initiative; Dialogues with Civil Society Spring and Annual Meetings of the World Bank and IMF. *Initiatives to Promote Civic Engagement*: Creating an Enabling Environment for Civic Engagement; Community-Driven Development (CDD) and Civic Engagement; Civil Society in Bank Grant-Making Programs; The Small Grants Program. For further information see The World Bank, Consultations with Civil Society: A Sourcebook. Working Document.

Analysis; Stakeholder Analysis; Beneficiary Assessment; Participatory Monitoring & Evaluation; Gender Analysis; Systematic Client Consultation; Conflict Resolution.

Public participation has also become at times the central object, or key methodology, of a development project, whereby public participation approaches are not only used before or at the end of the project but also at the core of the project itself.¹⁵

WHO

Creation of supportive environments for health depends, however, on *full* participation: not only in terms of contributory actions from all members of society but also in terms of cooperative action between sectors.¹⁶

MAJOR GROUPS

Concern about major groups in Agenda 21 relates not only to their special vulnerability and any potential discrimination they could suffer but also to their contribution to the attainment of sustainable development objectives. Thus, a human rights approach to the role of certain major groups vis-à-vis the environment – in the framework of Agenda 21 – is certainly sound (i.e. prevention of discrimination, cultural rights of indigenous peoples) but not complete. This is why it may be more appropriate to introduce the topic by referring to “major groups”.

¹⁵ For example, in a Sustainable Coastal Tourism Project in Honduras, local and municipal capacity will be strengthened while enabling the development and management of tourism. As some of its components, it will formulate and promote a participatory approach to policy dialogue, with public and private stakeholders at the national, regional and local levels, through workshops to formulate strategic tourism in the area, develop community participation, and institutional arrangements.

¹⁶ World Health Organization, Health And Environment In Sustainable Development: Five Years After The Earth Summit: Executive Summary, 1997.

Indigenous peoples

Division for the Advancement of Women

“The 1995 United Nations Fourth World Conference on Women gave special attention to indigenous women because of their recognized particular knowledge of ecological linkages and fragile ecosystem management; because their livelihood and daily subsistence depend directly on sustainable ecosystems and because they are among the most affected, along with rural women, by continuing environmental degradation” (Platform for Action, paras. 36 and 250).¹⁷

Division for Sustainable Development

“The question of human rights and the environment has been often seen from the perspective of the rights of indigenous people. Their destruction, caused by the destruction of their natural habitat, is an extreme case of violation of the right to life. Agenda 21, however, made a major step forward, not only recognizing the right of indigenous people to enjoy their natural setting, but involving them in an active way in the improvement of their lives and the protection of the environment.”

Women

Division for the Advancement of Women

"The Beijing Declaration and Platform for Action adopted during the Fourth World Conference on Women agreed to take actions in different areas and levels in order to: (a) involve women actively in environmental decision-making; (b) integrate gender concerns and perspectives in policies and programmes for sustainable development; and (c) strengthen or establish mechanisms at the national, regional and international levels to assess the impact of development and environmental policies on women.".¹⁸

¹⁷ See summary of note verbale in E/CN.4/1996/23.

¹⁸ See summary of note verbale in E/CN.4/1996/23.

WHO

A new programme component on women, health and environment was established within the *Office of Global and Integrated Environmental Health*. It seeks to integrate women's health and health-related rights as formulated by the Fourth World Conference on Women held in Beijing in September 1995.

SECTION II: LINKAGES

CONCEPTUAL LINKAGES

There has been widespread incorporation of environmental issues in the programmes and policies of IOs and UN agencies. Whenever a possible connection between environmental concerns and the objectives of the international organization can be made, some space is always devoted to addressing such linkages. At times, considering the nature of the activities of certain international bodies and the influence that UNCED had in the development of these policies, such relationships are formulated not strictly in terms of environmental protection but in terms of *sustainability* or sustainable development. As noted in the previous chapter, given that most international bodies have human beings at the centre of their concerns, the direct or indirect protection of human rights is also apparent.

In this section we shall review a few examples of the recognition by IOs of a link between human rights and the environment. While not expressly addressing any human rights, they are indicative of new developments in the understanding of such interfaces and of the directions that their consideration may be taking, particularly vis-à-vis the activities of international bodies.

“Environmental entitlements”

UNDP explains the concept of “environmental entitlements”, which is particularly relevant in terms of fostering participatory rights and introducing a more “social” approach to addressing poverty issues:

Many donors and policy-makers – especially since UNCED – have begun to embrace more localized, community-based approaches to natural resource management and sustainable development. This approach is informed by an understanding that the various groups in a society often experience environmental problems in very different ways. Others are advocating an alternative, ‘environmental entitlements’ approach to understanding poverty-environment linkages, which shifts the emphasis from questions of resource availability to those of access, control and management and highlights the role of formal and informal institutions in shaping people’s resource endowments and entitlements. At the root of this entitlements approach is an understanding that poor people’s livelihoods are more likely to depend upon a mix of skills,

assets, access to natural resources, social capital, and income-generating activities than on any single income source. Thus, improving their lot will require holistic rather than sectoral interventions [...]

Sustainable livelihoods

The Sustainable Development Department of the FAO has developed the concept of “sustainable livelihoods”, which in a way gathers together the objectives of the Department. According to the FAO, the sustainable livelihoods (SL) approach addresses two key questions: What institutional arrangements enable some poor people to achieve sustainable, secure livelihoods, when others fail? What policies and strategies can support the poor? To carry out its SL approach, the FAO is developing some guiding principles.

SL guiding principles are to:

1. Be people centred: SL approaches start by analysing people's livelihoods and how they change over time. SL approaches engage the active participation of the target population throughout the project cycle.
2. Be holistic: SL approaches acknowledge that people adopt multiple strategies to secure their livelihoods. Livelihoods analysis is applied across sectors, geographical areas and social groups. SL approaches recognize multiple actors (the private sector, ministries, community-based organizations and international bodies).
3. Be dynamic: SL approaches seek to understand the dynamic nature of livelihoods and the influences on them. Build on strengths: SL approaches build on people's perceived strengths and opportunities rather than focusing on their problems and needs. They support and enhance existing livelihood strategies and coping mechanisms of the poor. (Even the poorest households have potential.)
4. Use micro-macro links: SL approaches examine the influence of macro-level policy and institutions on livelihood options and highlight the need for policy to be informed by insights from the local level and by the priorities of the poor.
5. Aim for sustainability: Sustainability is important if poverty reduction is to be lasting. Sustainability of livelihoods rests on several dimensions.

INSTITUTIONAL DEVELOPMENTS

Guidelines and strategies

A large number of international bodies have also developed specific policies, strategies or guidelines linking their field of expertise with the environment. Although some policies predate UNCED, in the last decade they have been clearly developed, refined and frequently received a greater “human rights content”. This has occurred, for example, by linking the activities by the IO aimed at protecting a certain human right with environmental protection, or by strengthening

the exercise of procedural rights, such as the right to information on the environment or public participation, vis-à-vis the activities of the international body.

General specialized departments

Most IOs and agencies by now have a department committed to addressing exclusively environmental or sustainable development concerns. On occasions, special units are created between two different bodies in order to collaborate on issues of joint concern and competence. For example, in 1994 UNEP and the Department of Humanitarian Affairs set up a UNEP/DHA Joint Environment Unit. The Department of Humanitarian Affairs stated in this regard that “this project reflects the idea of the inseparable character of the environment and man.”

The following are just a few examples of such departments:

EBRD	Environmental Appraisal Unit
ECE.	Committee on Environmental Policy
ECLA	Environment and Human Settlements Division
OAS	Unit for Sustainable Development and Environment
UNEP/DHA	Joint Environment Unit
WHO	Department of Protection of the Human Environment

Monitoring and review

Development banks have several environmental units, including some of a higher procedural nature such as those devoted to the environmental and social appraisal of projects. *Project assessment* (including for example environmental assessments) is in itself a major institutional development which has been substantially refined in the last decade, taking better into account the rights of concerned communities and NGOs to be informed about projects and participate in their assessment processes.

Other organizations are also active in fostering monitoring activities, not only of a technical nature, but also in developing and carrying out mechanisms to *review the activities of member States*. This is the case, for example, in the ECE which, in addition to developing several technical procedures to provide assistance to the implementation of some international environmental agreements under its aegis, carries out *environmental performance reviews* through its Committee on Environmental Policy.

Public information

It is a widespread practice in most IOs and agencies to have a department devoted to facilitating access to the environmental information it produces.

Accountability mechanisms

An outstanding development in the last decade is the introduction of inspection panels by international development banks, most notably by the World Bank. These procedures allow communities that are directly affected to challenge and review development projects. The implications for the guarantee of procedural rights are evident. By allowing groups and individuals to file claims with an international institution, eventually leading to a remedy, some form of “access to justice” (as stated in the Aarhus convention) is guaranteed.

Currently such mechanisms have been established by the Asian Development Bank (in 1996), the Inter-American Development Bank (1994) and the World Bank (1993).¹⁹

Reports from the World Bank Inspection Panel, after investigating the negative effects of some development projects, have stated clearly that there is a linkage between environmental degradation and the protection of human rights. The Panel has found that on occasions local communities have not received adequate information or have not been sufficiently consulted, or, with reference to substantive rights, that the livelihoods of certain communities that depend on a natural resource could be at risk.²⁰

¹⁹ For a description of such procedures, see Clark, Dana L., *A Citizen's Guide to the World Bank Inspection Panel*, 2nd edition, Center for International Environmental Law, October 1999.

²⁰ For a comment on World Bank Inspection Panel reviews, see Earthjustice Legal Defense Fund, *Issue paper on Human Rights and the Environment, Materials for the Fifty-Seventh Session of the United Nations Commission on Human Rights*, 2001.

Partnerships

Not too frequently, IOs establish some form of collaboration with non-governmental organizations or participate in initiatives that are of a non-governmental nature. These partnerships are particularly relevant from a public participation perspective.

The World Bank has fostered a few such initiatives, collaborating for example with IUCN. An outstanding initiative, extremely relevant when examining human rights and environmental issues, is the activity of the *World Commission on Dams*. Activities of this Commission are not reviewed in this report given that it is not an intergovernmental initiative, but its Final Report (2000) clearly illustrates the human rights implications of environmental degradation. As described in the report of Earthjustice Legal Defense Fund, the Report begins by noting that large dams affect “the range of social, environmental and political choices on which the human aspiration to development and improved well-being depend”.²¹

²¹ Earthjustice Legal Defense Fund, *Issue paper on Human Rights and the Environment, Materials for the Fifty-Seventh Session of the United Nations Commission on Human Rights*, 2001, at 31.

PRELIMINARY CONCLUSIONS AND ELEMENTS FOR THE DEBATE

On knowledge

- No IO or UN agency whose competence is not related to the field of human rights recognizes or expressly addresses the right to a healthy environment.

However, when commenting on the work of the UN Special Rapporteur on human rights and the environment or responding to the Secretary General's call for comments on progress achieved since UNCED in promoting and protecting human rights in relation to environmental questions and in the framework of Agenda 21, several of them (Division for Sustainable Development, Division for the Advancement of Women, Economic Commission for Europe, UNEP and WHO) acknowledged the existence of a right to a safe and healthy environment.

- Most IOs and agencies establish a linkage between human rights and environmental protection as a means or justification for pursuing their objectives.
 - There is widespread recognition of the rights of access to environmental information and participation in decision-making and most bodies have incorporated some more or less developed tools to ensure the realization of these rights.
 - Several IOs address explicitly the issue of environmental protection in relation to certain human rights that are in their field of competence. On occasions the linkage is established explicitly, such as by WHO with regard to the right to health or by FAO on the right to food. Indirect but evident linkages are also present in, for example, the poverty alleviation policies of multilateral financial institutions.
- When formulating linkages between human rights and the environment, international bodies frequently introduce a reference to a third element: development or *sustainable* development. It emerges from the practice of such organizations and agencies, particularly when considering such intersections in the context of Agenda 21, that the development factor is inseparable from the others.

At times, some organizations such as the IMF or WHO have drawn attention to the highly complex cause-effect relationship between environment and development.

- New concepts. Related concepts. (social capital, ...)

On actions

- Most IOs and agencies whose main field of competence is not the environment have established a specific department to consider the interface between their main subject area of competence and the environment. It is generally through the activities carried out in these departments that they directly or indirectly touch upon the linkage between human rights and the environment.
- A large number of international bodies have also developed specific policies, strategies or guidelines linking their field of expertise with the environment. Although some policies predate UNCED, in the last decade they have been clearly developed, refined and frequently imbued with a greater “human rights content”. This has occurred, for example, by linking the activities by the IO to protect a certain human right with environmental protection, or by strengthening the exercise of procedural rights, such as the right to information on the environment or public participation, vis-à-vis the activities of the international body.
- It can be asserted that a vast range of policies and mechanisms relevant to human rights and the environment are in place. However, the existence of formal instruments does not mean that they are necessarily effective. Attention should be paid to different understandings of certain concepts, such as access to information or participation, which have not yet acquired a uniform meaning.

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