**Call for Inputs**

**Healthy Ecosystems and Human Rights: Sustaining the Foundations of Life**

“Goals for conserving and sustainably using nature and achieving sustainability cannot be met by current trajectories, and goals for 2030 and beyond may only be achieved through transformative changes across economic, social, political and technological factors.”

*Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services. 2019. “Summary for policymakers of the global assessment report on biodiversity and ecosystem services.”*

There is now global agreement that human rights norms apply to a broad spectrum of environmental issues, including biological diversity (the full range of life on Earth) and healthy ecosystems (the foundation upon which all life depends). The Special Rapporteur on human rights and the environment, Dr. David Boyd, is working to provide additional clarity regarding the substantive rights and obligations that are essential to the enjoyment of a safe, clean, healthy and sustainable environment. He has submitted reports on clean air,[[1]](#footnote-2) a safe climate,[[2]](#footnote-3) and good practices on the promotion and implementation of the right to a safe, clean, healthy and sustainable environment.[[3]](#footnote-4) He is now preparing a thematic report focusing on human rights and associated obligations related to healthy biodiversity and ecosystems. For that purpose, he is seeking inputs on the topic from States and stakeholders through responses to the brief questionnaire below.

Your replies will inform the Special Rapporteur’s analysis and contribute to his report, which will be presented to the General Assembly in October 2020.

**Questionnaire**

The Special Rapporteur invites and welcomes your answers to the following questions:

1. Please provide examples of ways in which declining biodiversity and degraded ecosystems are already having adverse impacts on human rights. Adversely affected rights could include, among others, the rights to life, health, water, food, culture, non-discrimination, a safe, clean, healthy and sustainable environment, and Indigenous rights.

*Across the world we are experiencing immense biodiversity loss and extensive destruction of ecosystems, which of course have an adverse impact on human rights. This is only part of the story, however. The examples below, provided by members of the African Earth Jurisprudence movement, demonstrate that the rights of humans and the rights of Nature are often co-violated, although the rights of Nature are not widely recognised in the dominant legal paradigm. These rights are, however, inherently recognised in the customary laws of indigenous and traditional communities in Africa and beyond. These indigenous laws were not originally expressed in terms of rights – a western legal concept – but have governed human communities to live in respectful relationship with the natural world over millennia, deriving from deep knowledge of and intimate relationship with the ecosystems in which communities are embedded. Biodiversity loss and destruction of ecosystems adversely impacts the rights of all members of the Earth community, human and more-than-human, for we all belong to a wider web of life with which we are interdependent.*

*The human right to a healthy environment (for example) cannot be protected if the rights of Nature to exist, thrive and evolve are not also protected in law – humans (and non-humans) derive life and health from Mother Earth and we cannot enjoy our human rights if the rights of the life-sustaining ecosystems upon which we depend are not also protected. In the words of Kagole Margret, a Bagungu custodian of sacred natural sites (SNS) in Buliisa District, Uganda:*

 *“People talk of the rights of humans – but how do we live? There are plants and animals, rivers and lakes, and we cannot live without them – even if we are in the city. Our role as custodians [of SNS] is to ensure people respect the laws and rights of all forms of life. If they are destroyed because their rights are not respected, we will be destroyed too. We depend on each other and must learn to live together again as our ancestors did for generations before us”.*

*From among the communities with which the African Earth Jurisprudence movement works, the following examples evidence the co-violation of human rights and Nature’s rights. Indigenous communities in Uganda with which the African Institute of Culture and Ecology (AFRICE) works, namely the Bagungu of Buliisa, the Banybutumbi along Lake Edward and the BaSsese of the Kalangala Islands in Lake Victoria, are experiencing the loss of fish – a key source of food – as a result of water pollution; the inability to practise their cultural beliefs and spirituality due to the destruction of SNS; the loss of forests (including medicine and the opportunity for communion with animals, birds and all forms of Nature); and the loss of bees and other pollinators due to the use of chemical pesticides leading to poor yields and a lack of food.*

*In Bikita District, Zimbabwe, severely degraded landscape is reducing cultivated land area as a result of galleys and sand silted areas. Soil fertility is very poor due to the use of chemical agricultural inputs leading to reduced harvest every year. Food security is threatened, creating more pressure on local ecosystems. Household herd sizes are also decreasing as a result of lack of food and reliable water sources for livestock. Most perennial streams and rivers are silted and barely hold water that lasts the whole season as they used to, creating problems for communities depending on water for livestock and other domestic uses. The fish have virtually disappeared from the rivers and streams further diminishing the communities’ supply of food.*

2. To protect a wide range of human rights, what are the specific obligations of States and responsibilities of businesses in terms of addressing the main direct drivers of harm to biodiversity and ecosystems (e.g. land conversion, loss and degradation of habitat, climate change, overexploitation, pollution, invasive species) and the indirect drivers (unsustainable production and consumption, rapid human population growth, trade, conflict and inequality)?

*The IPBES 2019 report quoted above calls for ‘transformative change’. Among the transformative change required is the transformation of our legal systems, which currently objectify Nature as a commodity and resource, legitimising systemic destruction and exploitation of the biodiversity and ecosystems of Mother Earth, our life support system. States should recognise the rights of Nature and other manifestations of Earth-centred law, in order to catalyse a transformation of our societies towards Earth-centred governance that prioritises the wellbeing and integrity of the Earth as a whole rather than serving the economic interests of a single species.*

*In particular, states in Africa should strengthen the formal recognition of the customary laws of indigenous and traditional communities which identify Nature as the primary source of law and, for the vast majority of human history, have governed communities to live in respectful and mutually-enhancing co-existence with their wider ecosystems in accordance with the laws of Nature. Our current legal systems, by contrast, are anthropocentric and decoupled from ecological realities, facilitating the breach of planetary boundaries and the systemic violation of the principles that govern all life on this planet, including the Earth’s capacity to self-regulate and to sustain biodiverse ecosystems.*

*In Uganda, Kenya, Benin, Cameroon, South Africa, Zimbabwe and Ethiopia, a network of Earth Jurisprudence Practitioners is leading civil society efforts on the continent to accompany indigenous and traditional communities in the revival and strengthening of their customary governance systems, the restoration of ecosystems and the protection of their SNS. These communities are the best custodians of biodiverse ecosystems[[4]](#footnote-5) and state parties in Africa and beyond can effectively address the main direct drivers of harm to biodiversity and ecosystems by strengthening the recognition of customary laws as part of the continent’s pluri-legal systems.*

3. Please provide specific examples of constitutional provisions, legislation, regulations, policies, programs or other measures that employ a rights-based approach to prevent, reduce, or eliminate harm to biodiversity and ecosystems or to restore and rehabilitate biodiversity and ecosystems.

*Earth Jurisprudence includes rights-based approaches and is emerging in Africa at regional, national and local level in support of the restoration of biodiversity and ecosystems. At a regional level, in 2017 the African Commission on Human and Peoples’ Rights passed ACHPR/Res.372 calling on all state parties to recognise sacred natural sites and territories (SNST), their customary governance systems and the rights of the custodian communities. SNST are potent places of ecological, cultural and spiritual significance to indigenous communities deemed to be critical to the health and resilience of the Earth as a whole. They are havens of wildlife, and they play a critical role in protecting and sustaining biodiversity and ecosystem integrity. The recognition of the rights of custodian communities is key to the protection of SNST. In Uganda, Kenya, Benin, Cameroon, South Africa, Zimbabwe and Ethiopia, a network of African Earth Jurisprudence Practitioners is accompanying custodian communities working to protect their SNST and to revive their Earth-centred customary governance systems (which inherently recognise the right of Nature) in order to implement ACHPR/Res.372 on their own terms.*

*At national level, Uganda recognised the rights of Nature in its National Environment Act 2019. This national development finds resonance at local level. In November 2018, Bagungu communities in Uganda came together to develop eco-cultural maps and to document their customary laws after several years of community dialogues. Among these Earth-centred laws, the community recognised the rights of Nature and of the rights of the future generations of all species. The Bagungu are now using these community-developed materials to advocate for the recognition and protection of their ancestral territory, SNST and rights as custodian communities. Thanks to their advocacy, Buliisa District Council has passed a resolution recognising Bagungu customary laws and governance systems - one of the first examples of practical, local implementation of ACHPR Res.372. They are now* *working together with the supportive District Council on an ordinance which will demonstrate how pluri-legal systems can be implemented. The Bagungu community is one of a number of communities with which African Earth Jurisprudence Practitioners are working to revive Earth-centred customary governance and SNST.*

4. If your State is one of the 156 UN Member States that recognizes the right to a safe, clean, healthy and sustainable environment,[[5]](#footnote-6) has this right contributed to protecting, conserving and restoring biodiversity and healthy ecosystems? If so, how? If not, why not?

5. Please provide specific examples of good practices in preventing, reducing, or eliminating harm to biodiversity and ecosystems, or restoring and rehabilitating biodiversity and ecosystems. These examples may occur at the international, national, sub-national, or local level. Where possible, please provide evidence related to the implementation, enforcement, and effectiveness of the good practices (e.g. measurable outcomes such as increases in terrestrial and marine protected areas, increases in Indigenous and Community Conserved Areas, declining rates of deforestation and poaching, or progress in the recovery of species that were previously threatened or endangered).

*Below are some examples of the ways in which the revival of traditional knowledge and governance has supported communities with which African Earth Jurisprudence Practitioners work to protect and restore biodiversity and ecosystems.*

*In the Ouémé valley in Benin, GRABE-BÉNIN ONG has been accompanying the communities of Lindja-Dangbo, Latchè, Kogbomey and Wamon to restore their indigenous knowledge and practices concerning SNS and the revival of traditional seed diversity. Activities include planting indigenous vegetation to restore degraded areas and reintroducing endangered animal species, organising cultural and traditional ceremonies and establishing medicinal plant gardens. With support from the United Nations Development Programme, GRABE-BÉNIN has implemented a programme to protect sacred forests and promote indigenous and community conserved areas and territories (ICCAs) with the communities of Gbévozoun and Gnanhouizoun in the commune of Bonou. GRABE-BÉNIN has updated the list of forests and other SNS in all departments of Benin.[[6]](#footnote-7)*

*In Buliisa District, Uganda, SNS in the form of wetlands had been degraded as a result of grazing and farming practices. Through several years of intergenerational dialogues, the Bagungu community have revived their customary governance systems, including the revival of indigenous seeds, and the Bagungu custodians of the SNS have recommenced traditional rituals in the SNS. Rivers which had been dry for the last 40 years came back, including Kamonkole , Waigaga and Wadieka rivers, which are tributaries of Lake Albert. Wetlands have been regenerated with various birds, animals and insects resurfacing. The white eagle and crested crane, among others, have returned. This was after heavy rains that had disappeared for 7 years.[[7]](#footnote-8)*

*In Bikita District, Zimbabwe, local farmers and traditional leaders have now revived 4 traditional seed types that had been lost. This has encouraged more farmers to look out for more varieties to revive and multiply. This work is helping to increase biodiversity in the cultivated landscape thereby helping to increase food sources while at the same time increasing the biomass needed for improving the soils which have been several degraded as a result of years of chemical fertiliser application. EarthLore works with communities to create healthy conditions for soil life to multiply again. Communities have also engaged in work to peg and dig dead level contours to prevent rampant soil erosion, which is characteristic of the area. This has helped to stop galleys while feeding much needed ground water sources for some wetlands to return. Work is now in progress to start reviving and protecting SNS, which will support more wild biodiversity in the area.*

*Similar processes are also underway in Tharaka District, Kenya, facilitated by the Society for Alternative Learning and Transformation (SALT).[[8]](#footnote-9)*

6. Please identify specific gaps, challenges and barriers that your government, business, or organization has faced in attempting to employ a rights-based approach to preventing, reducing, or eliminating harm to biodiversity and ecosystems.

*The lack of recognition of the rights of custodian communities and their customary governance systems; the lack of recognition and protection of SNST at national level (despite ACHPR/Res.372 and local community initiatives to protect SNST); the lack of recognition and implementation of customary laws, the rights of Nature and other forms of Earth-centred law.*

7. Please specify ways in which additional protection is provided (or should be provided) for populations who may be particularly vulnerable to declining biodiversity and degraded ecosystems (e.g. women, children, persons living in poverty, members of Indigenous peoples and local communities, older persons, persons with disabilities, ethnic, racial or other minorities and displaced persons). How can these populations be empowered to protect and restore declining biodiversity and degraded ecosystems?

*Indigenous and traditional communities in Africa can be empowered through support to revive their traditional knowledge and customary governance systems and to protect their SNST. For example, in Uganda, AFRICE works with the Bagungu of Buliisa, the Banybutumbi along Lake Edward and BaSsese of Kalangala islands in Lake Victoria – communities that have rich traditional practices for conservation and protection of forests, wetlands and water bodies and all the biodiversity therein. The biggest problem faced is the rapid weakening and disappearance of these practices as a result of western colonisation that has undermined African spiritual traditions and traditional agricultural practices and promoted industrial farming systems. Africa’s customary governance systems uphold the rights of Nature and protect SNST, empowering communities to protect and restore declining biodiversity and degraded ecosystems.*

*In South Africa and Zimbabwe, EarthLore works with traditional, local government leaders and community members more generally to address the problems caused by unhealthy ecosystems, to protect SNST and to minimise deforestation and other activities that degrade land. Support to strengthen the voice of traditional leaders would help significantly to protect the land. Traditional, local leaders are severely undermined in their efforts to prevent the degradation of land. Local Environmental Protection Agency officers also need more support and better links to local knowledgeable elders to work closely on the restoration of land and the protection of rivers. In addition to strengthening local efforts to protect biodiversity and ecosystems, systemic interventions are called for such as the work that the Association for Water and Rural Development is doing in Limpopo South Africa to rejuvenate water ecosystems.*

8. How do you safeguard the rights of individuals and communities working on biodiversity issues (potentially identified as environmental human rights defenders or land defenders)? What efforts has your Government made to create a safe environment for them to freely exercise their rights without fear of violence, intimidation, or reprisal?

9. There is substantial evidence that consumption in high-income States is adversely affecting biodiversity and ecosystems in low and middle-income States. What are ways in which high-income States should assist low-income States in responding to biodiversity loss and ecosystem degradation, while simultaneously contributing to sustainable development in those low-income States?

10. For businesses, what policies or practices are in place to ensure that your activities, products, and services across the entire supply chain (extraction/sourcing, manufacturing, distribution, sale, and end-of life management) minimize biodiversity loss and ecosystem degradation and meet human rights standards, especially those articulated in the Guiding Principles on Business and Human Rights?

1. A/HRC/40/55 [↑](#footnote-ref-2)
2. A/74/161 [↑](#footnote-ref-3)
3. A/HRC/43/53 [↑](#footnote-ref-4)
4. <https://news.mongabay.com/2019/08/indigenous-managed-lands-found-to-harbor-more-biodiversity-than-protected-areas/> [↑](#footnote-ref-5)
5. See, A/HRC/43/53, Annex II. [↑](#footnote-ref-6)
6. For further details, please see the Appendix. [↑](#footnote-ref-7)
7. For further details, please see <https://www.gaiafoundation.org/media-release-new-film-explores-cultural-and-ecological-revival-in-ugandas-great-lakes-region/> [↑](#footnote-ref-8)
8. <https://www.gaiafoundation.org/in-photos-tharakans-map-their-past-present-and-future/> [↑](#footnote-ref-9)