**Mandate of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment**

**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-1) a safe climate,[[2]](#footnote-2) and good practices on the promotion and implementation of the right to a safe, clean, healthy and sustainable environment.[[3]](#footnote-3) 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.

The degradation to ecosystems resulted from deforestation for land use conversion into agricultural plantations, infrastructures developments etc. to support the needs of population affects the human rights to clean water, healthy food and safe living environment, especially forest-dependent communities. Human alteration to forest ecosystems had changed how the earth systems usually works, in addition to the impacts from climate change, affects the economy, society and the environment. Poor governance, the lack of awareness, corruption, excessive exploitation of soil nutrients etc. also caused impacts to the existing situation.

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)?

In accordance with the Environmental Quality (Prescribed Activities) Environmental Impact Assessment Order 2015, addressing to the subsection 34A(1) of the Environmental Quality Act 1974 (Act 127), any proposed projects involving environmentally sensitive area is obligated to conduct an Environmental Impact Assessment (EIA) and submitted to the Department of Environment (DOE) for approval. Series of consultations with importance stakeholders involving in the area of proposed projects may be conducted by DOE, if it’s deemed appropriate.

Useful links: <https://www.doe.gov.my/portalv1/wp-content/uploads/2015/01/Akta_Kualiti_Alam_Sekeliling_1974_-_ACT_127.pdf>; <https://www.doe.gov.my/portalv1/en/tentang-jas/perundangan/akta-kaedah-peraturan-arahan-2/perintah>

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.

- National Physical Plan

- National Policy on Biological Diversity (2016 – 2025)

- National Forestry Policy 1978 (Amendment 1992)

- National Forestry Act 1984 (Act 313)

- National Land Code 1965 (Act 56)

- Sabah: Forestry Enactment 1968, Forest Rules 1969

- Sarawak: Sarawak Forest Policy, Forest Ordinance 2015, The Forest Rules

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

With reference to A/HRC/43/53, Annex II, yes, Malaysia is one of the parties that recognized the right to a healthy environment. Malaysia needs to continue to improve the existing measures, regulatory mechanisms etc. and imposed new ones, in accordance with the international developments.

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).

The international recognition of 55 Important Bird and Biodiversity Area (IBA) in Malaysia in addition to the gazettement of Protected Areas into Permanent Forest Reserve are two (2) good examples in protecting an important landscape to biodiversity, cultural values, forest dependent communities etc.

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.

Technical and funding capacities, including knowledge gap and priorities, are the main challenges that influence the direction, target groups, scope and impact of the implemented approach.

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?

Improvement in the existing protection and additional protection to the identified missing gaps in the existing protection concerning the forest dependent communities, especially the indigenous people, are crucial. Capacity building projects, programmes and initiatives are much needed to improve their livelihoods, competitiveness, knowledge etc. With the rising importance to sustainable developments and sustainable consumption and productions, relevant capacity building projects, programmes and initiatives are able to empower and provide better solutions considering the needs for country developments with limited natural resources.

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?

Not relevant.

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?

The high-income states should allocate certain portion of their income and provide expertise, information exchange etc., to support developing countries in their efforts, programmes, policies, projects etc. in tackling biodiversity loss and ecosystem degradation. Proper consultation with the government, including other important stakeholders, shall be conducted prior to the decided forms of supports which will be contributed by the high-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?

- Malaysian Sustainable Palm Oil (MSPO) Certification Scheme

- Roundtable on Sustainable Palm Oil (RSPO)

- Due Diligence System

- Malaysian FSC National Forest Stewardship Standard (NFSSS), FSC Principles and Criteria

- Sustainable Forest Management (SFM)

- Malaysian Timber Certification Scheme (MTCS) comprised of Forest Management Certification: Malaysian Criteria and Indicators for Forest Management Certification (Natural Forest) [MC & I (Natural Forest)], MC & I Forest Plantation; and Programme for the Endorsement of Forest Certification (PEFC) Chain of Custody of Forest Based Products etc.

**Submission of responses**

We encourage you to please send your responses to the questionnaire in Word format **by email** to srenvironment@ohchr.org.

However, submissions will also be accepted via regular mail at the following address:

UN Special Rapporteur on human rights and the environment

Thematic Engagement, Special Procedures and Right to Development DivisionUNOG-OHCHRCH-1211 Geneva 10, Switzerland

We kindly request that your submission be concise and limited to a maximum of 5 pages (or 2,000 words), not including appendices or attachments.

**Due to a limited capacity for translation, we also request that your inputs be submitted in English, French, or Spanish.**

To avoid unnecessary duplication: if you have recently replied to other questionnaires from UN human rights mechanisms (or other international bodies) with information that would be relevant to this request as well, we welcome your directing us to those replies.

**The deadline for submission is 31 May 2020.**

Unless otherwise requested, all submissions will be *made publicly available* and posted on the Special Rapporteur’s homepage at the OHCHR website.

1. A/HRC/40/55 [↑](#footnote-ref-1)
2. A/74/161 [↑](#footnote-ref-2)
3. A/HRC/43/53 [↑](#footnote-ref-3)
4. See, A/HRC/43/53, Annex II. [↑](#footnote-ref-4)