WEBINAR SERIES REPORT

THE RIGHT TO
A HEALTHY
ENVIRONMENT
AND THE ROLE
OF NATIONAL
HUMAN RIGHTS
INSTITUTIONS
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23 MEET THE EXPERTS
A safe, clean, healthy and sustainable environment is integral to the full enjoyment of a wide range of human rights, including the rights to life, health, food, water and sanitation, housing as well as the rights of indigenous peoples, women and children. At the same time, protecting human rights helps to protect the environment. When people are able to learn about, and participate in, the decisions that affect them, they can help to ensure that those decisions respect their need for a sustainable environment.

In recent years, the recognition of the link between human rights and the environment has greatly increased. The number and scope of international and domestic laws, judicial decisions, and academic studies on this relationship has grown rapidly. More than 150 out of 193 States recognize the right to a healthy environment in their national and/or regional legal frameworks. In addition, there is a growing global concern over the threats, intimidation, attacks against and killings of environmental defenders, as well as a deeper appreciation of their vital role in promoting a healthy environment as recognized by the UN Human Rights Council.
Despite growing awareness, skills and tools to address these issues in an integrated manner are insufficient to address the global environmental crises. To bridge this gap the **Environmental Governance Program in collaboration with the UN Special Rapporteur on Human Rights and the Environment, the Global Alliance of National Human Rights Institutions, the UN Environment Programme, and UNDP's Learning for Nature programme** organized a series of interactive webinars for National Human Rights Institutions (NHRIs). The webinars focused on the oversight role of NHRIs in implementing international laws and norms and protecting and promoting human rights related to the environment at the national level.

The webinars were held on 25-27 November 2019 and were conducted in English, Spanish and French and focused on Africa, Asia-Pacific, Latin America, Europe and Canada. The insights presented below were prepared by Claudia Ituarte-Lima, Stockholm University & University of British Columbia and Maria-Therese Gustafsson, Stockholm University. The illustrations and posters were designed by Caroline Sellstone.

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Insights from the five webinars are presented below:

- Asia and the Pacific (webinar conducted in English)
- Africa (webinar conducted in English)
- Africa (webinar conducted in French)
- Latin America (webinar conducted in Spanish)
- Canada and Europe (webinar conducted in English)
Environmental human rights defenders are often in dangerous and vulnerable situations and the legal status of environmental human rights defenders is often not explicitly mentioned in laws and policies. Clarifying the legal status of environmental human rights defenders can contribute to protect their rights.

Environmental human rights defenders can both contribute to the work of NHRIs with their expertise such as investigation and advocacy and are also right holders whose rights NHRIs can help protect.
Informed by country’s realities, NHRIs’ guide national duty-bearers on obligations concerning a healthy environment:

- Through inquiries, fact-finding missions and press-conferences, NHRIs clarify the content of human rights obligations concerning a clean, safe and sustainable environment (right to a healthy environment).

- NHRIs help guide the implementation of duty-bearers obligations on human rights, environment and climate change considering the reality of the country and international developments.
Businesses and human rights with impacts at multiple scales:

- The potential and actual impacts of business on human rights and environment are often not properly assessed. In contrast to the compulsory nature of environmental impact assessments in many countries, human rights impact assessments are often not compulsory.

- While human rights impact assessments are often not compulsory, this tool can still be used by NHRIs for monitoring both human rights and environment in order to prevent harm and access to remedy in cases where the harm has already occurred.
Duty bearers at national levels often face legal, technical and financial obstacles to address global concerns such as climate change that affect human rights.

While NHRI s have economic and technical limitations, some NHRI s have used new technologies to overcome these limitation such as conducting certain public hearings virtually as well as receiving technical and financial support from other countries.

There is scope for countries from Asia and the Pacific to become parties to the Aarhus Convention on access to information, public participation in decision-making and access to justice in environmental issues; although this convention is often thought to be European, it is open to all countries and already includes Central Asian parties.
The right to a healthy environment and national human rights institutions

**Asia and Pacific webinar**

- Global environmental crisis
- Levels, the highest in more than 5 million years
- Frameworks on human rights and the environment were presented to the UN Human Rights Council by John Knox.
- More than 150 out of 193 UN States recognize the right to a healthy environment.
- A UN recognition would serve as a catalyst for very positive effects on vulnerable people.
- The right to a healthy environment
- Healthier people, and exceptions
- Very positive effects on vulnerable people

- Collaborative action in elaborating the content of the right to a healthy environment
- Enriched definitions of environmental human rights obligations derived from multi-actor interactions
- Environments of human rights with impacts at multiple scales
- Businesses and human rights with impacts at multiple scales

**NHRI**

- NHRI guiding national duty bearers informed by countries’ realities
- NHRI addressing global climate change, an existential issue, e.g. in Philippines’ national inquiry
- Coal transportation causing air pollution and soil erosion

**Mongolia**

**China**

**Legal mandate**

**Action now**

Over 200 environmental defenders are murdered annually.

**Empower and inspire defenders**
WEBINARS: AFRICA

Right to a healthy environment and the “muscles” of empowered communities:

- The Constitutional recognition of the right to a healthy environment empowers the legislative, executive and judiciary to address environmental issues from a rights-based perspective and has also empowered local people to use the law to assert their environmental rights.

- Strengthening the awareness and capacities of civil society in particular of youth is a condition for effective actions to address climate change.

- In synergy with empowered communities, a key leverage point for accountability of human rights obligations is the actions of financial institutions.

- The Multilateral Environmental Agreements-Conference of the Parties can serve as a platform for sharing innovations and solutions concerning human rights, gender equality and climate change of both governments and civil society organizations.
NHRIs addressing legal gaps in decentralization:

- Strengthening skills of country and municipal level officials, together with political will, can contribute to use the law for positive environmental and human rights outcomes.

- As activism on environment and human rights increases, police officials need to be trained on how to address large manifestations and respect the rights of people to freedom of association and peaceful assembly.
Challenges arise when environmental law and policies tools, and court judgements are not properly implemented and a rights-based approach is not considered.

In order to address the challenges of lack of implementation of courts’ decisions, NHRIs can advise right-holders to request “continuing mandamus” to the court; the court can direct the authority with concrete actions to implement over a relatively long period of time. This court’s supervisory role can foster accountability.

NHRIs can also be in a unique position to monitor court orders. Some NHRIs also engage in public interest litigation. Court injunctions can be used to stop the damage before the case is finalized.

Monitoring and accountability are key for the enjoyment of the right to a healthy environment:
Accountability of the business sector can be difficult especially in cases where informal and unregulated businesses operate because, among other issues, it is hard to collect data and evidence.

NHRIs can intervene through contributing to the development of National Action Plans on Business and Human Right based on existing international human rights obligations. NHRIs also collaborate with grass-roots communities and conduct public inquiries to help collect data and evidence to assess businesses’ impacts. There is scope for African countries to become parties of the Aarhus Convention; Guinea Bissau has expressed interest in becoming a party to this Convention.
THE RIGHT TO A HEALTHY ENVIRONMENT AND NATIONAL HUMAN RIGHTS INSTITUTIONS

AFRICA CO2 levels, the highest in more than 3 million years

Framework principles on human rights and the environment were presented to the UN Human Rights Council by John Knox.

More than 150 out of 193 UN States recognize

The right to a healthy environment

A UN recognition would serve as a catalyst

The right to a healthy environment

UNCCD COPs make African actors more visible and African civil society more aware of climate issues

Youth key for successful climate action

NHRIs working with local governments to meet distinct challenges

NHRIs connect national strategies and action plans on sustainable environment and human rights

Nature-related problems and solutions go beyond political and geographical boundaries

COPs of MEA in Marrakech NHRIs strengthen the nexus between gender, climate and human rights in the COP and other African countries

UWCC COP a platform for sharing innovations and solutions

NHRIs have a key role on human rights, business and environment nexus

Knowledge mobilisation for collective and inclusive action on climate change

Global environmental crisis

1/4 of global disease, the annual total of all deaths and illnesses, is caused by exposure to environmental hazards in the air, water, food and buildings

Very positive effects on vulnerable people and ecosystems

Healthier people, and ecosystems

Empower and inspire defenders

Over 200 environmental defenders are murdered annually

 Preserve laws

Thank you for attending the Africa webinar in French

Text: Claudia Duque-Lema, Illustration: Caroline Selleske

UNDP
UN Environment
GANHRI
United Nations Human Rights Office of the High Commissioner
NATUR ALLIANCE
WEBINAR: LATIN AMERICA

Environmental risks and degradation are experienced differently within a country and between groups:

- Challenges on the implementation of the right to a healthy environment may be specific to a certain geographical area within a country and are experienced differently by different groups.

- NHRI can have a proactive role from detecting an environmental problem affecting human rights to monitoring progress in law and policy implementation.

- Education and capacity building of both right holders and duty bearers is also important. NHRI have a role to play in strengthening the capacities of local governments to organize communities to respond to environmental-related risks and impacts with a rights based approach.

- Revealing the connections between distinct elements of the right to a healthy environment such as between safe climate, clean water and sanitation and food by NHRI helps understand the actions needed for safeguarding the rights of people in vulnerable situations.
The adoption of the Escazu Agreement (Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean), which is now open to ratification, provides an important means for working towards environmental democracy including the protection of environmental human rights defenders.

The landmark complaint by children to the UN Committee on the Rights of the Child on how failure of governments to act on the climate crisis constitutes a violation of children’s rights, is setting an important example on the role that UN human rights bodies can play in addressing environmental concerns.

NHRIs closing gaps between distinct national, regional and international legal advances:

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THE RIGHT TO A HEALTHY ENVIRONMENT AND NATIONAL HUMAN RIGHTS INSTITUTIONS

LATIN AMERICA

CO2 levels, the highest in more than 3 million years

Frameworks on human rights and their environment were presented to the UN Human Rights Council by John Knox.

Over 200 environmental defenders are murdered annually

More than 150 out of 193 UN States recognize

A UN recognition would serve as a catalyst for a healthy environment

Healthier people and ecosystems

1/4 of global disease, the annual total of all deaths and illnesses, is caused by exposure to environmental hazards in the air, water, food and buildings

A UN resolution would serve as a catalyst

The right to a healthy environment

Environmental risks and degradation are experienced differently within a country and between groups

Environmental risks and degradation are experienced differently within a country and between groups

The context of a healthy environment has been elaborated nationally, both in its substantive and procedural dimensions

Mexico, 32 sub-national NHRI

NHRIs closing gaps between distinct national, regional and international legal advances

NHRIs can have a proactive role, from detecting an environmental problem affecting human rights to monitoring progress in law and policy implementation

Education and capacity building of both rights-holders and duty bearers

Rights of the Child

Children have a right to a healthy environment

Text: Claudia Diana Lima, Illustrations: Carolin Sellstone
A major challenge is the lack of cooperation between the human rights and environmental protection policy communities at the national level. To achieve human rights-based environmental and climate governance there is a need to facilitate cooperation between these two communities.

Concrete solutions include the integration of human rights in the different types of environmental assessments, such as Environmental Impact Assessments (EIA), Strategic Environmental Assessments, Sector Wide Assessments. It is important to overcome the project-based assessments (such as EIAs) and focus on broader assessments that enable the identification of gaps in legislation and decision-making with regards to human rights.

There is also a need for more focus on substantive rights (and not only procedural rights).
The right to a healthy environment is a legal obligation in most countries, but the implementation remains the main challenge.

Action plans are important. The most successful and comprehensive plans are those that have involved different state agencies in the process. Another success factor is the involvement of other stakeholders, including business, in this process.

It is critical to monitor the implementation of business and human rights action plans. To put pressure on states that are unwilling to implement business and human rights action plans, it is important to build alliances with non-state actors.

With regards to business and human rights, it is critical to in addition to due diligence, evaluate to what extent human rights and environment principles are incorporated in core business legislation (e.g. corporate law, investment law and tax law).
THE RIGHT TO A HEALTHY ENVIRONMENT AND NATIONAL HUMAN RIGHTS INSTITUTIONS

Global environmental crisis

CO₂ levels, the highest in more than 3 million years

Framework principles on human rights and the environment were presented to the UN Human Rights Council by John Kox.

More than 150 out of 193 UN States recognize the right to a healthy environment.

A UN recognition would serve as a catalyst for action.

1/4 of global disease, the annual total of all deaths and illnesses, is caused by exposure to environmental hazards in the air, water, food and buildings.

NPBs have a key role in implementing these rights.

Must tackle the institutional fragmentation challenge.

Different types of assessments to identify

GAP

More focus on substantive rights

Procedural rights

Stakeholder reporting as a support for capacity building and implementation

Monitor the implementation of action plans

Build alliances with non-state actors

Over 200 environmental defenders are murdered annually

Empower and inspire defenders

The right to a healthy environment

Healthier people and ecosystems

Political resistance, to rights-based approach

The terms of principles and standards

UNDP

UN environment

GANHRI

United Nations Human Rights

Geneva, Switzerland

U.N. Environment Programme
Commissioner Roberto Eugenio T. Cadiz, Chair of the Commission on Human Rights of the Philippines’ National Inquiry on Climate Change (NICC) – the first inquiry to be conducted by a National Human Rights Institution (NHRI) – works on framing climate change as a human rights issue. The process which the Philippine Commission has adopted in conducting its inquiry in the relatively nascent field of climate justice may serve as a template for other NHRIs in the handling of human rights cases of trans-boundary character or those imbued with extra-territorial obligations. Commissioner Cadiz is the focal commissioner for Sustainable Development Goals, Business and Human Rights, International Humanitarian Law, Peace, and the Environment.

Nicholas Booth, Advisor on peacebuilding, rule of law, access and justice and human rights at the UNDP Bangkok Regional Hub joined the United Nations in 2001. Before this role, he was Policy Advisor for Rule of Law and Access to Justice at UNDP Viet Nam, and Senior Adviser on Police and Justice in the UN Peacekeeping mission in Kosovo. He also worked as a lawyer in the UK and the US, specializing in labor rights and discrimination (in particular race, gender, disability, and HIV/AIDS). He studied law at Brasenose College, Oxford and Queens’ College, Cambridge.

David R. Boyd, UN Special Rapporteur on Human Rights and the Environment, is also an associate professor of law, policy, and sustainability at the University of British Columbia. Since he was appointed in 2018, he has presented reports on the right to a healthy environment, air pollution, and a safe climate, plus country visits to Fiji and Norway. He has a PhD, a law degree, and a business degree. He has advised many governments on environmental, constitutional, and human rights policy and co-chaired Vancouver’s effort to become the world’s greenest city by 2020. Boyd is also the author of nine books and over 100 reports and articles on environmental law and policy, human rights, and constitutional law.

Altangerel Choijoo, Director of the Secretariat of the National Human Rights Commission of Mongolia (NHRCM) has served in this role since 2016. In this capacity, he has coordinated the NHRCM’s programmatic linkages with government agencies, civil society organizations, United Nations and other development organizations to ensure the introduction of efficient strategies of cooperation at the national and local levels. He is a member of the country-level Project Board, Environmental Governance Programme (EGP) for Sustainable Natural Resource Management, which supports governments to integrate environment and human rights into the governance of the mining sector.
Angela Kariuki, Programme Officer at the United Nations Environment Programme (UNEP) Headquarters in Nairobi, supports the implementation of UNEP's Environmental Rights Initiative which is a coalition of state and non-state actors united to promote, protect and respect environmental rights. Before joining UNEP in 2016, Angela worked as a Research Associate for one of the Commissioners at the South African Human Rights Commission whose portfolio was on environment, natural resources and rural development. She has a history of engagement with civil society, having worked with community organizations and industry while at school with the aim of resolving environmental issues between key role-players in the South Durban Industrial Basin, South Africa.

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Yuri Ramkissoon, Senior Researcher at the South African Human Rights Commission (SAHRC), heads the Economic and Social Rights (ESR) unit. She started at the SAHRC in 2008 as a Senior Researcher for Environmental Rights before taking over the ESR unit. Yuri holds an MS in Environmental Science, and has a particular interest in the field of human rights, environment and business, specifically the impact of business activities on human health and the environment. She has a history of engagement with civil society, having worked with community organizations and industry while at school with the aim of resolving environmental issues between key role-players in the South Durban Industrial Basin, South Africa.

Stella Wangechi Ngotho, Senior Human Rights Officer at Kenya National Commission on Human Rights, is also the Gender Focal Point and the lead Coordinator for the development of the first National Action Plan on Business and Human Rights in Africa. She is a lawyer with 11 years of diverse experience in programming, management and monitoring of human rights in the context of Economic Social and Cultural Rights, Business and Human Rights, Gender and Access to remedy. Due to increased business activity in Kenya, Stella reviews Environmental Impact Assessment reports from companies as a tool for infusion of human rights standards in business practice. Stella is an alumni of University of Washington where she pursed a Master of Laws in Sustainable International Development.
Marie-Thérèse Kenge Ngomba Tshilombayi, Dean of the University of Kinshasa Faculty of Law, has been a law professor there since 1999. In the NCHR in the DRC, she is the advisor and chief of staff at the NCHR Ministry of Human Rights and the coordinator of the Standing Sub-Committee on Collective Rights, which deals with matters relating to the right to a healthy environment. As the coordinator, she has participated in the investigations of the NCHR on the social responsibility of mining companies in Mbuji-Mayi. Before entering these positions, she represented the DRC on many occasions. In addition, she has published several books on civil law and articles on the rights of women, children, and vulnerable people.

Malak Benseghir, UN relations at the National Commission on Human Rights (NCHR) in Morocco, has been the focal point in many experience-sharing seminars organized by the NCHR. Since 2015, she has been engaged in the drafting documents, such as the report to the UN Committee on the Rights of Persons with Disabilities and the COP22 report on outcomes of NHRRs in monitoring State implementation of the SDGs and the Paris Agreement. She has a Master in Political Science and Governance of Organizations.

Natacha Foucard, Chief of the Sustainable Human Development Section, Special Procedures Branch at UN Human Rights provides support to eight mandates focusing on economic, social and cultural rights, including the mandate of the Special Rapporteur on human rights and the environment. She was the Secretary of the Committee on the Elimination of Discrimination against Women, as well as the Secretary of the Human Rights Treaty Bodies Chairpersons Meeting. She holds a Masters Degree in International Relations from the Graduate Institute of International and Development Studies.

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Fath El Bari El Habti of the National Commission on Human Rights (NCHR) in Morocco is responsible for building partnerships between European and Mediterranean institutions, NGOs, and governments on human rights. Before his work on the steering committee of the UNFCCC COP22, he was an advisor to foreign affairs ministers in the Moroccan Government. He has a keen interest in designing and implementing capacity building and advocacy strategies to raise awareness about human rights challenges. Also, he holds a MBA Organizational Leadership and International Development.
Tatiana Mora Rodríguez, Quality of Live Director and Adviser of the Costa Rican Ombudswoman, has worked on environmental challenges since February 1997. Besides her work at the Costa Rican Ombudsman, she has also worked for the Ministry of Foreign Trade as an International Trade Negotiator on Environmental Issues.

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Jorge Hori, Director of Human Rights and Environment at the Ministry of Environment and Natural Resources in Mexico, is part of the World League of Environmental Lawyers. In the last 28 years, he has worked as a lawyer in the public and private sector. Since 2015, he has been the Director of the Environment at the National Commission on Human Rights in Mexico. Additionally, he coordinated the book, “Human Rights and Environment, published by the Institute of Legal Research at UNAM” and he obtained his Bachelor of Law from the National Autonomous University of Mexico, UNAM.
Nina Eschke, Senior Researcher and Policy Adviser in the Department International Human Rights Policies at the German Institute for Human Rights, currently focuses on the topics of human rights, climate change and the environment. Next to advising both state and non-state institutions of development cooperation, she works as an independent consultant. Nina is a political scientist specialized in development and international policy. Prior to joining the Institute, she worked as a senior specialist for human rights and climate change at UNDP’s Indonesia office as well as for different research institutions and civil society organisations, both in Germany and the United Kingdom.

Rose Kimotho, International human rights lawyer, has over 15 years of experience in business and human rights with sector experience in extractives, agri-business and renewable energy in eastern Africa, national implementation of the United Nations Guiding Principles on Business and Human Rights (UNGPs); monitoring national compliance of international human rights standards, international humanitarian law specifically the protection of refugees and internally displaced persons; and gender matters. Currently a PHD candidate and researcher at the Institute for Business Ethics. Previously worked with national human rights institutions, the United Nations and non-governmental organizations.

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Nora Götzmann, Senior Adviser at the Danish Institute for Human Rights (DIHR), focuses on business and human rights. She is also Adjunct Researcher at the Centre for Social Responsibility in Mining (CSRM) at the University of Queensland, Australia, and co-chair of the Corporate Stewardship and Risk Management Section at the International Association for Impact Assessment (IAIA). She has over 10 years of experience working with multinational companies, national human rights institutions (NHRIs), civil society actors and financial institutions on various business and human rights related topics. Current project and research work focuses on: human rights and impact assessment; NHRIs; access to remedy; gender. Prior to joining the DIHR, Nora worked at the CSRM. Nora holds a BA/LLB (Hons) from the University of Queensland, Australia.