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**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Good practices of States at the national and regional levels with regard to human rights obligations relating to the environment

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

Summary

The Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, David R. Boyd, submits the present report to the Human Rights Council in accordance with Council resolution 37/8. In the present report, the Special Rapporteur summarizes key points from an expert seminar he convened on 20 and 21 June 2019. The seminar was focused on good practices, challenges, barriers and opportunities relating to the recognition and implementation of the right to a healthy environment.

* The present report was submitted after the deadline in order to reflect the most recent developments.



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I. Introduction

1. In its resolution 37/8, the Human Rights Council requested the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment to convene an expert seminar on the experience and best practices of States at the national and regional levels with regard to human rights obligations relating to the environment and to submit to the Council, at its forty-third session, a summary report on the above-mentioned seminar, including any recommendations stemming therefrom, for consideration of further follow-up action.

2. To fulfil that request, the Special Rapporteur, David R. Boyd, with the support of the Office of the United Nations High Commissioner for Human Rights and the United Nations Environment Programme, organized an expert seminar for a day and a half in Geneva on 20 and 21 June 2019 to discuss good practices in the implementation of the right to a safe, clean, healthy and sustainable environment. He also held a public consultation on 21 June in Geneva. The participants included States, academic experts, judges, lawyers, civil society organizations, experts representing international organizations and individuals who expressed an interest in the topic.

3. As mentioned in a number of intergovernmentally agreed-upon resolutions, more than 150 States have explicitly recognized the right to a healthy environment in law through their constitutions, national legislation, and regional agreements (Human Rights Council resolution 37/8 and 40/11 and United Nations Environment Assembly resolution 4/17). This figure includes more than 100 States where the right enjoys constitutional protection, more than 100 States where it is included in environmental legislation and more than 125 States that have ratified regional treaties. Of those 125 States, 52 States are parties to the African Charter on Human and Peoples' Rights, 45 States are parties to the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention), 16 States are parties to the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights (Protocol of San Salvador) and 16 States are parties to the Arab Charter on Human Rights. Furthermore, there is a growing body of jurisprudence involving the right to a healthy environment at both the regional and national levels (A/73/188).

4. Despite extensive developments in the recognition of the right to a healthy environment at the national and regional levels, there is limited understanding about good practices with regard to this right, and about barriers to its recognition, implementation and fulfilment. The expert seminar was convened to broaden and deepen the understanding of the right to a healthy environment so that this fundamental human right can be enjoyed by everyone, everywhere.

5. The seminar was held with the objectives of (a) identifying good practices in the recognition and implementation of the right to a healthy environment, (b) identifying barriers to the recognition, implementation and protection of this right, (c) providing input for the present report, (d) providing additional support for the global recognition of the right to a healthy environment by the United Nations, and (e) providing recommendations to the Human Rights Council, as well as States, civil society organizations and international organizations, as to the way forward in respecting, protecting and fulfilling this right. The programme for the meeting is attached as annex I and the concept note is attached as annex II.

II. Good practices in implementing and protecting the right to a healthy environment in the national and regional contexts

6. This section briefly summarizes the participants' discussions regarding specific examples of good practices in different regions in the promotion and implementation of the right to a healthy environment, including the evidence relating to the effectiveness of the measures identified in these practices. The scope of the phrase "good practice" was given a flexible and broad interpretation; it was not limited to practices that use human rights explicitly but included practices that reduce environmental harms or improve

environmental conditions, therefore having a positive impact on human rights. For example, legally binding and enforceable air quality standards may not include any reference to human rights but can directly contribute to improved air quality, thus reducing negative impacts on a range of human rights (A/HRC/40/55). The discussion was divided into four regional groups. The Special Rapporteur provides a more comprehensive set of good practices in his report to the Human Rights Council for 2020 (A/HRC/43/53).

A. Africa

7. Over 35 States in Africa guarantee the right to a healthy environment through their constitutions,¹ and the African Charter on Human and Peoples' Rights of 1981 provides that "all peoples shall have the right to a general satisfactory environment favourable to their development" (art. 24). This led courts in Kenya and Nigeria to make important rulings based on this right, finding it to be an essential part of the constitutional right to life, even though it was not explicitly articulated as such in the constitution of either Kenya or Nigeria (although the right was included in the new Constitution of Kenya of 2010). For example, the African Commission on Human and Peoples' Rights produced a groundbreaking decision in 2001 in a case in Nigeria involving pollution caused by the oil industry that violated the Ogoni people's right to a healthy environment under the African Charter. Some States in Africa have taken additional steps and created institutions to deal with the environmental matters guaranteed in national laws.

8. Several good practices were reported from States in Africa. In Zimbabwe, environmental education is provided as a mandatory course in schools.² In Uganda, a court refused to dismiss a lawsuit seeking remedies for air pollution by rejecting the Government's argument that the country lacked any enforceable air quality standards. In South Africa, the majority of environmental legislation has been amended to focus on fulfilling the constitutional right to a healthy environment, and there is currently an increasing number of cases based on alleged violations of this right. Section 24 of the Constitution of South Africa enables individuals, environmental organizations and communities to bring lawsuits on the right to a healthy environment. The professionalization of environmental actors in the region has facilitated an increase in environmental litigation. In Morocco, development strategies embrace strong environmental components such as the use of green bonds to finance climate-sensitive development planning and renewable energy projects. The Great Green Wall is an ambitious project that seeks to restore tens of millions of hectares of degraded land in the Sahel region, south of the Sahara Desert. Twenty-one States are involved, from Senegal and the Niger in the west to Ethiopia and Djibouti in the east.³ The restoration of forests and farmland will improve food security, offer decent livelihoods, reduce poverty, enhance access to water and contribute to tackling climate change, with benefits for a wide range of human rights.

B. Asia and the Pacific

9. The right to a healthy environment is guaranteed through the constitutions of at least 15 countries in Asia and the Pacific.⁴ The right is recognized in the Arab Charter on Human Rights of 2004, which includes the right to a healthy environment as part of the right to an adequate standard of living (art. 38). In 2012, members of the Association of Southeast Asian Nations recognized the right through the ASEAN Human Rights Declaration by

¹ David R. Boyd, "Catalyst for change: evaluating forty years of experience in implementing the right to a healthy environment", in *The Human Right to a Healthy Environment*, John H. Knox and Ramin Pejan, eds. (Cambridge, Cambridge University Press, 2018).

² Soul Shava, "Environmental education policy development in Zimbabwe: an educational experience", *Southern African Journal of Environmental Education*, vol. 20 (2003), pp. 129–134.

³ See the Great Green Wall. Available at www.greatgreenwall.org.

⁴ David R. Boyd, "Catalyst for change".

incorporating the “right to a safe, clean and sustainable environment” as an element of the right to an adequate standard of living (para. 28 (f)).

10. Specific measures have been taken in Asia and the Pacific to implement the right to a healthy environment. For example, in the Philippines, the right to a healthy environment is articulated in the Constitution and incorporated in legislation, and the principle of intergenerational equity has been powerfully articulated by the Supreme Court.⁵ India established the National Green Tribunal in 2010 so that specially trained judges could oversee cases involving environmental matters.⁶ Many States in this region are taking steps to address the devastating health and human rights impacts of air pollution. For example, China reduced the levels of particulate matter in 74 cities by 33 per cent in five years, demonstrating the effectiveness of strong laws, policies and actions (A/HRC/40/55, para. 93). Fiji is a global leader in articulating the urgency of the global climate emergency and backs its voice with strong, rights-based domestic climate action (A/HRC/43/53/Add.1).

C. Europe and other regions⁷

11. The Aarhus Convention of 1998⁸ and constitutions and national legislation in these regions legally recognize the right to a healthy environment. The majority of States in both Eastern and Western Europe recognize this right.⁹ Although the Convention for the Protection of Human Rights and Fundamental Freedoms (the European Convention on Human Rights) does not include an explicit reference to the environment, the jurisprudence of the European Court of Human Rights has repeatedly referred to the right to a healthy environment.¹⁰

12. There are many good practices worth highlighting in these regions. For example, the United Kingdom of Great Britain and Northern Ireland has legislated binding targets to reduce greenhouse gas emissions via the Climate Change Act of 2008 (chap. 27). Since incorporating the right to a healthy environment into its constitutional Charter for the Environment in 2005, France has strengthened key environmental laws and policies on such issues as the use of pesticides, fossil fuel exploration and pollution taxes. In terms of establishing areas to protect biodiversity, Slovenia is a regional and global leader (A/HRC/43/53, paras. 107–108). Ukraine has good environmental impact assessment legislation that implements the right to participation. All environmental impact assessments are registered online and the information is made public.¹¹ Norway excels in providing access to environmental information and opportunities to participate in environmental planning and decision-making (A/HRC/43/53/Add.2). In Canada and the United States of America, the right to a healthy environment is not recognized at the federal level but is found in several provincial and territorial laws (for example, those of Ontario, Quebec and the Northwest Territories¹²) and State constitutions (for example, those of Montana and Pennsylvania).

⁵ Supreme Court of the Philippines, *Minors Oposa v. Secretary of the Department of Environment and Natural Resources* (“DENR”), decision, 30 July 1993.

⁶ The National Green Tribunal is mandated to strive to determine applications or appeals within six months of the filing of the same. Available at <http://greentribunal.gov.in/history.aspx>.

⁷ This includes Western European and other States and Eastern European States.

⁸ The Convention refers to “the right of every person of present and future generations to live in an environment adequate to his or her health and well-being” (art. 1). The Convention is open for ratification by any State; it is not limited to States in Europe.

⁹ David R. Boyd, “Catalyst for change”.

¹⁰ See, for example, European Court of Human Rights, *Tatar v. Romania* (application No. 67021/01), judgment, 27 January 2009, paras. 107 and 112.

¹¹ United Nations Development Programme, “Environmental impact assessment in Ukraine: preparatory support to the launch of the national registry”. Available at www.ua.undp.org/content/ukraine/en/home/projects/environmental-impact-assessment.html.

¹² See Ontario Environmental Bill of Rights of 1993, Quebec Charter of Human Rights and Freedoms, Quebec Environment Quality Act and Northwest Territories Environmental Rights Act.

D. Latin America and the Caribbean

13. Latin America and the Caribbean is a leading region in terms of recognizing the right to a healthy environment. Over 30 countries have incorporated this right into their constitutions, from Cuba and Jamaica to Argentina and Costa Rica.¹³ The Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean (Escazú Agreement) requires that “each Party shall guarantee the right of every person to live in a healthy environment” (art. 4).¹⁴ The Inter-American Court of Human Rights issued an advisory opinion stating that the right to a healthy environment is a fundamental right for the existence of humankind.¹⁵

14. Costa Rica announced a plan to achieve zero greenhouse gas emissions by 2050. It already obtains more than 98 per cent of its electricity from renewable sources, and it prohibits exploration for oil and gas.¹⁶ In a lawsuit brought by a group of young people aged between 7 and 25 years, the Supreme Court of Colombia ruled that deforestation in the Amazon violated the right to a healthy environment.¹⁷ In Ecuador and Peru, there are commitments aimed at providing increased protection for environmental human rights defenders.¹⁸ In Jamaica, there are many cases addressing the right to a healthy environment. For example, one public defender, also a preacher and a government official, brought forward an air pollution case based in part on an alleged violation of the right to a healthy environment. In Argentina, the right to a healthy environment is recognized as a collective right but allows private action and has been the subject of vital Supreme Court decisions.¹⁹

III. Barriers to the implementation, protection and fulfilment of the right to a healthy environment in the national and regional contexts

15. During the seminar, following the discussion identifying good practices, participants addressed the barriers and challenges experienced by Governments, businesses, civil society organizations and individuals in the implementation, protection and fulfilment of the right to a healthy environment. Root causes for these barriers were identified and analysed.

16. Among some communities, there continues to be a lack of understanding about the complex interlinkages between human rights and the environment. There is a pressing need to continue to raise awareness about these connections. For example, one participant explained the difficulties she had experienced when she had organized a meeting on eliminating lead from paint. It was not easy for people at the meeting to understand how the use of lead in paint (which causes increased risks of lead exposure for children, who are acutely vulnerable to the potentially devastating impacts of lead on neurological development) is related to potential violations of human rights. The difficult legal language used in human rights combined with the technical terminology of science can be highly challenging for people with limited education, or without backgrounds in either of these subjects. It is essential to provide ecological education to children and youth of all ages, from preschool through to college and university. People from all walks of life in all

¹³ David R. Boyd, “Catalyst for change”.

¹⁴ The Agreement has not yet entered into force as it has not acquired the minimum number of 11 ratifications.

¹⁵ Advisory Opinion OC-23/17, 15 November 2017.

¹⁶ Costa Rica, *Decarbonization Plan: Commitment of the Bicentennial Government 2018–2050*.

¹⁷ See www.dejusticia.org/en/en-fallo-historico-corte-suprema-concede-tutela-de-cambio-climatico-y-generaciones-futuras/.

¹⁸ Inter-American Commission on Human Rights, *Towards Effective Integral Protection Policies for Human Rights Defenders* (2017). Available at www.oas.org/en/iachr/reports/pdfs/Defensores-eng-2017.pdf.

¹⁹ Supreme Court of Argentina, *Beatriz Silvia Mendoza and Others v. National Government and Others*, decision, 8 July 2008.

regions also require greater knowledge and understanding of their fundamental human rights and the tools available to defend those rights.

A. Africa

17. Some participants cautioned that, when dealing with a huge and diverse continent such as Africa, one must be cautious in making generalizations, for there are bound to be exceptions, distinctions and nuances lost in the process. Africa faces massive environmental challenges, including deforestation, desertification, loss of biodiversity, air and water pollution, a lack of access to clean water and adequate sanitation, and improper waste disposal. In many cases, Africa bears the burden of environmental damage inflicted by foreign corporations and Governments that exploit natural resources for export to other regions. Exacerbating these problems are poverty, armed conflicts, a growing population, stagnant economies, migration, corruption, political instability and foreign debt.

18. Participants discussed issues relating to the enactment and amendment of laws and their implementation. There has been a rapid proliferation of environmental laws, regulations and policies in Africa since the early 1990s. While the development of framework laws and other environmental policies is a step in the right direction, there continues to be a huge implementation gap between the aspirations expressed on paper and the actions that take place on the ground. The enforcement of environmental laws, including the right to a healthy environment, is limited in many States in Africa.

19. Some of the problems hindering the enforcement of environmental laws in the region are government institutions that lack the financial and human resources to monitor and control industrial and development activities; government officials entrusted with enforcing laws or protecting rights under those laws who often have more to gain by condoning violations or engaging in violations themselves; court systems that are backlogged, bankrupt or otherwise not functioning; and the imperatives of daily life for the poor, which may overwhelm any likely risks associated with violating the law.

20. In some States in Africa, there seems to be some tension between customary law and statutory law. The different legal systems are not always compatible and may even contradict each other. In seeking legal remedies, the high cost for litigation imposes a barrier for persons and communities whose rights have been jeopardized or violated. In some States, the judiciary's lack of awareness or expertise regarding environmental law makes environmental litigation difficult. States in Africa have made little progress in establishing simplified and expedited procedures to enforce constitutionally protected rights. As a result, challenges in fulfilling the right to a healthy environment are common in Africa.

21. Effective legal and political institutions are prerequisites for enforcing the rule of law, but they are lacking in many States in Africa. In some countries, military Governments or one-party Governments ignore judicial decisions. Many judicial systems suffer from inadequate budgets, a shortage of trained professionals and extensive political interference. Other problems that constrain efforts to protect the environment include jurisdictional battles between levels of government and ministries within government; institutional instability, caused by a shuffling of ministers and responsibilities; a lack of institutional capabilities and resources (such as financial, human and technological); and a lack of public concern or understanding.

22. There is also the matter of regulating foreign investors and their activities. Many Governments in Africa rely on foreign investment for development projects. These projects often have significant environmental impacts but are not adequately scrutinized or sufficiently regulated, often resulting in interference with people's right to a healthy environment. In addition, participants pointed out that the region in general lacked capacity, both within government agencies tasked with protecting the environment and also with regard to the shortage of independent experts or scientists. Illiteracy prevents people from accessing information and participating in decision-making processes. Civic space for environmental and human rights activists to exercise their rights or work on environmental protection is shrinking in some parts of Africa.

B. Asia and the Pacific

23. There is a wide variety of legal cultures in Asia and the Pacific, as well as major differences in history, political institutions and economic development, all of which militate against making broad generalizations. The so-called Asian tigers – Malaysia, the Republic of Korea and Thailand – have experienced rapid industrialization in recent decades, with adverse environmental consequences. Azerbaijan, Kyrgyzstan, Turkmenistan and other States have undergone turbulent changes associated with the transition from communism to capitalism, and from an authoritarian Government to democracy. Timor-Leste is newly independent, while Maldives is newly democratic. Turkey is in the process of joining the European Union. The Islamic Republic of Iran and Iraq face daunting political, social and economic challenges.

24. Despite these differences, there are some features common to many States in Asia and the Pacific. Prevalent environmental problems include rapid urbanization, acute industrial pollution and the overexploitation of natural resources. The prioritization of economic growth is a systemic problem that undermines the implementation and enforcement of environmental laws. Repeated economic crises have resulted in cuts to environmental budgets and increased the reluctance of Governments to enact and enforce strong environmental laws and policies.

25. Despite constitutional recognition of the right to a healthy environment, environmental laws in some States are weak, plagued by poor drafting, vague language, undefined terms, gaps and inconsistencies. Inadequate implementation and enforcement are the Achilles heel of environmental law in much of Asia and the Pacific. Another major problem in the region is the failure to coordinate laws, policies and enforcement between national and subnational levels of government. Participants identified other problems that undermine environmental protection and human rights, including:

- (a) Diffuse and sectoral, rather than coordinated and comprehensive, legislation;
- (b) Lack of systematic planning or policy coordination;
- (c) Lack of detailed regulations;
- (d) Gaps in terms of more recent challenges, such as greenhouse gas emissions;
- (e) Lenient standards;
- (f) Inadequate use of economic instruments;
- (g) Lack of political will;
- (h) Lack of capacity for implementation and enforcement;
- (i) Lack of training for judges, prosecutors and enforcement officials.

26. Judicial systems in Asia and the Pacific also pose problems in terms of enforcing the constitutional right to a healthy environment. While some judiciaries are relatively powerful, others are weak. Judges are often criticized for their deferential attitude towards legislative and executive branches of government and their lack of environmental awareness and knowledge. In general, there is a pressing need for additional capacity, training and institutional development. There are signs of improvement, including extensive environmental education programmes for judges in countries ranging from Indonesia to the Philippines. The Supreme Court of India, with its progressive jurisprudence interpreting the right to life as incorporating the right to a healthy environment, has influenced courts throughout Asia and the Pacific. International environmental law relating to the right to a healthy environment is a major influence in some States, including India, Pakistan and the Philippines.

27. Participants stressed the fact that there was a trend towards shrinking civic space. Unfortunately, intimidation and harassment against environmental human rights defenders is increasing in some parts of the region. The role of environmental defenders is critical in the realization of the right to a healthy environment. Concerns were expressed regarding vulnerable populations, including indigenous peoples and those living in coastal and remote

areas. In particular, indigenous peoples suffer from the disproportionate effects of environmental degradation, but they are often left out of the decision-making processes of Governments.

C. Europe and other regions

28. Across Europe, European Union membership has accelerated the modernization and convergence of environmental laws and policies to some extent, but national factors – culture, history, institutions and policies – continue to be important in shaping environmental law. The clarity and strength of constitutional provisions relating to environmental protection can have a significant effect on their legal influence. Weak or ambiguous expressions of the right to a healthy environment (as in Belgium, the Netherlands and Spain) have constrained the impact of the right.

29. Participants discussed the lack of political will in the implementation of the right to a healthy environment as a major barrier despite the widespread legal recognition of the right in the region. They also pointed out that there had been some positive developments. For example, the Human Rights Committee had expressed concerns over the impacts on human rights of gas extraction operations in Groningen, the Netherlands, and recommended that the State take measures to address that problem. Overall, the application of human rights in environmental matters is still a challenge. This is often caused by a lack of awareness among government officials or judges regarding the relationship between environmental laws and human rights laws. In some parts of the region, there are tensions between political leaders and the judiciary, when political authorities assert that courts are exceeding their appropriate role by issuing strong judgments on human rights, including the right to a healthy environment.

30. The rule of law is firmly entrenched in Western Europe. There is a consistently high degree of transparency regarding the law; the judicial branch of government is well established and independent, and Governments generally respect the law. Furthermore, these States generally enjoy a high standard of living.

31. Access to information is widely available and there is generally ample opportunity for public participation in environmental decision-making. Access to justice, however, is less consistent. States in Western Europe employ different rules on standing, costs, evidence and types of proceedings. The leading nations are systematically eliminating the barriers that limit access to justice. One area where there is a high degree of variability among States in Western Europe involves the extent of judicial activism, as courts range from relatively conservative to moderately activist.

32. Among the overarching problems facing Eastern Europe are poverty, the weakness of the State, low levels of democracy and institutional instability. In some States, corruption, concentrated wealth and power, and bureaucratic arbitrariness are deeply rooted in political culture. The rule of law in some States is fragile, with Governments having trouble policing industrial and commercial interests. Where these problems are less severe, human rights – including the right to a healthy environment – are more likely to gain traction. The full enjoyment of constitutional rights, including the right to a healthy environment, will not become a reality without the further strengthening of the rule of law in the region.

33. In many States in Eastern Europe, weak enforcement continues to be a key concern. According to the Organization for Economic Cooperation and Development, environmental agencies in this region suffer from weak authority, scarce resources, outdated management approaches, a high turnover of professionals, frequent restructuring and a lack of incentives.²⁰ Other problems include a lack of leadership, limited access to key information, poor sequencing of reforms, limited public participation and reform fatigue.

²⁰ Organization for Economic Cooperation and Development, *Policies for a Better Environment: Progress in Eastern Europe, Caucasus and Central Asia* (2007).

34. On the positive side, the budgets of most environment ministries in Eastern Europe have increased, national environmental standards and targets have been set, access to information and levels of public participation in decision-making are improving, judiciaries are becoming more independent and environmentally aware, and training programmes are in place for civil servants, enforcement officials and judges. In recent decades, significant advances have been made in terms of access to information, public participation in environmental decision-making and access to justice. Constitutional provisions guaranteeing the right to a healthy environment and related procedural rights appear to be one of the driving forces behind this progress.

35. Participants highlighted the growing problem of intimidation against environmental human rights defenders. The efforts of civil society to realize the right to a healthy environment are often discouraged by legal and financial means. Strategic litigation against public participation suits are used by authorities and businesses to limit the legitimate exercise of the rights to freedom of expression and public participation, rights that are absolutely essential to securing and fulfilling the right to a healthy environment.²¹ Academics have been sued for what they have said in academic conferences or published in articles. Environmental human rights defenders have been stigmatized by being labelled as “eco-terrorists”.²²

D. Latin America and the Caribbean

36. Latin America is a global leader in recognizing the constitutional right to a healthy environment, while countries in the Caribbean are increasingly recognizing this right. The following are some of the key factors of the leadership of States and other actors in Latin America:

(a) Constitutional reform, including the recognition of the right to a healthy environment, stronger provisions for judicial review, increased scope of judicial powers and the creation of institutions such as the public prosecution service and the office of the ombudsman with mandates to protect collective interests;

(b) Shifting legal culture, with greater emphasis on public law, precedents and public interest litigation;

(c) Strong civil society movements, including those initiated by environmental non-governmental organizations, some of which specialize in human rights and/or environmental law;

(d) Increased legal mobilization as non-governmental organizations and networks of activist lawyers are advancing rights cases;

(e) Improved access to justice often achieved through procedural innovations;

(f) Influence of international norms, networks and institutions.

37. Participants stressed the difficulties in balancing economic growth and development as a barrier to realizing the right to a healthy environment in Latin America and the Caribbean, a barrier that is common to all regions. Governments everywhere frequently prioritize short-term development goals at the risk of infringing human rights and degrading the environment.

38. Parts of the region are weak in terms of implementing procedural environmental rights. There is limited access to information and participation in decision-making, especially for indigenous peoples and others who are economically and socially marginalized. This highlights the importance of the Escazú Agreement in improving

²¹ Center for International Environmental Law, “A win for advocacy: court dismisses SLAPP suit against environmental activists”, 24 January 2019. Available at www.ciel.org/court-dismisses-slapp-environmental-activists/.

²² “The term eco-terrorist is being used to harass activists”. Available at www.protecttheprotest.org/2019/01/03/the-term-eco-terrorist-is-being-used-to-harass-activists/.

environmental democracy in Latin America and the Caribbean. On a positive note, judicial systems in Latin America have pioneered the use of simplified and expedited legal procedures that have dramatically increased access to justice. These processes have provided citizens and non-governmental organizations with unprecedented opportunities to employ the judicial system in pursuit of their right to a healthy environment.

39. Participants observed that environmental laws in Latin America and the Caribbean are often strong on paper but weak in reality. The main reasons for this are a lack of enforcement resources and a reluctance to enforce laws when doing so could adversely affect economic interests. In some States, the challenge of adequate enforcement is exacerbated by ineffective, complicated and incomplete laws; officials who lack skills, training and resources; and the need for extensive technical and scientific expertise. The implementation and enforcement of environmental laws in the region have also been constrained by high inflation, regional financial crises, and international agendas relating to deregulation and privatization. Some countries in Latin America and the Caribbean face ongoing political turmoil, extensive poverty and dependence on a small number of export commodities, mainly agricultural products, minerals and energy resources. Latin America is a major supplier of natural resources to the global economy, at a significant cost to the regional environment. Another problem is that some States in the region are plagued by “ultra-presidentialism”, in which the president has extraordinary powers that undermine both the operation of and respect for the rule of law.

IV. Cross-pollinating ideas: international, regional and national influences

40. Participants discussed ways of creating synergies in the promotion and implementation of the right to a safe, clean, healthy and sustainable environment at all levels, building upon the previous discussions about good practices and barriers. Four processes were identified as contributing to the globalization of the right to a healthy environment, namely transplantation, harmonization, integration and convergence. Transplantation occurs when one State intentionally copies or adapts significant portions of laws, regulations or policies from another State. It is clear that this has occurred in the context of the right to a healthy environment, given that similar language is used around the world to articulate this right.

41. For example, the phrase “right to a healthy and ecologically balanced environment” was first used in the Constitution of Portugal in 1976 and is now found in at least 20 other constitutions. National courts frequently cite decisions from other national courts. The decisions of the Supreme Court of India on the right to a healthy environment have influenced courts in Bangladesh, Kenya, Pakistan, Sri Lanka and Uganda. The Internet facilitates transplantation by making constitutions, legislation and case law increasingly accessible. Courts are often interested in decisions from other States, especially involving cases about human rights because of their universal nature.

42. Harmonization refers to the process of adjusting and conforming national standards to meet the requirements of an international system. Integration is the process of linking national legal systems. Both harmonization and integration are occurring most prominently in the European Union, where new members must upgrade environmental laws and all members must comply with European Union-wide environmental directives. Harmonization will also occur in Latin America and the Caribbean when the Escazú Agreement comes into force. Convergence describes how distinct legal systems, like biological species, can evolve to become more similar, not as a result of deliberate acts of copying but rather as a response to similar external pressures, especially environmental pressures.

43. Participants noted that the Escazú Agreement was influenced by the Aarhus Convention, yet it had evolved to fit its specific regional context with the groundbreaking addition of provisions to enhance protection for environmental human rights defenders. Participants asked how these regional agreements could be extended to, or emulated in, other regions, and how States with constitutional environmental rights could encourage

other States in their regions to establish similar provisions. This is particularly important with respect to small island States, whose dependence on healthy ecosystems is especially important, yet these States make up the majority of States that do not yet legally recognize the right to a healthy environment. Participants also asked how strong precedents in cases based on the right to a healthy environment could be shared internationally.

44. Participants discussed several proposals that would enhance cross-pollination. First, they suggested that sharing information in an effective and efficient manner was critical for creating synergies across States and regions, confirming the previous discussion on the lack of access to information as a significant barrier. The right to a healthy environment has rapidly become recognized around the world; however, information regarding its content and implementation is not well understood in some States. For example, a global portal that has information on relevant laws, regulations, policies, resolutions, court decisions and good practices from different countries and regions could provide an excellent source of information for government officials, judges, lawyers, non-governmental organizations, academics and anyone interested in the topic. A portal could also serve as a platform for building partnerships and networks of actors working on the issue at different levels.

45. The Aarhus Convention secretariat introduced a portal on access to justice, through which it provides information on court decisions as well as practical challenges and barriers facing all stakeholders. The Aarhus Clearinghouse for Environmental Democracy is a regional example of a good practice in making relevant information on various aspects of environmental democracy available to the public.²³

46. Environmental education, judicial workshops and human rights training for different actors (judiciaries, authorities, academics and civil society) between generations and regions could also create synergies for the implementation and protection of the right to a healthy environment.

47. National human rights institutions are at the forefront of protecting and promoting human rights but in some regions they have not yet turned their focus to the human rights and environment nexus. These institutions engage actors who are knowledgeable and who have the existing authority and networks capable of promoting, implementing and defending the right to a healthy environment. Some of these institutions, particularly in Latin America and Asia, are already working extensively on the protection of human rights from environmental harm and they could share good practices with national institutions in other regions. These institutions would benefit from additional resources.

48. The United Nations Development Programme has numerous environment-related projects under way in many States. These projects can make vital contributions to ensuring that the right to a healthy environment is being properly operationalized and they can help to monitor the implementation of recommendations from human rights mechanisms relating to the environment at the country level. The Environmental Governance Programme, led by the United Nations Development Programme and the Swedish Environmental Protection Agency, was mentioned as a good example of a mechanism integrating human rights in the mining sector.²⁴

49. The United Nations Environment Programme was also praised for its recent Environmental Rights Initiative, which is helping to develop a broader understanding of the relationship between environmental protection and human rights. The Initiative also offers assistance for environmental human rights defenders and has conducted successful judicial education workshops.²⁵

50. Participants discussed the relevance of the Sustainable Development Goals and in particular Goal 16 in linking the international commitment to sustainable development with national-level implementation of the right to a healthy environment. The environmental aspects of Goal 16 have not been fully explored and there is a need to conduct this analysis.

²³ See <https://aarhusclearinghouse.unece.org/>.

²⁴ See www.environmentalgovernanceprogramme.org/about-the-programme.

²⁵ See www.unenvironment.org/explore-topics/environmental-rights-and-governance/what-we-do/advancing-environmental-rights/what-1.

In particular, developing indicators relating directly to human rights and the environment would ensure that the capacity exists to measure the progress States are making in meeting the Goals that have both environmental and human rights dimensions.

V. Opportunities, needs and common themes

51. Participants identified opportunities that should be explored to further recognize, promote, implement and fulfil the right to a healthy environment. They made concrete recommendations relating to the roles of the United Nations, States, international organizations, the Special Rapporteur and civil society organizations regarding the implementation of the right to live in a healthy environment for everyone, everywhere.

52. Participants stressed the fact that the right should not be found only on paper in constitutions, legislation and treaties, but it must also be operationalized, and that this was urgent in light of the global environmental emergency. It is important to make the right enforceable and judiciable. It is important to emphasize better implementation of international human rights law obligations in all environmental contexts, as articulated in the framework principles on human rights and the environment developed by the previous Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment (A/HRC/37/59, annex).

53. As elaborated by the European Court of Human Rights in a case involving noise pollution in Spain, the right to a healthy environment has to be effective and not merely illustrative.²⁶ Environmental litigation should continue as a means to achieve environmental justice. There have been many successful lawsuits, including the Urgenda climate case in the Netherlands,²⁷ the Port Lamu cases in Kenya, involving a proposed coal mine and a massive port development,²⁸ major pollution cases in the Philippines²⁹ and Argentina³⁰, and the Dejusticia case regarding deforestation in Colombia.

54. A number of participants encouraged the Special Rapporteur to consider participating in globally important cases as an *amicus curiae*, or a friend of the court. This is a tactic that has been used successfully by other special procedure mandate holders. In 2018, the Special Rapporteur filed an expert statement in a climate change lawsuit brought by Friends of the Irish Environment. In 2019, he applied to file an amicus brief in an important lawsuit in South Africa, asserting that egregious levels of air pollution violate the constitutional right to a safe, clean, healthy and sustainable environment.

55. Participants urged all actors to make better use of United Nations treaty bodies, regional courts and regional human rights commissions in order to apply international laws and norms to the national implementation of the right to a healthy environment. Most countries around the world are under the jurisdiction of regional human rights courts and commissions. Regional courts and commissions have made landmark decisions relating to a healthy environment, thoughtfully harmonizing human rights and the environment while striving to avoid conflicts with other societal priorities.

²⁶ See European Court of Human Rights, *Moreno Gómez v. Spain* (application No. 4143/02), judgment, 16 February 2005.

²⁷ See Supreme Court of the Netherlands, *State of the Netherlands (Ministry of Economic Affairs and Climate v. Urgenda Foundation)* (No. 19/00135), judgment, 20 December 2019.

²⁸ See High Court of Kenya, *Baadi and Others v. Attorney General and Others*, judgment, 2012. Available at https://elaw.org/system/files/attachments/publicresource/ke_LAPSSSET_Final_Judgment_No22of2012.pdf. See also National Environmental Tribunal, *Save Lamu et al. v. National Environmental Management Authority et al.* (appeal No. 196 of 2016), judgment, 26 June 2019.

²⁹ See Supreme Court of the Philippines, *Metropolitan Manila Development Authority et al. v. Concerned Residents of Manila Bay et al.*, decision, 18 December 2008. Available at www.elaw.org/content/philippines-metropolitan-manila-development-authority-et-al-v-concerned-residents-manila-bay-.

³⁰ See Supreme Court of Argentina, *Beatriz Silvia Mendoza and Others v. National Government and Others*, decision, 8 July 2008, regarding damages suffered (injuries resulting from the environmental contamination of the Matanza-Riachuelo River). Available at www.escri-net.org/sites/default/files/Sentencia_CSJN_2008_english.pdf.

56. Environmental indicators provide an opportunity for the effective implementation of the right to a healthy environment by establishing concrete and measurable outcomes for environmental performance. The lack of consistent, comprehensive, accessible and disaggregated data on environmental indicators is problematic. There are good practices that could be emulated and supported, such as the Joint Monitoring Programme for Water Supply, Sanitation and Hygiene, operated by the World Health Organization and the United Nations Children's Fund.³¹ The Sustainable Development Goal implementation process in particular is highly dependent on reliable data to measure meaningful progress towards the Goals. Participants noted that the efforts required to achieve many of the Goals aligned closely with the actions needed to fulfil the right to a healthy environment, specifically referring to the Goals relating to poverty, hunger, education, gender equality, clean water and adequate sanitation, affordable and clean energy, infrastructure, reduced inequalities, sustainable cities and communities, responsible consumption and production, climate action, life below water, life on land, and peace, justice and strong institutions.

57. Strengthened efforts for the protection of environmental human rights defenders were mentioned by many participants as a high priority. Defenders are on the ground in countless communities around the world attempting to protect human rights from environmental harms. Their own rights – freedoms of expression and association, as well as life, liberty and security of the person – are all too often jeopardized and violated. Although defenders have been the subject of global concern for at least two decades, dating back to United Nations resolution 53/144 from 1998 on this subject, the situation appears to be worsening.³² Defenders are still being harassed, threatened, criminalized and murdered in many countries. There are some positive policy and legal developments at the national, regional and international levels, including new laws in Côte d'Ivoire, Honduras, Mali and Peru, the Escazú Agreement and the strong new Human Rights Council resolution 40/11 on environmental human rights defenders. However, the reality on the ground is still of great concern.

58. There is a need to promote the voices of children and youth in environmental matters, as they are particularly vulnerable and their rights are being violated and threatened. It is encouraging, and even inspiring, to witness the incredible blossoming of youth climate activism (such as Fridays for Future and the Youth Climate Summit). Recently, a group of 16 children from around the world filed a petition with the Committee on the Rights of the Child, arguing that climate change is violating a number of their rights.³³ The right to a healthy and sustainable environment is of paramount importance to children and youth because they will be living when many of the impacts of climate change, biodiversity loss, water shortages and other environmental challenges are expected to be worse than they are today.

59. Participants discussed the important role of researchers. In addition to strong science, there is a need to ensure that reliable research is communicated to decision-makers and the general public in a timely and accessible way. The summaries for policymakers produced by both the Intergovernmental Panel on Climate Change and the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services are good examples of scientific reports that can be widely understood.³⁴

60. There is a need to increase the capacity of civil servants to perform their functions in ways that respect, protect and fulfil the right to a healthy environment. Far too many policies, programmes and administrative decisions fail to address this right adequately or to

³¹ See United Nations Children's Fund and World Health Organization, *Progress on Household Drinking Water, Sanitation and Hygiene 2000–2017: Special Focus on Inequalities* (2019).

³² Global Witness, *Enemies of the State? How Governments and Businesses Silence Land and Environmental Defenders* (2019). Available at www.globalwitness.org/en/campaigns/environmental-activists/enemies-state/.

³³ "16 children, including Greta Thunberg, file landmark complaint to the United Nations Committee on the Right of the Child: child petitioners protest lack of government action on climate crisis", 23 September 2019. Available at www.unicef.org/press-releases/16-children-including-greta-thunberg-file-landmark-complaint-united-nations.

³⁴ See www.ipcc.ch/site/assets/uploads/sites/4/2019/12/02_Summary-for-Policymakers_SPM.pdf.

achieve an appropriate balance between environmental protection and development. For example, current knowledge makes it clear that burning existing fossil fuel reserves will exhaust the carbon budget available to stay within the Paris Agreement commitments of holding global warming to 1.5–2.0 degrees Celsius. Therefore, in order to avoid catastrophic climate change and the associated human rights impacts, wealthy States should not be permitting any further exploration for additional reserves of coal, oil or gas (A/73/188). Often there is an excessive focus on the role of the judiciary in addressing violations of the right to a healthy environment, but participants agreed that it was preferable to be proactive and to prevent violations from happening in the first place. Civil servants who assess mining, forestry and other land use permits, approve development applications, conduct environmental assessments, and monitor compliance with environmental laws, regulations, standards and licences are important actors and need training on the implications and implementation of the right to a healthy environment. The same applies to civil servants working in the water, sanitation, agriculture, chemical, transport and building sectors.

61. The role of business must be taken into account in order to make the human right to a healthy environment effective. While States shoulder the responsibility for regulating business activities that could have adverse impacts on human rights, businesses themselves also have responsibilities regarding human rights. Although the Guiding Principles on Business and Human Rights and the framework principles on human rights and the environment are a good start, business responsibilities should be elaborated in greater detail. This is particularly important when it relates to the overseas activities of transnational corporations. Another key priority is the development of effective monitoring and remedy mechanisms for human rights abuses caused by corporate activities. There is also a need to raise awareness among investors regarding the human rights impacts of their activities. Banks should be involved more proactively in undertaking due diligence with a good set of safeguards for the protection of human rights and the environment. A good example is the recent decision by the European Investment Bank to terminate future financing for fossil fuel projects.³⁵ There are good practices coming from some businesses, and they should be made widely available and better communicated to other businesses for replication.

62. Participants identified the need to transform society's myopic focus on gross domestic product and economic growth. Positive examples discussed included the rejection of the primacy of gross domestic product by Bhutan and its replacement with the principle of gross national happiness, the development in New Zealand of a national well-being budget and the enactment of a law in Wales called the Well-being of Future Generations Act. These examples point the way towards different societal priorities, emphasizing human well-being rather than corporate profits, and indicating the need to move from a linear to a circular economy.³⁶

VI. The right to a healthy environment at the global level

63. Participants discussed the importance of recognizing the right to a healthy environment at the global level and the ways of getting there. In light of the global environmental crisis, there was consensus that the time for the global recognition of the right to a healthy environment had arrived. Discussions identified multiple options, including a new global treaty on environmental rights, a third international covenant or an amendment to an existing international covenant, a protocol to one of the existing international covenants or a United Nations resolution. Participants focused the

³⁵ Trent Murray with Reuters, "European Investment Bank will stop funding fossil fuel projects by end of 2021", Euronews, 15 November 2019. Available at www.euronews.com/2019/11/14/phasing-out-fossil-fuel-europe-to-discuss-ending-investments-in-coal-oil-and-gas.

³⁶ "The Government of Bhutan recognizes the importance of forests vis à vis the well-being of its people and for a long time has made the conservation of forests and the natural environment top priority in the national development policy. The generation of direct economic revenue from commercial forest harvesting is given low priority." Available at www.fao.org/3/AC805E/ac805e08.htm.

conversation on the option of recognizing the right to a healthy environment through a United Nations resolution because it appeared to be the most timely, pragmatic and effective way to move forward. Global recognition by the United Nations would serve as a catalyst for the 37 States that do not yet legally recognize this right and would also accelerate action to implement the right in all States. Some participants highlighted the recognition of the right as a way to overcome today's compartmentalized approach to environmental and human rights issues by shifting to a systematic and holistic approach.

64. The Human Rights Council has come a long way since 2012 on the issue of human rights relating to a safe, clean, healthy and sustainable environment. Six years of work by the previous Special Rapporteur, culminating in the landmark framework principles on human rights and the environment, provide a clear and strong foundation. A series of Council resolutions have recognized the interlinkages between human rights and the environment with increasing clarity and precision. All resolutions on human rights and the environment since 2011 have been adopted by consensus (see Council resolutions 19/10, 25/21, 28/11, 31/8, 34/20 and 37/8).

65. Some participants expressed concerns about the potential failure to gain consensus on a resolution to recognize the right to a healthy environment from the Human Rights Council or from the General Assembly. The ideal outcome would certainly be a consensus resolution, as this would foster effective implementation. Participants generally agreed that consensus was optimal but not necessary, pointing to resolutions on the recognition of the rights to water and sanitation as a relatively recent example. When one such resolution came to a vote in the General Assembly in 2010, 122 States voted in favour, none voted against, and 41 States abstained (resolution 64/292). Several months later, the Human Rights Council passed a resolution on the same topic without a vote (resolution 15/9), and future resolutions on the rights to water and sanitation at the General Assembly were adopted by consensus (such as resolution 68/157).

66. Some participants noted that the adoption by consensus in 2019 of Human Rights Council resolution 40/11 on environmental human rights defenders, one of the most politically sensitive issues relating to the environment, was an encouraging sign. The right to a healthy environment does not appear to be a controversial right in the same way as other rights have been. As noted earlier, more than 150 States have explicitly recognized the right to a healthy environment in law through their constitutions, national legislation and regional agreements. This figure includes more than 100 States where the right enjoys constitutional protection, more than 100 States where it is included in environmental legislation and more than 125 States that have ratified regional treaties. Participants observed that it would be difficult for States to justify their opposition to recognizing the right to a healthy environment in a United Nations resolution when they were already legally bound to respect, protect and fulfil the right at the national level through commitments entrenched in constitutions, legislation and/or regional treaties.

67. Some participants acknowledged that the recognition of the human right to a healthy environment had implications for States' obligations. These obligations were clearly articulated in the framework principles on human rights and the environment developed by the previous Special Rapporteur. The non-binding nature of United Nations resolutions and the principle of progressive realization were also a topic of extensive discussion.

68. Another topic of discussion was the ongoing process relating to the proposed Global Pact for the Environment, an initiative to create a globally binding treaty that articulates a broad range of fundamental principles of environmental law, including the right to a healthy environment. Participants generally felt that the Global Pact was an ambitious long-term initiative, in light of the time it has taken to complete negotiations on other multilateral environmental conventions. A United Nations resolution on the right to a healthy environment was viewed as not only consistent with the Global Pact but also supportive of it.

69. The role of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment in contributing to the recognition of the right to a healthy environment was discussed. Participants encouraged the current Special Rapporteur to continue to build on the work of the first Special

Rapporteur in identifying good practices that demonstrate the tangible benefits of recognizing the right, particularly for vulnerable and marginalized populations. Finally, participants encouraged the Special Rapporteur to continue his focus on deepening the understanding of the procedural and substantive elements of the right to a healthy environment through his thematic reports to the Human Rights Council and the General Assembly, as he has done for clean air (A/HRC/40/55) and a safe climate (A/74/161).

VII. Conclusions and recommendations

70. **The Special Rapporteur expresses his deep appreciation to everyone who contributed to the present report, including participants in both the expert meeting and the public consultation.**

71. **Participants in the expert seminar were in agreement on three key points. First, the human species is facing the most serious environmental challenges in human history, encompassing not only the global climate emergency but also the pervasive toxic pollution of air, water and soil that kills millions of people annually and the rapid decline of the abundance and diversity of wild species. Second, the cumulative impact of these environmental problems is contributing to human rights violations across the planet on a large scale that threaten to become catastrophic unless major societal transformations are rapidly implemented. It is strikingly unjust that the world's poorest and most vulnerable people are shouldering the lion's share of these adverse environmental impacts and associated human rights violations. Third, adopting a rights-based approach to meeting these environmental challenges, with a particular emphasis on the global recognition and implementation of the right to a healthy and sustainable environment, offers a promising and potentially powerful response.**

72. **Experts agreed on the following key recommendations:**

(a) **The Human Rights Council and the General Assembly should pass resolutions in 2020 recognizing the human right to live in a safe, clean, healthy and sustainable environment;**

(b) **All States should expedite their efforts to protect human rights from the adverse impacts of the global environmental crisis by complying with the obligations articulated in the framework principles on human rights and the environment, fulfilling their commitments as parties to international environmental agreements and accelerating progress towards achieving the Sustainable Development Goals;**

(c) **All actors, including States, subnational governments, international organizations, businesses, communities and individuals should make their best efforts to respect, protect and fulfil the right to a healthy environment;**

(d) **The foregoing efforts should place particular emphasis on improving the well-being of the most vulnerable and marginalized populations, to ensure that no one is left behind in the transition to a sustainable society.**

Annex I

Programme

Day 1 – Thursday 20 June

09:00 – 09:30	Registration
09:30 – 10:10	Introduction and overview <ul style="list-style-type: none"> • Introduction of participants • Objectives and overview of the programme
10:10 – 11:00	SESSION 1: Regional breakout groups on good practices Participants will break into four regional groups to discuss good practices in the promotion and implementation of the right to a safe, clean, healthy and sustainable environment.
11:00 – 11:20	Coffee break
11:20 – 12:30	SESSION 2: Plenary session on good practices The second session will start with the 10-minute video message from Justice Antonio Herman Benjamin of Brazil who will discuss good practices, common challenges, and ideas for moving forward to realize everyone’s right to a safe, clean, healthy and sustainable environment.
12:30 – 14:00	Lunch break
14:00 – 15:00	SESSION 3: Regional breakout groups on barriers
15:00 – 16:00	Participants will break into four small regional groups to discuss barriers relating to the promotion and implementation of the right to a safe, clean, healthy and sustainable environment. SESSION 4: Plenary session on barriers A rapporteur from each group will brief the plenary with a summary of their discussions (maximum of 5–7 minutes), which will be followed by an interactive discussion with all participants.
16:00 – 16:20	Coffee break
16:20 – 17:20	SESSION 5: Cross-pollination of ideas: international, regional and national influences Participants will get together to discuss ways of creating synergies in the promotion and implementation of the right to a safe, clean, healthy and sustainable environment at all levels. They will discuss in particular how the established framework on the right to a safe, clean, healthy and sustainable environment at the national and regional levels can bring about bottom-up influence to the international level discussion and vice versa. For example, the Escazú Agreement was influenced by the Aarhus Convention. How can these regional agreements be emulated in other regions? How can States with constitutional environmental rights encourage other States to establish similar provisions? How can strong precedents in cases based on the right to a healthy environment be shared between States?
17:20 – 17:30	Wrap-up of the day

Day 2 – Friday 21 June

09:30 – 10:30	SESSION 6: Conversation with States A limited number of States will participate in the expert seminar during this slot. The purpose is to exchange views on good practices, barriers and ways forward relating to the recognition, promotion and implementation of the right to a safe, clean, healthy and sustainable environment between experts and States.
10:30 – 10:50	Coffee break
10:50 – 11:40	SESSION 7: Regional breakout groups on opportunities, needs and common themes Participants will break into four regional groups to discuss opportunities, needs and common themes relating to the promotion and implementation of the right to a safe, clean, healthy and sustainable environment.
11:40 – 12:30	SESSION 8: Plenary session on opportunities, needs and common themes
12:30 – 13:00	Closing remarks and way forward

Annex II

Concept note

1. Background

The Human Rights Council decided to renew the mandate of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment in March 2018 and appointed David R. Boyd as the second Special Rapporteur, beginning 1 August 2018. His predecessor, John H. Knox, had served since 2012. Since taking up the position, the Special Rapporteur presented, to the General Assembly in 2018, a report on the right to a healthy environment (co-authored with the previous Special Rapporteur), which called for the global recognition of the right to a healthy environment (A/73/188), and, to the Human Rights Council in 2019, a report on clean air as a component of the right to a healthy environment (A/HRC/40/55). He also carried out a country visit to Fiji, and his next visit is scheduled for Norway in September 2019.

As recognized by a number of intergovernmentally agreed-upon resolutions (Human Rights Council resolutions 37/8 and 40/11 and United Nations Environment Assembly resolution 4/17), more than 150 States have explicitly recognized the right to a healthy environment in law through their constitutions, national legislation and regional agreements. Moreover, there is a growing body of jurisprudence in cases involving the right to a healthy environment at both the regional and national levels.

Despite the developments in the promotion of the right to a healthy environment at the national and regional levels, there is limited understanding about good practices with regard to this right, and about barriers to its recognition, implementation and fulfilment. This expert seminar is convened to broaden and deepen the understanding of the right to a healthy environment so that this fundamental human right can be enjoyed by everyone, everywhere.

2. Objectives of the expert seminar

Human Rights Council resolution 37/8 indicates that the expert seminar should examine best practices of States at the national and regional levels with regard to human rights obligations relating to the environment. In that light, the objectives of this seminar are:

- (a) To discuss good practices and lessons learned with regard to the promotion and implementation of the right to a healthy environment;
- (b) To examine experiences with the use of the right to a healthy environment, in particular;
- (c) To provide input for the report of the Special Rapporteur (see the programme for details);
- (d) To provide additional support for the global recognition of the right to a healthy environment by the United Nations;
- (e) To provide recommendations to the Council, as well as to Governments, civil society organizations and international organizations, as to the way forward.

3. Outputs

The expert seminar will inform, pursuant to resolution 37/8, the report of the Special Rapporteur to the Human Rights Council to be presented by the Special Rapporteur at the forty-third session, held in March 2020.

4. Participants

The consultation will gather approximately 30 participants from a wide range of backgrounds. There will be a session lasting 1.5 hours, during which a limited number of State representatives will participate in an exchange of views with participants.

5. Format

The seminar will be in the form of a moderated round-table discussion with several breakout sessions focused on different geographic regions.
