Working Groups Session 1: Safe and healthy environment

1. **Safe and healthy environment: overview and legal frameworks**
The first international treaties did not mention human rights in relation to environmental protection. But since the 1970s, links between human rights and the environment have progressively been recognized, while increasing attention has been paid recently to the issue of climate change.

<table>
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<tr>
<th>International human rights standards</th>
<th>While the UN human rights treaties do not contain an explicit right to a healthy environment and sustainable economy, environmental issues are increasingly addressed under other rights including the rights to life, health, family life and procedural rights to information, participation and rights to a remedy. International standards that directly or indirectly address the right to a healthy environment include the Convention on the Rights of the Child, Article 24 (health); Universal Declaration on Human Rights, Article 25 (living conditions); International Covenant on Civil and Political Rights, Article 6 (right to life); International Covenant on Economic, Social and Cultural Rights, Article 12 (health); Convention on the Elimination of Discrimination Against Women, Article 14 (living conditions). Relevant resolutions have been adopted by the Human Rights Council and its predecessor, the Human Rights Commission (e.g. Resolution 7/23 of 28 March 2008 on Climate Change).</th>
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</table>
| Regional human rights standards     | • Additional Protocol to the American Convention Article 11  
• African Charter Article 24  
• European Convention on Human Rights, Articles 2, 8 and 10  
While the European Convention of Human Rights does not contain the right to an environment, the European Court of Human Rights has created an extensive body of case law concerning environmental issues (e.g. via the right to respect for private and family life). |
| International environmental standards | Under international environmental law, the Århus Convention contains a right to an environment adequate for human health and well being and stresses the need for three key procedural matters in environmental concerns: access to information, public participation, access to justice.  
Other important documents include the Rio Declaration (1992) and Stockholm Declaration (1972). |
| ILO                                | ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries (1989) contains many references to the environment of indigenous peoples (Articles 2, 6, 7, and 15). Part II of the Convention addresses land issues, including the right to natural resources. |
| CSR standards                       | UN Global Compact, Principles 7-9  
OECD Guidelines for Multinational Enterprises, Chapter V |
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| Development | Millennium Development Goals – Goal 7 – Ensure environmental sustainability
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<td>National law</td>
<td>Many national constitutions contain a human right to an environment.</td>
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2. Safe and healthy environment: impacts and responsibilities of business

Based on international human rights law, corporations have a ‘responsibility to respect’ all human rights, including those which may be impacted via activities affecting the local or global environment. Negative environmental impacts may arise from e.g. pollution of waterways or the marine environment, diminished air quality leading to long-term health impacts, water over-usage affecting crop yield reductions, or fish harvest reductions. Companies should in the first instance comply with national environmental regulation, but apply higher standards where these are not adequate. Business can also have positive effects on environment, through sustainable technologies, schemes to supply affordable greener technologies to low income households, etc.

On 21 July 2010, the Associated Press reported that China’s largest reported oil spill had more than doubled, prompting an environmental official to warn that the spill posed a severe threat to water quality. The oil was spread over 165 square miles of water five days after a pipeline at a busy northeastern port exploded. At least one person died in cleanup efforts. The cause of the explosion that started the spill was still not clear (Business and Human Rights Resource Center).

In 2009, indigenous groups claimed that a US mining company had illegally begun preparations for mining on indigenous land in the north of Chocó in Colombia. They mobilised to stop the military-backed operation. According to local indigenous and afro-Colombian communities, the mining activities threaten the environment of the river basin and endanger the indigenous Embera Oibida tribes living there. They claim that the mining will pollute the waters and will basically displace them. The communities state that the company has failed to properly consult them. The Colombian state and the company claim that the mining corporation did properly consult the representatives of the communities, if not the communities themselves, and has followed the letter of the law (Business and Human Rights Resource Center).

Sri Lanka firms Brandix and Lanka Walltile joined together in a project with villagers in Pubudugama (in a dry zone of Polonnaruwa District, Sri Lanka) to build a water supply scheme for the community – the firms provided funding, materials and project coordination; the villagers raised 1 million Sri Lankan rupees and contributed their labour. In India Hindustan Unilever, DHAN Foundation and the National Bank for Agriculture and Rural Development launched a water conservation project in drought-prone Nialavur (in Madurai, Tamil Nadu). The project aims to renovate over 250 irrigation tanks, benefitting over 20,000 small and marginal farm families. The project will organise farmers, landless labourers and women into an association at each tank level; the farmers themselves will contribute 10% of the renovation cost. (Business and Human Rights Resource Centre).
3. Safe and healthy environment: the role of States
Based on the international human rights framework, the State has obligations to:

• ‘Respect’ the right to an environment, i.e. refraining from actions that have a detrimental effect on the healthy living environment of individuals.
• ‘Protect’ individuals against corporate actions that have a detrimental effect on the environment. There is increasing case law on this duty to protect, for example within the framework of the European Court of Human Rights. Duties to protect entail ensuring:
  • Adoption of environmental legislation and other measures to offer protection against corporate actions that may harm the environment
  • Monitoring corporate action so as to ensure protection against environmental pollution and degradation
  • Access to information, participation, and access to justice for individuals whose right to an environment has been infringed upon
• ‘Fulfil’ the right to an environment by adopting a national programme of action in relation to the environment and towards combating climate change more specifically.

4. Safe and healthy environment: good practices and cases
Many international and national agencies have adopted good practices regarding the protection of the environment:

• The Venezuela Ombudsman’s Delegation for Environmental Issues department performs investigations into causes of climate change and their effect on human rights, including the evaluation of private sector responsibilities.
• The Human Rights Ombudsmen of Bosnia and Herzegovina are considering a complaint regarding the activities of a steel company alleging it poses a threat to the life and health of citizens living in the surrounding area.
• The Danish Institute for Human Rights’ Human Rights Compliance Assessment (HRCA) assesses the environmental impact of companies and how this affects the human rights of communities.
• The Kenya National Commission on Human Rights addresses complaints related to the environmental impacts of companies in the salt mining, paper, sugar and extractive industries.

Investing in women is one of the most effective ways to advance sustainable development and fight climate change devastation. WEDO and Heinrich Boell Foundation partnered with Athena Peralta—a Manila-based advocate on ecology, economy and gender—to document gender impacts of climate change on women in the Philippines and assess how decision-makers at the national-level are addressing gender roles and women’s rights, lives and livelihoods in climate finance policy. The study made recommendations for ensuring women and gender are adequately addressed in national climate financing policies, programs and frameworks, including:

• Create mechanisms that guarantee women’s equal access to negotiating, developing managing and implementing adaptation and mitigation financing
• Include disaggregated indicators on mitigation and adaptation funds for targeting and monitoring benefits to women
• Develop principles and procedures to protect women’s access to national adaptation programs and projects
• Conduct gender impact assessments of adaptation and mitigation strategies
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### 5. Safe and healthy environment: enhancing the role of NHRIs

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<tr>
<th>PARIS PRINCIPLES</th>
<th>STATE</th>
<th>BUSINESS</th>
<th>CIVIL SOCIETY</th>
<th>VICTIMS</th>
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<tbody>
<tr>
<td>Monitoring</td>
<td>Examine existing domestic, regional and international standards to determine best practice in state and voluntary regulation.</td>
<td>Monitor and document of environmental practices affecting human rights by businesses in high risk sectors</td>
<td>Cooperate with civil society to decide on best state practice/capacity building re the environment</td>
<td>Capacity building of victims of environmental pollution and degradation, and the effects of climate change</td>
</tr>
<tr>
<td>Advocacy</td>
<td>On human rights dimensions of environmental pollution and climate change, ratification, implementation and creation of laws</td>
<td>Toward compliance with environmental legislation by businesses and climate change mitigation measures</td>
<td>Awareness-raising on environmental protection and climate change. Facilitate dialogue and collaboration.</td>
<td>Awareness-raising on addressing needs of victims of environmental abuse affecting human rights</td>
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<td>Education</td>
<td>Ensure education programmes include awareness of environmental rights of individuals and communities</td>
<td>Encourage business education and industry associations to recognize HR dimensions of environmental performance and climate change</td>
<td>Dialogue and materials to support awareness-of HR dimensions of climate change and environmental pollution</td>
<td>Ensure education materials include environmental abuses affecting human rights and climate change</td>
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<td>Complaint handling</td>
<td>Advocacy to ensure there is scope for all affected victims to raise environmental issues affecting human rights</td>
<td>Awareness-raising of role of businesses in monitoring and receiving complaints</td>
<td>Awareness-raising of role of civil society in supporting victims to raise complaints</td>
<td>Raise awareness about possibilities for lodging complaints for environmental pollution affecting human rights</td>
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### 6. Sources of further information

- [http://www.righttoenvironment.org](http://www.righttoenvironment.org)  (Stand Up For Your Rights, the Netherlands).
- Climate Change and Human Rights, A Rough Guide (International Council for Human Rights Policy)
- Climate Change, Food Security and the Right to Adequate Food, [http://www.germanwatch.org/klima/climfood.htm](http://www.germanwatch.org/klima/climfood.htm)