



**JOINT SUBMISSION FROM CENTER FOR INTERNATIONAL ENVIRONMENTAL LAW AND EARTHRIGHTS INTERNATIONAL TO
THE ASEAN INTER-GOVERNMENTAL COMMISSION ON HUMAN RIGHTS REGARDING HUMAN RIGHTS AND ENVIRONMENT**

APRIL 2012

1. Introduction

We understand the ASEAN Intergovernmental Commission on human rights is currently in the process of drafting the ASEAN Human Rights Declaration. We note that there are continuing developments in the linkages between human rights and the environment at the international level, and humbly submit that international practice should be reflected at regional level in the ASEAN Human Rights Declaration. This joint submission outlines: the recent developments on human rights and the environment at international level and in the ASEAN; rights that underpin the interaction between human rights and the environment, such as access to information, that should be included in the declaration, and provides suggested wording for a clause on the right to a healthy environment in keeping with international best practice.

2. Recent developments on human rights and the environment

In April 2011, the UN Human Rights Council adopted resolution 16/11 on human rights and environment. This resolution identified several key components of the interaction between human rights and the environment, including:

- (a) Sustainable development and the protection of the environment can contribute to human well-being and the enjoyment of human rights;
- (b) Environmental damage can have negative implications, both direct and indirect, for the effective enjoyment of human rights;
- (c) While these implications affect individuals and communities around the world, environmental damage is felt most acutely by those segments of the population already in vulnerable situations;
- (d) Many forms of environmental damage are transnational in character and that effective international cooperation to address such damage is important in order to support national efforts for the realization of human rights;
- (e) Human rights obligations and commitments have the potential to inform and strengthen international, regional and national policymaking in the area of environmental protection and promoting policy coherence, legitimacy and sustainable outcomes.

Resolution 16/11 of the Council also called on the Office of the High Commissioner for Human Rights (OHCHR) to prepare a detailed analytical study on the relationship between human rights and environment. The main conclusions of the OHCHR study include the following:

The Human Rights Council has observed that sustainable development and the protection of the environment can contribute to human well-being and the enjoyment of human rights. Several human rights instruments concluded since the Stockholm Conference have included explicit references to the environment or recognized a right to a healthy environment. Similarly, numerous environmental instruments explicitly articulate their objectives in terms of protection of human health, the environment, and the common heritage of humankind. In addition, a significant number of States have incorporated environmental rights and responsibilities into their national constitutions.

The Human Rights Council has also observed that environmental damage can have negative implications, both direct and indirect, for the effective enjoyment of human rights. In this connection, the human rights treaty bodies have addressed the environmental dimensions of the rights protected under their respective treaties, for example, in general comments, decisions concerning individual petitions and concluding observations. Similarly, regional human rights monitoring bodies and courts have clarified the environmental dimensions of protected rights, including the rights to life, health, property, private and family life and access to information.

Furthermore, the Human Rights Council has noted that human rights obligations and commitments have the potential to inform and strengthen international, regional and national policymaking in the area of environmental protection, promoting policy coherence, legitimacy and sustainable outcomes. In this regard, over the last three decades, human rights mechanisms have contributed to clarifying the linkages between human rights and the environment. The United Nations human rights charter-based bodies in particular have contributed to elucidating certain elements of the linkage between human rights and the environment through the adoption of resolutions that provide guidance to States and international organizations. In addition, several special procedures established by the former Commission on Human Rights, the former Sub-Commission on Prevention of Discrimination and Protection of Minorities and the Human Rights Council, for example, concerning environment, toxics, food, water, housing, extreme poverty and indigenous peoples, have contributed to clarifying and strengthening the human rights and environment linkage.

The UN Human Rights Council recently adopted a resolution on Human Rights and Environment that establishes an Independent Expert on Human Rights and the Environment. This Council resolution was adopted by consensus in its recently concluded 19th Session, with more than 80 States co-sponsoring.

These developments at the international level set the basis for continuing progress regarding the linkage between human rights and the environment.

3. *Developments in ASEAN regarding the environment*

The ASEAN leaders view the protection of the environment and the sustainable use and management of natural resources as essential to the long-term economic growth and social development of their countries and the region. The ASEAN Vision 2020 adopted in Malaysia in 1997 calls for “a clean and green ASEAN with fully established mechanisms for sustainable development to ensure the protection of the region’s environment, the sustainability of its natural resources and the high quality of life of its peoples”.

In the Blueprint for the ASEAN Socio-Cultural Community (2009–2019) at Paragraph 9 the ASCC envisages the following characteristics: “(a) Human Development; (b) Social Welfare and Protection; (c) Social Justice and Rights; (d) Ensuring Environmental Sustainability (e) Building the ASEAN Identity; and (f) Narrowing the Development Gap.” The ASCC Blueprint at paragraph 5 states: “The ASCC will address the region’s aspiration to lift the quality of life of its peoples through cooperative activities that are people-oriented and environmentally friendly geared towards the promotion of sustainable development.” (Paragraph 5)

The ASEAN framework therefore already aims for both a people-oriented and environmentally friendly community. It is therefore not a big step to consider that human rights and the environment are linked.

4. *Rights that underpin the interaction between human rights and the environment such as access to information etc. that should be included in the declaration*

The interaction between human rights and the environment can be seen through various lenses, which enable a more focused perspective on the rights particularly implicated in this interaction. A first lens looks at the impacts of environmental degradation on human rights. From this perspective, treaty bodies and regional human rights mechanisms have identified and elaborated on normative content and State responsibilities concerning the environmental dimensions of the rights to life, food, health, housing, property, culture and private and family life, among others.

A second lens looks at human rights as tools for environmental protection. This approach has identified a number of rights as essential for environmental decision-making, including: the right of access to information, the right to participation in political life, the right of specific groups to be consulted in decision-making processes, access to justice, due process, transparency and accountability.

In addition, certain international human rights instruments concluded after the recognition of the linkage between human rights and the environment in the 1972 Stockholm declaration explicitly recognize a right to environment. For example, regional human rights instruments such as the African Charter on Human and Peoples’ Rights and the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights make explicit references to a right to environment. Similarly, the Convention on the Rights of the Child explicit links the environment to the right of the child to the enjoyment of the highest attainable standard of health.

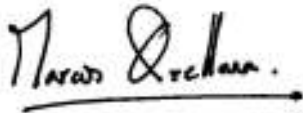
5. Suggested wording for a clause on the right to a healthy environment in keeping with international best practice.

Aware that the environment provides the infrastructure for human civilization and that life depends on the uninterrupted functioning of natural systems, and persuaded that the degradation of natural systems leads to the collapse of civilization and compromises international peace, human security, human rights, and sustainable development;

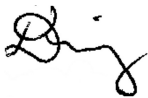
The ACHR proclaims that,

Every person has the right to a healthy and sustaining environment that is an environment capable of supporting human society and the enjoyment of human rights. Every State has a duty to ensure that present and future generations can enjoy the right to a healthy and sustaining environment.

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