**Call for Inputs**

**Healthy Ecosystems and Human Rights: Sustaining the Foundations of Life**

“Goals for conserving and sustainably using nature and achieving sustainability cannot be met by current trajectories, and goals for 2030 and beyond may only be achieved through transformative changes across economic, social, political and technological factors.”

*Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services. 2019. “Summary for policymakers of the global assessment report on biodiversity and ecosystem services.”*

There is now global agreement that human rights norms apply to a broad spectrum of environmental issues, including biological diversity (the full range of life on Earth) and healthy ecosystems (the foundation upon which all life depends). The Special Rapporteur on human rights and the environment, Dr. David Boyd, is working to provide additional clarity regarding the substantive rights and obligations that are essential to the enjoyment of a safe, clean, healthy and sustainable environment. He has submitted reports on clean air,[[1]](#footnote-2) a safe climate,[[2]](#footnote-3) and good practices on the promotion and implementation of the right to a safe, clean, healthy and sustainable environment.[[3]](#footnote-4) He is now preparing a thematic report focusing on human rights and associated obligations related to healthy biodiversity and ecosystems. For that purpose, he is seeking inputs on the topic from States and stakeholders through responses to the brief questionnaire below.

Your replies will inform the Special Rapporteur’s analysis and contribute to his report, which will be presented to the General Assembly in October 2020.

**Questionnaire**

The Special Rapporteur invites and welcomes your answers to the following questions:

1. Please provide examples of ways in which declining biodiversity and degraded ecosystems are already having adverse impacts on human rights. Adversely affected rights could include, among others, the rights to life, health, water, food, culture, non-discrimination, a safe, clean, healthy and sustainable environment, and Indigenous rights.

* In the context of Nepal, Many community forestry groups and other community-based natural resource management groups are managing and conserving wetlands, watersheds, rivers and water resource and lots of poor households are depending in the wetlands and rivers for fisheries. There is huge impact in the wetlands, watersheds, rivers and water resource due to ecosystem degradation from the extraction activities for the infrastructure development. It has affected the rights to food of the poor households who are depending on wetlands ecosystems. Likewise, community forestry groups are widely contributing for the conservation of water resource in the community forestry areas and all these resource are using for drinking water supply. However, due to extraction activities nearby the water source, it has impacted in the water source and creating adverse impacts on rights to water and healthy environment.

2. To protect a wide range of human rights, what are the specific obligations of States and responsibilities of businesses in terms of addressing the main direct drivers of harm to biodiversity and ecosystems (e.g. land conversion, loss and degradation of habitat, climate change, overexploitation, pollution, invasive species) and the indirect drivers (unsustainable production and consumption, rapid human population growth, trade, conflict and inequality)?

* As a member of the CBD, Nepal has different specific obligations to address the main direct and indirect drivers of harm to the biodiversity. Nepal has developed the National Biodiversity Strategy and Action Plan (NBSAP), though the implementation status of this national commitment is very weak. Nepal has allocating large areas of forested land for the infrastructure project (such as hydropower, cement production, tourism business etc.) and there is huge loss of biodiversity from such activities. Nepal has also enacted new Environmental Protection Act 2019 and there are defined different responsibilities of the businesses to address the drivers of the harm to biodiversity in Nepal. Though, the business sector are not fulfilling their legal responsibilities for the addressing drivers of the biodiversity loss.

3. Please provide specific examples of constitutional provisions, legislation, regulations, policies, programs or other measures that employ a rights-based approach to prevent, reduce, or eliminate harm to biodiversity and ecosystems or to restore and rehabilitate biodiversity and ecosystems.

* Nepal has strong constitutional commitment to prevent harm to biodiversity and ecosystem through ensuring fundamental rights to environmental justice and rights to health. Nepal has also expressed commitment to rehabilitate biodiversity and ecosystem in the state policies of Constitution. Nepal has enacted Forest Act 2019 and amended in the National Park and Wildlife Conservation Act (1973) on 2017 to incorporate some of the right-based approaches in the sector legislation. As per these legislative instruments, some of the tenure rights of local communities are recognized and without consent from local communities, the government cannot decide for land-use change and licensing for the private sector in the community forests areas of the national forest and Buffer Zone. The Environmental Protection Act 2019 has also guaranteed the rights to compensation in the case of environmental harm including harm to the ecosystem.

4. If your State is one of the 156 UN Member States that recognizes the right to a safe, clean, healthy and sustainable environment,[[4]](#footnote-5) has this right contributed to protecting, conserving and restoring biodiversity and healthy ecosystems? If so, how? If not, why not?

* As a member of UN and HRC, Nepal has recognized the rights to healthy environment in the Constitution (2015) and National Legislation (Environmental Protection Act 2019). These rights contributing for the conservation of biodiversity and healthy ecosystems. The Environmental Protection Act has made a provision to ensuring biodiversity conservation during the designing and implementation of any development activities through Environmental Impact Assessment process. The Constitution of Nepal has guaranteed the fundamental rights to clean and healthy environment for the citizens and the State and the all agencies are responsible for the protection of these fundamental rights of the citizen through an appropriate legal measure. If the state agencies fail to protect these fundamental rights, based on the constitutional provision, the effected citizens or communities have rights to legal remedy through different level of Courts.

5. Please provide specific examples of good practices in preventing, reducing, or eliminating harm to biodiversity and ecosystems, or restoring and rehabilitating biodiversity and ecosystems. These examples may occur at the international, national, sub-national, or local level. Where possible, please provide evidence related to the implementation, enforcement, and effectiveness of the good practices (e.g. measurable outcomes such as increases in terrestrial and marine protected areas, increases in Indigenous and Community Conserved Areas, declining rates of deforestation and poaching, or progress in the recovery of species that were previously threatened or endangered).

* Community forestry is one of evidence of the effective implementation of good practices. Nepal is adopting the community forestry system to control the declining rate of deforestation since 1980s. The National Forest Resource Assessment Report 2015 has shown that due to the community forestry campaign, the deforestation rate is decaling (annual 0.07%) and the forest cover is increasing in Nepal due to community forestry. In 2004, there was only 39% forest area in Nepal, but there is more than 44% forest area in Nepal, due to community forest.

6. Please identify specific gaps, challenges and barriers that your government, business, or organization has faced in attempting to employ a rights-based approach to preventing, reducing, or eliminating harm to biodiversity and ecosystems.

* Nepal has made enough legal provisions for the promotion of rights-based approach in the constitution and legislation. The citizens and the local communities are initiating to exercise such right-based approaches particularly in the environment and natural resource management sector. However, due to centralized-decision making process of the government agencies and lack of commitments towards its implementation at ground level, the rights-based approaches are not fully operationalizing as expected. The business sector have no any plan program to promote rights-based approach, therefore, it is being difficult to exercises this approach to reduce the harm to biodiversity and ecosystem.

7. Please specify ways in which additional protection is provided (or should be provided) for populations who may be particularly vulnerable to declining biodiversity and degraded ecosystems (e.g. women, children, persons living in poverty, members of Indigenous peoples and local communities, older persons, persons with disabilities, ethnic, racial or other minorities and displaced persons). How can these populations be empowered to protect and restore declining biodiversity and degraded ecosystems?

* Nepal has adapted an equitable Benefit sharing mechanism in the different legal and policy instruments of forest, biodiversity, environment and climate change sector to provide additional protection to the vulnerable communities due to the biodiversity loss and ecosystem degradation. The Forest Act 2019 has made a provision to allocate at least 50% income of the community forest for the poor and women groups for livelihood and the climate Change Policy 2019 stated that there is require allocate at least 80% climate finance need to allocate to the local communities who are vulnerable. Similarly, the legal instrument on biodiversity conservation has given priority for the benefit sharing to vulnerable communities. The equitable benefit sharing mechanism and inclusive conservation policy initiatives can empower to them for the protection of biodiversity and ecosystem.

8. How do you safeguard the rights of individuals and communities working on biodiversity issues (potentially identified as environmental human rights defenders or land defenders)? What efforts has your Government made to create a safe environment for them to freely exercise their rights without fear of violence, intimidation, or reprisal?

* As a member of the CBD and other more than 25 Multilateral Environmental Agreements (MEAs) and human rights instruments, Nepal is committed for the safeguarding of environmental human rights. For this purpose, the Government of Nepal has developed some of Strategies and Action Plans in the sector of biodiversity and ecosystem. The Environmental Protection Act 2019 and different law related to corruption control has made a legal provision for the protection of environmental human rights and land defenders. However, the institutional mechanism for the protection of environmental human rights defender is very week and there is lack of a safe environment for them to freely exercise their rights without fear of violence.

9. There is substantial evidence that consumption in high-income States is adversely affecting biodiversity and ecosystems in low and middle-income States. What are ways in which high-income States should assist low-income States in responding to biodiversity loss and ecosystem degradation, while simultaneously contributing to sustainable development in those low-income States?

* Nepal is continuously supply medicinal and aromatic plan, herbs and non-timber forest products as raw materials for the production of medicine and cosmetic product in high-income states. There is huge impact in the mountain biodiversity from such activities in Nepal. In this situation, the high-income States need to support to Nepal for the implementation of sustainability standers and capacity development of local communities who are engaging in the conservation and harvesting of such type of natural resource.

10. For businesses, what policies or practices are in place to ensure that your activities, products, and services across the entire supply chain (extraction/sourcing, manufacturing, distribution, sale, and end-of life management) minimize biodiversity loss and ecosystem degradation and meet human rights standards, especially those articulated in the Guiding Principles on Business and Human Rights?

* Our communities (Community Forestry User Groups) are engaging only in the small scale forest enterprises and not developing any large business. However, we are complying the forest law and environmental protection law in the entire value chain to minimize the biodiversity loss and ecosystem degradation and meet human rights. Each Community forestry groups need to prepare and implement an Environmental Impact Assessment report for the establishment and operation of large scale forest enterprise. The protection of environmental human rights is an integral part of the forest-based enterprises established by the community forestry groups. However, the large business groups in Nepal are not complying the Guiding Principle on Business and Human Rights.

Contributed by

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1. A/HRC/40/55 [↑](#footnote-ref-2)
2. A/74/161 [↑](#footnote-ref-3)
3. A/HRC/43/53 [↑](#footnote-ref-4)
4. See, A/HRC/43/53, Annex II. [↑](#footnote-ref-5)