**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-1) a safe climate,[[2]](#footnote-2) and good practices on the promotion and implementation of the right to a safe, clean, healthy and sustainable environment.[[3]](#footnote-3) 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 Philippines, big investments for the extraction of resources has been the main reasons for the degraded ecosystems and human rights violations against indigenous peoples amd their communities.

Large-scale and industrial extraction of minerals caused the destruction of forests, mountain ecosystems and rivers. Most of the minerals extracted such as gold, copper, nickel and some non-metallic minerals go to the indstries based in industrialized nations leaving mere pittance of 1% royalties (given there's income generated and reported). These goes in contrast to the Filipino's sovereign rights to natural resources and indigenous peoples' customary rights to land and resources.

A case in point is the Oceana Gold Philippines, Inc.'s (OGPI) mining operations in Didipio, Kasibu, Nueva Vizcaya. In April 6, 2020, elements of the Philippine National Police (PNP) used excessive force to disperse residents of Didipio who were in a barricade. The barricade was sustained to prevent the entry of equipment of the OGPI. OGPI's contract or Financial and Technical Assistance Agreement (FTAA) with the government expired in June 2019. The indigenous peoples and farmers in Didipio opposed any extension/renewal of the contract. Even the local government unit (LGU) of the Province of Nueva Vizcaya supported the residents of Didipio thus the barricade was erected. The more than 20 years of operations of the OGPI brought about damages to forests (such as Dinkidi Hill), river ecosystems in the surroundings of Didipio. Some houses were burned and leaders illegally arrested especially those owned by known opposition to the mining operations.

Lepanto Consolidated Mining Co. (LCMCo) has been mining in Mankayan, Benguet since 1936. It started as a large-scale underground copper mine. This was made possible by early American explorers and investors grabbed small-scale community mine sites and laid claim to these. Rice fields and forests were destroyed in its operations. Later on, the LCMCo aspired to expand its operations to other parts of Mwnkayan up to nearby provinces. They also found rich gold deposits in another part of the municipality which prompted their aggressive moves to expand. With this, the LCMCo connived with the National Commission on Indigenous Peoples (NCIP) and some leaders they were able to bribe and threaten to come up with a false FPIC process and signing of a Memorandum of Agreement (MoA). A huge number of residents in the expansion area asserted that the FPIC was invalid as they were not properly consulted even by their leaders who have knowledge of LCMCo's plans. They formed the Save Mankayan Movement and erected a barricade in protest against the expansion of LCMCo. The barricade was constatntly threatened to be dismantled by the military unit deployed in the municipality. Leaders of the Save Mankayan Movement and other active men and women in the barricade were sued to courts for civil and criminal offenses for disrupting the company's operations and affecting its profits.

Large dams are built by government in partnership with private companies in order to generate water for electricity, for irrigation, and for household and industrial water supply. Most of these are in rivers within indigenous peoples territories. Rivers are part of ancestral domains and the use of these are subject to the customary laws of the indigenous group who lay claim on the territories. Many of the dam projects physically displaced indigenous households, farmers and fisherfolk who settled naer rivers or depend on rivers for water resources and food. At present some dam projects are being built in Tumandok (Ilo-ilo, Panay Island) and Dumagat (Rizal and Quezon). territories. The Jalaur dam is meant for the development of several towns in Ilo-ilo province. The National Irrigation Administration (NIA) is the main proponent and implementor of the project. Aside from the irrigation component, the project is touted to also provide hydro-electric power and bulk water supply to the municipalities. The Jalaur Multipurpose project is hugely funded by the Korea Export-Import Bank. Meanwhile, the Kaliwa dam is a large dam project that will be built in a river flowing from Infanta and General Nakar in Quezon and Tanay, Rizal. The project is seen as the main solution to the water supply crisis in Metro Manila, the Philippines' economic and political center. It is funded by a loan from China and proposed by the Metrpolitan Waterworks and Sewerage System which regulates the sourciny and distribution of water used in households and industries in Metro Manila. The Dumagat are made to act as the sacrificial lambs to avert the crisis in the metropolis. This means relocated from ancestral domain, limited or restricted use of the river which they are currently using for fishing and transportation, and looking for other livelihood sources either as tour guides, community relations staff for Maynilad or Manila water and other odd jobs in nearby towns and cities. The Tumandok and Dumagat in the areas where the dams are to be erected decried violations of the free, prior and informed consent (FPIC) process. In the processa(es), it's inly select leaders who were consulted prior to the assemblies, the information given to them are only focused on the benefits of the dam project to the communities while avoiding discussing about possible negative effects of dams. The processes were railroaded and leaders and community members are made to sign documents which are all written in English, a language hardly understod by many. Bribes and threats were also reported. Some key meetings were held in huge resorts where leaders are given a feast to gain their approval. Military units and intelligence agents are also present in the FPIC proceedings and provide security for the project proponents or builders which coerced people to approve the project or suffer consequences.

Many indigenous peoples' ancestral lands especially those near plains and are located in relatively low altitude hills were converted into agro-industrial plantations. Acquiring the land or the rights to it are made possible through twisting and manipulation of tenurial instrumemts and government processes. Those that can't be taken through legal means were taken violently, and by buying from land owners and stewards. Oil palm plantations made their way to the southern part of Palawan in the early 2000s. These meant the conversion of agricultural areas, forest clearings, kaingin (swidden farms), and other parts of the Pelawan peoples' ancestral domains. Palm oil investors gave the farmers false promises of larger income when growing, harvesting and selling oil palm to companies who need these as raw materials. Cultivating oil palm requires huge capitalization such that indigenous peoples ended as workers for the investors who supplied the starting capital for the plantations. The effect was the decrease of land area for agriculture like growing of upland rice, root crops, corn and coconut. As workers, they only earn PhP 210 per day which may not be enough for their families' needs. In worst cases, indigenous peoples are dispossessed of their land as investors are able to get hold of tenurial imstruments such as titles, pasture lease agreements and integrated forest management contracts.

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)?

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.

Some comstitutional provisions, laws and policies take into consideration the rights of Filipinos while protecting ecosystems and biodiversity. The foundation for these laws is Article II, Sec 16 of the 1987 constitution which states that: "The State shall protect and advance the right of the people to a balanced and healthful ecology in accord with the rhythm and harmony of nature." Furthermore Article XIII of the Constitution, which stresses on Social Justice and Human Rights provides for Agrarian and Natural Resources Reform in Sections 4 to 8. In particular, for indigenous peoples, Section 6 states: The state shall apply the principles of agrarian reform or stewardship, whenever applicable in accordance with law, in the disposition or utilization of other natural resources, including lands of the public domain under lease or concession suitable to agriculture, subject to prior rights, homestead rights of small settlers, and the rights of indigenous communities to their ancestral lands..." For more enforcemenr of Article II Sec 16, the Supreme Court of the Philippines instituted the Writ of Kalikasan as a legal remedy wherein complaints anf petitions on environmental cases (destruction of ecosystems, endangered biodiversity) may be filed and heard in courts. Courts, as a result may issue Temporary Environmental Protection Orders (TEPO) against corporations for monitoring and investigation while a petition is being heard. This may lead to the paying of fine or damages by a guilty party or revocation of their contracts with the government or one of its agencies.

For projects with potential negative effects on the environment and biodiversity, the Department of Environment and Natural Resources (DENR) require an Environmental Compliance Certificate (ECC) and Environmental Impact Assessment/Statement (EIA/EIS)before providing permits (for extraction of resources) or contracts for businesses and even government projects. The ECC is a document issued by the DENR- Environmental Management Bureau (EMB) that allows a project to proceed to the next stage, which is the acquisition of approvals from other government agencies and LGUs. The government also has an Environmental Impact Statement System where companies or agencies are required to evaluate the likely environmental impacts of a proposed project taking into account inter-related socio-economic, cultural and health impacts, both beneficial and adverse. The EIS is the document submitted by a project proponent that serves as an application for an ECC.

For biodiversity conservation and protection of critical ecosystems, the Republuc Act 7586 or the National Integrated Protected Areas System (NIPAS) Act was put in place. The law provided for the classification and administration of all designated protected areas (such as national parks, protected landscape/seascapes, resource reserve, strict nature reserve, wildlife sanctuary, among others) to maintain essential ecological processes and life-support systems, to preserve genetic diversity, to ensure sustainable use of resources found therein, and to maintain their natural conditions to the greatest extent possible. (RA 7586 Sec 4.1) For indigenous peoples in protected areas in Sec 13 of the Act: "... Provided, that the DENR shall have no power to evict indigenous communities from their present occupancy nor resettle them to another area without their consent...".

The Republict 8371 or the Indigenous Peoples Rights Act of 1997 is a landmark legislation recognizing and promoting the rights of indigenous peoples in the Philippines. Its main provision is the granting of Certificate of Ancestral Land/Domain Titles (CALT/CADT) for ancestral lands of indigenous individuals or indigenous group (tribe, village, community). It also provides for the FPIC requirement for projects and other activities that will take place in ancestral lands or domains. The law also created the National Commission on Indigenous Peoples under the Office of the President for its management and implementation.

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-4) has this right contributed to protecting, conserving and restoring biodiversity and healthy ecosystems? If so, how? If not, why not?

The laws and policies mentioned earlier, at first glance, may show the Philippine government's recognition of the Filipino peoples' rights to a safe, clean, healthy and sustainable environment. Practices on the ground, especially when confronted with big business interests (mining, energy, plantations, tourism) turn a blind eye on activities and practices that may be detrimental to ecosystems and biodiversity. In cases of indigenous peoples' communities and ancestral domains, laws come into conflict and often indigenous peoples' rights are undermined mostly in the name of "national development". Most of the time, the national development narrative is not really how it seems as extractive industries does not serve a Filipino industry. Public utilities (energy and water) are either controlled by private entities and foreign corporations.

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).

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.

Bug business interests are often given higher importance and prioritized over peoples' rights. The military, whose main aim is to defend the people, are used to defend investmemts against protestors and armed groups. Most of the killings against indigenous peoples are due to their active opposition against mining operations, energy projects and plantations. The FPIC process is oftentimes manipulated to gain the "consent" of communities through coercion, bribery and division of indigenous groups. The NCIP is usually silent about human rights violations against imdigenous peoples and violations of the FPIC process. Like in most government offices and agencies, many NCIP officials are corruptible and incompetent. Indigenous peoples' organizations and support groups have always been calling for the revamp of the agency and review of the implementation of IPRA and review of the law itself.

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?

Grievance mechanisms should be in place, even for marginalized sectors and those far from the offices of decision and policy makers. There should be also strong governance which can include punishing or holding accountable corporations and government officials who are instrumental to the destruction of ecosystems, biodiversity and to attacks against human rights and liberties especially of marginalized sectors such as indigenous peoples. Genuine and effective green courts or indigenous peoples courts must be in place and consider the adoption and applicability of customary laws of indigenous groups involved.

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?

For a long time, defenders of the environment and biodiversity have suffered from persecution and many human rights violations like killings, filing of trumped-up charges, death threats and continuous harrassment. A Global Witness report in 2018 stated that the Philippines was the deadliest country for land and environmental defenders. (30 out of 164 land and environmental defenders reported killed were from the Philippines that year). Non-government organizations and indigenous peoples' organizations should continue strengthening their organizations, gather more network partners and encourage inter-community solidarity to consolidate similar experiences. Orientation on human rights and rights as indigemous peoples should be improved and strengthened.

Although there is a seemingly safe environment for the exercise of rights, the space for such is gradually constricting and narrowing in the passage of time. Even social media is dominated by an army of trolls maligning human rights, environmental and indigenous peoples' organizations especially during the quarantine restrictions against the COVID 19 pandemic. These organizations should not be vilified as communist- terrorist by the military and government officials. They must be treated as development oartners as they have track records in service of marginalized communities. More effort should be exerted by the government in this regard.

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?

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?

**Submission of responses**

We encourage you to ple64ase send your responses to the questionnaire in Word format **by email** to srenvironment@ohchr.org.

However, submissions will also be accepted via regular mail at the following address:

UN Special Rapporteur on human rights and the environment

Thematic Engagement, Special Procedures and Right to Development DivisionUNOG-OHCHRCH-1211 Geneva 10, Switzerland

We kindly request that your submission be concise and limited to a maximum of 5 pages (or 2,000 words), not including appendices or attachments.

**Due to a limited capacity for translation, we also request that your inputs be submitted in English, French, or Spanish.**

To avoid unnecessary duplication: if you have recently replied to other questionnaires from UN human rights mechanisms (or other international bodies) with information that would be relevant to this request as well, we welcome your directing us to those replies.

**The deadline for submission is 31 May 2020.**

Unless otherwise requested, all submissions will be *made publicly available* and posted on the Special Rapporteur’s homepage at the OHCHR website.

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