



# Compendium of Good Practices on Human Rights and the Environment



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UNEP

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# Foreword

The close links between human rights and the environment have long been recognized. Recently, however, the precise nature of this relationship has received greater attention from the international community. The United Nations Environment Programme (UNEP) has been at the centre of this work, collaborating with partners to help bring further clarity to these links.

In early 2013, UNEP partnered with the Office of the United Nations High Commissioner for Human Rights (OHCHR) to support the work of the Human Rights Council-appointed Special Rapporteur in this area. He sought to identify good practices relating to human rights and the environment through thematic consultations, conferences, questionnaires and country visits.

The compendium that follows presents the results of this collaborative effort. It provides over one hundred examples of how a wide and diverse range of actors has used human rights obligations and commitments to strengthen environmental policymaking. For the first time, it assembles a large number of practical and innovative examples of environmental protection viewed through a human rights lens. These examples will serve to inform and educate actors working in the field, and hopefully enable them to replicate the positive results achieved, as well as create new good practices.

This compendium brings us a step closer to understanding the complex and multifaceted nature of the relationship between human rights and the environment. It provides a tool to assist the achievement of goals related to both environmental protection and human rights. In so doing, it serves to illustrate and emphasize the central nature of environmental sustainability to fundamental human values and rights.

A handwritten signature in blue ink that reads "Achim Steiner". The signature is fluid and cursive.

**Achim Steiner**  
**UNEP Executive Director**

# Executive Summary

The purpose of this compendium is to present good practices relating to the use of human rights obligations and commitments to inform, support and strengthen environmental policymaking, especially in the area of environmental protection that were identified through a joint programme between UNEP, the Special Rapporteur on human rights and the environment (formerly the Independent Expert), and the Office of the United Nations High Commissioner for Human Rights (OHCHR).

The good practices presented in this compendium provide practical and concrete examples of states and other actors who have successfully and innovatively implemented human rights obligations related to environmental protection and management. Although not all of these practices may always be replicated exactly in every context, it is hoped that they will increase the understanding and awareness of the linkages between human rights and the environment so that others can implement similar practices or create new practices. Moreover, users of this compendium can follow-up with the various actors who are implementing the practices presented here, thus promoting the interaction between various groups and organisations working in the environmental field with groups and organisations working in the human rights field.

The compendium defines the term “practice” broadly, to include laws, policies, case law, jurisprudential shifts, strategies, administrative practices, projects, and so forth. A good practice would also include any practice that goes beyond established legal obligations related to the environment, such as NGO initiatives. Good practices can also be carried out by a wide range of actors, including all levels of government, civil society, the private sector, communities, and individuals.

The practices included in this compendium have multiple sources. First, the project partners held a series of regional consultations each of which addressed a particular set of thematic issues. In addition to the consultations, the two other principal sources for good practices included a questionnaire seeking good practices that was sent to Governments, international organizations, civil society organizations, and other interested stakeholders. The Independent Expert also identified good practices in his official country visits to Costa Rica and France, and through additional contacts and research.

This compendium organizes the good practices in the use of human rights obligations in relation to environmental protection into nine categories: (a) procedural obligations generally; (b) the obligation to make environmental information public; (c) the obligation to facilitate public participation in environmental decision-making; (d) the obligation to protect the rights of expression and association; (e) the obligation to provide access to legal remedies; (f) substantive obligations; (g) obligations relating to non-State actors; (h) obligations relating to transboundary harm; and (i) obligations relating to those in vulnerable situations. Practices that fall into more than one category were placed in the category that seemed most relevant.

# Introduction

## OBJECTIVE

The purpose of this compendium is to present good practices relating to the use of human rights obligations and commitments to inform, support and strengthen environmental policymaking, especially in the area of environmental protection that were identified through a joint programme between UNEP, the Special Rapporteur on human rights and the environment (formerly the Independent Expert), and the Office of the United Nations High Commissioner for Human Rights (OHCHR).

The good practices presented in this compendium provide practical and concrete examples of states and other actors who have successfully and innovatively implemented human rights obligations related to environmental protection and management. Although not all of these practices may always be replicated exactly in every context, it is hoped that they will increase the understanding and awareness of the linkages between human rights and the environment so that others can implement similar practices or create new practices. Moreover, users of this compendium can follow-up with the various actors who are implementing the practices presented here, thus promoting the interaction between various groups and organisations working in the environmental field with groups and organisations working in the human rights field.

## BACKGROUND

In its resolution 19/10, adopted on 22 March 2012, the Human Rights Council decided to appoint an Independent Expert on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment with a mandate to, among other things:

- (a) Study the human rights obligations, including non-discrimination obligations, relating to the enjoyment of a safe, clean, healthy and sustainable environment;
- (b) Identify, promote and exchange views on best practices relating to the use of human rights obligations and commitments to inform, support and strengthen environmental policymaking, especially in the area of environmental protection, and, in that regard, to prepare a compendium of best practices.

Beginning in February 2013, UNEP partnered with OHCHR in supporting the Independent Expert to identify and disseminate good practices related to human rights and the environment as required by Resolution 19/10.

## DEFINING A GOOD PRACTICE

The project preferred the term “good practice” to “best practice,” because in many situations, it is not possible to identify a single “best” approach. Similarly, a “best” approach in one situation may not be considered as successful in another situation.

The partners defined the term “practice” broadly, to include laws, policies, case law, jurisprudential shifts, strategies, administrative practices, projects, and so forth. A good practice would also include any practice that goes beyond established legal obligations related to the environment, such as NGO initiatives. Good practices can also be carried out by a wide range of actors, including all levels of government, civil society, the private sector, communities, and individuals.

Moreover, to be a good practice, the practice should integrate human rights and environmental standards. As the Independent Expert has described in his March 2015 report to the Human Rights Council (A/HRC/28/61), such an integration would include “the application of human rights norms to environmental decision-making and implementation or the use of environmental measures to define, implement and (preferably) exceed minimum standards set by human rights norms.” The practice should also be exemplary from the perspectives of human rights and of environmental protection, and there should be evidence that the practice is achieving or working towards achieving its desired objectives and outcomes.

## THE PROCESS OF COMPILING GOOD PRACTICES

The practices included in this compendium have multiple sources. First, the project partners held a series of regional consultations each of which addresses a particular set of thematic issues. This process began with a consultation in Nairobi on 22-23 February 2013 that focused on procedural rights and duties, followed by consultations in Geneva (June 2013) on the relationship between environmental protection and substantive rights and duties, Panama City (July 2013) on environmental protection and the human rights obligations related to members of groups in vulnerable situations, Copenhagen (October 2013) on how international institutions and mechanisms can integrate human rights with environmental protection, Johannesburg (January 2014) on constitutional rights to a healthy environment, Bangkok (May 2014) on environmental human rights defenders, and in Chamonix/Geneva (July 2014) on climate change.

In addition to the regional consultations, Yale and the United Nations Institute for Training and Research (UNITAR), with assistance from a number of other partners, including UNEP and the United Nations Development Programme (UNDP) hosted a large conference at Yale University from 5 to 7 September 2014 which informed the compilation of good practices. It brought together more than 150 scholars and policy experts, and more than 100 papers were presented on issues concerning the relationship between human rights and environmental protection.<sup>1</sup>

In addition to the consultations, the two other principal sources for good practices included a questionnaire seeking good practices that was sent to Governments, international organizations, civil society organizations, and other interested stakeholders. The Independent Expert sent out the questionnaire in the spring and summer of 2014. It was also made available publicly, and it was sent throughout 2014 to anyone who requested a copy. More than 70 responses were received.<sup>2</sup>

In addition, the Independent Expert identified good practices in his official country visits to Costa Rica and France. Finally, he sought good practices through additional contacts and research.

In the second half of 2014, the Independent Expert with the assistance of UNEP reviewed, summarized and compiled the good practices. For each practice, a one-page summary was prepared that includes the name of the practice, its implementing actors and location, a brief description of the practice, and links to websites where further information about the practice may be found. Although in some cases it was possible to supplement the material provided by the submitters, the Independent Expert had only limited capacity to verify the information provided in the submissions and therefore the summaries primarily depend on the descriptions of the practices provided by the submitters.

Each of the good practices is available on a web portal designed for this purpose ([www.environmentalrightsdatabase.org](http://www.environmentalrightsdatabase.org)) and also on the official website of the mandate holder (<http://www.ohchr.org/EN/Issues/Environment/SREnvironment/Pages/GoodPractices.aspx>) and on the personal website of the Special Rapporteur (<http://srenvironment.org>).

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1 The papers and other information about the conference are at: <http://conference.unitar.org/yale2014/>.

2 The questionnaire is available on OHCHR's website at: <http://ohchr.org/EN/Issues/Environment/SREnvironment/Pages/GoodPractices.aspx>.

## THE ORGANISATION OF THE GOOD PRACTICES

This compendium organizes the good practices in the use of human rights obligations in relation to environmental protection into nine categories: (a) procedural obligations generally; (b) the obligation to make environmental information public; (c) the obligation to facilitate public participation in environmental decision-making; (d) the obligation to protect the rights of expression and association; (e) the obligation to provide access to legal remedies; (f) substantive obligations; (g) obligations relating to non-State actors; (h) obligations relating to transboundary harm; and (i) obligations relating to those in vulnerable situations. Practices that fall into more than one category were placed in the category that seemed most relevant.

The project team is well aware that there are many more good practices in this field than those identified here. The practices included here should be taken as illustrative, rather than exhaustive, of the many innovative and exemplary efforts being made to bring a human rights perspective to environmental protection.



Anton Blejousov (2012)

*Palm oil plantations close to the Mangrove estuary in the South of Krabi, Thailand*

# Compendium of Good Practices

## PROCEDURAL OBLIGATIONS GENERALLY

Human rights law imposes procedural obligations on States in relation to environmental protection, including duties: (a) to assess environmental impacts and make environmental information public; (b) to facilitate public participation in environmental decision-making, including by protecting the rights of expression and association; and (c) to provide access to remedies for harm (see Mapping Report of Independent Expert, A/HRC/25/53, para. 29). These obligations also have support in international environmental instruments, particularly Principle 10 of the Rio Declaration, which provides that “each individual shall have appropriate access to information concerning the environment that is held by public authorities” and “the opportunity to participate in decision-making processes”, and that “effective access to judicial and administrative proceedings, including redress and remedy, shall be provided.”

This section of the compendium describes several practices that are relevant to the full range of procedural obligations. One such practice was the adoption in 2010 by the UNEP Governing Council of the Bali Guidelines for the Development of National Legislation on Access to Information, Public Participation and Access to Justice in Environmental Matters, 26 voluntary guidelines that assist States to implement their commitments to Principle 10. UNEP has prepared a comprehensive guide for the implementation of the Bali Guidelines, which was published in October 2015.

Another good practice is the implementation of these procedural obligations through regional agreements, such as the Aarhus Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters, which was adopted by the United Nations Economic Commission for Europe. To facilitate the implementation of the Convention, the Organization for Security and Co-operation in Europe maintains a network of Aarhus Centres, including in Albania, Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Montenegro, Serbia and Tajikistan. Building on the experience of the Aarhus Convention, nineteen States in Latin America and the Caribbean, with the assistance of the Economic Commission for Latin America and the Caribbean, decided in November 2014 to begin negotiation of a new regional agreement that would implement the access rights set out in Principle 10, with a view to completing the negotiation by December 2016.

Civil society organizations have also engaged in exemplary practices designed to facilitate the exercise of procedural rights to information, participation and remedy. One of the most notable is The Access Initiative (TAI), a global network of more than 150 civil society organizations that work together to promote procedural rights.

Good practices in this category include:

- Aarhus Centres
- Aarhus Convention
- Bali Guidelines
- ECLAC negotiation of agreement on Principle 10
- Environmental Democracy Index
- The Access Initiative

### **Name of Good Practice: Aarhus Centres**

#### **Sub-Category: Treaties and Instruments**

**Key Words:** Aarhus Convention, Access to Information, Awareness Raising, Education, Implementation, Internet, Participation, Principle 10, Right to a Healthy Environment, Rio Declaration

**Implementing Actors:** International Organisation: Organisation for Security and Co-operation in Europe; National Ministries; Civil Society Organisations

**Location:** Global

**Description:** In an effort to support the implementation of the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters by providing members of the public with practical

resources to exercise their environmental rights under the Aarhus Convention, the Organisation for Security and Co-operation in Europe (OSCE) has maintained a network of Aarhus Centres since 2002. The OSCE has helped to establish Aarhus Centres in several countries, including Albania, Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Montenegro, Serbia and Tajikistan. The OSCE partners with the governments of the participating States where these Centres are located as well as leading environmental NGOs in these countries. The Centres are managed by a board consisting of an equal number of representatives from government and civil society.

The Aarhus Centres conduct a number of activities, including disseminating environmental information on regional and country-specific activities, carrying out educational and training projects relevant to the implementation of the Aarhus Convention, and providing a venue where members of the public can meet to discuss environmental concerns. According to the OSCE, the Aarhus Centres strengthen environmental governance by “assist[ing] the public with participating in environmental decision-making and facilitat[ing] access to justice on environmental matters, sensitizing the public and governments to their shared responsibility for their natural surroundings.” For example, the Khujand Aarhus Centre in northern Tajikistan conducted an extensive campaign to raise the awareness of the inhabitants of the town of Taboshar about the health risks associated with the nearby abandoned uranium mining site. In Armenia, Aarhus Centres held public discussions with community leaders, representatives of the water and sewage company, regional council members and residents to on drinking water and water quality, a long-standing problem in many municipalities.

**Further Information:** OSCE’s website: <http://www.osce.org/Aarhus>; Aarhus Centre guidelines available at: <http://www.osce.org/eea/40506>.

### **Name of Good Practice: (Aarhus) Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters**

#### **Sub-Category: Treaties and Instruments**

**Key Words:** Aarhus Convention, Access to Information, Access to Justice, Compliance, Future Generations, Monitoring, Participation, Principle 10, Regional, Right to a Healthy Environment, Rio Declaration

**Implementing Actors:** Nation State: 47 Parties to the Convention (as of January 2015); International Organisation: UN Economic Commission for Europe (UNECE)

**Location:** Europe, Central Asia

**Description:** The Aarhus Convention is a regional instrument on the rights of access to information, participation, and access to justice, enshrined in Principle 10 of the 1992 Rio Declaration. Adopted in June 1998, the Aarhus Convention states that in order to “contribute to the protection of the right of every person of present and future generations to live in an environment adequate to his or her health and well-being, each Party shall guarantee the rights of access to information, public participation in decision-making, and access to justice in environmental matters in accordance with the provisions of this Convention” (art. 1). Within this framework, the Convention sets out detailed procedural requirements on the rights of access to information, participation, and justice. The obligations in the Convention are imposed on public authorities as well as bodies performing public administrative functions, including privatized bodies having public responsibilities in relation to the environment and under the control of public authorities.

Article 15 of the Convention establishes the Compliance Committee, which has the authority to review a Party’s compliance on the basis of: (1) submission by a Party about compliance by another Party; (2) submission by a Party concerning its own compliance; (3) a referral by the secretariat to the Committee; and (4) communications by members of the public concerning a Party’s compliance with the Convention. In addition, UNECE’s website explains that “the Committee may examine compliance issues on its own initiative and make recommendations; prepare reports on compliance with or implementation of the provisions of the Convention at the request of the Meeting of the Parties; and monitor, assess and facilitate the implementation of and compliance with the reporting requirements.” The Compliance Committee’s recommendations on a particular case are not binding. According to UNECE, the Committee has made findings in 47 cases since its inception.

**Further Information:** Information about the Convention is available on UNECE’s website at: <http://www.unece.org/env/pp/introduction.html>.

**Name of Good Practice:** Bali Guidelines for the Development of National Legislation on Access to Information, Public Participation, and Access to Justice in Environmental Matters

**Sub-Category:** Treaties and Instruments

**Key Words:** Access to Information, Access to Justice, Implementation, Legislation, Participation, Principle 10, Rio Declaration

**Implementing Actors:** International Organisation: United Nations Environment Programme; Nation States

**Location:** Global

**Description:** The Bali Guidelines were adopted by the Governing Council of the UN Environment Programme (UNEP) in its decision SS.XI/5, part A of 26 February 2010. They are a set of 26 voluntary guidelines that aim to provide general guidance to States on promoting “the effective implementation of their commitments to Principle 10 of the 1992 Rio Declaration on Environment and Development within the framework of their national legislation and processes.” According to UNEP, the Bali Guidelines “underline recognition of the need to fill gaps in legal norms and practices so as to encourage broad access to information, public participation and access to justice in environmental matters within the framework of national legislation and processes.”

The Bali Guidelines have led to additional initiatives. UNEP (in collaboration with partners, including UNITAR and the World Resources Institute (WRI), a civil society organisation), initiated a project to develop a guide that seeks to offer assistance to governments towards the implementation of the Guidelines. The guide, which was developed with input from experts and civil society, includes case examples and jurisprudence from a wide range of national and international practice. In addition, the WRI and its partners are using the Bali Guidelines as the international standard against which national laws can be assessed in its upcoming Environmental Democracy Index (EDI). The EDI, which will be completed in 2015, is designed to measure country-specific realization of the procedural rights of access to information, access to justice and public participation relating to environmental protection through an analysis of national laws and regulations.

**Further Information:** The Bali Guidelines are available at: [http://www.unep.org/civil-society/Portals/24105/documents/Guidelines/GUIDELINES\\_TO\\_ACCESS\\_TO\\_ENV\\_INFO\\_2 .pdf](http://www.unep.org/civil-society/Portals/24105/documents/Guidelines/GUIDELINES_TO_ACCESS_TO_ENV_INFO_2.pdf); the draft guide to the Bali Guidelines is available on UNEP’s website at: <http://www.unep.org/civil-society/Implementation/Principle10/tabid/105013/Default.aspx>.

**Name of Good Practice:** Regional Instrument on the Rights of Access to Information, Participation and Justice in Environmental Matters in Latin America and the Caribbean

**Sub-Category:** Treaties and Instruments

**Key Words:** Access to Information, Access to Justice, Participation, Principle 10, Regional, Right to a Healthy Environment, Rio Declaration, Treaty

**Implementing Actors:** Nation State: States in Latin America and the Caribbean; International Organisation: UN Economic Commission for Latin America and the Caribbean (ECLAC)

**Location:** Latin America and the Caribbean

**Description:** During the Rio+20 UN Conference on Sustainable Development, ten States from the Latin American and the Caribbean (LAC) region subscribed to a Declaration on Principle 10. By 2014, nine more countries had signed the Declaration, representing more than half of all LAC countries. The signatory countries, which include Argentina, Brazil, Chile, and Jamaica, expressed their commitment to explore the viability of a regional instrument on the rights to access of information, participation, and access to justice, enshrined in Principle 10 of the 1992 Rio Declaration. After two years of discussions, in November 2014 the participating governments decided in Santiago, Chile, to commence negotiations on the regional instrument with a view to concluding them by December 2016. The progress and developments leading to the negotiation of a final instrument serve as a good practice for other regions seeking to adopt a similar regional treaty.

The second meeting, in Guadalajara, Mexico, agreed to a Plan of Action that included many opportunities for public participation, such as the ability for civil society organisations to make oral interventions during the course of the meeting along with States. The third meeting, held in Lima, Peru, in November 2013, led to the recognition, inter alia, “[t]hat everyone has the right to a healthy environment, which is essential for the full development of human beings and for the achievement of sustainable development, poverty eradication, equality, and the preservation and stewardship of the environment for the benefit of present and future generations.” In San José, Costa Rica, in October 2014 governments agreed on the San José Content, which includes the right to a healthy environment in the general principles of the operative part of the regional instrument.

**Further Information:** For the relevant documents leading to the elaboration of the LAC instrument, see: <http://www.cepal.org/rio20/principio10/default.asp?idioma=IN>. See also Marcos A. Orellana, *Democracia Ambiental y Desarrollo Sostenible: Hacia un Instrumento Regional sobre Derechos de Acceso [Environmental Democracy and Sustainable Development: Toward a Regional Instrument on Access Rights]*, in FARN Informe Ambiental Anual [FARN Ann. Evtl. Rep.] 43, 44 (2014).

**Name of Good Practice:** Environmental Democracy Index

**Sub-Category:** Civil Society Monitoring Mechanisms

**Key Words:** Access to Information, Access to Justice, Bali Guidelines, Compliance, Implementation, Monitoring, Participation, Principle 10, Technology

**Implementing Actors:** Civil Society Organisation: World Resources Institute and The Access Initiative

**Location:** Global

**Description:** The World Resources Institute (WRI) is a global research organization that works at “the nexus of environment, economic opportunity and human well-being.” The Access Initiative is a global network of civil society organisations that promote access to information, participation and justice in environmental decision-making.

WRI and The Access Initiative (TAI) are developing the Environmental Democracy Index (EDI), an index designed to measure country-specific realization of the procedural rights of access to information, access to justice and public participation relating to environmental protection through an analysis of national laws and regulations. The UN Environment Programme’s Bali Guidelines for the Development of National Legislation on Access to Information, Public Participation and Access to Justice in Environmental Matters serve as the international standard against which national laws can be assessed. Based on the Bali Guidelines, the EDI will assess country compliance through 99 indicators, each of which includes a guiding note and a scoring guide. According to WRI, “for each participating country, one environmental lawyer completes the research and provides indicator scores on a four-point scale (0-3). Then another environmental lawyer reviews the scores, clarifying and providing feedback on the researcher’s scores. Finally the TAI Secretariat conducts two separate reviews for each country, to bring the total analyses for each country to four.”

The first EDI was completed in early 2015 and is available online through an interactive web-based platform where users can view country scores, including on a global map for broad comparison. Additionally, the website includes a separate page for each country with a breakdown of country scores by pillar, guideline and individual indicator, including the comments by participating environmental lawyers. Scores will be updated on a bi-annual basis. According to WRI, the EDI will help “identify legal gaps in the three areas of environmental democracy” and can be a useful tool for governments, civil society organizations, academics, and international financial institutions.

**Further Information:** Information on the EDI is available on the project’s website at: <http://www.environmentaldemocracyindex.org/>.

## **Name of Good Practice: The Access Initiative**

### **Sub-Category: Civil Society Monitoring Mechanisms**

**Key Words:** Access to Information, Access to Justice, Principle 10, Public Participation, Rio Declaration

**Implementing Actors:** Civil Society Organisation: Members of The Access Initiative

**Location:** Global

**Description:** The Access Initiative (TAI), which was established in 1999, is a global network of more than 150 civil society organisations that promote the procedural rights of access to information, public participation, and justice in environmental decision-making. Member organisations from around the world carry out evidence-based advocacy to encourage collaboration and innovation that advances transparency, accountability, and inclusiveness in decision-making at all levels. TAI is led by seven civil society organizations known as the core team. Each of the core team members acts as a regional lead. The World Resource Institute, one of the core team members, serves as the Secretariat for the global TAI network.

TAI has developed a number of mechanisms to support its civil society organisations as they undertake advocacy relating to procedural rights. For example, it has developed an advocacy toolkit, which provides guidance for organisations to undertake effective advocacy, such as how to assess problems, build evidence to support their advocacy, create work plans and identify opportunities or venues for change. TAI has also developed an assessment toolkit that helps civil society coalitions assess environmental governance in their countries and identify opportunities to make positive changes. Based on experience gained from conducting 32 assessments around the world, TAI updated its assessment toolkit in 2006. As part of the update, web-based software was developed to help TAI coalitions easily conduct assessments, analyze their findings, and store their data. In 2010, TAI compiled case studies that highlighted experiences from its members relating to the progress in the implementation of Principle 10 of the Rio Declaration and the gaps that still remain. These case studies were submitted to the Secretariat of the Rio+20 Conference on Sustainable Development. TAI is also an important partner in the development of the Environmental Democracy Index (EDI), an index designed to measure country specific realization of environmental procedural rights through an analysis of national laws and regulations.

**Further Information:** TAI's website available at: <http://www.accessinitiative.org/>; the advocacy and assessment toolkits are available at: <http://www.accessinitiative.org/resources>; more information on the EDI is available at: <http://www.wri.org/our-work/project/access-initiative-tai/commissions>.



*Gas flaring at oil drilling site on the Napo river, Amazon, Ecuador*

## THE OBLIGATION TO MAKE ENVIRONMENTAL INFORMATION PUBLIC

Human rights bodies have made clear that to protect human rights from environmental harm, States should provide access to environmental information (A/HRC/25/53, para. 31).

Many States have adopted laws providing for such access, including Chile and the Czech Republic. Some States have undertaken innovative approaches to obtaining environmental information. For example, El Salvador operates an Environmental Observatory that systematically monitors potential environmental threats based on observations by a network of local observers. Another good practice is the publication of annual reports on the state of the environment. Examples include reports by the Czech Republic, South Africa and Spain.

Some of the most innovative practices in respect of environmental information concern education and awareness-raising. For example, Algeria includes environmental education as one of the key topics of its national plan of action for environment and sustainable development. Ghana has instituted the AKOBEN programme to assess the performance of mining and manufacturing operations through a five-colour rating scheme that is easily understood by the public. Costa Rica's Certificate of Sustainable Tourism programme assigns companies in the tourism industry a "sustainability level" rating.

Another good practice in this area is to raise awareness at the international level of the relationship between human rights and environmental protection. UNEP has taken several important initiatives in this respect. At the regional level, in October 2013, the Asia-Europe Meeting Seminar convened more than 130 government officials, academics, and civil society representatives from 48 Asian and European countries to

discuss the challenges presented by environmental harm to the protection of human rights. In September 2014, the ASEAN Intergovernmental Commission on Human Rights organized a workshop on human rights, environment and climate change in Yangon, Myanmar.

Civil society organizations have also engaged in good practices in education. For example, in Uganda, the National Association of Professional Environmentalists conducts a Sustainability School Programme that builds the capacity of local communities to seek transparency and accountability of oil companies and Governments on environmental matters.

States have adopted a wide variety of online tools that provide good practices in facilitating access to environmental information, including efforts by the Czech Republic, Serbia, Finland, and South Africa. Examples of online tools can also be found at the subnational level. Ontario, Canada, has a web-based Environmental Registry ([www.ebr.gov.on.ca](http://www.ebr.gov.on.ca)) that allows the public to access a wide spectrum of environmental information. There are also good practices in the use of online tools at the regional level. The Aarhus Clearinghouse (<http://aarhusclearinghouse.unece.org>) is an easy-to-use website that disseminates information on good practices in the implementation of the Aarhus Convention. The Commission for Environmental Cooperation, a regional organization created by Canada, Mexico and the United States of America, compiles and disseminates information on pollutant releases and transfers throughout North America through its Taking Stock report and website ([www.cec.org/takingstock](http://www.cec.org/takingstock)).

Practices in this category include:

### **Access to Environmental Information**

- Multiple States - laws on Access to Environmental Information
- El Salvador – environmental observatory
- Costa Rica – State of the Nation report
- Czech Republic – annual report
- South Africa – annual report
- Spain – environmental profile

### **Education and Awareness Raising**

- Algeria – Environmental Education Programme
- ASEAN – workshop on human rights and the environment
- ASEM – seminar on human rights and the environment
- Center for Victims of Torture – new tactics program
- Costa Rica – Certificate of Sustainable Tourism
- Ghana – AKOBEN

- Uganda – Sustainability School
- UNEP – program on human rights and the environment

### Online Tools

- Aarhus Clearinghouse
- North American Commission for Environmental Cooperation – Taking Stock
- Czech Republic – integrated pollution register
- Finland – Tarkkailija
- Canada – Ontario’s environmental registry
- Serbia – EcoRegister
- South Africa – SAWIC

### Name of Good Practice: Laws on Access to Environmental Information

#### Sub-Category: Access to Environmental Information

**Key Words:** Access to Information, Internet, Technology

**Implementing Actors:** National Legislatures; National Ministries

**Location:** Multiple Countries

**Description:** Most countries have adopted specific laws relating to access to information, and some, such as South Africa, have adopted constitutional provisions relating to access to information. In addition, some countries have adopted specific laws or constitutional provisions relating to access to environmental information.

For example, Chile’s environmental framework law (La Ley No 20.417) sets out a comprehensive framework for access to environmental information. Article 31 provides that everyone has a right to access environmental information in the possession of the government relating to, among other things, the state of the environment, including air and water resources, soil and earth, protected areas, and biological diversity; environmental pollution; the impact of genetically modified organisms on the environment; adopted or proposed administrative acts, regulations, or other actions relating to the environment; environmental studies relied on for environmental decision-making; and potential threats from environmental harm to human health, security or cultural resources. Article 31 also provides for administrative and judicial review of alleged violations of the access to environmental information provisions. Similarly, Article 112 of the Norwegian Constitution specifically provides for “a right to information on the state of the natural environment and on the effects of any encroachment on nature that is planned or carried out.” In 2003

Norway adopted the Environmental Information Act which sets out the duty on any private or public entity to maintain and make available information on their actions that may have an “appreciable effect” on the environmental. The Czech Republic has adopted the Right to Environmental Information Act (Act No. 123/1998), which allows individuals to request access to a wide range of environmental information through multiple means, including by writing, fax, telephone, or “other technically feasible form.” The Act requires the government to provide the information requested as soon as possible and at the latest within 30 days of the request, and not later than 60 days under special circumstances. Any decision to deny requested information is subject to administrative and judicial review.

**Further Information:** Chile’s environmental framework law is available at: <http://www.mma.gob.cl/eae/1315/w3-printer-49004.html>; the Czech Republic’s law is available at: <http://www.legislationline.org/documents/action/popup/id/8518>; information on Norway’s law is available at: <http://www.regjeringen.no/en/dep/kld.html?id=668>.

## **Name of Good Practice: El Salvador’s Environmental Observatory**

### **Sub-Category: Access to Information Relating to Natural/Environmental Disasters**

**Key Words:** Access to Information, Technology, Internet, Natural Disasters, Monitoring, Participation

**Implementing Actors:** National Ministry: El Salvador Ministry of the Environment and Natural Resources (MARN)

**Location:** El Salvador

**Description:** Since 2001, the Ministry of Environment and Natural Resources (MARN) has operated El Salvador’s Environmental Observatory and its predecessor, the National System of Territorial Studies (SNET). The Observatory aims to support environmental management and risk management through systematic observation of potential environmental threats related to meteorological, hydrological, geological and oceanographic phenomena, based on scientific observation techniques carried out by a network of local observers. The objective of the monitoring is to identify early warning of natural disasters, such as hurricanes, earthquakes, landslides, tsunamis and flooding, and to provide information for planning responses in order to minimize the impacts from such threats to life, property, infrastructure, and livelihoods in general.

Notably, this practice combines monitoring at the national and local level. At the national level, MARN monitors for natural hazard threats with advanced technological equipment, such as satellite imagery, weather stations, and seismic

detection equipment. MARN also uses advanced modelling techniques to determine the impacts of potential natural hazards on communities, such as the impacts from flooding. MARN disseminates information on potential threats in real time to a network of local and provincial actors that have been trained to interpret the information, including municipalities, governorates, and community leaders, and it also issues news alerts on its website. In addition, since 2002 MARN has trained a network of local observers, such as community leaders of people vulnerable to natural hazards, to monitor rainfall, measure river levels, observe for signs of landslides, and perform other tasks.

MARN transmits information on threats to 88 municipalities, 14 governorates and 6 government institutions that have been provided with equipment and trained in the interpretation of the information. MARN has also trained 600 local observers to participate in the monitoring programme. According to MARN, the network of local observers is vital to supplement the information generated by the central authorities to ensure a comprehensive monitoring programme.

**Further Information:** On the SNET web page at: <http://snet.gob.sv/>.

## **Name of Good Practice:** Costa Rica's State of the Nation Report

### **Sub-Category:** Annual Domestic Environmental Reports

**Key Words:** Access to Information, Awareness Raising, Internet, Monitoring, Ombudsperson, Technology

**Implementing Actors:** Academic Institution/Civil Society Organisation: El Consejo Nacional de Rectores/National Council of Rectors; National Ombudsperson: Costa Rican Office of the Ombudsperson

**Location:** Costa Rica

**Description:** The State of the Nation Report is an annual report that serves as a performance monitoring system for Costa Rica, through the selection, measurement and evaluation of a wide range of components of sustainable human development. The report was established as part of the *Programa Estado de la Nación*/State of the Nation Program in 1994 as a UN Development Programme project, with support from the National Council of Public University Rectors (CONARE) and the Office of the Ombudsperson in Costa Rica. In 2003, it was restructured as an institutional programme under CONARE, in partnership with the Office of the Ombudsperson and the four public universities of Costa Rica.

The report's ground-breaking approach goes beyond conventional indicators, by employing innovative research tools such as a statistical compendium with more than 500 references. The report provides in-depth, independent analysis of challenges

and successes in four general areas: social, economic, environmental and political. The drafters, who enjoy complete editorial freedom, rely on academic research and dialogues with diverse groups in public and private sectors and communities. The State of the Nation report is a good practice for its independent and regular reporting on developmental and environmental issues, and its dissemination of up-to-date and reliable information to support citizen participation in policymaking.

**Further Information:** The Programme's website: <http://www.estadonacion.or.cr/>; Miguel Gutierrez Saxe, *National and Regional performance and accountability: "State of the Nation/Region Program – Costa Rica"* at: <http://www.oecd.org/site/progresskorea/43586578.pdf>; report of Independent Expert on his Mission to Costa Rica for an overview of the State of the Nation Report: <http://www.ohchr.org/EN/Issues/Environment/SREnvironment/Pages/Countryvisits.aspx>.

### **Name of Good Practice: Annual Report on the Environment and the Statistical Environmental Yearbook of the Czech Republic**

#### **Sub-Category: Annual Domestic Environmental Reports**

**Key Words:** Access to Information, Technology, Internet

**Implementing Actors:** National Ministry: Ministry of the Environment (MŽP), Czech Environmental Information Agency (CENIA)

**Location:** Czech Republic

**Description:** The Czech Ministry of the Environment (MŽP) has been publishing an Annual Report on the Environment since 1994, and starting in 2005, the Czech Environmental Information Agency (CENIA) has gathered the information that informs the content of the report. The completed report is submitted for approval to the Government of the Czech Republic and subsequently submitted to the Chamber of Deputies and Senate of the Parliament of the Czech Republic. The report is published in electronic form on MŽP and CENIA's websites, and it is distributed upon request on USB flash drive, together with the Statistical Yearbook of the Environment of the Czech Republic. According to MŽP, the report "is a comprehensive evaluation document assessing the state of the environment in the Czech Republic." Moreover, MŽP explains that the report "is based on authorised data that are obtained from monitoring systems administered by organisations both from within and outside the environmental sector." The report evaluates the state of the environment based on 36 indicators that are selected using a set of criteria, such as relevance to current environmental problems; relevance to the current environmental policy, strategies and international obligations under implementation; and availability of high-quality and reliable data over a long period of time. Indicators fall under broad categories, including air and climate, water management, forests, industry and energy sector,

waste, transport, and financing. For example, under air and climate, indicators include: air quality in terms of human health protection, air quality in terms of the protection of ecosystems and vegetation; greenhouse gas emissions; and emissions of acidifying substances.

MŽP publishes the Statistical Environmental Yearbook simultaneously with the report. The Yearbook provides a simplified version of the report's methodology and main findings for the public. According to MŽP, "in the yearbook, the reader may find concrete data and information on the driving forces and pressures for environmental changes, some impacts of these changes and tools used for implementation and control of the environmental policy."

**Further Information:** English versions of the report are available on the MŽP's web page at: [http://www.mzp.cz/en/state\\_of\\_the\\_environment\\_reports\\_documents](http://www.mzp.cz/en/state_of_the_environment_reports_documents); English versions of the yearbook are also available on MŽP's web page at: [http://www.mzp.cz/en/statistical\\_environmental\\_yearbooks\\_documents](http://www.mzp.cz/en/statistical_environmental_yearbooks_documents).

### **Name of Good Practice: South African Department of Environmental Affairs' Annual Report**

#### **Sub-Category: Annual Domestic Environmental Reports**

**Key Words:** Access to Information, Monitoring, Internet

**Implementing Actors:** National Ministry: South African Department of Environmental Affairs

**Location:** South Africa

**Description:** The South African Department of Environmental Affairs publishes an annual report on all enforcement-related activities. This report provides information on statistics for enforcement, including administrative citations and fines issued, criminal cases brought, number of convictions, number of facilities inspected, and number of staff working on compliance monitoring and enforcement. For example, the 2012-2013 report indicated that a total of 1818 arrests were made by government regulators, compared to 1339 in the previous financial year. 1488 criminal dockets were registered during the period in question compared to 1080 in previous period. The report also indicates a slight decrease in the number of convictions obtained nationally, from 82 in 2011-12 to 70 convictions in 2012-13. Some of the most prevalent crimes reported include the illegal hunting of rhino in a national park, the unlawful disposal of waste, illegal cutting and collection of wood and driving in a coastal area without a permit.

According to the Executive Director of the Centre for Environmental rights, a South African environmental NGO, the annual compliance and enforcement report "gives

incredibly valuable information to civil society to use to empower it to take legal action and to use as softer advocacy tools, such as to criticise companies engaged in illegal activities.”

**Further Information:** See website of the Department of Environmental Affairs to find the reports: [https://www.environment.gov.za/mediarelease/necer\\_201213report](https://www.environment.gov.za/mediarelease/necer_201213report).

**Name of Good Practice:** Environmental Profile of Spain, Providing Ease of Access to Mobile Devices

**Sub-Category:** Annual Domestic Environmental Reports

**Key Words:** Access to Information, Technology, Internet

**Implementing Actors:** National Ministry: Spanish Ministry of Agriculture, Food and Environment

**Location:** Spain

**Description:** The Spanish Ministry of Agriculture, Food and Environment has published an annual report since 2004 entitled “Environmental Profile of Spain. Indicator-based Report.” This annual publication provides an overview of the environmental situation in Spain, increases the country’s knowledge about the environment, provides specific data, monitors policies intended to mainstream environmental criteria into the country’s production sectors, and serves as an important tool in the ongoing dissemination and awareness-raising campaigns run by the Ministry of Agriculture, Food and Environment. The 2012 edition contained 85 indicators, arranged in 17 chapters. For example, under the chapter covering air quality and atmospheric emissions, indicators include emissions of greenhouse gases, emissions of acidifying and eutrophying gases, and tropospheric ozone precursors, emissions of particulate matter, air quality in urban environments, and regional background air quality for the protection of health and vegetation.

A notable new feature of the 2012 edition is the design of its contents in order to facilitate its viewing by electronic means. This enhances the accessibility of the information for all users, enabling an interactive Environmental Profile of Spain 2012. The report can therefore be consulted using mobile devices, which it is hoped will lead to wider dissemination of the information due to greater ease of use. Likewise, it is hoped that wider circulation of the report will promote education and awareness of environmental values, fostering the participation not only of managers and specialists but of the whole of society.

According to the Ministry of Agriculture, Food and Environment, the annual report “has become a work of reference for all those organisations, institutions and citizens who require a rigorous diagnosis of the environmental situation in our country.”

**Further Information:** On the web site of Spain’s Ministry of Agriculture, Food and Environment at: [http://www.magrama.gob.es/es/calidad-y-evaluacion-ambiental/publicaciones/perfil\\_ambiental\\_2012\\_en.aspx](http://www.magrama.gob.es/es/calidad-y-evaluacion-ambiental/publicaciones/perfil_ambiental_2012_en.aspx).

## **Name of Good Practice: Environmental Education Programme**

### **Sub-Category: Education and Awareness-Raising**

**Key Words:** Education

**Implementing Actors:** National Ministry: Ministry of Physical Planning and Environment, Ministry of National Education, and Interdepartmental Committee of Education, Physical Planning and Environment

**Location:** Algeria

**Description:** Environmental education is one of the key topics covered by the National Plan of Action for Environment and Sustainable Development (PNAEDD), adopted with the aim to raise awareness and inform the public about the seriousness of the environmental situation in Algeria. Following recommendations of the Algerian National Committee on education reform, the Ministry of Physical Planning and Environment and the Ministry of National Education signed an agreement in April 2002 to develop and implement a programme to strengthen environmental education in the school curriculum and to create additional green activities through clubs for educational institutions.

At the institutional level, the initiative created the Interdepartmental Committee of Education, Physical Planning and Environment to coordinate, implement and monitor the programme. The partners also established joint education committees for the design of educational tools for primary, intermediate and secondary schools. These educational tools include the educator’s teaching guide, a green club kit and a workbook for students. The programme also established green clubs that would allow students and facilitators to build projects and activities in order to address environmental issues and consider practical solutions. Moreover, the project partners organised a number of seminars and workshops as part of the programme across the country to train teachers and other facilitators. The implementation of the environmental education is assessed by the national government’s annual report.

**Further Information:** Information is available on the Ministry of Physical Planning and Environment’s website at: [http://www.mate.gov.dz/index.php?option=com\\_content&task=view&id=44&Itemid=162](http://www.mate.gov.dz/index.php?option=com_content&task=view&id=44&Itemid=162).

## **Name of Good Practice: ASEAN Intergovernmental Commission on Human Rights Workshop on Human Rights, Environment and Climate Change**

### **Sub-Category: Education and Awareness-Raising**

**Key Words:** Access to Information, Awareness Raising, Conference, Regional

**Implementing Actors:** International Organisation: ASEAN Intergovernmental Commission on Human Rights; Civil Society Organisation: Danish Institute for Human Rights; National Ministry: Danish Ministry of Foreign Affairs

**Location:** Yangon, Myanmar

**Description:** The ASEAN Intergovernmental Commission on Human Rights (AICHR) was established as the human rights body of the Association of Southeast Asian Nations (ASEAN) in 2009 to promote and protect human rights and fundamental freedoms of the peoples of ASEAN. The AICHR organized a Workshop on Human Rights, Environment and Climate Change in Yangon, Myanmar from 13 to 15 September 2014. The workshop sought to build on the inclusion of the right to a safe, clean and sustainable environment in the ASEAN Human Rights Declaration adopted in November 2012. The workshop was organized and led by the Representative of Myanmar to the AICHR, H.E. U Kyaw Tint Swe, with the support of the Danish Institute for Human Rights and the Danish Ministry of Foreign Affairs. It aimed to discuss the inter-linkages between environmental sustainability and its impact on the enjoyment of human rights of the ASEAN people and the development of a regional strategy on mainstreaming a human rights based approach to environmental policymaking and protection.

The workshop invited expert speakers from within the region, Europe and the Americas, and included presentations sharing national experiences on the challenges and good practices on environmental protection by representatives from the various ASEAN Member States. For example, the Union Minister for Foreign Affairs for Myanmar noted that climate change and extreme weather conditions have had serious consequences for poverty, human security and human rights, adding that ASEAN countries' geographic location make them vulnerable to the impacts of climate change. According to AICHR's website, participants learned during the workshop, among other things, about the clear connection between human rights and environmental sustainability/climate change, and the importance of adopting a human rights based approach to environment policy making, such as ensuring public participation during environmental decision-making.

**Further Information:** Information about the Workshop can be found on the AICHR website at: <http://aichr.org/news/aichr-workshop-on-human-rights-environment-and-climate-change/>.

## **Name of Good Practice: 13<sup>th</sup> Informal Asia Europe Meeting (ASEM) Seminar on Human Rights and the Environment**

### **Sub-Category: Education and Awareness-Raising**

**Key Words:** Awareness Raising, Conference, Access to Information

**Implementing Actors:** Civil Society Organisation: Danish Institute for Human Rights, Asia-Europe Foundation (ASEF); National Ministry: Danish Ministry of Foreign Affairs

**Location:** Copenhagen, Denmark

**Description:** The 13<sup>th</sup> Informal Asia Europe Meeting (ASEM) Seminar was held in Copenhagen on 21-23 October 2013 with a thematic focus on Human Rights and the Environment. Established in 1998, the Informal ASEM Seminar on Human Rights regularly brings together government officials, academics, and civil society representatives from ASEM member countries for dialogues on ASEM priorities. The 13<sup>th</sup> Seminar was organized by ASEF, the Danish Institute for Human Rights, and the Danish Ministry of Foreign Affairs.

The 13<sup>th</sup> Seminar linked human rights issues to the environment and climate change debate for the first time within the ASEM framework, with the intention of promoting inter-regional dialogue and cooperation on strengthening human rights in relation to environment protection. It brought together over 135 participants, including official government representatives and civil society experts, representing 48 of the 51 ASEM partners, to discuss the challenges presented by environmental degradation to the promotion and protection of human rights. Discussions took place in four working groups, each focusing on a topic area: the interaction between sustainable development, environment and human rights; access to information, participatory rights and access to justice; actors, institutions and governance; and climate change and human rights implications. One of the objectives of the seminar was to provide an opportunity for participants to gain a greater appreciation and deeper understanding of the differences as well as the similarities between the two regions of Asia and Europe in human rights law and environmental law.

A seminar report was published that summarised the discussions in the four working groups and presented a series of key messages. A key message included that "States should adopt a human-rights-based approach to environmental protection as part of their national environmental regulatory framework."

**Further Information:** Information about the Seminar and the final report can be found at: <http://www.asef.org/index.php/projects/themes/governance/2938-13th-informal-asem-seminar-on-human-rights-human-rights-and-the-environment>.

## **Name of Good Practice:** Center for Victims of Torture's New Tactics in Human Rights Programme

### **Sub-Category:** Education and Awareness-Raising

**Key Words:** Advocacy, Awareness Raising, Capacity Building, Environmental Human Rights Defenders, Network, Support

**Implementing Actors:** Civil Society Organisation: Center for Victims of Torture

**Location:** Global

**Description:** The Center for Victims of Torture (CVT) launched its New Tactics in Human Rights Programme in 1999, with the aim of helping human rights defenders work more effectively so they can achieve their goals and better address human rights violations around the world. According to CVT, the New Tactics Programme began when it "recognized how complex the systems are that allow torture and other human rights abuses to persist. In order to address such challenging human rights violations, CVT and others would need to be strategic and use a broad range of tactics and collaborations."

New Tactics has concentrated its work in three main areas: creating and sharing information and materials; training and mentoring; and building an online community. Under the first area, New Tactics published a toolkit that includes a collection of 80 stories of successful tactics used for human rights work. According to CVT, "the stories come from all over the world and range from prevention tactics to intervention tactics, restorative tactics to those that building human rights cultures and institutions." For example, the book outlines three categories of physical protection tactics, including tactics that prevent harm through physical presence; that get critical information into the hands of people who can prevent abuse; and that anticipate abuse and create obstacles to stop it.

The New Tactics website also allows users to explore examples of tactics used throughout the world from an online database, including those specifically relating to the environment. Examples of tactics relating to the environment include: an online scorecard to share information about environmental hazards: the mapping of environmental violations in order to educate the general public about the problem of toxic industrial waste and to pressure the government to institute policies to remedy the problem; and an online searchable database of traditional ecological knowledge to prevent private companies from unlawfully patenting that knowledge. The New Tactics programme includes an online conversation site that serves as an open forum for human rights defenders to discuss their experiences advancing a human rights strategy and implementing a particular tactic.

**Further Information:** New Tactics website: <http://www.newtactics.org/>; the toolkit is available at: <https://www.newtactics.org/node/253>; the database of tactics from around the world can be found at: <http://www.newtactics.org/tactics>.

## **Name of Good Practice: Certificación para la Sostenibilidad Turística en Costa Rica/Costa Rica's Certification for Sustainable Tourism**

### **Sub-Category: Education and Awareness-Raising**

**Key Words:** Access to Information, Accountability, Awareness Raising, Monitoring

**Implementing Actors:** National Ministry: Instituto Costarricense de Turismo/Costa Rican Tourism Board

**Location:** Costa Rica

**Description:** The Costa Rican Tourism Board (ICT) is an autonomous body under the Ministry of Tourism. Among other tasks, it administers the Certification for Sustainable Tourism (CST) programme, a voluntary points-based system created in 1998 to recognize enterprises' efforts towards environmentally friendly practices and business models. ICT evaluates each participating business according to criteria concerning the relationship of the company not only with the natural environment, but also with its clients and its surrounding community. On the basis of the evaluation, the company is assigned a "sustainability level" rating. ICT conducts regular reassessments of the rating, with the aim of helping the business improve its performance. As the rating improves, the CST programme provides for greater national and international publicity, among other benefits.

The programme is an innovative way to provide information to consumers about the degree to which certain businesses are complying with or exceeding environmental standards. As a result, the consumers are able to choose tourism options in the light of greater knowledge about the environmental consequences of their choice. Businesses are encouraged to improve their environmental performance. Higher-performing businesses are rewarded with higher rankings and, in turn, with greater attractiveness to those looking for sustainable choices in their travel in and to Costa Rica. The benefits are felt by surrounding communities in economic as well as environmental terms. Indeed, according to a recent study of ecotourism published by UNEP, the economic benefits from offering a range of "green services" around ecotourism may even include a reduction of poverty rates in the areas with eco-friendly tourism projects.

**Further Information:** The ICT's website is available at: <http://www.turismo-sostenible.co.cr/>; UNEP's study is at: [http://www.unep.org/resourceefficiency/Portals/24147/scp/business/tourism/greeneconomy\\_tourism.pdf](http://www.unep.org/resourceefficiency/Portals/24147/scp/business/tourism/greeneconomy_tourism.pdf); see Report of Independent Expert on Mission to Costa Rica for an overview of the CST programme: <http://www.ohchr.org/EN/Issues/Environment/SREnvironment/Pages/Countryvisits.aspx>.

## **Name of Good Practice:** AKOBEN, Community Environmental Awareness Programme

### **Sub-Category:** Education and Awareness-Raising

**Key Words:** Awareness Raising, Participation, Accountability, Monitoring, Extractive Industry, Mining, Corporations

**Implementing Actors:** National Ministry: Ghanaian Environmental Protection Agency (GEPA)

**Location:** Ghana

**Description:** AKOBEN is a programme that makes environmental law and administrative processes more accessible to communities that do not have the capacity to understand the legal system. It uses a five colour rating scheme to assess the performance of mining and manufacturing operations in a manner that is easily understood by the public. Ratings are annually disclosed to the general public and the media, and the disclosure aims to strengthen public awareness and participation about environmental issues as well as provide incentives for companies to comply with regulations and undertake good practices.

Disclosures from 2009 to 2012 are available on the website of GEPA. Of the sixteen mining companies rated in 2012, none received a gold rating (the highest rating), meaning that no company applied international best practices for environmental management and properly followed its corporate social responsibility policies. In contrast, seven companies in 2012 received a red rating (the lowest rating, meaning these companies do not have a valid permit or certificate as required by the Environmental Assessment Regulation LI 1652). An operation could also get a red rating if its: (1) emissions and effluents exceed the environmental quality standards for discharging toxics into the environment, or (2) on-site hazardous waste management practices cause serious risk to physical or human environments.

**Further Information:** See the website for the programme: <http://www.epaghanaakoben.org/>.

## **Name of Practice:** Sustainability School Programme, Uganda

### **Sub-Category:** Education and Awareness-Raising

**Implementing Actors:** Non-Governmental Organisation: National Association of Professional Environmentalists

**Location:** Uganda

**Key Words:** Accountability, Access to Information, Capacity Building, Education, Extractive Industry, Empowerment, Participation, Training, Vulnerable

**Description:** The National Association of Professional Environmentalists (NAPE) is committed to sustainable solutions to Uganda's most challenging environmental problems through, among other things, monitoring government actions, conducting research, providing educational materials, and organizing affected communities. Since 2010, NAPE has conducted a Sustainability School Programme in order to build capacity of local communities to address the negative impacts on people's livelihoods resulting from degradation of the environment. According to NAPE, "the sustainability school focuses on key thematic areas such as land use and food sovereignty, forests and large plantations, large dams and energy, oil mining and governance and climate change among others. The sustainability school is premised on the basis that communities have the potential to contribute meaningful solutions to their own problems."

The community training sessions take place within the communities, and are conducted by community trainers that NAPE has trained over the years. The training addresses issues of community rights, governance and other challenges identified by the communities themselves. It has empowered communities to demand transparency and accountability from oil companies and the government on matters of the environment. NAPE has also trained and built the capacity of communities to engage, mobilize, report and hold government and the developers accountable for their negative impacts on the environment. The Sustainability School has used drama as one of the important tools in information sharing and dissemination to diverse audiences. For example, a women-led drama group of Kaiso Tonya village in Hoima District stages performances on community-based approaches to mitigating effects of climate change and also on the challenges being faced by the communities as result of oil and gas activities in the area.

According to a Senior Programme Officer at NAPE, the programme has encountered some challenges. For example, NAPE believes that representatives of government agencies have come to community meetings in disguise. NAPE has also had difficulty receiving the necessary permits required by the government to travel to oil production areas in order to work with the communities in those areas.

**Further Information:** <http://www.nape.org.ug/>.

**Name of Good Practice:** United Nations Environment Programme's Initiatives on Human Rights

**Sub-Category:** Education and Awareness-Raising

**Key Words:** Compendium, International Cooperation, International Organisation

**Implementing Actors:** International Organisation: UN Environment Programme

**Location:** Global

**Description:** The UN Environment Programme (UNEP) has recognized, developed and raised awareness of the linkages between the environment and the enjoyment of human rights through a number of initiatives. For example, in December 2009, UNEP jointly organized with the Office of the High Commissioner for Human Rights (OHCHR) a high-level meeting on the topic of the future of human rights and environment. The two-day meeting, attended by academics, judges, other legal experts, representatives of international governmental organizations, public interest groups and policy makers, produced a road map for bridging the human rights and environment agendas, which included, among other things, a review of international, national and regional case law and practice with a view to understanding how linkages between human rights and environmental have already been demonstrated and implemented in practice.

In 2012, UNEP and OHCHR submitted a joint report on human rights and the environment to the Rio+20 United Nations Conference on Sustainable Development. Since 2012, UNEP has partnered in supporting the Independent Expert in a joint project identifying and disseminating good practices related to human rights and the environment, including through organising a series of thematic consultations. Following up on one of the commitments from the 2009 meeting, in 2014 UNEP published a compendium on human rights and environment, which includes references to regional human rights instruments, multilateral environmental agreements, international resolutions, declarations, summaries of decisions of the human rights supervisory mechanisms in Africa, Europe and the Americas, the International Court of Justice, the Human Rights Committee, and other sources. UNEP has also held various side events on human rights and the environment in different arenas, including during the Human Rights Council, the Rio+20 Conference, and the former Governing Council meeting.

**Further Information:** The outcome document from the 2009 high level meeting is at: <http://www.unep.org/environmentalgovernance/Events/HumanRightsandEnvironment/tabid/2046/language/en-US/Default.aspx>; the 2012 Joint Report is available at: <http://www.unep.org/environmentalgovernance/Portals/8/JointReportOHCHRandUNEPonHumanRightsandtheEnvironment.pdf>; the 2014 Compendium is available at: [http://www.unep.org/environmentalgovernance/Portals/8/publications/UNEP\\_Compndium\\_HRE.pdf](http://www.unep.org/environmentalgovernance/Portals/8/publications/UNEP_Compndium_HRE.pdf)

**Name of Good Practice:** UN Economic Commission for Europe, Aarhus Clearinghouse for Environmental Democracy

**Sub-Category:** Online Tools

**Key Words:** Aarhus Convention, Access to Information, Access to Justice, Internet, Participation, Principle 10, Right to a Healthy Environment, Rio Declaration,

**Implementing Actors:** International Organisation: UN Economic Commission for Europe (UNECE)

**Location:** Global

**Description:** The Aarhus Clearinghouse is a forum to provide information on good practices relevant to the public's right to access environmental information, participate in environmental decision-making, and achieve justice on environmental matters, areas that are covered by the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters and Principle 10 of the Rio Declaration. The Clearinghouse disseminates information through an easy-to-use website where users can search for information through four search options. The first is by "which type of resource" and includes many categories such as events, legislation, jurisprudence, policy, funding, procedures, training materials, and projects. The second option is to search by "what is the purpose" and includes as categories, among others, access to justice, access to information, convention compliance, public participation, and electronic tools. The third option is to search by "who is the source" and includes as categories Aarhus centres, academia, courts, government, international organisations, and non-governmental organisations. The final option is to search by "where in the world" and lists specific countries and regions. In addition, users can search practices on the Clearinghouse through a resource directory. As of December 2014, the Clearinghouse had 1633 practices.

For example, recent postings on the Clearinghouse include: a call for proposals by the European Commission to fund judicial training projects; links to the outcomes of the global symposium on environmental rule of law hosted by the UN Environment Programme; a call for public input to provide the Independent Expert Advisory Group (IAEG) established by the UN Secretary General with recommendations on how to achieve a data revolution for sustainable development; a call for the submission of abstracts to the 3<sup>rd</sup> UNITAR-Yale Conference on Environmental Governance and Democracy; and a recent decision by the French Constitutional Court on the ban of hydraulic fracking. In addition, the Clearinghouse contains all national implementation reports to the Aarhus Convention by State Parties, which also include good practices relevant to meeting State Party obligations under the treaty.

**Further Information:** The Clearinghouse's website: <http://aarhusclearinghouse.unece.org/>.

**Name of Good Practice:** The Taking Stock Programme of the North American Commission for Environmental Cooperation

**Sub-Category:** Online Tools and Applications Related to Access to Environmental Information

**Key Words:** Access to Information, Database, Regional, Internet, Participation, Technology

**Implementing Actors:** Regional Organisation: North American Commission for Environmental Cooperation

**Location:** Canada, Mexico, United States

**Description:** Since 1994, Canada, Mexico and the United States have collaborated in protecting North America's environment through the North American Agreement on Environmental Cooperation (NAAEC), which came into force at the same time as the North American Free Trade Agreement (NAFTA). The NAAEC established an intergovernmental organization, the Commission for Environmental Cooperation (CEC), to facilitate "collaboration and public participation to foster conservation, protection and enhancement of the North American environment for the benefit of present and future generations, in the context of increasing economic, trade, and social links among Canada, Mexico, and the United States."

Taking Stock is an integral aspect of the CEC's North American Pollutant Release and Transfer Register (PRTR) Project, which compiles, integrates, analyses and disseminates PRTR data from each of the three NAFTA countries through the Taking Stock report and Taking Stock website. According to the CEC's website, the Taking Stock online "searchable database allows users to explore pollutant releases and transfers from PRTR reporting facilities in North America; generate reports in a variety of formats; create maps and view them using Google Earth; and analyze PRTR data in the context of information such as border areas, locations of watersheds, and population centres, using geospatial data from the CEC's North American Environmental Atlas." The Taking Stock reports provide details about specific pollutants, including how they have been managed and the sectors and facilities reporting them over time and across North America. According to the CEC, the report "seeks to enhance the understanding of the sources, locations and types of pollutant releases and transfers across North America" and also to "provide information for decision-making at all levels of society, promote reductions in industrial pollution, and support the integration of PRTR data into an overarching framework for managing pollutants in North America." The CEC has published 14 Taking Stock reports since the inception of the programme.

**Further Information:** The Taking Stock website is available at: <http://www.cec.org/Page.asp?PageID=924&SiteNodeID=1097>; the 14th Taking Stock Report is at: <http://www3.cec.org/islandora/en/item/11581-taking-stock-vol-14>.

**Name of Good Practice:** Czech Republic's Integrated Pollution Register

**Sub-Category:** Online Tools and Applications Relating to Access to Environmental Information

**Key Words:** Access to Information, Technology, Internet, Corporations, Aarhus Convention

**Implementing Actors:** National Ministry: Ministry of the Environment (MŽP), Czech Environmental Information Agency (CENIA)

**Location:** Czech Republic

**Description:** The Integrated Pollution Register, created through Czech Law No. 76 of 2002, is a publicly accessible, electronic database documenting environmental pollution from domestic industrial and agricultural facilities. The Register's objective is to require regular periodical data reporting of releases and transfers of certain substances by companies and offers relevant and reliable data on the Internet to all interested parties. The Register includes information on 93 reported substances that are released, both intentionally and accidentally, to the air, water and soil, as well as in off-site transfers, such as wastewater treated outside the facility producing it. The Czech Ministry of the Environment (MŽP) and the Czech Environmental Information Agency (CENIA) operate the Register and also verify the information available on it.

In 2008, the government adopted Regulation no. 145/2008, which specifies the list of pollutants and thresholds and the data required for reporting to the Register. Reporting to the Register is facilitated through an online system. The Register's web page provides many useful information resources, including: a description of the process for reporting; a section containing information about all monitored pollutants, including chemical properties and effects on human health and the environment; a list of the largest polluters; and a link to important documents, such as relevant law, regulations, and scientific studies.

The Czech Republic has developed the Register to fulfill its obligations arising from the Aarhus Convention, including the collection and dissemination of environmental information, free public access to information, and the creation of a registry of releases and transfers of pollutants.

**Further Information:** The Register's web page: <http://www.irz.cz/>; MŽP's web page: [http://www.mzp.cz/en/environmental\\_policy\\_and\\_instruments](http://www.mzp.cz/en/environmental_policy_and_instruments); CENIA's web page: <http://www.cenia.cz/>.

**Name of Good Practice:** Tarkkailija ("Observer") - Web-Based Environmental Information Observer

**Sub-Category:** Online Tools and Applications related to Access to Environmental Information

**Key Words:** Access to Information, Internet, Technology, Participation

**Implementing Actors:** National Ministry: Ministry of Environment of Finland; Civil Society Organisation: SYKE (Finnish Environment Institute)

**Location:** Finland

**Description:** Tarkkailija, a map-based web application launched in 2009, seeks to increase access to information regarding environmental and land use projects in different areas and cities by enabling interested parties to identify themes or locations that they would like the application to monitor. Once users specify the habitat, theme or plan that they would like to monitor, the web application informs the users whenever any new information relevant to their interests becomes available. For example, according to the application's web site, a user may identify a habitat to monitor, such as a park or a lake, or a planned project, such as the construction of a new road. Users can also monitor themes or areas of interest, such as proposed green space zoning or the development of bicycle lanes.

Tarkkailija collects information, including news articles, permit applications, and environmental review documents, from over 400 websites, including data from all Finnish municipalities and government websites, the media, and other network services. It provides users with access to information on environmentally relevant projects that they might otherwise be unaware of and allows users to take action at the right time. The project is based on the notion that if individuals have access to and are capable of following the environmental decision making process from an early stage, their rights related to participation are better protected

Tarkkailija is part of e-services initiative that the Ministry of Environment, Housing and Construction is implementing in the field of living and constructed environment in collaboration with the Ministry of Finance's e-services and accelerating democracy project (SADe). SADe is comprised of eight key projects that seek to facilitate access to public information using online tools, including a project in the area of e-Participation and the environment.

**Further Information:** The project's web page: <https://www.etarkkailija.fi/app/index.html#/index>; See also: <http://www.leiki.com/what-is-happening-in-your-local-environment-stay-tuned-by-using-leikis-smartsearch-in-the-observer-service-now-live>.

**Name of Good Practice:** Ontario's Environmental Registry

**Sub-Category:** Online Tools and Applications Related to Access to Environmental Information

**Key Words:** Access to information, Technology, Internet, Public Participation

**Implementing Actors:** Sub-National Government: Ontario Government

**Location:** Ontario, Canada

**Description:** The province of Ontario has created a web-based Environmental Registry where the public can access a wide spectrum of environmental-related information. The Environmental Registry was created pursuant to the requirements of the Ontario Environmental Bill of Rights, a comprehensive law whose purpose is, among other things, to protect the right to a healthful environment. According to the website, the Environmental Registry “contains ‘public notices’ about environmental matters being proposed by all government ministries covered by the Environmental Bill of Rights. The public notices may contain information about proposed new laws, regulations, policies and programs or about proposals to change or eliminate existing ones.” The public notices provide information on where to find the details about the proposals, how and where to send comments, and the deadline for having comments considered.

Through providing internet access to environmentally-relevant information, the Environmental Registry allows the public to exercise its right under Ontario’s Environmental Bill of Rights to be given public notice of a range of government proposals and decisions related to environmental matters, and to provide comments on those issues.

**Further Information:** See Ontario Environmental Bill of Rights (1993), S.O. 1993, CHAPTER 28, sec. 2; website of the Registry: <http://www.ebr.gov.on.ca/>.

**Name of Good Practice:** National Meta-Register on Environmental Information (EcoRegister)

**Sub-Category:** Online Tools and Applications Relating to Access to Environmental Information

**Key Words:** Access to Information, Access to Justice, Database, Internet, Technology

**Implementing Actors:** National Ministry: Serbian Ministry of Energy, Development and Environmental Protection and the Environmental Protection Agency, with support from the Organisation for Security and Co-operation in Europe (OSCE)

**Location:** Serbia

**Description:** Serbia has created a public online database, the National Meta-Register on Information about Environment (EcoRegister) to provide information related to the environment. The database consists of thousands of documents from a wide range of organisations and institutions, including government agencies, private companies, research organisations, non-governmental organisations and public utilities. As of November 2014, 5638 documents from 857 institutions were available on the database. The website also lists an index of documents. Examples

of documents include educational materials on the environment; statistical data on environmental information such as water quality and air quality; reports on Serbia's compliance with the Aarhus Convention; records of environmental impact assessments from different municipalities; and environmental monitoring plans for private companies, such as energy and mining. EcoRegister features different search options to provide users a variety of ways to seek pertinent information, such as searching by maps, institution, or document type. Information can also be updated by participating institutions. Additionally, users can suggest new institutions and documents for consideration. If information is not available in an online format, the database includes a point of contact and the procedure for requesting access to the particular information. Users can also download a template form for the request for access to information of public importance.

**Further Information:** The EcoRegister's website: <http://www.ekoregistar.sepa.gov.rs/en>.

### **Name of Good Practice: South African Waste Information Centre (SAWIC)**

**Sub-Category: Online Tools and Applications related to Access to Environmental Information**

**Key Words:** Access to Information, Technology, Internet, Participation

**Implementing Actors:** National Ministry: South Africa Department of Environmental Affairs

**Location:** South Africa

**Description:** South Africa, in some cases, has gone beyond responding to requests for environmental information by proactively providing environmental information to the public. For example, the Department of Environmental Affairs has created the South African Waste Information Centre (SAWIC), a website that provides a wide spectrum of information on waste management to the public.

In addition to providing access to all laws, policies, strategies, plans and regulations governing waste management, SAWIC also provides an up-to-date list of all waste management licenses and license applications, including licenses to remediate contaminated land, treat wastewater, dispose waste on land, and store waste. The website also lists and includes links to all draft documents that are subject to public comment with instructions on how the public can submit comments. SAWIC also publishes up-to-date statistics on waste management, and provides background information, such as questions and answers and summary documents, on waste management in South Africa.

**Further Information:** See SAWIC's website: <http://sawic.environment.gov.za/?menu=75>.



Blog do Planalto (2012)

*World Leaders in attendance at Rio+20*

## OBLIGATION TO FACILITATE PUBLIC PARTICIPATION IN ENVIRONMENTAL DECISION-MAKING

Human rights bodies have made clear that States have a duty to facilitate public participation in environmental decision-making. This obligation flows from the rights of individuals to participate in the government of their country and in the conduct of public affairs, and is also necessary to safeguard a broad range of rights from environmental harm (A/HRC/23/55, para. 36).

A large number of States have adopted exemplary statutes providing for public participation in the development of environmental laws, including Chile, Greece and the United States. In addition, many States have adopted statutes requiring public participation in environmental impact assessment (EIA) procedures, such as India, Trinidad and Tobago and the United States.

Some States have taken additional steps to promote informed participation by those most affected by environmental harms. Antigua and Barbuda based its Sustainable Island Resource Management Zoning Plan on extensive stakeholder consultation. In 2009, the Government of Finland implemented the Action Programme on eServices and eDemocracy, which was designed to develop new tools for citizen participation in land-use planning. One aspect of the programme is Harava, an interactive map-based application used by local governments to collect feedback from citizens, including by marking on an online map where they believe a new protected area should be located. Another programme, called Alvari, has been adopted at the subnational level in Finland by the city of Tampere. It created public advisory groups that have participated in more than 350 planning-related decisions since 2007. Mexico has established consultative councils for sustainable development, which can provide forums for designing and evaluating public policies on environmental issues, as well as helping to reach consensus among interested parties in environmental

decision-making. In the United States of America, the Environmental Protection Agency has established “community advisory groups” to provide a public forum for local community members to express their concerns relating to the clean-up of hazardous waste sites.

Civil society organizations can also play an important role in facilitating public participation. In Mongolia, the Asia Foundation has worked with government agencies, citizens and corporations to create Local Multi-Stakeholder Councils (LMSCs) composed of representatives of mining companies, local governments and communities. In a number of African and Asian countries, Namati, a non-profit organization, has trained “community paralegals” to empower individuals and communities to protect their lands and national resources.

At the regional level, a good example of facilitating public participation is the Joint Public Advisory Committee (JPAC) to the North American Commission for Environmental Cooperation. The JPAC is composed of 15 citizens, five from each country in North America, who come together to advise the Commission.

Practices in this category include:

- Multiple States - Public Participation in Development of Environmental Laws
- Multiple States - Public Participation in EIA procedures
- Antigua and Barbuda – sustainable island resource management
- Finland – Alvari program
- Finland – Harava program
- Mexico – environmental public participation index
- Namati – community paralegals
- North American Commission for Environmental Cooperation – JPAC
- Mexico – consultative councils
- Mongolia – local multi-stakeholder platforms
- USA – community advisory groups

**Name of Good Practice:** Public Participation in the Development of Environmental Laws, Policies, and Regulations

**Sub-Category:** Public Participation in Development of Environmental Laws

**Key Words:** Access to Information, Consultation, Internet, Participation

**Implementing Actors:** National Ministries; National Legislatures

**Location:** Multiple Countries

**Description:** Allowing for public participation in the formulation of environmental laws, regulations and policies is a good practice that can lead to better-informed decisions that reflect the public's interests and values. Many countries have adopted comprehensive public participation procedures that apply to this context.

For example, in Chile, Article 70 of the Environmental Framework Law provides that the Ministry of Environment should encourage and facilitate public participation in the formulation of policies, plans and environmental quality standards. To give effect to this provision, the Ministry created a website called e-PAC which allows citizens to participate in the adoption of all environmental quality standards and pollution prevention or rehabilitation plans. Each proposed rule or regulation is open for a 60 day consultation period on the website, where any person can submit comments or provide relevant data or information to the Ministry. In Greece, the government in 2009 launched the Open Governance Project, which requires, among other things, that draft regulations, including environmental regulations, be made available online for public consultation where citizens can post comments, suggestions, and criticisms. According to the project's website, "all submitted comments are gathered and assessed by competent authorities and in many cases they are incorporated in the final regulations." The website indicates that since the project's launch, 153 deliberations have taken place by 14 ministries, with approximately 67,929 citizens posting comments. In the United States, the Administrative Procedures Act (APA) (1946) sets out requirements for public participation in the development of many federal rules, including environmental rules. The APA requires the relevant federal agency to publish a notice of proposed rulemaking, after which the public has the opportunity to submit written comments, data, views, or arguments which the agency must consider. Although the rules do not specify the time period for submitting comments, federal agencies typically leave the comment period open for 30 to 60 days.

**Further Information:** Chile's e-PAC website can be found at: <http://epac.mma.gob.cl/Pages/Home/index.aspx>; the Greek Open Governance website: <http://www.opengov.gr/en/>; the APA can be found at: <http://www.law.cornell.edu/uscode/text/5/part-I/chapter-5>.

## **Name of Good Practice: Public Participation in Environmental Impact Assessment Procedures**

### **Sub-Category: Public Participation in Environmental Impact Assessment**

**Key Words:** Access to Information, Consultation, Impact Assessment, Internet, Participation

**Implementing Actors:** National Ministries; Sub-National Governments

**Location:** Multiple Countries

**Description:** Most States have adopted environmental impact assessment (EIA) laws, in accordance with principle 17 of the Rio Declaration, which states that “environmental impact assessment, as a national instrument, shall be undertaken for proposed activities that are likely to have a significant adverse impact on the environment and are subject to a decision of a competent national authority.” Allowing for public participation and consultation during the EIA process can lead to better informed decisions that reflect the public’s interests, concerns and values. Many countries have adopted comprehensive public participation procedures in relation to their EIA laws.

For example, India amended its EIA law in 2006 to require a public consultation period once a draft EIA is prepared under the law. Public consultation consists of a public hearing and a period for written presentations/comments from the concerned public and provides a legal space for them to come face-to-face with the project proponent in the presence of regulatory bodies and express their concerns. Since 2006, the government has organized 565 public hearings. In Trinidad and Tobago, the Certificate of Environmental Clearance Law of 2001 (CEC) governs the EIA procedure for potential environmental and human impacts from 44 categories of activities. The CEC provides the public with the opportunity to submit comments on a proposed project’s EIA for up to at least 30 days after notice for comment is advertised in daily newspapers. The government also holds public consultations, depending on the scale of the project and the circumstances surrounding the application for an environmental clearance. The United States adopted the National Environmental Policy Act (NEPA) in 1970 which, among other things, governs the EIA procedure for applicable federal agency projects and actions. For projects requiring EIAs, federal agencies must provide public notice of EIA-related hearings, conduct public meetings, provide relevant documents, and set deadlines for comments and appeals. The public typically can provide comments on the initial scoping report for a project and on the draft EIA, as well as file administrative appeals of a final decision by the agency and ultimately seek judicial review.

**Further Information:** More information about the U.S. NEPA is available at: <https://ceq.doe.gov/>; information on India’s EIA procedure: <http://envfor.nic.in/division/introduction-8>; the CEC of Trinidad and Tobago at: <http://www.ema.co.tt/new/index.php/legal/legislation/certificate-of-environmental-clearance>.

### **Name of Good Practice: Sustainable Island Resource Management Mechanism Project**

**Sub-Category: Online Tools and Applications Related to Access to Environmental Information; Innovative Participatory Mechanisms**

**Key Words:** Access to Information, Participation, Sustainability

**Implementing Actors:** National Government: Government of Antigua and Barbuda; International Organisation: Global Environment Facility; United Nations Development Programme

**Location:** Antigua and Barbuda

**Description:** The Sustainable Island Resource Management Mechanism (SIRMM) project, which was implemented from 2008 until 2013, sought to ensure the sustainability and maintenance of island ecosystem integrity, health and function through integrated planning and management of island resources. It also sought to strengthen capacities at the systemic, institutional and individual level to enable the implementation of innovative approaches to sustainable land management and resource use among key stakeholder groups. Elements of the project facilitated access to environmental information to the public and promoted public participation. For example, SIRMM included the creation of an Environmental Information Management and Advisory System to serve as a central information hub to ensure access to the information by government agencies, registered NGOs, and interested members of the public. The project also established a Sustainable Island Resource Management Zoning Plan through extensive stakeholder consultation that designated different categories of land and marine resource use with an associated set of activity guidelines and regulations (e.g., defining the specific requirements for EIA) connected to each type of land use. The project also implemented four site-specific pilot projects at environmental hotspots or sensitive areas to implement with communities a sustainable approach to resource management. For example, one demonstration project focused on the rehabilitation of McKinnon's Pond, where residents in the nearby community were suffering from proximity to and periodic flooding of a contaminated swamp.

As the SIRMM was a GEF-UNDP project, consultants conducted formal assessments and the midterm evaluation can be found at the project's website.

**Further Information:** The project's website: <http://gefantigua.org/category/sirmm-outcomes>.

## **Name of Good Practice: Alvari - Community Participation Mechanism**

### **Sub-Category: Innovative Participatory Mechanisms**

**Key Words:** Participation, Community Organisations, Local Government

**Implementing Actors:** Sub-National Government: City of Tampere

**Location:** Finland

**Description:** The city of Tampere in southern Finland, which has a population of 220,609 as of January 2014, created an integrated system for public participation

called Alvari in 2007. Alvari serves as an advisory working group model enabling citizens to participate in city administration, thus promoting a bottom-up perspective to planning. The initiative created four advisory working groups representing different geographic locations in the city consisting of representatives of civil service organisations, non-governmental organisations, and interested private individuals. Working groups hold meetings to discuss ongoing projects and allow citizens to be involved in planning, operating and informing local authorities. They also issue proposals and comments to the city and support the administration, thus creating the opportunity for the groups to provide the city with transparent and innovative ideas. Each working group runs for a period of two years, and has an annual budget of €20,000 to develop activities representing the community spirit of the area. Through Alvari, the city emphasizes social, human and intellectual capital while building public trust and a new political culture of openness for a sustainable future. Although the working groups address a wide range of planning issues, many of the issues also include environmental planning and services, such as the creation of parks, beaches, environmental education initiatives, and development.

Since 2007, Alvari advisory working groups have participated in over 350 planning-related decisions. In 2011, the Alvari programme received a Globe Award, a global sustainability award which recognizes and encourages societies, the corporate sector, individuals and academia that have excelled in the area of sustainability.

**Further Information:** [http://globeaward.org/2011\\_tampere.html](http://globeaward.org/2011_tampere.html); [http://www.tampere.fi/material/attachments/a/unnamed\\_10926/alvariesite2012.pdf](http://www.tampere.fi/material/attachments/a/unnamed_10926/alvariesite2012.pdf)

## **Name of Good Practice:** Harava, Web-based Participatory Planning

### **Sub-Category:** Innovative Participatory Mechanisms

**Key Words:** Participation, Internet, Technology

**Implementing Actors:** National Ministry: The Ministry of Environment of Finland

**Location:** Finland

**Description:** In 2009, the Finnish Government implemented the Action Programme on eServices and eDemocracy (SADe), a national development project designed to develop new tools for citizen participation and interaction in land use planning. Launched in June 2013 as part of SADe, Harava is an interactive map-based application being used by municipalities, cities, and local governments for collecting insights, ideas, and feedback from citizens who often have practical knowledge and understanding of their surroundings which the authorities and organisations might not be aware of. To this end, Harava utilizes various information gathering tools. For example, it enables government organisations to conduct structured surveys to gain

a wider perspective in decision-making. For instance, a map-survey function allows citizens to mark on an online map an ideal place for a planned new green area. Harava also functions as a question and answer platform, allowing residents to ask questions to the authorities. In addition to map-based project surveys, Harava offers an option for a social forum. In the map-based social forum, all parties involved in a project, from government to individuals, can openly discuss any defined subject. The participants can comment by writing or mark important opinions on a map and attach pictures or videos to illustrate their ideas or concerns.

According to the Government, Harava has created a lot of interest in the public sector, with around 70 per cent of the major cities in Finland already using the service. In addition, over 60 non-government organisations already use Harava. The Government has indicated that Harava has been an efficient method of increasing the level of public participation in living space development. According to the project's web page, "By offering citizens the integrated option to response both interactively on map and in writing promoted with the place independent mobile response alternative, Harava enquiries have reached increased response rates, very useful local knowhow and ideas to make the living space better. By sharing the visual map reports of enquiry results the public participation loop can be closed in an understandable and informative way with all the parties."

**Further Information:** <http://www.eharava.fi/default.aspx>; <https://www.eharava.fi/en/> (English)

### **Name of Good Practice: Mexico's Indice de Participacion Ciudadan del Sector Ambiental (IPC) or Environmental Public Participation Index**

#### **Sub-Category: Evaluating Public Participation Effectiveness**

**Key Words:** Participation, Internet, Monitoring, Access to Information

**Implementing Actors:** National Ministry: Secretaría de Medio Ambiente y Recursos Naturales (SEMARNAT)/Mexican Ministry of Environment and Natural Resources

**Location:** Mexico

**Description:** Articles 157 y 159 of the *Mexican Ley General del Equilibrio Ecológico y la Protección al Ambiente* (Environmental Framework Law) establish that the national government must promote public participation in the planning, implementation, evaluation and monitoring of environmental and natural resource policy. The Secretaría de Medio Ambiente y Recursos Naturales (SEMARNAT) created the Indice de Participacion Ciudadan del Sector Ambiental (IPC) in 2009 as a tool to measure and evaluate citizen participation in the various instruments and institutions relating to environmental decision-making.

The IPC evaluates participation based on four main categories: public participation; transparency; inclusion and equality; and citizen complaints. Each of these four categories is further subdivided into sub-categories. For example, with respect to the first category of public participation, the IPC sets out four sub-categories: consultation bodies; public consultation meetings; environmental education activities; and environmental awareness raising activities. In addition, each of these sub-categories is defined and has indicators associated with it. For example, the IPC defines consultation bodies as advisory boards, technical committees and other working groups under SEMARNAT or its subsidiary bodies where civil society can review and make recommendations on plans, programs, projects, laws and other instruments relating to environmental decision-making. The indicators under this sub-category include: citizen representation in SEMARNAT's consultation bodies; the number of public consultation meetings held; recommendations issued by consultative bodies; and budgetary expenditures for meetings, such as for citizen transportation, food and lodging. The 2013 Report included a total of 4 categories, 10 sub-indexes and 39 indicators.

SEMARNAT published the first IPC in 2010, and subsequent IPCs use 2010 as the baseline year to evaluate whether public participation is improving or retrogressing. For example, the 2013 IPC noted an overall score of 1.5 on the Index, an improvement from 1.0 in 2010.

**Further Information:** The annual IPC reports can be found on SEMARNAT's website: <http://www.semarnat.gob.mx/transparencia/participacion-ciudadana/indice-de-participacion-ciudadana-del-sector-ambiental>.

### **Name of Good Practice: Grassroots Legal Advocates or “Community Paralegals”**

#### **Sub-Category: Innovative Participatory Mechanisms**

**Key Words:** Participation, Local Community, Empowerment, Advocacy

**Implementing Actors:** Civil Society Organisation: Namati; Local Community: various

**Location:** Sierra Leone, Mozambique, India, Bangladesh, Kenya, Myanmar, Uganda, and Liberia

**Description:** Namati is an international civil society organisation dedicated to putting the law in people's hands through building a global movement of grassroots legal advocates who work with communities to advance justice. The objective of training grass roots advocates is to empower communities to exercise their rights and participate in processes of governing. Namati, working with locally-based partner organisations, develops, tests and implements legal empowerment programs in

Africa and Asia. Grassroots legal advocates, or “community paralegals,” focus on legal empowerment to support individuals, communities and civil society to protect lands, natural resources and ecosystems. According to Namati, “these paralegals are trained in basic law and in skills like mediation, organizing, education, and advocacy. They form a creative, problem-solving front line that can engage formal and traditional institutions alike.”

For example, in Myanmar, Namati and its national partner organisation, the Civil and Political Rights Campaign Group, have trained a corps of more than 30 paralegals to support families to register and protect their land rights. According to Namati, “in just the first 6 months of the program, paralegals handled thousands [of] cases from 150 village tracts located across six states and divisions. The paralegals educate individuals, farmers’ groups, and communities about Myanmar’s legal framework on land and how to complete the administrative processes to register farmland claims.” In India, Namati states that its “community paralegals are supporting local communities to exercise their rights to demand and access information on environmental impact assessments; monitor and report cases of non-compliance with environmental regulations; and to use existing environmental laws to protect their health, livelihoods, and local environment from industrial pollution and ecosystem degradation.”

**Further Information:** Namati’s website has various publications, blog posts, and summaries describing the community paralegal programme: <http://www.namati.org/>; see also Marena Brinkhurst & Rachael Knight, “Namati: Innovations in Legal Empowerment,” at: <http://conference.unitar.org/yale2014/sites/conference.unitar.org.yale2014/files/2014%20UNITAR-Yale%20Conference-Brinkhurst%20and%20Knight.pdf>.

### **Name of Good Practice: The Joint Public Advisory Committee of the North American Commission for Environmental Cooperation**

#### **Sub-Category: Public Participation Platforms or Bodies**

**Key Words:** Access to Information, Accountability, Internet, Participation, Regional

**Implementing Actors:** Regional Organisation: North American Commission for Environmental Cooperation; Individuals

**Location:** Canada, Mexico, United States

**Description:** Since 1994, Canada, Mexico and the United States have collaborated in protecting North America’s environment through the North American Agreement on Environmental Cooperation (NAAEC), which came into force at the same time as the North American Free Trade Agreement (NAFTA). The NAAEC established an intergovernmental organization, the Commission for Environmental Cooperation

(CEC), to support cooperation among the NAFTA partners to address environmental issues of continental concern. The CEC is composed of three bodies: a Council of environmental ministers, which serves as the governing body of the CEC; a Secretariat; and the Joint Public Advisory Committee (JPAC), a public, non-governmental advisory group.

The JPAC is composed of fifteen citizens (five appointed by each State party) who advise the Council on any matter within the scope of the NAAEC, and provides technical, scientific or other information for the CEC Secretariat, including information relating to the Submission on Enforcement Matters Process under the NAAEC. According to the CEC's website, JPAC's vision is "to promote continental cooperation in ecosystem protection and sustainable economic development, and to ensure active public participation and transparency in the actions of the Commission" and as a "group of volunteer citizens, JPAC sees itself a microcosm of the public: independent individuals who contribute diverse but rich institutional experience and cultural perspectives." The JPAC meets throughout the year in different locations within the three countries, typically in conjunction with CEC events, and also holds workshops, roundtables and other meetings. Records from all the JPAC meetings are available on the CEC website.

The creation of JPAC, a formally recognised public consultation body under the NAAEC, can serve as an example of a good practice in other environmental treaties.

**Further Information:** JPAC's website: [http://www.cec.org/Page.asp?PageID=1226&SiteNodeID=208&BL\\_ExpandID=567](http://www.cec.org/Page.asp?PageID=1226&SiteNodeID=208&BL_ExpandID=567).

### **Name of Good Practice: Mexican Consejos Consultivos para el Desarrollo Sustentable/Consultative Councils for Sustainable Development**

#### **Sub-Category: Public Participation Platforms or Bodies**

**Key Words:** Climate Change, Consultation, Corporations, Participation

**Implementing Actors:** National Ministry: Secretaría de Medio Ambiente y Recursos Naturales (SEMARNAT)/Mexican Ministry of Environment and Natural Resources; Civil Society Organisations: Various; Corporations: Various

**Location:** Mexico

**Description:** Articles 157 and 159 of the Ley General del Equilibrio Ecológico y la Protección al Ambiente (Environmental Framework Law) establish that the national government must promote public participation in the planning, implementation, evaluation and monitoring of environmental and natural resource policy. The Mexican Ministry of Environment and Natural Resources (Secretaría de Medio Ambiente y Recursos Naturales, or SEMARNAT) established the Consejos Consultivos para el

Desarrollo Sustentable (CCDSs) in 1995 in order to promote public participation forums for consulting, designing and evaluating public policies on environmental issues. These councils also aim to coordinate, persuade and help reach consensus between interested parties in environmental decision-making.

Currently, there is one national CCDS and six regional CCDSs. Each council is comprised of representatives from civil society organizations, academia, the corporate sector, and federal and state government agencies. For example, the national CCDS is presided over by the head of SEMARNAT, and also includes as members the presidents of the six regional councils, seven environmental and natural resource specialists from civil society or academic institutions, three experts on the North American Agreement on Environmental Cooperation, and representatives from the Mexican Institute of Youth, the National Commission for the Development of Indigenous Peoples, and the National Institute for Women. Members of the Councils themselves approve internal regulations that govern the operation and organization of the CCDS, and the CCDSs meet twice a year.

The 26 October 2014 public information and review meeting of the environmental impact study (EIS) for the proposed new international airport in Mexico City provides a recent example of the work of CCDSs. At the meeting, a representative of the national council provided detailed comments and recommendations to SEMARNAT and to the public relating to the EIS, including areas where further investigation was necessary.

**Further Information:** The CCDS programme has its own website where the public can find out more information about their organisation, functions, and activities: <http://wp.ccds.org.mx/>.

## **Name of Good Practice:** Local Multi-Stakeholder Platforms, Mongolia

### **Sub-Category:** Public Participation Platforms or Bodies

**Key Words:** Participation, Extractive Industry, Mining, Local Community

**Implementing Actors:** Civil Society Organisation: Asia Foundation, local NGOs; Sub-National Government; Corporations: mining companies; Local Community: various

**Location:** Mongolia

**Description:** The Asia Foundation is a nonprofit international development organisation headquartered in San Francisco and with a network of offices in 18 Asian countries, including Mongolia, and in Washington, DC. The Asia Foundation's current environmental program, Engaging Stakeholders for Environmental Conservation (ESEC), was initiated in August 2010 to address the key challenges

that Mongolia faces in protecting its natural resources from mining. According to the Asia Foundation, ESEC has been working with government agencies, local citizens, NGOs, and mining companies to promote responsible mining practices, mitigate negative environmental impacts, and reduce conflicts.

A key initiative under the ESEC is the creation of Local Multi-Stakeholder Councils (LMSCs) composed of mining companies, local governments and communities throughout Mongolia. The objective of the LMSCs is to develop active and creative participation of multi-stakeholders to ensure a balanced ecosystem and responsible resource use, and channel its benefits toward sustainable development. According to the Asia Foundation, by establishing LMSCs it has created, among other things, a forum for local participation in monitoring mines. One of the main responsibilities of LMSCs is to reach multi-stakeholder agreements based on stakeholders' common interests, reciprocal understanding, and mutual consensus. The Councils will seek to promote openness and transparency in mining practices. In principle, they should provide an opportunity for people to raise their voices about many issues, including on how mining can impact on their lives, and they can serve as a tool to help to prevent conflicts and minimize tension. They can also serve to improve the reputation of mining companies and encourage their activities to be sustainable.

A fact sheet available on the Asia Foundation's web site explained that as of 2013 the project has facilitated the establishment of 31 LMSCs. The fact sheet explained that "[t]hrough the LMCs, stakeholders are able to make informed decisions and strive for positive social, economic, and environmental change at the local level. As a result, 17 LMCs have had ... environmental action plans approved by their Citizens' Representative Khural (or Council), while eight have drafted plans that are awaiting approval."

**Further Information:** See Asia Foundation's website for fact sheets on the programme: <http://asiafoundation.org/resources/pdfs/MongoliaESECFactSheet2013.pdf>; <http://asiafoundation.org/resources/pdfs/MongoliaESECFactSheet.pdf>

### **Name of Good Practice: Community Advisory Groups**

#### **Sub-Category: Public Participation Platforms or Bodies**

**Key Words:** Access to Information, Community Organisations, Hazardous Waste, Local Community, Participation

**Implementing Actors:** National Ministry: Environmental Protection Agency; Local Community: Various

**Location:** United States of America

**Description:** The purpose of a Community Advisory Group (CAG) is to provide a public forum for community members to present and discuss their needs and concerns relating to the U.S. government's program to clean up uncontrolled or abandoned hazardous waste sites. CAGs can assist the Environmental Protection Agency (EPA) in making better decisions on how to clean up a hazardous waste site by providing the EPA with community preferences for site clean-up and remediation. CAGs also allow the community to access, on a regular and consistent basis, information about a contaminated site. The EPA recommends that membership in a CAG reflects the composition of the community near the site and the diversity of racial, ethnic and economic interests in the community. CAG members participate in meetings, provide data and information to EPA on site issues, and share information received from the EPA with their fellow community members. The CAG hosts regular meetings open to the community and maintains a repository of documents and materials about the site that are accessible to the public. CAG meetings are announced publicly to encourage maximum participation of community members.

There are currently 66 active CAGs nationwide, according to the EPA's website. Some CAGs also have their own websites, where they post, among other things, information about meetings with the EPA, public events relating to the clean-up sites in the community, and notices for CAG public meetings. For example, the CAG for the Newtown Creek site in Brooklyn, New York, one of the most polluted waterways in the United States, provides a wealth of information on the clean-up process for Newtown Creek; posts notes, videos, and summaries of all information the EPA shares with the CAG; and gives notice of upcoming public meetings.

**Further Information:** The EPA's website on CAGs is at <http://www.epa.gov/superfund/community/cag/>. Two examples of websites for CAGs, both operating in New York City, are <http://www.newtowncreekcag.wordpress.com/> and <http://www.gowanuscag.org/>.



Peter Prokosch

*Greenpeace demonstrated when Arctic Environment Ministers met in Ice Hotel in Jukkasjärvi, Sweden, February 2013*

## OBLIGATION TO PROTECT THE RIGHTS OF EXPRESSION AND ASSOCIATION

The rights of freedom of expression and association are of special importance for public participation in environmental decision-making. States have obligations not only to refrain from violating the rights of free expression and association directly, but also to protect the life, liberty and security of individuals exercising those rights, including when they are exercising their rights in connection with environmental concerns (A/HRC/25/53, para. 40).

States need to do more to protect environmental human rights defenders from harassment, interference and even death. In 2014, Global Witness reported that between the beginning of 2002 and the end of 2013, 908 people in 35 countries were killed because of their work defending environmental and land rights.<sup>3</sup> Even worse, the threats appear to be increasing; Global Witness reported that three times as many defenders were killed in 2012 as in 2002.

There is an urgent need for good practices in the protection of environmental human rights defenders. A number of international institutions and civil society organizations (but not, unfortunately, States) have provided examples of such practices.

Good practices under this category include:

- ELAW – network of advocates
- FIDH and OMCT– Observatory for the Protection of Human Rights Defenders

<sup>3</sup> Global Witness, *Deadly Environment: The Dramatic Rise in Killings of Environmental and Land Defenders*, April 2014, available at <http://www.globalwitness.org/deadlyenvironment/>.

- FORUM-Asia – response framework
- Frontline Defenders – ID cards
- Goldman Environmental Prize
- Inter-American Commission and Court – jurisprudence
- Protection International – protection manuals
- Women’s Human Rights Defenders

### **Name of Good Practice: Environmental Law Alliance Worldwide (ELAW)**

#### **Sub-Category: Protection of Environmental Human Rights Defenders**

**Implementing Actors:** Civil Society Organisation: ELAW; Local Community: various

**Location:** Worldwide

**Key Words:** Advocacy, Environmental Human Rights Defenders, Support, Network

**Description:** ELAW is a network of 300 public interest advocates from 70 countries. The core mission of ELAW is to assist its partners, who are grassroots environmental lawyers working in their home countries protect the environment and communities through use of the law. Grassroots advocates play a key role in helping communities speak out, and ELAW gives these advocates the legal and scientific support they need to challenge abuses and build a sustainable future.

ELAW collaborates with environmental defenders working in low-income communities, to pursue seven major initiatives to advance environmental justice: 1. providing critical legal tools; 2. providing critical scientific tools; 3. strengthening organisations; 4. hosting visiting Fellows; 5. outreach; 6. protecting human rights of public interest lawyers; and 7. community legal and scientific workshops. For example, ELAW provides: strategic support as partners develop cases and strengthen environmental laws; scientific equipment and training to monitor environmental conditions; scientific assessment of environmental data to identify toxins and their source; model laws and regulations, such as laws protecting water quality; environmental and human rights records of multinational corporations; expert scientific testimony to support cases against polluters; critiques of environmental impact assessments and development proposals; support for challenges to international financial institutions; and help in drafting petitions and other court filings.

ELAW’s Community Legal Education program works with its partners to publish guides to citizen participation, train community “paralegals” to represent community interests, and empower citizens to play a role in decisions that impact their lives. ELAW has also hosted more than 100 lawyers for ELAW Fellowships in Eugene, Oregon,

where they gain language skills, tap legal and scientific resources, work closely with ELAW staff, and learn from U.S. efforts to protect communities and the environment.

**Further Information:** ELAW's website: <http://www.elaw.org/>.

**Name of Good Practice: Observatory for the Protection of Human Rights Defenders (OBS)**

**Sub-Category: Protection of Environmental Human Rights Defenders**

**Implementing Actors:** Civil Society Organisation:/International Federation for Human Rights (FIDH) and L'Organisation Mondiale Contre la Torture/ the World Organisation Against Torture (OMCT).

**Location:** Worldwide

**Key Words:** Advocacy, Urgent Action, Environmental Human Rights Defenders, Support, Network

**Description:** The Observatory for the Protection of Human Rights Defenders (OBS) is a partnership created in 1997 between the (FIDH) and L'Organisation Mondiale Contre la Torture (OMCT). According to the OBS web site, the objective of this programme is to intervene to prevent or remedy situations of repression against human rights defenders. OBS provides emergency protection to human rights defenders in the field (urgent interventions, international missions, material assistance), cooperates with national, regional and international intergovernmental protection mechanisms, and mobilises the international community and the media as protection agents for defenders. Moreover, every year, the Observatory publishes a unique global report highlighting the most serious obstacles and threats faced by human rights defenders.

According to the staff of the Observatory, many interventions have addressed the situation of environmental human rights defenders. The programme is based on the conviction that the strengthening of cooperation and solidarity in favour of human rights defenders and their organisations contribute to breaking their isolation and to reinforcing their protection and security.

**Further Information:** See FIDH's web site: <http://www.fidh.org/en/human-rights-defenders>.

**Name of Good Practice: Human Rights Defenders Urgent Assistance Programme**

**Sub-Category: Protection of Environmental Human Rights Defenders**

**Key Words:** Urgent Assistance, Environmental Human Rights Defenders

**Implementing Actors:** Civil Society Organisation: FORUM-ASIA

**Location:** Asia

**Description:** FORUM-ASIA's Human Rights Defenders Programme aims to strengthen the protection of human rights defenders, including defenders of the rights of women, in Asia. One main objective of FORUM-ASIA's work is to provide urgent assistance and protection to human rights defenders at risk. According to a FORUM-ASIA staff member, many of these defenders are environmental human rights defenders advocating against extractive or other projects with environmental and human rights impacts.

In 2009, FORUM-ASIA developed a response framework for human rights defenders at risk. The response framework provides for relocation support for human rights defenders as well as other types of urgent assistance, such as medical assistance and legal aid. According to FORUM-ASIA's web page, the relocation programme "is provided to defenders who are facing immediate and extreme threats to his/her life as a result of his/her work as a defender and there is a need for this defender to be relocated to a safer place. The defender applying for this grant should have exhausted all the remedies and protection measures available prior to the relocation. The protection plan can be designed to provide support for 3-6 months relocation within a member/partner organization of FORUM-ASIA." In addition, FORUM-ASIA will allocate up to \$2,000 of assistance per approved application.

**Further Information:** FORUM-ASIA's website: <http://www.forum-asia.org/>, more information on its Human Rights Defenders Programme is available at: <http://www.forum-asia.org/?p=7302>.

**Name of Good Practice:** Front Line Defenders Identification Cards for the Protection of Human Rights Defenders

**Sub-Category:** Protection of Environmental Human Rights Defenders

**Implementing Actors:** Civil Society Organisation: Front Line Defenders (FLD)

**Location:** Global

**Key Words:** Advocacy, Environmental Human Rights Defenders, Network, Protection, Support

**Description:** Front Line Defenders (FLD) was founded in Dublin in 2001 with the aim of protecting human rights defenders at risk -- people who work non-violently for any or all of the rights enshrined in the Universal Declaration of Human Rights. One important programme FLD has employed since 2005 is the use of identification (ID) cards to provide human rights defenders with an easy-to-use tool that they can carry

to show that they are internationally recognized. The front of each card notes in bold and large font that the named cardholder is a human rights defender registered with FLD, an organization that has special consultative status with the United Nations. The back of each card describes the mission of FLD, lists the individuals on its Leadership Council (such as Archbishop Desmond Tutu), and provides contact information and emergency numbers. According to FLD, since 2005 it has issued 1500 ID cards. FLD sends the cards directly to human rights defenders by post or private courier, depending on the reliability of the postal system. In addition, FLD sometimes distributes ID cards at training workshops or when FLD meets with human rights defenders in person in the field or in its headquarters.

FLD regularly seeks feedback from human rights defenders on the effectiveness of using the ID cards, and human rights defenders have informed FLD of many practical uses for the ID cards. For example, human rights defenders have used the cards to pass check points and to generally make travel and transit easier; to introduce themselves to other human rights organizations or activists; to show police when they are arrested or to help release other defenders detained by the police; to provide to the police and military to allow them more time to conduct protest activities; to help with the collection of information in the field, including from government authorities and companies; and to present when having formal meetings with government officials.

**Further Information:** Information on the ID cards can be requested directly from FLD: <http://www.frontlinedefenders.org/>; other tools and resources for human rights defenders can also be found on its website.

## **Name of Good Practice: The Goldman Environmental Prize for Grassroots Environmentalists**

### **Sub-Category: Protection of Environmental Human Rights Defenders**

**Implementing Actors:** Civil Society Organisation: The Goldman Prize

**Location:** Global

**Key Words:** Advocacy, Awareness Raising, Environmental Human Rights Defenders, Indigenous, Network, Support

**Description:** For the past 25 years, the Goldman Environmental Prize has honoured grassroots environmentalists from Africa, Asia, Europe, Islands and Island Nations, North America, and South and Central America. The Prize, which awards each recipient \$175,000 USD, recognizes individuals for sustained and significant efforts to protect and enhance the natural environment. The Goldman Prize views grassroots leaders as “those involved in local efforts, where positive change is created through community or citizen participation in the issues that affect them.” According to

the Goldman Prize, “recipients often focus on protecting endangered ecosystems and species, combating destructive development projects, promoting sustainability, influencing environmental policies and striving for environmental justice. Prize recipients are often women and men from isolated villages or inner cities who chose to take great personal risks to safeguard the environment.” Prize recipients also participate in a 10-day tour of San Francisco and Washington, D.C.—highlighted by award ceremonies in San Francisco and Washington, D.C.—including news conferences, media briefings and meetings with political and environmental leaders.

By awarding the annual prize, the Goldman Prize seeks to amplify the voices of these grassroots leaders by providing them international recognition that enhances their credibility and protects them from threats and harm; worldwide visibility for the issues they champion; and financial support to pursue their vision of a renewed and protected environment. Recipients are announced every April to coincide with Earth Day and they are selected by an international jury from confidential nominations submitted by a worldwide group of environmental organizations and individuals. In 2014, prize recipients included: Ramesh Agrawal from India, who through a small internet café organized villagers to demand their right to information about industrial development projects and succeeded in shutting down one of the largest proposed coal mines in Chhattisgarh; and Desmond D’Sa from South Africa, who rallied south Durban’s diverse and disenfranchised communities to successfully shut down a toxic waste dump that was exposing nearby residents to dangerous chemicals.

**Further Information:** More information on the Goldman Prize is available on its website: <http://www.goldmanprize.org/home>.

**Name of Good Practice:** Measures of the Inter-American Court of Human Rights and the Inter-American Human Rights Commission to Protect Environmental Human Rights Defenders

**Sub-Category:** Protection of Environmental Human Rights Defenders

**Key Words:** Access to Justice, Environmental Human Rights Defenders, Jurisprudence, Regional

**Implementing Actors:** Court: Inter-American Court of Human Rights; Regional Organisation: Inter-American Commission on Human Rights

**Location:** North and South America

**Description:** The Inter-American Court of Human Rights (the Court), which applies and interprets the American Convention on Human Rights in respect to the 20 State Parties that have agreed to the Court’s contentious jurisdiction, and the Inter-American Commission on Human Rights (IACHR), the organ responsible for promoting the observance and defence of human rights in all Member States of the

Organization of American States, have clarified human rights obligations relating to the protection of environmental human rights defenders.

For example, in *Kawas Fernández v. Honduras* (2009), the Court held that a State's failure to adopt the necessary measures to protect a defender of human rights who led an organization that, among other things, denounced environmental contamination and illegal logging and forest degradation in a national park, violated the defender's freedom of association. The Court required the State compensate relatives of the human rights defender for pecuniary and non-pecuniary damage. In addition, the Court required the State to: (i) publish excerpts from its judgment in newspapers of major national circulation; (ii) make a public acknowledgment of international responsibility for the human rights violations; (iii) construct a monument in memoriam of the human rights defender; and (iv) carry out a national awareness campaign regarding the importance of the work performed by environmentalists in the State.

The IACHR has often issued precautionary measures to protect the lives of environmental human rights defenders. For example, in *Mauricio Meza v. Colombia* (2009), the IACHR issued precautionary measures requesting the State to adopt measures to protect a human rights defender and environmentalist who had been harassed and subjected to an attempted kidnapping for his activities. In *Marco Arana, Mirtha Vásquez* (2007), the IACHR required the State to provide perimeter surveillance for the headquarters of the NGO under threat and to provide police accompaniment to the NGO's personnel traveling to peasant communities.

**Further Information:** See the Court's website: <http://www.corteidh.or.cr/index.php/en> and the IACHR's website: <http://www.oas.org/en/iachr/>. The Independent Expert's Individual Report on the Inter-American human rights system is at: <http://ieenvironment.org/mapping-report-2014-2/>.

## **Name of Good Practice: Protection Manuals For Human Rights Defenders**

### **Sub-Category: Protection of Environmental Human Rights Defenders**

**Key Words:** Capacity-Building, Environmental Human Rights Defenders, Protection, Support

**Implementing Actors:** Non-Governmental Organisation: Protection International

**Location:** Central and South America, Asia, and Africa

**Description:** Protection International provides tools and strategies to people who defend human rights, in order to protect themselves. One such strategy is the development of training manuals and other publications related to the protection of human rights defenders. These manuals apply to all human rights defenders,

including environmental human rights defenders. To list a few examples, Protection International has published protection manuals for human rights defenders (2009), community-based human rights defenders in Thailand (September 2013), female human rights defenders in Guatemala (September 2013), and human rights defenders in rural areas (December 2012), as well as a manual on best practices and lessons learned related to the protection of human rights defenders.

The Protection Manual for Human Rights Defenders (2009) states that its purpose “is to provide human rights defenders with additional knowledge and some tools that may be useful for improving their understanding of security and protection. It is hoped that the manual will support training on security and protection and will help defenders to undertake their own risk assessments and define security rules and procedures which suit their particular situation.”

According to Protection International, it has disseminated the information in the protection manuals to hundreds of human rights defenders through training sessions. For example, the 2009 manual states that from 2004 through 2007, a total of 1,747 defenders participated in capacity building and security workshops in South and Central America, Asia, Africa, and Europe.

**Further Information:** Protection International’s website is: <http://protectioninternational.org/>; the manuals can be found at: <http://protectioninternational.org/publication-page/manuals/>.

## **Name of Good Practice: Women’s Human Rights Defenders International Coalition (WHRDIC)**

### **Sub-Category: Protection of Environmental Human Rights Defenders**

**Implementing Actors:** Civil Society Organisation: 28 organisations, including Amnesty International, Front Line Defenders, and Human Rights First

**Location:** Global

**Key Words:** Advocacy, Environmental Human Rights Defenders, Indigenous, Network, Support, Women

**Description:** WHRDIC is a global resource and advocacy network comprised of 28 organisations working to defend women human rights defenders (WHRDs). The network includes Amnesty International, Front Line Defenders, and Human Rights First. WHRDIC provides many support services to human rights defenders, including: tools, resources and analysis to WHRDs to enable them to be effective advocates in their communities, countries, and internationally; the maintenance of an online directory of organisations that can assist WHRDs; the publication of case studies documenting the landscape in which WHRDs live and work; and the issuance of

public statements drawing attention to specific cases. For example, in October 2014, the Coalition issued five press statements relating to the treatment and protection of WHRDs. In March 2014 the Coalition published a report entitled *Our Right To Safety: Women Human Rights Defenders' Holistic Approach To Protection* which illustrates the complex situations that WHRDs face when they are threatened with violence because of their work.

According to Amnesty International, the programme deals with many cases where WHRDs are engaged in environmental and land rights advocacy. For example, the Coalition issued a press release in October 2014 that described intimidation, harassment and violence against a community of women in Thailand who are asserting their right to stay on land that is being used as a palm oil plantation. Another statement the Coalition issued in October 2014 addressed the “sham” trial of and threats to a Mexican WHRD who had been campaigning against the use of indigenous territory for the installation of wind power generators.

**Further Information:** More information on the coalition and its efforts to protect WHRDs can be found on WHRDIC's website: <http://defendingwomen-defendingrights.org/>.



*Courtroom of the European Court of Human Rights in Strasbourg*

## OBLIGATION TO PROVIDE ACCESS TO LEGAL REMEDIES

Human rights agreements have established that States have an obligation to provide for an effective remedy for violations of protected rights, and human rights bodies have applied that principle to human rights whose enjoyment is infringed by environmental harm (A/HRC/25/53, para. 41).

States have adopted a wide range of good practices in the provision of access to effective remedies for environmental harm, from dedicated environmental tribunals, to procedural rules that facilitate access to courts by environmental plaintiffs, to the increasingly important roles of national human rights institutions, ombudspersons and regional tribunals.

A number of States have found that one way to ensure that environmental claims are heard by courts with relevant expertise is to establish dedicated environmental courts, such as the Land and Environment Court of New South Wales, Australia, Costa Rica's Environmental Administrative Tribunal, established in 1995, and India's National Green Tribunals, established in 2011. In most States, environmental cases also continue to be heard by courts with general jurisdiction. There are too many instances of such courts deciding environmental disputes through the application of human rights norms to cite them all, but some examples are provided in the next section, on good practices in the use of substantive obligations. It is important to note here, however, some good practices taken by States to facilitate access to courts by environmental plaintiffs, such as by the Land and Environment Court of New South Wales, the Supreme Court of the Philippines, the Constitutional Chamber of the Supreme Court of Costa Rica, and by Ireland.

Another good practice in connection with the obligation to provide effective remedies for environmental harm is building the relevant expertise of the judiciary, as

evidenced by programmes under the Asian Development Bank and the Organization of American States.

Yet another good practice in this area is the use of national human rights institutions to address environmental issues. Examples are provided below from Kenya, Mexico, Thailand and Malaysia. Similarly, many States have officials or institutions dedicated to protecting constitutional rights, which provide another avenue for ensuring access to remedies for environmental harm, such as the Brazil's Ministerio Publico, or public prosecutor, and the ombudspersons in Costa Rica, Croatia, Portugal and Hungary.

At the regional level, human rights commissions and courts have been in the forefront of bringing human rights norms to bear on environmental issues. The African Commission on Human and Peoples' Rights, the Court of Justice of the Economic Community of West African States, the European Court of Human Rights, the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights have all considered complaints of human rights violations involving environmental harm, and together are developing a detailed jurisprudence on environmental human rights law.

Another good practice is the inclusion in regional environmental agreements of procedures that allow members of the public to raise claims for independent investigation and reporting, such as the Submissions on Enforcement Matters process established by the North American Agreement on Environmental Cooperation or the Aarhus Convention's Compliance Committee.

The good practices under this category include:

### **Improving Access to National Courts**

- Australia New South Wales – Land and Environment Court
- Costa Rica – amparo cause of action
- Costa Rica – Environmental Administrative Tribunal
- India – National Green Tribunal
- Ireland – cost rules
- Philippines – rules of procedure in environmental cases
- USA – citizen suits

### **National Human Rights Institutions**

- Brazil – Ministerio Publico
- Costa Rica – ombudsperson
- Croatia – ombudsperson
- Hungary – ombudsperson for future generations
- Kenya – national human rights commission

- Malaysia – national inquiry strategy
- Mexico – national human rights commission
- Portugal – ombudsperson
- Thailand – national human rights commission

### Regional Practices

- African Commission
- Asian Judges Symposium
- ECOWAS Court of Justice
- European Court of Human Rights
- North American Commission – submissions process
- OAS – judicial facilitators

### Civil Society Monitoring Mechanisms

- EcoLur (Armenia) – hot spots
- University of Tampere (Finland) research
- South Africa – environmental management committee

### Name of Good Practice: Land and Environment Court of New South Wales

#### Sub-Category: Dedicated Environmental Courts or Tribunals

**Key Words:** Access to Information, Access to Justice, Accountability, Remedy

**Implementing Actors:** Court: Land and Environment Court of New South Wales

**Location:** New South Wales, Australia

**Description:** Established in September 1980, the Land and Environment Court of New South Wales is the first specialist environmental superior court in the world. Located in Sydney, the court's purposes include safeguarding and maintaining: equality of all before the law; access to justice; and fairness, impartiality and independence in decision-making processes that are consistently transparent, timely and certain. The court has jurisdiction over a wide variety of environmental- and land-related matters, including appeals to environmental and planning permits, Aboriginal land claim cases, civil enforcement and judicial review of decisions under planning or environmental laws, criminal proceedings for offences against planning or environmental laws, and mining matters.

Importantly, the court has taken several actions to help facilitate the public's ability to bring cases before it. For example, the court has facilitated access for individuals who live in rural areas far away from the court by allowing cases to be filed in over 150

local courthouses throughout New South Wales or through the internet, conducting preliminary hearings by telephone and conducting final hearings at the site of the dispute. The court also provides a variety of resources to assist non-lawyers with bringing cases before it. For example, the court provides free interpreters for many types of cases. The court also developed a comprehensive website that provides the public with access to information to many resources to assist with bringing claims. The website, for example, provides detailed information on how individuals can represent themselves before the court, such as information on what forms and procedures are necessary, potential costs, relevant legislation and prior court decisions, what to expect at a hearing, what happens at the end of a case, who is who in the court, and information on what court staff can do to assist the public. The court also publishes an annual report that, among other things, evaluates its performance in ensuring access to justice based on how affordable and accessible the court is to potential litigants.

**Further Information:** The court's website: <http://www.lec.justice.nsw.gov.au/lec/index.html>; see also Merideth Wright, *Procedural environmental rights giving access to justice: lessons from Vermont and other courts handling environmental cases around the world*, paper prepared for the 3d UNITAR-Yale Conference on Environmental Governance and Democracy, 5-7 September 2014, New Haven, USA: <http://conference.unitar.org/yale2014/session-1-taking-stock-state-art-knowledge-human-rights-environment-interface>.

### **Name of Good Practice:** Amparo Cause of Action and the Principle of Intereses Difusas in Costa Rica

#### **Sub-Category:** Improving Access to Courts

**Key Words:** Constitutional Right to Environment, Standing, Accountability, Access to Justice, Remedy, Jurisprudence

**Implementing Actors:** Court: Constitutional Court of Costa Rica; Individuals

**Location:** Costa Rica

**Description:** Article 48 of the Costa Rican Constitution provides for the remedy of *amparo* in order to maintain or re-establish the enjoyment of rights set out in the Constitution, as well as those of a fundamental nature established in international human rights treaties enforceable in Costa Rica. The *amparo* cause of action has been construed very broadly, to allow any person to file a case regarding a constitutional right without a lawyer, with no filing fees, in any language, at any time, on any day of the year and in any form, including handwritten notes. Furthermore, in 1994, the Constitutional Chamber broadened the notion of legal standing further by establishing the principle of *intereses difusas*, whereby individuals are allowed to bring actions on behalf of the public interest, including in the interest of environmental

protection. *Amparo* and *intereses difusas* have enabled the people of Costa Rica to have easy access to the justice through the Constitutional Chamber, and they have responded. In 2012 alone, the Constitutional Chamber received 14,953 *amparo* petitions; it has received 68,537 petitions since 1989.

**Further Information:** See Report of Independent Expert on Mission to Costa Rica for an overview of the *amparo* cause of action: <http://www.ohchr.org/EN/Issues/Environment/SREnvironment/Pages/Countryvisits.aspx>; the web page of the Court for statistics on *amparo* actions: <http://sitios.poder-judicial.go.cr/salaconstitucional/estadisticas.htm>.

## Name of Good Practice: Environmental Administrative Tribunal

### Sub-Category: Dedicated Environmental Courts or Tribunals

**Key Words:** Accountability, Access to Justice, Tribunal, Remedy, Precautionary Principle

**Implementing Actors:** Administrative Tribunal: Costa Rica's Environmental Administrative Tribunal

**Location:** Costa Rica

**Description:** The Environmental Administrative Tribunal, created by the Costa Rican government in its 1995 Environment Act No. 7554, has jurisdiction to hear complaints for violations of all laws protecting the environment and natural resources (art. 111). The Tribunal can carry out on-site visits to determine the nature of environmental damage, and when it finds that a violation has occurred, it can impose fines and administrative sanctions for the elimination or mitigation of the damage caused. It can also take interim measures of protection according to the *in dubio pro natura* or precautionary principle (arts. 98, 99 and 108). The combination of these factors makes the Tribunal an effective mechanism to provide access to a wide range of remedies to individuals and communities threatened with environmental harm.

The Tribunal has issued decisions suspending operations at pineapple-processing plants and pineapple plantations, for example, on the ground that they are not complying with applicable pollution standards. Moreover, in addition to these traditional legal remedies, the Tribunal has adopted creative approaches to engage with various stakeholders in the field of environment protection. To increase awareness in the pineapple industry of unsound environmental practices, it developed a training and outreach programme that included scientific and legal instruction on the environmental impacts of pineapple processing as well as on the legal framework that compelled intervention by the Tribunal. The result was to build greater awareness of, and support for, the need to change practices in order to better protect the environment.

**Further Information:** See the Tribunal's web page: <http://www.tribunalambiental.org/>; Report of Independent Expert on Mission to Costa Rica for an overview of the Tribunal: <http://www.ohchr.org/EN/Issues/Environment/IEEnvironment/Pages/Countryvisits.aspx>; also The Economist Intelligence Unit, Costa Rica: Environmental Law: <http://country.eiu.com/article.aspx?articleid=211299405>.

### **Name of Good Practice: India's National Green Tribunal**

#### **Sub-Category: Dedicated Environmental Courts or Tribunals**

**Key Words:** Accountability, Access to Justice, Tribunal, Remedy

**Implementing Actors:** Administrative Tribunal: National Green Tribunal

**Location:** India

**Description:** India has created a "green tribunal" to address environmental harms. The National Green Tribunal, which has been operating since July 2011, was established for effective and expeditious disposal of cases relating to environmental protection and conservation of forests and other natural resources. The Tribunal may provide relief and compensation to victims of pollution and other environmental damage, for restitution of property damaged, and for restitution of the environment. The objective of the Tribunal is to provide speedy environmental justice and help reduce the burden of litigation in the higher courts, through its dedicated jurisdiction in environmental matters.

According to World Wildlife Fund India (WWF India), the Tribunal from its inception until March 2014 has adjudicated 393 cases, and WWF India has observed that the Tribunal has "delivered a number of significant judgments on range of issues from across the country. This Tribunal is therefore an important step in the access to justice on matters concerning the environment and its mandate is much wider than earlier environmental Courts and Authorities and other such Courts."

**Further Information:** See the Tribunal's website: <http://envfor.nic.in/rules-regulations/national-green-tribunal-ngt>; also WWF India's website: [http://www.wwfindia.org/about\\_wwf/enablers/cel/national\\_green\\_tribunal/](http://www.wwfindia.org/about_wwf/enablers/cel/national_green_tribunal/)

### **Name of Good Practice: Cost Rules for Access to Justice in Environmental Matters**

#### **Sub-Category: Improving Access to Courts**

**Key Words:** Access to Justice, Aarhus Convention, Participation, Accountability

**Implementing Actors:** Court: Irish Judiciary

**Location:** Ireland

**Description:** Ireland's Environment (Miscellaneous Provisions) Act 2011 seeks to minimize costs associated with qualifying environmental cases by requiring parties, with some exceptions noted below, to bear their own costs in litigation. According to the Act, the cost provisions apply to a "civil proceeding for the purpose of ensuring compliance with, or the enforcement of, a statutory requirement or condition or other requirement attached to a licence, permit, permission, lease or consent specified" where the action or failure to act "has caused, is causing, or is likely to cause, damage to the environment." The cost provisions apply to a number of administrative bodies pursuant to environmental and land use planning laws, such as the Environmental Protection Act, the Water Services Act, the Minerals Development Act and the Forestry Act.

The cost rule is a departure from the usual rule in Ireland, according to which the successful party is generally entitled to costs. However, plaintiffs or applicants seeking judicial review in environmental cases may still be entitled to their costs from the respondent or defendant if they win. Applicants may also be awarded costs in cases of exceptional importance and where it is in the interests of justice to do so. An order of costs may be awarded against a party to proceedings in certain circumstances, however, including where a case is deemed to be vexatious or frivolous, by reason of the manner in which a party has conducted the proceedings, or where a party is in contempt of court.

**Further Information:** The rules can be found at <http://www.irishstatutebook.ie/pdf/2011/en.act.2011.0020.pdf>; more information is available at: [http://www.citizensinformation.ie/en/environment/environmental\\_law/judicial\\_review\\_in\\_planning\\_and\\_environmental\\_matters.html](http://www.citizensinformation.ie/en/environment/environmental_law/judicial_review_in_planning_and_environmental_matters.html).

**Name of Good Practice:** Rules of Procedure for Environmental Cases

**Sub-Category:** Improving Access to Courts

**Key Words:** Accountability, Access to Justice, Defamation, SLAPP Suits

**Implementing Actors:** Court: Supreme Court of the Philippines

**Location:** Philippines

**Description:** The Supreme Court of the Philippines has enacted Rules of Procedure for Environmental Cases that include many mechanisms to facilitate petitioners to bring cases before the Court. The Rules, which list as an objective "[t]o protect and advance the constitutional right of the people to a balanced and healthful ecology,"

include a broad standing provision for citizens to bring cases before the Court. The Rules state, “Any Filipino citizen in representation of others, including minors or generations yet unborn, may file an action to enforce rights or obligations under environmental laws.” For such citizen suits, the Court will also defer the payment of any filing or other legal fees until after the Court issues a judgment.

The Rules also address strategic lawsuits against public participation, also known as SLAPP suits, which the Rules define as “legal action[s] filed to harass, vex, exert undue pressure or stifle any legal recourse that any person, institution or the government has taken or may take in the enforcement of environmental laws, protection of the environment or assertion of environmental rights.” The Rules give the opportunity for plaintiffs to raise cases that they believe are SLAPP suits with the Court, and the Court then shifts the burden on the defendant to demonstrate that the counter suit is not a SLAPP suit. The Rules set short timetables for the resolution of such law suits and if the Court dismisses the SLAPP suit, it may award damages, attorney’s fees and costs of suit under a counterclaim if such has been filed.

**Further Information:** Republic of the Philippines Supreme Court, Rules of Procedure for Environmental cases, A.M. No. 09-6-8-SC, 29 April 2010: [http://www.law.pace.edu/sites/default/files/IJIEA/Rules\\_of\\_Procedure\\_for\\_Environmental\\_Cases.pdf](http://www.law.pace.edu/sites/default/files/IJIEA/Rules_of_Procedure_for_Environmental_Cases.pdf) ; see also UNDP’s website for a summary of the rules: [http://www.undp.org/content/undp/en/home/ourwork/democraticgovernance/projects\\_and\\_initiatives/environmental-justice-philippines/](http://www.undp.org/content/undp/en/home/ourwork/democraticgovernance/projects_and_initiatives/environmental-justice-philippines/).

## **Name of Good Practice:** Citizen Suit Provisions in Environmental Law

### **Sub-Category:** Improving Access to Courts

**Key Words:** Litigation, Accountability, Access to Justice, Monitoring

**Implementing Actors:** Individuals; Courts

**Location:** United States

**Description:** Many of the federal environmental laws in the United States allow members of the public to initiate lawsuits in federal court against actors, including corporations, that violate requirements imposed pursuant to federal environmental laws and regulations. Although these provisions are colloquially referred to as authorizations for “citizen suits,” they do not require that the plaintiffs be U.S. citizens. Such laws include, among others, the Resource Conservation and Recovery Act, the Clean Water Act, the Clean Air Act, and the Endangered Species Act. This practice intends to provide an instrument of accountability for private actors in violation of environmental statutes and regulations. Although these provisions do not provide for recovery of damages, they do not preclude a plaintiff from seeking damages using other laws governing personal injury.

Generally speaking, such citizen suit provisions require a notice of intent to file the lawsuit to the person or facility believed to be violating federal environmental requirements, as well as the federal agency which regulates the requirements, and in some cases the state where the individual or facility operates. There is usually a 60 to 90 day waiting period following notice before the plaintiff can file the lawsuit. Those wishing to bring a citizen suit may do so through their own attorney or represent themselves, and the provisions allow for the recovery of attorneys' fees in certain situations. This practice aims to benefit members of the public who may be adversely affected by a violation of federal environmental regulation that has gone unnoticed by the regulatory enforcement agency, and also to provide environmental enforcement through community empowerment.

**Further Information:** Examples of citizen suit provisions can be found in the following federal laws: 42 U.S.C. § 6872 (Resource Conservation and Recovery Act); 33 U.S.C. § 1365 (Clean Water Act); 42 U.S.C. § 2604 (Clean Air Act); 16 U.S.C. § 1540(g) (Endangered Species Act).

## **Name of Good Practice: Brazilian Ministerio Publico's Environmental Actions**

### **Sub-Category: National Human Rights Institutions**

**Key Words:** Constitutional Right to Environment, Accountability, Access to Justice, National Human Rights Commission, Monitoring

**Implementing Actors:** Public Prosecutor: Ministerio Publico of Brazil

**Location:** Brazil

**Description:** Article 225 of the Brazilian Constitution states: "All have the right to an ecologically balanced environment, which is an asset of common use and essential to a healthy quality of life, and both the Government and the community shall have the duty to defend and preserve it for present and future generations." The 1988 Brazilian Constitution provides the *Ministerio Publico* or public prosecutor with broad powers to monitor and enforce violations of, among other things, constitutional rights. Article 129(3) of the Constitution outlines that one of the functions of the *Ministerio Publico* is "to institute civil investigation and public civil suit to protect public and social property, the environment and other diffuse and collective interests."

Pursuant to its mandate, the *Ministerio Publico* has been extremely active in the area of environmental protection, both in terms of enforcement and policy development. For example, in the state of Sao Paulo alone, the *Ministerio Publico* brought over 4000 environmental cases. Moreover, recent years have seen the *Ministerio Publico* use the threat of prosecution as means to negotiate settlement agreements with polluters which are referred to as "conduct adjustment agreements." These agreements allow

the *Ministerio Público* to avoid the high costs, delays and uncertainty in the court system.

**Further Information:** See Constitution of Brazil (1998), art. 127, English Translation: [http://www.wipo.int/wipolex/en/text.jsp?file\\_id=218270](http://www.wipo.int/wipolex/en/text.jsp?file_id=218270); website of the Ministerio Público: <http://www.mpu.mp.br/>; Bernardo Mueller, "Who Enforces Enforcement: Can Public Prosecutors in Brazil Break the Endless Regress?", Department of Economics, University of Brasilia, Brazil (August 2006), available at: [http://www.isnie.org/ISNIE06/Papers06/07.3%20\(no%20discussant\)/mueller.pdf](http://www.isnie.org/ISNIE06/Papers06/07.3%20(no%20discussant)/mueller.pdf); David Richard Boyd, *The Environmental Rights Revolution: A Global Study of Constitutions, Human Rights, and the Environment* (UBC Press 2012).

## **Name of Good Practice: Costa Rican Ombudsperson's Environmental Actions**

### **Sub-Category: National Human Rights Institutions**

**Key Words:** Constitutional Right to Environment, Accountability, National Human Rights Commission, Monitoring, Access to Justice

**Implementing Actors:** National Ombudsperson: Office of the Ombudsperson in Costa Rica

**Location:** Costa Rica

**Description:** The Office of the Ombudsperson is an independent body of the Costa Rican Legislature, which has the general responsibility of protecting the rights and interests of Costa Ricans by ensuring that the public sector meets standards set by the Constitution, statutes, conventions, treaties and general principles of law, as well as standards of morality and justice. It has the authority to investigate, either on its own initiative or upon request, complaints of alleged human rights violations by public authorities through administrative acts or omissions in the exercise of administrative functions. The Ombudsperson can initiate judicial or administrative proceedings to address such violations and can also participate in the legislative process, including through participating in parliamentary debates and reviewing legislative proposals, in order to promote the human rights of citizens.

Much of the work of the Ombudsperson in recent years has concerned environmental issues, including the constitutional right to a healthy and ecologically balanced environment. In 2011, of the 3,305 cases received by the Office of the Ombudsperson, 311 concerned the right to a healthy environment. In approaching those cases, the main function of the Ombudsperson has been to promote the active participation of representatives of civil society and to monitor the performance of government institutions.

**Further Information:** The law establishing the Ombudsperson can be found at: Office of the Ombudsperson Act (Ley de la Defensoría de los Habitantes de la República) (No. 7319) 7 Nov. 1992, arts. 1 and 2: [www.dhr.go.cr/](http://www.dhr.go.cr/) . See also the website of the Ombudsperson: [http://www.dhr.go.cr/la\\_defensoria/informes.html](http://www.dhr.go.cr/la_defensoria/informes.html); 2012–2013 Annual Report of the Ombudsperson: [http://www.dhr.go.cr/la\\_defensoria/informes.html](http://www.dhr.go.cr/la_defensoria/informes.html) . See also Report of Independent Expert on Mission to Costa Rica: <http://www.ohchr.org/EN/Issues/Environment/SREnvironment/Pages/Countryvisits.aspx>.

## **Name of Good Practice: Ombudsperson on Human Rights’ Focus on Environment**

### **Sub-Category: National Human Rights Institutions**

**Key Words:** Ombudsperson, Accountability, Access to Justice, Right to Health

**Implementing Actors:** National Ombudsperson: Ombudsperson of Croatia

**Location:** Croatia

**Description:** The 1990 Constitution established the Institution of the Ombudsperson of Croatia and mandates it to promote and protect human rights and freedoms enshrined in the Constitution, laws and international human rights treaties that Croatia has ratified. Since 2013, Croatia’s current Ombudsperson has implemented three specific areas of work that address environmental issues. First, the Institution receives complaints on environmental protection and human rights from the public. Beginning in 2013, the Ombudsperson has received 20 complaints relating to environmental protection and another 19 complaints relating to noise pollution, with most of the complaints expressing serious concern for health issues stemming from the operation of industrial facilities and waste disposal sites in the vicinity of human settlements. The Ombudsperson can request information about a complaint from the relevant government body and subsequently issue opinions, recommendations or warnings to the relevant public administration body, and if necessary can report on the issue to the Croatian Parliament. However, according to the Ombudsperson, she is still processing the complaints she received relating to the environment due to the complex and time-consuming nature of the issues raised.

Second, the Institution added environment protection as a new section within its report on Croatia for the Human Rights Council Universal Periodic Review (UPR) and the Ombudsperson’s Annual Report to Parliament beginning in 2013. The Annual Report recommended that the government: 1) better address pollution from industrial and waste disposal sites and 2) monitor and gather data on the impact from environmental pollution on health.

Third, the Institution began in 2013 to participate in environmental decision-making processes by providing comments on three separate air protection regulations.

Although the government did not accept her recommendations on the air pollution regulations, according to the Ombudsperson, she was able to raise human rights issues in a context where such issues have previously not been raised.

**Further Information:** The Ombudsperson's web page: <http://www.ombudsman.hr/index.php/en/documents-3/ombudsman-s-reports>.

## **Name of Good Practice: Hungary's Ombudsman for Future Generations**

### **Sub-Category: National Human Rights Institutions**

**Key Words:** Access to Justice, Accountability, Future Generations, Monitoring, Ombudsperson

**Implementing Actors:** National Ombudsperson: Ombudsman for Future Generations

**Location:** Hungary

**Description:** Article P of Hungary's Constitution provides that: "Natural resources, in particular arable land, forests and the reserves of water, biodiversity, in particular native plant and animal species, as well as cultural assets shall form the common heritage of the nation; it shall be the obligation of the State and everyone to protect and maintain them, and to preserve them for future generations." In 2007, Parliament created a special Ombudsman for Future Generations, which was grouped with other Ombudsmen in 2012 under the Commissioner for Fundamental Rights. The Ombudsman for Future Generations holds the status of a Deputy Commissioner and reports to Parliament annually. Parliament elected the current Ombudsman, Dr. Marcel Szabó, in 2012 for a six year term with the overarching mandate to protect and monitor the interests of future generations.

According to the Ombudsman's website, he may: initiate and/or participate in investigations upon receiving complaints and also join investigations conducted by the Commissioner for Fundamental Rights; submit a petition to the Constitutional Court in cases where there is a strong belief that a national or local piece of legislation is in violation of the Fundamental Law; and initiate intervention in public administrative court cases regarding environmental protection. He may also submit non-binding statements and proposals to any public authority to ensure that the direct link between the nation's common heritage and the fundamental rights of all generations (including future generations) are respected. According to his report to Parliament in 2013, the Ombudsman provided input on various proposed environmental policies, such as the Waste Management Policy; provided strong criticisms of inadequate commenting deadline time periods for proposed environmental legislation; identified barriers to public participation relating to proposed environmental legislation; and met twice with groups of civil society organizations to discuss his work plan and to present his annual report. Thematically, he focused on water resource protection,

forest protection and land protection. He also received a number of complaints, including relating to noise pollution, waste transportation, the right of children to safe drinking water, and the control of ragweed, an allergenic plant.

**Further Information:** The website for the Commissioner for Fundamental Rights: <http://www.ajbh.hu/en/web/ajbh-en/>; the 2013 Annual Report: <http://www.ajbh.hu/documents/14315/129172/Annual+Report+2013/42bc9441-1e90-4963-ad01-8f2819d2c3bf?version=1.0l> ; information about the current Ombudsman: <http://www.ajbh.hu/en/web/ajbh-en/dr.-marcel-szabo>.

## **Name of Good Practice: Kenya National Commission on Human Rights Actions on Environment**

### **Sub-Category: National Human Rights Institutions**

**Key Words:** Access to Justice, Participation, Monitoring, National Human Rights Commission

**Implementing Actors:** National Human Rights Commission: Kenya National Commission on Human Rights (KNCHR)

**Location:** Kenya

**Description:** The Kenya National Commission on Human Rights was established under Article 59 of the Kenyan Constitution to (among other things): monitor, investigate and report on the observance of human rights; receive and investigate complaints about alleged abuses of human rights; and take steps to secure appropriate redress where human rights have been violated. Article 69 of the Constitution articulates several obligations on the State relating to the environment, including to ensure sustainable exploitation, utilisation, management and conservation of the environment and natural resources, and to eliminate processes and activities that are likely to endanger the environment.

KNCHR has increasingly focused on environmental issues. In April 2007, for example, the Commission issued a briefing paper on forced evictions in the Mau Forest of Kenya. The report stated, "Protection of the forest and protection of human rights are not mutually exclusive, and in the case of the Mau Forest evictions, the failure to address human rights has undermined protection of the forest." The Commission led an inquiry into human rights violations and environmental degradation occurring at salt manufacturing companies in Malindi, and in February 2014 it submitted its findings to the UN Special Rapporteur on water and sanitation. On the community level, KNCHR has provided human rights training to county assemblies to protect citizens and the environment.

**Further Information:** The KNCHR's website: <http://www.knchr.org/>.

## **Name of Good Practice: National Inquiry as an Investigation Strategy of the Malaysian National Human Rights Commission**

### **Sub-Category: National Human Rights Institutions**

**Key Words:** Access to Justice, Accountability, Advocacy, Environmental Human Rights Defenders, Indigenous, Monitoring, National Human Rights Commission, Protected Areas, Vulnerable

**Implementing Actors:** National Human Rights Commission: National Human Rights Commission of Malaysia (SUHAKAM)

**Location:** Malaysia

**Description:** The National Human Rights Commission of Malaysia (SUHAKAM) uses “national inquiries” in order to look into systemic human rights issues. By adopting a broad-based human rights approach, the Commission can examine a large situation as opposed to an individual complaint. National inquiries have a dual focus, fulfilling both fact finding and educational roles. SUHAKAM has explained that an effective national inquiry is one that is supported by the exercise of powers to subpoena witnesses and documents to its hearings, and that produces a public report that contains recommendations to all relevant parties. A national inquiry has also the benefit of being educational in nature, capable of educating the general public and all parties concerned and regarded as better at addressing systemic causes of human rights violations. Using methodologies that involve broad participation in an issue, all perspectives can be heard, resulting in more comprehensive recommendations, with general and specific applications, to effectively tackle the issue.

An important recent example of the use of the national inquiry process in the environmental context was the National Inquiry into the Land Rights of Indigenous Peoples, undertaken in order to investigate violations related to the land rights of indigenous peoples in Malaysia. SUHAKAM received numerous complaints between 2002 and 2010 related to customary rights to land, many of which have not been resolved. These complaints from indigenous peoples related to: allegations of encroachment and/or dispossession of land; land included into forest or park reserves; and overlapping claims and slow processing of requests for the issuing of native titles or community reserves. Because problems of this magnitude could not be satisfactorily addressed on a case-by-case basis, SUHAKAM decided to tackle the root causes of issues comprehensively by taking cognizance of the experiences of indigenous peoples throughout the country. The National Inquiry resulted in a final report published in April 2013 with findings and 18 recommendations.

**Further Information:** The website of SUHAKAM is <http://www.suhakam.org.my/>; the report is at: <http://www.forestpeoples.org/sites/fpp/files/publication/2013/07/suhakam-enquiry-full-text2013.pdf>.

## **Name of Good Practice:** Mexican National Human Rights Commission's Environmental Actions

### **Sub-Category:** National Human Rights Institutions

**Key Words:** Constitutional Right to Environment, Accountability, Access to Justice, National Human Rights Commission, Monitoring

**Implementing Actors:** National Human Rights Commission: *Comisión Nacional de los Derechos Humanos* (CNDH)

**Location:** Mexico

**Description:** In Mexico, the *Comisión Nacional de los Derechos Humanos* (CNDH) has played an important part in addressing environmental harms. A constitutional reform in 1999 gave the CNDH full autonomy as an agency with its own budget. The mandate of the CNDH is to “protect, observe, promote, study, and disseminate the human rights protected by the Mexican legal system.” To this end, it can receive and investigate complaints on human rights violations and make recommendations on its findings to the government, including outlining corrective actions. In addition to issuing recommendations, the CNDH can organise preventive programs in human rights, promote human rights awareness, and assist government agencies to comply with international human rights obligations.

The CNDH issued a number of recommendations related to environmental protection even before the right to a healthy environment was included in the Mexican Constitution in 2012. For example, in its Recommendation 012/2010, the CNDH found that the National Water Commission failed to comply with environmental standards that required it to treat and clean up polluted water in the Santiago River, and that this failure caused the death of a child and affected the health of people living in the vicinity of the river. The CNDH also recommended that the National Water Commission warn residents of the risk of pollution on their health, enact effective environmental protection guidelines, and take steps to clean up and restore the affected areas. In another case, the CNDH found that the untreated wastewater being released into the Usumacinta River violated, among other things, the human rights to an adequate environment and drinking water of the inhabitants in the area. In addition to its recommendations, in September 2012 the CNDH organised in collaboration with the North American Commission for Environmental Cooperation (CEC) a seminar on human rights and access to environmental justice with a specific focus on non-judicial mechanisms and means for citizen participation.

**Further Information:** See website of the CNDH: [http://www.cndh.org.mx/sites/all/fuentes/documentos/conocenos/ley\\_CNDH.pdf](http://www.cndh.org.mx/sites/all/fuentes/documentos/conocenos/ley_CNDH.pdf); <http://www.cndh.org.mx/Atribuciones>; for the agenda of the CEC seminar, see: [http://www.cec.org/Storage/140/16646\\_004\\_CNDH\\_Final\\_Agenda\\_en\\_FINAL.pdf](http://www.cec.org/Storage/140/16646_004_CNDH_Final_Agenda_en_FINAL.pdf).

## **Name of Good Practice: Provedor de Justiça Portuguesa (Portuguese Ombudsperson) Actions on Environmental Protection**

### **Sub-Category: National Human Rights Institutions**

**Key Words:** Access to Justice, Ombudsperson, Monitoring, Accountability

**Implementing Actors:** National Ombudsperson: Portuguese Ombudsperson

**Location:** Portugal

**Description:** Article 23 of the Portuguese Constitution provides that “Citizens may submit complaints against actions or omissions by the public authorities to the Ombudsperson, who shall assess them without the power to take decisions and shall send the competent bodies such recommendations as may be necessary in order to prevent or make good any injustices.” Article 67 of the Constitution also provides that “Everyone shall possess the right to a healthy and ecologically balanced human living environment and the duty to defend it.”

Pursuant to this mandate, the Ombudsperson has devoted attention to environmental issues. For example, in 2012, in response to complaints relating to noise pollution, the Ombudsperson recommended that a municipality create a public entity to monitor such pollution, which recommendation was accepted by the municipality. In 2012, the Ombudsperson also undertook investigations on its own initiative relating to environmental protection, including the failure of a municipality to adopt a spatial planning policy for the coastal zone, and illegal construction in a national park. In 2011, the Ombudsman received a complaint about the removal of one part of a park to build an electrical substation. The government partially accepted the Ombudsperson’s recommendations to address protection gaps it identified in the forestry laws and regulations.

In 2012, the Ombudsperson also issued a report on best practices concerning noise control, which recommended, among other things, that municipalities should not request a security deposit from complainants because the monitoring and controlling of noise pollution is a State obligation. Moreover, the Ombudsperson highlighted that the deposit discriminates against economically disadvantaged citizens who are unable to pay the deposit. According to the Ombudsperson, all 308 municipalities of Portugal have complied with its recommendations concerning the security deposit.

**Further Information:** See the Ombudsperson’s website: <http://www.provedor-jus.pt/>; also the Ombudsperson’s report on best practices concerning noise control: [http://www.provedor-jus.pt/site/public/archive/doc/Boas\\_praticas\\_municipal\\_ruido.pdf](http://www.provedor-jus.pt/site/public/archive/doc/Boas_praticas_municipal_ruido.pdf); Annual Report to Parliament for 2011: [http://www.provedor-jus.pt/archive/doc/RES\\_Annual\\_Reportd\\_final\\_3.pdf](http://www.provedor-jus.pt/archive/doc/RES_Annual_Reportd_final_3.pdf) ; Annual Report to Parliament 2012: [http://www.provedor-jus.pt/site/public/archive/doc/RES\\_Annual\\_Report2012.pdf](http://www.provedor-jus.pt/site/public/archive/doc/RES_Annual_Report2012.pdf).

## **Name of Good Practice: National Human Rights Commission of Thailand: Koh Kong Sugar Plantation Case**

### **Sub-Category: National Human Rights Institutions**

**Key Words:** Constitutional Right to Environment, Accountability, National Human Rights Commission, Monitoring, Transboundary, Environmental Human Rights Defenders

**Implementing Actors:** National Human Rights Commission: National Human Rights Commission of Thailand (NHRCT); Civil Society Organisation: Community Legal Education Center (CLEC)

**Location:** Thailand; Cambodia

**Description:** The National Human Rights Commission of Thailand (NHRCT) received a complaint in January 2010 from Community Legal Education Center (CLEC), a Cambodia-based organisation, regarding alleged human rights violations in the Koh Kong sugar cane plantation in Cambodia. The allegations included that a Thai company, through its Cambodian subsidiaries, acted unlawfully. Alleged human rights violations included the use of forced evictions, killing of livestock, threats and serious intimidation to community members, and the loss of food security.

The NHRCT designated its Subcommittee on Civil and Political Rights to investigate and the Subcommittee published its findings on 25 July 2012. The Subcommittee found that the NHRCT had jurisdiction to examine the alleged violations and to facilitate a resolution of the matter. The Subcommittee interpreted its mandate to address the human rights implications of actions by Thai State and private companies. The report stated “[t]hat as long as the relevant stakeholder is bound by Thailand’s laws and human rights obligations, the NHRC is committed to serving the interest of justice through human rights promotion and protection.” The Subcommittee also found that the Thai company was involved in the activities in Koh Kong and that evidence “allows for a reasonable belief that human rights principles and instruments were breached in this case.” The Subcommittee identified breaches of the rights to life and to self-determination in particular. The Subcommittee also identified “a failure to uphold the people’s right to development, which includes their right to participate in, contribute to, and enjoy economic, social, cultural and political development, and through which most other human rights and fundamental freedoms can be fully realized.” According to the NHRCT, it has used the Koh Kong case as a precedent to investigate other alleged transboundary human rights violations involving Thai actors, including the Hatgyi Dam project in Myanmar, the Hongsa lignite mine and coal-fired power plant in Laos PDR, and the Xayaburi Dam project also in Laos.

**Further Information:** For the decision, see: <http://www.earthrights.org/sites/default/files/NHRC-Findings-on-Koh-Kong-25-July.pdf> ; for more information about the NHRCT, see: <http://www.nhrc.or.th/>.

## **Name of Good Practice: Actions of the African Commission on Human and Peoples' Rights**

### **Sub-Category: Regional Tribunals and Mechanisms**

**Key Words:** Access to Justice, Extractive Industry, Jurisprudence, Monitoring, Regional, Right to a Healthy Environment, Right to Health, Tribunal

**Implementing Actors:** Regional Organisation: African Commission on Human and Peoples' Rights

**Location:** Africa

**Description:** The African Charter on Human and Peoples' Rights sets out a wide spectrum of human rights, including, in Article 24, the right of all peoples to "a general satisfactory environment favourable to their development", and in Article 16(1), the right of every individual "to enjoy the best attainable state of physical and mental health."

The Charter established the African Commission on Human and Peoples' Rights to protect and promote rights under the Charter. The Commission has addressed environmental concerns in a variety of ways, including through its decisions on complaints, the adoption of resolutions, and the establishment of special mechanisms to address environmental issues.

In *Social and Economic Rights Action Centre v. Nigeria*, Communication No. 155/96 (2001) (*Ogoniland case*), the Ogoni people in Nigeria alleged environmental degradation and health problems resulting from an oil consortium's contamination of the environment. The Commission found, among other things, that Article 24 requires the State to take "reasonable and other measures to prevent pollution and ecological degradation, to promote conservation, and to secure an ecologically sustainable development and use of natural resources." The Commission stated that "the care that should have been taken", including by taking reasonable measures to prevent pollution and ecological degradation from oil production, "was not taken."

In May 2014, the Commission adopted a resolution on climate change and human rights, which requests States to "ensure that human rights standards safeguards, such as the principle of free, prior and informed consent, be included into any adopted legal text on climate change as preventive measures against forced relocation, unfair dispossession of properties, loss of livelihoods and similar human rights violations." In addition, the Commission established a Working Group on Extractive Industries, Environment and Human Rights Violations in 2009 with a mandate that includes examining the impact of extractive industries in Africa and researching violations of Article 24 of the Charter. In 2014, the Working Group undertook a research and information mission to the Republic of Zambia.

**Further Information:** Information about the African Commission's environmental work is available on its web page: <http://www.achpr.org/>.

## **Name of Good Practice:** Asian Judges Symposium on Environmental Decision Making, the Rule of Law, and Environmental Justice and the Asian Judges Network on Environment

### **Sub-Category:** Judicial Networking and Training

**Key Words:** Access to Justice, Consultation, Network, Regional, Symposium, Training

**Implementing Actors:** International Organisation: Asian Development Bank, Asian Judges Network on Environment

**Location:** Asia

**Description:** In July 2010, the Asian Development Bank hosted the first of three Asian Judges Symposiums on Environmental Decision Making, the Rule of Law, and Environmental Justice. Around 120 senior judges, environment ministry officials, members of civil society, and experts in environmental law discussed ways to promote environment protection through effective environmental adjudication and law enforcement. Attendees shared information on the challenges faced by the judiciary when deciding cases involving environmental issues. Participants also discussed specialized courts and procedures for environmental cases, giving the group a broader understanding of good practices. According to the final outcome document, “the Symposium emphasized improving environmental and natural resource decision making and adjudication within Asian judiciaries, without assuming that any particular form or structure is the best way in any particular country context.” One of the main conclusions from the Symposium was that “there is a need for a judicial network on the environment. Issues in environmental cases transcend national boundaries, and thus there is a need to share information, experience, and best practices on identical issues faced by judges across the region.”

A key outcome of the symposium was the creation of the Asian Judges Network on Environment (AJNE), which serves as an information and experience sharing arrangement among senior judges of the Association of Southeast Asian Nations (ASEAN) and the South Asian Association for Regional Cooperation (SAARC). At the 2010 Symposium, Judges “expressed enthusiasm for an informal trans-governmental network that would foster closer ties among members over shared issues and challenge and ultimately, facilitate judicial capacity-building through sustained multilateral exchanges.” The AJNE has its own website that provides information on, among other things: events, roundtables and other meetings pertaining to access to justice and the environment; a video library of important talks; and a database of domestic environmental laws throughout Asia.

**Further Information:** the AJNE’s website is: <http://www.asianjudges.org/>. The final outcome document from the 2010 Symposium is available at: <http://www.adb.org/sites/default/files/publication/29631/symposium-environmental-decisions-law-justice.pdf>.

**Name of Good Practice:** Economic Community of West African States (ECOWAS) Court of Justice's Judgment in *Socio-Economic Rights and Accountability Project (SERAP) v. Nigeria*

**Sub-Category:** Regional Tribunals and Mechanisms

**Key Words:** Access to Justice, Compliance, Jurisprudence, Monitoring, Regional, Right to a Healthy Environment

**Implementing Actors:** Regional Organisation: Economic Community of West African States (ECOWAS) Court of Justice

**Location:** Africa

**Description:** Articles 6 and 15 of the Revised Treaty of ECOWAS establish the ECOWAS Court of Justice. The Court is mandated to ensure the observance of law and of the principles of equity, and to interpret and apply the provisions of the revised ECOWAS Treaty and all other subsidiary legal instruments adopted by ECOWAS. Among its other powers, the Court has jurisdiction to determine cases of violation of human rights that occur in any Member State.

In *SERAP v. Nigeria*, No. ECW/CCJ/JUD/18/12 (2012), the Court found the Nigerian government responsible for abuses by oil companies operating within its territory, in violation of, among other things, Article 24 of the African Charter of Human and Peoples' Rights, which states: "All peoples shall have the right to a general satisfactory environment favourable to their development." The Court affirmed that the "environment is essential to every human being," and stated that "[t]he quality of human life depends on the quality of the environment." The Court stressed the need for the State to hold accountable actors that cause environmental harm through oil pollution, and to ensure adequate reparation is provided for the victims. It explained that Nigeria was under an obligation to take "additional and concrete measures aimed at preventing the occurrence of damage or ensuring accountability, with the effective reparation of the environmental damage suffered." The Court found that Nigeria had not seriously and diligently held accountable the perpetrators of the many acts of environmental degradation in the Niger Delta Region. The Court found that the duty assigned by Article 24 is "both an obligation of attitude and an obligation of result," that Article 24 requires the State to adopt legislative or other measures to give effect to the right, and that such measures must be implemented to promote accountability and to ensure adequate reparation for environmental damage.

**Further Information:** The *SERAP v. Nigeria* judgment is available at: [http://www.courtecawas.org/site2012/index.php?option=com\\_content&view=article&id=177:case-serap-v-federal-republic-of-nigeria&catid=10:judgements&Itemid=86](http://www.courtecawas.org/site2012/index.php?option=com_content&view=article&id=177:case-serap-v-federal-republic-of-nigeria&catid=10:judgements&Itemid=86); additional information about the ECOWAS Court of Justice is available at its website: [http://www.courtecawas.org/site2012/index.php?option=com\\_content&view=article&id=2&Itemid=5](http://www.courtecawas.org/site2012/index.php?option=com_content&view=article&id=2&Itemid=5).

## Name of Good Practice: Environmental Jurisprudence of the European Court of Human Rights

### Sub-Category: Regional Tribunals and Mechanisms

**Key Words:** Access to Justice, Jurisprudence, Regional, Tribunal

**Implementing Actors:** Court: European Court of Human Rights

**Location:** Europe

**Description:** The European Court of Human Rights (ECHR), based in Strasbourg, was established in 1959 with the mandate to review alleged violations of the civil and political rights set out in the European Convention for the Protection of Human Rights and Fundamental Freedoms. Since 1998, individuals can apply to the Court directly. The Court and the Convention are an essential part of the European human rights system framed by the 47 Member States of the Council of Europe.

Although there is no explicit right to a healthy environment in the European Convention, the Court has developed a strong jurisprudence on environmental issues through its interpretation of civil and political rights in the Convention. Specifically, ECHR case law has addressed environmental issues as components of Articles 2 (“right to life”) and 8 (“right to respect of private and family life”) of the Convention, as well as Article 10 (“right to receive and impart information”) and Article 1 of Protocol no. 1 of the Convention and procedural rights such as the right to an effective remedy (Articles 6.1 and 13). For example, in a series of cases construing the right to privacy, including *Lopez Ostra v Spain* (1994) and *Taşkin v. Turkey* (2004), the ECHR has held that States have certain procedural obligations, including that they must follow a decision-making process that includes “appropriate investigations and studies”, gives the public access to information, and provides those concerned effective legal remedies. The Court has also set out substantive obligations on States, such as in *Öneriyıldız v. Turkey* (2004), finding that States have a primary duty to put in place a legislative and administrative framework that protects against and responds to infringements of the right to life as a result of natural disasters and of dangerous activities, including the operation of chemical factories and waste-collection sites. In cases such as *Hatton v. United Kingdom* (2003), the European Court has held that States have discretion to strike a balance between environmental protection and other issues of societal importance, such as economic development and the rights of others.

**Further Information:** See the ECHR’s website: <http://www.echr.coe.int/> ; the Independent Expert’s Individual Report on the European Convention on Human Rights and the European Union: <http://ieenvironment.org/mapping-report-2014-2/>; Council of Europe, Manual on Human Rights and the Environment: [http://www.coe.int/t/dghl/standardsetting/hrpolicy/Other\\_Committees/GT-DEV-ENV\\_docs/Manual\\_Env\\_2012\\_nocover\\_Eng.pdf](http://www.coe.int/t/dghl/standardsetting/hrpolicy/Other_Committees/GT-DEV-ENV_docs/Manual_Env_2012_nocover_Eng.pdf).

## **Name of Good Practice: The Submissions on Enforcement Matters Process of the Commission for Environmental Cooperation**

### **Sub-Category: Regional Tribunals and Mechanisms**

**Key Words:** Access to Information, Accountability, Internet, Participation, Regional

**Implementing Actors:** Regional Organisation: North American Commission for Environmental Cooperation; Individuals; Civil Society Organisations; Nation States

**Location:** Canada, Mexico, United States

**Description:** Since 1994, Canada, Mexico and the United States have collaborated in protecting North America's environment through the North American Agreement on Environmental Cooperation (NAAEC), which came into force at the same time as the North American Free Trade Agreement (NAFTA). Articles 14 and 15 of the NAAEC provide for a procedure known as the Submissions on Enforcement Matters (SEM) process, which allows members of the North American public to make an assertion that a State party to the NAAEC is failing to effectively enforce its environmental law. The SEM process is not a dispute resolution mechanism nor can it result in a Party being required to take specific remedial action; its main purpose is to serve as a fact-finding, non-adversarial procedure. According to the Guidelines for the SEM process published by the Commission for Environmental Cooperation (CEC), an intergovernmental organization created by the NAAEC, the SEM process was "established to promote transparency and public participation, and to enhance understanding regarding environmental law and its enforcement in North America. In particular, the public submission process is designed to promote information sharing in order to allow members of the public to draw their own conclusions regarding the effective enforcement of such laws."

The SEM process, which can take up to two and one-half years in its entirety, begins when an individual or non-governmental organisation files a submission with the Secretariat of the CEC. If the submission meets six criteria set out in Article 14(1) of the NAAEC (e.g., that the matter has been communicated in writing to the relevant authorities of the State Party), then the Secretariat shall determine whether the submission merits requesting a response from the Party. After receiving any solicited responses, the Secretariat then considers whether the submission warrants developing a factual record, upon which the Secretariat shall inform the Council, the CEC's governing body composed of the highest-level environmental authorities from the State parties, and provide its reasons. The Council can by a two-thirds vote instruct the Secretariat to prepare a record and also by a two-thirds vote make the final factual record publicly available.

**Further Information:** The SEM process's website is at: [http://www.cec.org/Page.asp?PageID=1212&SiteNodeID=210&BL\\_ExpandID=880](http://www.cec.org/Page.asp?PageID=1212&SiteNodeID=210&BL_ExpandID=880); the Guidelines for the SEM process are at: [http://www.cec.org/Storage/158/18645\\_SEM\\_booklet\\_PDF\\_en\\_final\\_web.pdf](http://www.cec.org/Storage/158/18645_SEM_booklet_PDF_en_final_web.pdf).

## Name of Good Practice: **Faciladores Judiciales (Judicial Facilitators)**

### Sub-Category: **Improving Access to Court**

**Key Words:** Access to Information, Access to Justice, Environmental Justice, Local Community, Mediation, Participation, Vulnerable

**Implementing Actors:** International Organisation: Organisation of American States; Courts; Local Communities

**Location:** Argentina, Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, Panama, and Paraguay.

**Description:** The Organisation of American States (OAS) began implementing a pilot of the judicial facilitators programme in Nicaragua in the late 1990s and it has grown to a well-established initiative in multiple Latin American countries. The objective of the programme is to improve access to justice among local communities where there have historically been barriers to access to justice. Through improving access to justice, the programme seeks to reduce poverty, improve social cohesion among communities, and achieve better democratic governance, all of which can contribute to stronger environmental protection, among other benefits. Typically, the OAS establishes agreements with the judicial branch in specific countries to cooperate in establishing a judicial facilitator programme, either with local, provincial, or appellate courts. The OAS helps to initiate the programme, with the goal that each country can eventually implement the programme itself. Programmes have been established in Argentina, Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, Panama, and Paraguay.

Judicial facilitators are nominated by local communities and appointed by judges under whose supervision they will work. They must be from and live in the community where they will work, have no criminal record, and be recognised leaders in their communities. Once appointed, facilitators are trained by the judges or courts that they will work with. They can undertake a number of functions, including providing technical assistance to individuals in the preparation of claims, disseminating information on specific legislation, providing mediation between parties, accompanying individuals to courts to help file legal papers, assisting in the assessment of damages through on-site investigations, and delivering notifications from the Court. In 2012, the OAS published a brochure outlining some of the milestones in the programme. For example, in Panama, the programme had appointed 664 facilitators, 52 percent of which were women. In Nicaragua, there were 2,563 facilitators operating in 153 municipalities.

**Further Information:** The OAS web page for the programme: [http://www.oas.org/es/sla/faciladores\\_judiciales.asp](http://www.oas.org/es/sla/faciladores_judiciales.asp).

**Name of Good Practice: Advocacy and Ecology: Monitoring of “Hot Spots”****Sub-Category: Civil Society Monitoring Mechanisms****Key Words:** Monitoring, Hot Spots, Accountability, Corporations, Mining, Advocacy**Implementing Actors:** Civil Society Organisation: EcoLur**Location:** Armenia

**Description:** Since 2005, EcoLur has undertaken public information campaigns through the monitoring of ecological “hot spots.” The monitoring analyses the compliance of government authorities’ decisions with, among other things: Article 33.2 of the Armenian Constitution, which provides that everyone shall have the right to live in an environment favorable to his or her health and well-being; Article 10, which provides that the state shall ensure the protection of the environment and the reasonable utilization of natural resources; national legislation and regulations relating to environmental protection, such as those requiring environmental impact assessment; and international and regional treaties that Armenia has ratified, like the Aarhus Convention. EcoLur considers hot spots to be both specific regions and themes, such as mining, water, air and climate change. Overall, the methodology for campaigns includes collection of documents, field trips, meetings with the local population to learn their perspectives, involvement of experts, dissemination of information (including over social media sites and through their own website), holding demonstrations, issuing press releases, maintaining a blog, and convening round table discussions. EcoLur’s website also displays a map that shows environmentally vulnerable places.

For example, since 2008, EcoLur has undertaken hot spot informational campaigns for the regions of Sevan, aimed at the preservation of the Sevan Lake ecosystem; Yerevan, aimed at protecting green zones in Yerevan; and Teghout, concerning copper and molybdenum mine development in the Teghout forest. Since 2011, it has undertaken the Kapan informational campaign, which aims at protecting the rights to health and a healthy environment from pollution by heavy and toxic metals caused by opencast development of the Shahumyan Gold-polymetallic Mine. EcoLur has been able to disseminate information from its website, [www.ecolur.org](http://www.ecolur.org), in three languages, including English.

**Further Information:** See the EcoLur website: <http://www.ecolur.org/>.**Name of Good Practice: Research on Application of Finland’s Environmental Right****Sub-Category: Civil Society Monitoring Mechanisms****Key Words:** Constitutional Right to Environment, Research, Compliance, Monitoring, Public/Private Partnership

**Implementing Actors:** Academic Institution: University of Tampere, Public Law Research Group, and University of Lapland Northern Institute for Environmental and Minority Law (NIEM); National Ministry: Ministry of Environment of Finland

**Location:** Finland

**Description:** The project partners conducted a research project on the implementation of Section 20 of the Constitution of Finland, which provides, *inter alia*, that “The public authorities shall endeavour to guarantee for everyone the right to a healthy environment and for everyone the possibility to influence the decisions that concern their own living environment.” This research included thematic interviews and surveys of civil servants across different branches of government both at the central and regional level, judges both at the appellate and Supreme Court level, NGOs/CSOs representing environmentally oriented associations as well as businesses and industry, corporations and private citizens. One of the research team’s participatory methods involved an open internet-based survey which dealt with three particular aspects of environmental rights: (1) access to information, (2) right to an effective remedy, and (3) participatory rights. The survey provided an avenue for people to openly provide information about the status of environmental rights.

The final report was published in September 2014 and is available online at <http://www.ymparistoministerio.fi/download/noname/%7bEEC13568-8CDF-4462-8169-6384ED0CC029%7d/103920>. According to the English summary of the report, “The complexity of the environmental decision making procedures makes it difficult for an individual to participate sufficiently in matters that concern his or her own living environment. The main problems occur due to the lack of knowledge, when and how to participate during the long process. Especially vulnerable groups, such as indigenous people, young, children, disabled, low-educated persons and elderly have special needs that should be taken into account more carefully. The threshold to participate should be diminished by positive measures from environmental authorities.” The research also found that access to courts is reasonably well protected in the Finnish law. It found, however, concerns about the length of proceedings and recommended that the use of alternative dispute mechanisms like environmental mediation. The research also recommended that courts should introduce a priority policy in environmental cases.

**Further Information:** The University of Tampere’s web page at <http://www.uta.fi/jkk/tutkimus/alat/julkisoikeus/english.html>.

**Name of Good Practice: Environmental Management Committee (EMC): A Joint Monitoring Body of Civil Society, Government and the Private Sector in South Africa**

**Sub-Category: Civil Society Monitoring Mechanisms**

**Key Words:** Constitutional Right to Environment, Accountability, Public/Private Partnership, Monitoring, Advocacy, Corporations, Extractive Industry, Mining

**Implementing Actors:** Civil Society Organisations; National Ministries; Corporations

**Location:** South Africa

**Description:** In 2008 an Australian company, Coal of Africa (CoAL), applied for a mining right in South Africa on land less than seven kilometres from the boundaries of a UNESCO recognised World Heritage Site called the Mapungubwe Cultural Landscape. A civil society organisation called Save Mapungubwe Coalition formed and undertook a wide variety of strategies that included engaging with the public participation process required by South Africa's environmental and mining laws, litigation and direct negotiations with the government and CoAL. Eventually, through persistent and focused litigation that challenged all of the administrative permits that CoAL received, the company decided to negotiate with the Coalition and entered into a Memorandum of Understanding (MOU) which set the terms of the negotiations.

Unfortunately, negotiations did not achieve an agreement; however, at the same time an Environmental Management Committee (EMC) was set up by the relevant government agencies to monitor the mine. The EMC is a multi-stakeholder body set up under South African environmental law to monitor the mining company's compliance with the conditions of their environmental and mining licenses and authorisations. Initially the Coalition participated in the EMC as an observer. This allowed the Coalition to form a positive working relationship with the members of the EMC—government and CoAL—despite having previously been adversaries. The positive and constructive presence of the Coalition eventually led to the EMC accepting the Coalition as a full member of the monitoring group, and soon thereafter even nominating a member of the Coalition as Chair of the EMC. According to one Coalition member, “[t]his would not be possible without the acceptance of the Coalition as a pivotal member of the EMC by the majority of members. The Coalition’s rapid move from a peripheral to central role on the EMC promises to clear a path for other civil society Coalitions to play a similar role in other environmental oversight institutions.” Moreover, the Coalition has been able to have a strong influence on the operations of the mine to ensure that it is in compliance with all legal requirements.

**Further Information:** For a detailed discussion of the history leading up to the formation of the EMC, see [http://www.wits.ac.za/files/bilsp\\_112254001405415643.pdf](http://www.wits.ac.za/files/bilsp_112254001405415643.pdf).



Peter Prokoshch

Village in Southwest Madagascar

## SUBSTANTIVE OBLIGATIONS

In addition to the procedural obligations described above, States have substantive obligations to adopt and implement legal frameworks to protect against environmental harm that may interfere with the enjoyment of human rights (A/HRC/25/53, para. 46). All environmental laws that set stringent standards for air quality, water quality, toxic releases and/or other environmental matters are good practices for the protection of the many human rights that depend on a healthy environment. However, this section focuses on practices that link strong environmental standards more explicitly to human rights.

Perhaps the most important example in this category is the proliferation of constitutional rights to a healthy environment. More than 90 national constitutions now recognize some form of this right. As the Independent Expert noted in his March 2015 report to the Human Rights Council, “Experts have identified many potential benefits of adopting a constitutional environmental right, including that the recognition of such rights can lead to the enactment of stronger environmental laws, provide a safety net to protect against gaps in statutory environmental laws, raise the profile and importance of environmental protection as compared to competing interests such as economic development, and create opportunities for better access to justice and accountability.”<sup>4</sup>

Judicial decisions in many other countries have also interpreted constitutional environmental rights to require substantive environmental protections. Notable examples include decisions by the Supreme Courts of Argentina and the Philippines.<sup>5</sup>

4 A/HRC/28/6, para. 74.

5 *Mendoza Beatriz Silva et al. v. State of Argentina et al.*, 8 July 2008 (Argentina); *Minors Oposa et al. v. Fulgencio Factoran*, 30 July 1993, and *Metropolitan Manila Development Authority v. Concerned Residents of Manila Bay*, 18 December 2008 (Philippines).

In some States, courts have interpreted other constitutional rights to incorporate environmental protections, such as the Supreme Court of India, which has interpreted the right to life in the Indian Constitution as applying to environmental threats,<sup>6</sup> and the Supreme Court of Pakistan.<sup>7</sup> Whether or not States have adopted a constitutional right to a healthy environment, they can and should adopt strong environmental laws. A good practice relating to such laws is their regular review and strengthening, including through the incorporation and protection of rights. A recent example was the adoption by China of a new framework Environmental Protection Law, which entered into force in January 2015.

The practices under this category include:

- Multiple States – adoption of constitutional right to healthy environment
- Argentina – *Silva v Argentina*
- China – framework environmental law
- Costa Rica – environmental jurisprudence of constitutional court
- India – jurisprudence of supreme court
- Philippines – environmental jurisprudence of supreme court
- New York City – Environmental Quality Review Technical Guidelines
- Finland - Collective Commitments
- USA – National Historic Preservation Act

## **Name of Good Practice: The Proliferation of Constitutional Rights to Environment**

### **Sub-Category: Constitutional Right to Healthy Environment**

**Key Words:** Constitutional Right to Environment

**Implementing Actors:** Nation States

**Location:** Global

**Description:** Constitutional rights to a healthy environment are recognized in many national constitutions, with over 90 national constitutions recognizing some form of the right since the mid-1970s. About two-thirds of the constitutional rights refer to health and one-quarter refer to the right in terms of an ecologically balanced environment; alternative formulations include rights to a clean, safe, favourable or wholesome environment. Africa and Latin America have in particular seen the

6 *RLEK v. State of Uttar Pradesh and Others*, 12 March 1988; *Subhash Kumar v. State of Bihar and others*, 1 September 1991; *M.C. Mehta v. Union of India*, 18 March 2004.

7 *Shehla Zia and others v. WAPDA*, 12 February 1994.

proliferation of such rights. With the recent adoption of the right to a healthy environment in the Tunisian Constitution, over 30 African countries have now incorporated such a right in their constitutions. For example, section 24 of the South African Constitution provides that:

Everyone has the right—

a) to an environment that is not harmful to their health or well-being; and b) to have the environment protected, for the benefit of present and future generations, through reasonable legislative and other measures that— i. prevent pollution and ecological degradation; ii. promote conservation; and iii. secure ecologically sustainable development and use of natural resources while promoting justifiable economic and social development.

Experts have identified many potential benefits of adopting a constitutional environmental right, including that the recognition of such rights can: lead to the enactment of stronger environmental laws; provide a safety net to protect against gaps in statutory environmental laws; raise the profile and importance of environmental protection as compared to competing interests such as economic development; and create opportunities for better access to justice and accountability.

**Further Information:** See Report of Independent Expert on the regional consultation on constitutional environmental rights, Johannesburg, 23-24 January 2014, available at: <http://ieenvironment.org/2014/11/21/report-on-constitutional-environmental-rights>. See also David Richard Boyd, *The Environmental Rights Revolution: A Global Study of Constitutions, Human Rights, and the Environment* (UBC Press 2012); James R. May and Erin Daly, *Global Environmental Constitutionalism* (Cambridge University Press 2014).

**Name of Good Practice:** **Mendoza Beatriz Silva v. National Government of Argentina**

**Sub-Category:** Court Decisions

**Key Words:** Jurisprudence, Accountability, Access to Justice, Remedy, Constitutional Right to Environment, Constitutional Court

**Implementing Actors:** Court: Argentina Supreme Court

**Location:** Argentina

**Description:** Section 41 of Argentina's Constitution states: "All inhabitants are entitled to the right to a healthy and balanced environment fit for human development in order that productive activities shall meet present needs without endangering

those of future generations; and shall have the duty to preserve it. As a first priority, environmental damage shall bring about the obligation to repair it according to law.”

In *Mendoza Beatriz Silva and Others v. National Government of Argentina and Others in regards to damages suffered* (2008), a group of concerned residents of the Matanza-Riachuelo River basin filed a complaint against the national government, the province and city of Buenos Aires as well as private companies, based in part on the constitutional right to a healthy environment, seeking compensation for damages from pollution of the basin, stoppage of contaminating activities, and a remedy for collective environmental damage.

After providing initial rulings in 2006 requiring the government to conduct an environmental assessment and in 2007 ordering the government to establish a comprehensive clean-up and restoration plan for the river, the Court issued a comprehensive final ruling in 2008, in which it identified three main objectives for the clean-up effort and ordered the defendants to undertake a wide range of remedial actions. The objectives set by the Court for the clean-up programme included the improvement of the quality of life for the inhabitants of the basin and the environmental restoration of all the river basin’s components. The Court also ordered the River Basin Authority to carry out the clean-up programme subject to judicial oversight and to include the national government, the province of Buenos Aires and the city of Buenos Aires as members of the Authority. The Court ordered the Authority to assume responsibility for any non-compliance or delays, noting that the failure to comply with any of the established deadlines under the clean programme will result in the imposition of a daily fine on the president of the River Basin Authority.

**Further Information:** See decisions at: [http://www.escr-net.org/sites/default/files/Sentencia\\_CSJN\\_2008\\_spanish.pdf](http://www.escr-net.org/sites/default/files/Sentencia_CSJN_2008_spanish.pdf); for an English translation of the decision, see: [http://www.escr-net.org/sites/default/files/Sentencia\\_CSJN\\_2008\\_english.pdf](http://www.escr-net.org/sites/default/files/Sentencia_CSJN_2008_english.pdf).

## **Name of Good Practice:** China’s Revised Environmental Protection Law

### **Sub-Category:** Environmental Laws with Strong Procedural Guarantees

**Key Words:** Access to Information, Access to Justice, Implementation, Participation, Principle 10

**Implementing Actors:** Nation State: China

**Location:** China

**Description:** In April 2014, China adopted a new framework Environmental Protection Law that entered into force on 1 January 2015. The Law incorporated a wide range of procedural rights guarantees relating to environmental information disclosure, public participation, and access to justice.

Chapter V of the Law addresses environmental information disclosure and public participation. Article 53 sets out the right of citizens, legal persons and other organisations “to obtain environmental information, participate and supervise the activities of environment protection in accordance with the law” and requires environmental regulators at all levels of government to “disclose environmental information pursuant to the law, improve public participation procedures, and facilitate citizens, legal persons and other organizations to participate in, and supervise, environmental protection work.” Article 54 requires that the national government “release national environmental quality, monitoring data of key pollutant sources and other major environmental information.” Article 54 also requires the government to maintain and disclose to the public a list of non-State actors who are violating environmental laws. Article 56 sets out public participation procedures relating to environmental reviews, and requires, among other things, that project proponents “shall explain relevant situations to the potentially-affected public when preparing the environmental impact report, and solicit public opinions... In the case of a construction project failing to solicit sufficient public comments, [government regulators] shall request the project to fulfil the task.” Article 57 provides for the ability of citizens, legal persons, and other organisations to file confidential complaints relating to environmental harm with government regulators and article 58 also provides for a public interest standing provision. Chapter VI addresses legal liability under the law, and imposes various types of liability on violators, including administrative fines and tort liability. Article 60 also allows the government in certain cases to suspend operations of polluters, while Article 61 allows the government in cases where project proponents have violated environmental review laws to “order them to stop the construction, impose fine penalty, and may require restoration of the construction sites.”

**Further Information:** The EU-China Environmental Governance Programme, a €15 million EU-funded programme implemented with China’s Ministry of Commerce and the Ministry of Environmental Protection, provides an unofficial English translation of the Law: <http://www.ecegp.com/english/DataBase/UploadFile/20140514091809139.pdf>.

## **Name of Good Practice:** The Environmental Jurisprudence of Costa Rica’s Constitutional Court

### **Sub-Category:** Court Decisions

**Key Words:** Constitutional Right to Environment, Accountability, Access to Justice, Constitutional Court, Jurisprudence

**Implementing Actors:** Court: Constitutional Chamber of the Supreme Court

**Location:** Costa Rica

**Description:** The Constitutional Chamber of the Costa Rican Supreme Court has actively implemented the constitutional right to a healthy environment. Since 1995, much of the case law of the Constitutional Chamber has concerned the application of article 50 of the Costa Rican Constitution, which sets forth the right to a healthy environment. The Constitutional Chamber has defined the scope of article 50 broadly, transcending basic or primary protection of environmental components, such as water, to include factors relating to the economy, tourism, farming and other activities. It has held that the right requires not only that the State refrain from direct violations, but also that it protect against violations from others, emphasizing the State's role as the guarantor for the protection and safeguarding of the environment and natural resources.

The Constitutional Chamber reviewed issues of constitutionality in environmental matters on 85 occasions between 1989, when the Chamber was established, and 2012. The majority of decisions where the Chamber reached findings of unconstitutionality involved protected areas (13 decisions) and EIA procedures (5 decisions). The court also reviewed a wide range of other issues, including mineral concession authorizations, aerial spraying, toxic substances used for baking, deforestation, ecotourism, protection of marine national parks, the procedure of the Environmental Administrative Tribunal and the use of pesticides. To give just a few examples, it has held that article 50 has been violated by a law permitting the hunting of green turtles; by the authorization of timber harvesting in the habitat of the green macaw; by the authorization of construction in Las Baulas National Park; and by the failure of the Government to take adequate measures to protect groundwater in approving a high-density urban development.

**Further Information:** See Report of Independent Expert on Mission to Costa Rica for an overview of the Court's jurisprudence: <http://www.ohchr.org/EN/Issues/Environment/IEEnvironment/Pages/Countryvisits.aspx>; for more detail, including decisions of the Chamber, see its web page: <http://sitios.poder-judicial.go.cr/salacostitucional/>.

**Name of Good Practice:** Jurisprudence of the Supreme Court of India Relating to Environmental Protection

**Sub-Category:** Court Decisions

**Key Words:** Accountability, Access to Justice, Constitutional Court, Jurisprudence, Remedy, Right to Life

**Implementing Actors:** Court: Supreme Court of India

**Location:** India

**Description:** Article 21 of the Indian Constitution of 1949 provides for the fundamental rights to protection of life and personal liberty, stating that “[n]o person shall be deprived of his life or personal liberty except according to procedure established by law.” The Indian Supreme Court in a series of decisions has connected Article 21 with a right to a healthy environment.

The Court set up the groundwork for linking a right to a healthy environment to the right to life in *Maneka Gandhi v. Union of India* (1979), in which it held that any State action interfering with the rights protected by Article 21 had to be “right, just and fair.” Since *Maneka*, the Court has been active in protecting the right to life from environment degradation. For example, in *RLEK v. State of Uttar Pradesh and Others* (1988), the Court ordered the closing down of several limestone quarries that were causing environmental degradation. The Court explained that its order would “undoubtedly cause hardship to [the quarry owners] but it is a price that has to be paid for protecting and safeguarding the right of the people to live in healthy environment with minimal disturbance of ecological balance and without avoidable hazard to them and to their cattle, homes and agricultural land and undue affectation of air, water and environment.” In *Subhash Kumar v. State of Bihar* (1991), a case dealing with the discharge of industrial pollution into a river, the Court noted that Article 21 includes the “enjoyment of pollution free water and air for full enjoyment of life.” It further noted that should such environmental pollution occur, individuals are entitled to a remedy, including “removing the pollution of water or air which may be detrimental to the quality of life.” In *M.C. Mehta v. Union of India* (2004), a case dealing with pollution caused by mining operations, the Court explained that regulatory authorities have a duty to protect the environment from impacting on the right to life and “where the regulatory authorities, either connive or act negligently by not taking prompt action to prevent, avoid or control the damage to environment, natural resources and peoples’ life, health and property, the principles of accountability for restoration and compensation have to be applied.”

**Further Information:** See *Subhash Kumar v. State of Bihar* (1991): <http://indiankanoon.org/doc/1646284/>; *M.C. Mehta v. Union of India* (2004): <http://www.ielrc.org/content/e0409.pdf>; *RLEK v. State of Uttar Pradesh and Others* (1988): <http://indiankanoon.org/doc/104313664/>.

## **Name of Good Practice: Environmental Jurisprudence of the Supreme Court of the Philippines**

### **Sub-Category: Court Decisions**

**Key Words:** Accountability, Access to Justice, Remedy, Continuing Mandamus, Jurisprudence, Constitutional Right to Environment, Constitutional Court

**Implementing Actors:** Court: Supreme Court of the Philippines

**Location:** Philippines

**Description:** The Philippines' Constitution includes as a State policy that "[t]he 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." The first major case the Court decided with regard to this clause was the *Minors Oposa* case, in which the plaintiffs filed a class action law suit on behalf of their children and future generations, asking the Court to order the government to cancel all existing timber license agreements in the Philippines and to stop issuing new licenses. The Court in *Oposa* clarified that the environmental right in the Constitution, although falling under the section dealing with State policy, is nonetheless a legally enforceable and self-executing right.

In *Concerned Citizens of Manila Bay (CCMB)*, a case regarding the clean-up, rehabilitation and protection of Manila Bay, the Court reaffirmed the far-reaching scope of the environmental right in the Constitution, stating that "the right to a balanced and healthful ecology need not even be written in the Constitution for it is assumed, like other civil and political rights guaranteed in the Bill of Rights, to exist from the inception of mankind and it is an issue of transcendental importance with intergenerational implications." In *CCMB*, the Supreme Court issued a multi-faceted order that required a wide range of government agencies to take coordinated action to rehabilitate the Bay as well as to put in place measures to prevent and control the discharge of additional pollution. It emphasized "the extreme necessity for all concerned executive departments and agencies to immediately act and discharge their respective official duties and obligations." The Court also required each of the 13 agencies it addressed in its order to submit a quarterly progress report to the Court of the activities undertaken in accordance with its Decision. The Court explained that the principle of "continuing mandamus" would allow the Court "under extraordinary circumstances, [to] issue directives with the end in view of ensuring that its decision would not be set to naught by administrative inaction or indifference."

**Further Information:** See *Minors Oposa v. Factoran*, G.R. No. 101083, 224 S.C.R.A. 792 (30 July 1993) (Phil.); *Metropolitan Manila Development Authority v. Concerned Residents of Manila Bay*, G.R. Nos. 171947–48, 574 SCRA 661, 665 (18 December 2008) (Phil.); The writ of continuing mandamus: Republic of the Philippines Supreme Court, Rules of Procedure for Environmental cases, A.M. No. 09-6-8-SC, 29 April 2010, Rule 8: [http://www.law.pace.edu/sites/default/files/IJIEA/Rules\\_of\\_Procedure\\_for\\_Environmental\\_Cases.pdf](http://www.law.pace.edu/sites/default/files/IJIEA/Rules_of_Procedure_for_Environmental_Cases.pdf).

**Name of Good Practice:** New York City's Environmental Quality Review Technical Guidelines

**Sub-Category:** Environmental Review Implementation Guidelines

**Key Words:** Guidelines, Impact Assessment

**Implementing Actors:** Sub-National Government: New York City

**Location:** New York City, United States

**Description:** The City Environmental Quality Review (CEQR) Technical Manual assists city agencies, project sponsors and the public in conducting environmental reviews subject to CEQR procedures. CEQR requires city agencies to assess, disclose and mitigate to the greatest extent practicable the significant environmental consequences of their decisions to fund, undertake or approve a project. The Manual summarizes the CEQR process and provides guidance on the substantive areas of analysis customarily assessed in an environmental review. Although the Manual does not expressly address human rights impacts, it provides detailed guidance on how an environmental review for a project should investigate and, if necessary, plan for mitigation for a wide range of potential social, health, historical and cultural impacts. Courts look to projects' compliance with the Manual's requirements when adjudicating challenges to the environmental review process.

The Manual has 24 chapters, including chapters devoted to socio-economic conditions, historic and cultural resources, hazardous materials, air quality, greenhouse gas emissions and climate change, public health, natural resources, noise, neighbourhood character, community services, and water infrastructure. For example, the public health chapter sets out the different scenarios where a public health assessment would be necessary and provides detailed guidelines for undertaking such an assessment. The Manual explains that "the assessment process involves evaluating whether and how exposure to environmental contaminants may occur and the extent of that exposure; characterizing the relationship between exposures and health risks; and applying that relationship to the population exposed." It also provides that such an "assessment should be conducted in consultation with an environmental epidemiologist, a professional exposure or risk assessor, or similarly trained person."

The Manual explains that it was first "written in 1993, soon after procedural changes were made in the City's environmental review process. It was then revised in 2001, 2010, and 2012. The March 2014 edition is the result of a thorough review and update performed by the City's technical agencies under the supervision of the Mayor's Office of Environmental Coordination."

**Further Information:** The Manual is available online: [http://www.nyc.gov/html/oe/html/ceqr/technical\\_manual\\_2014.shtml](http://www.nyc.gov/html/oe/html/ceqr/technical_manual_2014.shtml)

**Name of Good Practice:** Collective Commitments to Implement Constitutional Right

**Sub-Category:** Innovative Implementation

**Key Words:** Constitutional Right to Environment, Implementation

**Implementing Actors:** National Ministry: Ministry of Environment of Finland

**Location:** Finland

**Description:** Section 20 of the Constitution of Finland establishes a right to a healthy environment. Among other things, it places the responsibility for protecting the environment on the collective, stating that “Nature and its biodiversity, the environment and the national heritage are the responsibility of everyone.”

A program developed by the Ministry of Environment seeks to promote the collective responsibility provision in section 20. In 2014, the Ministry launched a nation-wide competition for a wide spectrum of actors, including institutions, corporations, individuals and communities, to make commitments related to their own actions and sustainability. The entity making the commitment defines the scope of the commitment, indicators of how to monitor the achievements, and a timetable. The Ministry provides a guidance document (see <http://sitoumus2050.fi/sites/default/files/sitoumuslomakeohjeet.pdf>) on how to develop and register commitments online and establish indicators to monitor their implementation. The document provides examples of different commitments, and describes various categories of objectives to which they relate, such as promoting well-being or improving transparency of decision-making.

The project encourages participation in sustainable development by involving the whole society to help create environmental policies by making a difference in their daily practice. Some of the commitments include lowering energy, water and paper consumption, reducing food waste, and working toward a sustainable future. The full list of commitments is available at <http://sitoumus2050.fi/>.

**Further Information:** <http://sitoumus2050.fi/> ; <http://www.ym.fi/sitoumus2050>

**Name of Good Practice:** United States’ National Historic Preservation Act

**Sub-Category:** Preservation of Cultural and Historic Places

**Key Words:** Cultural, Indigenous, Local Community, Participation, Preservation

**Implementing Actors:** National Ministry: Advisory Council on Historic Preservation (ACHP), National Parks Service, and various other federal agencies; Sub-National Government: State Historic Preservation Offices; Local Communities

**Location:** United States of America

**Description:** The National Historic Preservation Act (NHPA), which was enacted in 1966, aims to preserve historic and archaeological properties by requiring federal agencies to consider the effects of their actions on such properties. The

NHPA requires federal agencies to determine whether a proposed project is an “undertaking” which has the potential to affect historic sites, especially those of cultural significance for members of the local community and indigenous peoples. The agency must then consult with a designated State Historic Preservation Officer (and Tribal Representatives, if relevant) to determine whether the project will have any adverse effects on the historical site(s). If there are potential adverse effects, the agency must attempt to resolve them through a memorandum of agreement with the designated and effected parties. The NHPA also provides a process by which members of the public are afforded an opportunity to comment on proposed activities.

The National Parks Service operates a National Register of Historic Places, which serves as the official list of the Nation’s historic places worthy of preservation. To be considered eligible for listing, a property must meet the publicly available National Register Criteria for Evaluation, which involves examining the property’s age, integrity, and significance. For example, questions relating to determining significance include whether the property is associated with events, activities, or developments that were important in the past or with significant architectural history, landscape history, or engineering achievements.

In addition, the NHPA created the Advisory Council on Historic Preservation (ACHP), an independent federal agency that promotes the preservation, enhancement, and productive use of the nation’s historic resources, and advises the President and Congress on national historic preservation policy. According to the ACHP, it is “the only entity with the legal responsibility to encourage federal agencies to factor historic preservation into federal project requirements.”

**Further Information:** The ACHP’s website: <http://www.achp.gov/>; the NHPA is available at: <http://www.achp.gov/docs/nhpa%202008-final.pdf> ; the National Register of Historic Places is available at: <http://www.nps.gov/nr/index.htm>.



*The peruvian copper mine "Minas de Tintaya" in the Cuzco Department*

## OBLIGATIONS RELATING TO NON-STATE ACTORS

The Guiding Principles on Business and Human Rights, endorsed by the Human Rights Council in its resolution 17/4, make clear that States are required to “protect against human rights abuse within their territory and/or jurisdiction by third parties, including business enterprises”, including by “taking appropriate steps to prevent, investigate, punish and redress such abuse through effective policies, legislation, regulations and adjudication” (A/HRC/17/31, principle 1). The Guiding Principles also state that corporations themselves have a responsibility to respect human rights. The duty to protect and the responsibility to respect extend to human rights abuses caused by pollution or other environmental harm (A/HRC/25/53, para. 60).

A good practice of States is to commit to support the implementation of the Guiding Principles, including with respect to activities that may affect the environment. For example, in response to an invitation by the European Commission, European Union member States have submitted plans for national implementation of the Principles.

Another good practice is the preparation of “sustainability reports”, which describe the economic, environmental and social impacts caused by companies’ everyday activities. The Global Reporting Initiative, an international non-profit organization that promotes the use of sustainability reporting, has developed comprehensive guidelines for preparing sustainability reports.

Individual companies have also reported good practices, including Asia Pulp Paper Group (APP), the Coca-Cola Company, and Patagonia.

The practices under this category include:

- European Union – implementation of Guiding Principles
- Global Reporting Initiative

- Asia Pulp Paper
- Coca-Cola
- Patagonia

## **Name of Good Practice:** European Union's Implementation of the Guiding Principles on Business and Human Rights to Protect the Environment

### **Sub-Category:** Implementation of the Guiding Principles on Business and Human Rights

**Key Words:** Corporations, Guidelines, Guiding Principles, Human Rights-Based Assessments, Impact Assessment

**Implementing Actors:** International Organisation: European Union (EU); Nation States: EU Member States

**Location:** Europe

**Description:** The EU 2011 Corporate Social Responsibility Strategy endorsed the Guiding Principles. EU institutions and EU member States have made commitments and efforts to support their implementation relating to activities that may impact on the environment. For example, the European Commission (EC) has prepared sector guidelines on implementing the Guiding Principles, including for the oil and gas industry. The guidelines for the oil and gas industry set out what the Guiding Principles expect from companies operating internationally, including in the assessment of human rights impacts, the monitoring and tracking of performance, and remediation and grievance mechanisms. Under the category of assessing human rights impacts, the EC guidelines provide details on the content of an assessment, stakeholder consultation, and impacts on groups in vulnerable positions, such as indigenous peoples and women.

In its 2011-2014 strategy for Corporate Social Responsibility (CSR), the EC invited each of the member States of the European Union to develop a plan for national implementation of the UN Guiding Principles. Some of these plans address environmental impacts on human rights. For example, the Danish plan, submitted in September 2013, describes guidelines published by the Danish Council on CSR (an advisory body created by the Danish government) for sustainable supply chain management to ensure that suppliers meet social and environmental requirements and expectations. The United Kingdom plan, also submitted in September 2013, sets out the government's commitment to implement the Guiding Principles by ensuring "that agreements facilitating investment overseas by UK or EU companies incorporate the business responsibility to respect human rights, and do not undermine the host country's ability to either meet its international human rights obligations or to impose the same environmental and social regulation on foreign investors as it does on domestic firms."

**Further Information:** More information is available on the EC web page on business and human rights: <http://ec.europa.eu/enterprise/policies/sustainable-business/corporate-social-responsibility/human-rights/>; the UK National Implementation Plan is available at: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/236901/BHR\\_Action\\_Plan\\_-\\_final\\_online\\_version\\_1\\_.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/236901/BHR_Action_Plan_-_final_online_version_1_.pdf).

**Name of Good Practice:** Global Reporting Initiative's Sustainability Reporting Framework

**Sub-Category:** Monitoring and Access to Information

**Key Words:** Access to Information, Climate Change, Corporations, Indigenous, Monitoring, Reporting

**Implementing Actors:** Civil Society Organisation: Global Reporting Initiative (GRI)

**Location:** Global

**Description:** GRI is an international non-profit organisation that promotes the use of sustainability reporting as a way for organisations to become more sustainable and contribute to sustainable development. According to GRI, a "sustainability report is a report published by a company or organization about the economic, environmental and social impacts caused by its everyday activities. A sustainability report also presents the organization's values and governance model." GRI has developed comprehensive guidelines for preparing sustainability reports which serve as a reporting system that provides a framework for measuring and reporting sustainability-related impacts and performance. GRI explains on its website that "The Guidelines are developed through a global multi-stakeholder process involving representatives from business, labour, civil society, and financial markets, as well as auditors and experts in various fields; and in close dialogue with regulators and governmental agencies in several countries." GRI hosts a sustainability disclosure database where organisations can publish their reports. According to GRI, there are 6,826 companies registered on the database and 17,060 reports.

GRI's "G4 Sustainability Reporting Guidelines" is the fourth iteration of the guidelines and includes sections on both environmental and human rights reporting for corporations, and each of these sections have sets of indicators and sub-indicators that help guide the reporting process. For example, the environmental section has the following indicators, among others, for reporting relating to the protection of human rights: water resources significantly affected by the withdrawal of water, reduction of greenhouse gases, hazardous and ozone emissions, total number and volume of significant [oil, chemical, and other] spills, including those affecting protected areas and water resources, significant actual and potential negative environmental impacts, and number of grievances about environmental impacts

filed, addressed, and resolved through formal grievance mechanisms. The human rights sections includes the following indicators: total number and percentage of operations that have been subject to human rights reviews or impact assessments; total number of incidents of violations involving rights of indigenous peoples; and actions taken.

**Further Information:** GRI's website: <https://www.globalreporting.org/Pages/default.aspx>. The GW Guidelines are available at: <https://www.globalreporting.org/resourcelibrary/GRIG4-Part1-Reporting-Principles-and-Standard-Disclosures.pdf>.

## **Name of Good Practice: Asia Pulp Paper's Commitments to Protect Human Rights**

### **Sub-Category: Corporate Actions Relating to Human Rights and Environmental Protection**

**Key Words:** Access to Information, Corporations, Free Prior and Informed Consent, Indigenous, Monitoring

**Implementing Actors:** Corporation: Asia Pulp Paper Group

**Location:** Indonesia

**Description:** Asia Pulp Paper Group (APP) is one of the world's largest pulp and paper companies, producing tissue, packaging and paper. In 2012, Greenpeace exposed that some of APP's suppliers were clearing Indonesia's natural rainforests, including forest land within indigenous peoples' territories. In response to Greenpeace's campaign, APP made commitments to respect the rights of indigenous peoples and communities affected by its operations and to guarantee the sustainability of forests.

APP's corporate social responsibility policy states that "in accordance with the United Nations' 'Protect, Respect and Remedy' framework in respecting human rights, we believe in our responsibility as a business to act with due diligence to avoid infringing on the rights of others and addressing harms that do occur." In February 2013, APP adopted a Forest Conservation Policy (FCP) that recognises the obligation to obtain the free, prior and informed consent of indigenous peoples. The FCP sets out that where "new plantations are proposed, APP will respect the rights of indigenous peoples and local communities," including: recognition of customary land rights; responsible handling of complaints; responsible resolution of conflicts; open and constructive dialogue with local, national and international stakeholders; empowerment community development programs; and respect for human rights. The FCP also made a commitment to a zero deforestation policy, stating that "APP and its suppliers will only develop areas that are not forested," as identified through independent assessments. APP has invited the international NGO Rainforest Alliance to conduct an independent audit on whether APP is complying with its

zero-deforestation policy and the initial audit is expected to be released around January 2015. APP has also developed an online “monitoring dashboard,” which serves as progress reporting system to allow tracking of its FCP. APP explains that the dashboard “allows interested parties, including customers, NGOs and media, to follow progress of the FCP on the ground as well as providing access to policies, maps, reports and other documents.”

**Further Information:** APP’s Forest Conservation Policy: [http://www.asiapulppaper.com/system/files/app\\_forest\\_conservation\\_policy\\_final\\_english.pdf](http://www.asiapulppaper.com/system/files/app_forest_conservation_policy_final_english.pdf); the monitoring dashboard: <http://www.asiapulppaper.com/monitoring-dashboard>; up-to-date information on the Rainforest Alliance audit is available at: <http://www.rainforest-alliance.org/forestry/sourcing/independent-evaluations/asia-pulp-paper>.

### **Name of Good Practice: Coca-Cola’s Commitments to Protect the Environment and Human Rights**

#### **Sub-Category: Corporate Actions Relating to Human Rights and Environmental Protection**

**Key Words:** Access to Information, Awareness Raising, Corporations, Human Rights-Based Assessments, Indigenous, Land Grabbing, Monitoring

**Implementing Actors:** Corporation: Coca-Cola Company

**Location:** Global

**Description:** The Coca-Cola Company, a multinational headquartered in the United States, produces multiple brands of non-alcoholic beverages, including its flagship product, Coca-Cola. In recent years, the company has undertaken many initiatives promoting environmental protection and human rights.

For example, the company has adopted a human rights policy, which applies to the company, the entities that it owns, the entities in which it holds a majority interest, and the facilities that it manages. The policy provides that the Company “respects human rights” and that “it is committed to identify, prevent, and mitigate adverse human rights impacts resulting from or caused by our business activities before or if they occur through human rights due diligence and mitigation processes.” The company has also adopted supplier guiding principles (SGPs) that set out a series of human rights principles that it requires its suppliers to meet, which include a requirement that suppliers “will comply with all applicable local and national environmental laws.” According to the company, the SGPs are part of all contractual agreements between the company and “its direct and authorised suppliers,” and since the inception of the SGPs, it has undertaken over 17,500 independent human and workplace rights assessments of its partners. The company explains that if “a supplier fails to uphold any aspect of the SGP requirements, the supplier is expected

to implement corrective actions. The Company reserves the right to terminate an agreement with any supplier that cannot demonstrate that they are upholding the SGP requirements.” The company has also made a “commitment on zero tolerance for land grabs,” based on works brought to its attention from Oxfam, and has made a commitment to “conduct third-party social, environmental and human rights assessments” by 2020 in the top 16 countries where the Company sources sugar, including in Brazil, Guatemala, and India.

**Further Information:** More information on the company’s environmental initiatives: <http://www.coca-colacompany.com/topics/environment>; the SAGP: <http://assets.coca-colacompany.com/bb/28/0d592b834e9d8fd9afcccb1829b6/sustainable-agricultural-guiding-principles.pdf>; commitments to zero tolerance for land grabbing: <http://assets.coca-colacompany.com/6b/65/7f0d386040fcb4872fa136f05c5c/proposal-to-oxfam-on-land-tenure-and-sugar.pdf>.

## **Name of Good Practice: Patagonia’s Commitments to Protect the Environment and Human Rights**

### **Sub-Category: Corporate Actions Relating to Human Rights and Environmental Protection**

**Key Words:** Corporations, Human Rights-Based Assessments, Monitoring

**Implementing Actors:** Corporation: Patagonia

**Location:** United States

**Description:** Patagonia, a manufacturer of outdoor clothing and equipment, has implemented innovative initiatives to promote environmental protection and human rights.

For example, in 2008, Patagonia began conducting full environmental and social audits of its suppliers. The audit screens companies against Patagonia’s Code of Conduct and its Social and Environmental Compliance Benchmarks for Suppliers. For example, the Benchmark for Suppliers document outlines international best practices in human rights and environmental responsibility for suppliers, and includes an environmental chapter that states, “Suppliers shall maintain written environmental policies and standards and must comply with all applicable environmental laws, our Code and Benchmarks, and agree to be monitored separately,” and that includes compliance requirements relating to air quality, wastewater, solid and hazardous waste, and greenhouse gas emissions, and pollution. Patagonia allows its corporate social responsibility team the power to veto companies that do not meet its standards.

Patagonia also gives one per cent of its annual profits to environmental groups and activist throughout the world, and all employees can participate in making

grant decisions. Patagonia states that in 2014 it “gave some \$6.6 million to 770 environmental groups taking strategic steps to protect wildlife and wilderness, promote renewable energy and sustainable economies, and fight pollution and unwise development.” A list of organisations benefiting from the grant programme is provided in Patagonia’s 2014 social and environment initiatives report. In addition, Patagonia, through its environmental internship programme, offers employees the ability to take two months away from their regular employment to work for the environmental group of their choice while continuing to earn their salary and benefits. According to Patagonia, in 2014, 136 employees participated in the programme, “totaling 7,162 volunteer hours for 36 organizations.”

**Further Information:** Patagonia’s Code of Benchmarks: [http://www.patagonia.com/pdf/en\\_US/Patagonia\\_Benchmarks\\_12-27-12\\_English.pdf](http://www.patagonia.com/pdf/en_US/Patagonia_Benchmarks_12-27-12_English.pdf); Patagonia’s 2014 social and environment initiatives report: [http://www.patagonia.com/pdf/en\\_US/ENV14-Printed\\_r2.pdf](http://www.patagonia.com/pdf/en_US/ENV14-Printed_r2.pdf).



*Nickel Smelters, Norilsk, Siberia, Russia*

## OBLIGATIONS RELATING TO TRANSBOUNDARY ENVIRONMENTAL HARM

Many grave threats to the enjoyment of human rights are due to transboundary environmental harm. Although the precise nature of States' human rights obligations in this respect is not always clear, there is a strong trend towards encouraging States to take actions to protect against transboundary harm to human rights caused by actions under their jurisdiction or control. Moreover, it is clear that States have an obligation of international cooperation with respect to human rights, which is of particular relevance to global environmental threats such as climate change (A/HRC/25/53, paras. 64, 67).

A particularly important good practice in this context is the legal recognition by a State of the rights of individuals who reside outside its territory but who may suffer environmental harm from actions arising within its territory. One example is transboundary environmental impact assessment (EIA) that allows for the participation of the affected public on both sides of the border. For example, the Espoo Convention on Environmental Impact Assessment in a Transboundary Context sets out detailed requirements for transboundary EIA.

An innovative example of the consideration of transboundary effects beyond the requirements of the Espoo Convention is the effort by the Federated States of Micronesia to participate in the EIA of a proposed expansion of a coal-fired power plant in the Czech Republic, in order to draw attention to the effects of the plant on global climate change, which particularly threatens the inhabitants of Micronesia. States have also taken creative steps to enable victims of transboundary environmental harm to have access to courts in the jurisdiction where the harm originates. An early example is the 1976 Nordic Environmental Protection Convention, which requires each of its parties (Denmark, Finland, Norway and Sweden) to provide reciprocal access to domestic legal remedies for transboundary environmental harm, allowing foreign residents to pursue whatever remedies in the country of origin that that country would provide to its own residents. An

alternative basis for such reciprocal access is exemplified by a model statute adopted by a liaison committee of the Canadian and the U.S. conferences on uniform provincial and state laws.

Climate change may be the most challenging international environmental threat to human rights. A number of Governments provide examples of good practices in the use of human rights obligations relating to climate change, including Scotland, Guatemala, and Jordan. Other States provide good practices in ensuring that efforts to abate or adapt to climate change respect the rights of indigenous and tribal peoples, including Suriname and Australia.

International cooperation can be found not only at the level of national Governments, but also between local municipalities. A good practice in this respect is the partnership between the cities of Mwanza, Tanzania, and Tampere, Finland. Since 2002, the cities have partnered in various environmental activities, sharing knowledge and experiences.

Good practices under this category include:

### **International Cooperation**

- Canada-U.S. Uniform Transboundary Pollution Reciprocal Access Act
- Espoo Convention
- Finland-Tanzania
- Micronesia – Czech transboundary EIA
- Nordic Environmental Protection Convention

### **Climate Change**

- Australia – National Indigenous Climate Change Partnership
- Guatemala – framework law
- Honduras – risks to water resources
- Jordan – national policy
- Scotland – climate justice fund
- Suriname – REDD+ Assistants Programme

**Name of Good Practice:** Canada-U.S. Uniform Transboundary Pollution Reciprocal Access Act (Model Law)

**Sub-Category:** Treaties and Instruments; International Cooperation

**Key Words:** Access to Justice, International Cooperation, Regional, Transboundary

**Implementing Actors:** Civil Society Organisations: the U.S. National Conference of Commissioners on Uniform State Laws and the Canadian Uniform Law Conference; Sub-National Governments: Colorado, Connecticut, Michigan, Montana, New Jersey, Oregon, Wisconsin, Manitoba, Nova Scotia, Ontario, and Prince Edward Island.

**Location:** Canada and the United States

**Description:** In 1982, a liaison committee of the U.S. National Conference of Commissioners on Uniform State Laws and the Canadian Uniform Law Conference drafted a model law entitled the Uniform Transboundary Pollution Reciprocal Access Act. Its key provision states that “[a] person who suffers, or is threatened with, injury to his person or property in a reciprocating jurisdiction caused by pollution originating, or that may originate, in this jurisdiction has the same rights to relief with respect to the injury or threatened injury, and may enforce those rights in this jurisdiction as if the injury or threatened injury occurred in this jurisdiction.” According to the commentary on the model law, the principle of reciprocity is “designed to ensure that the actual or potential victim of transfrontier pollution will have a remedy in the courts of the jurisdiction where the pollution originated, if a victim residing in that jurisdiction would have had a remedy for injury or threatened injury in the case of pollution caused locally. Whether or not particular pollution did originate in jurisdiction is a question of fact for the court to decide.” The drafters avoided including a definition of pollution in the model law because of their concern that it would “be exceptionally difficult to draft such a definition without it degenerating into an unmanageable ‘shopping list’ and difficult to harmonize such a list in practice with the definitions provided in the substantive law of a particular jurisdiction.” It was instead decided that what constitutes pollution under the model law “would be decided by reference to the law of the enacting [jurisdiction] as well as any applicable judicial decisions under the common law. It is contemplated that it would include but not be limited to discharges and emissions into land, air or water.”

Although neither the United States nor Canadian national governments have adopted the model law, seven U.S. states and four Canadian provinces have enacted it.

**Further Information:** The model law can be found on the Uniform Law Conference of Canada’s website: <http://ulcc.ca/en/home-en-gb-1/539-josetta-1-en-gb/uniform-actsa/transboundary-pollution-reciprocal-access-act/732-transboundary-pollution-reciprocal-access-act>.

**Name of Good Practice: (Espoo) Convention on Environmental Impact Assessment in a Transboundary Context**

**Sub-Category: Transboundary Environmental Impact Assessment**

**Key Words:** Impact Assessment, Regional, Transboundary

**Implementing Actors:** Nation State: 45 Parties to the Convention (as of December 2014); International Organisation: UN Economic Commission for Europe (UNECE)

**Location:** Europe, Central Asia, and North America

**Description:** The Espoo Convention, which entered into force in 1997, obligates its Parties to assess the environmental impacts of certain activities that may cause transboundary environmental harm at an early stage of planning. The Convention also obligates States to notify and consult with affected States with respect to certain proposed projects that are likely to have a significant adverse environmental impact across boundaries.

Although the Convention does not explicitly refer to human rights, it requires each Party to establish a procedure for the assessment of activities (that is, activities subject to the Convention), which permits public participation. The Convention also provides that the Party of origin shall give an opportunity to the public in the areas likely to be affected by a proposed activity to participate in relevant environmental impact assessment (EIA) procedures, including by providing comments or objections to the authorities overseeing the EIA process, and shall ensure that the opportunity provided to the public of the affected Party is equivalent to that provided to the public of the Party of origin.

The Parties to the Convention, in Decision II/3 of the Second Meeting of the Parties, reaffirmed the importance of public participation in the EIA process, recognizing that public participation in a transboundary context will help to: improve relations between peoples and countries; prevent transboundary environmental conflicts; develop civil society and democracy in the countries of the ECE region; promote the timely disclosure of relevant information to participants in the environmental decision-making process; make people understand and respect the final decisions on projects; and give insights into environmental protection and long-term environmental problems.

**Further Information:** Information about the Convention is available on the UNECE website: <http://www.unece.org/env/eia/welcome.html>.

**Name of Good Practice:** North-South Local Government Co-operation Programme between Finland and Tanzania

**Sub-Category:** International Cooperation

**Key Words:** Capacity Building, City-to-City Partnerships, International Cooperation, Local Government

**Implementing Actors:** Sub-National Government: City of Tampere; City of Mwanza, Tanzania; Association of Finnish Local and Regional Authorities; National Ministry: Ministry for Foreign Affairs of Finland

**Location:** Finland; Tanzania

**Description:** As a part of the North-South Local Government Co-operation Programme, the city of Tampere and its Tanzanian partner city of Mwanza have worked together to diminish the gap between Northern and Southern municipalities by opening a channel for cities to exchange knowledge, share policies and shape practices inspiring each other.

Coordinated by the Association of Finnish Local and Regional Authorities and funded by the Ministry for Foreign Affairs of Finland, the partnership has focused on capacity building of the city administration through training, exchanging ideas and expertise, and colleague-to-colleague partnership. The cooperation promotes sustainability and participation in communities by raising awareness on the living environment and its management.

Some of the Tampere-Mwanza Co-operation's Programme's projects include: an afforestation program which promoted reestablishment of the city tree nursery; demarcation of village woodlands and introduction of biogas plants; a composting program to sensitize the community on the importance of making compost at household level from biodegradable waste instead of burning it; and environmental management training seminars for the Mwanza City Council and stakeholders on environmental laws and regulation, environmental impact assessment, and environmentally friendly technologies.

According to the project partners, since its establishment in 2002, the Tampere-Mwanza cooperation has fostered cooperation between the cities of Tampere and Mwanza in various environmental activities. This practice has opened a channel for communication between the two municipalities to share their policies and practices. The cooperation has helped achieve higher levels of environmental protection by promoting sustainable development, participation of citizens, good governance, cultural exchange and mutual learning.

**Further Information:** <http://www.tampere.fi/english/tampereinfo/projects/mwanza.html>

**Name of Practice:** Federated States of Micronesia (FSM) Request for Czech Government to Consider the Transboundary Environmental Effects of a Coal Plant

**Sub-Category:** Transboundary Environmental Impact Assessment

**Implementing Actors:** Nation State: Federated States of Micronesia; Civil Society Organisation: Greenpeace, Environmental Law Service; National Ministry: Czech Ministry of Environment

**Location:** Czech Republic, Federated States of Micronesia

**Key Words:** Transboundary, Climate Change, Impact Assessment

**Description:** FSM, with assistance from Greenpeace International, requested a transboundary environmental impact assessment (TEIA) of a proposed expansion and life-extension of the Prunéřov II brown coal-fired power plant in the Czech Republic through filing a formal objection under the Czech Republic's environmental impact assessment law. Although TEIAs are often triggered by neighbouring states based on physical pollution concerns, this was the first ever use of a "transregional" impact assessment concerning climate change.

In April 2011, the Czech Ministry of Environment issued a positive environmental impact statement that cleared the way for the construction of the Prunéřov II brown coal-fired power plant. However, FSM was recognized by the Czech Ministry as an "affected state" and the Ministry required CEZ Group to provide a compensation plan that would offset 5 million tons of CO<sub>2</sub> in attempts to mitigate the environmental impact of the project.

The Environmental Law Service, a watchdog organisation operating in the Czech Republic, explained that FSM's participation in the Prunéřov EIA process was the first time a country that is particularly vulnerable to climate change has used TEIA legislation to raise concerns about a proposed industrial project's greenhouse gas emissions' contribution to climate change. According to the Environmental Law Service, "The TEIA allowed for an important exchange of information and input into the decision making process of the largest Czech source of CO<sub>2</sub> in order to mitigate its emissions and enforce the use of the best available techniques (BAT). And it has been shown that a TEIA can be a very useful tool in analyzing industrial projects through climate change perspectives. Although it is clear that complete cancellation of the life-extension and phase out of Prunéřov would be the best mitigation for the climate, the securing of over 5 million tonnes of CO<sub>2</sub> off-sets should definitely be seen as a success."

**Further Information:** See the Environmental Law Service web site: <http://en.eps.cz/news/pacific-island-nation-makes-legal-history>.

**Name of Good Practice:** Nordic Environmental Protection Convention

**Sub-Category:** Treaties and Instruments; International Cooperation

**Key Words:** Access to Justice, International Cooperation, Regional, Transboundary

**Implementing Actors:** National States: Denmark, Finland, Norway and Sweden

**Location:** Denmark, Finland, Norway, Sweden

**Description:** The Nordic Environmental Protection Convention, which entered into force on 5 October 1976, promotes international cooperation in remedying transboundary environmental harm by, among other things, allowing reciprocal access to domestic legal remedies between residents of State Parties to the treaty.

Article 2 of the Convention incorporates the principle of non-discrimination between the Parties, and provides: “In considering the permissibility of environmentally harmful activities, the nuisance which such activities entail or may entail in another Contracting State shall be equated with a nuisance in the States where the activities are carried out.” Article 3 provides for reciprocal access to domestic legal remedies for transboundary environmental harm, allowing foreign residents to pursue whatever remedies the country of origin would provide to its own residents if the harm occurred there. Article 3 states that “any person who is affected or may be affected by a nuisance caused by environmentally harmful activities in another Contracting State shall have the right to bring before the appropriate Court or Administrative Authority of that State the question of the permissibility of such activities including the question of measures to prevent damage” and “proceedings concerning compensation for damage.” With respect to the question of compensation for damages, the treaty provides that such “compensation shall not be judged by rules which are less favourable to the injured party than the rules of compensation of the State in which the activities are being carried out.” Article 3 also provides for individuals to “appeal against the decision of the Court or the Administrative Authority to the same extent and on the same terms as a legal entity of the State in which the activities are being carried out.”

**Further Information:** The Convention can be found at: <http://www.ecolex.org/ecolex/ledge/view/RecordDetails;jsessionid=A21C59B633153DC83065ADE4F4E971B2?id=TRE-000491&index=treaties>.

**Name of Good Practice:** Australia’s National Indigenous Climate Change Partnership

**Sub-Category:** Climate Change; Indigenous Peoples

**Key Words:** Climate Change, Indigenous, Participation

**Implementing Actors:** Indigenous Peoples Organisations; Corporation

**Location:** Australia

**Description:** The National Indigenous Climate Change (NICC) project is a forum established in 2008 by indigenous leaders to provide dialogue between corporate representatives, indigenous peoples and other experts about issues, risks and opportunities associated with climate change and participation in carbon markets. According to the project’s web page, the project “(along with other organizations

and alliances representing Indigenous perspectives) has worked to identify mutual opportunities with representatives of Corporate Australia and to have issues such as land tenure, native title and cultural and moral rights addressed by Government in the formulation of an emissions trading scheme.”

The NICC Project established a working group, composed of indigenous peoples, climate change experts, and corporate representatives, to carry out its programmes. It is overseen by a Steering Committee of indigenous leaders. In addition to providing networking opportunities, the working group also promotes opportunities for indigenous peoples to participate in the development of carbon markets. For example, the NICC project facilitated a national forum on indigenous climate change opportunities in March 2011 which brought together indigenous leaders from throughout Australia who produced an official communiqué to the Australian government on its carbon market initiatives; negotiated with Australian Government representatives on the drafting of a carbon farming initiative (CFI) law (an initiative that allows farmers and land managers to earn carbon credits by storing carbon or reducing greenhouse gas emissions on their land), including pathways for indigenous peoples’ participation in the CFI; organised a delegation that presented at a Parliamentary Senate inquiry into carbon farming; and published reports on benefit-sharing schemes from carbon-reduction projects implemented on indigenous peoples territories.

**Further Information:** Information about the NICC is available at: <http://www.indigenousclimatechange.com.au/casestudy6.aspx>; see also Robinson et al., *Providing Opportunities and Setting Standards for Indigenous Rights to Carbon and Co-Benefits: A Case-Study Analysis of Australia’s National Indigenous Climate Change (NICC) Project*, paper prepared for the 3d UNITAR-Yale Conference on Environmental Governance and Democracy, 5-7 September 2014, New Haven, USA: <http://conference.unitar.org/yale2014/session-2-investigating-specific-issues-human-rights-environment-interface>.

## **Name of Good Practice: Guatemala’s Climate Change Framework Law**

### **Sub-Category: Climate Change**

**Key Words:** Climate Change, Participation, Vulnerable, Indigenous, Access to Information, Public/Private Partnership

**Implementing Actors:** National Legislature: Guatemala Congress

**Location:** Guatemala

**Description:** Guatemala adopted a comprehensive climate change framework law in September 2013 (*Ley Marco para Regular la Reducción de la Vulnerabilidad, la Adaptación Obligatoria Ante los Efectos del Cambio Climático y la Mitigación*

*de Gases de Efecto Invernadero*). The law's objective is to establish the necessary regulations to prevent, plan for and respond to the impacts of climate change in the country and for all levels of government and civil society to play a role in the adaptation process.

The law has several important elements relating to human rights. For example, the law's guiding principles provide that the government consider ethnic, cultural and gender perspectives and identify and promote traditional and customary practices relating to natural resource management that can contribute to adaptation to climate change impacts and reduction of emissions. The guiding principles also provide that the government include broad public participation in designing and carrying out climate change actions. In this regard, the law created the National Council on Climate Change (NCCC), which includes representatives of government ministries from national and sub-national levels, members of civil society, members of indigenous peoples' organisations, corporations, and academic institutions. The NCCC is tasked with regulating and monitoring the implementation of actions arising out of the law, including the design and implementation of climate change policies, strategies, plans, programmes, and mitigation and adaptation measures. In addition, the law requires that all public institutions at the national and sub-national levels promote and facilitate outreach, education and public awareness activities throughout the country in order to promote proactive public participation in all climate change actions. The law also requires the development of institutional plans that prioritise addressing the impacts from climate change on human health.

**Further Information:** The Guatemalan climate change law can be found at: <http://www.marn.gob.gt/documentos/leycambioclimatico7-2013.pdf>.

## **Name of Good Practice:** Project on Reducing Climate Change Risks to Water Resources in Honduras

### **Sub-Category:** Climate Change

**Key Words:** Climate Change, Participation, Vulnerable, Capacity Building, Training

**Implementing Actors:** National Ministry: Secretaria de Recursos Naturales y Ambiente (SERNA); Academic Institution: Faculty of Engineering, Universidad Nacional Autónoma de Honduras; Sub-National Government: Municipality of the Central District; International Organisation: United Nations Development Programme (UNDP)

**Location:** Honduras

**Description:** According to the UN Development Programme (UNDP), Honduras is one of the most vulnerable countries in Latin America to climate change, with its water resources particularly at risk. Moreover, population growth has led to the

increased habitation of low-income populations in areas prone to increased landslides and flooding from climate change-related weather events. This project, funded by UNDP, seeks to increase resilience to climate change water-related risks in the most vulnerable populations in Honduras. The project, which focuses on Tegucigalpa City and its surrounding areas, began in 2013 and is scheduled to be completed in 2015. The project has three main components or areas of work.

The first component seeks to integrate climate change risks into water resource laws and plans, while increasing capacities of government regulators to implement the amended laws. The second component pilots adaptation measures to safeguard the water supply to Tegucigalpa in 14 vulnerable areas. For example, in November 2014, the project retrofitted 38 houses to collect rainwater, which is diverted to a 63,000 litre tank at a public school that services 500 students. This initiative reduced water infiltration into the soil to minimise the risk for landslides, while providing a much needed secondary source of drinking water for school children. The third component of the project seeks to train decision makers and the public to understand the projected impacts of climate change and identify effective options for reducing climatic risks and vulnerability. For example, the project maintains an up-to-date website and monthly bulletin with information relating to all the initiatives the project has implemented. In November 2014, the Honduras Secretaria de Recursos Naturales y Ambiente (SERNA) organised a regional symposium on climate change, where professionals working on climate change adaptation projects were invited to exchange information and experiences.

**Further Information:** The project's website: <https://acchonduras.wordpress.com/>.

## **Name of Good Practice: National Climate Change Policy and Sector Guidance Framework**

### **Sub-Category: Climate Change**

**Key Words:** Climate Change, Participation, National Policy

**Implementing Actors:** National Ministry: Jordanian Ministry of Environment, National Committee on Climate Change (NCCC)

**Location:** Jordan

**Description:** In 2013 the Jordanian Ministry of Environment published the *National Climate Change Policy of the Hashemite Kingdom of Jordan: 2013-2020*, which assesses the impacts from climate change on Jordan and recommends a number of mitigation and adaptation measures.

The Policy integrates a human rights approach to climate change mitigation and adaptation. For example, the Policy lists as a short-term objective that the "interests

of vulnerable groups, with emphasis on the poor, youth and gender are adequately addressed in mitigation and adaptation policies and strategies.” The Policy also outlines the potential impacts of climate change in a number of areas, including food security, human health, water resources, and tourism, and proposes adaptation measures to reduce these impacts. Public participation is one of the cornerstones of the Policy, including a campaign to increase public awareness and provisions for public consultation. For example, the Policy states that “Stakeholders buy-in and continuous involvement is required to guarantee the sustainability of actions towards mitigation and adaptation to climate change and successful implementation of mitigation and adaptation actions.” The Policy explains that it will be implemented through existing laws and regulations and by multiple government departments.

In October 2014, the German Organization for Technical Cooperation gave Jordan’s Environmental Ministry a €6.5 million grant, most of which is allocated to assist in implementation of the Climate Change Policy.

**Further Information:** The National Policy can found at: [http://www.jo.undp.org/content/dam/jordan/docs/Publications/Climate%20change%20policy\\_JO.pdf](http://www.jo.undp.org/content/dam/jordan/docs/Publications/Climate%20change%20policy_JO.pdf). Information on the recent German grant is available from the Jordan Times web site: <http://jordantimes.com/giz-earmarks-65m-euros-to-address-environmental-challenges-in-jordan>.

### **Name of Good Practice: Scottish Climate Justice Fund**

#### **Sub-Category: Climate Change**

**Key Words:** International Cooperation, Climate Justice, Climate Change, Parliament

**Implementing Actors:** National Government: Scottish Government; National Legislature: Scottish Parliament

**Location:** Scotland

**Description:** Scotland’s Parliament has played a key role in addressing climate justice. In March 2012, the Scottish Parliament through a unanimous motion became the first legislative body in the world to explicitly recognize and support the concept of climate justice:

*“The Scottish Parliament strongly endorses the opportunity for Scotland to champion climate justice, which places human rights at the heart of global development, ensuring a fair distribution of responsibilities and welcomes the Scottish Government’s commitment to ensuring respect for human rights and action to eradicate poverty and inequality, which are at the heart of Scotland’s action to combat climate change both at home and internationally and strengthening Scotland’s support for developing countries on climate change as part of Scotland’s international profile.”*

In 2012, the Scottish Government launched a £3 million Climate Justice Fund to support the development of water adaptation projects in four African countries: Malawi, Rwanda, Tanzania and Zambia. At the end of 2013, the Government launched a second £3 million Climate Justice Fund. According to the Government, the second round of funding should “address specific climate justice principles through a human-rights based approach: approaches which empower vulnerable groups in decision-making and access to resources and realising their rights - through inclusion, equality, transparency, participation, and information - and so delivering climate resilience, strengthening civic society, alleviating poverty, and benefiting the wider environment.” The Scottish Government’s website lists successful projects financed by the Fund. For example, one project in Zambia helped poor farmers, especially women, adapt to the effects of climate change by building their resilience to more frequent and extreme droughts and floods, securing their rights to water, sanitation and hygiene services, and improving their food production.

**Further Information:** <http://www.scottish.parliament.uk/parliamentarybusiness/28877.aspx?SearchType=Advance&ReferenceNumbers=S4M02156.2&ResultsPerPage=10>; <http://www.scotland.gov.uk/Topics/Environment/climatechange/scotlands-action>; <http://www.scotland.gov.uk/Topics/Environment/climatechange/climatejusticefund/ProjectMonitoring/SuccessfulProjects>.

**Name of Good Practice: Suriname’s Reducing Emissions from Deforestation and Forest Degradation (REDD+) Assistants Programme**

**Sub-Category: Climate Change; Indigenous Peoples**

**Key Words:** Climate Change, Indigenous, Participation

**Implementing Actors:** National Government: Government of Suriname; Indigenous Peoples Organisations; Communities

**Location:** Suriname

**Description:** Reducing Emissions from Deforestation and Forest Degradation (REDD+), an international effort that was initiated by the 16th Conference of the Parties to the UN Framework Convention on Climate Change (UNFCCC 1/CP.16 2010, 70), seeks to create incentives for developing countries to reduce emissions from deforestation and forest degradation through a variety of activities, including through forest conservation and the sustainable management of forests. According to the UN-REDD Programme (a consortium of UN agencies that provide support to developing countries to implement REDD+ projects), as of June 2014, 53 countries across Africa, Asia-Pacific and Latin America are participating in REDD+. Because REDD+ will require developing countries to implement specific project to reduce emissions, there is potential for conflict, such as over the rights of indigenous and other communities to forests, farmland and natural resources.

To protect the rights of indigenous peoples, Suriname created the REDD+ Assistants Programme, in which representatives selected by their own communities are trained by the government to understand REDD+ and to help involve indigenous and tribal peoples in the REDD+ decision-making process. According to Suriname's REDD+ readiness preparation proposal (RPP), a preliminary document prepared by REDD+ participant countries, the government has trained representatives from each of Suriname's indigenous and tribal communities to facilitate outreach and consultation on REDD+ projects with their communities and to train others in their communities about the REDD+ initiative. Suriname's RPP notes that "effective participation of indigenous and tribal people will be necessary for impact analysis, design of benefit sharing system, grievance and conflict resolution, monitoring and evaluation of the REDD+ strategy."

**Further Information:** More information on Suriname's REDD+ Assistants Programme is available in its readiness preparation proposal: the UN-REDD website: <http://www.un-redd.org/Home/tabid/565/Default.aspx>.



*A chief 'Shaman' of an indigenous tribe in Venezuelan Amazon*

## OBLIGATIONS RELATING TO MEMBERS OF GROUPS IN VULNERABLE SITUATIONS

The human rights obligations relating to the environment include a general obligation of non-discrimination in the application of environmental law and policy. As described by the Independent Expert in his mapping report, States have additional obligations with respect to those who may be particularly vulnerable to environmental harm, including women, children, minorities and those living in poverty, as well as indigenous peoples (A/HRC/25/53, paras. 69-78).

For example, the Committee on the Elimination of Discrimination against Women has emphasized that States should ensure that public participation in environmental decision-making, including with respect to climate policy, includes the concerns and participation of women. The Feminist Participatory Action Research programme of the Asia Pacific Forum on Women, Law and Development is a good practice in empowering women to participate in policy debates over climate change.

The rights of children are often overlooked in setting environmental policies. A good practice here is the United Nations Children's Fund's (UNICEF) partnership with countries to try to reduce the effects of climate change and environmental degradation on children's rights, and to "identify and enhance opportunities to advance the rights of children which arise from global and local attention on climate change and environmental degradation."

At the national level, many countries also have programmes and initiatives in place to protect communities vulnerable to environmental harm. For example, in the United States of America, an Executive Order issued in 1994 by the President provides a basis for continuing attention to the environmental and human health effects of actions by the national Government on members of minority and low-income groups, as

well as on indigenous peoples, with the goal of achieving “environmental justice” for all communities.

A number of international instruments and human rights bodies have detailed the obligations of States with respect to indigenous peoples. Among other duties, States should recognize the rights of indigenous peoples with respect to the territory that they have traditionally occupied, including the natural resources on which they rely, facilitate the participation of indigenous peoples in decisions that concern them, guarantee that the indigenous community affected receives a reasonable benefit from any such development, and provide access to remedies, including compensation, for harm caused by the activities (A/HRC/25/53, para. 78).

Many good practices were presented in relation to indigenous rights. At the regional level, the Inter-American Court of Human Rights has done a great deal to clarify the obligations of States relating to indigenous and tribal peoples’ rights in the territory that they have traditionally occupied.<sup>8</sup> At the national level, a number of courts have also issued decisions clarifying the rights of tribal peoples, including in Mexico and India. 99. Another type of good practice is legislative action that recognizes the legal rights of indigenous representatives in natural resources. For example, in 2005 the Norwegian Parliament adopted the Finnmark Act through a process of consultation with the Sami Parliament. The Act transferred ownership of the land to a new entity governed by a board half of whose members are appointed by the Sami Parliament, and created a special court to decide disputes concerning land rights.

Indigenous organizations have also engaged in good practices to protect indigenous rights and promote the sustainable use of resources, including in connection with protected areas. For example, the Commission on Environmental, Economic and Social Policy of the International Union for Conservation of Nature, the Forest Peoples Programme and other indigenous peoples’ organizations help local communities to assess and redress situations where they believe that they have been negatively affected by the designation or management of a protected area.

An example of a good practice is the co-management of protected areas with indigenous groups, as provided by the Sarstoon Temash Institute for Indigenous Management (SATIIM), a community-based indigenous environmental organization that co-manages with the Forest Department of Belize, the Sarstoon Temash National Park. Another good practice is raising the awareness of indigenous communities of their rights. Natural Justice, a civil society organization based in South Africa, assists local communities and indigenous groups to prepare “community protocols” that set out their understanding of their customary, national and international rights relating to their land and natural resources.

8 See, for example, *Mayagna (Sumo) Agwas Tingni Community v. Nicaragua*, 31 August 2001, and *Saramaka People v. Suriname*, 28 November 2007.

The good practices under this category include:

### Children

- IUCN – resolution on children and environment
- UNICEF – various projects

### Indigenous Peoples

- Belize – community-based sustainable forest management plans
- Inter-American Court of Human Rights – jurisprudence
- India – rejection of application to mine Niyamgiri Hills
- IUCN – Whakatane assessments
- Mexico – Supreme Court decision
- Natural Justice – community protocols
- Natural Justice – Living Convention
- Norway – Finnmark Act
- Suriname – REDD+ Assistants Programme

### Minorities and Low-Income Populations

- USA – Executive Order 12898

### Women

- FPAR – self-research

## **Name of Good Practice: International Union for Conservation of Nature Resolution on the Child's Right to Nature and a Healthy Environment**

### **Sub-Category: Children**

**Key Words:** Children, Conservation, Right to a Healthy Environment, Vulnerable

**Implementing Actors:** International Organisation: International Union for Conservation of Nature (IUCN)

**Location:** Global

**Description:** The World Conservation Congress of the International Union for Conservation of Nature (IUCN) adopted Resolution 101 on the Child's Right to Connect with Nature and to a Healthy Environment in September 2012. According to the IUCN, the World Conservation Congress is the world's largest conservation event and is held every four years with the goal of improving how humans manage the natural environment for human, social and economic development. Governments,

the public sector, non-governmental organisations, businesses, UN agencies and social organizations all participate in the World Conservation Congress.

Resolution 101 is indicative of increasing efforts to link conservation with human rights. It notes a deep “concern about the significant consequences of increasing environmental problems ... for the lives and development of children ... and for their future” and affirms that the World Conservation Congress “[e]ndorses the child’s right to nature and a healthy environment.” The resolution calls on IUCN’s governmental and non-governmental members and its Director General to “promote and actively contribute to the international acknowledgement and codification of the child’s right to nature and a healthy environment within the United Nations human rights framework, preferably in an additional protocol to the Convention on the Rights of the Child” and to “help introduce the draft text ‘The child’s right to nature and a healthy environment’ on the agenda of the United Nations Human Rights Council.” In addition, the resolution requests the Director General in collaboration with the Secretariat and the IUCN World Commission on Environmental Law, within the scope of their mandates, to “contribute to the further development and knowledge of the legal concept: the child’s right to nature and a healthy development as part of the rights-based approach to conservation.”

**Further Information:** The IUCN’s website is: <http://www.iucn.org/>; the full text of the resolution is available at: [http://www.iucnworldconservationcongress.org/member\\_s\\_assembly/resolutions/](http://www.iucnworldconservationcongress.org/member_s_assembly/resolutions/).

## **Name of Good Practice:** UNICEF’s Initiatives to Protect Children’s Rights to a Healthy Environment

### **Sub-Category:** Children

**Key Words:** Children, Climate Change, International Organisation, Vulnerable

**Implementing Actors:** International Organisation: UNICEF

**Location:** Global

**Description:** According to UNICEF, its “approach to environmental sustainability aims to: reduce the effects of climate change and environmental degradation on children’s rights” and “identify and enhance opportunities to advance the rights of children which arise from global and local attention on climate change and environmental degradation.” To achieve these objectives, UNICEF has undertaken several initiatives at the global and local levels.

For example, at a country-specific level, in Burundi, UNICEF is implementing Project Lumière, which enables community groups to purchase bicycle pedal-powered generators and LED lights that can provide light for a household for up to ten days.

According to UNICEF, in “Burundi, one of the world’s most energy-impooverished nations in which only 3% of people have access to energy, access to energy protects child health and safety, reducing harmful emissions from the burning of kerosene and firewood in homes, as well as providing light at night for children to study.” In Zambia, UNICEF’s Unite4Climate programme has trained over 1000 young people to be Climate Ambassadors. Ambassadors have undertaken a number of activities, including training peers on the causes and potential solutions to climate change, hosting radio shows on climate change, creating a model for a floating school in an area of Zambia at-risk to intense flooding, and meeting with leaders on the global stage to explore youth perspectives on climate policy.

At the global level, for example, UNICEF in preparation for the September 2014 UN Climate Summit used social media and the web to call for applications from young people to help create a climate change digital map. UNICEF sent the 43 chosen participants in the project, who represent youth from throughout the world, an instruction kit on how to explore and report from their communities on “ how weather and climatic conditions impacted their community; evidence of man-made destruction and pollution; other hazards in their physical environments; and signs of positive action.” The final digital map allows internet users to click on specific locations to access the reports submitted by the participants.

**Further Information:** UNICEF’s environment and climate change page: <http://www.unicef.org/environment/>; the climate change digital map: <http://climatesummit.unicef-gis.org/>.

## **Name of Good Practice: Community-Based Sustainable Forest Management Plans**

### **Sub-Category: Indigenous Peoples**

**Key Words:** Awareness Raising, Conservation, Indigenous, Participation

**Implementing Actors:** Indigenous Peoples Organisation: Sarstoon Temash Institute for Indigenous Management; Indigenous Peoples Communities

**Location:** Belize

**Description:** The Sarstoon Temash Institute for Indigenous Management (SATIIM) is a community-based indigenous environmental organization working in the far south of Belize, in a region in the Toledo District that lies between the Sarstoon and Temash Rivers. SATIIM co-manages, with the Belizean Forest Department, the 41,898 acre Sarstoon Temash National Park (STNP). The Park was declared on lands traditionally used by indigenous Garifuna and Maya communities who live in the area. SATIIM was established in 1997 after the communities around the STNP came together to “stake a claim in the management of the land and natural resources in and around

the park.” Its mission is to “promote and protect the rights of Indigenous Peoples and safeguard the ecological integrity of the Sarstoon Temash Region and promote the sustainable use of its resources for its Indigenous People’s economic, social, cultural, environmental, and spiritual wellbeing.”

One programme SATIIM has implemented to protect the rights of indigenous communities to access the natural resources in their traditional lands as well as to prevent environmental degradation of STNP is the promotion of community-based sustainable forest management plans. With the assistance of SATIIM, in 2008 the communities of Conejo and Santa Teresa prepared forest management plans as a way to identify how they could continue to access their customary rights to the natural resources in the park in order to promote their livelihoods and culture, while also preserving the ecological integrity and biodiversity of the STNP. The Conejo Community Forest Sustainable Management Plan has a 20-year cycle while Santa Teresa has a 25-year cycle. Each plan identifies the timber and non-timber resources that each community can harvest based on an ecological survey of the area that the communities conducted themselves after receiving training, and includes mitigation measures for any possible adverse impacts to the environment.

**Further Information:** SATIIM’s website: <http://www.satiim.org.bz/>; its 2008 annual report: <http://www.satiim.org.bz/download/newsletters-and-updates/annualreport08.pdf>.

### **Name of Good Practice: Indigenous Peoples’ Property Rights - Jurisprudence of the Inter-American Court of Human Rights**

#### **Sub-Category: Indigenous Peoples**

**Key Words:** Access to Justice, Free Prior and Informed Consent, Indigenous, Jurisprudence, Regional, Tribunal

**Implementing Actors:** Court: Inter-American Court of Human Rights

**Location:** 20 countries in Latin America and the Caribbean subject to the Court’s jurisdiction

**Description:** The Inter-American Court of Human Rights applies and interprets the American Convention on Human Rights in respect to the 20 State Parties who have agreed to the Court’s contentious jurisdiction. Only a State Party or the Inter-American Commission on Human Rights has the capacity to bring cases before the Court.

The Court has developed a strong jurisprudence on indigenous and tribal property rights issues through its interpretation of the American Convention. For example, in the *Case of the Mayagna (Sumo) Awas Tingni Community* (2001), the Court

established that States are required effectively to delimit and demarcate the ancestral property of indigenous and tribal peoples and to “abstain from carrying out, until that delimitation, demarcation, and titling have been done, actions that might ... affect the existence, value, use or enjoyment of the property located in the geographical area where the members of the Community live and carry out their activities.”

Moreover, the Court has articulated safeguards to ensure that any potential restrictions on indigenous and tribal peoples’ property rights (e.g., through the granting of concessions on their territories) preserve, protect and guarantee the special relationship that they have with their ancestral lands and do not endanger their survival. For example, in *Saramaka People v. Suriname* (2007), the Court held that a State must consult with a community regarding any proposed concessions or other activities that may affect its lands and natural resources, ensure that no concession will be issued without a prior assessment of its environmental and social impacts, and guarantee that the community receives a “reasonable benefit” from any such plan if approved. Moreover, the Court stated that with respect to “large-scale development or investment projects that would have a major impact within Saramaka territory,” the State must do more than consult with the Saramaka; it must “obtain their free, prior, and informed consent, according to their customs and traditions.”

**Further Information:** See the Court’s website: <http://www.corteidh.or.cr/index.php/en>. The Independent Expert’s Individual Report on the Inter-American human rights: <http://srenvironment.org/mapping-report-2014-2/>

### **Name of Good Practice:** Indian Minister of the Environment and Forests’ Rejection of Application to Mine the Niyamgiri Hills in Odisha, India

**Sub-Category:** Participation Platforms or Bodies; Indigenous Peoples

**Key Words:** Corporations, Extractive Industry, Indigenous, Participation

**Implementing Actors:** National Ministry: Indian Ministry of Environment and Forests; Indigenous Peoples Organisations

**Location:** Odisha, India

**Description:** In January 2014, India’s Minister of Environment and Forests (MEF) blocked an application by Vedanta Resources (Vedanta), a London-based mining company, to clear a forest area to mine for bauxite in the Niyamgiri hills in the eastern Indian state of Odisha. The Dongria and Kutia tribes inhabit the areas surrounding the Niyamgiri hills and believe their god lives in the hills. The events leading up to the MEF decision, which was informed by the Dongria and Kutia tribes’ rejection of the proposed mining, serve as a good example of respecting the rights of indigenous and tribal communities in the environmental decision-making process.

The MEF denied Vedanta's application based on procedures set out in the Forest Rights Act of 2006 (FRA), which recognises a broad range of customary forest rights of tribal peoples and traditional forest dwellers. The FRA lays out procedures for these communities to claim and register their traditional forests rights. The FRA empowers a representative tribal or community assembly, called a *Gram Sabha*, to assist in determining the nature and extent of tribal or traditional forest dweller forest rights and to ensure that their rights are "preserved from any form of destructive practices affecting their cultural and natural heritage." In April 2013, the Supreme Court requested the government of Odisha to consult with relevant *Gram Sabhas* to determine the Dongaria and Kutia tribes' rights to the proposed Vedanta mining area and whether the proposed mining would impact any such rights. Subsequently, in what has been referred to as "India's first environmental referendum," *Gram Sabhas* from 12 villages surrounding the proposed mining rejected the proposed mining based on concerns that it would violate their religious and cultural rights.

**Further Information:** The 2013 Supreme Court decision: <http://www.indiaenvironmentportal.org.in/files/Niyamgiri%20April%2018%202013.pdf>; see the Guardian's coverage about the decision: <http://www.theguardian.com/global-development/poverty-matters/2014/jan/14/india-rejection-vedanta-mine-victory-tribal-rights>; the Forest Rights Act: <http://www.forestrightsact.com/>; see also Mohammed Ali Khan, *Government of Vedanta: A Paradigm Shift in Indian Environmental Law*, paper prepared for the 3d UNITAR-Yale Conference on Environmental Governance and Democracy, 5-7 September 2014, New Haven, USA: <http://conference.unitar.org/yale2014/session-2-investigating-specific-issues-human-rights-environment-interface>.

## **Name of Practice: Whakatane Assessments, Rights-Based Assessments of Protected Areas**

### **Sub-Category: Indigenous Peoples**

**Implementing Actors:** International Organisation: IUCN secretariat, IUCN Commission on Environmental, Economic and Social Policy (CEESP); Civil Society Organisation: Forest Peoples Programme, indigenous peoples' organisations (IPOs).

**Location:** Kenya, Thailand, Congo (initial pilots)

**Key Words:** Human Rights-Based Assessments, Vulnerable; Indigenous, Conservation, Environmental Human Rights Defenders, Protected Areas

**Description:** Whakatane Assessments are part of a larger programme called the Whakatane Mechanism, which is implemented by the IUCN Commission on Environmental, Economic and Social Policy (CEESP), the Forest Peoples Programme, and other indigenous peoples' organisations (IPOs). According to IUCN, the Whakatane Mechanism "is a process to assess, address and redress situations,

primarily in protected areas, where indigenous peoples consider themselves to be negatively affected by a protected area designation or management practices.”

The main working method under the Mechanism is the use of “Whakatane Assessments,” which have been piloted in Kenya, Congo and Thailand. According to the Whakatane Mechanism website, the “structure of these pilot Assessments was similar: a first roundtable that brought together the different institutions involved in the protected area to explain the concept of the Whakatane Mechanism and plan ahead. This was followed by a scoping study of several days in the protected area to meet with communities and local officials. A second roundtable followed to present and agree on the findings and recommendations of the Assessment.” For example, the assessment in Kenya found that “the Ogiek [community] have a positive relationship with their natural environment and indicated that community structures, presence and livelihood practices contribute to protecting the forest, moorland and fauna.” It concluded that “there is therefore an opportunity for decision-makers of the County Council to reverse their earlier attempts to evict the Ogiek, and to instead support their continued conservation of their lands.” In Kenya, the FPP and IUCN put together a programme of work – validated by all participants at the second roundtable - to work on establishing clear evidence based co-management structures that can ensure that Ogiek management of their land is respected.

**Further Information:** The main website for the Mechanism: <http://whakatane-mechanism.org/>; IUCN’s progress report for the Mechanism: <http://www.iucn.org/about/union/commissions/ceesp/?9764/Progress-Report-of-the-Whakatane-Mechanism>.

### **Name of Good Practice: Decision of the Mexican Supreme Court of Justice: Amparo No. 631/2012 (Independencia Aqueduct)**

#### **Sub-Category: Indigenous Peoples**

**Key Words:** Access to Justice, Accountability, Constitutional Court, Constitutional Right to Environment, Free Prior and Informed Consent, Indigenous, Jurisprudence, Remedy

**Implementing Actors:** Court: Supreme Court of Justice of Mexico

**Location:** Mexico

**Description:** The Yacqui Tribe from Sonora, Mexico, filed an *amparo* action against the Secretaría de Medio Ambiente y Recursos Naturales (SEMARNAT/Mexican Ministry of Environment and Natural Resources) concerning the construction of the *Independencia* aqueduct, which is designed to remove 60 million cubic metres of water from the Yaqui River to supply water to the city of Hermosillo. The Tribe alleged that the project violated a 1940 presidential resolution that provided them

with 50 per cent of the volume of the flow from the Yaqui river waters, and that the project was carried out without consultation with the Tribe.

The Supreme Court of Justice issued two consecutive judgments finding that the Yaqui's rights had been violated. The first judgment, on 8 May 2013, relied on Article 2 of the Constitution (indigenous consultation), ILO Convention 169 on Indigenous and Tribal Peoples and the *Saramaka People vs. Suriname* and *Kichwa Indigenous People of Sarayaku vs. Ecuador* decisions from the Inter-American Court of Human Rights. It found that the government had not consulted with the Yacqui Tribe prior to the environmental impact authorization of the project and that, accordingly, the government must undertake prior consultation, based on good faith, with the objective to reach an agreement, and in a culturally appropriate manner, and that the government must fully inform the Yaqui Tribe of the nature and consequences of the project before and during the consultation. Upon request from SEMARNAT, the Supreme Court clarified its decision on 8 August 2013, explicitly stating that the environmental impact authorization which cleared the construction of the aqueduct must be declared without effect until SEMARNAT has consulted with the Yaqui tribe pursuant to the terms set out in its May 2013 judgment. Despite the rulings from the Supreme Court of Justice, various civil society organisations have reported that SEMARNAT has not complied with the judgment and that the government is harassing the Tribe. For example, Article 19 and Frontline Defenders recently expressed concern at the arrest of the Yacqui Tribe spokesperson on "unsubstantiated" charges.

**Further Information:** The full decision can be found at: [http://www.escri-net.org/sites/default/files/Sentencia%20SCJN%20\(Acueducto%20Independencia\).pdf](http://www.escri-net.org/sites/default/files/Sentencia%20SCJN%20(Acueducto%20Independencia).pdf); an English translation is available at: [http://indigenouspeoplesdevelopment.com/wp-content/uploads/2013/10/Judgment-631-2012\\_EN.pdf](http://indigenouspeoplesdevelopment.com/wp-content/uploads/2013/10/Judgment-631-2012_EN.pdf); information from Frontline Defenders can be found at: <http://www.frontlinedefenders.org/node/27373>.

## **Name of Good Practice:** Community Protocols

### **Sub-Category:** Indigenous Peoples

**Key Words:** Indigenous, Local Community, Participation, Consultation, Empowerment

**Implementing Actors:** Civil Society Organisation: Natural Justice (South Africa); Local Community: various communities

**Location:** Global

**Description:** Natural Justice works with local communities and indigenous groups to assist them to prepare protocols that set out their customary, national and international rights relating to their community or territories and the natural resources within them. Natural Justice explains that these protocols serve both a defensive and proactive function. Defensively, they serve to ensure that outsiders, such as

governments, academic researchers, corporations and civil society organisations, recognize and respect communities' customary, national and international procedural and substantive rights, including self-determination, full and effective participation in decision-making, free, prior and informed consent, access to information, and access to justice. Proactively, the protocols set out locally determined visions and priorities and, in some cases, detail relevant actions required by other stakeholders towards recognition of and support for customary ways of life, including roles in conservation and sustainable use of biodiversity.

Natural Justice and its local partners assist each community develop its own protocols in a way and format that is most meaningful and appropriate to that community. Protocols can be written documents, or can take the form of visual art, theatre or music. Natural Justice advises that each format will have its own pros and cons. For example, "certain formats such as written documents may be more politically advantageous, have greater legal certainty in negotiation processes, and be more easily understood by key actors such as government officials or the private sector, but may be seen as reductionist or misrepresentative of the complexity of the community's worldview and visions." Natural Justice states that communities that have developed protocols have noted the self-affirming power of having something in hand that consolidates documentation about their own identities and ways of life in a way that outsiders can also understand. Case studies of protocols developed in India, South Africa, Kenya, and Borneo are available on Natural Justice's website.

**Further Information:** Natural Justice's website on community protocols: <http://www.community-protocols.org/>; also case studies are found at: <http://www.community-protocols.org/about/case-studies>.

## **Name of Good Practice: The Living Convention and Human Rights Standards for Conservation**

### **Sub-Category: Indigenous Peoples**

**Key Words:** Indigenous, Local Communities, Capacity Building, Awareness Raising

**Implementing Actors:** Civil Society Organisation: Natural Justice (South Africa)

**Location:** Global

**Description:** The rights of indigenous peoples and local communities are addressed in a wide range of international instruments, each with its own particular focus. As a result, indigenous peoples and local communities are often unaware of their rights relating to issues such as development on their territories, lands and waters and the use of their natural resources and knowledge.

To help to publicize information about these rights, Natural Justice has developed an information resource which it calls the Living Convention. It provides a range of the most important provisions in international law relating to the linkages between indigenous and local communities and their territories, lands, natural resources, and knowledge systems. The Living Convention reproduces provisions from international instruments that support the integrity and resilience of Indigenous Peoples' and local communities' territories and other social-ecological systems. It organizes rights in substantive and procedural categories, and under headings chosen to reflect rights as expressed and deployed in practice at local, national and international levels. For example, all provisions that deal with the principle of "free, prior and informed consent" (FPIC) are grouped under one heading, regardless of whether they are located in human rights instruments or multilateral environmental agreements. The Living Convention also includes annexes, which (among other things): detail the instruments reviewed, included, and excluded from the Compendium; provides a list of relevant international and regional judgments; and lists a number of indigenous peoples' declarations.

The Living Convention is available for download in English and Spanish at: <http://naturaljustice.org/library/our-publications/legal-research-resources/the-living-convention>.

**Further Information:** Natural Justice's web site: <http://naturaljustice.org/>.

### **Name of Practice:** Norway's Finnmark Act

### **Sub-Category:** Indigenous Peoples

**Implementing Actors:** National Legislature: Norwegian Parliament

**Location:** Norway

**Key Words:** Indigenous, Conservation, Protected Areas, legislation

**Description:** Article 110a of the Norwegian Constitution recognizes "the responsibility of the authorities of the State to create conditions enabling the Sami people to preserve and develop its language, culture and way of life." The county of Finnmark, located in the north-east of the country, is the ancestral land and home of Norway's indigenous Sami people. After many years of legal uncertainty about the management and use of natural resources in Finnmark, the Norwegian Parliament adopted the Finnmark Act in 2005, through a process of consultation with the Sami Parliament. Prior to the Act, approximately 95 per cent of land in Finnmark was managed by a state-owned enterprise. The Act transferred this ownership to a new entity, "Finnmarkseiendommen," which serves as the custodian of the land. It is governed by a board consisting of six persons: three board members appointed by the Sami Parliament and three by the Finnmark County Council.

The purpose of the Act is to “facilitate the management of land and natural resources in the county of Finnmark in a balanced and ecologically sustainable manner for the benefit of the residents of the county and particularly as a basis for Sami culture, reindeer husbandry, use of non-cultivated areas, commercial activity and social life.” The Act further recognises that “through prolonged use of land and water areas, the Sami have collectively and individually acquired rights to land in Finnmark.” The Act also recognises that other residents of Finnmark may also have acquired such rights, and establishes a commission whose members are to be appointed by the King to survey these rights. The Act also creates a special court to decide disputes concerning such rights. The Act provides that all residents of Finnmark, no matter what ethnicity, will be given the right to exploit natural resources on Finnmarkseiendommen’s land, including hunting, fishing and cloudberry picking. The extent of such rights is dependent on how closely one is associated with the resources. In matters concerning changed use of uncultivated land, both the public authorities and Finnmarkseiendommen shall assess the significance of the change for Sami interests. The Sami Parliament may issue (non-binding) guidelines to be followed in making this assessment.

**Further Information:** The Finnmark Act is available at: [http://www.wipo.int/wipolex/en/text.jsp?file\\_id=244972](http://www.wipo.int/wipolex/en/text.jsp?file_id=244972) ; a summary of the Act is available from the Ministry of Local Government and Regional Development: [http://www.galdu.org/govat/doc/brochure\\_finnmark\\_act.pdf](http://www.galdu.org/govat/doc/brochure_finnmark_act.pdf).

### **Name of Good Practice: Suriname’s Reducing Emissions from Deforestation and Forest Degradation (REDD+) Assistants Programme**

#### **Sub-Category: Climate Change; Indigenous Peoples**

**Key Words:** Climate Change, Indigenous, Participation

**Implementing Actors:** National Government: Government of Suriname; Indigenous Peoples Organisations; Communities

**Location:** Suriname

**Description:** Reducing Emissions from Deforestation and Forest Degradation (REDD+), an international effort that was initiated by the 16<sup>th</sup> Conference of the Parties to the UN Framework Convention on Climate Change (UNFCCC 1/CP.16 2010, 70), seeks to create incentives for developing countries to reduce emissions from deforestation and forest degradation through a variety of activities, including through forest conservation and the sustainable management of forests. According to the UN-REDD Programme (a consortium of UN agencies that provide support to developing countries to implement REDD+ projects), as of June 2014, 53 countries across Africa, Asia-Pacific and Latin America are participating in REDD+. Because

REDD+ will require developing countries to implement specific project to reduce emissions, there is potential for conflict, such as over the rights of indigenous and other communities to forests, farmland and natural resources.

To protect the rights of indigenous peoples, Suriname created the REDD+ Assistants Programme, in which representatives selected by their own communities are trained by the government to understand REDD+ and to help involve indigenous and tribal peoples in the REDD+ decision-making process. According to Suriname's REDD+ readiness preparation proposal (RPP), a preliminary document prepared by REDD+ participant countries, the government has trained representatives from each of Suriname's indigenous and tribal communities to facilitate outreach and consultation on REDD+ projects with their communities and to train others in their communities about the REDD+ initiative. Suriname's RPP notes that "effective participation of indigenous and tribal people will be necessary for impact analysis, design of benefit sharing system, grievance and conflict resolution, monitoring and evaluation of the REDD+ strategy."

**Further Information:** More information on Suriname's REDD+ Assistants Programme is available in its readiness preparation proposal: [http://forestcarbonpartnership.org/sites/fcp/files/2013/june2013/REVISED\\_Suriname%20R-PP%20finaldraft%2022Juni.pdf](http://forestcarbonpartnership.org/sites/fcp/files/2013/june2013/REVISED_Suriname%20R-PP%20finaldraft%2022Juni.pdf); the UN-REDD website: <http://www.un-redd.org/Home/tabid/565/Default.aspx>.

## **Name of Good Practice: Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations**

### **Sub-Category: Minorities and Low-Income Populations**

**Key Words:** Environmental Justice, Vulnerable

**Implementing Actors:** National Ministry: US Environmental Protection Agency (EPA); various Federal agencies

**Location:** United States, Puerto Rico, Mariana Islands

**Description:** The purpose of Executive Order 12898 is to focus federal attention on the environmental and human health effects of federal actions, especially on members of minority and low-income groups, as well as on indigenous peoples, with the goal of achieving environmental protection for all communities. The Executive Order requires federal agencies to identify and address any potentially high and adverse human health or environmental effects of their programs, policies and activities on members of minority or low-income populations. Additionally, each major federal agency has a working group on environmental justice that provides guidance for that agency and coordination with other agencies. Specifically, the

EPA's Environmental Justice Permitting Initiative aims to develop tools to enable members of overburdened communities to have full and meaningful access to the EPA permitting process.

The EPA has also developed Environmental Justice Access Plans that set out measurable commitments that address the Agency's national environmental justice priorities as established by environmental justice advocates. The EPA has also instituted "Plan EJ 2014," a roadmap to help the EPA further integrate environmental justice into the EPA's programs, policies and activities. By engaging with environmental justice advocates and communities through community research and open dialogue, the EPA attempts to ensure public participation in integrating environmental justice into their day-to-day work and decision-making. In 2013 and 2014, the EPA issued annual reports toward meeting the commitments outlined in Plan EJ 2014. The 2013 progress report found that the EPA had made significant progress in achieving the goals laid out in Plan EJ 2014, and set additional objectives for 2014. The 2014 report found that the EPA had completed these additional objectives, and laid out further steps for integrating Environmental Justice in light of the growing threat of climate change under President Barack Obama's Climate Action Plan. These reports are available for review on the EPA's website at <http://www.epa.gov/environmentaljustice/plan-ej/index.html>.

**Further Information:** EPA's environmental justice web page: <http://www.epa.gov/environmentaljustice>; Website for the Federal Interagency Working Group on Environmental Justice: [www.epa.gov/compliance/ej/interagency/#overview](http://www.epa.gov/compliance/ej/interagency/#overview).

## **Name of Good Practice: Feminist Participatory Action Research (FPAR) for Climate Change**

### **Sub-Category: Women**

**Key Words:** Participation, Empowerment, Women

**Implementing Actors:** Civil Society Organisation: Asia Pacific Forum on Women, Law and Development (APWLD); Local Community: various

**Location:** Throughout Asia

**Description:** The Feminist Participatory Action Research (FPAR) programme rests on the notion that to gain a voice in policy debates over climate, it is important that rural and indigenous women document their own practices and experiences and are the authors of their own research. Women-led participatory research promotes democratic participation of women in policy making around development at local, national, regional and international levels. Women set the agenda, conduct research and analysis, and participate in decision-making at all levels. The goal is to advocate for and foster community-led structural change. For example, in the Philippines,

one community has passed a resolution to prevent the use of destructive fishing practices after conducting its own research on the issue, and now requires individuals to adhere to strict fishing and hunting schedules. Women in other communities have mobilised to call for the regulation of local logging and the implementation of reforestation measures. In Vietnam as part of an FPAR project that focused on communities resettled from the construction of a hydropower dam, the Asia Pacific Forum on Women, Law and Development (APWLD), a community non-profit organisation, resettled women in five hamlets, established a Women's Union and invited the district's female deputy of the Department of Justice to teach them how to write a complaint letter.

APWLD works with six partner organisations (based in Sri Lanka, India, Pakistan, Philippines x 2 and Indonesia) to undertake research detailing their own experiences of climate change and their local strategies of adaptation and mitigation. In 2010, the partner researchers collaborated to come up with a research toolkit. In 2011, the organisations conducted and documented the research and commenced advocacy strategies.

The participatory research also builds capacity of women in rural, indigenous and urban poor communities in principles of human rights and environmental sustainability, including human rights principles that are related to the protection of human rights defenders. According to APWLD, the FPAR programme further helps protect woman from threats and harm related to their activities by bringing women together and creating support networks.

**Further Information:** APWLD's website: <http://apwld.org/category/rural-and-indigenous-women/>.

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Amparo Cause of Action and the Principle of Intereses Difusas in Costa Rica

Mendoza Beatriz Silva v. National Government of Argentina

Aarhus Centres

Actions of the African Commission on Human and Peoples' Rights

Advocacy and Ecology: Monitoring of "Hot Spots"

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Annual Report on the Environment and the Statistical Environmental Yearbook of the Czech Republic

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Australia's National Indigenous Climate Change Partnership

Bali Guidelines for the Development of National Legislation on Access to Information, Public Participation, and Access to Justice in Environmental Matters

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[www.unep.org](http://www.unep.org)  
United Nations Environment Programme  
PO Box 30552, 00100  
Nairobi, Kenya  
Tel: (254-20) 7621234  
Email: [publications@unep.org](mailto:publications@unep.org)  
Web: [www.unep.org](http://www.unep.org)

