13th Informal Asia-Europe Meeting (ASEM) Seminar on Human Rights
"Human Rights and the Environment"
21-23 October 2013 | Copenhagen, Denmark

Key Messages

A clean and healthy environment is important for the full enjoyment of human rights. With increasing environmental degradation and climate change, the inter-connections between sustainable development, human rights and environmental protection have raised new questions some of which were addressed at the 13th Informal ASEM Seminar on Human Rights, titled "Human Rights and the Environment" (21-23 October 2013, Copenhagen, Denmark).

The Seminar Series is organised by the Asia-Europe Foundation (ASEF), the Raoul Wallenberg Institute (as delegated by the Swedish Ministry for Foreign Affairs), the French Ministry of Foreign Affairs and the Philippine Department of Foreign Affairs. The 13th Seminar was hosted by the Danish Ministry of Foreign Affairs and the Danish Institute for Human Rights. 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 on the promotion and protection of human rights. Additional side events at the Seminar included an event on '*Climate Change and Indigenous People*' and a special panel on '*Environment, Human Rights and the Role of Private Actors*'. In addition, the UN Independent Expert on Human Rights and the Environment led a closed-door consultation on the links between environmental protection and human rights obligations of domestic and international institutions.

There was overall agreement that the **human rights aspects of environmental protection should be strengthened** and that a **human-rights-based approach should be made more prominent in the international climate change and sustainable development discussions**. A right to sustainable development has already been identified in both international human rights and environmental declarations. Greater prominence and recognition needs to be given to **environmental protection as a core economic and social value in 21st century UN policy**. All relevant stakeholders, especially **civil society, need to be better engaged in international policy development on these issues**. The trans-boundary impacts of environmental degradation continue to pose significant challenges in both regions. In the absence of new agreements on how to address these issues, existing mechanisms should continue to be used to resolve such trans-boundary situations.

Market mechanisms that address environmental protection can only be consistently effective if backed by adequate regulatory frameworks and strong national legislation. Legislative frameworks should include rewarding effective implementation and compliance. **Participation goes beyond consultation**; it means that an administration enters into a dialogue with the public concerned, before a particular decision is reached. In this regard, **capacity-building and environment and human rights education is needed not only at the 'official level' but for the general population as well** so that they can participate in discussions on environmental degradation, climate change and their human rights implications. There is a **need to identify vulnerable groups in both Asia and Europe**. **However, vulnerable groups should not be characterised as victims but rather as actors to be engaged in environmental decision-making. Indigenous populations need special consideration in ensuring their access to information and informed consent** in administrative decisions.

The procedural rights of access to information, public participation in decision-making and access to justice are key to the effective engagement of the public in environmental matters. Subject to the specific situation of each country, provisions should be made for effective access to justice. The ideal situation of making such provisions legally binding may take time. Pending such measures,

soft-law approaches should be applied as a first step. For example, if the ***Aarhus Convention*** **cannot be fully replicated quickly in Asia or signed and ratified by every country, the procedural rights provided for in the Convention can be implemented in different regions and adapted to domestic requirements**.

The Seminar convened 4 working groups for direct and in-depth discussion on the relationship between human rights and the environment. The working groups focused on 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*. Detailed reports of the individual working group discussions can be found in the complete Seminar Report, which will be circulated by the organisers.

General Recommendations to ASEM Countries

1. States should adopt a human-rights-based approach to environmental protection as part of their national environmental regulatory framework.

2. The need for economic development is a driving force for many countries. In balancing development, human rights and environmental protection, governments should ensure that strategic impact assessments are undertaken for significant development projects so as to assess the long-term social, environmental and human rights impacts of a development on both individuals and communities. Environment impact assessment requirements should be legislated and based on Principle 10 of the *Rio Declaration* – namely, access to information, public participation and access to justice.

3. States should give more prominence to human rights perspectives in international environment issues, especially in the negotiation of the post-Kyoto Protocol climate change regime and the drafting of the Sustainable Development Goals (SDGs). Human rights organisations should participate more actively in this process alongside other environmental and governmental actors.

4. The United Nations Environment Programme (UNEP) should remain the key authority within the UN system on environmental issues and ensure that it keeps up with the challenges of environment and the link to human rights in the 21st century. In keeping with the Rio+20 Outcome Document: *The Future We Want*, governments should support the ongoing process of strengthening and upgrading of UNEP.

5. States should encourage UNEP to ensure the active participation of relevant stakeholders in the UN system "*drawing on best practices and models from relevant multilateral institutions and exploring new mechanisms to promote transparency and the effective engagement of civil society"* (Rio+20 Outcome Document). Other UN agencies such as the UN Human Rights Council and UNDP should also be key partners in this discussion.

6. Access to information, participation in environmental decision-making and access to judicial process are vital to addressing environment protection in context of human rights. Access to information should be open, cost-free, effective and provided without discrimination. Governments are recommended to implement the recommendations of UNEP on access to information and participation in decision-making in environmental matters (Guidelines for Development of National Legislation on Access to Information, Public Participation and Access to Justice in Environmental Matters).

a) In the absence of enabling provisions, existing mechanisms of international law on access to information should be integrated into national environmental law and be made fully operational and effective.
b) Countries should consider whether regional agreements could be developed to introduce binding provisions on access to information, participation in decision-making and access to justice in environmental matters.
c) In Asia, this could be done by adapting the basic procedural elements of information and public participation of the *Aarhus convention* at the regional level with institutional backing and capacity building to encourage domestic level adoption.

7. Extensive training on human rights responsibilities and environment protection should be provided for judges, lawyers, public prosecutors, civil servants and other policy makers who are involved in the application and adjudication of all environmental laws and regulatory instruments.

8. States should attempt to address existing legal provisions that make environment litigation difficult for individual applicants and environmental organisations. Effective systems of legal aid and pro-bono legal assistance should be made available where possible to citizens and organisations.

9. Governments should establish mechanisms to promote capacity-building and human rights education for citizens, environmental organisations and public authorities with regard to public participation in environmental decision-making procedures. They should also provide easy access to all relevant documents, including environment impact assessments and related studies. The public should have the opportunity to give opinions and comments on projects before administrative decisions are taken.

10. The effects of climate change often require quick adaptation. However, institutional barriers can make it difficult for indigenous and other local communities to adapt quickly. States should ensure that all projects and programmes affecting indigenous and local communities and their lands have their free, prior and informed consent with an ability for them to monitor the implementation of such projects.

11. States should empower indigenous and other local communities so that they can exercise procedural rights. Particular attention should be given to the participation requirements of indigenous populations who may face additional barriers to participation and justice. When defining policy, decision makers need to address the specific context of that particular community – respecting their culture, tradition and diversity – whether shifting livelihoods, migrating to new areas or ensuring property rights.

12. There is a need to have an international and regional level discussion on how to manage environmentally displaced people. The overall costs of climate change migration at the regional and international level need to be analysed and existing/new mechanisms explored to manage the burden of the economic, social and cultural costs.
    a) States should continue the discussion of climate change related migration in the UN Human Rights Council and ensure that it is placed at the highest possible level in the international SDG discussions and decisions.
    b) There is a need to explore in what manner climate impacts will pressure indigenous and other local communities to migrate, and when such migration will occur how we can ensure the conservation of their culture and heritage.

c) States may require capacity-building through technical and logistical assistance and funding for longer term planning and management of climate change-related migration. Regional cooperation in disaster management is a good example of such inter-state cooperation.