

## Concept Note

### Special Rapporteur on Human Rights and Environment

#### One-day seminar

on

#### The responsibility of business enterprises to respect the human right to a clean, healthy and sustainable environment

24<sup>th</sup> November 2023

Palais des Nations, Room XVII

Pursuant to Human Rights Council Resolution [52/23](#), the Special Rapporteur on human rights and environment was requested to organize a one-day expert seminar on the responsibility of business enterprises to respect the human right to a clean, healthy, and sustainable environment. The seminar aims to bring together academic experts, civil society organizations, business and finance representatives, experts of UN agencies, funds and programmes, treaty bodies, special procedures mandate holders, other international organizations and conventions, with support received from the UN Environment Programme.

A summary report will be submitted to the Human Rights Council at its 55<sup>th</sup> session in March 2024 and will include recommendations stemming from the seminar for consideration of further follow-up action.

#### Background

The health of the planet and of all humans is interlinked. The right to a clean, healthy and sustainable environment epitomizes this linkage, as recognized by UNGA resolution [A/RES/76/300](#) and HRC resolution [A/HRC/RES/48/13](#).

A clean, healthy and sustainable environment is both a vital human right and a prerequisite for the full realization of many other human rights, including the rights to life, health, food, water and sanitation, the rights of the child and cultural rights.

Today's global economic system, with its focus on endless growth and corporate profits, exploits both people and the planet, resulting in egregious inequality, exceeding planetary boundaries and impeding the full enjoyment of human rights for billions. The planetary climate and environmental crisis: causes roughly 9 million deaths annually because of pollution;<sup>1</sup> contributes to the surge in heat waves, droughts, wildfires, floods and other extreme weather events;<sup>2</sup> and sabotages the ecosystems and biodiversity that provide the Earth's life support systems.<sup>3</sup> The UNEP Emissions Gap Report of 2022 finds that global emissions must be cut by at least 45 per cent by 2030 to avoid global catastrophe.<sup>4</sup>

Corporations and other non-State actors with business interests are responsible for a host of human rights abuses worldwide including those propelling the global climate, biodiversity and pollution

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<sup>1</sup> Lancet Planetary Health

<sup>2</sup> Intergovernmental Panel on Climate Change 2022, Summary for Policymakers

<sup>3</sup> Intergovernmental Policy Science on Biodiversity and Ecosystem Services

<sup>4</sup> UNEP, Emissions Gaps Report 2022 <https://www.unep.org/resources/emissions-gap-report-2022>

crises. Environmentally destructive business activities cause disproportionate and differential impacts on populations that may be marginalised or vulnerable. As business enterprises often outsource environmentally destructive activities to jurisdictions where protections for human rights and the environment are generally weaker, rightsholders have fewer opportunities for redress. Effective remedies remain elusive for most rightsholders who are victims of such environmentally-irresponsible and destructive business activities.

Notwithstanding States' human rights obligations to protect individuals and communities from human rights abuses committed by third parties, the magnitude of on-going business contributions to the planetary and human rights crises raises questions about the adequacy of the current normative standards. Voluntary guidelines on business and human rights fall short of adequately responding to often-overlapping human rights and environmental abuses that are plaguing rightsholders and ecosystems worldwide. They are fraught with inconsistencies, ambiguities, exemptions, implementation gaps, a lack of enforceability, and other weaknesses. Mandatory human rights and environmental due diligence laws (HREDD laws) being developed at the domestic, regional, and global levels offer an opportunity to advance and standardize holding corporations accountable.

### **Objectives of the seminar**

The seminar will evaluate the adequacy of various frameworks outlining the responsibilities of businesses as they relate to human rights including the right to a clean, healthy, and sustainable environment. These frameworks include the UN Guiding Principles on Business and Human Rights, the International Labour Organization (ILO) Tri-partite Declaration of Principles Concerning Multinational Enterprises and Social Policy, the Organisation for Economic Cooperation and Development (OECD) Guidelines for Multinational Enterprises on Responsible Business Conduct, the UN Global Compact, and the Children's Rights and Business Principles.

Drawing upon the Special Rapporteur's previous reports on the "Human right to a clean, healthy and sustainable environment: a catalyst for accelerated action to achieve the Sustainable Development Goals" ([A/77/284](#)) and "Paying polluters: the catastrophic consequences of investor-State dispute settlement for climate and environment action and human rights" ([A/78/168](#)) along with the policy brief on the "[Essential elements of effective and equitable human rights and environmental due diligence legislation](#)", as well as the extensive work of the [Working Group on business and human rights](#), the seminar aims to identify key elements and recommendations for ensuring that all business entities fulfil their responsibilities related to the human right to a clean, safe and sustainable environment.

### **Format**

The seminar will be of a hybrid format and will observe Chatham House Rules.

### **Agenda**

10:00-10:15	<b>Introduction and Overview</b> <ul style="list-style-type: none"><li>• Introduction of participants</li><li>• Objectives and overview of the programme</li></ul>
10:15-11:30	<b>SESSION 1: Setting the context--overshoot, breach of planetary boundaries, planetary climate and environment crisis, inequality, the right</b>

**to a healthy environment, and the contributions of business to the problems and the solutions**

**Moderator: Benjamin Schachter, Office of High Commissioner on Human Rights**

- Do business enterprises respect the human right to a clean, healthy and sustainable environment? Are the actions of business enterprises preventing people from fully enjoying their right to a clean, healthy and sustainable environment? Are specific industries particularly problematic?
- Are States fulfilling their obligation to protect the right to a clean, healthy and sustainable environment of individuals and communities under their jurisdiction from human rights abuses committed by business enterprises? Why or why not? What is the appropriate extent of their jurisdiction in today's interconnected global economy, dominated by transnational businesses?

11:30- 11:45 Tea/ Coffee Break

11:45-13:00: **SESSION 2: Assessing the effectiveness of current normative frameworks (e.g. UNGP, OECD Guidelines, Global Compact etc.)**

**Moderator: Federica Donati, Office of High Commissioner on Human Rights**

- Are current normative standards sufficient to ensure that business enterprises fulfil their human rights responsibilities related to the right to a clean, healthy and sustainable environment? Why or why not? In what way could these normative standards, or their implementation, be strengthened or improved?

13:15-14:00: Lunch

15:00 - 16:15 **SESSION 3: Discussing the potential for incremental improvements, e.g. HREDD, the proposed LBI, enhanced disclosure, etc.**

**Moderator: Sean O'Connell, United Nations Development Programme**

- What actions should States take to prevent business enterprises from abusing or infringing the right to a clean, healthy and sustainable environment?
- What specific actions are needed to protect the right to a clean, healthy and sustainable environment of potentially vulnerable populations (e.g. women and girls, children, Indigenous peoples, people of African descent, peasants and other local communities, disabled persons, migrants, persons living in poverty and environmental human rights defenders)?

- Would legislation requiring all business enterprises to conduct mandatory human rights and environmental due diligence ensure that businesses respect the right to a clean, healthy and sustainable environment?
- Is the proposed international legally binding instrument on due diligence likely to be effective in ensuring that businesses respect the right to a healthy environment?

16:15- 16:30

Tea/ Coffee Break

16:30 – 18:00

**SESSION 4: Systemic and transformative changes--exploring the possibilities. Final thoughts and next steps**

**Moderator: Diane Rizzolio, United Nations Environment Programme**

- Is it possible to fulfill everyone's right to a clean, healthy and sustainable environment in today's global economic system with its focus on endless economic growth, maximizing corporate profit and externalizing environmental, social and health costs? If not, then what types of systemic and transformative changes should be prioritized?