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REPORT OF THE SECRETARY GENERAL ON IMPLEMENTATION OF RESOLUTION
AG/RES. 1896 (XXXII-O/02), "HUMAN RIGHTS AND THE ENVIRONMENT
IN THE AMERICAS"

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Background

On June 5 2001, the General Assembly of the OAS adopted resolution AG/RES. 1819 (XXXI-O/01), in which it resolved:^{1/}

2. To request the General Secretariat to conduct, in collaboration with other organs of the inter-American system, a study of the possible interrelationship of environmental protection and the effective enjoyment of human rights.

3. To instruct the Secretary General to report to the General Assembly at its thirty-second regular session on the implementation of this resolution.

On April 4, 2002, the Executive Secretary of the Inter-American Commission on Human Rights presented a report to the Committee on Juridical and Political Affairs a report on the implications of "human rights and the environment" issues for the inter-American system.^{2/} That report analyzed the worldwide regulatory framework with respect to human rights and the environment, with particular emphasis on the Stockholm Declaration of 1972, the Universal Declaration of Human Rights, and the Plan of Action of the Third Summit of the Americas.^{3/} Special reference was also made to case law in this field in the inter-American human rights system.

The aforementioned report went on to mention inter-American instruments and Constitutions of member states that clearly point out a link between human rights and the environment. Finally, the document discussed how the topic is being handled by different areas within the United Nations.

On April 11, 2002, the Executive Secretariat of the Inter-American Commission on Human Rights gave a presentation to the Committee on Juridical and Political Affairs on the work of the IACHR in respect of human rights and the environment.^{4/}

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1. OAS General Assembly resolution of June 5, 2001.
 2. In that report, the Executive Secretariat of the IACHR stated that: The interrelationship between human rights and the environment is growing. Although up until recently, the fields have been understood as distinct, practice increasingly links the two. The trend in declaratory statements regarding each sphere grows increasingly broad as well, allowing space for that linkage to develop. Note, for example, the inclusive articulation of environmental protection by our Heads of State and Government at the Quebec Summit, and its interrelationship with political, social and economic rights, as well as "quality of life and health" and realizing human potential ..." ...'. Document CP/CAJP – 1898/02, of April 4, 2002.
 3. Principle 1 of the Stockholm Declaration reads: "Man has the fundamental right to freedom, equality and adequate conditions of life, in an environment of a quality that permits a life of dignity and well-being, and he bears a solemn responsibility to protect and improve the environment for present and future generations ..."
 4. On that occasion the Executive Secretary of the IACHR said that "...The link between human rights and the environment is a new area in the work of the Commission that, so far and in that sense, is closely related to its work on the rights of indigenous peoples and their special link to land."

On June 4, 2002, at its thirty-second regular session, the General Assembly followed up on this subject and adopted resolution AG/RES. 1896 (XXXII-O/02), in which it resolved:

1. To remain seized of the issue “human rights and the environment,” paying special attention to the work being carried out by the relevant multilateral fora in this area.
2. To encourage institutional cooperation in the area of human rights and the environment in the framework of the Organization, in particular between the Inter-American Commission on Human Rights and the OAS Unit for Sustainable Development and Environment.
3. To request the Secretary General to present a report on the implementation of this resolution to the General Assembly at its thirty-third regular session.

This report is being issued to comply with that last resolution and it focuses on treatment of the link between human rights and the environment in various different forums, instruments, and mechanisms since the aforementioned resolution was adopted.

Progress by the Inter-American Human Rights System in this field

The Inter-American Commission on Human Rights has received complaints of human rights violations from environmental activists denouncing mistreatment by states in the Hemisphere. The complaints all allege that the violations of these activists’ rights relate to their work in defense of the human rights of local groups affected by environmental degradation.^{5/}

It is also important to point out that both the Inter-American Commission and the Inter-American Court of Human Rights have managed to defend groups affected by environmental degradation and to protect the areas surrounding these communities.

In the case of the Mayagna (Sumo) Community of Awas Tingni, for instance, which has to do with indigenous land claims, the Inter-American Court issued a judgment in August 2001 and ruled that the defendant state had violated the right to property and the right to judicial protection enshrined in Articles 21 and 25 of the American Convention on Human Rights. The Court also ordered the state to demarcate the Awas Tingni land and to acknowledge the right of the community to use and enjoy its lands and resources.

On September 6, in the same case, the Inter-American Court granted the provisional measures requested by the representatives of the victims to avoid immediate and irreparable harm resulting from the activities of third parties that have settled in the territory of the Community and/or exploit the natural resources of that territory. In that regard, the Inter-American Court decided:

1. To order the state to adopt, without delay, all necessary measures to protect the use and enjoyment of the ownership of the land belonging to the Mayagna

5. These complaints are being examined by the Inter-American Commission.

Community of Awas Tingni and of the resources of that land, especially such measures as may prevent immediate and irreparable harm resulting from the activities of third parties that have settled in the territory of the Community or are exploiting the natural resources it contains, until the definitive specification, demarcation, and titling order by the Court have taken place.^{6/}

In another move of great importance for the defense of the environment and human rights, on August 8, 2002, the Inter-American Commission granted precautionary measures to protect 12 Saramaccan clans inhabiting 58 hamlets along the upper Suriname river. In this case, the Commission asked the State of Suriname to adopt the necessary measures to suspend timber and mining concessions and operating permits and other activities related to the land occupied by these clans, until the IACHR had ruled on the merits of the case brought by the petitioners in Case 12.338 (12 Saramaccan Communities), for a which a decision is pending. Included in this precautionary measure, was the Commission's request that the State take the necessary measures to protect the bodily integrity of the members of the clans.

In addition, on October 16, 2002, during its 116th regular session, the Inter-American Commission held a general hearing on the status of human rights and the environment in the Americas, where one of the participants was the OAS Unit for Sustainable Development and Environment.^{7/}

On that occasion, the Inter-American Commission received legal and scientific information on the state of the environment in the Hemisphere, the alarming increasing in degradation, and its consequences for the exercise and enjoyment of the human rights of the inhabitants of the Americas. It was noted that the link between human rights and the environment arises out of discussion of the need for human beings to protect themselves from abuse and the right of humanity to lead a decent life, in a context of equality and nondiscrimination. It was stated during the hearing that environmental degradation not only impairs the effective exercise of human rights. It also severely exacerbates existing problems. The Commission also heard some concern at the treatment meted out, in some countries, to environmental activists.

The Inter-American Commission took note of the various topics raised and said it would bear them very much in mind in the work it performs.

On October 21, 2002, the Committee on Juridical and Political Affairs received a briefing by the Unit for Sustainable Development and Environment. It was noted, on that occasion, that there is no precedent in the history of humankind for the pace at which the environment is being altered, the scope of that alteration, or for the dire impact of those changes on biological diversity, the quality of water and of other resources, and the benefits that derive from them. Specific attention was drawn to

6. Inter-American Court of Human Rights: Resolution on provisional measures requested by the representatives of the victims in respect of the Republic of Nicaragua in the case known as Mayagna (Sumo) Community of Awas Tingni.

7. This hearing was held at the request of civil society and attended by the UN Special Rapporteur on Toxic Waste and Human Rights, Fatma Zora Ouhachi Vesely; the Director of the Unit for Sustainable Development and Environment (USDE) of the Organization of American States, Mr. Richard Meganck; members of civil society organizations; and representatives of academic institutions.

the need to continue fostering dialogue among all sectors in society regarding the core issues relating to economic and social development, including environmental concerns.

Progress by the United Nations in this field

As mentioned in the previous report, the principal forerunner in this discussion of the human rights-environment link has been the series of Conferences held on this topic by the United Nations for the past few decades.^{8/}

The Second World Summit on Sustainable Development was held in Johannesburg, South Africa in August 2002, organized by the United Nations.^{9/} At that conference, the relationship between human rights and the environment was addressed in several sessions organized by civil society and it emerged in several key aspects of the country-level discussions. Those topics included: health, nutrition, changes in consumption and production patterns, housing, water resources, natural resource management, sanitation, sanitization, decent living standards, and eradication of poverty, all of which were addressed from the point of view of their relationship to the environment.

At the end of that Summit, a Plan of Implementation was drawn up, which expressly referred to the subject of human rights and the environment and mentioned the need for States to explore the links between the two.

Worth noting, too, is that in November 2002, at its 29th session, the United Nations Committee for Economic, Social and Cultural Rights issued a General Comment on Article 11 and 12 of the International Covenant on Economic, Social and Cultural Rights. That General Comment refers to the right to water as a human right, addresses the grounds for that right, and mentions the obligations of the states parties to that Convention on water rights. The Committee pointed out that:

1) Water is a limited natural resource and a public good fundamental for life and health. The human right to water is indispensable for leading a life in human dignity. It is a prerequisite for the realization of other human rights. The Committee has been confronted continually with the widespread denial of the right to water in developing as well as developed countries. Over one billion persons lack access to a basic water supply, while several billion do not have access to adequate sanitation, which is the primary cause of water contamination and diseases linked to water. The continuing contamination, depletion and unequal distribution of water is exacerbating existing poverty. States parties have to adopt effective measures to realize, without discrimination, the right to water, as set out in this general comment.

8. One example is the 1972 UN Conference on the Environment, which produced the Stockholm Declaration. That event marked the beginning of a global process linking human beings and the environment.

9. Prior to that there was the World Conference on Sustainable Development of 1992, which gave rise to the Declaration of Rio. Principle 3 of that Declaration refers to development and environment and reads: "...The right of development must be fulfilled so as to equitably meet developmental and environmental needs of present and future generations..."

2) The human right to water entitles everyone to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic uses. An adequate amount of safe water is necessary to prevent death from dehydration, to reduce the risk of water-related disease and to provide for consumption, cooking, personal and domestic hygienic requirements.^{10/}

The aforementioned General Comment is of enormous importance since it incorporates into the right to a decent standard of living and the right to the highest standards of health the necessary and indispensable inclusion of the right to water as a human right, a topic that is receiving increasing attention.

Progress in other international fora

After mentioning some of the progress made in the Inter-American system and in the United Nations, reference is made in this section to a recent and interesting decision issued by the African Commission on Human Rights, involving the State of Nigeria (*Nigerian National Petroleum Company*), which, along with *Shell Petroleum Development Corporation*, were denounced to the Commission for causing environmental degradation and health problems in the Ogoni community due to the pollution associated with oil production in this area.

The petitioners alleged that production was taking place with complete disregard for the environment or health of the local inhabitants and that every day toxic waste was discharged into the rivers and surrounding areas. They pointed out that this improper treatment of waste, together with constant spillages from petroleum installations, resulted in water, land, and air pollution (environmental degradation) and seriously impaired the health of the inhabitants of that area, causing skins infections, and gastrointestinal and respiratory diseases, as well as increasing the risk of cancer and reproductive and neurological disorders.

After extensive analysis of both formal aspects and the merits of the case, the Africa Commission found the Federal Republic of Nigeria responsible for violating human rights^{11/} and consequently requested the State to guarantee protection of the environment and the health of the people of Ogoni and demanded that it conduct an environmental and social impact study before embarking on any future activities. It also demanded compensation for the victims of the aforementioned violations, including cleaning up the rivers and land damaged by oil spills.^{12/}

10. See topic 3 of the schedule of meetings of the United Nations Economic and Social Council: Substantive questions relating to implementation of the International Covenant on Economic, Social and Cultural Rights – General Comment No. 15 – The Right to Water (Geneva, November 11-29, 2002)

11. See the full text of the decision at <http://www.cesr.org/text%20files/Final%20Decision%20on%20the%20ECOSOC%20matter.pdf>

12. Arts. 2, 4, 14, 16, 18 (1), 21, and 24 of the African Charter on Human and Peoples' Rights.

Conclusions

The ultimate goal of human rights law is to protect people; therefore, both the interpretation and the enforcement of these standards have to be shaped with a view to safeguarding human dignity.

The experience of the Commission and of other international organizations reveals that environmental problems compromise the exercise of human rights. It is therefore important to acknowledge the importance of this topic for our Hemisphere and to underscore the need to keep exploring this link and applying our insights into it.