

**Recommendations of the Experts Seminar on Human Rights and Environment
To the Organization of American States
On Strengthening Human Rights and Environment in the Hemisphere**

Follow-up to Resolution 1819 on Human Rights and Environment

*Prepared by Experts Working Group held at:
American University
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In accordance with Resolution 1819 of the Organization of American States on Human Rights and Environment (**AG/RES. 1819 (XXXI-O/01)**); considering the American Hemisphere State's commitment to sustainable development, human rights, and environmental protection, as reflected in such agreements as the San Salvador Protocol on Economic, Social and Cultural Rights and other international agreements subscribed to by Member States on environment and human rights; and following on other global initiatives such as those underway at the United Nations that have furthered our understanding on the links between the environment and human rights; and in order to assist the OAS's Secretary General, the Political and Juridical Committee, and other relevant bodies of the OAS to follow up on Resolution 1819; the American University, the Center for Human Rights and Environment, and the Center for International Environmental Law, jointly organized an Expert Seminar on Human Rights and the Environment on the 19th of March, 2002, to: a) review and assess the existing linkages between human rights and environment as is manifest in the hemisphere and at a global level; b) assess the effects of environmental degradation on the full enjoyment of human rights in the Americas; c) draft recommendations to the OAS on how to move beyond Resolution 1819 advancing human rights and environmental protection in the hemisphere.

During seminar, the experts and seminar participants examined the effects of environmental degradation on the full enjoyment of human rights in the hemisphere, as well as national, regional and international law dedicated to human rights and environment and considered the activities of global and regional human rights bodies and the jurisprudence that have served to strengthen this linkage. Experts at the meeting also examined the developments that have occurred to further strengthen this linkage, at the national level, in particular through constitutional law, legislation, administrative practices and decisions, and case law.

The following presents the observations, conclusions and recommendations of the Experts Working Group and is intended to assist the Organization of American States to address the implementation of Resolution 1819, and to further strengthen human rights and environmental protection in the hemisphere.

Guiding Principles upon which these recommendations are based

1. Commending the global leadership of the OAS in linking human rights and environment through the adoption of the San Salvador Protocol and its initiation of a process of deepening this effort through Resolution 1819 calling for emphasizing the importance of studying the links between the environment and human rights, and recognizing the need to promote the protection of the environment and the full enjoyment of all human rights,
2. Guided by the American Declaration of the Rights and Duties of Man, the American Convention on Human Rights, the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights, and other relevant hemispheric human rights instruments,
3. Guided by the Universal Declaration on Human Rights, the United Nations Covenant on Economic, Social and Cultural Rights, the Convention on the Rights of the Child, and other global human rights treaties,
4. Guided by hemispheric States' adherence to the Stockholm Declaration of the United Nations Conference on Human Environment, the World Charter for Nature, the Rio Declaration on Environment and Development, Agenda 21, the Declaration on the Right to Development, and other relevant instruments of international environmental law,
5. Further guided by global commitments subscribed to under the Law of the Sea, the United Nations Convention on Climate Change, the Convention on Biological Diversity, Inter-American Convention for the Protection of and Conservation of Sea Turtles, the Convention on the Protection and Use of Transboundary Watercourses and International Lakes, the Protocol to the 1979 Convention on Long-Range Transboundary Air Pollution, the Convention on Persistent Organic Pollutants, and other relevant environmental protection instruments,
6. Reaffirming the universality, indivisibility, and interdependence of all human rights, and recognizing in particular the right to life, which is recognized in all human rights instruments and the right to a healthy environment found in Article 11 of the Protocol of San Salvador on Economic, Social and Cultural Rights, which recently came into force, and reaffirming the obligation of States under the Protocol to "promote the protection, preservation, and improvement of the environment",
7. Recalling the mandate of hemispheric States according to Articles 1 and 2 of the San Salvador Protocol to adopt the necessary measures, both domestically, through international cooperation, and through legislative or other measures, to progressively achieve the full observance of the rights recognized by the protocol, including the right to a healthy environment,
8. Recognizing that every country of the hemisphere should provide an opportunity to victims of environmental degradation to seek justice for

injuries (Rio principle 10, ISP, art. 25 of American Convention; civil remedies and criminal as appropriate),

9. Recalling that Protocol Additional (I) to the Geneva Conventions of 1949 in Art. 35, forbids, even in times of war, acts that may be expected to cause massive, life-threatening environmental damage,
10. Reaffirming universal human rights such as the right to life, the right to a healthy environment, the right to cultural integrity, the right to food, the rights of children, the rights of the elderly, as well as other universal inalienable rights,
11. Convinced that the irreversibility of many types of environmental harm including reduction of bio-diversity, generate responsibility to prevent such harm, and recognizing the importance of Rio Principle 15 on Precaution with respect to environmental and human rights protection, and recognizing that individuals and private corporations and other non state actors, as well as governments, have a responsibility to protect and improve the environment, for present and future generations,
12. Recognizing the need for implementation of the hemisphere's ISP strategy on participation,
13. Noting the timeliness of addressing the relationship existing between human rights and environment with a view to bringing this issue forth at global forums such as the upcoming World Summit on Sustainable Development,
14. Remembering that the Inter-American Commission on Human Rights and the Inter-American Court on Human Rights, as well as other human rights bodies such as the United Nations, European, and African Human Rights System have repeatedly emphasized the importance of the links between the protection of the environment and the full enjoyment of human rights,
15. Bearing in mind that the links between human rights and environment have been recognized in international instruments of both global and regional scope,
16. Considering that already a majority of American states as well as sub-national governments have recognized in their domestic constitutional law the importance of the preservation and conservation of the environment, including Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Cuba, El Salvador, Ecuador, Guatemala, Guyana, Haiti, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, and Uruguay.
17. Recognizing that the protection of the environment represents an essential precondition, for the full exercise and enjoyment of human rights, and deeply concerned by the many examples of non sustainable exploitation of natural resources in the hemisphere, and by the severe consequences that environmental degradation has on the full enjoyment of human rights,

18. Recognizing that the full enjoyment of human rights depends upon the existence of a healthy environment, and that the protection of the environment depends upon the full realization of human rights, both substantive and procedural, such as the rights of people to know about and participate in decisions that could affect their health and environment,
19. Convinced that there is an imperative need to affirm the interdependence and indivisibility between human rights and the environment in order to adopt appropriate measures that guarantee the full enjoyment of human rights of present and future generations,
20. Considering the severe impact that environmental degradation has on hemispheric security,
21. Recognizing that it is essential that the links between human rights and environment be reaffirmed, developed and protected in order to consolidate globally and in the Americas the full enjoyment of human rights, the protection of the environment and health, and the promotion of sustainable development,
22. Understanding that the following recommendations will be carried out in the framework of the principles established in the OAS Charter and of Inter-American agreements on human rights, and that the mechanisms and procedures to be used shall take into account the principles of sovereignty and of legal equality of the States,

We recommend the following actions by the Organization of American States to strengthen human rights and environmental promotion and protection in the hemisphere:

On Legal Promotion and Protection

To the Political Bodies of the Organization

23. In its efforts to recognize the linkages between human rights and environment, the OAS should foster among member States, both at global, national, and local levels, the creation of more effective frameworks for public participation, transparency in government, financial management, the delivery of public services, participation in decision making, and access to pertinent information, especially when environmental and human rights risks are at stake; this effort should be realized by fully implementing the ISP strategy with full participation of civil society in the process. At such forums as the WSSD, the OAS should seek to harmonize and integrate the ISP strategy with other global and regional participatory strategies such as the Aarhus Convention.
24. The OAS should move to make effective the implementation of the San Salvador Protocol, including hemispheric-wide ratification of the protocol,

and formulating rules for report submission by member states, as required by San Salvador Protocol art. 19.1.

25. Recalling the obligation under Art. 25 of the American Convention on Human Rights and Principle 10 of the Rio Declaration, which requires countries to ensure access to judicial remedies both at the national and regional level, Member States should consider more effectively coordinating venues and addressing forum non conveniens, (*see*: Inter-American Juridical Committee proposal on forum non conveniens); as well as consider the issue of universal jurisdiction and the home forum of the defendant

To the General Secretariat

26. Recognizing the important role the judiciary plays on enforcement and compliance of environmental and human rights protection, the OAS should assist Member States with strengthening local, national and judiciaries, on environment and human rights issues.
27. The OAS should expand the role of the Unit of the Defense of Human Rights Defenders to address human rights violations related to environmental degradation and protection of environmental advocates victims of human rights violations.

To the Specialized Organs of the Organization

28. The OAS should ensure that the Commission on Human Rights pay particular attention to, and that it's staff is properly trained to identify human rights violations that result from environmental degradation,
29. The OAS human rights and environmental bodies should participate in the global effort underway at the United Nations Sub-Commission for Human Rights to develop human rights and environmental guidelines for corporations, with a view to defining corporate liability for environmental and human rights violations in the hemisphere.

On Institutional Promotion

To the Political Bodies of the Organization

30. The OAS should expand the focus of the Inter-Agency Task Force on the Bolivia Summit Follow-up to include social and human rights concerns related to Sustainable Development.
31. The OAS should work towards improved intergovernmental and regional mechanisms to exchange information on environmental risks, environmental national and regional planning, and other forms of information exchange towards educating the public and government officials on the state of the environment and its related human rights impact.

32. The OAS should closely examine the impact of environmental degradation and related human rights abuses on hemispheric security.

To the General Secretariat

33. The OAS should strive to ensure institutional programmatic harmony between hemispheric institutions addressing human rights and environmental issues at the Inter- American level as well as with institutions of other regional systems and the United Nations agencies on such issues, including UNEP and the High Commission on Human Rights.
34. The OAS should foster collaboration and joint action between the Unit for Sustainable Development and the Inter-American Human Rights Bodies, and also reinforce inter-agency cooperation in particular, with groups such as WB, IADB, UN Agencies, PAHO, WHO, etc.
35. The OAS Unit for Sustainable Development and Environment should include a social assessment dimension of its projects on sustainable development, assessing the impact of environmental degradation on the effective enjoyment of human rights, provide expert advisory assistance to the Inter-American Commission on Human Rights in cases of environmental degradation and related human rights violations, as well as to identify existing impediments to full protection of human rights related to the environment; and reporting back to the Unit and the Commission on findings.
36. The OAS human rights and environmental bodies should actively participate in the preparatory work of the World Summit on Sustainable Development (WSSD), particularly on work already underway by UNEP and the High Commission on Human Rights, to introduce human rights and environment into the WSSD agenda for Johannesburg 2002.
37. The OAS should propose to the Lisbon Forum, which brings together world-wide intergovernmental human rights organizations twice yearly, to include human rights and environment on their next program agenda.
38. The OAS should foster training for national and international officials, including from the Human Rights Bodies and Unit for Sustainable Development, and national judiciary officials, on environmental law and human rights through cooperation with such institutions as the UN Institute for Training and Research.
39. The OAS should foster hemisphere-wide public debate (for example, in undergraduate and advanced university programs, the press, businesses, workers corporations, internet, specially through the OAS Inter-American Strategy for Public Participation–ISP), on the effects of environmental degradation on the full enjoyment of human rights.

40. The OAS should ensure that the staff of the hemisphere's human rights bodies receives proper training and education on the effects environmental degradation on the full enjoyment of human rights.
41. The OAS should evaluate the potential for the creation of early warning system to anticipate and prevent effects of environmental degradation on human rights (perhaps an Ombudsman).

To the Specialized Organs of the Organization

42. The meetings of the Inter Agency Task Force on Environment should incorporate the presence of members of the Inter-American Human Rights Bodies, including the Commission and Court on Human Rights.
43. The Inter-American Commission on Human Rights should research the impact of environmental degradation on the effective enjoyment of human rights, develop strategies to effectively promote human rights related environmental protection, as well as identify existing impediments to the full protection human rights related to the environment.
44. The Inter-American Human Rights Commission Country Studies should devote a special chapter on implementation of San Salvador Protocol. It is noted that as is mandated in the SSP, the Commission should already receive such reports from signatory states.
45. The Juridical Committee Meeting should address human rights and environment linkages in the context of its agenda on environment