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Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Human rights and the environment

Note by the Secretary-General

The Secretary-General has the honour to transmit to the General Assembly the report of the Special Rapporteur on the human right to a clean, healthy and sustainable environment, Astrid Puentes Riaño, in accordance with Human Rights Council resolution [55/2](#).

* [A/80/150](#).



Report of the Special Rapporteur on the human right to a clean, healthy and sustainable environment, Astrid Puentes Riaño

Framework for environmental, social and human rights impact assessments and the right to a clean, healthy and sustainable environment

Summary

The Special Rapporteur on the human right to a clean, healthy and sustainable environment clarifies States' obligations regarding environmental impact assessment processes and the need to include human rights and social impacts for comprehensive and integrated assessments. The report, by highlighting challenges and best practices aligned with human rights and international obligations, is intended to improve these processes, presenting ways in which existing assessment frameworks must evolve to effectively and comprehensively evaluate potential environmental, climate, biodiversity, health, social, cultural, economic and human rights impacts through comprehensive and integrated assessments, on the basis of the best-available science, including Indigenous and traditional science, and through transparent, participatory processes.

I. Introduction

1. Environmental impact assessments are the world's most common, legally mandated environmental protection mechanism. They are mandatory under customary international law, designed to prevent transboundary harm and incorporated into multilateral environmental agreements and domestic legislation in more than 180 States.¹ The fundamental purpose of this tool is to ensure that Governments make sound decisions when evaluating activities and projects that might have significant environmental impacts, while aligning them with their planning priorities and obligations, through comprehensive, prior and effective assessment processes that can prevent and mitigate adverse environmental, social and human rights impacts before harm materializes.

2. Worldwide, the full purpose and scope of impact assessment processes are often ignored for several reasons, including the misconception that these are only procedural requirements or even obstacles to progress; conflicts of interest; or the mistaken understanding that these processes are mere technical evaluations that do not require taking into consideration human rights or an integrated multidisciplinary approach. Ensuring that impact assessments are properly done is critical, especially in the context of the triple planetary crises of climate change, biodiversity loss and pollution, along with the urgent need to phase out fossil fuels, stop environmental degradation and respect human rights while advancing a just transition and sustainable development.

3. The Special Rapporteur issued a call for input to inform the present report. She thanks the Governments of Azerbaijan, Cuba, Cyprus, Guatemala, Honduras, Saudi Arabia, Singapore, Slovenia, Uzbekistan, as well as the State of Palestine, and the Council of Europe and the European Union, as well as 99 Indigenous Peoples, civil society organizations, academics and individuals, for their contributions.² She is grateful also to more than 150 participants who attended eight consultations to inform the report.³

II. Understanding environmental, social and human rights impact assessments

4. Environmental impact assessments originated in the 1970s and have evolved into comprehensive and integrated processes. This evolution responds to decades of lessons learned showing that impact assessments should not be an isolated technical analysis of natural resources. Environmental, social and human rights impact assessments must be implemented by multidisciplinary teams to identify, prevent, mitigate and monitor potential project-related environmental, social and human rights harms before they materialize, providing tools and measures in cases in which remediation is needed. While these assessments are known by various names, in the present report they will be referred to as environmental impact assessments or environmental, social and human rights impact assessments interchangeably.

5. A comprehensive and integrated approach enables effective government decision-making and adequate risk management before a project or activity starts, for ongoing projects if regulations were not in place before it started or when a significant

¹ See United Nations Environment Programme (UNEP), *Environmental Rule of Law: First Global Report* (2019); International Court of Justice, "Obligations of States in respect of climate change", advisory opinion, 23 July 2025, paras. 136 and 297.

² Available at www.ohchr.org/en/calls-for-input/2025/environmental-impact-assessments-strategic-environmental-impact-assessments.

³ See www.ohchr.org/en/documents/thematic-reports/a80187-framework-environmental-social-and-human-rights-impact.

expansion and modification of activities and projects occurs. Environmental, social and human rights impact assessments must proactively assess whether, and under what conditions, the proposed activity or project – potentially posing a risk of significant harm to the environment, the climate, biodiversity or human rights – should receive government approval.

6. The criteria to decide whether a project requires an impact assessment should be based on the potential risk that it creates to the environment and human rights. Therefore, exemptions by States must be made only on the basis of best-available science, with an adequate analysis of proportionality, opportunity and need.

7. Strategic environmental assessments are complementary tools that evaluate higher-level government decision-making about broader proposed legislation, policies, plans and programmes. Strategic environmental assessments and environmental, social and human rights impact assessments are and should be pivotal, proactive and participatory development planning and risk management processes and be based on a human rights-approach.⁴ Critically, higher-level strategic environmental assessments should precede and inform activity or project-level assessments and associated government decisions. While the present report will present an analysis of environmental impact assessments, a forthcoming report will focus on planning tools, including strategic environmental assessments.

III. Critical failures of impact assessments

A. Conflict of interest

8. On the basis of research, consultations and input received for the present report, the biggest challenge is the conflict of interest that negatively influences impact assessment processes worldwide. Project proponents typically conduct impact assessments directly or through contracted external consultants, jeopardizing the scientific rigour and integrity of evaluations. Often, entities conducting assessments have financial incentives to benefit proponents' interests, even when this might compromise the assessments' accuracy or objectivity. For example, former company employees often join committees charged with reviewing their past employer during impact assessment processes. This revolving door practice was reported in many jurisdictions and inappropriately affects assessment outcomes.⁵

9. Project promoters frequently influence authorities to approve proposals, including where the proponent is a State-owned or -controlled business.⁶ Such interference takes numerous forms, including corruption, greenwashing, undue influence over political actors and coercively restricting resources to State agencies.⁷ In 2023, the United States Environmental Protection Agency Inspector General found “extensive political interference in the scientific work of the EPA”, weakening the agency's ability to conduct, review or oversee well-run, independent impact assessments free from political manipulation.⁸

⁴ See UNEP, *Assessing Environmental Impacts: A Global Review of Legislation* (2018).

⁵ Submissions from: Clínica de Gestión Ambiental Universidad del Pacífico-Perú; Fundación Ambiente y Recursos Naturales; Westendarp; Friends of the Earth Malaysia; Korean Federation for Environmental Movement; Anitha Shenoy; International Commission of Jurists.

⁶ Submissions from: Transparency International; Natural Justice.

⁷ Submission from: Franciscans International, with contributions from Guatemala, Mozambique, the Philippines and Uganda.

⁸ See Transparency International, “Strengthening the independence of environmental protection agencies and participation in environmental impact assessments” (2024).

B. Failure to prioritize prevention and poor quality of assessments

10. Environmental, social and human rights impact assessments are frequently conducted under the presumption of project approval, often prioritizing compensation and disproportionately focusing on risk mitigation over harm avoidance, thus failing to consider comprehensive and integrated alternatives and no-project options.⁹ A lack of sound assessment methodologies and a science-based approach and the absence of clearly understood objectives also undercut assessments' primary harm prevention purpose.¹⁰

11. States frequently allow private economic interests to supersede collective and public rights concerning livelihoods, Indigenous Peoples, community land tenure, human health and other essential matters, even where project proposals are claimed to have benefits for the public. In some cases, such as in Cambodia, Honduras and South Africa, authorities conducted impact assessments only after affected individuals and communities had initiated legal proceedings.¹¹

12. Inadequate financial and human resources limit decision-making institutions' ability to perform their impact assessment obligations. For example, limited budgets, assessor expertise and information availability and a lack of access to the equipment necessary to measure the potential and actual damages of projects have all led to superficial assessments.¹²

C. Check-the-box approaches

13. Environmental, social and human rights impact assessment processes are frequently considered obstacles to development. Because activities usually require additional permits and licences for operation, impact assessments become perceived as yet another procedural requirement needed before project commencement, rather than as a requisite evaluation to determine whether the project will take place.¹³ Given this flawed yet common perspective, the obligation to ensure that impact assessments occur in a comprehensive and integrated manner, considering cumulative impacts, is often neglected.¹⁴ Shortcomings include inadequate reviews of cumulative impacts, superficial or generic technical proposals and assessments that exclude social dynamics and project-affected community knowledge.¹⁵

14. For example, in Argentina, pursuant to a court ruling in 2024, a comprehensive cumulative assessment of lithium mining was ordered in an area where at least 12 companies were operating, notwithstanding critical water scarcity and several irregularities, including a lack of cumulative and comprehensive environmental, social and human rights impact assessments and a lack of both consent from Indigenous Peoples and public participation.¹⁶ Similarly, in Tasmania, Australia, since 2012 industrial salmon farms have proliferated without any environmental impact

⁹ Submissions from: Climate Whistleblowers; Human Rights Watch.

¹⁰ Submissions from: Coastal Dynamics Limited; Dejusticia.

¹¹ Submissions from: Human Rights Watch; Center for Gender and Refugee Studies-University of California and Wild Coast Case (3491/2021).

¹² Submissions from: Clínica de Derechos Humanos y Derecho Ambiental-Universidad Estatal de Amazonas y Grupo de Investigación sobre Derechos Humanos en la Amazonia; Oxfam.

¹³ Submission from: Comité Municipal en Defensa de Bienes Comunes y Públicos de Tocoa.

¹⁴ Submissions from: State of Palestine; Proyecto de Derechos Económicos, Sociales y Culturales.

¹⁵ Submission from: Hungarian Ombudsman for Future Generations.

¹⁶ Submissions from: Atacameños del Altiplano, Asamblea Socioambiental Pueblos Catamarqueños en Resistencia y Autodeterminación; Clínica de Derechos Humanos Universidad Torcuato Di Tella.

assessments being conducted, threatening endemic species, such as the Maugean skate.¹⁷

15. The absence of an ecosystem-based approach in environmental, social and human rights impact assessments also fosters the misconception that environmental, social and human rights impacts are not interrelated. Although developers and consultants commonly assess impacts on water, soil and air, they often fail to recognize, analyse and prevent interrelated impacts that transcend these resource categories.¹⁸

D. Project fragmentation

16. Project fragmentation excludes fundamental stages or parts of a project or activity, often to avoid thorough assessments and sometimes to reduce the perceived risk, resulting in incomplete and unreliable evaluations.¹⁹ Multiple courts, including in Argentina, Canada, Mexico and Türkiye, have recognized it as an illegal practice that should be expressly prohibited.²⁰

E. Arbitrary exempting sectors and projects

17. States have exempted entire sectors and projects from environmental, social and human rights impact assessment requirements, including primary drivers of the climate, biodiversity and pollution crises, such as fossil fuel exploration and energy projects, or extractive industries, including industrial fisheries. Exceptions often lack scientific basis and are made on the basis of project size and category. Often, Governments cite purported national, security or public interest needs without a proper analysis of proportionality, actual need and opportunity, thus avoiding impact assessment requirements, in contravention of international law. For example, in India, building, construction and township projects often require only a questionnaire-based clearance, without an impact assessment study or public hearing.²¹ Mexico exempted major infrastructure projects from environmental impact assessments, arguing public interest and national security, notwithstanding significant environmental impacts risks.²² Japan has circumvented Okinawa's impact assessment law for military projects such as United States Marine Corps base expansion.²³

18. Some States, also arguing “national interest”, have abbreviated impact assessment procedures or fast-tracked approvals while potential impacts are not comprehensively addressed. For example, Poland's 2023 environmental impact assessment law introduced a new category of “strategic investment”, excluding from public participation its assessments.²⁴

19. Energy transition and climate action have also been used to justify exemptions from impact assessments. For example, critical minerals projects pose significant environmental and human rights risks, especially in the Global South where most of these materials are located, threatening the territories of Indigenous Peoples, peasants

¹⁷ See Government of Australia, “EPBC Act Reconsideration Requests-Macquarie Harbour Salmon Farming”, MS23-002605 (2023).

¹⁸ Submissions from: Coastal Dynamics Limited; ClientEarth.

¹⁹ Submissions from: CartoCritica; Franciscans International, et al.; CIEL.

²⁰ Argentina: FSM 113686/2017/12/1/RH13; Canada: *MiningWatch Canada v. Canada*; México: 54/2021; Türkiye: Danıştay 14. D., E. 2017/2082.

²¹ Submission from: Legal Initiative for Forest and Environment.

²² See OTH 99/2022.

²³ See CERD/EWUAP/115thsession/2025/CS/BJ/ks.

²⁴ Submission from: ClientEarth.

and other groups. Environmental, social and human rights impact assessment processes are similarly critical for other “green” activities that carry substantial environmental and human rights risks, including carbon market projects and renewable energy activities, as United Nations Special Rapporteurs have highlighted.²⁵ In the European Union, it is presumed under the Renewable Energy Directive that renewable energy projects do not have significant effects on the environment, override public interest and are in service of health and safety. In the absence of project alternatives, European Union law allows these projects to proceed without an impact assessment.²⁶

F. Monitoring and compliance

20. Authorized projects are seldom subject to adherence review processes. Enforcement-related information, such as compliance reports, often remains confidential and/or difficult to gain access to, with public participation during monitoring and fulfilment commonly being virtually non-existent.²⁷ It was emphasized through contributions and consultations supporting the present report that States often did not ensure consistent access to information and meaningful, effective, open and inclusive participation. For example, research on 193 hydropower projects across the Tibet region reveals that environmental impact assessments were either poorly enforced, conducted post-construction or rubber-stamped with no transparency or community participation and no avenues for negotiation to protect local ecosystems, historic cultural sites and communities.²⁸

G. Weak rule of law

21. Regulations regarding impact assessments take a limited view of their scope and content, with older legislation tending to exclude climate impacts, human rights and ecosystem-based approaches.²⁹ In some jurisdictions, assessment regulations and other permits are dispersed throughout multiple laws, creating loopholes that can be exploited, to the detriment of the environment and human rights.³⁰

22. There is also a tendency towards deregulation across impact assessment frameworks.³¹ For example, in Angola, State efforts to “progressively simplify” impact assessment laws have resulted in the approval of resource extraction and weakly enforced impact assessment processes.³² Similarly, regressive changes or proposals to impact assessment laws have recently occurred in Brazil,³³ Indonesia,³⁴ Peru,³⁵ Serbia,³⁶ Uganda,³⁷ the United Kingdom of Great Britain and Northern Ireland³⁸ and

²⁵ See [A/HRC/54/25](#), [A/HRC/54/31](#) and [A/80/188](#).

²⁶ See Council regulation (EU) 2022/2577.

²⁷ Submission from: Legal Rights and Natural Resources Centre-Friends of the Earth Philippines.

²⁸ See AL CHN (8.2024).

²⁹ Submissions from: State of Palestine; Uzbekistan, ARTICLE19; Danish Institute for Human Rights; Environment Institute of Australia and New Zealand.

³⁰ Submissions from: Anti-Jindal-Anti-POSCO Movement; Greek National Commission for Human Rights.

³¹ Submission from: Diyarbakır Bar Association’s Environment and Urban Law Commission.

³² Submission from: International Commission of Jurists.

³³ See OL BRA 5/2025.

³⁴ Submission from: Greenpeace.

³⁵ Submission from: Sociedad Peruana de Derecho Ambiental.

³⁶ Submission from: Renewables and Environmental Regulatory Institute.

³⁷ Submission from: Franciscans International, et al.

³⁸ Submission from: Students at the University of Manchester.

the United States of America,³⁹ where initiatives regularly dilute environmental and participatory rights. Some States, such as Honduras, while arguing the need for investment, created special economic zones exempting those areas and projects there from impact assessments.⁴⁰

H. Investor-State dispute settlement

23. Several States have faced multimillion dollar arbitration proceedings brought by companies whose investments have been thwarted by lawful State action that is consistent with the right to a clean, healthy and sustainable environment.⁴¹ Conducting inadequate environmental, social and human rights impact assessments can increase the risk of investor-State dispute settlement claims. Therefore, it is in all parties' interest that impact assessment processes be well implemented, considering the financial, human and environmental costs of inaction.⁴² Cases in which States action to mitigate unlawful exceptions to environmental, social and human rights impact assessments led to multimillion dollar litigation, such as against Honduras, demonstrating the urgency of reforming investor-State arbitration systems to advance investor accountability and obligations to respect human rights and protect the environment.

I. Neglecting procedural rights

24. Access to information and public participation during impact assessment processes is commonly restricted, incomplete, outdated, deficient, discriminatory, misleading and hampered by language barriers. In addition, technical expertise is required for comprehension of the processes and their content, and notification of participation methods and of mechanisms to gain access to information is inadequate. National legislation, such as in Chile, Honduras, India, Malaysia and Peru, includes categories of projects that exclude public participation or mandatory public access to information during the assessment processes.⁴³ The right to participate is sometimes contingent on the request of potentially affected individuals and communities to be part of the assessments process.⁴⁴

25. The time frames for participation tend to be limited and often unreasonable, considering the amount of information, expertise and technical and specialized knowledge that environmental, social and human rights impact assessments require.⁴⁵ In China, the public participation period lasts 10 working days, which reportedly complicates rural residents' ability to participate in a timely manner.⁴⁶ In cases such as the Greece-to-North Macedonia gas pipeline, there was no opportunity to comment and the information was so difficult to find that it was inaccessible to interested persons.⁴⁷ There have been cases of communities being manipulated by developers

³⁹ See United States Environmental Protection Agency, "EPA launches biggest deregulatory action in U.S. history", 12 March 2025.

⁴⁰ Submission from: Center for Gender & Refugee Studies-University of California.

⁴¹ See [A/78/168](#).

⁴² Submission from: Child Rights International Network.

⁴³ Submissions from: Greenpeace; Instituto de Derecho Ambiental de Honduras, et. al.; Legal Initiative for Forest and Environment; Center to Combat Corruption and Cronyism.

⁴⁴ Submission from: Clínica Ambiental y Resolución de Conflictos del Departamento de Enseñanza Clínica del Derecho-Universidad de Chile.

⁴⁵ Submission from: Defensoría del Pueblo de la Nación-Argentina.

⁴⁶ See www.mee.gov.cn/gzk/gz/202112/t20211211_963803.shtml [in Chinese].

⁴⁷ Submission from: Bankwatch.

offering promises in exchange for people's attendance at meetings and their support for a project.

26. Material aspects of public participation such as language, geographical distances and how and which relevant information is published also constitute significant barriers to effective participation. Announcements of impact assessment procedures in some States often omit clear publication dates or appear in limited-circulation outlets.⁴⁸ In the Bakun dam hydropower megaproject in Sarawak, Malaysia, the impact assessment study was made available after protests, displayed for just one day and accessible only in English at a government office more than 1,300 km away from where the affected population lived.⁴⁹ Even when people and communities manage to participate, their comments, concerns and proposals are frequently overlooked in the final analysis and decision.⁵⁰

IV. State obligations to regulate, undertake, monitor and enforce impact assessment processes

27. States' obligations to respect, protect and fulfil human rights, in particular the human right to a clean, healthy and sustainable environment, entail the obligation to prevent significant environmental harm by public and private actors, as concluded by, among others, the Human Rights Committee in its general comment No. 36 (2018) (paras. 26 and 62) and the *Cáceres vs. Paraguay* case (para. 7). Moreover, according to the International Court of Justice, prevention should be prioritized because, once environmental harm occurs, full restoration tends to be impossible.⁵¹ It is also mandated under international environmental law, including the Convention on Biological Diversity (see art. 14), the United Nations Convention on the Law of the Sea (see arts. 204–206), the Agreement under the United Nations Convention on the Law of the Sea on the Conservation and Sustainable Use of Marine Biological Diversity of Areas beyond National Jurisdiction (see art. 28), the Convention on Environmental Impact Assessment in a Transboundary Context (see art. 2), the European Union Environmental Impact Assessment Directive (annex IV) and the Association of Southeast Asian Nations Agreement on the Conservation of Nature and Natural Resources (see art. 10) that States should prevent significant environmental harm caused by proposed activities.

28. With regard to impact assessment processes, the duty of States includes regulating, undertaking, monitoring and enforcing these processes and ensuring adequate access to information, public participation and access to justice and effective remedies. The Committee on Economic, Social and Cultural Rights and the Committee on the Rights of the Child indicate States' critical human rights obligations to ensure that all projects or activities posing a risk of significant environmental harm are subject to comprehensive, independent and integrated impact assessments.

29. In transboundary contexts, the obligation to prevent environmental harm is part of customary international law, as reiterated by the International Court of Justice.⁵² Furthermore, the International Court of Justice, along with the International Tribunal

⁴⁸ Submission from: Egyptian Foundation for Environmental Rights.

⁴⁹ Submission from: Center to Combat Corruption and Cronyism.

⁵⁰ Submission from: Clínica Jurídica-Universitat Pompeu Fabra.

⁵¹ See International Court of Justice, *Gabčíkovo-Nagymaros Project (Hungary v. Slovakia)*, 1997; draft articles on prevention of transboundary harm from hazardous activities, with commentaries, 2001.

⁵² See International Court of Justice, "Legality of the threat or use of nuclear weapons", advisory opinion, 8 July 1996, *Costa Rica v. Nicaragua* (San Juan River), 2015, and "Obligations of States in respect of climate change", paras. 272 and 297.

for the Law of the Sea and the Inter-American Court of Human Rights, have specifically interpreted this duty to encompass climate impacts, also in relation to ocean and human rights protection.⁵³

30. Decisions from human rights entities consistently rule that States must undertake impact assessments.⁵⁴ As the Committee on the Rights of the Child concluded in *Sacchi et. al. v. Argentina et. al.*, a State may breach its extraterritorial human rights duty when it has effective control over polluting greenhouse gas emissions, and a causal link exists between its acts or omissions and human rights violations occurring in another State.

31. Given these obligations, States may not automatically approve proposed activities and projects, and approval may be denied where, notwithstanding mitigation and prevention measures, significant harm or human rights violations might occur. This also applies when significant environmental harm is plausible but data gaps prevent scientific certainty or adequate assessment.⁵⁵ States should reject activities and projects known to cross these thresholds, including by immediately banning the dumping of nuclear and hazardous waste, destructive fishing practices, fracking, offshore drilling and fossil fuel activity in protected or highly biodiverse areas, and new fossil fuel projects.⁵⁶

32. To respect, protect and fulfil these obligations in a manner consistent with the right to a clean, healthy and sustainable environment, States must satisfy interconnected substantive and procedural obligations.⁵⁷ On the basis of international law, such as the Revised African Convention on the Conservation of Nature and Natural Resources (Maputo Convention), the Convention on Biological Diversity, the Agreement on Marine Biological Diversity of Areas beyond National Jurisdiction, the European Union Environmental Impact Assessment Directive, the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (Aarhus Convention) and the Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean (Escazú Agreement), Inter-American Court of Human Rights jurisprudence, the Kunming-Montreal Global Biodiversity Framework, and United Nations Environment Programme and International Association for Impact Assessment guidelines, environmental, social and human rights impact assessment processes must:

(a) Be undertaken as early as possible and prior to any proposal authorization or the commencement of any activity, or when significant modification and/or expansion is proposed;

(b) Assess proposals' direct, indirect, domestic, transboundary, adverse, positive, cumulative, comprehensive, long-term, short-term, climate, biodiversity, environmental, health, cultural, social and human rights impacts, alongside proposals' compatibility with the State's international legal obligations and policies;

⁵³ International Tribunal of the Law of the Sea, advisory opinion No. 31, para. 252; Inter-American Court of Human Rights advisory opinion 32/25, paras. 359–363.

⁵⁴ See Committee on Economic, Social and Cultural Rights, general comment No. 24; Inter-American Court of Human Rights, advisory opinion 23/17; and African Commission on Human and Peoples' Rights, *SERAC v. Nigeria*.

⁵⁵ See European Union, *Guidance on integrating climate change and biodiversity into environmental impact assessment* (2013).

⁵⁶ See [A/HRC/58/59](#) and [A/HRC/59/42](#).

⁵⁷ See International Court of Justice, "Obligations of States in respect of climate change", paras. 289 and 393.

- (c) Follow precautionary, prevention, proportionality, best-available science, maximum disclosure and equity and non-discrimination principles;
- (d) Be prepared by independent, qualified experts;
- (e) Ensure understandable, accessible, timely and complete information relevant to the proposal and assessment process;
- (f) Provide effective, meaningful, open and inclusive public participation throughout each stage of the assessment process, including the monitoring of approved projects according to the terms and conditions of approval;
- (g) Ensure access to justice and effective remedies, including for violations of assessment procedures and foreseeable human rights violations;
- (h) Ensure special measures for the protection of the rights of marginalized people and groups.

A. Obligation to regulate impact assessments

33. States must enact clear, robust regulations mandating environmental, social and human rights impact assessment processes before licensing any public or private activity or project posing risks to human rights or a risk of significant environmental harm,⁵⁸ or when expansion and modifications are proposed. States must periodically update their laws and regulations, taking into consideration emerging risks, new international standards and evolving best-available science. Proposed reforms and new regulatory frameworks must be guided by the principle of progressivity and non-regression.⁵⁹

34. Regulations, based on international law and best practices such as the Aarhus Convention and the Convention on Environmental Impact Assessment in a Transboundary Context (Espoo Convention), the Agreement on Marine Biological Diversity of Areas beyond National Jurisdiction, the European Union Environmental Impact Assessment Directive and International Tribunal of the Law of the Sea and Inter-American Court of Human Rights advisory opinions, must specify, at a minimum, the following:

- (a) Full range of activities and associated impacts subject to examination, specifying physical and technical characteristics (including geographical and ecosystem sensitivity), requiring an assessment of direct, indirect, cumulative and transboundary impacts and an analysis of a no-action baseline among any other project alternatives;
- (b) Applicable procedure, including how access to information, public participation and access to justice will be guaranteed;
- (c) Delineation of responsibilities and duties across proponents, competent authorities, experts conducting assessments and decision-making bodies, including those responsible for liability, redress, insurance and compensation;
- (d) The manner in which assessments shall inform and govern decisions regarding proposed activities and monitoring;

⁵⁸ See International Court of Justice, *Pulp Mills on the River Uruguay (Argentina v. Uruguay)*, and “Obligations of States in respect of climate change”, paras. 295–298, and Inter-American Court of Human Rights, advisory opinion 32/25, para. 361.

⁵⁹ Inter-American Court of Human Rights, *La Oroya v. Peru*, para. 186; Inter-American Court of Human Rights, advisory opinion 32/25, para. 222.

(e) Steps and measures to be adopted in the event of non-compliance;

(f) Assessments for modifications of approved projects, including expansions.

35. The Special Rapporteur underlines that, at a minimum, regulations must mandate environmental, social and human rights impact assessments for all activities and projects with the potential to worsen the triple planetary crises of climate change, biodiversity loss and pollution, considering increasing risks created.⁶⁰ If ongoing or, for exceptional reasons, new projects are proposed, and as the advisory opinions from the International Tribunal for the Law of the Sea (No. 31, para. 234) and the Inter-American Court of Human Rights (No. 32, on the climate emergency and human rights, paras. 232–237) have clarified, a stricter due diligence applies in assessing their impacts is required regarding the full cycle of projects, including exploration and exploitation, which, according with the International Court of Justice in its recent advisory opinion on climate change, might violate international law (see para. 427 of its advisory opinion dated 23 July 2025). This is especially vital considering the industry's significant negative impacts on the right to a healthy environment, including clean air, a safe climate and⁶¹ healthy biodiversity, ecosystems and water. Size-oriented thresholds exempting high-risk sectors from impact assessment are also incompatible with State obligations under the right to a healthy environment.

36. Exceptions or automatic licensing entitlements enabling the circumvention of impact assessment requirements must not be granted. Given the detrimental and disproportionate environmental impacts of many industries, including fossil fuels, industrial fisheries, agribusiness and extractive industries, these exemptions violate a State's duty to protect the human rights to a healthy environment and to life, and other rights.⁶²

37. Consequently, environmental, social and human rights impact assessment regulations must explicitly require the evaluation of activities or projects that may cause significant harm to the environment and the climate, alter natural habitats, affect ecosystem services, deplete species diversity, generate waste or toxic pollution or threaten human rights, including but not limited to the following:

(a) Fossil fuel exploration, extraction and use;

(b) Chemical and petrochemical production and recycling facilities;

(c) Industrial agriculture and other land-use changes;

(d) Industrial aquaculture and industrial fishing;

(e) Large infrastructure and energy developments;

(f) Metal ore and rare earth element mining, and the mining of other materials such as sand and gravel;

(g) Climate and energy transition projects, such as wind, solar, geothermal and others; and mitigation, such as geoengineering, including in marine areas and applying a precautionary principle, and adaptation actions;

(h) Wastewater treatment, sewage systems and industrial effluent outlets;

(i) Waste management, including municipal, industrial, electronic and hazardous waste, incineration plants and large-scale composting;

⁶⁰ See [A/HRC/59/42](#) and [A/HRC/58/59](#).

⁶¹ See [A/79/270](#); UNEP, *Emissions Gap Report 2024*.

⁶² See [CCPR/C/GC/36](#) and Committee on Economic, Social and Cultural Rights, general comment No. 14.

(j) Metallurgical smelters, cement and lime factories and pulp-and-paper mills;

(k) Battery manufacturing and recycling, and data centres.

38. Everyone conducting environmental, social and human rights impact assessments should be licensed or registered by a public body,⁶³ subject to eligibility criteria ensuring proven, multidisciplinary expertise in human rights, ecology, other technical and scientific fields, public health, social sciences and cumulative impact methodologies. Regulations should mandate that consultants undertake periodic compulsory capacity-building and human rights training, strengthening their understanding of cultural heritage and Indigenous and traditional knowledge systems, and ecosystem services.

39. Regulations must establish safeguards to prevent and address possible conflicts of interest and undue influence from the private and public sectors, including through mandatory conflict of interest declarations; a functional separation between proponents and authorities;⁶⁴ the exclusion of individuals with financial or professional ties to proponents; and administrative and criminal sanctions for breaching these safeguards.

40. Regulations must also establish a robust enforcement and monitoring framework ensuring that authorities have the powers and resources necessary to impose penalties, administrative sanctions and other means of remedying violations of assessment procedures or project approval conditions. States must ensure that all individuals, communities and Indigenous Peoples have access to effective remedies when breaches of substantive and procedural impact assessment requirements occur.

B. Obligation to undertake impact assessment processes

41. As explained above, States have a permanent obligation to evaluate activities and projects that may cause human rights violations or significant environmental harm and must therefore undertake environmental impact assessments, whether they implement them or request parties proposing a project or activity to do so, prior to the licensing of an activity. Environmental, social and human rights impact assessment processes must be based on the principles and framework mentioned above, considering specific contexts and incorporating five core stages: screening, scoping, assessment review, decision-making, and monitoring and compliance. These must ensure effective, meaningful, open and inclusive public participation, in line with the Agreement on Marine Biological Diversity of Areas beyond National Jurisdiction and the Convention on Wetlands of International Importance especially as Waterfowl Habitat,⁶⁵ among others.

1. Screening

42. Screening usually takes place after a project proponent applies for an environmental permit or project approval. During screening, the State conducts or oversees a preliminary evaluation of the proposal to determine whether an impact assessment is required and its requirements. While screening assessments are preliminary, it is indicated in the Agreement on Marine Biological Diversity of Areas beyond National Jurisdiction and the Maputo Convention that they must cover all

⁶³ European Union, Environmental Impact Assessment Directive, art. 5.

⁶⁴ *Ibid.*, art. 9 (a).

⁶⁵ See also Conference of the Contracting Parties to the Convention on Wetlands, "Guidelines for incorporating biodiversity-related issues into environmental impact assessment legislation and/or processes and in strategic environmental assessments", resolution VIII.9 (2002).

impact types evaluated during a full assessment, including all environmental, climate, biodiversity, social, health, cultural and human rights impacts. To ensure a comprehensive assessment screening, the State must consider the ecological sensitivity of project sites, surroundings, ecosystem services and impact receptors such as water sources, the duration and reversibility of potential impacts, the likelihood of associated or secondary developments and the specific circumstances of potentially impacted marginalized groups.⁶⁶

43. Screening must include a project report that provides details on the proposal and a preliminary management plan outlining measures to prevent and mitigate anticipated and comprehensive impacts. These reports must identify the proposal's area of influence and consider the proposed activity's nature, magnitude, location, timing, reversibility, likelihood and how impacts and their risks interact.⁶⁷

44. Public participation in the screening process is vital, and States must involve rights holders in identifying potential impacts. The screening report must consider community priorities and comply with free, prior and informed consent when Indigenous lands, territories, resources or rights might be affected, including the United Nations Declaration on the Rights of Indigenous Peoples and Inter-American Court of Human Rights jurisprudence.

45. States must prevent the fragmentation of projects or activities, including preventing the segmenting of submissions and the assessment of components, impacts and phases. Good practices to avoid fragmentation include legislation that requires the screening of cumulative, direct and indirect impacts, prohibits project-splitting and excludes from screening only projects with minor or less-than-significant environmental impacts.⁶⁸

2. Scoping

46. Scoping is fundamental because it determines the content, issues and procedures of the assessment necessary to fulfil its decision-making purpose. Scoping must include the following:

(a) All project-related environmental, climate, biodiversity, social, cultural, health and human rights short- and long-term impacts, including in relation to the rights of children and future generations;

(b) Project alternatives and a “no-action” baseline, accompanied by associated harm prevention, mitigation, restoration and remediation measures, against which the proposal can be objectively compared.⁶⁹

47. The scope of assessed impacts and risk prevention and mitigation measures must span the entire project life cycle, including initiation, implementation, decommissioning and post-closure environmental restoration.⁷⁰ Such requirements

⁶⁶ Inter-American Court of Human Rights, *U'wa Peoples v. Colombia*, para. 136; draft principles on protection of the environment in relation to armed conflicts, 2022, principle 14.

⁶⁷ See Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services, *Thematic Assessment Report on the Interlinkages among Biodiversity, Water, Food and Health* (2025); Escazú Agreement, art. 7 (17).

⁶⁸ Conservation and Sustainable Use of Marine Biological Diversity of Areas Beyond National Jurisdiction, art. 30; Protocol on Environmental Protection to the Antarctic Treaty, art. 8.

⁶⁹ Conservation and Sustainable Use of Marine Biological Diversity of Areas Beyond National Jurisdiction, art 31; Aarhus Convention, art. 6; Espoo Convention, art. 5; see also Government of the United Kingdom of Great Britain and Northern Ireland, Department for Energy Security and Net Zero, “Environmental impact assessment: assessing effects of scope 3 emissions on climate” (October 2024).

⁷⁰ See Inter-American Court of Human Rights advisory opinion 23/17.

are especially important in relation to the fossil fuel industry, given that major oil and gas companies frequently abandon wells when their activities conclude, without properly closing them, as is necessary, in order to avoid pollution.⁷¹

48. Including long-term impacts in the scoping stage is crucial to effectively prevent significant and potentially irreversible damages, achieving the effective protection of human rights, including prioritizing the rights and interests of children and future generations, as reflected in Committee on the Rights of the Child general comment 26, Inter-American Court of Human Rights advisory opinion No. 32, the United Nations Framework Convention on Climate Changes and the Maastricht Principles on the Human Rights of Future Generations.

49. Scoping should result in terms of reference for environmental, social and human rights impact assessments, developed with public participation, detailing the specific issues, analysis, procedures and rules governing it. Terms of reference should integrate contributions from the public and considerations regarding cumulative, climate change, ecosystem and human rights criteria and ensure that Indigenous and local knowledge informs baseline studies and terms of references methodologies.⁷²

(a) Climate change scoping

50. In the context of the climate crisis posing an existential threat to humanity and as a substantive element of the human right to a healthy environment, ensuring a safe climate requires States to assess the full impact of activities and projects that may cause significant harm to the climate system. This includes greenhouse gas emissions, harm to carbon sinks, such as the ocean,⁷³ or exacerbating climate impacts owing to increasing risks, ecosystem destruction, land use change or the impact of other substantive elements of the right to a healthy environment, such as clean air or healthy ecosystems and biodiversity.

51. States and project proponents therefore have the obligation to include all emissions in impact assessment processes: direct greenhouse gas emissions from the project or activity (scope 1); indirect emissions from the generation of acquired and consumed electricity (scope 2); and all other indirect emissions not considered in scope 2, including upstream and downstream emissions across the value chain, such as combustion in a third country (scope 3).⁷⁴ States must also ensure independent, participatory and comprehensive assessments of the measures taken to phase out fossil fuels.

52. A growing body of judicial decisions confirms that States and businesses must consider the full scope of a project's cumulative, direct and indirect climate impacts during impact assessment processes, including scope 1, 2 and 3 emissions. For example, South Africa's High Court invalidated a coal-fired power station's environmental authorization because no climate change impact assessment had been

⁷¹ See Center for American Progress, "How the federal government can hold the oil and gas industry accountable", 19 September 2023.

⁷² Espoo Convention, art. 1, appendix II (b); see also Economic Commission for Latin America and the Caribbean, "Recommendations for incorporating a human rights-based approach in environmental impact assessment of mining projects" (2019).

⁷³ International Tribunal of the Law of the Sea, advisory opinion No. 31, para. 390.; Inter-American Court of Human Rights, advisory opinion 32/25, paras. 229 and 321; International Court of Justice, "Obligations of States in respect of climate change", para. 359.

⁷⁴ See European Free Trade Association Court, *Föreningen Greenpeace Norden and Natur og Ungdom v. Norway*; European Commission, "Guidelines on reporting climate-related information" (2019); International Court of Justice, "Obligations of States in respect of climate change", para. 398.

conducted.⁷⁵ The Hague’s Court of Appeals confirmed that businesses must limit their emissions across their entire value chain.⁷⁶ Project permits granted without considering scope 3 emissions have been invalidated in Norway⁷⁷ and the United Kingdom,⁷⁸ while in Guyana the country’s Environmental Protection Agency amended the terms of reference of Hammerhead offshore oil developments to explicitly include scope 3 emissions after citizens had filed a case concerning the lack of these in the project’s impact assessment.⁷⁹

53. In its advisory opinion concerning the *Greenpeace Nordic & Nature Youth v. Ministry of Petroleum and Energy* case, the Court of Justice of the European Free Trade Association found that the European Union’s Environmental Impact Assessment Directive required accounting of scope 3 emissions of fossil fuel projects in determining their climate impact. The Court ruled that burning fossil fuels after they were sold to third parties was an objectively foreseeable result of oil and gas extraction and that requiring emission estimates of subsequent combustion was not an unduly burdensome request to developers.⁸⁰

54. The International Court of Justice and the Inter-American Court of Human Rights ruled that States must assess the impact of a project or activity to particularly significant proposed individual activities contributing to greenhouse gas emissions⁸¹ and those that entail the risk of generating significant greenhouse gas emissions.⁸²

(b) Ecosystem-based approach

55. Healthy ecosystems is another substantive element of the right to a healthy environment. Environmental, social and human rights impact assessments must include an ecosystem-based approach with a comprehensive consideration of all elements of nature, promoting its conservation and sustainable use, in line with Convention on Biological Diversity decisions, including the Kunming-Montreal Framework and Human Rights Council resolution 58/16. The implementation of such an approach requires the application of “appropriate scientific methodologies focused on levels of biological organization”, recognizing also “that humans, with their cultural diversity, are an integral component of many ecosystems” and groups such as Indigenous Peoples and local communities hold distinctive knowledge that “can contribute to effective land management, predictions of natural disasters, and identification of longer-term climate change”.⁸³ The implementation of environmental, social and human rights impact assessments also needs sufficiently long time frames for the development of robust baselines and assessment of proposal sites, to meaningfully evaluate probable biodiversity trends and impacts over time.⁸⁴

⁷⁵ See High Court of South Africa, *Earthlife Africa Johannesburg v. Minister of Environmental Affairs*; submissions from: African Synthesis Centre for Environment, Development and Climate Change; University of Pretoria.

⁷⁶ See The Hauge Court of Appeals, *Milieudefensie v. Shell*.

⁷⁷ See Supreme Court of Norway, *Greenpeace Nordic & Nature Youth v. Ministry of Petroleum and Energy*.

⁷⁸ See United Kingdom, Court of Appeal, *Finch v. Surrey*; United Kingdom, Court of Sessions, *Greenpeace UK and Uplift v. Secretary of State for Energy Security and Net Zero*.

⁷⁹ See Guyana Chronicle, “EPA clarifies high court ruling on EIA carbon dioxide emissions for “Hammerhead” project”, 28 March, 2025.

⁸⁰ See *Föreningen Greenpeace Norden and Natur og Ungdom v. Norway*.

⁸¹ International Court of Justice, “Obligations of States in respect of climate change”, para. 298.

⁸² Inter-American Court of Human Rights, advisory opinion 32/25, para. 359.

⁸³ See Conference of the Parties to the Convention on Biological Diversity, fifth meeting, decision V/6; Intergovernmental Panel on Climate Change, *Special Report on Climate Change and Land*.

⁸⁴ International Association for Impact Assessment, Biodiversity and Ecosystem Services in Impact Assessment, Special Publication Series No. 3 (March 2018).

56. To guarantee an ecosystem-based approach, scoping must: (a) prioritize the conservation of ecosystem structure and functioning to maintain critical processes and services; (b) identify and respect the limits of ecosystem functioning and key ecological thresholds; (c) define spatial boundaries and scales that correspond to the ecological units and connectivity under review; (d) embed adaptive management through iterative monitoring and “learning-by-doing” to address uncertainties and surprises; and (e) draw on scientific, Indigenous and traditional knowledge systems to inform baseline studies and impact predictions and support biocultural approaches with long-term sustainability in place-based conservation measures.⁸⁵

57. Where proposals potentially have an impact on Indigenous Peoples, peasants, people of African descent, small-scale fisheries and other communities, scoping must mandate baseline studies on traditional systems, including women’s, land and resource rights. Terms of reference must also require the consideration of impacts on cultural rights, biodiversity and all other elements of the right to a healthy environment, traditional systems of land and resource tenure, and Indigenous and traditional knowledge, innovation and practices.⁸⁶

3. Assessment

58. Assessments must be carried out objectively by independent experts employing the best-available science. This should consider the traditional knowledge, methodologies and cultural heritage of Indigenous Peoples, peasants, people of African descent, fishers and women to fully understand ecosystem and human rights impacts, as indicated by the Inter-American Court of Human Rights (advisory opinion No. 32) and in the Kunming-Montreal Global Biodiversity Framework. The obligation to ensure that environmental, social and human rights impact assessments adhere to the proportionality principle requires assessment detail to be commensurate with the proposal’s significance.⁸⁷ Therefore, assessments and associated reports must consider the probability and severity of all potential impacts evaluated. Where an impact’s likelihood is unknown or uncertain, the confidence level or margin of error must be specified, and knowledge gaps must be described.⁸⁸

59. When evaluating climate impacts, those conducting assessments must verify that a project’s total emissions align with the State’s mitigation target and strategy and the Paris Agreement’s 1.5° Celsius maximum limit, while also accounting for linear and non-linear effects and the risk of irreversible tipping-point thresholds, considering also justice elements.⁸⁹

60. Prevention and mitigation measures should be detailed in a management plan addressing each impact identified and its interconnectedness. This plan should form the basis of binding approval conditions resulting from any State decision to approve a proposal.⁹⁰ Assessment and resulting management plans must prioritize the prevention of adverse impacts, followed by the mitigation of the remaining risks and

⁸⁵ See Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services *The Underlying Causes of Biodiversity Loss and the Determinants of Transformative Change and Options for Achieving the 2050 Vision for Biodiversity: Summary for Policymakers* (2025).

⁸⁶ See Akwé: Kon Voluntary Guidelines.

⁸⁷ See Inter-American Court of Human Rights, advisory opinion 23/17.

⁸⁸ See European Union Environmental Impact Assessment Directive.

⁸⁹ See Intergovernmental Panel on Climate Change, “Proposals for expert meetings and workshops for the seventh assessment cycle” (2025); Inter-American Court of Human Rights, advisory opinion 32/25, para. 327; International Court of Justice, “Obligations of States in respect of climate change”, para. 224.

⁹⁰ See World Bank, *Good Practices in National Systems for Environmental and Social Impact Assessment: A Literature Review* (2022).

the restoration and remedying of residual potential harms.⁹¹ They must be carried out in the context of relevant planning instruments and policy frameworks, considering State obligations on human rights, climate change, biodiversity and other environmental commitments.⁹²

61. Guided by the terms of reference and as part of their enforcement obligations, States must conduct substantive and procedural reviews of impact assessment processes to verify that they form a sound basis for decision-making. Aligned with a human rights-based approach and with the Espoo Convention (art. 3), the Escazú Agreement (art. 6), the Guidelines for the Development of National Legislation on Access to Information, Public Participation and Access to Justice in Environmental Matters (Bali Guidelines) and the European Union Environmental Impact Assessment Directive (art. 11), the reviews should ensure that assessment procedures are respected, including adequate access to information, public participation and justice, and that substantive issues such as the capacity of project proponents to implement identified preventive and mitigation measures are adequately evaluated.

62. States should also establish multi-stakeholder review mechanisms to ensure adequate, multidisciplinary expertise at the review stage. For example, in Canada, Cyprus and New Zealand, environmental impact assessment processes include external advisory committees or participation, including from Indigenous Peoples in Canada and New Zealand.⁹³

4. Decision-making

63. During the decision-making stage, authorities must explicitly explain how public participation influenced approval, modification or rejection. Where authorities approve a proposal, they must establish binding environmental, social and human rights approval conditions. For approved proposals, States should legislatively require that prevention, mitigation, environmental restoration and other remedial measures be captured in environmental, social and human rights management and monitoring plans. These plans, along with a proposal's approval conditions, must be public and legally binding for those responsible for the project, as stated in the Agreement on Marine Biological Diversity of Areas beyond National Jurisdiction (art. 32), the European Union Environmental Impact Assessment (art. 8 (a)), the Aarhus Convention (art. 6), the Convention on Wetlands of International Importance especially as Waterfowl Habitat (resolution VIII.9 of 2002) and the Maputo Convention (art. XIV).

64. Lastly, during the assessment and decision-making stages, States should give due attention to community-driven project alternatives that are more sustainable than the proponent's proposal and should consider whether these proposals are better aligned with respecting, protecting and fulfilling human rights and achieving sustainable development.

C. Obligation to monitor and enforce

65. States must monitor and enforce compliance with environmental, social and human rights impact assessment regulations. Accordingly, as clarified in jurisprudence, including that of the International Court of Justice and the European

⁹¹ See UNEP/CBD/COP/8/27/Add.2; International Finance Corporation, "Performance standard 1: assessment and management of environmental and social risks and impacts" (2012).

⁹² See Inter-American Court of Human Rights, advisory opinion 32/25, paras. 359–363.

⁹³ Submissions from: Cyprus; Transnational Justice Clinic-McGill University; Ocean Vision Legal.

Court of Human Rights, if projects are approved, then States must put in place well-resourced, independent monitoring and oversight mechanisms to:

- (a) Verify that projects implement their environmental, social and human rights management plans, monitoring plans and other binding approval conditions;⁹⁴
- (b) Verify that project proponents produce adequate assessment reports;
- (c) Exert administrative control over public and private agents;⁹⁵
- (d) Investigate, punish and redress abuse through effective policies, regulations and adjudication.

66. Monitoring measures include regular unannounced inspections, independent audits and mandatory reporting requirements for project proponents, the results of which must be publicly available in their entirety.

67. States must enforce legal requirements and the management plan and sanction non-compliance, including by revoking permits, while ensuring access to justice and effective remedies where a project violates domestic or international law. Enforcement may comprise interinstitutional collaboration, monitoring and inspection, administrative guidance, investigation, prosecution and judicial or quasi-judicial proceedings.

68. While monitoring and enforcement are often the most neglected phase of the environmental, social and human rights impact assessment process, these obligations run throughout every stage of the process and an approved project's life cycle. As with human rights and environmental due diligence processes, the monitoring of approved projects must be ongoing and the extent and duration must be proportionate to the nature, location and size of the project and significance of its impact, as established in the European Union Environmental Impact Assessment Directive. If monitoring reveals unforeseen or escalating risks of environmental harm or human rights violations, States may modify, suspend or revoke authorizations. They must also require adaptive management and mitigation measures.⁹⁶

69. Monitoring processes must be transparent and participatory, granting communities timely access to reports and monitoring data, enabling community-based oversight and participation in the review of monitoring reports. States must ensure recourse to judicial or administrative review where non-compliance is detected. The transparent communication of project performance and effective third-party auditing are vital facets of this stage.⁹⁷ For example, under the guidelines on public participation in the Philippines, "Multi-Partite Monitoring Teams" are mandated. These assemble project proponents, environmental regional staff, local governments and community representatives to monitor environmental impacts and compliance with environmental safeguards and management plans.⁹⁸

⁹⁴ See International Court of Justice, *Pulp Mills on the River Uruguay (Argentina v. Uruguay)*; European Court of Human Rights, *Budayeva v. Russia*.

⁹⁵ See Inter-American Court of Human Rights, advisory opinion 23/17, paras. 153–154; Committee on Economic, Social and Cultural Rights, general comment No. 3; [A/HRC/4/35/Add.1](#).

⁹⁶ See the Conservation and Sustainable Use of Marine Biological Diversity of Areas Beyond National Jurisdiction and the Convention on Wetlands of International Importance especially as Waterfowl Habitat (resolution VIII.9); World Bank, *Environmental and Social Framework* (2017).

⁹⁷ See World Bank, *Good Practices in National Systems for Environmental and Social Impact Assessment: A Literature Review*.

⁹⁸ See Government of the Philippines, Department Administrative Order No. 2017 15d.

D. Procedural obligations

70. Access to information, public participation and access to justice are human rights and procedural elements of the right to a healthy environment, and, aligned with the Aarhus Convention and the Escazú Agreement, States must ensure them throughout environmental, social and human rights impact assessment processes.

1. Access to information

71. Access to information within environmental, social and human rights impact assessment processes is governed by the principles of maximum disclosure and active transparency.⁹⁹ States have positive obligations to proactively publish and share all information concerning the proposed environmental, social and human rights impact assessment process, including potential human rights, environmental and social impacts, and to establish adequate mechanisms for requesting all relevant information. This includes ensuring that private actors disclose the greenhouse gas emissions throughout their project value chain.¹⁰⁰

72. Information should be complete, up to date, understandable, provided in a timely and proactive manner, accessible regarding cost, language, format and other factors, and tailored to diverse segments of the population, especially marginalized groups.

73. States must ensure that all information relevant to a proposal and impact assessment process is of high technical quality, following the best-available science, and directed towards ensuring that affected communities and the general public understand the potential benefits and risks of the proposed activity on their human rights. This includes information to fully understand the potential human rights impacts of the triple planetary crises and the interconnectedness between the right to a healthy environment and other human rights.¹⁰¹ All relevant information should be presented alongside non-technical summaries and made available in the languages of affected communities and formats accessible to disabled and non-literate persons.¹⁰² Information on impact assessments can be made widely accessible to the public through websites, publications in daily local newspapers and audiovisual information, as well as information sessions with affected communities.¹⁰³

74. Exceptions to disclosure should be limited, narrowly prescribed through law and applied only after a proportionality test demonstrates the necessity of restricting the right to access information, based on article 19 of the International Covenant on Civil and Political Rights, the Aarhus Convention, the Escazú Agreement and the Inter-American Court of Human Rights (see *Claude Reyes v. Chile*). Authorities should provide written justification for each exception¹⁰⁴ and inform requesters of available appeal procedures.¹⁰⁵

2. Public participation

75. States must ensure that affected communities and the public have timely, meaningful participation in all stages of environmental, social and human rights impact assessment processes, as international law, jurisprudence and guidelines systematically agree, including the Aarhus Convention, the Escazú Agreement, the

⁹⁹ Escazú Agreement, art. 6 (1); [A/79/270](#); submission from: secretariat of the Aarhus Convention.

¹⁰⁰ Inter-American Court of Human Rights, advisory opinion 32/25, para. 347.

¹⁰¹ See [A/79/176](#).

¹⁰² See [CCPR/C/GC/34](#); Akwé: Kon Voluntary Guidelines.

¹⁰³ See findings on communication [ACCC/C/2006/16](#) (Lithuania).

¹⁰⁴ See Inter-American Court of Human Rights, *Kaliña and Lokono Peoples v. Suriname*.

¹⁰⁵ Aarhus Convention, art. 4 (8); see also [CCPR/C/GC/34](#).

Bali Guidelines, the Akwé: Kon Voluntary Guidelines, jurisprudence from the Inter-American and European human rights systems, and European Commission recommendation 2023/2863. First, States must ensure the identification of potentially affected communities, experts, civil society organizations, rights holders and the public. Second, public participation procedures must include reasonable time frames for the public to prepare and participate effectively. Given that the human right to a healthy environment encompasses both individual and collective dimensions, States should also ensure that the public has adequate opportunities to voice its concerns and recommendations.

76. States must ensure that the authority effectively notifies and consults the public before carrying out a project. The outcome of public participation should be given full and fair consideration in the decision-making process at each stage, and all decisions must explicitly outline how the public's views were considered.

77. States must facilitate public participation by strengthening marginalized groups' capacity to engage, adapting to social, economic, cultural, marginalization, geographical and gender characteristics and reducing obstacles and power imbalances between affected communities and implementers. Public hearings and workshops must be scheduled at accessible times and venues, with translation, transport, childcare support and remote options to ensure the inclusion of women, youth, older persons, persons with disabilities and other marginalized groups.

78. States must also ensure protection for individuals and organizations advocating for human rights and the environment and environmental human rights defenders, ensuring their safe participation without fear of persecution or harm.

3. Access to justice

79. Access to justice and effective remedies should be available at every stage of the environmental, social and human rights impact assessment process, including remedies for breaches of human rights obligations and for deficiencies in access to information and public participation.¹⁰⁶ Impacted people and the public should also be able to challenge the legality of permits, having legal standing to seek interim measures to suspend non-compliant activities and orders for environmental restoration and the enforcement of monitoring and redress conditions, and to prevent or remedy foreseeable harm to the environment. In cases of transboundary harm, affected persons in other States should have access to remedies on the same terms as domestic claimants. States should also ensure prompt enforcement of final judgments and orders. Protections against reprisals, such as anti-strategic litigation against public participation (SLAPP) measures and whistleblower safeguards, should be in place to preserve the integrity of the process.

V. Obligations towards marginalized groups

80. States must take special measures to ensure that marginalized people and groups are protected from activities that might disproportionately impact their rights.¹⁰⁷ Therefore, measures to provide special protection are important during impact assessment processes, including to safeguard rights holders' meaningful participation

¹⁰⁶ Inter-American Court of Human Rights, advisory opinion 23/17, paras. 238–239; [CCPR/C/GC/34](#); Maputo Convention, art. XVI (2); findings on communication [ACCC/C/2011/58](#) (Bulgaria), [ECE/MP.PP/C.1/2013/4](#).

¹⁰⁷ See International Tribunal of the Law of the Sea, advisory opinion No. 31; International Court of Justice, "Obligations of States in respect of climate change", paras. 257 and 382; Inter-American Court of Human Rights, advisory opinion 32/25, paras. 412 and 434.

as mentioned above, and to prevent discrimination against them. States must act under a strict due diligence standard in impact assessment processes in which marginalized groups are affected by a proposed project.

A. Indigenous Peoples

81. States must ensure that assessment processes are consistent with Indigenous Peoples' individual and collective rights, including the rights to life, self-determination, free, prior and informed consent, property, development, cultural heritage, traditional knowledge, and associated intellectual property. Authorities and project proponents must consult and cooperate in good faith with Indigenous Peoples and their representatives to obtain their free, prior and informed consent before approving any project affecting their lands, resources or rights, in particular in connection with the project, and the utilization or exploitation of mineral, water or other resources. Consultation must be culturally appropriate, accessible, free from coercion and allow enough time for Indigenous Peoples to fully understand the proposed project's scope, nature and impacts. To ensure trust, good faith and mutual respect, consultation procedures must stem from consensus between Indigenous Peoples and third parties. States should also cooperate with Indigenous Peoples in determining new impact assessment frameworks in accordance with Indigenous methodologies and knowledge.¹⁰⁸

B. Peasants, small-scale fishers and rural communities

82. Where any exploitation of natural resources held or used by peasants is contemplated, States are required under the United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas to ensure a duly conducted environmental and social assessment, good faith consultation with the potentially impacted peasant communities and mutually agreed upon procedures for the fair and equitable sharing of benefits. These obligations apply even where envisaged impacts may not be significant and they support the tremendous nature stewardship contributions of peasants, including small-scale fisher communities, pastoralists, small-scale farmers, Afro-descendant peoples and rural communities.

C. Women

83. Under the Convention on the Elimination of All Forms of Discrimination against Women, States have the full and immediate obligation to eliminate discrimination against women in all fields, including those related to the environment, development planning and the distribution of associated benefits. Following recommendations of the Committee on the Elimination of Discrimination against Women, legislation must recognize women's rights to meaningfully participate in impact assessment processes and require: (a) assessment of gender-differentiated impacts; (b) data disaggregated by gender, age and other grounds for discrimination; (c) gender parity among process participants; and (iv) that assessment hearings be held under circumstances that enable women's effective participation.¹⁰⁹

¹⁰⁸ See United Nations Declaration on the Rights of Indigenous Peoples; International Labour Organization, *Indigenous and Tribal Peoples Convention*, 1989 (No. 169); [A/HRC/45/34](#).

¹⁰⁹ See Committee on the Elimination of Discrimination against Women, general recommendation 40 and general comment 37.

D. Children and future generations

84. All impact assessment processes concern children. As acknowledged in Committee on the Rights of the Child general comment 26, children are among those most vulnerable to the consequences of environmental and social harm. The contributions of projects to climate change and environmental degradation will have the most pronounced implications for the rights and the well-being of youth and future generations. Moreover, a range of potentially environmentally harmful activities are reliant on child labour.¹¹⁰

85. Given these realities, the Committee on the Rights of the Child (see its general comment 26, para. 75) requires States to ensure that impact assessment processes always reflect the best interest of the child. Participatory and rigorous “child rights impact assessments” must be integrated into existing impact assessment processes and must be conducted ex ante and ex post. Furthermore, children have a right to gain access to accurate, reliable environmental information relevant to assessment processes, to receive such information in child-friendly formats and to participate in decision-making processes in a safe, age-appropriate manner. To support their participation in impact assessment processes, children proposed that Governments create official entry points for their participation (e.g., child assemblies); provide support to child environmental human rights defenders; and collaborate with learning centres. However, children’s participation in impact assessment processes is often restricted by arbitrary age limits or a lack of accommodation.¹¹¹

VI. Business responsibilities

86. Impact assessment processes must be complementary within ongoing human rights and environmental corporate due diligence processes to ensure that risk identification informs enterprise decisions, policies, governance, budget allocations and oversight.¹¹² Preventive and mitigation measures identified through assessments must be integrated into corporate decision-making, risk management systems and public reporting. In this regard, companies are required to establish and maintain grievance mechanisms and provide adequate redress for human rights violations that they have caused or contributed to. States have especially stringent obligations to prevent human rights abuses by State-owned enterprises.

87. International finance institutions, conservation organizations and other actors that finance, regulate or implement projects share these responsibilities. They must mandate independent impact assessment processes and condition financing and support with a project’s adherence to the highest human rights standards, including by requiring comprehensive, transparent stakeholder engagement and effective grievance mechanisms.¹¹³ Overall, international financial institutions, which can heavily influence how environmental, social and human rights impact assessments are undertaken, must align their guidelines and procedures with human rights law.

¹¹⁰ See [A/HRC/51/35](#); International Labour Organization, “Child labour in mining and global supply chains” (2019).

¹¹¹ Submission from: Child Rights International Network.

¹¹² See Guiding Principles on Business and Human Rights; Organisation for Economic Co-operation and Development, *OECD Guidelines for Multinational Enterprises on Responsible Business Conduct* (2023).

¹¹³ See World Bank, *Environmental and Social Framework*, “Assessment and management of environmental and social risks and impacts”; International Finance Corporation, “Performance standard 1: assessment and management of environmental and social risks and impacts”.

VII. Recommendations

88. In compliance with their obligations to respect, protect and fulfil the right to a clean, healthy and sustainable environment, in benefit of present and future generations, States must:

(a) **Always request and conduct effective, comprehensive, integrated and adequate environmental, social and human rights impact assessments as a fundamental process to be fully implemented prior to authorizing and starting projects or activities or prior to significant modifications or project expansion that might cause human rights impacts and/or significant environmental harm;**

(b) **Address and prevent situations of conflict of interest, undue influence or biased decision-making related to impact assessments, penalizing actors both private and public, thus guaranteeing that assessment processes are implemented by independent, objective and expert multidisciplinary teams;**

(c) **Abstain from weakening regulations, including through regressive amendments to impact assessment legislation or project licences unless a full consideration of alternatives, human rights impacts and the principles of necessity and proportionality are complied with. Instead, States must implement, strengthen and update legal frameworks in accordance with their obligations and the interpretation of such frameworks in the context of climate change, biodiversity loss and pollution;**

(d) **Guarantee that regulations, processes and decisions regarding environmental, social and human rights assessments incorporate and are based on international law principles, including the preventive, precautionary and “polluter pays” principles. States must abstain from approving projects or activities that pose significant or irreversible risks to the environment, including a safe climate and healthy biodiversity and ecosystems, and to human rights, including human health, and where there is no scientific certainty on how to avoid these harms;**

(e) **Abstain from excluding potentially harmful sectors or projects from impact assessment requirements based on strategic, national security, national interest or climate and biodiversity measures, including projects related with fossil fuels and their related activities, industrial activities such as fisheries, agribusiness, mining and climate-related activities;**

(f) **Guarantee access to information, public participation and access to justice and effective remedy regarding all impact assessment processes stages, in compliance with States’ obligations to control and monitor public and private entities;**

(g) **Build and strengthen the capacities of national and subnational authorities to adequately implement environmental, human rights and social assessments and to collaborate and coordinate with other States in exchanging information, expertise and technical capacities;**

(h) **Ratify and implement international agreements related to preventing environmental impacts, including the Agreement on Marine Biological Diversity of Areas beyond National Jurisdiction, and regional agreements, that provide better tools and options to advance international collaboration, towards improving protection for the environment and human rights.**

89. International financial institutions and United Nations entities must update their environmental impact assessment guidelines for projects in which they will invest,

approve loans, support or be involved in any way, to make sure that they are comprehensive and incorporate human rights- and climate-related impacts.

90. Businesses, when implementing assessments, projects and activities, should:

(a) **Comply with international and national regulations regarding environmental, social and human rights impact assessments and abstain from exerting undue influence;**

(b) **Contribute to ensuring that impact assessments are undertaken for projects and that they complement ongoing due diligence processes, aligning with the Guiding Principles on Business and Human Rights and Organisation for Economic Co-operation and Development guidelines;**

(c) **Ensure that all projects, including in relation to climate and biodiversity actions, are adequately assessed and comply with State obligations, especially climate and human rights obligations.**
