

Submission to the Special Rapporteur on Human Rights and the Environment
Call for Input: “Business enterprises, planetary boundaries and the human right to a clean, healthy and sustainable environment”

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Q1: Business enterprises play a pivotal role in determining the extent to which the human right to a clean, healthy, and sustainable environment is respected or undermined. While many businesses have taken significant steps towards environmental sustainability and responsibility, there remains a troubling gap in the overall alignment between corporate activities and this fundamental human right. Numerous industries are indeed problematic in this context. For instance, the fossil fuel sector has historically been a key driver of environmental degradation and climate change. Many oil and gas companies have been criticized for their contributions to pollution, deforestation, and greenhouse gas emissions, all of which have a direct impact on people's access to a clean and sustainable environment. The negative externality of corporate operations often affects marginalized communities disproportionately, denying them the basic human right to a healthy environment. Moreover, the over-exploitation of natural resources by extractive industries, such as mining and forestry, not only disrupts ecosystems but also harms local communities' access to clean water, unpolluted air, and fertile land, thus impeding their ability to enjoy a sustainable and healthy environment.

Furthermore, the food and agriculture sector is another area of concern. Agribusinesses frequently engage in practices that result in soil degradation, water pollution, and the loss of biodiversity. These practices jeopardize the long-term sustainability of the environment and, in turn, the ability of communities to secure clean and healthy sources of food. The fast-fashion industry is another illustrative example, with its massive waste production and reliance on environmentally harmful processes. The improper disposal of textile waste often contaminates water sources and harms ecosystems, directly infringing on people's right to a clean and sustainable environment. In sum, while some businesses are making commendable strides towards sustainability, there is a substantial need for more robust regulation and enforcement mechanisms to hold industries accountable for their actions. A comprehensive approach that aligns business interests with the human right to a clean, healthy, and sustainable environment is essential to ensure that corporate activities do not infringe upon these fundamental rights and that the negative externalities are mitigated effectively.

Q2: Current normative standards, such as international treaties and guidelines, fall short of ensuring that business enterprises consistently fulfill their human rights responsibilities regarding the right to a clean, healthy, and sustainable environment. While some progress has been made in recognizing the interconnectedness of business activities, environmental sustainability, and human rights, there is a significant implementation gap. Many businesses prioritize profit over environmental and human rights concerns, leading to widespread pollution, deforestation, and resource depletion. Strengthening and improving normative standards can involve a multifaceted approach. First, enhancing legal frameworks to make these responsibilities legally binding and enforceable is crucial. Second, promoting transparency and disclosure requirements can hold businesses accountable for their environmental impacts, fostering a culture of responsibility. Third, fostering international cooperation and cross-border enforcement mechanisms is essential to address transnational

corporations' activities. Finally, increasing public awareness and participation in environmental decision-making processes is paramount to ensuring that business enterprises respect the right to a clean, healthy, and sustainable environment. In sum, existing normative standards need reinforcement, legal teeth, and enhanced mechanisms for monitoring and enforcement to compel business enterprises to meet their human rights responsibilities in the environmental context.

Q3: The question of whether states are fulfilling their obligation to protect the right to a clean, healthy, and sustainable environment of individuals and communities from human rights abuses by business enterprises is a critical one. The answer to this query is complex and multifaceted. While some states have made significant strides in enacting environmental regulations and ensuring that businesses within their jurisdiction adhere to sustainable practices, many challenges persist. A fundamental issue is the often unequal balance of power between governments and transnational corporations. In today's interconnected global economy, large corporations wield immense influence, and this can, at times, limit the ability of individual states to hold them accountable for environmental wrongdoings. This can manifest in regulatory capture, where corporate interests shape environmental policies to favor their operations. Moreover, the outsourcing of production and services by businesses to countries with weaker environmental standards can lead to transnational businesses evading responsibility for environmental harm.

To address these challenges effectively, there is a need to redefine and expand the concept of state jurisdiction in the context of the global economy. States must recognize that their obligations to protect the right to a clean, healthy, and sustainable environment extend not only within their geographical borders but also to activities and actors over which they can exert substantial influence. This might involve strengthening international frameworks and agreements to hold transnational corporations accountable for their environmental practices, irrespective of their location of operation. Furthermore, states should work collectively to establish and enforce global standards for environmental sustainability to avoid the race-to-the-bottom scenario, where corporations seek out the weakest regulations. By promoting international cooperation and shared responsibility in protecting human rights and the environment, states can better fulfill their obligations in an era where the impact of business enterprises transcends national boundaries and threatens the planet's planetary boundaries.

Q4: States must take proactive measures to prevent business enterprises from abusing or infringing upon the right to a clean, healthy, and sustainable environment. Firstly, they should establish robust regulatory frameworks that outline environmental standards and require businesses to conduct environmental impact assessments before commencing operations. This ensures that companies are held accountable for their actions and their potential environmental consequences. Additionally, States should enforce stringent penalties and fines for non-compliance with environmental regulations to deter businesses from engaging in harmful practices.

To protect the right to a clean, healthy, and sustainable environment for vulnerable populations, States must implement policies and mechanisms specifically tailored to address their unique needs. This includes conducting gender-sensitive environmental impact assessments to ensure that the rights of women and girls are protected, involving

Indigenous communities in decision-making processes to safeguard their land and resources, and adopting anti-discrimination measures to protect the rights of people of African descent, peasants, disabled individuals, migrants, those living in poverty, and other marginalized groups. States should also prioritize the dissemination of information and education on environmental rights to empower these populations and promote their active participation in environmental decision-making processes. Furthermore, it is crucial for States to ensure that environmental human rights defenders are protected by implementing legal frameworks that shield them from harassment, threats, and violence. They should also establish reporting mechanisms and provide financial and logistical support to enable these defenders to carry out their crucial work. Businesses, on the other hand, should actively engage with these communities, respect their rights, and uphold responsible business practices that consider the environmental and social impacts of their operations. By doing so, States and businesses can collectively contribute to a cleaner, healthier, and more sustainable environment while respecting the rights of all individuals and groups.

Q5: The implementation of legislation mandating all business enterprises to conduct mandatory human rights and environmental due diligence is a crucial step towards ensuring that businesses respect the right to a clean, healthy, and sustainable environment. This measure aligns with the increasing global awareness of the interdependence between corporate activities and environmental sustainability, as well as the fundamental human right to a healthy environment. It provides a framework for companies to assess the environmental impact of their operations, identify potential risks, and take necessary measures to prevent or mitigate harm. By making such due diligence compulsory, businesses would be held accountable for their actions, creating a strong incentive for them to adopt more responsible and sustainable practices. While the efficacy of this approach depends on the stringent enforcement of such legislation, it undeniably represents a substantial step in the right direction, promoting corporate accountability and bolstering the protection of environmental and human rights.

The proposed international legally binding instrument on due diligence is a promising initiative in ensuring businesses respect the right to a healthy environment on a global scale. This instrument can provide a unified framework and standards that apply consistently to businesses operating across borders, reducing regulatory fragmentation and enhancing transparency. By establishing clear expectations for due diligence, it sets a normative foundation that helps guide companies in recognizing and respecting planetary boundaries and the human right to a clean environment. However, the effectiveness of such an instrument ultimately hinges on its robust enforcement mechanisms, the harmonization of national laws and regulations, and the involvement of all stakeholders, including governments, businesses, and civil society. Moreover, it should be designed to evolve in response to changing environmental and social contexts. While challenges remain, the proposed international legally binding instrument on due diligence holds the potential to significantly enhance corporate accountability and contribute to safeguarding the human right to a clean, healthy, and sustainable environment on a global scale.

Q6: Greenwashing and misinformation campaigns conducted by businesses have a profound impact on the realization of the human right to a clean, healthy, and sustainable environment. These tactics often deceive consumers, undermine informed decision-making, and hinder the transition to environmentally responsible practices. The deceptive marketing

of environmentally harmful products or practices misleads individuals, making it difficult for them to make choices that promote a clean environment. States should take robust measures to combat greenwashing and misinformation, including implementing and enforcing stringent regulations that hold businesses accountable for false or misleading environmental claims. Transparency, mandatory disclosure of environmental impact, and independent verification can be essential tools in this regard. Moreover, public education and awareness campaigns can empower individuals to discern authentic sustainability efforts from greenwashing, enabling them to make informed choices that uphold their right to a healthy environment. Additionally, collaboration between governments, civil society, and businesses is crucial to promoting responsible corporate practices that genuinely contribute to a cleaner and healthier environment.

Q7: Business enterprises, particularly multinational corporations, frequently engage in political activities that significantly undermine democracy and hinder a state's capacity to safeguard the human right to a clean, healthy, and sustainable environment. They often do so through campaign donations, lobbying efforts, litigation, and various other actions that wield substantial economic and political influence, skewing policy decisions in their favor. These actions, driven by profit motives, can compromise environmental regulations and perpetuate unsustainable practices, effectively impeding the government's duty to protect the environment and uphold citizens' right to it. Moreover, businesses resort to strategic lawsuits against public participation (SLAPP) to silence environmental human rights defenders by burdening them with costly litigation, thereby suppressing freedom of expression and obstructing essential advocacy for environmental causes. To address these problems, states must implement comprehensive regulatory reforms to increase transparency in political financing, enhance accountability in lobbying practices, and establish stringent anti-SLAPP legislation to protect the rights of environmental activists. Moreover, fostering international cooperation and dialogue among states, businesses, and civil society is essential to creating a global environment where the human right to a clean, healthy, and sustainable environment is genuinely upheld while safeguarding democratic principles.

Q8: Fulfilling everyone's right to a clean, healthy, and sustainable environment within the current global economic system, characterized by its unrelenting pursuit of endless economic growth and corporate profit maximization while externalizing environmental, social, and health costs, presents a formidable challenge. This system's inherent contradictions undermine the realization of these fundamental human rights, as it prioritizes short-term gains over long-term well-being. To address this, systemic and transformative changes are imperative. Prioritizing sustainability over growth, shifting from profit-centric to people and planet-centric paradigms, enforcing robust environmental regulations, fostering corporate responsibility, and reimagining economic indicators beyond GDP growth are essential steps. Also, recognizing the interconnectedness of environmental and human rights issues and promoting holistic approaches, including community involvement and environmental education, is crucial. Ultimately, a new global economic ethos that values environmental stewardship, social equity, and individual well-being should replace the prevailing model to secure a cleaner, healthier, and sustainable environment for all.