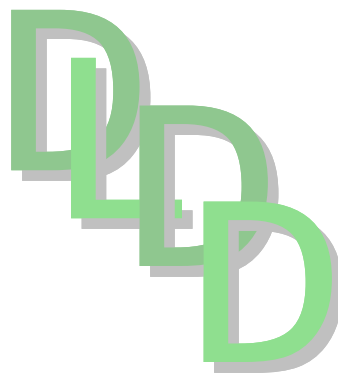


U N C C D

HUMAN RIGHTS AND DESERTIFICATION

*Exploring the Complementarity of
International Human Rights Law and the
United Nations Convention to Combat Desertification*



DESERTIFICATION, LAND DEGRADATION AND DROUGHT

ISSUE PAPER NO. 1

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The views expressed in this publication do not necessarily reflect those of the UNCCD Secretariat

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EXECUTIVE SUMMARY

Today the world faces a situation of growing urgency - there is widespread lack of access to water; food security is affected by unprecedented price hikes for commodities (basic food), driven by historically low food stocks; there is a growing demand for bio-fuels; and environmental change such as desertification, land degradation and drought(DLDD) is creating growing problems. Inflated international cereal prices have already led to food riots in several countries, while the most vulnerable are also seeing the food aid process being threatened by this economic context. A new strategy to bind the international community and to build international cooperation to combat DLDD must emerge from this context, in order to prevent negative impacts on the poorest countries and to improve food security and access to water. Bringing together the strengths of both international human rights and environmental law will better protect people, whose lives and livelihoods are threatened by DLDD, focusing attention on human suffering as well as environmental harm. Linking human rights and the fight against DLDD offers a framework of universal guarantees that protect the right to life, as well as the right to an adequate standard of living, which includes the rights to food and water into the agenda of the UNCCD. A human rights approach will provide the mechanisms to link government accountability, transparency and responsiveness to environmental protection, while integrating a process for public participation, providing empowerment to people in the combat against DLDD. At a time when the United Nations Convention to Combat Desertification (UNCCD) process moves further towards concrete implementation, the rights-based approach to DLDD can trigger the development of national normative frameworks and tools whose enforcement and implementation can be monitored through the ten-year strategic plan of the Convention. Propositions to be included in National Action Plans, in developing government strategies, policies, programmes and activities, are proposed as human rights-based practical tools addressed to all Parties of the UNCCD as part of the operational objectives for actions to be integrated by the Parties in the fight against drought, desertification and land degradation.

HUMAN RIGHTS AND DESERTIFICATION

INTRODUCTION

FOREWORD BY THE EXECUTIVE SECRETARY OF THE UNCCD

The 2006 International Year on Deserts and Desertification provided an opportunity for the international community to better focus on an issue that represents an ongoing and creeping disaster: the loss of soil and fertile land. The International Geneva Symposium organized in April 2006 by Switzerland on the question of desertification, poverty and human rights highlighted the necessity of protecting land and soil to achieve the Millennium Development Goals and protect human rights. Since then, the latest reports of the Inter-governmental Panel on Climate Change that projects patterns of natural resources scarcity under scenarios of climate change grimly remind us that handling such issues with benign neglect shall no longer suffice. This was fully recognized by the 8th session of the Conference of Parties of the UNCCD which adopted in Madrid in September 2007 a forward looking 10-year strategic plan and framework to combat desertification (The Strategy).

This study, conducted with the appreciated and committed participation of the United Nations Special Rapporteur on the Right to Food, Mr Jean Ziegler, illustrates, in the context of the 16th and 17th session of the United Nations Commission on Sustainable Development (CSD), how human rights can and must be mainstreamed in sustainable development issues. It contains a reflection offered to the Parties of the Convention and members of the civil society to support the creation of an enabling environment for the promotion of solutions to combat land degradation, desertification and mitigate the effects of drought while highlighting potential benefits from taking advantage of the complementarity of various existing regimes of international law.

As the 16th and 17th session of CSD of the United Nations will address the thematic cluster on agriculture, rural development, land, drought and desertification and with Africa, this study is submitted to the consideration of the CSD with a view to enhance national and international support for frameworks that promote access to food and water for affected populations, as per decision 2/COP8.

I believe that much of the policy advocacy necessary under The Strategy consists indeed in building bridges and synergies between various institutions, legal regimes and instruments of the international community. Global challenges can only be met by global coalitions. When grounded in the defence of human rights, the foundation of such partnerships shall be solid and bear a strong collective commitment over the long term.

Bonn, 21st February 2008

Luc Gnacadja
Executive Secretary, UNCCD

MESSAGE FROM UNITED NATIONS SPECIAL RAPPORTEUR ON THE RIGHT TO FOOD

Despite real advances in different countries, such as the People's Republic of China, India, South Africa, and several Latin American and Caribbean countries, there has been little progress overall in reducing the number of victims of hunger and malnutrition around the world. The number of people suffering from hunger has increased every year since 1996, reaching an estimated 854 million people despite government commitments to halve hunger at the 2000 Millennium Summit and at the 2002 World Food Summit. Every five seconds, a child under 10 dies from hunger and malnutrition-related diseases.

It is estimated that 50 per cent of these 854 million hungry people live in marginal, dry and degraded lands. Half of the world's hungry people therefore depend for their survival on lands which are inherently poor and which may be becoming less fertile and less productive as a result of the impacts of repeated droughts, climate change and unsustainable land use. In Niger for example, close to 95 per cent of productive land is dryland; the population is predominantly rural, chronically poor and subject to repeated food crises. In Zimbabwe, the overwhelming majority of the poor live in rural areas and poverty is deepest in the low rainfall areas of Matabeleland South, Masvingo and Matabeleland North provinces. Land degradation also causes migration and intensifies conflict over resources, particularly between pastoral and farming communities, as I witnessed in Niger and in Ethiopia.

Many of the ongoing conflicts and food crises, including in the Darfur region, are the result of the impact of serious drought, desertification and land degradation and rising conflict over deteriorating resources. In arid regions around the world, as the land becomes as hard as concrete and the wells dry up, thousands of families are forced to leave their villages. But where can they go? To the slums which encircle the ever-growing cities of Africa, Asia and Latin America. Deprived of their lands and their subsistence, families suffer from permanent unemployment, hunger and desperation. It is now estimated that there are around 25 million "ecological refugees" or "environmental migrants", i.e., people who have been forced to flee from their lands as a result of natural disasters, including floods, drought and desertification, and end up struggling to survive in the slums of the world's megacities.

Eradicating hunger and fully realizing the right to food will therefore depend on efforts to address the global problems of desertification and land degradation and on the effective implementation of the United Nations Convention to Combat Desertification in Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa. I recommended this approach in a report presented to the General Assembly in October 2006 (A/61/306). Today, I am proud to present this study, conducted in cooperation with the Secretariat of the United Nations Convention Combating Desertification (UNCCD), on the complementarity of international human rights law and the UNCCD. I sincerely hope that the complementarity of these two essential bodies of international law will allow for a better, effective protection of the most vulnerable people suffering from hunger, desertification and land degradation.

Geneva, 5th March 2008

Jean Ziegler
United Nations Special Rapporteur on the Right to Food

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Secretariat of the United Nations Convention to
Combat Desertification (UNCCD)

United Nations Special Rapporteur on the Right to Food

Drafting Committee

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I. THE CHANGING ENVIRONMENT OR THE NEED TO ADDRESS DESERTIFICATION AND LAND DEGRADATION AS A HUMAN RIGHTS ISSUE

I.1. Integrating human rights and the environment in the fight against desertification/ land degradation and drought (DLDD) and the need for a human rights -based approach

In a world of increasingly severe environmental degradation and desertification, which affects predominantly the world's poor and hungry people, developing an integrated approach to human rights and the environment must become a priority. There has long been a lack of connectivity between the respective legislative systems of human rights and environment. The evolution of eco systems in a context of emerging natural resources scarcity and the potential loss of eco system services necessary for human well- being make it plain that it is time for this to change. The concerns for the protection of human rights and the preservation of the environment are becoming so intimately intertwined in today's context of climate change and related DLDD that the urgency of combining the delivery of both international human rights law and international environmental law to protect both people and the environment is now better perceived.

Kofi Annan's Millennium Report called our attention to the interconnectedness between human rights and the environment, focusing not only on freedom from want and freedom from fear, but also the responsibility for environmental stewardship, for leaving a healthy and life-sustaining planet for all our children and future generations across the world. Human rights cannot be fully realized or understood without securing the environmental dimensions of eco system services essential to the right to life and all other rights. Equally, sustaining and protecting the environment against degradation will be enhanced through the protection and promotion of human rights for all human beings that live on our planet.

Just as the poorest and hungriest people suffer most from the effects of land degradation, desertification and global climate change, so do the poorest countries, particularly the poorest countries in Africa, suffer disproportionately from scarcity of freshwater and upward trends in world food prices. New demands for various agricultural commodities to produce biofuels increases and is encouraged by public policies focusing on this production of energy. This possibility further encourages increases in food prices as it creates new and intensive demand on food crops and threatens food security in the poorest countries.

As Agenda 21 long ago pointed out, unsustainable consumption and production in richer nations is the "major cause of continued environmental degradation". The IPCC's report on climate change notes that developed countries also bear primary responsibility for global climate change: they bear responsibility for resolving and mitigating their impacts on the poorest countries and peoples. A human rights based approach would seek equity, striving to ensure that no peoples or countries should shoulder a disproportionate share of the negative impacts.

The 1994 Draft Declaration of Principles on Human Rights and the Environment¹ highlighted how human rights violations can lead to environmental degradation and likewise environmental degradation can lead to human rights violations. Today, the threat of global climate change and its potential impacts on DLDD magnify the potential for disastrous impacts on people's human rights to food, water and health.

Moreover, in the emerging context of spectacular increases in commodity prices and the rising influence of agri-business, it is clear that strict reliance on market forces can have dramatic effects on food security in many parts of the world (see box on Niger). The regulatory role of

government agencies functioning as safety nets has often disappeared under the structural adjustment policies in many parts of the world, leaving the most vulnerable countries at the mercy of market mechanisms. The international framework conditions, including free trade and structural adjustment policies, can seriously influence the nation states' capacity and possibility of ensuring the right to food for its citizens. An approach that links human rights and the environment in a rights-based approach to combating DLDD would place the people threatened in their livelihood as a result of this degradation at the centre of remedial measures and affirmative action while heightening the necessity to address desertification as a human rights issue. A human rights-based approach questions the need for the States to reclaim some of its regulatory functions to bring market forces in line with the respect of fundamental rights.

While traditional international environmental law protects the environment by regulating the rights and obligations of nation-states and the conflicts between them, it is not designed to protect people. On the other hand, traditional human rights law regulates the relationship between governments and their citizens, and offers universal guarantees that protect the right to life, as well as the right to an adequate standard of living, which includes the rights to food and water.

2005 FOOD CRISIS IN NIGER: FOOD INSECURITY AND DLDD¹

In the summer 2005, Niger, the poorest country in the world, witnessed thousands of its children die of hunger as the terrible food crisis affected millions of people and led to widespread malnutrition¹. The 2005 food crisis is not an isolated episode in Niger's history as the country faces a chronic and ongoing nutritional emergency, which is cyclical and structural in nature, with levels of vulnerability and malnutrition increasing year after year. Food security is tightly bound to agriculture, which provides the bulk of most Nigerian's food, income and employment. Pressure on the availability of fertile land due to growth of the population, combined with effects of desertification/land degradation and drought (DLDD), decline in soil fertility, and constraints of a rain-fed agriculture, have all driven Niger's population to be highly vulnerable to food insecurity. In 2005 Niger's famine was caused by, amongst other things, natural conditions, including drought and locusts, policies of International Financial Institutions, and delayed receipt of aid. The withdrawal of the State from agriculture and industry affected the social safety net and aid system in Niger: structural adjustment removed the regulatory function of government agencies as regulator of the market and stabilized food prices, leaving the country at the mercy of rising commodity prices. There is a growing consensus that market mechanisms do not guarantee food security and Niger has been the dreadful example of the devastating impact of the free market forces. Niger's ability to challenge food insecurity and realize human rights is threatened by agricultural agencies and services, free market forces, and public policies responding to conditions imposed by International Financial Institutions. The Nigerian Government, dependent on foreign funding for nearly half of its budget, has to comply with the priorities and conditions of the donor governments and has limited autonomy and control over its policy-making. Considering that it took almost eight months for countries to respond to the Government of Niger's request for food assistance, this time lag can be regarded as a violation of the State's obligations under the International Covenant on Economic, Social and Cultural Rights (ICESCR) to provide necessary aid when required. In order to meet obligations under international human rights law, the international community must implement policies and practices that are designed to the realization of human rights such as the right to food, for instance the recommendations related to the Operational objectives of the UNCCD as solutions that will enable a profound and lasting improvement in food security.

Bringing together the strengths of both international human rights and environmental law will better protect people, whose lives and livelihoods are threatened by desertification and land degradation, focusing our attention on human suffering as well as environmental harm. A human rights approach to DLDD puts people and their current and future quality of life at the centre of decision-making processes.

Hunger, poverty and desertification in the context of global climate change

The Millennium Ecosystem Assessment on Eco-systems and Human Well -Being, initiated in 2002 under the auspices of the United Nations, is arguably the most comprehensive report establishing the scientific basis to assess the use of ecosystems and their contribution to human well-being. Its Desertification Synthesis states “desertification is potentially the most threatening ecosystem change impacting livelihoods of the poor. Persistent reduction of ecosystem services as a result of desertification links land degradation to loss of human well being.”

More than 854 million people around the world suffer from chronic hunger and undernourishment. The vast majority of the world’s poor and hungry people live in rural areas, many of them in the semi-arid regions of the world, where they are dependent on agriculture or pastoralism or other natural resources for their livelihoods, but face daily struggles against drought, desertification and land degradation. The poor and hungry are usually concentrated on the most marginal lands, lands that are most subject to degradation and desertification ². According to the Millennium report on hunger, about 50 percent of the world’s 854 million undernourished and food-insecure people live in marginal lands and remote areas. It estimates that:

“About half of food-insecure people in developing countries are farm households in higher-risk lands with low or highly unreliable rainfall, inherently poor or degraded soils, unfavourable topography and remoteness from markets and public services. These are mainly located in sub-humid and semiarid regions – generally referred to as drylands, and in hillsides and mountains in the humid tropics, in comparison with irrigated areas or fertile valley bottoms ³.”

Although dryland territories in at least 100 countries are prone to desertification, including developing countries in Africa, Asia and Latin America, as well as developed countries (e.g. USA, Australia, Spain), it is the poorest countries which suffer most and have the highest proportion of dryland areas. Eight out of ten of the world's poorest countries are located in dryland areas.

The situation is particularly harsh in Africa, where more than 50 percent of Africa’s poorest people are concentrated on ‘low potential’ lands that are prone to degradation. More than two-thirds of the African continent is made up of drylands (43 percent drylands in addition to 27 percent classified as desert lands) and are home to more than 325 million people adapting to the uncertainties of climate and rainfall. It is estimated that 500 million hectares of land in Africa are already moderately to severely degraded and that Africa accounts for 27.4 percent of land degradation of the world so far, with soil productivity suffering and pastoral rangelands degrading. Although Africa has the highest number of people affected and living in drylands (40 percent), approximately 30 percent of Asia’s people and 30 percent of South Americans also live in similar dryland environments.

Land -use intensification in these drylands, due to population growth, market expansion, and frequently ill-designed policies and programmes, has led to increasing problems of land degradation. Given dependence on natural resource assets for their livelihood, this degradation has sometimes led to further impoverishment, contributing to the vicious cycle of

environmental degradation and poverty that was identified in the 1987 World Commission on Environment and Development Report:

“Poverty is a major cause and effect of global environmental problems. It is therefore futile to attempt to deal with environmental problems without a broader perspective that encompasses the factors underlying world poverty and international inequality....Many parts of the world are caught in a vicious downwards spiral: poor people are forced to overuse environmental resources to survive from day to day, and their impoverishment of their environment further impoverishes them, making their survival ever more difficult and uncertain.”⁴

With the threat of global climate change, new risks are emerging that mean greater uncertainties and increased numbers of natural disasters as a result of extreme weather patterns and changes in temperature and rainfall. As well as more droughts and floods, climate change will have potentially negative impacts on agriculture, pastoralism and fishing livelihoods and on water availability. The poor and hungry will suffer most because they depend on natural resources for their livelihoods and have few alternatives⁵.

The key impacts of climate change will be on food security and access to water, with changes in rainfall, the length of growing seasons, increasing number of natural disasters due to extreme weather conditions and an increase in land degradation and desertification⁶. Rising temperatures and falling or erratic levels of rainfall will exacerbate droughts in drought-prone arid lands, threatening crop yields as well as increasing the uncertainties for pastoralists in feeding and watering their animals. The problems related to falling crop yields may cause tens of millions of people to be more at risk of food insecurity in this century.⁷ Under the present scenario of natural resource scarcity it is crucial to maintain the best productivity possible for arable land and top soil fertility as a common good by way of access to water for irrigation.

There has already been a 25 percent reduction in rainfall in the African Sahel over the last 30 years⁸. Warmer and drier conditions and more uncertainty in rainfall have already affected the length of the growing season, with a shorter season having negative impacts on crops and yields⁹. For example, Malawi, Zimbabwe, and Zambia, which suffer from large year to year variations in rainfall, have seen significantly less rain over the last 100 years, and even the wettest years are now below 100 year average levels.

The countries that are the least responsible for climate change, will suffer disproportionately from its effects. As highlighted by United Nations Secretary-General Ban Ki-moon after the publication of the IPCC report, it is the poor countries - in Africa, small island developing states and elsewhere - which will suffer most from climate change even though they are the least responsible for global warming. He argued that “Despite our best intentions and some admirable efforts to date, degradation of the global environment continues unabated, and the world’s natural resource base is being used in an unsustainable manner” and called for all countries to show responsibility for environmental stewardship¹⁰. The developed countries which have the greatest responsibility for global warming have a duty towards the countries where the impacts will hit hardest.

Concerning the link between desertification, poverty and human rights it should be recalled that the Conference of the Parties underlined the importance of the implementation of the UNCCD for meeting the Millennium Development Goals and urged all development partners including the United Nations agencies and the Bretton Woods institutions to make use of the UNCCD in their strategies to achieve the MDGs¹¹.

DLDD and climate change will hamper their delivery of essential ecosystem services and cause greater levels of food insecurity, famine and poverty. It is now widely accepted that poverty should not be seen only as a lack of income, but also as a deprivation of human rights (under-nutrition and hunger are constitutive of poverty). It is equally recognized that unless the problems of poverty are addressed, environmental issues will not be resolved. In this context, a human rights approach to poverty reduction provides a conceptual framework for combating desertification and land degradation.

Environmental refugees, competition for scarce natural resources and conflict

DLDD and climate change are also fuelling social, economic and political tensions that can cause migration, conflicts and further poverty as well as widespread human rights violations. It is increasingly understood that environmental insecurity plays significant role in causing, triggering and aggravating conflicts and armed violence.

It is estimated that the livelihoods of more than 1,000 million people are globally at risk from desertification which may eventually drive 135 million people off their land ¹². By 2050, the IPCC has estimated that there may be as many as to 150 million ‘environmental refugees’ - people forced to leave their homes and lands for environmental reasons linked to global climate change, including desertification and land degradation ¹³. Approximately 25 million have already been forced to leave their homes, yet so far the world has not responded by acknowledging the necessity for establishing a new category of ‘environmental migrants’ that recognises environmental refugees.

Most environmental refugees are still seen as ‘economic migrants’ who have chosen to leave their lands in search of a better life, whereas in fact many have been forced to leave their lands and have few alternatives. For example, experts estimate that each year between 700,000 and 900,000 people are forced to leave Mexico’s rural dryland areas in search of livelihood elsewhere, often across the border in the United States, yet they are considered economic migrants and are often illegal ¹⁴. In Europe, tens of thousands of illegal migrants continued to try to cross illegally to Europe’s shores every year, risking their lives on dangerous boat crossings to Samos, Lampedusa or the canaries’ islands and facing thereafter severe ordeals in detention camps. Europe, a continent surrounded by drylands neighbors was slow to realize the magnitude of the challenge as 135 million people are in dangers of being displaced by the impact on their well -being of the loss of ecosystem services.

The huge scale of migration in developing countries that is due to environmental pressures resulting from DLDD are a factor fuelling low as well as high intensity conflicts in the competition over resources. For instance, in 2004 Mr Francis Deng, United Nations Representative of the Secretary-General on internally displaced persons, explained the causes of conflicts in Sudan that have generated mass displacement in Darfur are multiple and historically rooted in problems linked to encroaching desertification and recurrent periods of drought. This has generated tensions between tribal groups for scarce resources in particular between sedentary “Black African” and nomadic “Arab” tribes in a region, which has generally been among the most marginalized areas in terms of development ¹⁵.

Drought and desertification have also contributed to multiple conflicts between pastoralists and agriculturalists. Although these conflicts have multiple causes, drought and desertification are triggering many conflicts as a result of competition over water points and key grazing resources ¹⁶. Displacement of communities and competition over access to land and other productive resources is most frequently a source of conflict when communities move into areas of a different ethnic group. In Uganda for example, the conflict between Bakiga migrants and indigenous Banyoro and Batooro communities has been traced to underlying environmental

resource conflicts.

Environmental stress, including scarcity and degradation, often stem from competition over resources amongst groups within a society (such as local people and migrants), and can generate political and social tension and may deteriorate into conflict as competition intensifies. Inequities in access to and control over resource use between groups can heighten differences, and can result in the failure to respect the rights of more vulnerable populations. This produces conditions which facilitate numerous violations of human rights. In this context, introducing a human rights- based approach to the fight against DLDD provides a conceptual and legal framework for conflict resolution over resources such as access to land. With a human rights normative framework, the entitlements that give rise to obligations on the part of others are enshrined in law.

I.2 Emerging connections between international human rights and environmental law

Towards a right to environment

Most of the main international human rights instruments were drafted before environmental issues, including desertification, were given significant attention on the international development agenda. It is therefore not surprising that early international human rights instruments, such as the Universal Declaration of Human Rights (1948), make no explicit reference to environment.

These issues, however, are understood as subsumed and implicit in other human rights provided for by international human rights treaties, such as, for example, the right to an adequate standard of living and the highest attainable standard of health, enshrined in the Covenant on Economic, Social and Cultural Rights (1966) and the right to life, enshrined in the Covenant on Civil and Political Rights (1966).

The first principle of the first major international commitment to link human rights and environmental protection was prescient in highlighting the connections between international human rights and environmental law:

“Man has the fundamental right to freedom, equality and adequate conditions of life, in an environment of a quality that permits a life of dignity and well-being, and he bears solemn responsibility to protect and improve the environment, for present and future generations..¹⁷.”

In addition, more recently drafted international and regional human rights instruments do specifically mention environmental issues in their texts, such as for example the Convention on the Rights of the Child-CRC (1989), the African Charter on Human and People’s Rights (1981) and the Additional Protocol to the American Convention on Human Rights in the area of economic, social and cultural rights (1988).

For example article 24 of the CRC provides that States Parties shall take appropriate measures to combat disease and malnutrition “through the provision of adequate nutritious foods and clean drinking water, taking into consideration the dangers and risks of environmental pollution”. The ILO Convention No. 16 concerning Indigenous and Tribal Peoples in Independent Countries contains numerous references to the lands, resources, and environment of indigenous peoples. It also provides that special measures are to be adopted for safeguarding the environment of such peoples consistent with their freely-expressed wishes (Art. 4). Environmental impact assessment must be undertaken for planned development activities, with the cooperation of the peoples concerned (Art. 7(3)).

Hope also comes from Africa: the African Charter contains several important provisions that are directly linked to environmental rights. For example article 21 provides that “all peoples shall freely dispose of their wealth and natural resources” and adds that this right shall be exercised in the exclusive interest of the people. article 24, which could be seen to complement or perhaps conflict with article 21, states that “all peoples shall have the right to a general satisfactory environment favourable to their development.”

In addition, from Latin America, progress has been made through article 11 of the San Salvador Protocol which entitles claimants to a “right to a healthy environment” and proclaims that “Everyone shall have the right to live in a healthy environment and to have access to basic public services and...”. The States Parties shall promote the protection, preservation and improvement of the environment.

The international human rights mechanisms have also begun to draw out the linkages between human rights and the environment. At the forefront of these efforts has been the work of the former Sub-Commission on Prevention of Discrimination and Protection of Minorities, which is particularly noteworthy as these human rights mechanisms started exploring and discussing about the linkages between human rights, the environment and sustainable development as early as 1989. The Sub-Commission at that time entrusted a Special Rapporteur to conduct an in-depth study into these linkages. Her analysis culminated in the Draft Declaration of Principles on Human Rights and the Environment which proclaims that human rights, an ecologically sound environment, sustainable development and peace are interdependent and indivisible and this right and other human rights, including civil, cultural, economic, political and social rights, are universal, interdependent and indivisible. It also states that all persons have the right to an environment adequate to meet equitably the needs of present generations and that does not impair the rights of future generations to also meet equitably their needs ¹⁸.

The 1992 Rio Declaration on Environment and Development also later clearly formulated the link between sustainable development, human rights and environmental protection, recognising the rights of future generations to a healthy environment, the right to information, participation and to a remedy in respect to environmental conditions. Principle 10 of this Declaration led the way for the establishment, by multilateral agreements at the global and regional level, of mechanisms for the exercise of the right to environmental information and public participation in decision-making.

In 1994, the United Nations General Assembly also recalled, in its Resolution 45/94, the language of the Stockholm Declaration stating that all individuals are entitled to live in an environment adequate for their health and well-being. This resolution called for enhanced efforts towards ensuring a better and healthier environment. These connections between human rights and the environment are evolving as international legal norms. The World Commission on Environment and Development has even proposed that, as a fundamental legal principle: “all human beings have the fundamental right to an environment adequate to their health and well-being.”

The UNECE Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters adopted on 25th June 1998 in Aarhus at the Fourth Ministerial Conference in the ‘Environment for Europe’ process aims to provide effective means for the exercise of these rights in the field of the environment ¹⁹. The Convention is a relevant example of the valuable link which can be established between human rights and environmental rights. The 1998 Aarhus Convention contains the mechanisms which links government accountability and environmental protection and focuses and integrates a process for public participation. In its approach about government accountability, transparency and responsiveness it provides a significant example of what a human rights approach can add in

terms of empowerment of people and accountability of governments in the fight against desertification, droughts and land degradation ²⁰.

These developments at the international level have been echoed at the national level where a number of national constitutions enacted since 1992 formally recognise the right to a healthy environment. In addition some of these constitutions stipulate that individuals or groups may file legal actions to protect this right and this has contributed to increased availability of national jurisprudence on the topic of protecting rights related to the environment ²¹. Today the interdependence between human rights, sustainable development and environmental protection has begun to be widely recognized. DLDD is one area which illustrates how the defence of ecosystems under threat is closely related to the promotion and protection of human rights.

Integrating human rights and environmental law

The understanding of desertification has evolved from a focus on the bio-physical aspects that lead to DLDD to a more comprehensive perspective which sees desertification to be clearly a developmental as well as an environmental issue. It is argued that desertification is both a primary cause and a consequence in the environment/poverty nexus. Losses of soils and water resources push marginal populations into a vicious spiral of increasing demands on scarcer natural resources. Efforts to combat desertification should be holistic and targeted at breaking this cycle. It has been recognised that access and rights to land and secure livelihood is at the heart of the problem. Without the appropriate systems in place, affected people have no option but to migrate in times of distress and/or to resort to unsustainable agricultural practices ²².

Farmers and herders need firm rights to the soils, grazing, woodlands and water sources on which their livelihood depend. Governments need to recognise local rights which are vital for promoting farmer investment. It has become increasingly clear that land rights really matter if people are to feel confident enough to invest not just in their farmland but also in managing the grazing land, wetlands and woodlands from which they make their living, the commons, those collective assets which are vital for livestock production and hundreds of daily needs, from medicine to nuts and fruit, from firewood to wild rice. An increasing number of governments in West Africa are now formulating pastoral charters which lay out rights of access to water, grazing and passage for herding communities.

As the only international treaty focusing on the protection of soil and land, the UNCCD, in the newly formulated vision of its Parties, must now forge a global partnership, provide a universally accepted reference and set standards to address DLDD and contribute to poverty reduction. It cannot achieve this mission without inviting Governments to acknowledge and strengthen local rights to land, water and grazing ²³.

From a human rights perspective, it is now generally understood that poverty is a result of disempowerment and exclusion. Poverty is not only a lack of material goods and opportunities, such as employment, ownership of productive assets and savings, but the lack of physical and social goods, such as health, physical integrity, freedom from fear and violence, social belonging, cultural identity, organizational capacity, and the ability to live a life with respect and dignity. A human rights-sensitive understanding of poverty gives due attention to the critical vulnerability and assaults on human dignity that accompany poverty. It looks not just at resources but also at the capabilities, choices, security and power needed for the enjoyment of the rights proclaimed in the Universal Declaration of Human Rights and international human rights treaties to which all countries to varying degrees have subscribed.

When human rights are introduced in policy making, the rationale of poverty reduction no

longer derives only from the fact that the poor have needs. It is based also on the rights of poor people - entitlements that give rise to a basic core of obligations on the part of others that are enshrined in law. The different components of a human rights normative framework can contribute in an incremental manner to the empowerment of the poor.

The right to adequate food has a crucial role to play as a strategic tool: as a human right it introduces components such as the concept of accountability, the principles of non-discrimination, equality, and participation, and the recognition of the interdependence of rights. The linkages between the obligation to cooperate internationally to respect economic, social and cultural rights including the right to food as a means to also contribute to combating desertification have become increasingly evident. For example it has been reported that dumping of beef in particular by European Union Member States under the EU Common Agricultural Policy, reduced especially the income of West African pastoralists which caused them to take up arable farming to supplement their subsistence food and income needs and give up their mobile lifestyle. This in turn contributes to further land and environmental degradation which reinforces the poverty cycle ²⁴.

II. INTERNATIONAL LAW: A TOOL TO PROTECT PEOPLE AND COMBAT DESERTIFICATION

II.1 International environmental law: the UNCCD - promoting participation, maintaining ecosystems services and combating poverty

Some 30 years ago, the international community recognized for the first time that desertification was a major economic, social and environmental problem to many countries, which led to the organization of the United Nations Conference on Desertification in 1977. With small results achieved by the Conference and subsequent initiatives in the fight against desertification, the issue remained of particular importance during the 1992 United Nations Conference on Environment and Development (UNCED) held in Rio de Janeiro.

In the Rio Declaration on Environment and Development and Agenda 21, States recognized that environmental issues and development were intrinsically linked and they proposed a new participatory approach in respect to desertification ²⁵. The UNCED also recommended the elaboration of a Convention to Combat Desertification in those countries experiencing serious drought and/or desertification, particularly in Africa.

The United Nations Convention to Combat Desertification (UNCCD) was adopted in June 1994 and came into force on 26 December 1996 after the ratification by 57 countries. With 191 States Parties today, it is the only international legal instrument focusing attention specifically on the protection of land and soil, on dryland regions and desertification-affected communities around the world.

The UNCCD is based on two major ideas:

- human beings in affected or threatened areas are at the centre of concerns for combating desertification and mitigating the effects of drought ;
- desertification and drought are problems of global dimension and joint action of the international community is needed to combat desertification and/or mitigate the effects of drought ²⁶.

To give a concrete meaning to these ideas, three principles are at the core of the Convention. First, national States have the primary role in combating desertification and/or mitigating the

effects of drought, particularly in Africa. Second, it is essential to ensure the participation of affected populations and local communities, particularly women and youth, with the support of non-governmental organizations, in the elaboration of national programmes article 3(a) and 5 (d). Third, developed States must actively support, individually or jointly, the efforts of affected developing country Parties, particularly those in Africa, and the least developed countries, to combat desertification and mitigate the effects of drought (article 6).

Transparency and participation are essential conditions to a human rights-based approach. In this regard, the UNCCD must be considered forward-looking as it has encouraged enhanced community participation in environmental management and empowerment of community-based organisations. The UNCCD promotes the enhancement of local ownership in sustainable land management under its five Regional Implementation Annexes through participatory approaches at all stages of the project cycle, through documenting ongoing learning processes at country level and sharing lessons learnt through an intergovernmental Committee.

In the UNCCD's mission, halting DLDD and promoting environmental rehabilitation should involve vulnerable and marginalized groups by creating opportunities for alternative income-generating activities. The long-term sustainability of these projects is dependent on ownership and involvement by these groups at all levels and this is why the National Action Programmes (NAPs) are invited to promote local area development programmes.

Indeed, to ensure an effective implementation of the Convention, affected States parties to the UNCCD have the obligation to elaborate NAPs to combat desertification and mitigate the effects of drought, with the participation of affected populations and local communities and the support of organs, funds and programmes of the United Nations system and other relevant intergovernmental organizations, academic institutions, the scientific community and non-governmental organizations (Articles 9 and 10). All States are required to submit reports to the Conference of the Parties and the Committee for the Review of the Implementation of the Convention on the measures they have taken to implement the UNCCD (article 26).

II.2. International human rights law: the International Bill of Human Rights

On 26 June 1945, in San Francisco, 50 States signed the Charter of the United Nations, in which they recognized that the promotion and protection of human rights and fundamental freedoms for all, without discrimination, was one of the first purposes of the United Nations.

A Commission on Human Rights was then established, in 1946, to draft the Universal Declaration of Human Rights and later the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the International Covenant on Civil and Political Rights (ICCPR) - the International Bill of Human Rights.

The Universal Declaration of Human Rights

The Universal Declaration of Human Rights was adopted by the General Assembly of the United Nations on 10 December 1948. It is the founding document of the modern human rights movement. Largely inspired by President Roosevelt's vision of four freedoms (the freedom of speech and expression, the freedom of religion, the freedom from want and the freedom from fear), it gives equal emphasis to civil, political, economic, social and cultural rights.

In the Universal Declaration of Human Rights, States have for example proclaimed that everyone has the right to life and the right to an adequate standard of living (see box below).

UNIVERSAL DECLARATION OF HUMAN RIGHTS, 1948

Article 3

Everyone has the right to life, liberty and security of person.

Article 25

- 1) Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.
- 2) Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

As the Universal Declaration of Human Rights is not a binding instrument under international law, the Commission was then appointed to elaborate two international treaties that translated it into international law. These two treaties are the International Covenant on Civil and Political Rights (ICCPR) and the ICESCR - both of which were adopted by the General Assembly in 1966 and entered into force in 1976.

The International Covenant on Economic, Social and Cultural Rights (ICESCR)

The ICESCR, which has been ratified by more than 155 States today, deals with the rights to an adequate standard of living, food and water more comprehensively than any other treaty. It recognized that States have **legally binding obligations** to ensure human rights for all, including the right to food and water (article 11, para. 1 of the ICESCR), and the right to be free from hunger (article 11, para. 2 of the ICESCR).

Article 11, paragraph 1, of the ICESCR specifies a number of rights emanating from, and indispensable for, the realization of the right to an adequate standard of living “including adequate food, clothing and housing”. The use of the word “including” indicates that this catalogue of rights was not intended to be exhaustive²⁷. The right to water clearly falls within the category of guarantees essential for securing an adequate standard of living, particularly since it is one of the most fundamental conditions for survival. Moreover, the Committee on Economic Social and Cultural Rights²⁸ has previously recognized that water is a human right contained in article 11, paragraph 1 of the ICESCR. The right to water is also inextricably related to the right to the highest attainable standard of health (art. 12, para. 1)²⁹ and the rights to adequate housing and adequate food (art. 11, para. 1)³⁰. The right should also be seen in conjunction with other rights enshrined in the International Bill of Human Rights, foremost amongst them the right to life and human dignity.

The International Covenant on Civil and Political Rights

The International Covenant on Civil and Political Rights has been ratified by 160 States today. One of its most important significance for our subject is the recognition of the right to life in its article 6. The Human Rights Committee, the body responsible for monitoring implementation of the Covenant, insists that the right to life should not be interpreted in a

restrictive way. On the contrary, the required protection of the right to life obliges States Parties to take positive steps in numerous areas. In its General Comment No. 6 on article 6, the Committee considered in particular that States Parties are required to take positive steps “to reduce infant mortality and to increase life expectancy, especially in adopting measures to eliminate malnutrition and epidemics³¹”.

II.3 Complementarities between human rights law and the UNCCD

International environmental law and international human rights law are at the same time similar in their purpose and different in their nature. It could be argued that they have the same purpose: to put human beings at the centre of concern for the international community. But at the same time their nature is fundamentally different. While the purpose of international environmental law is to regulate relations between States, international human rights law sets limits and guarantees entitlements in the relations between individuals and States. Environmental law can also be described as a law of cooperation, in which States undertake commitments to support each others to address global concerns, while human rights law aims to empower people and make States accountable in a more directly answerable manner.

It is precisely this commonality of purpose but differentiated field of application that makes them particularly complementary. This will be illustrated in this section by the examples of the right to food and the right to water, and the obligation of non-discrimination, which is closely linked to the need to ensure the participation of affected populations and local communities, particularly women, in the elaboration of programmes to combat desertification and mitigate the effects of drought.

INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Article 11

1. The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food...
2. The States Parties will take appropriate steps to ensure the realisation of this right, recognising to this effect the essential importance of international cooperation based on free consent.
3. The States Parties to the present Covenant, recognising the fundamental right of everyone to be free from hunger, shall take, individually and through international cooperation, the measures including specific programmes, which are needed:
 - a) To improve methods of production, conservation and distribution of food by making full use of technical and scientific knowledge, by disseminating knowledge of the principles of nutrition and by developing or reforming agrarian systems in such a way as to achieve the most efficient development and utilisation of natural resources;
 - b) Taking into account the problems of both food-importing and food-exporting countries, to ensure an equitable distribution of world food supplies in relation to need.

The right to food and the right to water

The right to food and the right to water are two fundamental rights under international human rights law. They were first recognized in the context of the right to an adequate standard of living in international instruments³² and then defined as fundamental human rights by the United Nations Committee on Economic, Social and Cultural Rights (CESCR). The States further clarify the concrete steps they have to take to realize the right to food in adopting the Food and Agriculture Organization of the United Nations (FAO) Voluntary Guidelines on the right to food by consensus in November 2004³³.

For the CESCR, the right to food is realized when every man, woman and child, alone or in community with others, has physical and economic access at all times to adequate food or means for its procurement³⁴. And the right to water entitles everyone to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic uses³⁵. Everyone, including people living in marginalized drylands, is therefore entitled to an amount of food and water which is: sufficient, of quality, acceptable culturally and physically and economically accessible.

Half of the world's hungry people therefore depend for their survival on lands which are inherently poor, and may be becoming less fertile and less productive as a result of the impacts of repeated droughts, climate change and unsustainable use of the land. This means that eradicating hunger will require addressing DLDD as a key element of realising the right to food. From the perspective of the human right to food, there is a legal obligation to respect, protect and fulfil the right to food of people living in marginalized drylands.

To fulfil the right to food, especially in rural areas, it is essential to prevent the further degradation of arable land under all types of ecosystems. Land tenure regimes plays a critical role ensures the right to land, which include access to an adequate quantity and quality of land for a viable livelihood. Access to land must also always be accompanied by sufficient access to other inputs, including water, credit, transport, extension services and other infrastructure. To maintain productivity of arable land and topsoil fertility, access to water should be secured. Farmers with ownership or secure tenure, and adequate other inputs, are also more likely to invest in their land, which improves environmental conservation.

All Governments also have extraterritorial obligations towards the realization of the right to food and the right to water, as outlined in the Special Rapporteur's report to the Commission on Human Rights in 2006³⁶. This means that all Governments must respect the right to food and the right to water, protect these rights and support their fulfilment in other countries, including for people living in marginalized drylands.

The core content of the right to food implies: (a) the *availability* of food in a quantity and quality sufficient to satisfy the dietary needs of individuals, free from adverse substances and acceptable within a given culture; and (b) the *accessibility* of such food in ways that are sustainable and that do not interfere with the enjoyment of other human rights³⁷.

Discrimination against vulnerable and marginalized communities and women

Non-discrimination is a fundamental principle of international human rights law. It means that States must abolish any discriminatory laws, regulations and practices (including acts of omission as well as commission) affecting the enjoyment of human rights, and put an end as speedily as possible to any unequal enjoyment of human rights, on account of a lack of resources or otherwise³⁸.

Under human rights law, it is therefore a legal obligation to support vulnerable and marginalized communities, as well as women, who are very often disproportionately affected by hunger, food insecurity and poverty, including in marginalized drylands. The commitment under the UNCCD to ensure the participation of affected populations and local communities, particularly women and youth, with the support of non-governmental organizations, in the elaboration of national programmes³⁹, is the means through which to ensure that they will benefit from the programmes and therefore have their human rights, including the right to food and the right to water, fulfilled.

Law as a key tool for environmental governance

According to article 5(e) of the UNCCD, affected country Parties committed themselves to “provide an enabling environment by strengthening, as appropriate, relevant existing legislation and, where they do not exist, enacting new laws and establishing long-term policies and action programmes”.

The enactment of enabling legislation is a key tool for both environmental governance and the protection of human rights at the national level. These two subjects, however, are rarely discussed in the same legislative commissions, and therefore rarely linked in the content of legislations. The complementarity of their field of application is however important, as demonstrated in the precedent section, and it would be important in the future to include consideration of environmental governance in evolving national laws on food security and access to freshwater in affected countries, as well as vice versa.

III. INTEGRATING HUMAN RIGHTS AND DESERTIFICATION IN PRACTICE

III.1 Integrating human rights in the implementation of the Convention

The 10-year strategic plan and framework to enhance the implementation of the Convention

The Convention to Combat Desertification is exceptional because it is the only Convention which covers a global issue, the protection of land and soil, while focusing on the specific and urgent challenges facing dryland regions and including the rights of communities affected by drought and desertification. It focuses on the need to address the underlying causes of both poverty and desertification and calls for an integrated strategy for the eradication of poverty and desertification within the paradigm of sustainable development.

The UNCCD, as a unique instrument, provides a universal legal framework for DLDD and desertification. Bringing human rights into this understanding would serve to strengthen the focus on people that is fundamental for a comprehensive strategy to fight desertification and heighten the urgency to address desertification as a human rights issue. When we consider that human rights include not only civil and political rights, but also economic, social and cultural rights, it becomes clear that addressing environmental issues that have direct impact on these rights must be part of UNCCD implementation agenda.

Focusing on human rights and responsibilities requires a focus on measures to protect the people most vulnerable to the impacts of land degradation, desertification and global climate change: the poor and the hungry across the world, including children, women and men. Given

that the countries that are the least responsible for climate change will suffer disproportionately from its effects, the developed countries which have the greatest responsibility for global warming have a duty towards the countries in which the impacts will hit hardest.

Ten years after coming into force, the environmental context to which the UNCCD is responding has evolved considerably and today faces different challenges and constraints. Against this perspective, the Parties of the UNCCD adopted a 10 -year strategic plan (known as “The Strategy”) and framework for enhancing the implementation of the Convention during the 8th Conference of the Parties held in Madrid, Spain, in September 2007⁴⁰. The Strategy contains four strategic objectives to guide the actions of all UNCCD stakeholders and constitute the overall orientation for the next decade, accompanied by five operational objectives and their description.

It is worth noting that the first strategic objective of The Strategy is to improve the living conditions of affected populations with the following expected impacts. Firstly, people living in areas affected by DLDD have an improved and diversified livelihood base and benefit from income generated from sustainable land management. Secondly, affected populations’ socio-economic and environmental vulnerability to climate change, climate vulnerability and drought is reduced. Other strategic objectives target the improvement of ecosystems conditions, the generation of global benefits and mobilization of national and international support. Clearly, progress on these fronts would go a long way to secure the human rights of the one billion poor living in the drylands.

III.2 Human rights- based approach integrated in operational objectives

It is important to realize that the new emerging patterns of DLDD are no longer confined to the margins of hyper arid areas of dry ecosystems. More recent research unveils that patches of land degradation and desertification appear in patches here and there, a bit as skin disease, spreading also in the sub-humid and more humid climatic zones around spots of overexploitation and population encroachments. In other words, degradation of environmental conditions impacts also the food baskets and traditional areas for agricultural productivity. Henceforth, prevention of DLDD and not rehabilitation of affected areas has come to claim a fierce urgency. A more systematic entitlement approach should be particularly helpful in enabling a greater focus on the preventive action to combat DLDD.

At a time when the UNCCD process moves further towards concrete implementation, the rights-based approach to desertification and DLDD issued from human rights legal framework can trigger the development of national normative frameworks and tools whose enforcement and usage can be monitored through the 10-year strategic plan of the Convention.

Obligations to respect, protect and fulfil

All human rights impose three types or levels of obligations on States parties: the obligations to *respect, protect and to fulfil*. Therefore all Parties to the UNCCD have a duty to respect, protect and fulfil the right to food of all their citizens. This means respecting and protecting appropriate livelihood strategies, and also supporting livelihoods where necessary to fight hunger and realise the right to food. All Governments also have international obligations towards the realisation of the right to food, as outlined in the Special Rapporteur’s report to the Human Rights Council⁴¹. This means that all Governments must support the realization of the right to food in other countries, including for people living in marginalized drylands.

The obligation to *respect* requires that States Parties refrain from interfering directly or indirectly with the enjoyment of the rights in question. This obligation would be violated, for example, if the State arbitrarily deprived an individual of his/her land in a case where the land was the individual's physical means of securing the right to food.

The obligation to *protect* requires State Parties to prevent third parties from interfering in any way with the enjoyment of the rights. Third parties include individuals, corporations and other entities as well as agents acting under their authority. The obligation includes, *inter alia* adopting the necessary and effective legislative and other measures.

The obligation to *fulfil* requires States Parties to adopt the necessary measures directed towards the full realization of the rights. The obligation to *fulfil (facilitate)* means that States must proactively engage in activities intended to strengthen people's access to and utilization of resources and means to ensure their livelihood. It is only when individuals or groups are unable, for reasons beyond their control, to enjoy, for example, the right to adequate food by the means at their disposal, that States have the obligation to *fulfil (provide)* that right directly.

Non-discrimination and equality

The obligation of States Parties to the International Covenant on Economic, Social and Cultural Rights to guarantee that rights are enjoyed without discrimination (art. 2.2), and equally between men and women (art. 3), pervades all Covenant obligations. States Parties should take immediate steps to adopt legislative and other measures to eliminate discriminatory acts or omissions that have the intention or effect of nullifying or impairing the equal enjoyment of the rights, on the grounds listed in article 2.2.

The following recommendations are a human rights-based practical tool addressed to all Parties to the UNCCD as part of the operational objectives for actions to be integrated by the Parties in the combat against desertification and land degradation. States are encouraged to apply these Propositions in their NAPs, in developing their strategies, policies, programmes and activities.

Some of the recommendations below are directly inspired by the FAO Voluntary Guidelines to support the progressive realization of the right to adequate food in the context of national food security, adopted by consensus by member States in November 2004.

III.3 From analysis to action: recommendations related to the Operational Objectives of "The Strategy"

Operational objective n° 1:

- **Advocacy, awareness raising and education:**
To actively influence relevant international, national and local processes and actors in adequately addressing desertification, land degradations and drought/DLDD -related issues.

Recommendations:

1.1 In order to fulfil democratic accountability conditions, States should ensure, in

accordance with their international human rights obligations, that DLDD issues are adequately addressed by policy makers and other political actors, through the mainstreaming of the relevant policy and programme instruments in local, national, and regional procedures and institutions⁴².

1.2. In the context of the periodic reporting procedure, states should report on environmental issues, including desertification as they affect human rights including the right to food and water. Reports relating to national experiences and to particular means for addressing DLDD issue will enable an increase in international, national and regional awareness on the subject⁴³.

1.3. All Governments have a responsibility to create the international conditions that permit the realisation of the rights to food and to water and to reduce poverty in the context of DLDD, notably in impacting on market driven processes.

1.4. As per their external responsibility under article 6 of the UNCCD and the international human rights international standards, developed countries have extra-territorial obligations. These States should ensure that they fully report on policies, plans, programmes and national legislation in accordance with poverty reduction and the combat of DLDD in affected countries.

1.5. Awareness-raising programmes involving NGOs, CSOs and CBOs, as well as local and central authorities, should encourage enhanced community participation in environmental management and empowerment of community-based organisations in relation to decision making. Under the looming and diverse threats of climate change, transparency and participation through the decentralisation of environmental governance are sine qua non conditions to a human rights-based approach.

Operational objective n° 2:

- **Policy framework:**
To support the creation of enabling environments for promoting solutions to combat desertification/land degradation and mitigate the effects of drought.

Recommendations:

2.1. Protection of the right to food, the right to water and the non discrimination principle at national, regional and international levels must be ensured by strengthening judiciaries and by ensuring the justifiability of these rights in a manner that is also inclusive of environment related issues.

2.2. States are invited, in accordance with their domestic legal and policy framework, to include provisions in their domestic law, possibly including constitutional or legislative review that facilitates the progressive realisation of human rights such as the right to life, food and water in the context of combating DLDD

2.3. States should facilitate sustainable, non-discriminatory and secure access and utilization of resources consistent with national and international law and protect the assets that are important for people's livelihoods. States should respect and protect the rights of individuals and communities with respect to resources such as land, water, forest, fisheries and livestock without any discrimination. Where necessary and appropriate, States should carry out land reforms and other policy reforms consistent with their human rights obligations and in accordance with the rules of law in order to secure efficient and equitable access to land and to strengthen pro-poor growth. Special attention may be given to the rights on the commons of

groups such as pastoralists and indigenous people and their relation to natural resources.

2.4. Improving access to productive resources and public investment in rural development is essential for eradicating hunger and poverty in marginal and degraded lands, including drylands facing desertification.

2.5. By developing an enabling framework for sustainable agriculture in rural areas, through investments and public policies that are specifically appropriate to the risks of the drylands, Governments will ensure fulfilment of the positive obligations included in the right to food.

2.6. Bearing in mind that access to water in sufficient quantity and quality for all is fundamental for life and health, States should strive to improve access to, and promote sustainable use of, water resources and their allocation among users giving due regard to efficiency and the satisfaction of basic human needs in an equitable manner that balances the requirement of preserving or restoring the functioning of ecosystems with domestic, industrial and agricultural needs, including safeguarding drinking-water quality ⁴⁵.

2.7. States should take measures to promote and protect the security of land tenure, especially with respect to women, and poor and disadvantaged segments of society, through legislation that protects the full and equal right to own land and other property, including the right to inherit. As appropriate, States should consider establishing legal and other policy mechanisms, consistent with their international human rights obligations and in accordance with the rule of law, that advance land reform to enhance access for the poor and women. Such mechanisms should also promote conservation and sustainable use of land. Special consideration should be given to indigenous communities ⁴⁶.

2.8. States should consider the impact of trade and relevant aspects of international economic relations on the ability of affected countries to combat DLDD adequately ⁴⁷. Under international human rights law, this would mean that Governments can be prohibited from trading practices negatively affecting scarce natural resources from marginalized drylands, where such practices present a clear and imminent threat to the right to food and the right to water of affected populations and local communities.

2.9. Mechanisms for the settlement of conflicts, especially those linked to competition for access to natural resources, should be developed at the national, regional and sub-regional levels to limit the impact of such conflicts on the environment and minimize the push factors of forced resettlement and migration. Similarly, law enforcement mechanisms and conflict resolution systems ought to be promoted in the NAP framework and made more available and accessible.

2.10. International protection of “ecological refugees” or “environmental migrants” is currently as inadequate as the low investment in addressing the root causes of environmental migration. Protection under international law should be instituted for people forced to flee their lands for environmental reasons linked with desertification/land degradation ⁴⁸. The extraterritorial obligation of States is to help “ecological refugees” and ensure that they will be handled with due fairness when arriving from a country where they were forced to leave desertification or the effects of drought.

Operational objective n° 3:

- **Science, technology and knowledge**

To become a global authority on scientific and technical knowledge pertaining to desertification/land degradation and mitigation of the effects of drought

Recommendations:

3.1. States should ensure the coordinated efforts of relevant government ministries, agencies and offices. They could establish national inter-sectoral coordination mechanisms to ensure the concerted, monitoring and evaluation of policies, plans and programmes and their impact on the socio economic status of affected lower income groups. States are encouraged to involve relevant communities in all aspects of planning and execution of activities in these areas ⁴⁹.

3.2. Assessment of compliance in terms of enforcement of UNCCD must, of necessity, be strengthened to evaluate its effectiveness. Studies conducted on this topic at national and international levels can help to ascertain how obligations are discharged under this treaty and how legal measures assists in strengthening sustainable livelihoods and the fight against DLDD.

Operational objective n° 4:

- **Capacity building**

To identify and address capacity-building needs to prevent and reverse desertification/ land degradation and mitigate the effects of drought

Recommendations:

4.1 A human rights-based approach to poverty is about empowerment of the poor. Empowerment occurs through introducing the concept of rights. Capacity building at national level is necessary to introduce a human rights-based approach in policy making related to the fight against DLDD and entitlements that give rise to obligations on the part of others should be covered by law.

4.2. Access to justice for victims of violations of human rights in relation to DLDD is central to the protection of these rights. Protection of the right to food, the right to water and the non discrimination principle at national, regional and international levels must be ensured by strengthening judiciaries and by ensuring the justifiability of these rights. Protection of human rights in relation to DLDD must be encouraged by a far reaching network of information on the entitlement regime at country level.

4.3. Systems must be developed to secure the rights of internally displaced persons; those individuals who have been forced to flee their homes suddenly or unexpectedly in large numbers, as a result of natural disasters, DLDD and other suggested categories such as those relocated by development projects or by economic and environmental causes should be given adequate recognition.

4.4. Governments need to recognise and strengthen local rights, which are vital for promoting farmer investment. Maintaining mobility and freedom of movement for livestock is key to managing semi-arid grazing lands. Land rights are central. Formulating pastoral charters, which lay out rights of access to water, grazing and passage for herding communities can be an adequate approach to the recognition of local rights.

4.5. Extension training programmes involving NGOs, CSOs and CBOs as well as local and central authorities should encourage enhanced community participation in environmental management and empowerment of community-based organisations in related decision -making. Under the looming and diverse threats of climate change transparency and participation through the decentralisation of environmental governance are sine qua non conditions to a human rights-based approach.

4.6. Effective decentralization and ownership of initiatives for natural resource management, while respecting cultural specificities, should go hand in hand with strengthening the capacity of right-holders for the formulation, execution and evaluation of integrated local area development programmes.

4.7. If the local population is to participate meaningfully in the fight against desertification and land degradation, they must be free to organise without restriction (freedom of association), to meet without impediment (freedom of assembly), and to say what they want without intimidation (freedom of expression); they must know the relevant facts (right to information) and they must enjoy an elementary level of economic security and well-being (right to a reasonable standard of living and associated rights). The enjoyment of the right to participate is therefore dependent on the realisation of other human rights.

4.8. States should ensure that relevant institutions provide for full and transparent participation of the civil society and the private sector, in particular representatives of the groups most affected by DLDD and food insecurity⁵⁰.

Operational objective n° 5:

- **Financing and technology transfer.**

To mobilize and improve the targeting and coordination of national, bilateral and multilateral financial and technological resources in order to increase their impact and effectiveness.

Recommendations:

5.1. States should implement and expand outreach of information through information systems, by way of immediate and easy access. A compilation outlining the human rights mechanisms available at the national level is proposed, to ensure and facilitate access to information and possibilities of access to justice related to human rights issues. Understanding and knowledge of the rights should be made available to the beneficiary population through web-based communication systems and other supporting facilities.

5.2. Governments should protect people's access to resources such as land and water, as well as improved investment in the dryland to enhance people's access to more productive resources, including access to land, fertiliser, credit, water for irrigation and appropriate technologies for dryland regions and peoples.

5.3. States should support traditional knowledge and traditional technology. Rights to remuneration and support for the use of traditional knowledge whose usage has benefits for climate change mitigation and adaptation must be developed. Local communities have the power to foster adaptation and mitigation to climate change and fight DLDD, and they should be entitled to appropriate support and credit.

5.4. Investment in appropriate, small-scale irrigation and water management technologies must be a central part of strategies for reducing vulnerability to drought and must be a central part of strategies to realize rights to food and to water.

ENDNOTES

1. The 1994 Draft Declaration of Principles on Human Rights and the Environment is available online: <http://cesr.org/draftdeclarationenvironment?PHPSESSID=91...a78f9969da61bd9>
2. Article 1(a) of the UNCCD; United Nation's Convention to Combat Desertification states: desertification means land degradation arid, semi-arid and dry sub-humid areas resulting from various factors, including climatic variation and human activities. Article 1(f) defines "land degradation" as the reduction or loss of the biological or economic productivity of rain-fed cropland, irrigated cropland, or range pasture, forest and woodland resulting from land uses or from a process or combination of processes arising from human activities and habitation patterns.
3. United Nation Millennium Project, Task Force on Hunger 2003, p.43
4. Brundtland Commission Report, Oxford University Press, 1987
5. In April 2007, the Intergovernmental Panel on Climate Change (IPCC) released a report arguing that the world's poor and hungry will suffer most from global climate change: "Poor communities can be especially vulnerable, in particular those concentrated in high-risk areas. They tend to have more limited adaptive capacities, and are more dependent on climate-sensitive resources such as local water and food supplies (IPCC 2007: 9)." : "Working Group II Contribution to the Intergovernmental Panel on Climate Change, Fourth Assessment Report Climate Change 2007: Climate Change Impacts, Adaptation and Vulnerability, Summary for Policymakers, 6 April 2007 <http://www.ipcc.ch/SPM6avr07.pdf>
6. Third Assessment Report (TAR) of the IPCC, 2001
7. PARRY et al, "Climate change and world food security: a new assessment.", Global Environmental Change 9, S51-S67, 1999
8. Third Assessment Report (TAR) of the IPCC, 2001
9. Fourth Assessment Report, IPCC, SPM, 2007
10. <http://www.un.org/apps/news/story.asp?NewsID=21448&Cr=climate&Cr1>
11. Decision 2/COP.6
12. UNEP; Africa Environment Outlook 2: Our Environment, Our Wealth, 2006.
13. Environmental refugees can be defined as persons who have no choice but to leave their habitats for their very survival because of natural and human-induced ecological disasters and environmental change; or those who are internally displaced or who are compelled to cross borders as a result of harmful development plans, government ecocide, and due to the government's rehabilitation or resettlement plans which discriminate against specific groups.
14. LEIGHTON M. and al "Contribution to the Environment and Security Debate: NHI'S U.S.-Mexico Case Study on Desertification and Migration, Environmental Change and Security" Project Report, Woodrow Wilson Center, Washington, D.C., 1997
15. E/CN.4/2002/95/Add.1, 5 February 2002.
16. Alive, Policy Options Paper: Community Based Drought Management for the Pastoral Livestock Sector in Sub-Saharan Africa.
17. Declaration of the United Nations Conference on the Human Environment, Stockholm, 1972
18. Sub-Commission on Prevention of Discrimination and Protection of Minorities, Final report prepared by Mrs. Fatma Zohra Ksentini, Special Rapporteur, E/CN.4/Sub.2/1994/9, 6 July 1994.
19. Meeting of Experts on Human Rights and the Environment, 14-15 January 2002, Conclusions, at : www.unhchr.ch/environment/conclusions.html
20. Convention on Access to Information, Public Participation in decision making and access to justice in environmental matters, done at Aarhus, Denmark, on 25 June 1998, <http://www.unece.org/env/pp/>
21. See Ibidem.

22. Decision 8/COP, Annexe. President's Summary, Ministerial and High-Level Interactive Dialogue Sessions, Monday and Tuesday, 8-9 October 2001.
23. TOULMIN C., "If you want to get a job done, you need the right tools. Next steps for the UN Convention to Combat Desertification", in International Institute for Environment and Development (IIED), Sustainable Development Opinion, 2006.
24. See *ibidem*.
25. See Chapter 12, Agenda 21
26. UNCCD; The United Nations Convention to Combat Desertification, June 1994, Prologue
27. E/C.12/2002/11
28. See paras. 5 and 32 of the Committee's General Comment No. 6 on the economic, social and cultural rights of older persons, CESCR General comment 6, 1995
29. Committee's General Comment No. 14 on the right to the highest attainable standard of health, paragraphs 11, 12 (a), (b) and (d), 15, 34, 36, 40, 43 and 51, 2000, (E/C.12/2000/4)
30. Committee's General Comment No. 4 on The right to adequate housing, paras. 8 (b), (Art.11 (1)) : 13/12/91. ,CESCR General comment 4, 1991. See also the report by Commission on Human Rights' Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, Mr. Miloon Kothari (E.CN.4/2002/59), submitted in accordance with Commission resolution 2001/28 of 20 April 2001. In relation to the right to adequate food, see the report by the Special Rapporteur of the Commission on the right to food, Mr. Jean Ziegler (E/CN.4/2002/58), submitted in accordance with Commission resolution 2001/25 of 20 April 2001.
31. HRI/GEN/1/Rev.4, Compilation of General Comments and General Recommendations adopted by Human Rights Treaty Bodies, p. 86, para. 5, 2000
32. Article 25 of the Universal Declaration of Human Rights, Article 11 of the ICESCR
33. Voluntary Guidelines to support the progressive realisation of the right to adequate food in the context of national food security, FAO, Rome, 2005, available at <ftp://ftp.fao.org/docrep/fao/meeting/009/y9825e/y9825e00.pdf>
34. E/C.12/1999/5, para. 6
35. E/C.12/2002/11, para. 2
36. E/CN.4/2006/44
37. CESCR, "General Comment No. 12: The Right to Adequate Food" (E/C.12/1999/5)
38. Limburg Principles on the Implementation of the ICESCR, E/CN.4/1987/17, Annex, para. 37-38
39. UNCCD, article 3(a) and 5(d)
40. Decision 3/COP.8
41. E/CN.4/2006/44
42. A crucial contribution of the human rights approach is the emphasis it places on the accountability of policy-makers and other actors whose actions have an impact on the rights of people. Rights imply duties, and duties demand accountability. It is, therefore, an intrinsic feature of the human rights approach that any poverty reduction strategy should build into it institutions and legal/ administrative provisions for ensuring democratic accountability The Office of the High Commissioner for Human Rights, Human Rights, Poverty Reduction and Sustainable Development: Health, Food and Water, Background Paper, World Summit on Sustainable Development, Johannesburg, 26 August - 4 September, 2002, p.5.
43. For example the CRC in a number of its concluding observations noted "the negative impact of desertification and drought that, by causing an accelerated and uncontrolled exodus from rural areas, increases the level of poverty and the dismantling of family structures".
44. Voluntary Guidelines to support the progressive realisation of the right to adequate food in the context of national food security, Guideline 8.1
45. Voluntary Guidelines to support the progressive realisation of the right to adequate food in the context of national food security, Guideline 8.11

46. Voluntary Guidelines to support the progressive realisation of the right to adequate food in the context of national food security, Guideline 8.10
47. Prologue and article 4 (2,b)
48. In its 2007 resolution on the right to food, the General Assembly “*Recognizes* the need to strengthen national commitment as well as international assistance, upon request and in cooperation with affected countries, towards a better realization and protection of the right to food, and in particular to develop national protection mechanisms for people forced to leave their homes and land because of hunger and natural disasters or man made disasters affecting the enjoyment of the right to food” (para. 13).
49. Voluntary Guidelines to support the progressive realisation of the right to adequate food in the context of national food security, Guideline 5.2
50. Voluntary Guidelines to support the progressive realisation of the right to adequate food in the context of national food security, Guideline 5.4 and UNCCD article 19.1.a



United Nations
Convention to Combat Desertification