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GLOBAL REPORT LAUNCH

Environmental Rule of Law:

Tracking Progress and Charting
Future Directions

12 MARCH 2024 | 10:00 - 11:30 CET | IEH 1 & ONLINE

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READ THE REPORT

<https://www.unep.org/resources/publication/environmental-rule-law-tracking-progress-and-charting-future-directions>



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WELCOME

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GLOBAL REPORT LAUNCH

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Yves LADOR

Representative of Earthjustice to the
United Nations in Geneva | Moderator



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SPEAKERS

By order of intervention.



Arnold KREILHUBER



Director, Europe Office, UN Environment Programme



Ana María SUÁREZ FRANCO



Accountability Coordinator & Representative in Geneva, FIAN International



Nambitha DAMBUZA



Judge, Supreme Court of Appeal, South Africa



H.E. Amb. Carlos SORRETA



Permanent Representative of the Philippines to the UN and other international organizations in Geneva



Lydia SLOBODIAN



Director, Environmental Law and Policy Program, Georgetown University



David BOYD



UN Special Rapporteur on human rights and the environment



H.E. Amb. Toleafoa Nella TAVITA-LEVY



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Moderated by Yves LADOR, Representative of Earthjustice to the United Nations in Geneva

Opening

- **Arnold KREILHUBER** | Director, Europe Office, UN Environment Programme

Panel Discussion

I. Cross-cutting Issues

- **Lydia SLOBODIAN** | Director, Environmental Law and Policy Program, Georgetown University
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Lydia SLOBODIAN

Director, Environmental Law and Policy Program, Georgetown University



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Environmental Rule of Law: Cross-Cutting Themes

Lydia Slobodian
Georgetown Law



**ENVIRONMENTAL LAW
& POLICY PROGRAM**
GEORGETOWN LAW

Environmental Rule of Law:
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COVID-19

- Unprecedented social and economic impact
 - Decrease in GHG emissions and ocean noise
 - Increase in plastic pollution including single-use medical supplies
 - Economic downturn increased pressure on natural resources
- Disproportionate health impact on certain communities



COVID-19 and EROL

- Some countries adopted new laws...others relaxed regulations and enforcement
- Limited opportunities for civic engagement and access to justice ...innovation in virtual engagement and judicial proceedings



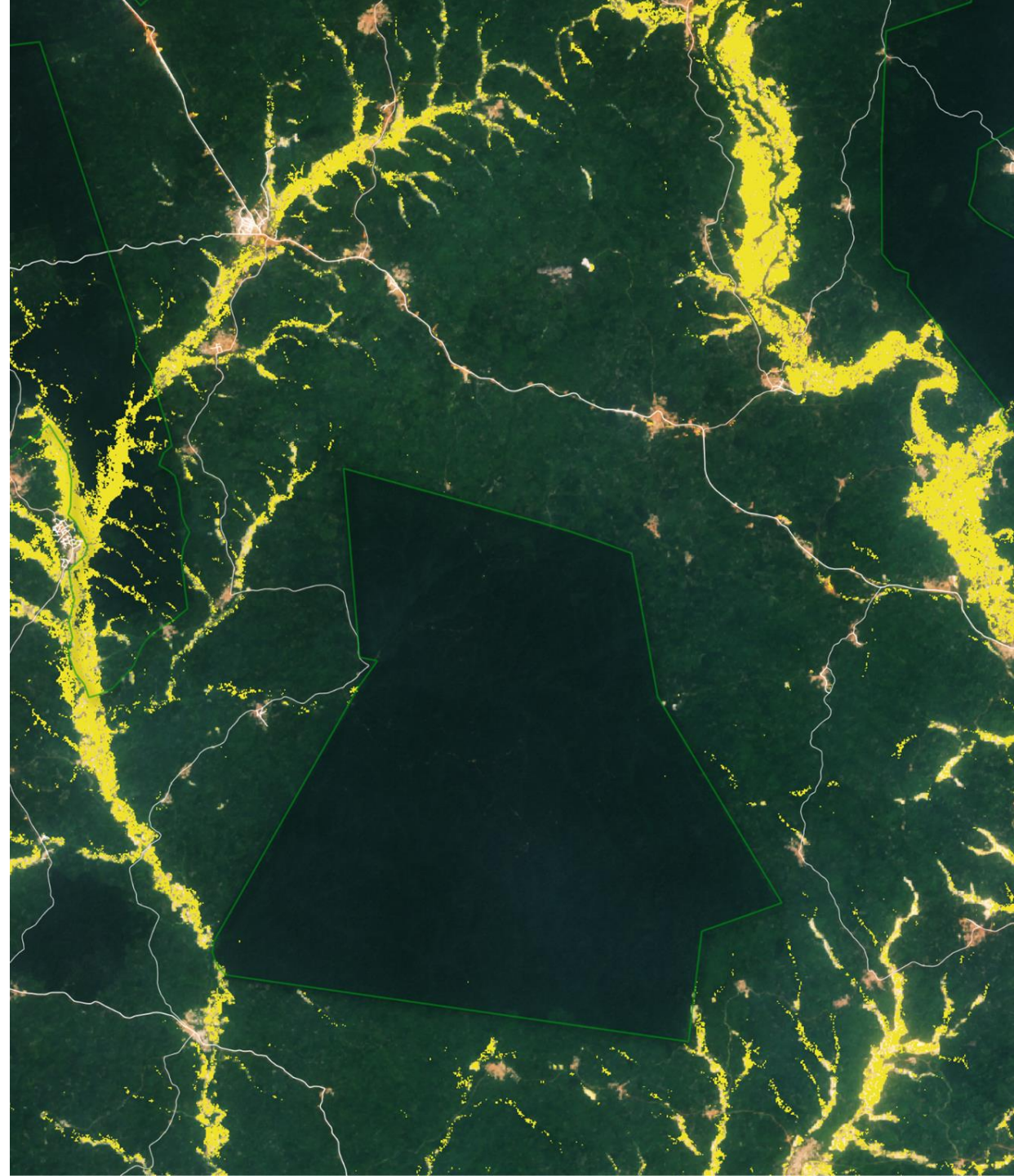
COVID-19: Build back better

- Investment in EROL = investment in health
 - Was this pandemic related to illegal wildlife trade? Uncertain.
 - Is there a link between environmental degradation and human health? Yes.
- Opportunity to build more inclusive and accessible systems and processes



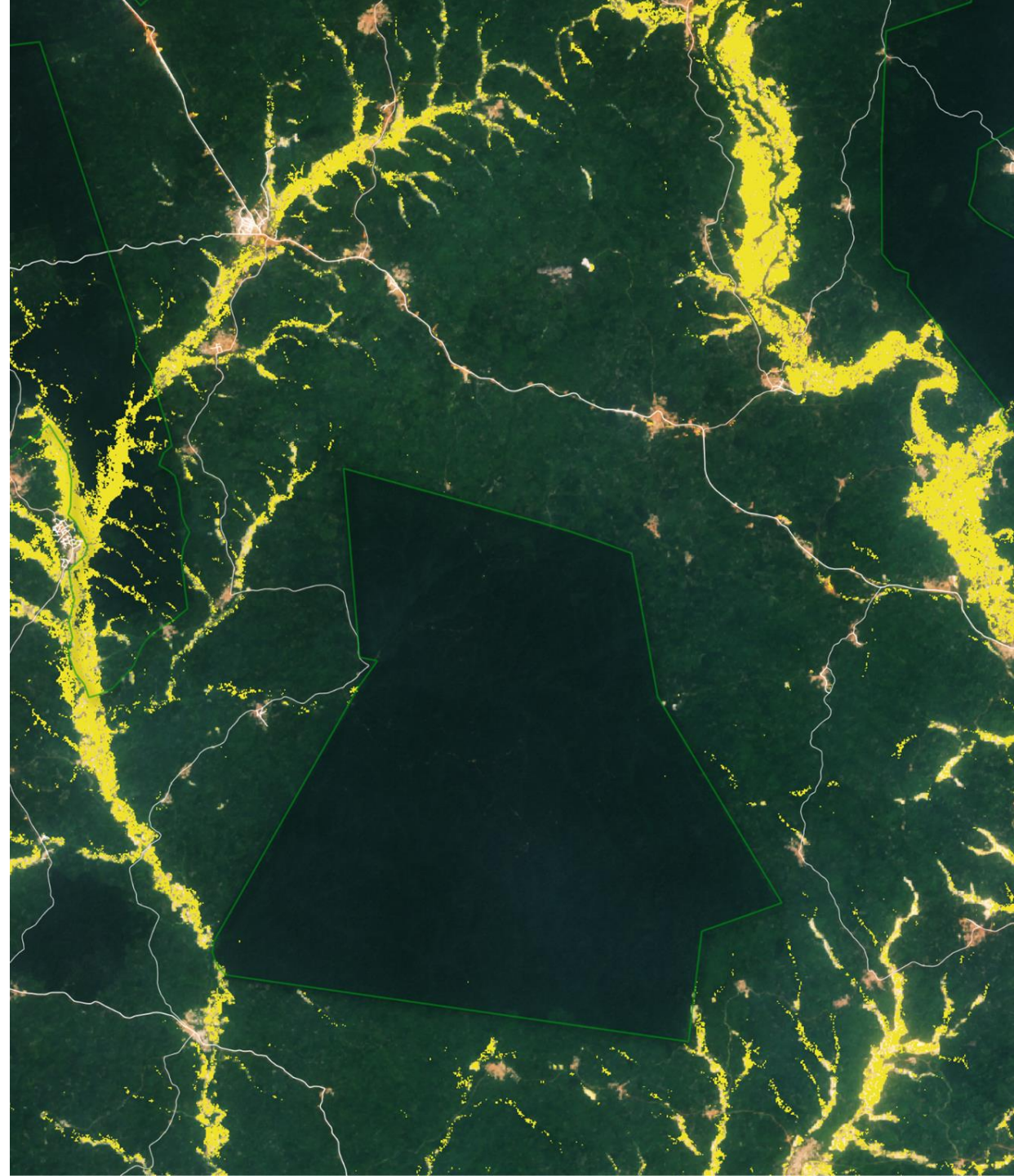
Technology and EROL

- Technology in monitoring and enforcement
 - Satellite imagery in detecting illegal activity
 - Machine learning and AI
- Technology and citizen engagement
 - Virtual engagement and judicial proceedings
 - Social media in organizing
 - Citizen science as engagement tool
- Technology in drafting and interpreting law



Technology considerations

- Garbage in, garbage out
 - Danger of bias in monitoring and enforcement
 - Reliance on incorrect or misleading information
- Growing digital divide
- Privacy and rights concerns
- Digital security and malicious use



Social justice and EROL

- “I can’t breathe”
 - Disproportionate environmental impacts on racial minorities and disadvantaged social groups
 - Cumulative impacts and sacrifice zones
 - Social and racial justice movements around the world made the connection to environmental justice
- Environmental rights and human rights
 - Rights of environmental defenders
 - Race and environmental enforcement



Social justice and EROL

- Social justice leaders at the forefront of civic engagement and lawmaking
 - Diversity and inclusion in institutions
 - Women, indigenous people, racial minorities and youth as environmental champions



Climate change

- Increase in awareness, concern and civic engagement
- At least 34 countries have declared climate emergencies
- Over 2,300 climate change cases filed in 55 countries
 - Human rights approach to climate litigation
 - Connection to future generations and current youth
- UN resolutions on climate change and human rights



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Judgment Citations

Ivory Coast Toxic Waste disaster

African Regional Bodies · African Union (AU)

LIDHO and Others v Republic of Cote d'Ivoire (Application 041/2016) [2023] AfCHPR 21 (5 September 2023)

decision of the **African Court on Human and Peoples' Rights**:

- The Court recalls, in accordance with its constant jurisprudence, that “it does not have appellate jurisdiction to receive and consider appeals in respect of cases already decided upon by domestic courts (...)”.¹⁵ However, “this does not preclude it from examining relevant proceedings in the national courts in order to determine whether they are in accordance with the standards set out in the Charter or any other human rights instruments ratified by the State concerned.”
- The court affirmed the regional conventions –Algiers Convention & the African Charter of human rights, Bamako Convention – under which states hav undertaken not to import toxic waste.

- a load of highly toxic waste, off loaded in Abidjan, Ivory Coast in 2006 - dumped in various sites around Abidjan resulting in the death of 17 people from toxic gas inhalations, the health of an estimated 100 000 others were affected to various degrees, & groundwater contamination:
- Court ordered legislative reforms to be implemented within a year to enforce a ban on importation and dumping of toxic waste – in accordance with international conventions. (Still a rights based decision).
- should toxic waste enter a country the state has an obligation to limit and repair harmful effect on human life.
- Trafigura's waste was in port and authorised the company to unload its cargo on condition that it found an outfit to treat the waste. According to the court, this authorisation amounted to a breach of the obligation not to infringe the prohibition on the import of hazardous waste contained in the Bamako Convention. Ivory Coast had an obligation to 'prevent the dumping of the toxic waste, but failed to do so,' the court found. Disaster.
- Ivory Coast was ordered to establish, in consultation with the victims, a compensation fund from the amounts paid by Trifigura, topped up by the government of Ivory Coast.
- Ivory coast to also set up an independent and impartial investigation into the 'alleged facts' to establish the criminal and individual liability of the perpetrators – and then prosecute them.

Seychelles

Ministry of Environment, Energy and Climate Change & Others v Woodlands Holdings Limited & Anor (SCA CL 01/2023) [2023] (Arising in CP 04/2021) ((SCA CL 01/2023) [2023] (Arising in CP 04/2021)) [2023] SCCA 57 (18 December 2023)

- The obligation entrenched in Article 38 of the Constitution extends to the State taking executive, legislative and administrative measures in ensuring that private citizens do not pollute the environment. The State is under an obligation to take steps to clean up pollution caused to public places such as rivers and beaches. **The State may in certain instances be liable to its citizens in damages where it fails to do so.** The Supreme Court is directed to determine the claim of the Respondents in accordance with the answers given by this Court and upon a consideration of the evidence that may be led before it by the parties.
- **None of the myriad of other fundamental rights, including civil and political rights, can be meaningfully exercised by a human being in the absence of a clean and healthy environment which can sustain life.** ‘A clean and healthy environment is a sine qua non for the meaningful expression of any other fundamental right or human right.
- In this case, **the law should be read to say that where there was pollution, the ministry ‘shall’ take the measures necessary** to deal with it, as this would make the law congruent with the constitution. This in turn meant that the Article 38 obligation ‘extends to the state taking measures to prevent private citizens polluting the environment’.

Kenya

The Law Society of Kenya v Attorney General and Others ELC Petition No E001 of 2023

- Provisional Interdict granted against the government's lifting of a 2018 moratorium on logging.
- Court finding that there had been no public participation in the decision to lift logging.
- Government ordered to comply with orders issued 3 months prior to judgment date. A task force report on forest resource management to be upheld and implemented by government for protection of the environment.

South Africa

- ***Sustaining the Wild Coast NPC & Ors v Minister of Mineral Resources and Energy & Ors*** (2021): An oil exploration seismic survey by Shell & Impact Africa – court found there had been no meaningful consultation with various interest groups; also there was reasonable apprehension of irreparable harm – being adverse climate change impact – which was inconsistent with SA’s commitments at the 2021 COP 26 – to move away from hydrocarbon based energy towards climate change friendly renewables.
- ***SDCEA & Groundwork v Min of Forestry, Fisheries, and the Environment (filed in 2021)***: challenge to Environmental authorization of a 3000MW gas-fired power plant on the basis of ‘inadequate climate impact assessment’ – failure to account for ‘full life cycle emissions of natural gas – and non-consideration of alternatives such as renewables.
- ***for the Time being of the Groundwork Trust v Minister of Trustees Environmental Affairs, KiPower (Pty) Ltd & Others (filed in 2017)***: challenge to approval of development of a 600MW coal-fired power station without consideration of climate change impacts thereof. (In 2022 it turned out that the environmental authorization had expired).

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PHILIPPINE MISSION
TO THE UNITED NATIONS
GENEVA, SWITZERLAND

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- **Ana María SUÁREZ FRANCO** | Accountability Coordinator & Representative in Geneva, FIAN International
- **David BOYD** | UN Special Rapporteur on human rights and the environment

II. Judiciary and Increase in Litigation

- **Nambitha DAMBUZA** | Judge, Supreme Court of Appeal, South Africa
- **H.E. Amb. Toleafoa Nella TAVITA-LEVY** | Permanent Representative of Samoa to the UN and other international organizations in Geneva
- **H.E. Amb. Carlos SORRETA** | Permanent Representative of the Philippines to the UN and other international organizations in Geneva

Open Discussion

Closing

GLOBAL REPORT LAUNCH

Environmental Rule of Law:

Tracking Progress and Charting
Future Directions



12 MARCH 2024 | 10:00 - 11:30 CET
IEH 1 & ONLINE

>>> tiny.cc/GEN12Mar24EROL

AGENDA

Moderated by Yves LADOR, Representative of Earthjustice to the United Nations in Geneva

Opening

- Arnold KREILHUBER | Director, Europe Office, UN Environment Programme

Panel Discussion

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CLOSING

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THANK YOU!



Arnold KREILHUBER



Director, Europe Office, UN Environment Programme



Ana María SUÁREZ FRANCO



Accountability Coordinator & Representative in Geneva, FIAN International



Nambitha DAMBUZA



Judge, Supreme Court of Appeal, South Africa



H.E. Amb. Carlos SORRETA



Permanent Representative of the Philippines to the UN and other international organizations in Geneva



Lydia SLOBODIAN



Director, Environmental Law and Policy Program, Georgetown University



David BOYD



UN Special Rapporteur on human rights and the environment



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Yves LADOR



Representative of Earthjustice to the United Nations in Geneva | Moderator





ENVIRONMENTAL RULE OF LAW AND THE ROLE OF ACCESS TO JUSTICE IN DELIVERING ON SDGS 16 AND 13 | RFSD 2024

14 MARCH 2024 | 8:30 - 9:45 CET | ONLINE

>>> tiny.cc/GEN14Mar24RFSD

ENVIRONMENT @ 55TH SESSION OF THE UN HUMAN RIGHTS COUNCIL

Right to Healthy Environment,
Climate Change, Human
Rights Defenders, Right to
Food, Right to Science & more
on the agenda

>>> tiny.cc/HRC55Environment





ENVIRONMENT @ REGIONAL FORUM

ON SUSTAINABLE DEVELOPMENT FOR THE UNECE REGION





VIRTUAL

Policy Coherence for Sustainable Development a Must for the Six Transitions to Succeed Between Now and 2030 | RFSD 2024

12 MAR 2024 14:30 - 15:45
Online | Webex
UNECE, UNEP Europe Office, OECD, UN EMG

SDG13 | SDG16 | SDG17



REGIONAL FORUM
ON SUSTAINABLE DEVELOPMENT FOR THE UNECE REGION

13 Solving the Rubik's cube of the planetary crisis: lining up policy solutions for climate risks and biodiversity loss

Wednesday 13 March 2024, 15:00 - 18:00
Palais des Nations, Room XIX


CONFERENCE

Solving the Rubik's Cube of the Planetary Crisis: Lining Up Policy Solutions for Climate Risks and Biodiversity Loss | RFSD 2024

13 MAR 2024 15:00 - 18:00
Palais des Nations | Room XIX & Online | UN TV
UNECE, UNEP Europe Office, WMO, UNDRR, UNICEF, UNECE, UNESCO

Chemicals and Pollution | Climate | Nature | Eco-Humanitarian

SDG13



VIRTUAL

Environmental Rule of Law and the Role of Access to Justice in Delivering on SDGs 16 and 13 | RFSD 2024

14 MAR 2024 08:30 - 09:45
Online | Webex
UNEP Europe Office, UNECE, Aarhus Convention, UNDP Geneva, GEN

Human Rights and Environment | Climate

SDG13 | SDG16

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Environmental Rule of Law:

Tracking Progress and Charting
Future Directions