

## **Call for Inputs – Oceans and Human Rights**

**Issued by: Special Rapporteur on the human right to a healthy environment**

*November 19, 2024*

1. Franciscans International, the Anglican Communion and the Centre for Energy, Ecology and Development (CEED) wish to submit input to the Special Rapporteur on the human right to a healthy environment for her upcoming report on “Oceans and Human Rights” to the 58th Session of the Human Rights Council in 2025.
2. The input is divided into two separate sections. The first section focuses on the implications on the environment and on coastal communities of Liquefied Natural Gas (LNG) expansion in the Verde Island Passage in the Philippines. The second section focuses on the implications on low-lying coastal communities of rising sea levels in the Solomon Islands, Tonga and the Cook Islands, and on community-based conservation initiatives aimed at realising the rights to food, water and adequate housing.
3. Recommendations, good practices and elements of the right to a clean, healthy and sustainable environment are underlined throughout the text, under the key questions posed in the call for inputs. Franciscans International wishes to acknowledge the invaluable contributions of the Centre for Energy, Ecology and Development (CEED) to the section on the Philippines, and of the Anglican Communion to the section on the Solomon Islands, Tonga and the Cook Islands.

### **Section 1 - Verde Island Passage (VIP) - Philippines**

#### **Context**

4. The Verde Island Passage (VIP) is a marine strait located between the islands of Luzon and Mindoro in the Philippines. Also known as the “Amazon of the Oceans” due to its location at the heart of the “Coral Triangle,” the VIP is known for its rich marine biodiversity, containing over 300 species of coral and 60% of all shore fish species in the world within a 10 km region. The VIP has been designated as a “Hope Spot” by the international ocean conservation charity Mission Blue, which conducts scientific studies to identify areas that are of critical importance to the health of the oceans.<sup>1</sup>
5. The VIP is an important maritime trade route and shipping lane between Manila, Visayas and Mindanao. On the 28<sup>th</sup> of February 2023, the MT Princess Empress, an oil tanker, sank to the East of Mindoro Island spilling 900,000 litres of industrial oil into the ocean. The incident had a devastating impact on the biodiversity of the VIP impacting 20,000 hectares of coral reefs, 9,900 hectares of mangroves and 6,000 hectares of seagrass in four provinces over more than 50 square kilometers<sup>2</sup>, and led to the authorities temporarily banning fishing, devastating livelihoods across the region and increasing food insecurity.
6. Communities, faith-based organisations and civil society had been raising the alarm around the excessive commercialisation of the VIP well before the 2023 oil spill, in particular the choice of Batangas as the centre of fossil gas and liquefied natural gas (LNG) expansion in the Philippines. Five out of six existing fossil gas facilities and 10 out of 35 gas power plants are located in Batangas, and two LNG import terminals are in operation, with three more in the pipeline.<sup>3</sup>

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<sup>1</sup> Mission Blue, available at: [Verde Island Passage Hope Spot](#)

<sup>2</sup> Earth Insight, October 2024, available at: [Coral Triangle at Risk: Fossil Fuel Threats & Impacts | Earth Insight](#)

<sup>3</sup> Rappler, May 8 2024, available at: [Tycoons’ massive LNG facility and the Verde Island Passage: What’s it all about?](#)

## Key questions

### 1. Effective measures, policies, and laws, for the protection, conservation, and restoration of oceans that incorporate a human rights approach

#### *International laws*

7. The Government of the Philippines has ratified key Multilateral Environmental Agreements (MEAs). It is a state party to the UN Convention on the Law of the Seas (UNCLOS) which was signed on 10<sup>th</sup> December 1982 and entered into force on 16 November 1994. In addition, the Government of the Philippines is also committed to implementing the Rio Declaration and Agenda 21. The implementation of MEAs is done through the Department of Energy and Natural Resources (DENR). This practice takes advantage of DENR's specialised knowledge of the topics mentioned in the MEAs.<sup>4</sup>

#### *National laws*

8. At the national level, the Government of the Philippines has adopted several environmental legislations. In 2007, the Government adopted The Oil Pollution Compensation Act which gives the State the ability to impose strict liability for oil pollution damage and provides for adequate and prompt compensation for affected persons. The owner of a ship is liable for: clean-up operations, loss of earnings due to contamination, pure economic or earning loss due to the incident, damage to human lives or health, and environmental damages. Despite the lack of clear reference on human rights, Section 6 on Liability for Pollution Damage of the Act makes a specific reference on “damage to human health or loss of life as a direction result of the incident, including expenses for rehabilitation and recuperation”.<sup>5</sup>
9. With regard to Verde Island Passage, in 2009, the DENR issued The Verde Island Passage Marine Corridor Management Plan (The Verde Framework)<sup>6</sup> The framework covers the conservation and development of the VIP and bordering provinces. The Guiding Principles of the Framework provide for Precautionary Principles: “The VIP Marine Corridor (VIPMC) management plan shall provide for actions and programs in anticipation of these serious or irreversible harm, as well as to identify and reduce the impact of the cause of the damage.”<sup>7</sup> As one the six key substantive elements of the right to a clean, healthy and sustainable environment, healthy biodiversity and ecosystems are also central to the fulfilment of human rights. They are considered as one of the critical issues in the VIPMC: “Among the anthropogenic causes identified in the VIPMC are what can be considered as extractive in nature: coral gathering, illegal transport of corals, mangrove destruction, destructive collection/practice in fishing, and by-catch of threatened marine species.”<sup>8</sup>
10. Another substantive element of the right to a healthy environment, Public Participation, is also referred to under Participatory governance/participation of all stakeholders in all relevant activities: “The involvement of all stakeholders and interest groups is important if there is to be a consensus around objectives of the management plan. It is significant that the involvement of the people affected by the management of the VIPMC should be from the very beginning and should continue throughout.”<sup>9</sup>

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<sup>4</sup> Centre for Energy, Ecology and Development (CEED), December 2023, available at: [REPORT – LNG, SHIPPING, AND THE AMAZON OF THE OCEANS: Scoping Key Issues and Potential Impacts of the Massive Expansion of LNG in the Verde Island Passage – Center for Energy, Ecology, and Development](#)

<sup>5</sup> Congress of the Republic of the Philippines, Oil Pollution Compensation Act, 2007 (Republic Act No. 9483), available at: [phi74272.pdf](#)

<sup>6</sup> The Verde Framework, Philippines Department of Energy and Natural Resources (DENR), 2009, available at: [VerdeInsideLayoutFArevised\\_Sept '10.indd](#)

<sup>7</sup> Ibid

<sup>8</sup> Ibid

<sup>9</sup> Ibid

11. The Verde framework is based upon international laws that the Philippines has ratified, as well as regional initiatives such as the Sulu-Sulawesi Marine Ecoregion Plan and the Sustainable Development Strategy for Seas of East Asia (SDS-SEA).<sup>10</sup>
12. In response to a petition filed by a coalition of environmental groups, including the Centre for Energy, Ecology and Development (CEED) and the Protect VIP network, in December 2023, the Court of Appeals of the Philippines has mandated DENR to issue appropriate guidelines for identifying “non-attainment areas” or regions where pollution levels in bodies of water are above safe levels.<sup>11</sup> This is the first time that the Government will be mandated to issue such guidelines.<sup>12</sup>

*Designation as National Protected Area and UNESCO World Heritage Site*

13. Despite the existence of the Verde Framework and continuous calls from civil society organizations such as the Protect VIP network<sup>13</sup>, the Government has not adopted any legislation to recognize the VIP as a Protected Area under the Expanded National Integrated Protected Area Systems Act (NIPAS) 1992 (amended in 2018). Such a designation would confer the highest level of protection and ensure conservation funding. At present, there are several bills pending before the Lower and Upper Houses that would confer such a designation.<sup>14</sup>
14. In addition, the Protect VIP network also calls for the recognition of the VIP as a UNESCO World Heritage Site, in order to foster international attention for its preservation, conservation and restoration, and to promote tourism as an additional source of income for local communities.

4. Main challenges for the protection and prevention of damages to the ocean and coastal areas, in relation to the effective implementation of the human right to a clean, healthy and sustainable environment

15. The on-going industrial activities in the area of VIP have adverse impacts on the enjoyment of the rights to a clean, healthy and sustainable environment. Studies produced between 2022-2023 by CEED and Caritas Philippines on the quality and marine ecology of waters along fossil gas power projects, have shown that the presence of key pollutants and heavy metals such as phosphates, chromium, copper lead and others has reached critical levels due to exposure to industrial activities, and that fish biodiversity and fish stocks are lower near project sites.<sup>15</sup>
16. These studies show that the Government of the Philippines fails to fully implement one of the key elements of the right to a clean, healthy and sustainable environment- “Non-toxic environments to live, work, study and play.” The impacts are not only felt on the environment and natural resources, but also on the livelihood and health of the 2 million people that depend on the VIP-.<sup>16</sup> With on-going and further development of LNG terminals, and increased shipping traffic<sup>17</sup>, fishing activities, which are the main source of income of the coastal communities in the region, are affected. The depleted fish and other marine stocks will have devastating impacts for local populations.
17. On 28<sup>th</sup> February 2023, the oil tanker "MT Princess Empress" with 900,000 liters of industrial oil on board sank in this stretch of sea in the VIP and caused a serious environmental disaster.<sup>18</sup> According to the National Disaster Risk Reduction and Management Council (NDRRMC), more than 200,000 people in 3 regions were directly affected. The total estimated damage has been calculated to be around PHP 41.2

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<sup>10</sup> Ibid 4

<sup>11</sup> Inquirer.net, August 12 2024, available at: [CA: DENR failed to fulfill clean water act mandate](#)

<sup>12</sup> Ibid

<sup>13</sup> Protect VIP Network, available at: [ProtectVIP | Protect Verde Island Passage](#)

<sup>14</sup> Ibid 4

<sup>15</sup> Centre for Energy, Ecology and Development (CEED), June 6 2022 (Updated November 2023), available at: [\[New Reports\] Fossil gas: A bane for the environment – Center for Energy, Ecology, and Development](#)

<sup>16</sup> Conservational International Philippines, available at: [Verde Island Passage](#)

<sup>17</sup> Ibid 4

<sup>18</sup> Ibid 4

billion (USD 698 million).<sup>19</sup> The consequences of the oil spill are still being felt and this situation is having a negative impact on fishing and industry, with health risks and also on the economy of local communities, despite the efforts implemented in removing the oil spill.

#### 5. Frameworks, measures, or safeguards of the protection of the right to a healthy environment applicable to projects, plans or initiatives

##### *Local Marine Protected Areas*

18. While the VIP was not declared a nationally protected area under Republic Act No. 7586, or the National Integrated Protected Areas System law, there are 36 locally managed Marine Protected Areas (MPAs) in the VIP regions: 24 in Batangas and 12 in Oriental Mindoro.
19. MPA sites have been found to be effective with regard to their ecological and socioeconomic benefits, in particular for the recovery of fish stocks, the maintenance of coastal water quality, the protection of the shoreline, and enhanced livelihood opportunities through tourism.<sup>20</sup> MPAs also could play an effective role in educating fisherfolk and local communities about environmental preservation and conservation.<sup>21</sup>
20. The MPA Network of Batangas province, spanning 11 municipalities and established as a multistakeholder effort between Local Government Units, Government Agencies and CSOs, is considered a model for the rest of the country.<sup>22</sup> However, as they exist across disparate areas, with financial and capacity restraints, and operate on a small scale, MPAs face considerable restraints in terms of their overall effectiveness.<sup>23</sup>
21. With the plan of the Government of the Philippines to be the LNG Hub in Southeast Asia, the shipping traffic in the VIP is expected to increase significantly. In 2019 Domestic and foreign shipping vessels, both at berth and anchored, totaled 47,427, according to the Batangas Port Management Office (PMO)<sup>24</sup>. Batangas PMO data also showed that over 8 million passengers embarked and disembarked in Batangas ports in the same year.
22. The 36 MPAs are expected to be negatively affected due to the expected swell in maritime traffic and activities. This would exacerbate the effects of industrialisation already felt in the vicinity, which include disturbing marine life and harming ecosystems.

## **Section 2 – Solomon Islands, Tonga, and Cook Islands**

### **Context**

23. Low-lying coastal areas in the Pacific are particularly vulnerable to the impacts of climate change, including rising sea levels. Rising sea levels mean an increased risk of loss of land and increased salinity of water sources. The degradation of marine habitats such as mangroves, river estuaries and coral reefs have a direct impact on coastal livelihoods. Coastal communities or those living on offshore artificial islands are displaced and driven further inland. Across the Solomon Islands, Tonga and Cook Islands, local communities are engaged in creative initiatives aimed at protecting their rights to food, water and adequate housing, through the preservation and conservation of marine environments and coastal areas.

### **Key questions**

#### 1. Effective measures, policies, and laws, for the protection, conservation, and restoration of oceans that incorporate a human rights approach

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<sup>19</sup> Ibid 4

<sup>20</sup> Verde Island Passage Marine Corridor, Provincial Government-Environment and Natural Resources Office Batangas Philippines, November 2023, available at: [ICM Case Studies Book 48 Part III CS46.pdf](#)

<sup>21</sup> Ibid

<sup>22</sup> Ibid

<sup>23</sup> Ibid

<sup>24</sup> Rappler, May 7, 2023, available at <https://www.rappler.com/environment/verde-island-passage-danger-liquefied-natural-gas-projects-flock-batangas-pcij-report/>

### *Periodic national bans on Beche-de-Mer fishing*

24. In the Solomon Islands, the Government has issued a ban through the Ministry of Fisheries on the harvest of all types of Beche-de-Mer (Sea Cucumber). The ban, in effect since 1 September 2022, is aimed at protecting the species from over-exploitation. Beche-de-Mer plays a crucial role in the marine ecosystem. Offenders risk a fine of up to 5 million Solomon Dollars or imprisonment of 2 years, or both, under the “Prohibited Activities (Fishing and Possession of Beche-de-mer) Order 2021”.<sup>25</sup> While the ban has been reasonably effective, there have been reports of illegal harvesting of Beche-de-Mer, fueled primarily by communities affected by the high cost of living and looking to sustain their livelihoods.<sup>26</sup>

### 3. Examples of how human rights related to the oceans have been fulfilled through community management

#### *Community assessment and mapping initiative*

25. In **Tonga**, the Anglican Church’s Diocese of Polynesia implemented the CIVA (Community Integrated Vulnerability Assessment) using QGIS (Quantum Geographic Information System) assessment initiatives, tailoring them to the specific needs of church communities. CIVA integrates surveys and drone footage to map the relative vulnerability of households in communities, assessing homes for their access to food and water, their income security, shelter quality, and their disaster preparedness.

26. This approach ensures that these homes are prioritised for supplies and assistance by churches and government agencies, both before and after disasters. According to the assessments taken, such homes mostly belong to single elderly persons. This work helps to realise the right to food, water and adequate shelter, while taking a proactive approach to protecting human dignity. It is an exercise in community building and helps ingrain a sense of collective ownership and responsibility. The QGIS mapping exercise incorporates a key procedural element of the right to a healthy environment – Access to Information. Through the data they receive, communities develop a better understanding of the risks that they face and effective steps that they can take to mitigate or adapt to changing realities in their surroundings.

27. The CIVA Framework and the QGIS mapping toolkit, part of the Safe and Resilient Church Campaign in Tonga, play a crucial role in building resilience against climate change. It highlights the importance – always known to indigenous communities – of local food supplies, the need to harvest rainwater for sustainable water management, and the urgency of collective, communal action. This work has been so successful that the government of Fiji is now using their mapping data.

#### *Community-led building of sea walls*

28. In the **Solomon Islands**, communities in Auki on Malaita Island have built sea walls to protect against rising sea levels. Funds have been raised within the community through mobilisation campaigns. Funding shortfalls have been met through a project funded by UNDP and executed by the Solomon Islands Government, aimed at helping communities manage climate change-driven pressures on local food production by mapping sea level rise.<sup>27</sup> As one of the six key substantive elements of the right to a clean, healthy and sustainable environment, it is vital that communities on the frontlines of climate change are able to adapt their food cultivation habits and habits to continue to produce healthy and sustainable food.<sup>28</sup> Some of the practical adaptation measures introduced by the project include – climate resilient crop varieties, climate-resilient land-use planning, climate early-warning systems and agriculture food banks.<sup>29</sup>

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<sup>25</sup> Solomon Business Magazine, 10 January 2024, available at: [Fisheries Enforces Strict Beche-de-mer Ban — Solomon Business Magazine](#), Solomon Islands Government, 17 August 2022, available at: [BECHE-DE-MER FISHERY HARVESTING ENDS SEPTEMBER 1 – My SIG Services Portal](#)

<sup>26</sup> Solomon Star, 12 September 2024, available at: [Luapel chiefs urge lifting of beche-de-mer ban – Solomon Star News](#)

<sup>27</sup> UNDP, August 8 2014, available at: [Sea-level rise mapping by United Nations Development Programme - United Nations Development Programme | UNDP - Exposure](#)

<sup>28</sup> Ibid

<sup>29</sup> Ibid

## *Climate observatories*

29. The Anglican Church of Melanesia, in partnership with Melanesian Mission UK, the University of Southampton and the University of New South Wales, has set up Climate Observatories in 12 sites in the Solomon Islands encompassing the islands of Malaita and Guadalcanal. These observatories record temperature, rainfall, high tide level (based on a shoreline measurement) every 24 hours. Set up as a community-based initiative involving local institutions and communities, schools and religious communities, these observatories aim to provide locals with skills in data collection and management to foster an understanding of local climate indicators and of climate change. Trained representatives from the community, known as “Green Apostles”, undertake the task of daily data collection. The information collected is stored and can be used to inform climate policy in the long term. Since the start of the project in 2019, coastal erosion, sea level rise and increased temperatures/variability in temperature have been observed.

## *Community ownership of conservation initiatives*

30. The Ministry of Environment of the Solomon Islands runs a programme wherein local community members are encouraged to convene and agree on policies they will take ownership to implement. This forms a part of overall conservation measures instituted by the Government. An example of such a programme is Anarvon Island, where rangers chosen from local communities, patrol forests and rivers to protect marine life, including fish and turtles against illegal fishing and poaching.

## 4. Main challenges for the protection and prevention of damages to the ocean and coastal areas, in relation to the effective implementation of the human right to a clean, healthy and sustainable environment

31. In the **Solomon Islands**, communities living on artificial islands offshore have borne the biggest brunt of rising sea levels. This is exemplified by the case of communities living off the shores of Walande, on Malaita Island. These communities originally came from the Northern part of the island in order to find fertile areas for fishing. Since they did not have land rights on the mainland, they were unable to settle in the village of Walande and instead constructed settlements offshore on artificial islands. Between 2010-2024, these artificial islands have been completely submerged.<sup>30</sup> These communities have now been forced to migrate to Honiara in search of livelihood. Within the same time period, changes can be noticed on the mainland in Walande village as well, with the disappearance of mangroves. In their absence, local communities had to construct sea walls.<sup>31</sup>

32. Sea level rise also leads to rising levels of salinity in water wells, impinging upon the right to clean water and sanitation. Two examples of this phenomenon are Fanalei Island off mainland Malaita and Auki on the mainland. In the case of Fanalei Island, freshwater no longer exists on the island, forcing local communities to travel to the mainland for freshwater. It is no longer possible to grow crops on the island.

33. A common challenge across the Solomon Islands is the lack of scientific studies measuring water salinity levels. Without accurate data across the islands, it is difficult to get a full picture of the extent of the phenomenon and the number of communities impacted.

## 5. Frameworks, measures, or safeguards of the protection of the right to a healthy environment applicable to projects, plans or initiatives

### *Employing legal counsel in conservation efforts*

34. In the **Cook Islands**, the Government has sought legal counsel in order to be able to utilise the law for the benefit of marine environments. A Marine Protection lawyer was employed during the creation of the Marae Moana Marine Park<sup>32</sup>, a multi-use area extending across the entire Exclusive Economic Zone, an

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<sup>30</sup> Google Earth satellite imagery depicting rising sea levels near Walande village, Malaita Island, Solomon Islands, between 2010-2024, available at: [Google Earth](#)

<sup>31</sup> Ibid

<sup>32</sup> Marae Moana, available at: [What is Marae Moana? - Marae Moana](#)

area of 1.9 million square kilometres. This represents the largest commitment by a country for integrated management and conservation from ridge to reef and from reef to ocean.<sup>33</sup> Taking legal counsel has enabled conservation efforts to be embedded within existing national and international law frameworks. Anchoring conservation efforts within legal frameworks also provides affected communities with legal avenues in cases of violations of one or more of the substantive elements to the right to a healthy environment. Marae Moana Marine Park is a multi-stakeholder initiative, with the Prime Minister, the leader of the Opposition, traditional Chief leaders, representatives from the Norther and Southern Cook Islands and private, religious and CSO actors all being part of the Governing Council. This approach has helped curb decisions taken with short-term financial gain in mind and has fostered democratic decision-making and a sense of communal ownership.

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<sup>33</sup> Ibid