



UNIVERSAL RIGHTS GROUP

# **REPORT OF FIRST REGIONAL CONSULTATION WITH ENVIRONMENTAL HUMAN RIGHTS DEFENDERS (EHRDs)**

AFRICAN AND EUROPEAN REGIONS

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## I. Introduction

1. This report summarises the outcomes of a meeting convened by the Universal Rights Group (URG) on the issue of environmental human rights defenders (EHRDs) in collaborations with various partner organisations and individuals (see Appendix 1 for the participation list). The meeting took place on 12-13 March 2014 in Geneva, Switzerland at the regional offices of the United Nations Environment Programme (UNEP) and was one of a series of regional meetings that URG is planning for 2014.
2. The objectives of the meeting were: 1) to understand the particular human rights situation of EHRDs and the inter-related challenges they face in asserting their human rights and protecting their natural environment and health; 2) to provide a platform for environmental human rights defenders to share their experiences with each other and with organisations that can help protect their human rights; 3) to identify the existing projects, mechanisms, good practices, and other initiatives globally that can assist EHRDs to protect their human rights; 4) to identify and coordinate actions to support EHRDs moving ahead with a group of interested collaborating partners; 5) and identify any other outcomes recommended by the participants. With respect to good practices, the outcomes informed a joint project by the Office of the High Commissioner for Human Rights (OHCHR), UNEP and the United Nations Independent Expert on human rights and the environment identifying and disseminating good practices related to human rights and the environment. The good practices identified during the meeting will be included in a separate report as part of the OHCHR/UNEP/Independent Expert project.
3. The meeting was attended by 50 people, including 19 EHRDs from Liberia, Uganda, Tanzania, Kenya, DRC, Cameroon, Nigeria, Ukraine, South Africa and Sweden, plus assembled experts from organisations, including Human Rights Watch, WWF International, Global Witness, International Service for Human Rights, Amnesty International, Earthjustice, Center for International Environmental Law, Synchronicity Earth, Forest Peoples Programme, International Land Coalition, Article 19, World Organisation Against Torture (OMCT), Greenpeace, John Hopkins University, OHCHR and UNEP. The meeting was also attended by the United Nations Independent Expert on human rights and the environment, the United Nations Special Rapporteur on the situation of human rights defenders and the United Nations Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of

hazardous substances and wastes. The meeting's focus was primarily on Africa, although some participants shared experiences from Russia and the Ukraine.

4. The meeting had four main sessions. The first session aimed at gaining a better understanding of the situation of EHRDs and prospects for their protection. The UN Independent Expert on human rights and the environment, the UN Special Rapporteur on human rights defenders and Global Witness provided short presentations. The second session heard testimonies from individual EHRDs who shared their experiences as activist, including the challenges, successes and lessons they have learned. The third session focused on identifying future actions that could be taken to better support and protect EHRDs and their work. The final session focused on identifying examples of good practices that relate to the protection of EHRDs. In addition to these sessions, training sessions were provided on the Universal Periodic Review process and how to draft communications for submissions to Special Procedures.
5. The meeting observed the Chatham House rules (i.e. points raised during the discussion were not ascribed to any specific participants). This was done to encourage those contributing to do so as candidly as possible.
6. The remainder of the report summarises the outcomes from the meeting. Section II presents the main points of discussion from Session 1 of the meeting. Section III highlights various themes that were raised during the testimonials. Section IV concludes with potential steps for future action that the participants identified during the meeting. In addition, selected good practices presented at the meeting are summarised in Appendix 2.

## **II. Main themes presented in discussions**

7. During the initial session of the meeting, panellist and participants raised many issues and themes related to the protection of EHRDs. This section highlights some of the major points raised during the discussion.

### **a. Defining EHRDs**

8. Generally, as a group, participants noted that EHRDs are “thoroughly heterogeneous.”<sup>1</sup> According to the Special Rapporteur on human rights defenders, it “includes defenders carrying out a vast range of activities related to land and environmental rights, including those working on issues related to extractive industries, and construction and development projects; those working for the rights of indigenous and minority communities; women human rights defenders; and journalists.”<sup>2</sup>

**b. The Unique Nature of Threats and Challenges Facing EHRDs**

9. It was agreed that EHRDs are one of the most at risk groups among human rights defenders generally, and that the issue of protecting EHRDs is a global problem that cuts across the developing and developed country divide.
10. Global Witness presented findings from its report published in April 2014 that documents the extent of threats and reprisals faced by EHRDs. Global Witness documented 908 people in 35 countries who have died between 2002 and 2012 because of their work on environment and land issues, and only 10 perpetrators have been tried and convicted during that time.<sup>3</sup> According to Global Witness, an “environment and land activist has been killed on average at least once a week during this time period. In the past four years, this has doubled to an average of two people a week, while no fortnight has passed without a fatality.”<sup>4</sup> These numbers almost certainly understate the scale of the problem. As Global Witness noted, there are many challenges to gathering accurate data on the situation of EHRDs, including that EHRDs often operate in remote areas, governments do not systematically monitor threats to EHRDs, and that their deaths are not always widely reported. Global Witness also noted that in countries with weak human rights monitoring networks or limited press freedoms, some cases of violence against environmental and land defenders will not be recorded, particularly if there is no

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<sup>1</sup> Report of the Special Rapporteur on the situation of human rights defenders, Margaret Sekaggya, 21 December 2011, U.N. Doc. A/HRC/19/55, ¶ 64.

<sup>2</sup> Ibid.

<sup>3</sup> Global Witness, *Deadly Environment: The Dramatic Rise in Killings of Environmental and Land Defenders*, p. 10 (2014), available at <http://www.globalwitness.org/sites/default/files/library/Deadly%20Environment.pdf>.

<sup>4</sup> Ibid.

presence of civil society-linked groups in remote areas.<sup>5</sup> Moreover, in addition to potential killing, EHRDs face many other types of reprisals, including arbitrary detention, stigmatisation, defamation, intimidation, threats to their families, harm to their physical integrity, torture and inhumane treatment.

11. Much of the discussion focused on how the situation that EHRDs face is unique when compared to other types of human rights defenders. For example, the rights of EHRDs are often violated or infringed upon by non-State actors, or unidentified individuals acting in collusion with them, because EHRDs in many cases oppose large scale development or extractive projects where private actors are involved. Moreover, by opposing these kinds of projects, EHRDs directly threaten the flow of money to both public and private officials who have monetary interests in the projects they oppose, thus causing an incentive for these actors to retaliate against EHRDs. The State and private actors also in many cases portray EHRDs —and those who help to defend them— as criminals, characterising their opposition to “important” projects or activities as against national interests or anti-development. Many times, EHRDs do not act on behalf of themselves, but also defend the rights of communities affected by projects, including indigenous communities and people living on the property or land that is being affected. Moreover, families of EHRDs and communities as a whole are often threatened and attacked in addition to reprisals against individual EHRDs.
12. Some participants raised the issue that EHRDs also face methodological and procedural difficulties in carrying out their work. Environmental issues are often complex and require experts, taking samples and conducting tests, and the timing is critical to prove legal causation. According to participants, EHRDs typically do not have the competency or resources to undertake this type of work. Moreover, EHRDs often do not have access to information to undertake their work, such as project-related documents, lists of project partners, access to project sites, and financing sources for projects.
13. Many participants highlighted the important role of lawyers in protecting EHRDs, and the need to assist lawyers to carry out this protective role. Often lawyers are threatened as much as the EHRDs they are representing.

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<sup>5</sup> Ibid. p. 17.

### c. Legal and Policy Framework

14. Generally, it was agreed that the law protecting EHRDs is clear. For example, reference was made to the 2014 report of the Independent Expert on human rights and the environment to the Human Rights Council that identified human rights obligations related to the environment, many of which are relevant to the protection of EHRDs. As the Independent Expert noted those “obligations include procedural obligations of States to assess environmental impacts on human rights and to make environmental information public, to facilitate participation in environmental decision-making, and to provide access to remedies.”<sup>6</sup> Particularly relevant to the protection of EHRDs, the Independent Expert identified the importance of guaranteeing the rights of freedom of expression and association relation to public participation in environmental decision-making. He explained that “States have obligations not only to refrain from violating the rights of free expression and association directly, but also to protect the life, liberty and security of individuals exercising those rights.”<sup>7</sup>
15. Reference was also made to the Report of the Special Rapporteur on human rights defenders, who identified the protections set out by Declaration on Human Rights Defenders relevant to EHRDs. She explained that “[a]ll peaceful actions by defenders to call attention to possible failures of the State to create the necessary social and economic conditions for the enjoyment of rights and freedoms in practice are legitimate and fall within the scope of the Declaration.”<sup>8</sup> She referenced that the preamble of the Declaration recognises:

the important role of international cooperation for, and the valuable work of individuals, groups and associations in contributing to, the effective elimination of all violations of human rights and fundamental freedoms of peoples and individuals, including in

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<sup>6</sup> Report of the Independent Expert on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, John H. Knox, 30 December 2013, U.N. Doc. A/HRC/25/53, ¶ 79.

<sup>7</sup> *Ibid.* ¶¶ 39-40.

<sup>8</sup> Report of the Special Rapporteur on the situation of human rights defenders, Margaret Sekaggya, note 1 *supra*, ¶ 62.

relation ... the refusal to recognize the right of peoples to self-determination and the right of every people to exercise full sovereignty over its wealth and natural resources.<sup>9</sup>

16. Participants also agreed that the State has the ultimate responsibility to guarantee and protect the rights of EHRDs. The Independent Expert on human rights on the environment has summarised the State's obligation in this regard:

While no Government is obligated to ensure an absolutely secure environment for its citizens under all situations, States are obligated, in the words of the Inter-American Commission on Human Rights, 'to take reasonable measures to prevent the threats, assaults and harassment of human rights defenders; conduct serious investigations of the facts brought to their attention; and, where appropriate, punish those responsible and adequately redress the victim'.<sup>10</sup>

17. In addition to a legal imperative, some participants also highlighted that it was in the general interest of States and other actors to engage with EHRDs. For example, participants noted that EHRDs could play a key role in ensuring that dialogue is used to preempt conflicts and the radicalization of positions.

#### **d. Gaps in the Legal Framework**

18. Despite the clear legal framework in place, according to the participants implementation of this body of law presents major challenges. For example, one participant mentioned a tendency for the situation of EHRDs to be overlooked by civil society because EHRDs fall under both environmental and human rights areas. On the one hand environmental

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<sup>9</sup> Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, 8 March 1999, U.N. Doc. A/RES/53/144.

<sup>10</sup> Report of the Independent Expert on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, John H. Knox, Addendum, Mission to Costa Rica, 10 March 2014, U.N. Doc. A/HRC/25/53/Add.1, ¶ 57 citing Inter-American Commission for Human Rights, Second Report of the Situation of Human Rights Defenders in the Americas, ¶ 320. Available from [www.oas.org/en/iachr/defenders/docs/pdf/defenders2011.pdf](http://www.oas.org/en/iachr/defenders/docs/pdf/defenders2011.pdf).

groups look to human rights groups to protect EHRDS, while on the other human rights groups assume that environmental groups will handle these issues.

19. In addition, although it was agreed that the State has the primary responsibility to protect EHRDs, participants noted major gaps in the State's protective role.
20. For example, participants noted governments' lack of systematic monitoring of EHRDs. The example was given in Costa Rica, where an EHRD working on protecting sea turtle habitats was murdered while undertaking his work, and that the government saw this as an isolated event rather than a wider problem related to the protection of EHRDs. Reference was made to the Independent Expert on human rights and the environment's report on his country visit to Costa Rica, where he noted that too often the protection of EHRDs is not seen as a systematic issue, but instead as a case-by-case issue, thus leaving a protection gap for EHRDs. In his report the Independent Expert noted his concern that:

the Government [of Costa Rica] has responded to individual threats and acts of violence against environmentalists only on a case-by-case, post hoc basis. It is important to recognize that such situations can be part of a broader pattern and to examine the characteristics of that pattern, in order to fulfil the obligation 'to take reasonable measures to *prevent* the threats, assaults and harassment' (emphasis added) before they take place.<sup>11</sup>

21. It was also raised that States, despite their legal role as protector of peoples' human rights, are often the main perpetrator or violator of EHRDs' rights, either through their direct actions or their lack of action with respect to non-State actors. This plays out in different ways, but according to participants, it can include the selective enforcement or non-enforcement of laws protecting EHRDs; misuse of criminal and other laws to harass EHRDs (the example was given of the application of vandalism and defamation laws to EHRDs); delayed and "rigged" court proceedings; obstruction of lawyers working to protect EHRDs; the tightening of the "protest" space for EHRDS; and intentional disregard for international and regional human rights law obligations.

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<sup>11</sup> *Ibid.* ¶ 57 (citation omitted)

22. Another issue that was raised dealt with the conflict between conservation laws and the rights and interests of many indigenous peoples and other traditional communities. Often times, such laws restrict these groups' access to their ancestral or tribal lands, thus creating another layer of conflict between the State and EHRDs.

**e. Recommendations for States and Civil Society**

23. Participants identified important steps that States should take to enable a safe operating environment for EHRDs. For example, there was consensus that a human rights-based approach to large scale development and extractive projects is necessary, including the need for transparency, access to information, meaningful public participation, protection to affected communities and those defending their rights, and accountability and access to appropriate remedies. In this regard, the Special Rapporteur on human rights defenders has noted that “States should combat impunity for attacks and violations against [EHRDs], particularly by non-State actors and those acting in collusion with them, by ensuring prompt and impartial investigations into allegations and appropriate redress and reparation to victims.”<sup>12</sup>

24. Other important elements identified by participants for creating a “safe” environment include enacting a conducive legal and institutional framework; establishing a strong and independent national human rights institution; paying attention to groups at risk, such as woman EHRDs; adequately regulating non-State actors; and facilitating access to international and regional human rights bodies and mechanisms.

25. Many participants also noted that international support from civil society, media, governments and other actors can also play a vital role to help protect EHRDs, particularly those who are incarcerated or under immediate threat. It is also necessary to have reliable information coming from the ground regarding the status of EHRDs; as government supplied information from the top down is not always reliable.

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<sup>12</sup> Report of the Special Rapporteur on the situation of human rights defenders, Margaret Sekaggya, note 1 supra, ¶ 126.

### III. Main themes presented from testimonials

26. Eighteen participants provided testimony at the meeting about their experiences as EHRDs. They represented individuals working at the local, national, and international level. They also included a wide range of backgrounds, from community members advocating against local project to activist working for well-known international non-governmental organisations. Countries represented included Liberia, Cameroon, Nigeria, Tanzania, Uganda, South Africa, Kenya, Democratic Republic of Congo, Ukraine and Russia.
27. Those providing testimonials were divided into three break-out groups and each group was assigned one rapporteur who reported back to the plenary on the main themes and issues raised in their respective groups. Testimonials were limited to 15 minutes each due to time constraints. Those providing testimonials were allowed broad discretion to share their experiences; however, the organisers provided some guiding questions to assist in preparations (see Box 1).

#### **BOX 1- Guiding questions for testimonials**

1. What are the main activities that you have engaged in to protect the environment, and what are you seeking to achieve?
2. How has environmental harm affected your human rights or that of your community?
3. How have your human rights been violated while undertaking your activities to protect the environment?
4. Do you see yourself as a human rights defender? An environmental activist? Neither?
5. Are you familiar with human rights law, and if so, have you been able to use human rights law, both domestically and internationally, to respond?
6. What are the main challenges or obstacles in your work?
7. What are the main successes in your work, including how you were able to succeed?
8. Have you been able to receive support from lawyers, NGOs, government, or other bodies?
9. What would help you the most to assist you in protecting the environment and defending human rights? At key moments, what kind of outside support might really have helped and made a difference?
10. Are there any other lessons that you wish to share?

28. In order to protect the privacy of those who provided testimonials, the following summary presents the main themes raised by EHRDs, including challenges and lessons learned, without attributing any specific details from the testimonials to participants.

**a. Self-perceptions**

29. Many EHRDs testified that they did not start out perceiving themselves as human rights defenders or activists, but that they were opposing a local activity that was impacting them and their community or that they felt strongly about a particular environmental issue. For example, one activist decided to stand up against a company's actions after children in her community began to get sick. Other activists said that they stood up for the rights of their communities and to protect their cultural practices as minorities or indigenous peoples. One activist testified that in his country, protesters do not see themselves as purely environmentalist, but as part of a broader social and political protest movement. Many activists also noted that they did not have any formal training in environmental and human rights law or in advocacy.

**b. The Nature of Threats and Reprisals to EHRDs**

30. All who testified discussed receiving threats and/or reprisals and in many cases against their family members or community. This included physical threats or reprisals, such as assault, death threats, sexual assault, and kidnapping, and other physical attacks, as well as non-physical threats or reprisals, such as defamation or stigmatisation. Most EHRDs attributed the extreme nature of these threats and reprisals to the strong economic interests at stake coupled with a high level of corruption and lack of rule of law.

31. There were many examples of physical threats and reprisals. For example, one testimonial gave the example of a peaceful protest against the destruction of a forest in Uganda where police fired live bullets into the crowd killing three people and injuring many others. The leaders of the protest were arrested despite obtaining official permission for the demonstration. In another instance, a woman was surrounded by five men with guns after leaving a television studio where she criticised a project. The men pointed at their guns and asked her to stop her activism.

32. Others testimonials discussed reprisals against family members or community members in response to the actions of the EHRD. In one case, an activist's children were visited in school and questioned and his wife was sexually assaulted.

33. There were also many examples of non-physical threats. In most cases the government sought to stigmatise the activities of EHRDs, portraying activists as traitors or as acting against the nation's public interest or against economic development. Some examples were given of governments or private companies bringing defamation law suits against individuals or NGOs as a reprisal against statements criticising projects or activities or criticising the activities of public officials. Other examples were given of activist being portrayed as terrorist. Another example was given where an EHRD set up a time to talk on the radio and paid for her spot. When she arrived at the radio station she was not allowed to speak about environmental harm to her community because the host found it to be too controversial a topic and was concerned about losing his job. In another example, a community who remained on their traditional lands after it was made into a conservation area was labelled as squatters.

**c. Government and Non-State Actors as Perpetrators of Human Rights violations and infringements**

34. The majority of testimonials characterised government as the main perpetrator of human rights violations, despite its role as protector of human rights. In most cases, a high level of corruption and the lack of rule of law underpin the government's actions. One person also mentioned that in her country the government is often unaware of its role in protecting human rights defenders.
35. Many cases involved examples of private companies infringing on human rights, or the State acting in collusion with private companies. Examples were given of private security guards assaulting or threatening activists. Other examples were given of companies seeking to mute any voices opposing their activities, such as through bribing public officials or bringing defamation law suits in corrupt court systems. In some cases, it was noted that government plays both hands; on the one hand assuring the people that is trying to protect human rights while on the other assisting companies to skirt from their responsibilities. One EHRD said that the big companies find a way to control the government.
36. Mining companies were often singled out as major players in infringing on human rights. One testimonial referred to mining companies as having more power than the government in her country and also was told by a mining company working in her area that they have their own laws and that the peoples' interests comes after the interest of the company. Some EHRD's discussed the heightened government response against

protest aimed at extractive industries, including oil drilling and mining. For instance, one testimonial characterised the communities who are affected by oil activities in his country as docile because of fear and intimidation, and explained that “tear gas is the order of the day.”

37. Many examples were given where the State used its military or police forces to crack down on the activities of EHRDs and communities, often through the use of corrupt actions. In some cases the military occupied entire regions where oil exploration was taking place by private companies. Another example was given where police arrested an activist after receiving money from the company carrying out a project. States also in many examples criminalised the activities of EHRDs and other human rights defenders, thus creating the ability to detain activist. In many cases, government sought to infiltrate NGOs or track individuals through their security apparatus.
38. Some EHRDs discussed government efforts to limit the activities of NGOs either through passing laws that prohibit NGOs from registering or from banning specific NGOs from organising meetings or public protests. An example was given in Russia where the government requires NGOs that receive foreign money to register as foreign agents.
39. Governments also were also criticised for their lack of transparency around environmental decision-making, and their deliberate attempts to prevent access to relevant information related to the decision-making process.
40. The judiciary was often noted as being corrupt and ineffective. Many examples were given where cases that were brought to protect EHRDS were delayed in court, sometimes for years, or where cases with merit were dismissed.

#### **d. Challenges Faced by EHRDs**

41. The testimonials highlighted many challenges EHRDs face. Some testimonials raised challenges related to communicating their messages because they live in remote areas. For example, access to the internet is not always available. Related to this, some people raised the issue of poor networking amongst defenders themselves, resulting in activist being unaware of others undertaking similar work or who can provide support.
42. Many testimonials also noted a general lack of documentation skills among EHRDs to gather data and other evidence to use against the projects or activities that they are protesting against. Moreover, one testimonial noted that because EHRDs often are

individuals and informal associations advocating on the ground and in remote areas, they are often outside the mainstream of organisations that can assist them.

43. Almost all EHRDs agreed that carrying out their work and upholding their rights often involved opposing strong economic interests which are generally highly organised and highly resourced. In many cases, communities were also divided because some believed that the activity in question would create jobs and improve the standard of living in the community, and the economic benefit was seen as more important than environmental harm.
44. Some EHRDs noted challenges related to reconciling the goals of environmental conservation laws with the traditional rights of their communities to undertake cultural and other activities related to sustaining their livelihoods. For example, in Kenya land was taken to make a national forest but the community struggled for years to be able to remain in their ancestral lands. Despite recent laws passed that classified the conservation areas as communal lands, the government continues to prevent communities from accessing their land.

**e. Lessons Learned and strategies for future action**

45. The testimonials provided many examples of lessons learned and various strategies that can be employed to help protect the human rights of EHRDs.
46. Many EHRDs discussed the importance of mobilising the community impacted by the proposed action or activity in order to build a strong unified voice. One example was given in South Africa where the community took control of the process establishing a World Heritage Site and eventually organised itself into a formal organisation. Similarly, the involvement of local leaders was noted as being a key element to unite the community. An example was given in Nigeria where community leaders united in opposing oil exploration and drilling. This resulted in creation of various formal institutional structures that united the communities and created a common voice in response to the oil activities. At one point, the community organised 300,000 people to march in protest.
47. Some EHRDs mentioned the need to train individuals and communities in human rights, particularly related to national laws and international human rights mechanisms. However, it was stressed that human rights concepts should be framed in a way that every person can understand, taking into consideration social and cultural backgrounds.

48. Many testimonials noted the importance of international support in order to assist them, including from media, international NGOs, and international organisations. For example, one testimonial explained that the support given by well-known international human rights NGO was critical to her safety and for the success of her advocacy. In another example, activists were freed from detention in large part due to a strong international campaign that put pressure on the government. Support from international organisations, including those in the UN system, was also noted as important. For example, in Nigeria, UNEP issued a study that helped validate the claims of a community, thus providing strong support for their cause. It was generally agreed that government and private companies hesitate to act on their threats if they perceive that it will result in international attention. Many references were made for engagement with United Nations human rights mechanisms, such as the Special Procedures, and in some cases those who provided testimony had sent communications to Special Procedures.
49. Some EHRDs called for risk assessments to identify countries where EHRDs face the greatest threats to their human rights. Such assessments would allow for better-targeted action to protect EHRDs and to change a culture of impunity in countries that have been identified. Similarly, it was noted that identifying the main characteristics of countries or communities where EHRDs face threats and violations of their rights can help to create awareness of potential problem areas as well as to identify areas where systematic violations take place.
50. Some activists noted that recognition of a right to a healthy environment would also provide a stronger backbone to their advocacy. For example, one person noted that the existence of such a right would help “give dignity” to the fight for environmental protection and prevent environmental issues from being marginalised. Others mentioned that such a right could help better hold perpetrators accountable.
51. Some testimonials discussed the importance of creating safe platforms or venues for EHRDs from different regions to meet and exchange their experiences and provide advice and support to each other. In Uganda, an organisation had helped to facilitate such meetings between activists in the countries.
52. Some examples were also given of strategies for advocating against or communicating with companies. One testimonial discussed the strategy of attending shareholder meetings as a means to raise awareness among those who are investing in the company

about the company's actions and infringement on human rights in the areas that it is operating. Another example was given to find and focus on potential weak points of a company, such as the financing chain. Reference was made to the need to speak with companies about the risks involved when working in places where community rights are not properly recognised and also the benefits of working with communities.

#### **IV. Strategies and future action**

53. Participants identified many potential actions that could be taken to help protect EHRDs moving ahead at the international, regional and national levels. In addition, some existing projects and efforts were identified that could be used by EHRDs or that could be expanded on. Finally, the participants agreed during the meeting to submit a statement on EHRDs for the Open Working Group on the Sustainable Development. The final version of the letter is attached as Appendix II.
54. This section seeks to include all the actions participants identified as potentially helpful to better protect EHRDs. Some proposals gained more support from participants than others; however, in an effort to be concise, all of them are included below.
55. It was stressed that development organisations should be included as part of further meetings and discussions on EHRDs. This was particularly important because often EHRDs are cast as anti-development because they work in the areas of extractive industries and other major development projects, like dams, that can have impacts on the environment. Development banks are also an importance source of funding for many major infrastructure projects that have environmental impacts. Development organisations can also play a role in redefining the mainstream development agenda to include stronger references to human rights and environmental protection.
56. There were several proposals to increase engagement between EHRDs and civil society with government and the private sector. For example, it was suggested that linking the work of EHRDs to the increased focus on the green economy could help to align the goals of governments to increase economic development with the concerns of communities and individuals affected by proposed projects. Participants recommended that case studies should be collected that highlight cases where consultations and broad participation have led to better and more successful projects. These could be used to demonstrate the benefits to governments and the private sector of increased participation and engagement with communities that are potentially affected by proposed projects.

Another example was given in Kenya where the government was invited to see the destruction of the forests where the community lived but the trip was kept confidential so that government would not feel any political pressure.

57. Participants also called for more exposure on the work and dangers to EHRDs in the United Nations human rights mechanisms. For example, participants recommended more side events during the Human Rights Council that focused on EHRDs. Raising more cases with the United Nations Special Procedures was recommended. In addition, some participants suggested bringing petitions before the Committee on Civil and Political Rights under the Option Protocol to the International Covenant on Civil and Political Rights; although concerns were also expressed that the admissibility requirements of this process were difficult to meet.
58. There were some proposals discussing how to best target companies whose activities are violating human rights. For example, participants discussed that because most companies undertaking activities causing environmental harm are multi-national companies, an effective strategy is to target the financing chain for those companies, particularly those companies that are publicly funded or rely on funding from development banks. One way to do this is through the participation in shareholder meetings, so that shareholders of multi-national companies can hold the directors responsible for the company's actions. It was recommended that a description of how to participate in shareholder meetings be prepared and circulated to EHRDs and organisations representing them. Another strategy discussed was the creation of report cards for companies and governments evaluating how they are recognising and protecting the rights of EHRDs. Reference was made to similar initiatives in other areas, such as the World Justice Project and the Yale Environmental Index.
59. Many participants discussed the need for better networking and access to information that can help EHRDs. The main suggestion was through the creation of a web site that can help consolidate a variety of information, including a list of organisations and initiatives that can assist EHRDs on the ground, legal resources, document templates such as sample legal documents or communication letters to Special Procedures, contact information for other EHRDs in the regions, a web discussion forum, and other useful features.

60. Participants discussed many strategies related to providing litigation support to EHRDs. One participant raised the issue of high litigation costs, and suggested that crowd funding and other non-traditional strategies be used as a means to fundraise money. Others discussed the need to create a network of lawyers and organisations with experience litigating on behalf of EHRDs who can provide legal advice and take cases. The suggestion was also made to solicit assistance from the many law schools who have clinical programmes and which would be willing to take on cases or provide support to EHRDS. Participants also recommended the creation of standard legal briefs or templates for use by EHRDs and other organisation. For example, defamation law suits were noted as a common occurrence, and legal brief templates could outline arguments and defences to these kinds of cases.
61. Another important area participants identified to help build legal cases was the need to facilitate the gathering of scientific and non-scientific evidence. Participants recommended gathering a network of scientists and NGOs that could provide scientific expertise to EHRDs and/or organisations that are representing them in court. In addition, participants noted the need for training EHRDs in gathering affidavits and documents to support their cases.
62. At the regional level, it was noted that regional and sub-regional bodies like the Economic Community of West African States (ECOWAS) and the African Commission on Human and Peoples' Rights have mechanisms that EHRDs and organisations utilise.
63. At the national level, it was stressed that simple tools can help greatly. Examples were given of cards issued by major human rights organisations stating that the carrier is a human rights defender or having staff from a major human rights organisation accompany EHRDs on one or two occasions to court or to meetings.
64. In general, there was a note of caution not to re-invent the wheel as it was agreed that many procedures and organisations already exist to provide assistance to EHRDs and human rights defenders in general. Some existing procedures were identified to protect EHRDs. For example, one important programme discussed was the Observatory for the Protection of Human Rights Defenders (OBS), a partnership created in 1997 between the International Federation for Human Rights (FIDH) and the World Organisation Against Torture (OMCT). According OBS's web site, the objective of this programme is to intervene to prevent or remedy to situations of repression against human rights

defenders. The action of this programme is based on the conviction that the strengthening of cooperation and solidarity in favour of human rights defenders and their organisations contribute to breaking their isolation and to reinforcing their protection and security.<sup>13</sup>

OBS provides emergency protection to human rights defenders in the field (urgent interventions, international missions, material assistance), cooperates with national, regional and international intergovernmental protection mechanisms, and mobilises the international community and the media as protection agents for defenders.<sup>14</sup>

65. Participants also referred to the Women Human Rights Defenders International Coalition (WHRDIC), a global resource and advocacy network made up of 28 organisations working to defend women defending human rights, including Amnesty International, Front Line Defenders, Human Rights First, and others.<sup>15</sup> WHRDIC provides many support services, including the maintenance of online directory of organisations that can assist women human rights defenders (WHRDs), the publication of cases studies documenting the landscape in which WHRDs live and work, and the issuance of public statement drawing attention to specific cases.<sup>16</sup>

66. Participants agreed that a comprehensive inventory of organisations that can assist EHRD would be necessary and useful.

## V. Concluding observations

67. The Geneva meeting was a great success and many participants providing positive feedback. By bringing together a wide-array of organisations and activist, the meeting created a platform for discussion and networking. Many of the EHRDs who attended the meeting had never left their respective countries and often struggled without much outside support. The meeting enabled EHRDs to connect with each other and with international and national human rights and environmental organisations. Moreover, many organisations that attended had never worked with each other, and for the first time were discussing synergies for future action. Providing the opportunity for similar

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<sup>13</sup> See FIDH's web site: <http://www.fidh.org/en/human-rights-defenders>.

<sup>14</sup> Ibid.

<sup>15</sup> See WHRDIC's web site: <http://defendingwomen-defendingrights.org>.

<sup>16</sup> Ibid, <http://defendingwomen-defendingrights.org/our-work/resources>.

meetings moving ahead will strengthen the protection framework for EHRDs and help present much needed support to EHRDs who often operate in isolation and in remote communities.

## APPENDIX: Selected Good Practices

**Name of Practice:** Sustainability School Programme

**Category:** Capacity building

**Implementing Actors:** National Association of Professional Environmentalist (NAPE)

**Location:** Uganda

**Key Words:** human rights training; empowerment; participation; accountability; access to information; climate change; vulnerable groups; environmental human rights defenders

**Description:** Since 2010, NAPE through the Sustainability School Programme has been building the capacity of local communities so that they are able to hold their leaders, government and development agencies accountable for the negative impacts of their actions on people's livelihoods, particularly from oil production and climate change. The training takes place by community members themselves. NAPE emphasizes participation of men and women in all activities and decision making processes.

Drama has come up in the Sustainability School as one of the important tools in information sharing and dissemination to diverse audiences. In one example, a women-led drama group of Kaiso Tonya village in Hoima District stages performances on community based approaches to mitigating effects of climate change and also on the challenges being faced by the communities as result of oil and gas activities in the area. In their drama performances, the Kaiso group captivated the participants when they called upon all Ugandans to join hands to avoid the "oil curse" by being transparent, avoiding corruption and taking care of environment concerns during the oil production processes.

**Challenges:** Government has come to meetings in disguise. Sometimes it has been difficult to receive permits to work with communities in oil production areas because permits are required from the government.

**Further Information:** [www.nape.or.ug](http://www.nape.or.ug)

**Name of Practice: Whakatane Assessments, Rights-Based Assessments of Protected Areas**

**Category: Impact Assessment**

**Implementing Actors:** IUCN secretariat; IUCN Commission on Environmental, Economic and Social Policy (CEESP); Forest Peoples Programme; indigenous peoples' organisations (IPOs).

**Location:** Kenya, Thailand (initial pilots)

**Key Words:** human rights-based assessments; vulnerable groups; indigenous; conservation; environmental human rights defenders; protected areas

**Description:** The Whakatane Mechanism is an IUCN “One Programme” initiative involving the Union’s global and regional programmes, Commissions and Members. It aims to support implementation of “the new paradigm” of conservation, focusing on situations where indigenous peoples and local communities are directly associated with protected areas as a result of their land and resource tenure, access and use.

The objectives of the Whakatane Mechanism are to (i) explore and harness opportunities for resolution of conflicts at the local level involving indigenous peoples and local communities and protected areas; (ii) support and promote national multi-stakeholder dialogue and consensus-building for advancing application of the “new conservation paradigm”.

The methodology of the Whakatane Mechanism involves undertaking multi-stakeholder assessments of local situations where indigenous peoples and local communities feel affected by protected areas policy and practice, and subsequently engaging in systematic exploration of possible responses through multi-stakeholder dialogue and platforms.

**Outcomes:** A draft Framework for the Whakatane Mechanism has been developed jointly by the IUCN secretariat, IUCN-CEESP, IUCN-SPICEH, FPP with feedback by many others and based on the experience of the two pilot Assessments in Thailand and Kenya.

**Further Information:** <http://whakatane-mechanism.org>;

<http://www.forestpeoples.org/topics/environmental-governance/international-processes/whakatane-mechanism>;

<http://www.iucn.org/about/union/commissions/ceesp/?9764/Progress-Report-of-the-Whakatane-Mechanism>

**Name of Practice: Court Ruling allowing Greenpeace International to continue service station protests**

**Category: Litigation/Activism**

**Implementing Actors:** Greenpeace International

**Location:** Netherlands

**Key Words:** Court ruling; protests; oil; Arctic; environmental human rights defenders; freedom of expression; freedom of assembly

**Description:** Greenpeace pursued a major international campaign against Royal Dutch Shell over its plans to drill in the melting Arctic, and Greenpeace offices across the globe have staged a series of peaceful direct actions at fuel stations, on icebreaking ships and at company offices over the past year. This including using bicycle locks to shut down pumps at more than 60 filling stations in the Netherlands.

Shell challenged Greenpeace's actions and sought a sweeping injunction in Dutch Courts banning any protest against Shell. On 5 October 2012, the Amsterdam Court held in favor of Greenpeace and dismissed the sweeping injunction proposed by Shell. The President of the Amsterdam court, Han Jongeneel, said the protests Greenpeace Netherlands has already taken in the Netherlands at Shell's headquarters and petrol stations were both proportionate and appropriate in light of Greenpeace's earlier efforts to end Shell's Arctic oil drilling through other means.

The Court ruled that “[a] company like Shell, that is taking actions or plans to take actions that are controversial in society and which many people will object to, can and should expect that actions will be taken to try to change its mind. Such actions – in order to be effective – will have to be capable of disadvantaging Shell.”

Furthermore, it held that “The principle of proportionality entails that actions should not go beyond what is necessary to reach the intended goal. To date, Greenpeace has respected this requirement by not taking action at all Shell fuel stations (about 600), but at approximately 70. Therefore, there is no need to grant an injunction on this point; although Greenpeace will have to continue taking this requirement into account in future,” the judge said.

“The mere fact that such an action causes nuisance or loss for the business targeted by the action, in this case Shell, does not makes such an action illegal,” the court ruled.

**Further Information:** <http://www.greenpeace.org/international/en/press/releases/Dutch-court-grants-Greenpeace-right-to-stage-peaceful-protests-against-Shell/>

**Name of Practice: Federated States of Micronesia (FSM) Request for Czech Government to consider the Transboundary Environmental Impact Assessment from coal plant**

**Category:** Transboundary

**Implementing Actors:** FSM; Greenpeace; Environmental Law Service

**Location:** Czech Republic, FSM

**Key Words:** Transboundary; climate change; impact assessment

**Description:** FSM requested for a transboundary environmental impact assessment (TEIA) of a proposed expansion and life-extension of the Prunéřov II brown coal-fired power plant in the Czech Republic through filing a formal objection under the Czech Republic's environmental impact assessment law.. Although TEIA's are often triggered by neighbouring states based on physical pollution concerns, this was the first ever use of a 'transregional' impact assessment concerning climate change.

In April 2011, the Czech Ministry of Environment issued a positive environmental impact statement that cleared the way for the construction of the Prunéřov II brown coal-fired power plant. However, FSM was recognized by the Czech Ministry as an "affected state" and required CEZ Group to provide a compensation plan that would offset 5 million tons of CO<sub>2</sub> in attempts to mitigate the environmental impact of the project.

The Environmental Law Service explained that FSM's participation in the Prunéřov EIA process was the first time a country, particularly vulnerable to climate change, has used TEIA legislation to raise concerns about a proposed industrial project's greenhouse gas emissions' contribution to climate change.

**Outcomes:** According to the Environmental Law Service: "The TEIA allowed for an important exchange of information and input into the decision making process of the largest Czech source of CO<sub>2</sub> in order to mitigate its emissions and enforce the use of the best available techniques (BAT). And it has been shown that a TEIA can be a very useful tool in analyzing industrial projects through climate change perspectives. Although it is clear that complete cancellation of the life-extension and phase out of Prunéřov would be the best mitigation for the climate, the securing of over 5 million tonnes of CO<sub>2</sub> off-sets should definitely be seen as a success."

**Further Information:** <http://en.eps.cz/news/pacific-island-nation-makes-legal-history>

**Name of Practice:** Environmental Law Alliance Worldwide (ELAW)

**Category:** Advocacy Support

**Implementing Actors:** Network of public interest advocates

**Location:** Worldwide

**Key Words:** Advocacy; environmental human rights defenders; support; network

**Description:** The core mission of ELAW is to help grassroots environmental lawyers working in their home countries protect the environment and communities through law. Grassroots advocates play a key role in helping communities speak out and ELAW gives these advocates the legal and scientific support they need to challenge abuses and build a sustainable future.

ELAW finds the most committed environmental defenders working in low-income communities and collaborates with them to pursue six major initiatives to advance environmental justice: 1. Providing critical legal tools; 2. Providing critical scientific tools; 3. Strengthening organizations; 4. Hosting visiting Fellow; 5. Outreach; 6. Protecting human rights of public interest lawyers; and 7. Community Legal and Scientific Workshops.

ELAW's Community Legal Education program helps inform decision-makers and engage citizens to build a healthier future for communities and the planet. ELAW partners publish guides to citizen participation, train community "paralegals" to represent community interests, and empower citizens to play a role in decisions that impact their lives.

More than 300 public interest advocates from 70 countries participate in the ELAW network.

**Outcomes:** ELAW has made a difference in many cases related to environmental protection, particularly by providing scientific support to build cases.

**Further Information:** <http://www.elaw.org/>



**REPORT OF FIRST REGIONAL CONSULTATION WITH ENVIRONMENTAL  
HUMAN RIGHTS DEFENDERS (EHRDs): AFRICAN AND EUROPEAN REGIONS**

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