



# General Assembly

Distr.: Limited  
20 March 2019

Original: English

## ORAL REVISION RECEIVED

21.03.2019@16:40

### Human Rights Council

#### Fortieth session

25 February–22 March 2019

Agenda item 3

**Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development**

Albania,\* Argentina, Australia, Austria, Belgium,\* Bosnia and Herzegovina,\* Brazil, Bulgaria, Canada,\* Croatia, Cyprus,\* Czechia, Denmark, Estonia,\* Fiji, Finland,\* France,\* Germany,\* Ghana,\* Greece,\* Haiti,\* Honduras,\* Hungary, Ireland,\* Italy, Latvia,\* Liechtenstein,\* Lithuania,\* Luxembourg,\* Malawi,\* Malta,\* Mexico, Mongolia,\* Montenegro,\* Mozambique,\* Netherlands,\* New Zealand,\* Norway,\* Paraguay,\* Peru, Poland,\* Portugal,\* Republic of Moldova,\* Romania,\* Slovakia, Slovenia,\* Spain, Sweden,\* Switzerland,\* Tunisia, Ukraine, United Kingdom of Great Britain and Northern Ireland, Uruguay, State of Palestine:\* draft resolution

#### **40/... Recognizing the contribution of environmental human rights defenders to the enjoyment of human rights, environmental protection and sustainable development**

*The Human Rights Council,*

*Guided* by the purposes and principles of the Charter of the United Nations and the Universal Declaration of Human Rights, the International Covenants on Human Rights and other relevant instruments,

*Guided also* by the United Nations Framework Convention on Climate Change, the Paris Agreement and the Convention on Biological Diversity,

*Recalling* General Assembly resolution 70/1 of 25 September 2015, entitled “Transforming our world: the 2030 Agenda for Sustainable Development”, which is grounded in the Universal Declaration of Human Rights, international human rights treaties, the United Nations Millennium Declaration and the 2005 World Summit Outcome and informed by other instruments, such as the Declaration on the Right to Development,

*Recalling also* the United Nations Conference on Sustainable Development in 2012 and its outcome document entitled, “The Future We Want”, which reaffirmed the principles of the Rio Declaration on Environment and Development,

\* State not a member of the Human Rights Council.

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*Recalling further* General Assembly resolution 53/144 of 9 December 1998, by which the Assembly adopted by consensus the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, commonly referred to as the Declaration on human rights defenders, and the continued validity and application of all its provisions, and reiterating the importance of the Declaration and its promotion and full and effective implementation,

*Recalling* all other previous resolutions on this subject, including Human Rights Council resolutions 22/6 of 21 March 2013, 31/32 of 24 March 2016 and 34/5 of 23 March 2017, and General Assembly resolutions 68/181 of 18 December 2013, 70/161 of 17 December 2015 and 72/247 of 24 December 2017, and recalling also Council resolutions on human rights and the environment, the most recent of which are resolutions 31/8 of 23 March 2016, 34/20 of 24 March 2017 and 37/8 of 22 March 2018,

*Reiterating* that all human rights and fundamental freedoms are universal, indivisible, interdependent and interrelated and should be promoted and implemented in a fair and equitable manner, without prejudice to the implementation of each of those rights and freedoms,

*Reaffirming* that States have the primary responsibility and are under the obligation to respect, protect and fulfil all human rights and fundamental freedoms of all persons, and welcoming the steps taken by many States to create a safe and enabling environment for human rights defenders,

*Reaffirming also* the importance of the Declaration on Human Rights Defenders and its full and effective implementation, and that promoting respect, support and protection for the activities of human rights defenders, including women and indigenous human rights defenders, is essential to the overall enjoyment of human rights and for the protection and conservation of the environment, including the rights to life, to the enjoyment of the highest attainable standard of physical and mental health, to an adequate standard of living, including adequate food and housing, safe drinking water and sanitation, and cultural rights,

*Recognizing* the positive, important and legitimate role played by human rights defenders in the promotion and protection of human rights as they relate to the enjoyment of a safe, clean, healthy and sustainable environment, and deeply concerned that human rights defenders working in environmental matters, referred to as environmental human rights defenders, are among the human rights defenders most exposed and at risk,

*Underscoring* that more than 150 States have recognized some form of a right to a healthy environment in, inter alia, international and regional agreements, their constitutions, legislation or policies,

*Recognizing* that the twenty-fourth Conference of the Parties to the United Nations Framework Convention on Climate Change in 2018 operationalized the Local Communities and Indigenous Peoples Platform, adopted as part of decision 1/CP.21 on the Paris Agreement, in order to recognize their climate actions, their role in climate policy, and strengthening the role of traditional knowledge in mitigating and adapting to climate change,

*Recognizing also* the importance of gender equality, the empowerment of women and the role women play as managers of natural resources and agents of change in the safeguarding of the environment, as well as the multiple and intersecting forms of violence and discrimination against women human rights defenders, indigenous peoples, children, persons belonging to minorities and rural and marginalized communities,

*Recognizing further* that, while the human rights implications of environmental damage are felt by individuals and communities around the world, the consequences are felt most acutely by those segments of the population that are already in vulnerable situations, and that the specific nature of indigenous peoples and rural and local communities can aggravate their vulnerability, as they can be located in isolated areas without communication access or network support, and recognizing also that indigenous peoples are among the first to face the direct consequences of climate change owing to their dependence upon and close relationship with the environment and its resources,

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*Taking note* of the report of the Special Rapporteur on the rights of indigenous peoples,<sup>1</sup> and noting with concern her findings with regard to attacks against and the criminalization of indigenous human rights defenders, and calling upon all States to consider the recommendations contained in the report,

*Alarmed* by the increasing rate of killings, violent acts, including gender-based violence, threats, harassment, intimidation, smear campaigns, criminalization, judicial harassment, forced eviction and displacement of environmental human rights defenders, including indigenous and women human rights defenders, and human rights defenders addressing issues relating to land rights, their family members, communities, associates and legal representatives, as reported by the United Nations High Commissioner for Human Rights, the Special Rapporteur on the situation of human rights defenders and other special procedures,

*Cognizant* that the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment has called for States to prioritize action to protect environmental human rights defenders,<sup>2</sup>

*Recognizing* the need to develop protection mechanisms for environmental human rights defenders, taking into account the intersectional dimensions of violations against women human rights defenders, indigenous peoples, rural and marginalized communities, and persons belonging to minorities, and to take concrete steps to prevent and stop the use of legislation to hinder or limit unduly the ability of human rights defenders to exercise their work, including by reviewing and, where necessary, amending relevant legislation and its implementation in order to ensure compliance with international human rights law,

*Noting with appreciation* international instruments, such as the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters and the Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean (Escazú Agreement), for the protection of environmental human rights defenders,

*Recognizing* that the protection of environmental human rights defenders is inherently linked to the protection of their communities and can only be fully achieved in the context of a holistic approach that includes the strengthening of democratic institutions, the fight against impunity, a reduction in economic inequality and equal access to justice,

**Underscoring that the legal framework within which human rights defenders work peacefully to promote and protect human rights and fundamental freedoms is that of national legislation consistent with the Charter and international human rights law.**

*Gravely concerned* that national security and counter-terrorism legislation and other measures, such as laws regulating civil society organizations, are in some instances misused to target human rights defenders or have hindered their work and endangered their safety in contravention of international law, and mindful that domestic law and administrative provisions and their application should not hinder but enable the work of human rights defenders, including by avoiding any criminalization, stigmatization, impediments, discrimination, obstructions or restrictions thereof contrary to the obligations and commitments of States under international human rights law,

1. *Expresses grave concern* at the situation of environmental human rights defenders around the world, and strongly condemns the killing of and all other human rights violations or abuses against environmental human rights defenders, including women and indigenous human rights defenders, by State and non-State actors, and stresses that such acts may violate international law and undermine sustainable development at the local, national, regional and international levels;

<sup>1</sup> A/HRC/39/17.

<sup>2</sup> See A/HRC/40/55, para. 82.

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2. *Stresses* that human rights defenders, including environmental human rights defenders, must be ensured a safe and enabling environment to undertake their work free from hindrance and insecurity, in recognition of their important role in supporting States to fulfil their obligations under the Paris Agreement and to realize the 2030 Agenda for Sustainable Development, including the pledge that no one will be left behind and to reach the furthest behind first;

3. *Urges* all States to take all measures necessary to ensure the rights, protection and safety of all persons, including environmental human rights defenders, who exercise, inter alia, the rights to freedom of opinion, expression, peaceful assembly and association, online and offline, which are essential for the promotion and protection of human rights and the protection and conservation of the environment;

4. *Welcomes* the work of the Special Rapporteur on the situation of human rights defenders, including his reports presented to the Human Rights Council and the General Assembly, and strongly encourages all States to cooperate with and to assist the Special Rapporteur;

5. *Recognizes* that democracy and the rule of law are essential components for the protection of human rights defenders, and urges States to take measures to strengthen democratic institutions, safeguard civic space, uphold the rule of law and combat impunity;

6. *Urges* States to acknowledge, through public statements, policies, programmes or laws, the important and legitimate role of human rights defenders in the promotion of all human rights, democracy and the rule of law as essential components of ensuring their protection, including by respecting the independence of their organizations and by avoiding the stigmatization of their work, including with regard to the environment;

7. *Calls upon* States to ensure that all legal provisions and their application affecting human rights defenders are clearly defined, determinable and non-retroactive in order to avoid potential abuse, to the detriment of fundamental freedoms and human rights, and specifically to ensure that the promotion and the protection of human rights are not criminalized, and that human rights defenders are not prevented from enjoying universal human rights owing to their work, whether they operate individually or in association with others;

8. *Urges* States to take concrete steps to prevent and put an end to arbitrary arrest and detention, including of human rights defenders, and in this regard strongly urges the release of persons detained or imprisoned, in violation of the obligations and commitments of States under international human rights law, for exercising their human rights and fundamental freedoms;

9. *Also urges* States to develop and appropriately resource protection initiatives for human rights defenders, to ensure that human rights defenders are meaningfully consulted in the provision and implementation of protection measures, and also to ensure that the measures are holistic, including both individual and collective protection aspects, and that these measures also function as early warning and rapid response mechanisms that enable human rights defenders, when threatened, to have immediate access to authorities that are competent and adequately resourced to provide effective protective measures, taking into account the intersectional dimensions of violations and abuses against women human rights defenders, indigenous peoples, children, persons belonging to minorities, and rural and marginalized communities;

10. *Calls upon* States to combat impunity by conducting prompt, impartial and independent investigations and pursuing accountability for all attacks and threats by State and non-State actors against any human rights defender, or against lawyers and legal representatives, journalists and media workers covering these issues, as well as against their family members and their associates, and by condemning publicly all cases of violence, discrimination, intimidation and reprisal, underlining that such practices can never be justified;

11. *Continues to express particular concern* about systemic and structural discrimination and violence faced by women human rights defenders of all ages, including sexual and gender-based violence, and calls upon States to take appropriate, robust and

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practical steps to protect women human rights defenders and to integrate a gender perspective into their efforts to investigate threats and attacks against human rights defenders, and to create a safe and enabling environment for the defence of human rights, as called for by the General Assembly in its resolutions 68/181 and 72/247;

12. *Reaffirms* the right of everyone, individually and in association with others, to unhindered access to and communication with international bodies, in particular the United Nations, its representatives and mechanisms in the field of human rights, including the Human Rights Council and its special procedures, the universal periodic review mechanism and the treaty bodies, as well as regional human rights mechanisms;

13. *Strongly condemns* reprisals and violence against and the targeting, criminalization, intimidation, arbitrary detention, torture, disappearance and killing of any individual, including human rights defenders, for their advocacy of human rights, for reporting and seeking information on human rights violations and abuses or for cooperating with national, regional and international mechanisms;

14. *Calls upon* States:

(a) To respect, protect and fulfil human rights, including in all actions undertaken to address environmental challenges, including the rights to life and to the enjoyment of the highest attainable standard of physical and mental health, to an adequate standard of living, to adequate food and housing, safe drinking water and sanitation, and cultural rights, and to human rights as they relate to enjoyment of a safe, clean, healthy and sustainable environment;

(b) To adopt and implement strong and effective laws or policies ensuring, among other things, the right to take part in the conduct of public affairs and in cultural life, the freedom to seek, receive and impart information and equal access to justice, including to an effective remedy, in the field of the environment;

(c) To facilitate public awareness of and participation in environmental decision-making, implementation, monitoring and follow-up and review of the 2030 Agenda for Sustainable Development, including of civil society, women, children, youth, indigenous peoples, rural and local communities, peasants and others who depend directly on biodiversity and the services provided by ecosystems, by protecting all human rights, including the rights to freedom of expression and to freedom of peaceful assembly and association, both online and offline;

(d) To implement fully their obligations to respect, protect and fulfil human rights without distinction of any kind, including in the application of environmental laws and policies;

(e) To provide a safe and empowering context for initiatives organized by young people and children to defend human rights relating to the environment;

(f) To promote a safe and enabling environment in which individuals, groups and organs of society, including those working on human rights and environmental issues, including biodiversity, can operate free from violence, threats, hindrance and insecurity;

(g) To provide for effective remedies for human rights violations and abuses, including those relating to the enjoyment of a safe, clean, healthy and sustainable environment, in accordance with their international obligations and commitments;

(h) To establish or maintain effective legal and institutional frameworks to regulate the activities of public and private actors in order to prevent, reduce and remedy harm to biodiversity, taking into account human rights obligations and commitments relating to the enjoyment of a safe, clean, healthy and sustainable environment;

(i) To take into account human rights obligations and commitments relating to the enjoyment of a safe, clean, healthy and sustainable environment in the gender-responsive implementation of and follow-up to the 2030 Agenda for Sustainable Development, bearing in mind the integrated and multi-sectoral nature of the latter;

15. *Also calls upon* States to promote and enable public participation, and to promote transparency, accountability and effective governance, in the prevention of and the

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fight against corruption involving State officials, business representatives and other non-State actors, and in raising public awareness regarding the existence, causes and gravity of and the threat posed by corruption, including all possible impact on the enjoyment of economic, social and cultural rights, and further calls upon all States to respect, promote and protect the freedom of everyone to seek, receive, publish and disseminate information concerning corruption, including by protecting the actors doing so, including environmental human rights defenders;

16. *Urges* States to bear in mind the importance of the empowerment and capacity-building of indigenous peoples, including their full and effective participation in decision-making processes in matters that affect them directly, and of consultations in order to obtain their free, prior and informed consent, and the important role indigenous human rights defenders play in this regard, and encourages States to work towards achieving the ends of the United Nations Declaration on the Rights of Indigenous Peoples, and also encourages those States that have not yet ratified or acceded to the Indigenous and Tribal Peoples Convention, 1989 (No. 169) of the International Labour Organization to consider doing so;

17. *Encourages* States to ensure that information held by public authorities, including that relating to environmental, land, natural resources and development issues, is proactively disclosed and not unnecessarily classified or otherwise withheld from the public, and calls upon all States to adopt transparent, clear and expedient laws and policies that provide for the effective disclosure of information held by public authorities and a general right to request and receive information, for which public access should be granted, except within narrow, proportionate, necessary and clearly defined limitations;

18. *Encourages* all States to ensure to the maximum extent possible that the competent authorities generate, collect, publicize and disseminate environmental information relevant to their functions in a systematic, proactive, timely, regular, accessible and comprehensible manner, and periodically update that information and encourage the disaggregation and decentralization, where appropriate, of environmental information at the subnational and local levels;

19. *Underlines* the value of national human rights institutions, established and operating in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles), in the continued engagement with human rights defenders, including environmental human rights defenders;

20. *Recognizes* the important and legitimate role of human rights defenders in identifying and raising awareness of human rights impacts, the benefits and risks of development projects and business operations, including in relation to workplace health, safety and rights, and natural resource exploitation, environmental, land and development issues, by expressing their views, concerns, support, criticism or dissent regarding government policy or action or business activities, and underlines the need for States to take the measures necessary to safeguard space for such public dialogue and its participants;

21. *Calls upon* all States to implement the Guiding Principles on Business and Human Rights, including to develop a national action plan or other such framework, and to encourage all business enterprises to carry out human rights due diligence, including with regard to human rights relating to the enjoyment of a safe, clean and healthy environment and by conducting meaningful and inclusive consultations with potentially affected groups and other relevant stakeholders;

22. *Underscores* the responsibility of all business enterprises, both transnational and others, in accordance with the Guiding Principles on Business and Human Rights, to respect human rights, including the rights to life, liberty and security of person of human rights defenders, including environmental human rights defenders, and their exercise of the rights to freedom of expression, peaceful assembly and association, and participation in public affairs, which are essential for the promotion and protection of all human rights, and the importance that business enterprises establish or participate in effective and accessible operational-level grievance mechanisms for individuals and communities who may be adversely impacted;

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23. *Encourages further* all business enterprises, as part of their human rights due diligence in accordance with the Guiding Principles on Business and Human Rights, to share and exchange best practices *in this regard*, and to communicate in an accessible form on how they address their adverse human rights impacts, particularly when concerns are raised by or on behalf of affected stakeholders, including by environmental human rights defenders;

24. *Encourages* States to avail themselves of technical assistance in follow-up to the present and previous resolutions of the General Assembly and the Human Rights Council on the protection, individually and collectively, of human rights defenders, including environmental human rights defenders, such as through collaboration, based on mutual consent, with national human rights institutions, regional organizations, the Office of the United Nations High Commissioner for Human Rights and relevant special procedures, and other relevant international agencies and organizations, and with other States;

25. *Takes note* of the report of the Secretary-General on the twentieth anniversary of the Declaration on Human Rights Defenders,<sup>3</sup> in which he called for the development of a more coherent and comprehensive approach to support the Declaration by the United Nations, and also of the environmental defenders policy launched by the United Nations Environment Programme in 2018 as a positive example, and encourages other agencies to do the same;

26. *Encourages* the Office of the High Commissioner, in consultation with the Special Rapporteurs and other special procedures, to continue to compile and share information on best practices and challenges in this regard, and also encourages the Special Rapporteur on the situation of human rights defenders to continue to address the situation of human rights defenders, including good practices and challenges, in his work and reporting, including through collaboration and coordination with relevant United Nations agencies, organizations and mechanisms, the treaty bodies and other relevant special procedures, in accordance with the mandate;

27. *Invites* the Secretary-General to draw attention to the present resolution in the United Nations system and to continue to include alleged acts of intimidation and reprisal against human rights defenders, including environmental human rights defenders, who seek to cooperate, are cooperating or have cooperated with the United Nations, its representatives and mechanisms in the field of human rights, including against their family members, associates and legal representatives, in his annual report on cooperation with the United Nations, its representatives and mechanisms in the field of human rights;

28. *Decides* to remain seized of the matter.

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<sup>3</sup> A/73/230.