

Promoting Greater Protection for Environmental Defenders

Policy

This policy paper proposes how UN Environment can promote greater protection for individuals and groups who are defending their environmental rights and identify solutions to mitigate the abuse of environmental rights which affects a growing number of people in many parts of the world.

Mandate

UN Environment derives its overall mandate from UN General Assembly Resolution 2997 (XXVII) (1972) and aims to provide leadership and encourage partnerships in caring for the environment by inspiring, informing and enabling nations and people to improve their quality of life, without compromising that of future generations.

UN Environment's mandate is strengthened by:

- UN Human Rights Council Resolutions on Human Rights and the Environment, most recently Resolution 34/20, which call on UN Environment to enhance cooperation with other agencies to exchange information and build synergies in the protection of human rights and the protection of the environment;
- UN Environment Programme Governing Council Decision 27/9 on advancing justice, governance and law for environmental sustainability;
- The outcome of the meeting of senior government officials expert in environmental law on the midterm review of the fourth Programme for the Development and Periodic Review of Environmental Law (Montevideo Programme IV) which identified human rights and the environment as an emerging priority area; and
- UN Environment Assembly Resolution 2/19 on the Midterm review of Montevideo Programme IV.

The 2030 Agenda for Sustainable Development provides a political mandate for UN Environment efforts to promoting a regulatory framework (including laws, policies and practices) conducive to furthering public participation. Finally, the UN Human Rights Up Front initiative is based on mandates from the UN Charter and General Assembly and Security Council resolutions and applies to the whole UN system. It calls on us all to strengthen prevention of serious problems that cut across the UN's three pillars of peace and security, development and human rights, and most especially issues with serious human rights consequences.

Definition of Environmental Defenders

Environmental rights can be seen as an extension of basic human rights. Over 100 countries guarantee their citizens a constitutional right to a healthy environment. Ordinary citizens could, in one way or another, become environmental defenders because we all have a stake in protecting the environment and in respecting environmental rights. UN Environment considers an environmental defender to be anyone who is defending environmental rights, including constitutional rights to a clean and healthy environment, when those rights are being violated.¹

¹ UN Special Rapporteurs have defined environmental human rights defenders as “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”.

Situation of Environmental Defenders

Violations of the environmental rights of communities and individuals are on the rise worldwide. These rights violations can partly be explained by greater competition for natural resources and growing inequality. As a result, more and more ordinary people are finding themselves on the frontline of the battle to defend their environmental rights from violations by corporate or state actors, and from unsustainable exploitation. In July 2017, statistics released by Global Witness revealed that, on average, three environmental defenders are being killed per week. Around 40-50% of all victims come from indigenous and local communities who are defending their lands, and their access to the natural resources their communities depend on for survival and livelihoods.²

The potential political sensitivities and controversies involved are acknowledged. Nonetheless, UN Environment should support the upholding of environmental rights and oppose the growing wave of violence against environmental defenders as well as the prevailing impunity with which these acts are being committed. UN Environment has more to lose in terms of its reputation as the world's leading authority on the environment if it does not speak out in a consistent and clear way when the lives and livelihoods of people on the frontlines of environmental protection are threatened and destroyed.

It is proposed that UN Environment:

- **Denounce** the attacks, intimidation and murders of environmental defenders;
- **Advocate** for better protection of environmental rights and the people standing up for these rights; and
- **Support** the responsible management of natural resources, including in protected areas, through strong institutions, effective law enforcement, and environmental rule of law.

By doing so, UN Environment will:

- Contribute to ending the violence against environmental defenders;
- Assist States to address crucial issues related to environmental rights, and encourage States to recognize and support the role of ordinary citizens in environmental protection, and indigenous peoples and local communities in particular;
- Be responding directly to the three pillars of the UN, and the Secretary General's priorities on peace and security, development, and human rights, as well as the UN System-Wide Action Plan for coherent implementation of the UN Declaration on the Rights of Indigenous Peoples;
- Support the implementation of and adherence to the UN Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms; and
- Promote the critical role of the rule of law in environmental matters.

1. Rapid Response Mechanism

The objective here is to speak out on individual cases and to point towards solutions in the form of technical and legal support to governments and other stakeholders, such as the judiciary and the enforcement community, so

² Permanent Forum on Indigenous Issues, Report on the 16th session, available at <https://undocs.org/en/E/2017/43>

that they can strengthen environmental rule of law and governance which will mitigate environmental and human rights abuses. It is important for UN Environment to also enter into dialogue with national leaders who ultimately are responsible for upholding the rule of law in their countries. Importantly, regional offices – including in consultation with the local/regional presence of the Office of the High Commissioner for Human Rights, civil society actors and others – have to play a central role in assessing individual cases, given their proximity and understanding of local sensitivities.

The following internal accountability mechanism and process is proposed:

1. The email account defenders@unenvironment.org will be set up to enable communities and individuals whose environmental rights have been violated - or are in danger of being violated - to contact UN Environment directly and in confidence. These emails will be responded to in a timely fashion and will assist UN Environment, including its Executive Director and leadership, to take appropriate action.
2. Regional Directors/Offices are responsible for identifying and vetting cases to which UN Environment leadership should respond. Regional Directors/Offices will be supported in this by the Law Division and the Civil Society Unit;
3. The Law Division will develop - in consultation with the Executive Office media team, relevant Regional Offices and the Communications Division - a communications template to guide UN Environment's public response to acts committed against environmental defenders; and
4. The Executive Office media team will draft all statements/responses to be made by the Executive Director, Deputy Executive Director or Regional Directors in coordination with the relevant regional offices and others.

2. Legal Assistance

UN Environment is seen as a global leader in the area of environmental rule of law, of which the human rights and environment nexus is an essential element. In light of the growing importance of environmental rights worldwide, UN Environment will step up its substantive work to strengthen the prevention, mitigation and investigation of, as well as response to, any environmental and human rights violations environmental defenders are subjected to. This includes building on and scaling-up UN Environment's existing work to provide resources and tools for engagement by all relevant stakeholders on the issue of environmental defenders:

1. Enhancing work with the Special Rapporteur on Human Rights and the Environment, the Office of the High Commissioner on Human Rights and others, to strengthen the capacity of States and citizens to understand and operationalize the linkages between human rights and the environment;
2. Developing tools and resources on environmental rights for environmental defenders and other stakeholders, for example building on the existing online resource portal led by the Special

Rapporteur on Human Rights and the Environment and supported by UN Environment:

<http://www.environment-rights.org/>;

3. Working with countries and institutions to strengthen their laws and capacities to implement them to ensure that where environmental conditions interfere with basic rights, mechanisms for protecting those rights (and the people defending them) are in place as important preconditions for fair, just and sustainable development as well as peace and security;
4. Engaging closely and strategically with civil society in general, and indigenous peoples in particular; and
5. Engaging judges worldwide to improve access to justice in environmental matters including through establishing and supporting networks for judicial cooperation and the sharing of information between judges.

3. Environmental Rights Initiative and Campaign

At the end of it all, it is about people and the environment. A new Environmental Rights Initiative and Campaign (to be launched in 2018) will build an even more impactful work stream and legacy for UN Environment in the field of environmental rights and environmental defenders reaching millions of people. Through this initiative, UN Environment will position itself as the leading informer, advocator and supporter of environmental rights. The goal is to raise awareness about environmental rights and to make them work for people and the planet.

The Environmental Rights Initiative and Campaign will put people at the center of environmental rights, engage them in a conversation about these rights and achieve its goals through a broad set of partnerships including with governments, parliamentarians, judges, the business sector, regional bodies and courts on human rights, and others:

- Inform, educate and advocate on environmental rights;
- Address and empower the people behind environmental protection;
- Enhance capacities of state and non-state actors to understand and operationalize environmental rights;
- Work with schools to inform the young generation about environmental rights;
- Strengthen existing work to encourage implementation of human rights obligations related to the environment, including biological and cultural diversity;
- Disseminate information on environmental rights to the general public and particularly to vulnerable populations;
- Raise awareness on the role of environmental rights in promoting the 2030 Agenda and in implementing its environmental dimension; and
- Support efforts to establish networks of environmental human rights defenders to connect and share experiences and information.

4. Scaling up of existing and building new partnerships

In implementing all of the above, UN Environment will form a broad coalition of partners, including both, state and non-state actors, such as: UN agencies and programmes (including the Special Procedures of the Human Rights Council), governments, the private sector (including extractives, chemicals, tourism, and other industries), international financial institutions, faith-based organizations and other civil society organizations, law- and policy-makers, judges, prosecutors, national human rights institutions, regional human rights organizations, and regular citizens, including indigenous and local communities and their leaders.

Strategic partnerships with the UN Office of the High Commissioner for Human Rights as well as the Special Rapporteurs on Human Rights and Environment, and Human Rights Defenders, and other UN human rights experts will be continued with the aim of taking joint action and to formulate common responses.

UN Environment will also strengthen partnerships with a wide variety of media outlets working on environmental defenders and related issues. Finally, UN Environment will also form new partnerships, for example engaging the youth, as well as schools and other academic institutions.