PROTECTING PERSONS
EXERCISING THEIR RIGHTS
UNDER THE AARHUS CONVENTION

Yves Lador - Earthjustice

Aarhus Convention
Task Force on Public Participation in Decision-making
Eighth meeting - Geneva - 8-9 October 2018
AARHUS CONVENTION

Article 3

GENERAL PROVISIONS

8. Each Party shall ensure that persons exercising their rights in conformity with the provisions of this Convention shall not be penalized, persecuted or harassed in any way for their involvement. This provision shall not affect the powers of national courts to award reasonable costs in judicial proceedings.
In 2017, Global Witness documented 207 killings of land and environmental defenders – ordinary people murdered for defending their forests, rivers and homes against destructive industries. This is six more murders than in 2016, making it the worst year on record.
A year of massacres

KILLINGS BY SECTOR 2017

<table>
<thead>
<tr>
<th>Sector</th>
<th>Killings</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agribusiness</td>
<td>46</td>
</tr>
<tr>
<td>Mining &amp; Extractives</td>
<td>40</td>
</tr>
<tr>
<td>Logging</td>
<td>23</td>
</tr>
<tr>
<td>Poaching</td>
<td>23</td>
</tr>
<tr>
<td>Water &amp; Dams</td>
<td>4</td>
</tr>
<tr>
<td>Other</td>
<td>3</td>
</tr>
</tbody>
</table>

Source: Global Witness • Download Data • Embed
THREATS FOR ENVIRONMENTAL DEFENDERS

- Criminal gangs: 32
- Armed forces: 30
- Police: 23
- Paramilitary forces: 13
- Poachers: 12
- Armed militia: 10
- Landowners: 9
- Others: 9
- Private security guards: 8
- Hitmen: 5
- Governmental entities: 2
- Guerrilla armies: 1
PROTECTING ENVIRONMENTAL DEFENDERS
SPECIAL RAPPORTEUR ON HUMAN RIGHTS DEFENDERS

THEY SPOKE TRUTH TO POWER AND WERE MURDERED IN COLD BLOOD
ANALYSIS ON THE SITUATION OF ENVIRONMENTAL HUMAN RIGHTS DEFENDERS AND CONCRETE RECOMMENDATIONS TO BETTER PROTECT THEM

Tu Lucha
Será Nuestro Ejemplo

UNITED NATIONS SPECIAL RAPPORTEUR ON THE SITUATION OF HUMAN RIGHTS DEFENDERS

SUMMARY

1. INTRODUCTION

2. NORMATIVE FRAMEWORK

3. HOSTILE ENVIRONMENT

4. ROOT CAUSES UNDERLYING VIOLATIONS
   A. EXCLUSION AND POWER IMBALANCE
   B. COMMODOIFICATION AND FINANCIALIZATION OF THE ENVIRONMENT
   C. CORRUPTION AND IMPUNITY
   D. GROUPS OF EHRS AT HIGHER RISK

5. EMPOWERING EHRS
   A. STRENGTHENING RESOURCES AND CAPACITIES
   B. FOSTERING A SAFE AND ENABLING ENVIRONMENT
   C. BOOSTING REGIONAL AND INTERNATIONAL SUPPORT

6. CONCLUSIONS AND RECOMMENDATIONS
   A. CONCLUSIONS
   B. RECOMMENDATIONS

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PROTECTING ENVIRONMENTAL DEFENDERS
SPECIAL RAPPORTEUR ON HUMAN RIGHTS DEFENDERS

- Hostile environment

- Root causes underlying violations
  - Exclusion and power imbalance
  - Commodification and financialization of the environment
  - Corruption and impunity

- Empowering EHRDs
  - Strengthening resources and capacities
  - Fostering a safe and enabling environment
  - Boosting regional and international support
THREATS FOR ENVIRONMENTAL DEFENDERS

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THREATS FOR ENVIRONMENTAL DEFENDERS

- Hostile Atmosphere
- Deliberate Restriction of NGO Activity
- Using Law to Eliminate Independent NGOs
- Attempts to Discredit a Strong and Independent Environmental NGO
- Harassment of Environmental and Putting Activists under Pressure
- Criminal Prosecution of Environmental Activists
- Activists Persecuted for Protests against Nuclear Power Plant Construction
- Criminal Prosecution for Protesting against Changes in Laws on Land
- Killings and Violent Attacks on Environmental Activists

Countries mentioned:
- Armenia
- Azerbaijan
- Belarus
- Georgia
- Kyrgyzstan
- Kazakhstan
- Turkmenistan
- Ukraine
- Russia
OBLIGATIONS OF STATES

- Guarantee freedom of Association
- Guarantee Free Expression and Access to Information
- Guarantee Freedom of Protest
- Protect whistle blowing
- Restrict and oversee all types of Surveillance
- Guarantee full integrity of all persons and Prohibit and prosecute any Physical Attacks or Threats
AARHUS & OTHER INSTRUMENTS

SPECIAL RAPPORTEUR ON HR & ENVIRONMENT

FRAMEWORK PRINCIPLES ON HUMAN RIGHTS AND THE ENVIRONMENT

2018

The main human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment.

3

States should prohibit discrimination and ensure equal and effective protection against discrimination in relation to the enjoyment of a safe, clean, healthy and sustainable environment.

4

States should provide a safe and enabling environment in which individuals, groups and organs of society that work on human rights or environmental issues can operate free from threats, harassment, intimidation and violence.

7

States should provide public access to environmental information by collecting and disseminating information and by providing affordable, effective and timely access to information to any person upon request.
AARHUS & OTHER INSTRUMENTS
SPECIAL RAPPORTEUR ON HR & ENVIRONMENT

To avoid undertaking or authorizing actions with environmental impacts that interfere with the full enjoyment of human rights, States should require the prior assessment of the possible environmental impacts of proposed projects and policies, including their potential effects on the enjoyment of human rights.

9
States should provide for and facilitate public participation in decision-making related to the environment and take the views of the public into account in the decision-making process.

10
States should provide for access to effective remedies for violations of human rights and domestic laws relating to the environment.

11
States should establish and maintain substantive environmental standards that are non-discriminatory, non-retrogressive and otherwise respect, protect and fulfil human rights.
HRC 2018 GUIDELINES FOR STATES ON EFFECTIVE PARTICIPATION IN PUBLIC AFFAIRS


- Guidelines (A/HRC/39/28) Basic Principles underpinning the effective implementation of the to participate in public affairs
  Participation in elections
  Participation in non-electoral contexts
  Right to participate in public affairs at the supranational level, including in international organizations
AARHUS & OTHER INSTRUMENTS

In Europe:

- CoE, Declaration of the Committee of Ministers on action to improve the protection of human rights defenders and promote their activities (2008)


AARHUS: A PARTICULAR RESPONSIBILITY

- Create an Aarhus-Escazu community, and enlarge it.

- **Secure internally** all the protection mechanisms of environmental defenders, which includes the regular and full implementation of the 3 pillars of the Convention.

- Take **collective and open positions** promoting the 3 pillars of the Convention, denouncing harassment of environmental defenders - in international forums - by offering shelters to the persecuted environmental defenders.
RIGHT TO A HEALTHY AND SUSTAINABLE ENVIRONMENT

- A fundamental principle to be included in all environment protection policies
- People have a fundamental right to act for the environment
- A vital necessity for any sustainable achievement in saving the environment.
Thank you for your attention

Yves Lador