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**HUMAN RIGHTS AND THE ENVIRONMENT:**

**REGIONAL CONSULTATION ON ENVIRONMENTAL HUMAN RIGHTS DEFENDERS**

**AND GOOD PRACTICES WITH A FOCUS ON ASIA**

**22 May 2014**

**Bangkok, Thailand**

**Convened by the United Nations Independent Expert on human rights and the environment, the United Nations Environment Programme (UNEP) and the Office of the High Commissioner for Human Rights (OHCHR)**

1. **Background**

The Independent Expert on human rights and the environment is mandated by the Human Rights Council (Resolution 19/10) to study the human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, and to identify and promote best practices on the use of human rights obligations and commitments to inform, support and strengthen environmental policy making.

The UN Environment Programme (UNEP) and the Office of the High Commissioner for Human Rights (OHCHR) have partnered in supporting the Independent Expert to undertake a joint project identifying and disseminating good practices related to human rights and the environment. A series of consultations have already been held to inform the good practices project, each of which addresses a particular set of thematic issues. This process began with a consultation in Nairobi on 22-23 February 2013 that focused on procedural rights and duties, followed by consultations in Geneva (21-22 June 2013) on the relationship between environmental protection and substantive rights and duties, Panama City (26-27 July 2013) on environmental protection and the human rights obligations related to members of groups in vulnerable situations, Copenhagen (24 October 2013) on how international institutions and mechanisms can integrate human rights with environmental protection and Johannesburg (23-24 January 2014) on constitutional rights to a healthy environment.

This consultation builds on the previous consultations by continuing to examine the relationship between human rights obligations and environmental protection, with a focus on the protection of environmental human rights defenders (EHRDs). It also takes into account recent meetings on EHRDs in Geneva on 12-13 March 2014, and in Washington, D.C. on 3-4 April 2014, organized by the Universal Rights Group and the Friends of Chico Mendes, respectively.

**The Situation of Environmental Human Rights Defenders**

As the Human Rights Council recognized in its resolution of 28 March 2014 on human rights and the environment, human rights defenders play an important role “in the promotion and protection of human rights as they relate to the enjoyment of a safe, clean, healthy and sustainable environment.” By protecting the environment that we depend on for clean air and water and a vast array of other environmental services, they help us all enjoy our human rights to life, health, and an adequate standard of living, among many others.

Unfortunately, in many countries EHRDs face a heightened risk of killings, attacks, assaults, threats and intimidation from State and non-State actors when attempting to exercise their rights to meet peacefully to protect and promote human rights, and to disseminate information about human rights and draw attention to whether they are observed in practice. Global Witness has reported that between the beginning of 2002 and the end of 2013, 908 people in 35 countries were killed because of their work defending environmental and land rights, an average of one a week for over a decade.[[1]](#footnote-1) As unacceptably high as these numbers are, they almost certainly understate the scale of the problem. As Global Witness notes, there are many challenges to gathering accurate data on the situation of EHRDs, including that EHRDs often operate in remote areas and that their deaths are not always widely reported. Moreover, in addition to the risk of death, EHRDs face arbitrary detention, stigmatisation, defamation, intimidation, threats to their families, harm to the their physical integrity, torture and inhumane treatment.

And the threats to EHRDs are worsening. Global Witness reports that “[t]hree times as many people were killed in 2012 than 10 years previously, with the death rate rising in the past four years to an average of two activists a week.” The Special Rapporteur on the situation of human rights defenders has said that those working on land rights and natural resources are the second-largest group of defenders at risk of being killed (A/HRC/4/37), and that their situation appears to have worsened since 2007 (A/68/262, para. 18).

According to the Special Rapporteur on human rights defenders, these human rights abuses often involve non-State as well as State actors, including transnational companies, paramilitary groups, and private security guards. And they often take place in connection with extractive, construction, and other development projects. (A/HRC/19/55, paras. 66-72).

States have clear obligations to protect EHRDs. As the Independent Expert has stated, “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. There can be no doubt that these obligations apply to those exercising their rights in connection with environmental concerns.” Non-State actors also have responsibilities under international human rights law. As the Special Rapporteur on indigenous peoples, referencing the Guiding Principles on Business and Human Rights, explained, “business enterprises have a responsibility to respect internationally recognized human rights and . . . this responsibility is independent of State obligations” (A/HRC/24/41, para. 52).

States have duties to prevent threats, assaults and harassment, to investigate and respond to threats or acts of violence, and where appropriate, to punish those responsible and adequately redress the victims. In the words of the Special Rapporteur on human rights defenders, “States should combat impunity for attacks and violations against these defenders, 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.” (A/HRC/19/55, para. 126).

Unfortunately, States do not always comply with their duties in this regard. Global Witness reports that only ten perpetrators are known to have been tried, convicted, and punished between 2002 and 2013, “around one per cent of the overall incidence of known killings.”

The Independent Expert on human rights and the environment has noted that too often the protection of EHRDs is not seen as a systematic problem, but instead as a case-by-case issue, thus leaving a protection gap for EHRDs ( A/HRC/25/53/Add.1, para. 57).

Against this backdrop, this consultation will provide an opportunity to discuss (i) the situation of EHRDs in the region, (ii) practical and concrete examples of good practices at the national, regional and international levels which relate to the protection of EHRDs, and (iii) challenges to the implementation of such practices.

**Good practices**

Generally, the term “good practice” is preferred to “best practice,” because in many situations, it is not possible to identify a single “best” approach. Similarly, a “best” approach in one situation may not be considered as successful in another situation.

The term “practice” is defined broadly, to include legislation, policies, strategies, case law, jurisprudential shifts, administrative practices, projects, and so forth, and would also include practices that go beyond established legal obligations related to the environment. They might include, for example, efforts to assist communities to participate in environmental decision-making beyond what environmental review laws may require, or even local laws that go beyond national legal obligations. Practices can be implemented by a wide range of actors, including all levels of government, civil society, the private sector, communities, and individuals.

For the purposes of this consultation, a *good* practice should focus on practices that help promote and guarantee the human rights of EHRDs. For example, such practices may assist EHRDs to participate in environmental decision-making, gain access to relevant information, and provide them with opportunities for redress should their rights be violated, including at the national, regional and international levels.  Good practices can also focus on efforts by non-State actors in protecting the rights of EHRDs; groups in vulnerable situations, such as indigenous peoples, minorities, and women; and monitoring the situation of EHRDs, including information on violations of their human rights.

In general, the practice should be exemplary from the perspective of human rights and from that of environmental protection. Importantly, there has to be some evidence that the good practice actually is achieving or working towards achieving its desired objectives and outcomes.

1. **Objectives of the consultation**

The objectives of this consultation are to:

1. Identify the nature of the threats to the human rights of EHRDs in the Asia region;
2. Identify good practices at international, regional and national levels related to the protection of EHRDs in the Asian region;
3. Offer a platform for dialogue between participants, including facilitating the exchange of experiences, knowledge and lessons learned; and
4. Increase awareness of a human rights based approach to environmental policy development and protection.
5. **Outputs**

This consultation will inform the work of the Independent Expert in studying human rights obligations and good practices in their use.

Good practices as well as challenges and lessons learned identified during the consultation will also be complied as part of the joint UNEP/OHCHR/Independent Expert good practice project, including the Independent Expert’s next report to the Human Rights Council to be presented in March 2015.

The consultation will also provide an opportunity for the human rights and the environment communities to meet and exchange experiences, which in turn will lead to strengthened capacities to further promote synergies between human rights and the environment.

1. **Participants**

The consultation will gather approximately 40 participants from a wide range of actors and backgrounds, including civil society organizations, national human rights institutions, academics and international organizations.

1. **Format**

The Chatham House rules shall be observed during the discussion (i.e. points raised during the discussion will not be ascribed to any specific participant), to encourage those contributing to do so as candidly as possible.

The consultation will take place in English only.

1. Global Witness, *Deadly Environment: The Dramatic Rise in Killings of Environmental and Land Defenders,* available at http://www.globalwitness.org/deadlyenvironment/. [↑](#footnote-ref-1)