

QUESTIONNAIRE: UN SPECIAL RAPPORTEUR ON THE SITUATION OF HUMAN RIGHTS DEFENDERS

Center for Women's Global Leadership responses to OHCHR questionnaire on large-scale development projects and a safe and enabling environment for human rights defenders

1- Please indicate what you see as the main challenges and opportunities of a human rights-based approach to development, with particular attention to large-scale development projects and the role, protection and effective participation of human rights defenders. What do you think are the best measures to mitigate the challenges? Kindly provide examples of good practices in this respect.

In the 21st century, human rights defenders are experiencing increasing challenges in the wake of large-scale development projects. Some of the main challenges of a human rights-based approach to development include:

- Persuading the private sector and governments to protect the rights of people who are affected by development activities including human rights defenders who advocate on behalf of their communities.
- Ensuring small-scale industries, including small farms and local grazing land are not cut off by increasing encroachment of the private sector and government.
- Ensuring the accountability of the private sector and governments that violate human rights or refuse to engage in a transparent way with communities and human rights defenders.
- Establishing a monitoring and evaluation system that will provide transparency to the public about the proposed and ongoing extraction of natural resources and the treatment of human rights defenders that engage with the private sector and governments.

Furthermore, the surrounding community that is directly and most affected by the use of, construction on, and extraction of natural resources, (including land, water, forests, metals, and oil) must have a platform to voice concerns and negotiate terms. This platform must be protected by the State and must be included in negotiated contracts. Human rights defenders who advocate on behalf of their communities must have a protected status in this process.

The private sector and governments, who have separate and incentivized deals, that often end up undermining human rights must be monitored through a transparent and participatory system, which would include human rights defenders among others. It is also important to note that with displacement, which sometimes occurs, it is difficult for human rights defenders and affected communities to hold the governments and corporations to account. In addition, due to the role/complicity of government, in many cases because large scale development projects almost always involves local/national government with private (most often foreign) sector, it is difficult to hold business to account as they are not accountable to the government or people. Accountability mechanisms should be developed to address these critical challenges.

Furthermore, when human rights defenders are women or marginalized groups, they face particular challenges related to participation and transparency, as well as access to justice.

The Maastricht Principles on Extraterritorial Obligations (ETOs) of States in the Area of Economic, Social and Cultural Rights can provide helpful suggestions to mitigate gaps in protecting human rights defenders and holding the private sector and governments to account on their human rights obligations as well as end impunity.¹ ETOs provide regulation of transnational corporations, hold Inter-Governmental Organizations accountable for their impacts, and ultimately stop the destruction of eco-systems and the climate.

2- Please explain how, in your view, large-scale development projects can best be elaborated in order to the effective participation of human rights defenders. Please describe participation/consultation mechanisms in place and provide examples of good practices.

Human Rights Defenders who serve as representative advocates for women, indigenous and other communities are essential in the process of beginning and implementing development projects. Many human rights defenders, especially Women Human Rights Defenders (WHRD), face extreme insecurity, including sexual violence and death, when they stand up against the State and private business.² WHRDs are at risk of certain forms of violence and restrictions, and become more vulnerable to prejudices, exclusion and public repudiation by state forces and social actors especially when engaged in the defense of women's rights.

We need substantive participation at all steps of the process, from deciding about feasibility to design, planning, implementation and monitoring/evaluation etc. That means providing info in a timely manner, information in local languages, access to decision makers, putting in place accountability mechanisms, etc

4- How, in your view, can business and corporations involved in large-scale development and investment projects be best monitored regarding corporate social responsibility principles and their engagement with human rights defenders? What is, in your view, the role of defenders in this process and how could their capacity to engage be strengthened?

First, we must go beyond corporate social responsibility as history shows that this is not an effective way to hold corporations to account. Particularly in larger scale development projects the policy space should be created for both the government and the affected peoples to hold businesses accountable.

¹ Maastricht Principles on Extraterritorial Obligation of States in the area of Economic, Social and Cultural Rights. http://www.etoconsortium.org/nc/en/library/maastricht-principles/?tx_drblob_pi1%5BdownloadUid%5D=23

² Nobel Women's Initiative. "From survivors to defenders: Women confronting violence in Mexico, Honduras, and Guatemala". June 1, 2012. <http://nobelwomensinitiative.org/2012/06/from-survivors-to-defenders-women-confronting-violence-in-mexico-honduras-and-guatemala/?ref=196>

Second, corporations can be monitored through internal reporting and external monitoring on their environmental impact and their attentiveness to workers health and safety standards. They can be held accountable by State authorities in their responsive engagement with and respect for the human rights of local communities and human rights defenders.

Finally, human rights defenders and specifically women human rights defenders must be an active participant from beginning to end in the monitoring and evaluations of corporations involved in large-scale development and investment projects. This includes both substantive and logistical inputs as well as quality consultations reviewing any significant challenges or progress made.