

To: The Working Group on the issue of human rights and transnational corporations and other business enterprises
UNITED NATIONS HUMAN RIGHTS COUNCIL
Via email to forumbhr@ohchr.org

April 12, 2013

Re: Proposal for a panel on the situation of environmental and land rights defenders for the 2nd annual Forum on Business and Human Rights, December 2013

Dear Working Group members,

Thank you for the opportunity to submit this suggestion to the Working Group for the second annual United Nations Forum on Business and Human Rights, December 2-4, 2013 in Geneva.

I attended the first annual Forum December 2012, and had an extraordinary experience interacting and communicating with leaders from civil society, business and governments about the issue that is my focus as a human rights researcher, advocate and academic: At-risk environmental and land defenders around the world and the critical need to protect them from human rights violations.

My suggestion follows up on the written statement (which I collaborated on) that was submitted at the 1st Forum by the OBS - Observatory for the Protection of Human Rights Defenders (joint project of the World Organization Against Torture (OMCT) and the International Federation for Human Rights (FIDH)) - <http://www.ohchr.org/Documents/Issues/Business/ForumSession1/SubmissionsStatements/ObservatoryProtectionHRD.pdf>:

I recommend that the Working Group include a panel discussion in the 2nd annual Forum that will address the crucial situation of environmental and land defenders and their vulnerability vis-à-vis governmental and business entities.

This panel will fit in the mandate of the Forum, in accordance with paragraph 12 of the UN Human Rights Council resolution 17/4, which established the Forum on Business and Human Rights to “discuss trends and challenges in the implementation of the Guiding Principles [on Business and Human Rights] and promote dialogue and cooperation on issues linked to business and human rights, including challenges faced in particular sectors, operational environments or in relation to specific rights or groups, as well as identifying good practices”.

Ms. Margaret Sekaggya, the UN Special Rapporteur on Human Rights Defenders, pointed out in her ground-breaking 2012 Human Rights Council report that environmental and land rights defenders face a large range of acts of criminalization and abuses when confronting adverse impacts of investment projects. Those include threats, violence, judicial harassment, and even killings, as a consequence of their peaceful activities to defend the right to healthy and safe environment, to protect natural resources and the livelihood of their communities. This is the

press release summarizing that pioneering HRC Report:

<http://www.ohchr.org/EN/NewsEvents/Pages/EnvironmentalHumanRightsDefenders.aspx>

Ms. Sekaggya's serious concerns were repeated last month by the new UN Independent Expert on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, John Knox, who stressed in his first-ever report to the Human Rights Council (http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session22/A-HRC-22-43_en.pdf) that "environmental human rights defenders have proved to be especially at risk when trying to exercise these rights". He further recalled that "States' obligations regarding freedom of expression and association apply fully to those seeking to exercise those freedoms for the purpose of improving environmental protection", adding that "environmental defenders have human rights just as others do but [...] they may be more at risk than most for exercising them".

Human rights defenders, including those addressing environmental concerns, whose efforts often intersect with both State and corporate activities, are at even greater risk of business-related human rights abuses, as they often find themselves not only vulnerable to abuses by State interests but also the interests of powerful economic actors. Therefore, not only do States, including home governments of corporations and host countries, have the responsibility to effectively protect such defenders and fight against impunity for attacks and violations against them, including by non-State actors, but enterprises also have the responsibility to avoid any adverse impact of their activities on human rights defenders.

In my 2011 Guest Commentary for the Institute for Human Rights and Business

(http://www.ihrb.org/commentary/guest/protecting_human_rights_defenders.html) I noted that the former Special Representative of the UN Secretary-General on business and human rights, Professor John Ruggie, also stated in his Guiding Principles that

- 1) the legitimate and peaceful activities of human rights defenders should not be obstructed, and
- 2) that business enterprises, in their due diligence efforts, should consult with "credible, independent resources including human rights defenders".

Accordingly, a panel discussion that would focus specifically on the situation of human rights defenders working on land and environmental issues (who often attempt to find a balance between economic development and environmental protection) would be the occasion for the Working Group to build on the recommendations made by these other UN Special Procedures. One of the points of the panel would be to review the responsibility of all stakeholders, including States, domestic businesses and multinational enterprises (MNEs), to respect and protect those at-risk land and environmental activists.

The panel would speak to all stakeholders to give full recognition to the legitimate role and important work these highly vulnerable defenders carry out; to ensure that they are able to work effectively and without threat of attack by State or non-State actors, including when they protest against adverse impact of investment projects (particularly those of the resource extraction industries) on human rights; as well as to combat impunity for such attacks and violations.

To further understand this critical issue, I invite you to review my short article for Oxford Press Journal on Human Rights Practice on the landmark environmental defenders cases:

PDF to download:

<http://jhrp.oxfordjournals.org/cgi/reprint/hur020?ijkey=TmPlvBcvZYHLh18&keytype=ref>

Full Text online:

<http://jhrp.oxfordjournals.org/cgi/content/full/hur020?ijkey=TmPlvBcvZYHLh18&keytype=ref>

Additionally, I recommend a significant Global Witness report (presented last June at Rio+20) on the alarming international trend of assassinations of environmental and land defenders:

<http://www.globalwitness.org/library/survey-finds-sharp-rise-killings-over-land-and-forests-rio-talks-open>

I appreciate your consideration of this 2013 Forum panel suggestion (which coincides with the OBS submission), and I would like to offer my services to aid the Working Group in the development of such a program (including acting as moderator, panelist/presenter, etc.)

Please do not hesitate to let me know how I might be of assistance.

Thank you for your attention to this matter.

Warm regards,

Lauri Tanner

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