

Joint NGO Briefing for **UNFCCC COP27:**

Recommendations for
advancing climate justice
through increased recognition
and protection of land and
environmental defenders



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INTRODUCTION

As the climate crisis worsens so does the violence against those protecting our environment, including climate-critical forests. To achieve real climate justice we need to address the situation of those working on the frontlines to demand climate action. Around the world environmental defenders working on climate justice are increasingly targeted with violence, harassment, and criminalization. Most of these attacks are related to land conflicts involving climate-damaging industries - from deforestation by agribusinesses to mining - yet corporate accountability for such harm is lacking.

According to Global Witness, on average one land and environmental defender has been killed every two days since 2012^[1]. Civil society has also been reporting the growing use of criminalization, the enactment of legislation to prevent freedom of assembly, and SLAPPs (strategic litigation against public participation lawsuits) to deter dissent and attack groups and communities opposing climate-damaging industries. In the United States alone EarthRights International has identified 134 cases in the past ten years where the fossil fuel industry has used SLAPPs and related tactics against its critics^[2].

International multilateral environmental agreements have recognized the role of environmental defenders to build a just transition. In 2018, the Escazú Agreement committed Parties to recognize, protect and promote the rights of environmental defenders and to take measures to prevent, investigate and punish attacks against them. More recently, Parties to the Aarhus Convention adopted a decision calling on Parties to review their legal frameworks to take measures to protect environmental defenders under the Convention. In 2019 the Human Rights Council adopted its first resolution recognizing the contributions of environmental human rights defenders^[3].

However, at the UNFCCC, States have failed to effectively address the violence against environmental defenders on the frontlines of the climate crisis. We cannot achieve climate justice without protecting those at the frontlines of the crisis. During COP 27 Parties can take meaningful steps to better recognize and protect the role of environmental and land defenders.

Recommendations for strengthening the Action for Climate Empowerment (ACE) Action Plan to foster an enabling environment for defenders

The ACE Action Plan to be adopted at COP-27 should become a real tool to foster an enabling environment for people exercising their rights to access information, participation and education in the framework of climate action. It should recognize the need to effectively protect environmental human rights defenders and include activities that support Parties' efforts to guarantee an enabling environment for those on the frontlines.

Parties should ensure that the action plan includes activities that allow States to address challenges faced by defenders to access information or public participation and build capacity to ensure a safe and enabling environment for them.

The ACE Action Plan must implement urgent actions to uphold the fundamental human rights of environmental defenders and enable public participation and access to information in policy and decision-making.

At COP-26 Parties adopted the Glasgow Work Program on ACE committing to taking urgent action under four thematic priority areas: policy coherence, coordinated action; tools and support; and monitoring, evaluation and reporting. At COP-27 Parties will adopt a four-year Action Plan to implement the four priority areas. We recommend the inclusion of the following activities in the ACE Action Plan:

1. Hold an ACE Dialogue on Environmental Human Rights Defenders, including Indigenous peoples and local communities, to identify the obstacles that defenders face when trying to exercise their rights to access information, public participation and education.
2. Identify gaps preventing environmental defenders from exercising access to information and participation in climate action through consultation with Indigenous peoples and local communities, relevant UN offices, relevant civil society groups and other key stakeholders.
3. Provide targeted recommendations for Parties, inter-government bodies and other relevant key stakeholders to take action to increase protection for defenders and enable them to exercise their rights to participate and contribute to decision-making related to climate and environmental matters.

The Global Stocktake of the Paris Agreement: An opportunity to assess how the causes of the climate crisis are also fueling violence against land and environmental defenders

The Global Stocktake of the Paris Agreement (GST) is a process for “taking stock” of the implementation of the Paris Agreement with the aim to assess the world’s collective progress toward achieving the purpose of the agreement and its long-term goals. The process started in June 2022 during the Bonn Climate Change Conference, the fifty-sixth session of the Subsidiary Body for Scientific and Technological Advice, and the Subsidiary Body for Implementation (SB 56) and will continue until COP-28 in 2023.

To be effective, the GST must explicitly assess how Parties’ National Determined Contributions (NDCs) and all other climate actions have respected, protected and promoted human rights, including the rights of Indigenous peoples, and the rights of environmental defenders to be able to better inform future NDCs, adaptation plans, and all climate action. All Parties to the Paris Agreement have human rights obligations and human rights-based climate action is the most effective climate action, as confirmed by the IPCC in its most recent report^[4].

The latest IPCC reports published in 2021 and 2022 have clearly articulated how humanity is at a breaking point and have described the urgent actions that can be adopted to avert the worst impacts of climate change. Climate resilient development requires policies that have a rights-based approach focusing on enabling the meaningful participation of the most vulnerable groups and their access to resources. Policies that are built with a participatory approach are more effectively implemented. Ensuring human rights such as access to information, public participation and Indigenous people’s consultation and free and prior informed consent when developing climate policy can ensure that such policies are more effective. At the same time when climate policy is built without a basic respect for such rights, States are creating conditions for human rights violations.

During the Global Stocktake, parties should include considerations on the human rights implications of the three thematic areas of mitigation, adaptation, and means of implementation and support, and how a human rights approach to each one of those areas ensures a more successful outcome.

For example, regarding mitigation and fossil fuel phase-out, it is important to assess the impacts of both the emissions gap and fossil fuel production on human rights. Fossil fuels are the main source of greenhouse gases and the main cause of climate change. By continuing to rely on fossil fuel exploitation, States are fueling climate change and further endangering human rights. Fossil fuel projects also directly cause human rights violations related to land grabs, human health impacts and massive contamination of air and water resources, and this includes violation of the recently universally recognized right to a clean, healthy and sustainable environment, and human rights abuses against environmental defenders, among others^[5].

During the Global Stocktake technical dialogue conducted in June 2022, parties failed to adequately discuss fossil fuel transition. This must be redressed. When discussing mitigation and fossil fuels, parties must address the links between the growing repression and violence against environmental defenders and fossil fuel projects.

The Global Stocktake must also discuss how to ensure that actions to accelerate the energy transition and reduce emissions do not infringe upon human rights. Parties must not allow the transition to green energies to promote a new wave of human rights violations. The global Stocktake outcomes should provide guidance on how to develop mitigation measures that respect human rights, especially of those more vulnerable such as Indigenous and local communities^[6].

Recommendations for the GST process

The United States and South Africa as co-facilitators of the GST should ensure that human rights experts, Indigenous peoples, environmental human rights defenders and representatives of communities on the frontlines of the climate crisis are able to participate in the technical dialogue and roundtables of the GST and facilitate and lead some of the discussions. Defenders should be invited to provide direct input to the co-facilitators and the secretariat to develop the agenda and draft the questions for future GST dialogues and discussion tables.

Nationally Determined Contributions (NDCs) need to be developed in close consultation with defenders and must include specific provisions to enable their participation in decision-making related to the climate and the environment. The Paris agreement rule book stated that the Global Stocktake would be a crucial tool for enhancing collective ambition toward achieving the goals of the agreement. The findings of the technical assessment therefore should provide specific guidance to parties on what is missing and how to enhance ambition. The technical summary resulting from the GST process should include specific guidance on how parties should increase their ambition to fulfill their human rights obligations, including how to protect the rights of land and environmental defenders, and how to guarantee access to information, public participation and Indigenous people's consultation, and how to develop the next round of NDCs by ensuring the protection of human rights.

Need for UNFCCC leadership to recognize the role of defenders in tackling the climate crisis and to address the growing threats they face

The UNFCCC climate negotiations currently provide very little recognition of the central role that environmental human rights defenders and civil society play in the global response to the climate crisis. Parties need to recognize the link between the climate crisis and the growing violence and repression against land and environmental defenders. Parties should adopt effective measures to address this situation. The response to climate change will not be complete if the defenders and the communities on the frontlines are paying with their lives and integrity as the price for demanding climate justice.

UNFCCC COP provides an opportunity for Parties of the Paris Agreement to create a space to better recognize, advance and protect the role of land and environmental defenders in consultation with civil society, UN Special Procedures, OHCHR, the Escazú Agreement Secretariat, the Aarhus Convention Secretariat, and other existing frameworks.

Urgent action is needed to recognize and protect the role of land and environmental defenders in the context of climate change, increase understanding and awareness of the threats they face at the national level, and share experiences and best practices to enable a just and inclusive global response to the climate crisis.

Governments wishing to host COPs should commit to guaranteeing a safe and enabling environment for civil society and Indigenous representatives

Civil society and Indigenous peoples have been raising concerns for years about access, participation, and freedom of assembly at UNFCCC meetings^[7]. COP27 will be a particular challenge because of the context of closed civic space in Egypt^[8]. To enable diverse, safe, and effective participation of observers during COPs, it is important to develop mechanisms that ensure people's rights and well-being from an access rights perspective.

Parties and the UNFCCC secretariat, should work to develop a protocol for any country hosting UNFCCC to commit to the guarantee of freedom of association and peaceful assembly as a prerequisite for their nomination to host international climate fora as recommended by the UN Special Rapporteur on Freedom of Assembly and Association in its 2021 report presented to the UN General Assembly^[9]. Governments wishing to host a COP meeting should demonstrate their commitment to human rights and people's participation and show leadership at the global, regional level, and national levels on climate issues. The protocol could also help ensure that all governments hosting climate negotiations commit to ensuring the freedoms of association, peaceful assembly, and expression of civil society participants and observers, and guarantee people's participation, including providing visas on time and ensuring that hotel and transportation costs are not exclusionary.

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