

**Contributions from the Public for the Thematic Index of the Escazú Agreement's
Action Plan on Environmental Defenders**

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Introduction

The Action Plan for defenders must be built based on the implementation of the environmental democracy framework of the Escazú Agreement, which proposes an interconnection of the three rights of access, and the recognition and protection of environmental defenders as a fourth pillar.

The Action Plan must propose clear guidelines that allow the Parties to move forward with their obligation of recognition and protection set forth in Article 9, and to also cater to the real needs of defenders, including indigenous leaders and local communities in their territories. Experience in our region shows us that protection systems often fail because their design process lacks the active participation of and dialogue with potential recipients.

Defenders are a central actor in the Plan's construction framework, so their participation must be guaranteed in all scenarios and phases of construction, guaranteeing a multicultural approach that meets the needs of ethnic peoples and local communities. The Plan's construction must contemplate a scenario with effective early warnings aimed at protecting defenders in situations of emergency and risk at the regional level.

It is necessary to work on prevention with a focus on interoperability, to know where to intervene and how to do it.¹ The Plan's construction must promote the coordination of state authorities with actors from all levels of power from Party States, and especially with the entities in charge of the protection of defenders, to guarantee a greater effectiveness and legitimacy of any proposed measures.

This document presents contributions for the thematic index of the Escazú Agreement's Action Plan on Environmental Defenders, which will serve as a starting point for the scenario of public monitoring and citizen oversight to be exercised by the public within the framework of the Agreement's implementation.

¹ Interoperability implies actions such as the crossing of information from state sources to contribute to the identification of patterns and trends of threats and risks. This approach seeks to prevent further conflicts and pressures. An example of the way in which it would operate can be taken from Peru's experience, where the Ministry of the Environment has a dashboard on deforestation sources related to illegal logging. A similar tool is used by DEVIDA, but focused on illicit coca leaf crops. Similarly, the Ministry of Transportation and Communications has information on national, departmental, and local roads, and the Ministry of Culture has a registry of native and peasant communities. Cross-viewing all these types of sources in heat maps would allow the identification of trends regarding the existence of conflicts or the greater probability of their occurrence or worsening due to infrastructure works. Likewise, the complementarity of these dashboards with the complaints and contributions provided by indigenous organizations such as AIDSESEP, ORAU and CARE, which have early warning systems, would help not only to prevent threats, but also target strategic actions to prevent the expansion of illicit economies.

1. Context of Environmental Defenders in Latin America

Civil society has identified common trends related to the context of repression and violence faced by defenders in Latin America. In the first place, it has been identified that common violations include that of the right of access to **public information, participation** in environmental decision-making processes, access to **environmental justice** and the **free, prior and informed consent of ethnic peoples**. This promotes decision-making behind closed doors, or one that fails to guarantee effective participation and inclusion of the role and voice of defenders as established in the Escazú Agreement.

Thus, when communities organize to protect their territories and resources from harmful activities, they are subject to **threats and violent attacks**, many times by companies acting in coordination with public security forces. Latin America presents the highest figures for murders of environmental defenders. During 2015 - 2019, the Economic Commission for Latin America and the Caribbean (ECLAC) has identified that, on average, 4 indigenous defenders have been murdered each month in Latin America. The urgency of the situation is reflected in the latest Global Witness report, when it states that: "200 land and environmental defenders were killed in 2021 [...] More than three quarters of the registered attacks occurred in Latin America. In Brazil, Peru and Venezuela, 78% of the attacks occurred in the Amazon."²

In cases where physical violence is not used, both States and companies **deploy more subtle tactics to silence communities**. This includes legislation that criminalizes peaceful protest, the use of legal actions and other forms of judicial harassment, disinformation campaigns, infiltration of communities and social movements, illegal surveillance and smear campaigns. Other people close to the defenders, such as their loved ones, communities, and legal representatives are also often subjected to reprisals, for which it is essential to take them into account for protection. Likewise, there are differentiated attacks against women, LGBTIQ+ people, children and youth, racialized peoples, among others.

2. Safe and Enabling Environment

a. Definition and nature of environmental defenders

Human rights defenders in environmental matters are an established category in international human rights law. The Escazú Agreement contributes to the strengthening of this concept by referring to the people, groups and organizations that promote and defend human rights in environmental matters.

² <https://www.globalwitness.org/es/decade-defiance-es/>

Special attention should be paid to the recognition of indigenous peoples attacked or prosecuted due to their activities and their close relationship with the environment, land and territory.

It is also necessary to determine appropriate and effective national and regional measures to recognize, protect and promote defenders' rights, generating a **safe and enabling environment in which individuals, groups and organizations promote and defend human rights in environmental matters without threats, restrictions or insecurity.**

A broad international regulatory framework for the protection of environmental defenders is identified, from which it is worth highlighting the definition of environmental defenders built from the United Nations System, recognized within the Escazú Agreement, which is key to the strengthening of national regulatory frameworks.

Thus, two definitions are key, the first one contained in the 2018 protection policy for environmental defenders, according to which: *“Environmental defenders – whether individuals, organizations or communities – are often ordinary citizens exercising their rights. UN Environment considers an environmental defender to be any person who defends environmental rights, particularly constitutional rights to a clean and healthy environment, when their exercise is threatened. In general, environmental defenders get involved in their activities out of sheer necessity; some do not even consider themselves environmental or human rights defenders.”*

The definition proposed by the United Nations Human Rights Council under Resolution 40/11 of 2019 is also noted, according to which: *“environmental defenders are people who make a positive, important and legitimate contribution to the promotion and protection of human rights related to the enjoyment of a safe, clean, healthy and sustainable environment... they are among the rights most exposed and at risk”.*

Additionally, indigenous peoples are recognized as mainly affected by climate change due to their dependence on the environment, land and territory and their close relationship with them. It is recognized that they are attacked or prosecuted by reason of their activities. According to data from the United Nations Food and Agriculture Organization, **indigenous peoples care for 80% of global biodiversity**, as well as a third of carbon sink forests which, therefore, as the *Futuros Indígenas* network points out, are living solutions to the climate crisis.

The resolution also recognizes the need for States to guarantee a favorable environment to carry out their work without any obstacles, based on a legitimate recognition of their role as the articulating axis of citizen oversight of socio-environmental impact and critical analysis of extractive and development agendas in the territories. Defenders promote discussions and coordination at the community level, essential to ensure citizen participation in local spaces.

Similarly, the resolution calls out the responsibility of companies, which must respect environmental defenders' rights to life, liberty and security. (Resolution 40/11, 2019)

Due to the intrinsic nature of their work, there is great diversity in the type of defenders, ranging from people who document and/or disseminate information, through those who file or contribute to legal actions, to people who engage in social mobilizations. Within this diverse range, the role of defenders in the territories (rural or urban) stands out, because they are the first line of defense and those who face the greatest risks and impacts, especially in terms of security. It is worth noting that, in this category, local actors such as Afro-descendant peoples and peasant communities are especially relevant, as in most countries of the region they do not have a regulatory framework regarding the recognition of rights over their territories and are therefore in a vulnerable situation.

It is important to specify that defenders also have a collective nature, which has been recognized in article 1 of the Declaration on the right and duty of individuals, groups and institutions to promote and protect human rights and fundamental freedoms universally recognized by the United Nations, as the defense of human rights is not only linked to the defense of civil and political rights, but also to the defense of economic, social and cultural rights, as established by the Inter-American Court of Human Rights in the 2009 *Kawas Fernández v. Honduras* case. This defense implies the defense of the environment, land rights and other rights of indigenous peoples. That is why, when we talk about human rights defenders, we are also talking about indigenous peoples or other organizational forms of indigenous peoples as defenders of a collective nature.

b. The right to defend rights: right to freedom of association, assembly, expression and protest

Recognizing the decisive role of human rights defenders in maintaining democratic states,³ as well as the threats and violence exerted against them, the universal and regional systems for the protection of human rights have observed the need to make special efforts to broadly protect their rights defense work.

A first step taken by the universal United Nations system was to officially define the "defense" of human rights as a right in itself and to recognize the people who work for those rights as "human rights defenders".⁴ Thus, in December 1998, the General Assembly of the United Nations, through resolution 53/144, approved the "Declaration on the right and duty of individuals, groups and institutions to promote and protect human rights and universally recognized fundamental freedoms" (known as the "Declaration on Human Rights Defenders").

³ United Nations Human Rights Committee. Report on the situation of human rights defenders in Mexico. "Defender los derechos humanos: entre el compromiso y el riesgo". November 2009.

⁴ IACHR. Report on the situation of human rights defenders in the Americas, 2006; Special Representative of the UN Secretary, Mrs. Hina Jilani, Booklet 29: Human Rights Defenders: Protection of the Right to Defend Human Rights. Available at: <http://www.ohchr.org/Documents/Publications/FactSheet29sp.pdf>.

Said instrument, in its articles 5 and 6, establishes the obligation of the States to guarantee those related rights, which in turn allow the full guarantee of the right to defend human rights⁵. The right to defend rights, therefore, must be understood as an umbrella right, where freedoms such as association, assembly, expression and the right to peaceful protest (among others) come together, whose guarantee and respect realizes the protection of human rights and nature rights defense work.

in the cited case of *Kawas Fernandez v. Honduras* on the right of association, the IACHR has determined that it is characterized by allowing any person to create or participate in organizations whose operation may include public demonstrations. It is, therefore, the right to come together in order to seek the common realization of a lawful purpose, without pressure or interference that may alter or distort said purpose, and without the intervention of the public authorities to limit or hinder the exercise of said right⁶.

Regarding freedom of assembly, the Inter-American Court itself, in cases such as that of *Women Victims of Sexual Torture in Atenco v. Mexico*, has established that the right protected by Article 15 of the American Convention on Human Rights (hereinafter the ACHR) "recognizes the right to peaceful assembly without weapons" and, taking into account the standards of the European Court of Human Rights (hereinafter ECHR), this right "covers both private meetings and meetings on public roads, whether static or in motion"⁷. The IACHR has understood that the right of assembly is a fundamental right in a democratic society and should not be interpreted restrictively. In this sense, the Court has considered that the right to protest or express disagreement against any state action or decision is protected by the right of assembly, enshrined in Article 15 of the ACHR.⁸ Therefore, the right to defend rights through protest also

⁵ Articles 5 and 6 of the Declaration on Human Rights Defenders of 1998 read:

Article 5: In order to promote and protect human rights and fundamental freedoms, everyone has the right, individually or collectively, at the national and international level: a) To assemble or demonstrate peacefully; b) To form non-governmental organizations, associations or groups, and to join or participate in them; c) To communicate with non-governmental and intergovernmental organizations.

Article 6: Every person has the right, individually and collectively: a) To know, collect, obtain, receive and hold information on all human rights and fundamental freedoms, including access to information on the means by which such rights and freedoms are enforced in the internal legislative, judicial and administrative systems; b) In accordance with the provisions of human rights instruments and other applicable international instruments, to freely publish, impart or disseminate to third parties any opinions, information and knowledge related to all human rights and fundamental freedoms; c) To study and discuss whether these fundamental rights and freedoms are observed, both in law and in practice, and to form and maintain an opinion in this regard, as well as to draw the public's attention to these issues through such channels and by other suitable means."

⁶ IACHR Case of *Kawas Fernández v. Honduras*, Judgment of April 3, 2009. Para.143. See also: Case of *Baena Ricardo et al. Merits, Reparations and Costs*, footnote 96, para. 156. Cf. also Case of *Huilca Tecse v. Peru. Merits, Reparations and Costs. Judgment of March 3, 2005. Series C No. 121, para. 69*, and Case of *Cantoral Huamaní and García Santa Cruz Vs. Peru. Preliminary Objection, Merits, Reparations and Costs. Judgment of July 10, 2007. Series C No. 167, para. 144.*

⁷ IACHR Case of *Lopez Lone et al. v. Honduras. Preliminary pleading, merits, reparations and costs. Judgment of October 5, 2015. Series C No. 302, para. 167*, citing ECHR, Case of *Djavit An v. Turkey*, No, 20652/92. Judgment of February 20, 2003, para. 56, and Case of *Yilmaz Yildiz et al. v. Turkey no. 4524/06. Judgment of October 14, 2014, para. 41.*

⁸ IACHR Case of *Women Victims of Sexual Torture in Atenco V. Mexico. 2018. Paragraph 171.*

implies the possibility of demonstrating publicly and peacefully, and it is one of the most accessible ways of exercising the right to freedom of expression, through which one can demand the protection of other rights.

The Inter-American Commission on Human Rights (IACHR) reminds us, in its Second Report on the Situation of Human Rights Defenders in the Americas, that participation in peaceful demonstrations constitutes an alternative to violence, and is a means of expression and change that must be supported by States⁹. In this regard, the IACHR has set out that, although States enjoy a certain degree of discretion when assessing the risk to public order for the purpose of ordering the use of force, this discretion is not unlimited or unconditioned. The Court has established that this use of force cannot be based on a paradigm that aims to treat the civilian population as the enemy, but rather, must consist of the protection and control of civilians.¹⁰

Finally, it should be noted that the Inter-American Commission on Human Rights, in its Report on Social Protest and Human Rights, points out that on numerous occasions, public demonstrations have been considered an exercise of freedom of expression, as the manifestation of opinions, dissemination of information and articulation of demands all are central objectives of the protests. In this sense, the right to demonstrate is also protected by the right to freedom of expression.¹¹

c. Defenders and their relationship with territories, land and natural resources

The territory plays an essential role for indigenous peoples, original and local communities, as it includes that space where they live and carry out their economic and cultural activities, such as forests, fields, hunting and fishing areas, among others, which have been internationally recognized in treaties, declarations and jurisprudential decisions of the Inter-American Court. Thus, they play a fundamental role in the conservation of the territory, and many other collective rights arise from their relationship with the land. However, different pressures and threats associated with the increase in illegal activities, infrastructure projects, and economic reactivation based on extractive activities are currently being reported.

d. Situation of Women Defenders

An essential aspect to be considered is underscoring that, women defenders, in addition to facing similar risks as male defenders, also run gender-differential risks. Just their presence in the field of human rights defense arouses greater hostility than that of men, since it

⁹ IACHR. Second report on the situation of human rights defenders in the Americas, 2011.

¹⁰ IACHR Case of Women Victims of Sexual Torture in Atenco v. Mexico. 2018. Paragraph 167.

¹¹ IACHR. Report on Social Protest and Human Rights. 2019. Para. 18.

simultaneously challenges cultural, religious, social and even legal norms about their role as women and the more passive role is assigned to them in patriarchal societies.

The hostility, harassment, and repression faced by women defenders take on attributes specifically related to gender, ranging from verbal aggression to sexual harassment and rape, both by law enforcement officials and by colleagues, neighbors, couples, and families.

e. What is a safe environment? What is an enabling environment?

Talking about a safe environment implies that defenders, individually or collectively, develop in an environment free of any type of threat, risk or attack. When we speak of an enabling environment, we mean for defenders, individually or collectively, to develop in an environment that promotes the free exercise of the right to defend rights.

There must also be a comprehensive and holistic security perspective, that is, considering elements from different areas, their interrelation and interdependence. It must consider the promotion of human rights policies, training of public officials, strengthening of human rights institutions, participatory mechanisms, transparency and accountability of public policies, as well as institutions with the capacity to effectively receive and deal with complaints.

A safe environment is one that contemplates not only the individual perspective, but also the collective one, since there are security elements that refer to people and others that apply to the community. In addition, the enabling environment must also consider the digital setting.

It is also important to consider the conception of a safe and conducive environment from an intercultural approach, through synergies with worldviews of indigenous peoples. COICA, through its Program for the Defense of Indigenous Defenders (PDDD for its Spanish acronym), is advancing a proposal of a safe and enabling environment, being the only safe system and space for their communities and territories. Indigenous territories interconnect spirituality, culture and nature, and have the political component of the exercise of autonomy and self-government according to the worldview of each indigenous people. Therefore, comprehensive titling of indigenous territories should be an essential tool to guarantee the indigenous peoples' own governance, and with it, a safe environment for indigenous defenders. In this sense, the interpretation and implementation of article 9 must take into consideration the enforcement of the right to land of indigenous peoples, enshrined in ILO Convention 169 (articles 13 and 14), the United Nations Declaration on the Rights of Indigenous Peoples (article 26), the ACHR (article 21) and the jurisprudence of the Inter-American Court of Human Rights. These international instruments also establish the obligation of States to delimit, demarcate and title the territory owned by each people.

In addition, the titling must include the regularization of indigenous territories, with practical effectiveness, that is, governments must ensure that there is no external interference on the territories in compliance with the exercise of the right to property. In other words, the titling must be accompanied by urgent actions for investigation and eradication of third-party illegal activities

or other unauthorized activities in indigenous territories. This, always with the coordination and consent of the indigenous authorities of affected communities. This is an essential tool aimed at guaranteeing a safe environment for indigenous defenders, and thereby implement article 9 of the Escazú Agreement considering cultural relevance.

According to ECLAC, there are approximately 150 million people of African descent in Latin America and the Caribbean, that is, 30% of the population in the region. Currently, and by virtue of a struggle for the recognition of collective rights, Afro-descendant peoples are recognized as a racial ethnic group which has rights to collective property, territorial autonomy, self-government and culture.

It is important to point out that this recognition has less scope than the existing one at the level of indigenous peoples, and there is currently a debate at the regional level, mainly about the scope of the collective rights of Afro-descendant peoples in land-related matters, with greater progress being made in countries such as Colombia or Brazil. The Escazú Agreement is fundamental in the recognition of the rights of Afro-descendant peoples, as vulnerable communities exercising their leadership for environmental protection in their territories, many of whose ownership is not recognized.

Finally, in the case of the peasant population, in 2018 the treaty that protects the peasant population around the world was approved by the UN Human Rights Council, which recognized them as subjects of special protection. According to the declaration, peasants have the right to land and access to products for the exercise of their economic activity. This recognition is essential in a region in which the rural population is one of the most affected by scenarios of conflict and rights violations. The Escazú Agreement, through the provisions of article 9, emphasizes the conditions that Party States should meet to guarantee effective protection.

f. Digital security

Digital security refers to the set of measures and practices aimed at preventing or acting in the event of system, network or device incidents that cause damage or put people in a situation of vulnerability. For this reason, actions are needed aimed at guaranteeing the confidentiality, integrity and availability of personal data and information. It is also necessary to create the conditions and build a safe virtual environment for people to browse the Internet, respecting privacy and promoting the ethical and civic use of social networks.

The lack of digital security can compromise the personal data and information of environmental defenders, creating a vulnerability that harms their lives and their work in defense of rights. It is essential for States to promote policies of respect for privacy and data protection, balancing these rights mainly in situations of massive collection of sensitive data from the population.

g. SLAPP (Strategic Litigation Against Public Participation) suits:

SLAPPs are lawsuits filed with the purpose of intimidating and silencing activists. In the LAC region, environmental defenders are often unjustly accused of defamation while exercising their freedom of speech on proposed projects, even those which are subject to public consultation and where public comments have been invited. States should implement measures to protect environmental defenders from unjust claims by ensuring there is an appropriate legal framework to protect environmental defenders from SLAPP suits and protect their right to participate when commenting on projects and activities especially those that are likely to have a significant impact on the environment or public health. For example, anti-SLAPP laws may allow a defendant to apply to dismiss a SLAPP suit on the grounds that the case involves protected speech on a matter of public concern, and may also require speedy hearings of claims and allow defendants to obtain punitive damages. In the Caribbean, defamation and EIA legislation could be amended to specify that public comment on matters which are part of the decision-making process including EIAs, environmental permits and licences and other authorizations under environmental laws, are not considered defamatory.

3. Prevention and Protection Measures

a. Prevention actions and measures

Adopting the prevention approach implies recognizing in which geographical spaces it is urgent to intervene due to the threats or trends identified and that may be related to the advance of illicit economies or socio-environmental conflicts due to extractive activities. For this, it is necessary that the records of risk events go beyond a single-data-point approach and cross information from different sources, such as heat maps on deforestation associated with illicit economies, indigenous territories and levels of conflict. An example of the limitations of the current approach is reflected in the Peruvian case of the Ucayali region, which would have materialized in the loss of approximately 7,432.96 hectares of forest as a result of drug trafficking.¹²

The Escazú Agreement emerges as a possibility to establish a collaborative regional strategy that guarantees effective prevention scenarios, including judicial scenarios where, although

¹² The Ministry of Justice has a registry of risk situations that does not manage to account for the real number of cases. For example, regarding the Ucayali region, identified as the region with the highest number of cases of murders and threats against environmental defenders, a study led by the indigenous organization Aidesep in Ucayali (ORAU) reports an underreporting of 92 cases as compared to the official source, as well as a greater concentration in the southern zone of Ucayali, especially in the province of Atalaya, which would have materialized in the loss of approximately 7,432.96 hectares as a result of drug trafficking. Regional Organization AIDSESEP Ucayali - ORAU, Law, Environment and Natural Resources - DAR, and PROPURUS (2022). *Situation of the Indigenous Defenders in Ucayali*. Available at: <https://dar.org.pe/wp-content/uploads/2022/02/Situacion-de-los-defensores-indigenas.pdf>

rulings are passed in favor of environmental defenders, it is difficult for the judicial authority to follow up on the compliance by state actors, and much harder in the case of outlaw actors. The coordination of the justice sector based on the recognition of the role of environmental defenders is essential to guarantee effective prevention scenarios.

b. Protection Measures

The commitment to specifically protect human rights defenders on environmental matters must have a preventive and reactive approach with appropriate, effective and timely measures to prevent, investigate and punish attacks, threats or intimidation that they may suffer in the exercise of their rights, preventing harm on their life, integrity and security.

If properly implemented, the protection mechanisms or programs should allow a timely, specialized intervention proportional to the risk faced by the defender. The IACHR has observed that these mechanisms generally have a reactive function in the face of imminent risks to life, emphasizing that they are but one of the components of a broader and more comprehensive public policy that can contribute to guaranteeing the right to defend human rights, such as be the activation of the duty of protection; coordination with other State agencies, departments and institutions; flexible and individualized risk assessment; active and effective participation of the beneficiaries: differentiated approaches for groups in situations of vulnerability or historical discrimination, among other issues¹³.

Another proposal includes the creation or strengthening of an Early Warning System and a coordinated response to risks, as well as the creation or strengthening of National Commissions to guarantee the safety of defenders, the accountability mechanisms, and stop the privatization of the services that provide the protection measures.

States must establish measures to protect environmental defenders, and must also include in their strategies sufficient budget and expedited and adequate execution mechanisms that respond to different situations and/or contexts.

Thus, budgets are considered to be sufficient when they make it possible to carry out context and work-appropriate risk assessments of each defender, under intersectionality criteria, and to consider community or family group protection measures. Likewise, this budget must consider having trained professionals for the determination and, mainly, execution of these measures, avoiding re-victimization and greater violations of their human rights and/or collective rights.

¹³ Inter-American Commission on Human Rights. Practical handbook on guidelines and recommendations for the preparation of risk mitigation plans for human rights defenders. http://www.oas.org/es/cidh/r/dddh/guias/GuiaPractica_DefensoresDDHH-v3_SPA.pdf

On the other hand, adequate state financing mechanisms are those that allow budgets to be executed under intercultural criteria and avoiding bureaucracy. Speed, as well as adequacy, are principles to be observed when executing public budgets for these measures, with the aim of guaranteeing the right to life of the individual or collective defender, as well as their family members, and the right to defend rights.

C. Collective protection measures:

Collective protection measures must be adopted with prior, free and informed consultation and with the consent of the affected persons, in addition to being prioritized in the respective planning instruments of national protection mechanisms.

States must guarantee the allocation of sufficient financial resources for the full implementation of protection measures.

It is essential to take into account the differentiated impact of violence against women defenders (violence from inside and outside the community). In the case of ethnic peoples, consider measures with an intercultural approach that respect their collective rights and consider threats from this perspective.¹⁴

Finally, States must recognize the self-protection measures of indigenous peoples and ethnic communities (communities of peace, community reservations, public roadblocks, recognition and guarantees of intercultural jurisdiction).

E. Specific protection measures for journalists

The protection of defenders must include specific measures for journalists, as it is a legal loophole in several countries in the region. It is necessary to promote concrete instruments that allow social communicators specialized in environmental issues to work in a favorable and safe environment that supports their work.

In particular, the needs of journalists from local media and independent journalists who are often in situations of greater vulnerability must be taken into account.

F. Digital security

When the attacks or threats have already occurred, virtual security measures must be strengthened. The relevant mechanisms for denouncing and protecting victims must promote security policies for the virtual setting and for communication infrastructures. For example, the

¹⁴ Address how to work with types of threats that may not be credible from a western rationale, e.g., witchcraft.

public bodies' channels for receiving complaints or forms of contact with defenders must be protected and secure.

4. Access to Justice and Response and Reparation Measures for Defenders

Party States must consider adequate access to justice in cases of human rights violations against defenders as a consequence of the exercise of their work. Only considering these damages as different from those that occur against the environment and that are usually dealt with by specialized environmental courts, could the human right to the truth be guaranteed, both for the defender and their family members, as well as the human right to defend rights.

This approach will make it possible to carry out specific research on the matter, determining specific responsibilities on the violation of defenders' rights, as well as the State's omissions in ensuring their protection.

a. Access to Justice: mechanisms for the enforcement of and compliance with court rulings

For access to justice, it is extremely important to have Verification Committees, Oversight Committees, and data systematization and access mechanisms. It is also important to promote the consolidation of national and territorial capacities for institutional strengthening, based on the respect for human rights, emphasizing on the rights of victims for the attention of complaints or claims.

Additionally, mechanisms must be created, such as a trust fund or appointed third parties, which must be borne by the losing party. Administrative action must also be strengthened, along with its supervisory or sanctioning processes.

b. Access to reparation: strengthening the capacities of local communities

It is necessary that local communities and citizens know the existing mechanisms for the protection of rights, which will provide tools to demand the right to reparation when defenders' rights have been violated. Thus, it is necessary for reparation routes with defined timeframes to be established within the framework of the principles of speed and transparency.

c. Measures of access to justice with an intercultural approach

It is important that the operators of the state justice systems understand and apply the intercultural approach while respecting the rights of indigenous defenders. In this regard, ILO Convention 169 guarantees the customary law (or traditional law) of indigenous peoples and the duty to respect their jurisdiction. They must also consider the social, cultural and economic

characteristics of indigenous peoples, and give priority to sanctions other than imprisonment and that respond to the peoples' culture.

5. Capacity Building and Cooperation

It is important to highlight the need to implement comprehensive public policies that coordinate all State agencies to guarantee a safe and favorable environment that allows defenders to exercise their right to defend rights, to guarantee adequate prevention and protection measures, as well as effective access to justice and reparation in case of violation of their rights.

Capacity building should be included to drive the exchange of defenders' experiences, an exchange that emphasizes self-protection measures for indigenous peoples and ethnic communities (communities of peace, community reservations, public roadblocks, recognition and guarantees of intercultural jurisdiction), which must be acknowledged and improved in the framework of the Escazú Agreement's implementation.

On the other hand, regarding access to justice, it is necessary to create a space for coordination between the justice sector, environmental defenders and civil society organizations, promoting an exchange of capacities and experiences at the regional level with multi-stakeholder participation. It is necessary to enrich the discussion with the strengthening of cooperation to build capacities and strengthen, for example, databases, IT systems training, observatories, good practices and training for justice system operators.

Each Party has different experiences in the development of prevention, protection and access to justice policies for environmental defenders. In this sense, using the coordination spaces of the Agreement to generate spaces for exchange will contribute to guaranteeing the participation of individuals or groups that defend human rights in the region, as well as of civil society. These spaces should also consider the participation of countries interested in the ratification process.

It is also possible to incorporate a coordination mechanism between the various cooperation agencies with the objective of using these funds efficiently and seeking their appropriate allocation for the Agreement's three pillars.

6. Accountability and Monitoring

The Action Plan's design must consider indicators that allow measuring compliance with the obligations described in Article 9 of the Escazú Agreement and the effectiveness of the measures implemented and/or adopted. From the civil society perspective, we consider it necessary to have the following specific information:

- Specific budget of the mechanism implemented by each Party State for each year, emphasizing the budget considered for each of the Agreement's action lines: prevention, protection and access to justice.
- Data that differentiates State funds and those from cooperation sources.
- Specific actions to implement for each year. This is the equivalent of a work plan that, without ceasing to be adaptable to the context, shows the activities that each pillar seeks to develop during the year. These actions must present results and indicators that encourage the application of protection measures.
- Number of cases dealt with, the type of measure applied and how many are being processed, guaranteeing the confidentiality of defenders. It is relevant for this data to incorporate the time used for the design, determination and application of the measures, as well as the time spent in attending to the case itself.
- Number of people benefited, considering information on their belonging to other special protection groups.
- Detail of intercultural and gender measures applied in the strategy's development.

This information must be provided to the secretariat on an annual basis and must be posted on a platform that is easily accessible to the public and defenders. Only through accessible and transparent information is it possible to guarantee adequate monitoring of the measures, as well as facilitate the work of organized civil society in each of the Party States.