

July 11, 2019

Paulo Abrão
Executive Secretary
Inter-American Commission on Human Rights
1889 F. Street NW
Washington, DC 20006

Re: Request for a Thematic Hearing on the Criminalization of Environmental Human Rights Defenders in Latin America

Dear Secretary Abrão,

In connection with the upcoming 173rd Period of Sessions, we respectfully request a thematic hearing to address the increasingly worrying problem of the criminalization of environmental human rights defenders. The region faces an alarming and increasingly sophisticated trend of certain States seeking to retaliate against, harass, and delegitimize environmental human rights defenders through the improper manipulation of official investigations, prosecutions, and other proceedings within their criminal justice systems. The proposed hearing will bring much-needed international and regional focus to this issue by highlighting the misuse of criminal justice systems to retaliate against environmental human rights defenders in six particular States, as an illustration of the regional situation: Argentina, Chile, Ecuador, Mexico, Nicaragua, and Peru.

This request is supported by several organizations working at the grassroots, nationally, and internationally to protect the environment and human rights, along with former Commissioners and Presidents of the Commission Juan Méndez, Dinah Shelton, and James L. Cavallaro; current United Nations Special Rapporteur David R. Boyd; former United Nations Special Rapporteur S. James Anaya; and former Commission Special Rapporteur Ignacio J. Alvarez.

The targeting of environmental human rights defenders has wide-ranging, negative consequences—not only for the environment, but also for communities that are directly impacted by environmental harm and degradation. The misuse of State criminal justice systems to retaliate against and intimidate environmental human rights defenders threatens the lives of environmental human rights defenders and generates a chilling effect that limits the ability of all environmental human rights defenders to defend their communities and protect the natural environment. Conversely, it enables polluters and other environmental abusers to gain leverage over environmental human rights defenders and to avoid unwanted attention, regulation, and enforcement efforts. Moreover, criminalization creates confusion about the legitimacy of the work and advocacy of prosecuted defenders.

These sophisticated attacks against individuals and communities, and against the rule of law, take advantage of ambiguous criminal laws and reinforce impunity for environmental abusers that manipulate State power for personal, economic, and political gain. Improper criminal

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prosecutions may also be accompanied by political persecution or defamation campaigns that compound the harm to environmental human rights defenders. The effects are devastating for environmental human rights defenders and for the environment. In addition, the misuse of State criminal justice systems undermines governmental institutions more broadly and has a chilling effect on all human rights defenders, NGOs, and other actors of civil society that rely on the judiciary for protection from intimidation and retaliation, severely shrinking the civil space.

The proposed hearing will provide a framework for understanding these human rights violations, as well as case examples and key information to guide and expand the important work conducted by the Commission in recent years, including the 2015 report *Criminalization of Human Rights Defenders*. The proposed hearing will provide the Commission with information about the nature and scope of recent criminalization of environmental human rights defenders in Argentina, Chile, Ecuador, Mexico, Nicaragua, and Peru. The Commission will hear directly from environmental human rights defenders who have been prosecuted in retaliation for their work protecting the environment and resisting mining and other extractive industry projects. As these environmental human rights defenders will explain, such prosecutions often subject defenders to lengthy and flawed proceedings in violation of their rights to due process and humane treatment. The Commission will also hear about the severe impacts of improper criminal processes on environmental organizations and, more broadly, on the environment and all those who seek to protect it for the common good.

The proposed hearing will draw attention to the role of corporate polluters and environmental abusers that may promote, influence, or benefit from the criminalization of environmental human rights defenders. Environmental human rights defenders frequently confront not only the instruments of State power and interests, but also corporations and private individuals with powerful economic interests and strong political connections that can be used to influence State institutions, including the criminal justice system. Environmental human rights defenders are particularly vulnerable when they lack the support and protection of powerful, independent institutions such as the Commission.

In addition, the proposed hearing will seek to reflect the input of various stakeholders and also to make practical recommendations that will help stakeholders support the work of the Commission. The proposed hearing will discuss recommendations for States, non-state actors, and the international community, including suggestions for expanding and strengthening the OHCHR / IACHR Joint Action Mechanism to Contribute to the Protection of Human Rights Defenders in the Americas. Panelists will also highlight the Escazú Regional Agreement, adopted in September 2018 and signed by 16 countries in Latin America and the Caribbean, which specifically includes an obligation for States to generate protection measures for environmental defenders. The work of this Commission will be key to guiding the States about the content of this obligation.

In the past several years, the Commission has supported and benefited from hearings that demonstrate the alarming trend against human rights defenders. For example, it has recently heard about similar issues in individual OAS member states, including at thematic hearings on

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the Criminalization of Human Rights Defenders of Indigenous Peoples and the Extractive Industry in the United States (2019), Reports of Human Rights Violations and Criminalization of Defenders in the Context of Extractive Industries in Nicaragua (2018), and Reports of Criminalization of Human Rights Defenders who Oppose Hydroelectric Projects in Guatemala (2017). With this hearing focusing on several countries, and thus the regional trend of criminalization, we seek to build upon the Commission's prior work in order to better understand and protect environmental human rights defenders.

We anticipate 4-5 panelists at the proposed hearing. Our presentation will last approximately 20 minutes, and we welcome any follow up questions from States, Commissioners, or other interests and look forward to engaging in a productive discussion on the topic. In advance of the hearing, we plan to submit a written report that compiles cases of criminalization of environmental human rights defenders.

Please do not hesitate to contact us if you require further information. We thank the Commission in advance for its consideration of this important request.

Sincerely,

Signatories:

Argentina

- Asamblea Ciudadana Ambiental de Gualeguaychú
- Asamblea Ciudadana de Famatina
- Asamblea de Chilecito
- Asamblea el Algarrobo
- Asamblea Jáchal no se toca
- Centro de Derechos Humanos y Ambiente (CEDHA)
- Confederación de Mapuches Argentina
- FUNDAVIDA

Chile

- Chile Sustentable

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- FIMA

Ecuador

- Coordinadora Ecuatoriana de Organizaciones para la Defensa de la Naturaleza y el Medio Ambiente (CEDENMA)
- Corporación de Gestión y Derecho Ambiental Ecolex

Guatemala

- Alianza de Derecho Ambiental y Agua (ADA)
- Foro de Organizaciones No Gubernamentales Internacionales en Guatemala (FONGI)
- Plataforma Internacional contra la Impunidad

Mexico

- Centro Mexicano de Derecho Ambiental (CEMDA)
- Instituto de Derechos Ambiental A.C.

Nicaragua

- Centro por la Justicia y Derechos Humanos de la Costa Atlántica de Nicaragua (CEJUDHCAN)

United States

- Environmental Law Alliance Worldwide (ELAW) U.S. Office

Regional / International

- 350.org
- Amazon Watch
- Centro por la Justicia y el Derecho Internacional (CEJIL)
- Center for International Environmental Law (CIEL)
- EarthRights International (ERI)
- Front Line Defenders

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- Global Witness
- Not1More (N1M)
- Peace Brigades International (PBI)

Individuals

- Former Commissioners and Presidents of the Commission
 - Juan Méndez, Argentina
 - Dinah Shelton, United States of America
 - James L. Cavallaro, United States of America
- Current United Nations Special Rapporteurs
 - David R. Boyd, United Nations Special Rapporteur on human rights and the environment
- Former Commission Special Rapporteurs
 - Ignacio J. Alvarez, former Commission Special Rapporteur for Freedom of Expression
- Former United Nations Special Rapporteurs
 - S. James Anaya, former United Nations Special Rapporteur on the rights of indigenous peoples