

56th SESSION OF THE AFRICAN COMMISSION ON PEOPLES' AND HUMAN RIGHTS

Banjul, 21 April to 7 May 2015

STATEMENT UNDER ITEM 7, IN RESPONSE TO THE ACTIVITY REPORT OF THE WORKING GROUP ON EXTRACTIVE INDUSTRIES, THE ENVIRONMENT AND HUMAN RIGHTS IN AFRICA

Madame Chair, Honourable Commissioners, State parties, fellow human rights defenders.

We would like to welcome the report of the Working Group, as well as the emphasis which its Chairperson has put on the consultation of affected communities and civil society during his consideration of State Periodic Reports.

The Working Group has rightly reiterated the crucial role which human rights defenders can play in promoting corporate responsibility, preventing human rights violations in the context of natural resource exploitation, mitigating the human rights impact of big business, exposing violations and working with victims to ensure accountability and justice where they occur. African and international law guarantees the consultation of communities affected by business projects.

Essentially, with communities and defenders involved in decision-making from the start, human rights violations can be avoided and better business can be done.

Yet activists working on business and human rights are some of the most vulnerable in the continent. They face heightened and specific risks and exclusion from debate on the issue.

Madame Chairperson, these activists face exceptional stigmatisation – government labelling of Rwandan defenders as ‘anti-development’, and statements by the Liberian President accusing community activists of ‘stifling economic growth’, are unfortunately representative of a widespread threat which leaves defenders vulnerable to criminalisation and attacks

They face arbitrary detention, such as the defenders from Niger who hoped to use a visit by the French President to demand that foreign investment benefit local communities. Laws are misapplied to silence voices, such as that of imprisoned journalist Rafael Marques in Angola, whose work could help ensure that profits are shared and rights are protected.

The UN Rapporteur on human rights defenders has shown them to be one of the groups of defenders at the highest risk of being killed. In Guinea in 2012 security forces killed those who hoped to bring about better labour rights for iron miners. In Marikana, South Africa, 44 protesters demanding that benefits of platinum mining reach local communities, paid with their lives.

The precariousness of their situation is exacerbated by the array of vested interests they oppose and the breadth of State and non-State actors who attack them, including private security forces, members of their own community, organised crime and businesses.

The root cause of the elevated risks facing these defenders lies in the closed spaces for their participation. Testimonies across the continent suggest that, quite simply, States and business are often not consulting communities affected by business projects, nor the defenders which support them. Much less so in a truly free, prior and informed manner. Proper consultation at the outset would prevent a raft of abuses.

So these broad trends are clear, Honourable Commissioners. However there is currently no comprehensive continental study of the threats to those working on business and human rights. These defenders are crying out for support and - as more concessions for natural resource exploitation are granted and more communities resist and denounce – that cry is only going to get louder.

We therefore encourage the Working Group to consider producing a study on the patterns of threats facing African defenders and communities working on corporate accountability. This study would – in turn – allow the Commission to formulate clear recommendations to the States in which defenders operate, the States investing in the businesses at stake and the businesses themselves.

We imagine that the defenders' mandate in particular, but also the mechanisms on ESCR, women and indigenous populations, would be able to support in ensuring that such a study be comprehensive.

Meanwhile, we call upon Commissioners to be loud and clear in recognising the importance of these defenders, and we call upon the Working Group in particular to continue to work closely with all stakeholders to promote mechanisms to properly consult human rights defenders and communities and to protect them when they are at risk.

Member States need to act with urgency to protect human rights defenders working on corporate accountability. We call on them to:

- Firstly: Make public statements of recognition of these defenders' legitimacy.
- Secondly: Guarantee due process to detained human rights defenders and reform those laws which are used arbitrarily against them.
- Thirdly: Work together with defenders to develop laws, policies and measures which can respond effectively to the specific protection needs of vulnerable activists.
- Fourth: Work with businesses and Third States to consult and protect defenders.
- Fifth: Develop National Action Plans for the implementation of the UN Guiding Principles on Business and Human Rights.
- And finally and vitally: Tackle the root cause of these violations by legislating for clear and inclusive processes of consultation prior to the development of business projects. Civil society should be involved in the development of these laws.

Thankyou