

## **57<sup>th</sup> session of the African Commission on Human and Peoples' Rights**

November 2015 – Banjul, the Gambia

### ITEM 11 – ACTIVITY REPORT OF MEMBERS OF THE COMMISSION & SPECIAL MECHANISMS

#### *Working Group on Extractive Industries, the Environment and Human Rights*

Thank you Madame Chair.

The International Service for Human Rights welcomes the presentation of the report of the Working Group, and shares many of its conclusions.

In particular, we welcome the Working Group's inclusive manner of holding consultations on a sub-regional level to gather information relevant to the implementation of its mandate, and the inclusion of human rights defenders working on the issue of natural resource exploitation in these consultations.

Given the prospect of further consultations in the West African and North African region, we hope that consultations can be strengthened by ensuring the participation of business representatives.

Madame Chair,

Across the African continent, Human Rights Defenders (HRDs) working to promote the respect of human rights by extractive industries consistently face multiple risks and threats. Companies see them as trouble-makers, who threaten their business and profits. On the other hand, governments often accuse them of working against national interests or disturbing their privileged relationship with business partners. All too often, the sole objective of corporations is to maximise profit, while governments' main concern is to attract investment regardless of the negative consequences and impact on the fulfilment and enjoyment of basic human rights.

Human rights defenders can play a critical role by helping States and business to overcome these challenges, by preventing and mitigating violations and seeking accountability for human rights abuses related to natural resource exploitation. They help bridge the gap between local communities, powerful companies, national governments, and regional and international bodies and human rights standards. *Their work can complement government monitoring efforts, and they are critical partners for business to better understand the local contexts, grievances and aspirations of affected communities.*

In terms of legislation, only one African country – the Cote d'Ivoire – has enacted specific domestic legislation to protect human rights defenders in the conduct of their work. Other than that, there is little recognition of the role of human rights defenders in existing legal frameworks.

Instead, defenders and their organisations face limitations on their ability to operate, including onerous registration processes; multiple and seemingly arbitrary tax demands; restrictions on funding, and on provision of legal aid more broadly; stigmatisation and defamation; judicial harassment; and legal constraints to access to justice, such as the non-recognition of collective indemnities (e.g., class action suits).

In the worst cases, extractive enterprises themselves can pose serious threats to human rights defenders, such as intimidation and threats by companies directed at defenders and communities. Other threats include, the co-optation of traditional community structures to oppose defenders; violence committed by security forces, both private and public; and pressure directly on governments to allow private sector actors to dictate terms (also known as 'corporate capture').

Based on all of the above we recommend that the Commission urge States to ensure that all threats and attacks against human rights defenders working in the field of business and human

rights are fully and promptly investigated, perpetrators held accountable, and victims provided with access to effective remedy. Moreover, States must hold companies accountable for violations of domestic law, and renounce the use of investment agreements to circumvent domestic legal obligations or weaken the ability of the host State to enforce its laws. Lastly, we call on the commission to commence a comprehensive study on the situation of human rights defenders in the context of natural resource exploitation in Africa.

Thank you.