
28 November 2023

Briefing for UNFCCC COP28 on Land and Environmental Defenders

Recommendations for advancing climate justice through increased participation, recognition and protection of Land and Environmental Defenders

This submission was initiated by: Natural Justice; Global Witness; CambiaMO; Green Advocates; EarthRights International; Landesa/Rural Development Institute; International Land Coalition - Africa; Civicus; European Center for Not-for-Profit Law (ECNL); International Center for Not-for-Profit Law (ICNL); ELaw; Center for Environmental Concerns - Philippines; Asia Pacific Network of Environment Defenders (APNED).

Context

The Intergovernmental Panel on Climate Change (IPCC) confirms in the Summary for Policymakers of the Synthesis Report of its 6th assessment cycle (AR6) that “adaptation and mitigation actions that prioritise equity, social justice, climate justice, rights-based approaches, and inclusivity, lead to more sustainable outcomes, reduce trade-offs, support transformative change and advance climate resilient development.” (C.2.5). Additionally, all Parties to the Paris Agreement have international human rights obligations and have confirmed in the context of the Paris Agreement to respect, promote and consider those in the context of climate action.

The failure to effectively implement human rights-based climate commitments under the Paris Agreement, compounded by the impacts of the climate crisis and fossil fuel projects, carries significant and extensive human rights consequences, particularly for Land and Environmental Defenders (LED's)¹. The changing climate is already triggering profound and irreversible losses and damages, impacting global health and food security, displacing communities, impeding poverty reduction and gender equality progress, undermining livelihoods, and causing loss of life. Moreover, fossil fuel projects directly contribute to human rights violations often leading to land seizures, forced evictions, violence against LEDs, adverse human health effects, extensive air and water contamination, and biodiversity destruction.

According to the *Global Analysis Report of 2022* by Frontline Defenders, LEDs were the most targeted sector in 2022². The *Human Rights Defenders Memorial Report* recorded the targeted killings of 401 human rights defenders in 2022, with 48% of those killings identified as LEDs³. Despite all the existing

legislative and policy frameworks made at both regional and global levels, attacks against LEDs continue to rise at an alarming rate.

The lack of recognition for LEDs in global climate processes such as the United Nations Framework Convention on Climate Change (UNFCCC), and the lack of references to LEDs in negotiations such as the Global Stocktake and the Sharm El-Sheik decisions undermines the significant role of LEDs in the mitigation of the climate crisis and disregards the increasing risks they face in defending their rights, land, and environment.

The IPCC and the Human Rights Council (HRC) encourage an inclusive and participatory response to climate change, including LEDs. The HRC resolution 40/11 further recognizes the contribution of LEDs to the enjoyment of human rights, environmental protection, and sustainable development.

Recognizing the connection between climate justice and human rights is critical for informing and strengthening international, national, and regional climate-related policymaking, and for highlighting the plight of LEDs as people not only on the frontline of climate crises and loss and damage, but also risking their lives advocating for climate justice, opposing fossil fuels and false solutions, and defending their right to a clean, healthy and sustainable environment.

LEDs' active and meaningful civic participation, and their freedom of expression, association, and assembly - without fear of reprisals in home countries and at multilateral conferences - is critical for both democracy and effective efforts to mitigate the climate crisis and advance climate justice. The civic space of LEDs must be protected and expanded both at UNFCCC meetings and in all countries.

This briefing note for UNFCCC COP28 outlines policy positions and recommendations to support the safeguarding and expansion of the rights of LEDs.

These are organized across three key recommendations to advance a human rights-based approach to climate action and climate justice:

Key recommendations

1. Civic space and meaningful participation of LEDs in climate policy-making must be guaranteed, and their role and human rights in advancing climate action should be recognised and protected.
2. Indigenous and local LEDs' land rights and tenure security must be prioritised in national and international policies.
3. The Global Stocktake (GST) outcome must be human rights-based and provide recognition and protection of LEDs, which effectively enhances the ambition of the Paris Agreement. The GST outcome must include specific guidance on how parties should increase their intention to fulfill human rights obligations, and how to develop the next round of Nationally Determined Contributions (NDCs) by ensuring the promotion, protection, and respect of human rights.

1. The guarantee of meaningful engagement of LEDs in climate policy making

According to the IPCC [report](#)⁴, the decisions and actions we take in this decade will have long-term impacts on our environments and lands. Indigenous Peoples and local communities' environments and territories around the world are already being drastically impacted. For Indigenous Peoples and local communities, land and natural resources are integral to their identities, way of life, and traditions. As a result, Indigenous Peoples and local communities are the most visible and vocal LEDs: not only do they speak out against carbon-intensive industries, but they also expose harmful business practices that undermine fundamental human rights, environmental protections, and land tenure.

Around the world, particularly in the global south, LEDs working on climate justice are increasingly targeted with violence, harassment, and criminalisation, making them the most vulnerable group of human rights defenders. Most of these attacks are related to land conflicts involving climate-damaging industries - from deforestation by agribusinesses to mining - yet corporate accountability for these harms is lacking.

“On average, one Land and Environmental Defender has been killed every two days since 2012.”

– Global Witness⁵

Civil society has also reported the use of pernicious tactics such as criminalisation, legislation to prevent freedom of assembly, Strategic Litigation Against Public Participation Lawsuits (SLAPPs), online and offline harassment, smear campaigns, surveillance, and sexual and other forms of gender-based violence to deter dissent and attack groups and communities opposing climate-damaging activities and industries⁶.

“In 2022, there were 355 non-lethal attacks against 536 distinct individuals, communities, organizations and unaffiliated groups.”

– Alliance for Land, Indigenous and Environmental Defenders (ALLIED) Data Working Group⁷

LEDs have repeatedly raised concerns about access, participation, and freedom of assembly at UNFCCC meetings. There have also been reports of indirect harms and other oppressive tactics used against them including visa restrictions and exclusion from negotiating venues⁸.

As a group consisting of international NGOs working with Indigenous Peoples, local communities and LEDs, including women and girls in all their diversity, we demand the urgent need to recognise the role of LEDs in addressing climate change; protection and expanding LEDs' rights including freedom of association, assembly, expression, and privacy; and their meaningful participation at both local and multilateral levels to achieve climate justice. An enabling environment for civil society and LEDs is essential for addressing the climate crisis and ensuring a just transition.

Leaders of governments, academia, media, and multilateral institutions must create a space where they can dialogue formally and directly with LEDs who are on the frontlines of the crisis and with civil society organizations that support them. Such an avenue for dialogue can play a vital role in providing key stakeholders with the tools they need to prevent violence against LEDs, enhancing their protection, and enabling a more inclusive space for their participation in decision-making on environmental and climate issues.

COP28 Presidency should:

- > Demonstrate commitment to fulfilling its human rights obligations by expanding civic space; ending reprisals against human rights defenders and civil society representatives; and reaffirming its commitment to upholding the purposes and principles of the United Nations Charter and international human rights law before, during, and after UNFCCC sessions and mandated events, and to ensure that participants, human rights and LEDs can exercise those human rights without fear of intimidation, reprisals and repercussions, including gender-based violence.
- > Ensure all LEDs can freely express themselves and peacefully assemble ahead of, during, and after COP28 within and beyond the Blue Zone, and ensure the meaningful participation of civil society and LEDs by encouraging parties to keep open all negotiations where observer participation is permitted.

UNFCCC Secretariat should:

- > Enhance capacity-building actions to increase LEDs' awareness of their right to protection and access to recourse and justice, to foster an enabling environment for LEDs, including women and girls in all their diversity, exercising their rights to access information, participation, and education in climate action. The Secretariat should encourage parties to address challenges faced by LEDs in accessing information or public participation.
- > Develop and publicize host agreements with clear human rights principles, conflict of interest clauses, and criteria for host countries, including a mandatory checklist for the facilitation of assemblies to ensure the right to freedom of peaceful assembly is respected. States that cannot provide adequate assurances that they have the political will and technical capacity to uphold international human rights standards, before, during, and after COPs, should not be selected as host countries.
- > Prevent reprisals and intimidation against LEDs participating with the UNFCCC by developing a zero-tolerance policy for acts of intimidation, violence, and harassment; and enlisting a focal point for reprisals, to gather and monitor information on these acts, with the aim of facilitating recourse and redress for observers.

Parties should:

- > Recognise and mitigate the links between the climate crisis, false solutions and reprisals against LEDs: Parties' collective leadership and political will at the national and international levels are urgently needed to address the common drivers of climate change, loss and damage, and rights violations faced by LEDs. Parties must recognise and respect the critical role of LEDs in mitigating

climate crisis and uphold principles outlined in the UN Declaration on Human Rights Defenders which recognises the role that LEDs play in the realization of universal human rights.

- > Uphold basic human rights, already embodied in the various international, regional, and national laws, and non-binding international conventions and resolutions to safeguard the rights of LEDs, including women and girls in all their diversity, and create a safe environment for LEDs and civic space to thrive: Existing laws and conventions that recognise, protect, and mitigate harms against LEDs and their communities should be respected and enforced⁹. The Committee on Economic, Social, and Cultural Rights in their 2022 General Comment on Land recognized an “implied human right to land” for Indigenous People and local communities, based on recognized human rights to food, housing, an adequate standard of living, and the right to take part in cultural life. Where such laws do not exist, new frameworks must be established in consultation with civil society, Indigenous Peoples, local communities and LEDs, and other existing experts.
- > Work with the UNFCCC Secretariat to develop human rights-based host agreement protocols for governments wishing to host COPs guaranteeing the highest level of protections for LEDs’ rights and their civic space. The protocol should outline commitments to human rights and people’s participation at the global, regional, and national levels as a prerequisite for nomination – as recommended by the UN Special Rapporteur of Freedom of Assembly and Association in 2021. Nominated host countries should ensure effective and meaningful participation for observers at COP by enabling access, involvement, and freedom of assembly for civil society, LEDs, and Indigenous Peoples. Host countries should also be required to meet a minimum standard around civic space and civic freedoms for their people and national CSOs. This also means making COP spaces accessible to all, including based on language, disability, visas and immigration, transparency, and affordability.
- > Ensure the full protection of environmental groups’ rights to freedom of assembly and association.
- > Investigate and monitor attacks against LEDs, and strengthen policies and law enforcement, and avenues for redress for all attacks on LEDs and violations of their human rights.
- > Condemn and desist from stigmatizing LEDs, communities, and civil society, and enabling or inciting violence against them.
- > Ensure meaningful and inclusive participation of LEDs – especially Indigenous Peoples, women, and girls in all their diversity, youth, and other groups of people in vulnerable situation – in environmental and climate decision-making at all levels.
- > Revise or repeal laws restricting environmental and climate activism, including critical infrastructure laws, criminal defamation, and other penalties or blanket bans on exercises of civic and political rights, involving civil disobedience, protest, or non-violent direct action.
- > Adopt anti-SLAPP laws and other policies and procedures to mitigate judicial harassment and criminalization of LEDs.

- > Facilitate access to resources by LEDs, Indigenous Peoples and local communities, including by removing barriers to foreign funding or domestic resource mobilization, including fundraising from the public.
- > Respect LEDs' right to privacy and desist from conducting unlawful or arbitrary surveillance (including digital surveillance).
- > Condemn and desist from imposing arbitrary and disproportionate sanctions, such as suspension or dissolution, on civil society organizations engaged in climate or environmental advocacy.

2. The prioritisation of land rights and tenure security for LEDs

LEDs actively advocate for the protection of their lands and environment, resulting in violent acts against them, including gender-based violence. By prioritising land rights, especially for women and girls in all their diversity in their communities, it is more likely that women LEDs will experience less violence and harm in and outside their communities, and that their leadership in climate action will be supported rather than suppressed.

Parties should:

- > Use women's land rights as a multiplier and mechanism for meeting obligations regarding nationally determined contributions, adaptation plans, biodiversity action plans, and other structures of implementation across Rio Conventions.
- > Empower community-level and grassroots actors to participate in land use and climate planning processes, and facilitate local, national, and international implementation of gender-responsive and gender-transformative land rights as well as Rio Convention goals.
- > Ensure equitable access and control in their planning and decision-making processes to LEDs over land and other natural resources including water and forest to recover the loss and damages occurred by climate-induced disasters.

3. The recognition and protection of LEDs in the Global Stocktake and other key UNFCCC COP processes

The outcome should also adhere to the principles of equity, historical responsibility, and common but differentiated responsibilities and respective capabilities (CBDR) - all foundational to the Paris Climate Agreement and climate justice¹⁰.

The Paris Agreement rulebook stated that the Global Stocktake would be a crucial tool for enhancing collective ambition toward achieving the agreement's goals. The future of the Paris Agreement depends on the effectiveness of the GST and how it can guide parties to adopt enhanced ambitious commitments that prevent the worst impacts of climate change and protect human rights.

Therefore, the findings of the technical assessment should provide specific guidance to parties on what is missing and how to enhance ambition. As the outcomes of the GST will focus on a collective

assessment instead of looking at the individual behavior of each party, human rights as a common language among parties can provide a meeting point for the different visions. The GST outcome must include specific guidance on how parties should increase their ambition to fulfill their human rights obligations and how to develop the next round of Nationally Determined Contributions (NDCs) by ensuring the promotion, protection, and respect of human rights.

Parties should

- > Implement a human rights-based and intersectional approach in all relevant planning documents and processes related to the implementation of the Paris Agreement and NDCs, by:
 - > Using existing guidance and increasing synergies with human rights institutions and mechanisms to respect, protect and fulfill human rights obligations, including the rights of Indigenous Peoples, local communities and LEDs, including women in all their diversity, and ensuring a safe environment for LEDs and civic space to thrive through the enactment and enforcement of laws that protect and recognise the rights of LEDs and their communities.
 - > Guaranteeing LEDs' right to participation and access to information for LEDs, including women and girls in all their diversity - a key intersection to the GST negotiation on mitigation, adaptation, L&D and means of the implementation.
 - > Developing provisions on the enhanced protection of LEDs in their NDCs and provide information about the actions taken to do so.
 - > Including provisions on reporting, investigating, and seeking accountability (including related to corruption) for reprisals against LEDs in their NDCs, and discounting NDCs that risk the violation of or violate the rights for LEDs.
 - > Including social equity considerations and human rights-based approaches, including respect for the rights of LEDs, in the context of mitigation strategies. Strengthening land tenure rights will further enhance this potential (IPCC Special Report on Land, SPM, C.1.2).
 - > Committing to a full, rapid, and equitable phaseout of the production and use of all fossil fuels in line to keep warming to below 1.5°C and parties' human rights obligations.
 - > Advancing a transition away from fossil fuels that centre human rights and justice, prioritizing phase-out over false solutions and offsets, which pose serious risks to Indigenous Peoples, local communities, LEDs, and their land. The Just Energy Work Programme must centre on a full package of human rights, with explicit human rights language related to LEDs, workers, Indigenous Peoples and local communities, and should be aligned to and informed by the International Labour Organisation's (ILO) *Resolutions on a Just Transition*¹¹.

Please endorse these recommendations for advancing climate justice through increased participation, recognition and protection of Land and Environmental Defenders until 12 December 2023: [LINK](#)

As of 24 November 2023, this submission was endorsed by:

Africa Child Care Nation (ACCN)

African Law Foundation (AFRILAW)

Agency for Turkana Development Initiatives-ATUDIS

Aksyon sa Kahandaan sa Kalamidad at Klima AKKMA

Aliansi Masyarakat Adat Nusantara (AMAN)Maluku

Asamblea de los Pueblos Indígenas el Istmo en Defensa de la Tierra y el Territorio - APIIDTT

Asia Pacific Network of Environment Defenders (APNED)

Asian Forum for Human Rights and Development (FORUM-ASIA)

Asian NGO Coalition for Agrarian Reform and Rural Development

Asociación Interétnica de Desarrollo de la Selva Peruana - AIDSESEP

Associação Alternativa Terrazul

Associação de Defesa Etnoambiental Kanindé

Association for Land Reform and Development (ALRD)

Barisan Pemuda Adat Nusantara

CambiaMO

Cambodian Youth Network Association

CEMDA

Center for Environmental Concerns Philippines

Center for Justice Governance and Environmental Action

Centre for Citizens Conserving Environment & Management (CECIC)

Centre for Human Rights and Development

Centre for Human Rights and Development (CHRD)

Centro de Desarrollo Humano. CDH/ Honduras

Centro de Desarrollo Humano.CDH/ Honduras

Centroamérica Siglo XXI

Christian Partners Development Agency (CPDA)

Civicus

Climate Rights International

CNS - Citizen News

Community Development Trust

Cordillera Peoples Alliance

Dawei Probono Lawyer Network

EarthRights International

ELaw

Elseidi Law Firm

Empower India

Environmental Defender Law Center

European Center for Not-for-Profit Law (ECNL)

FBOMS Fórum Brasileiro de ONGs e Movimentos Sociais para o Desenvolvimento e Meio Ambiente

FECOFUN

Federación Nativa de Comunidades Cacataibo (FENACOCA)

FFF Africa

Findación Arcoiris por el respeto a la diversidad sexual

Fundação Grupo Esquel Brasil

Fundacion Barranquilla + 20

Global Witness

Green Advocates

IMA, Inisiasi Masyarakat Adat

Indigenous Peoples Rights International (IPRI)

Indigenous Rural People - Liberia

Inisiasi Masyarakat Adat (IMA)

International Campaign for Tibet

International Center for Not-for-Profit Law (ICNL)

International Indigenous Peoples Movement for Self-Determination and Liberation (IPMSDL)

International Land Coalition - Africa

International Lawyers Project

International Movement of Catholic Students (IMCS) Pax Romana, Asia Pacific

IUCN NL

Jubilee Australia Research Centre

Justiça Global

Klima Action Malaysia - KAMY

KOTHOWAIN (Vulnerable Peoples Development Organization) Bandarban Hill Tract, BANGLADESH

Land Rights Now!

Land Sea Maldives

Landesa/Rural Development Institute

London Mining Network

Namati

National Indigenous Women Forum

Natural Justice

Nature Talk Africa (NaTA)

Netrutva foundation

NGO Forum on ADB

North-East Affected Area Development Society (NEADS)

Oil Refinery Residents Association-ORRA

Palangkaraya Ecological and Human Rights Studies (PROGRESS)

Panaghiusa Alang Sa Kaugalingnan ug Kalingkawasan (PASAKK Inc.)

Plataforma Boliviana Frente al Cambio Climático

Ponlok Khmer

Project Affected People's Association

Protection International

Radyo Sagada

Rainforest Action Network

Revive México AC

SCODE

Sengwer Indigenous Community Trust (SICT)

SERUNI

Single Mothers Association of Kenya

STAR Kampuchea (SK)

Sukaar Welfare Organization

The Egyptian Commission for Rights and Freedoms

The Green Belt Movement

Transparency International

Transparency International-Initiative Madagascar (TI-MG)

Tsikini

Turkana Indigenous People Action for Development (TIPaD)

Vikas Adhyayan Kendra

WALHI Central Kalimantan

WALHI South Sulawesi

Water Justice and Gender

Worthy Association For Tackling Environmental Ruins

Yayasan Pusaka Bentala Rakyat

Young Student Movement and the Papuan People

Youth Advocates for Climate Action Philippines

Youth's Forum for Protection of Human Rights

Youths and Environmental Advocacy Centre (YEAC-Nigeria)

Endnotes

- ¹ The UN defines environmental human rights defenders as “individuals and groups who, in their personal or professional capacity and in a peaceful manner, strive to protect and promote human rights relating to the environment, including water, air, land, flora and fauna” [Who are environmental defenders? | UNEP - UN Environment Programme](#).
- ² Global Analysis 2022, Frontline Defenders, 4 April 2023, <https://www.frontlinedefenders.org/en/resource-publication/global-analysis-2022>.
- ³ Front Line Defenders 2022 report: Human rights defenders show remarkable courage in the face of attacks and killings, 5 April 2023, <https://spring96.org/en/news/111324>.
- ⁴ IPCC, AR6 Synthesis Report, 2023, <https://www.ipcc.ch/report/ar6/syr/resources/spm-headline-statements/>.
- ⁵ Annual Land and Environmental Defenders Report, Global Witness September 2023, <https://www.globalwitness.org/en/press-releases/almost-2000-land-and-environmental-defenders-killed-between-2012-and-2022-protecting-planet/>.
- ⁶ PROTECTING CIVIC SPACE FOR CLIMATE ACTIVISTS, International Center for Not-for-Profit Law, 2021, <https://ecnl.org/sites/default/files/2021-10/Protecting%20Civic%20Space%20for%20Climate%20Activists.pdf>.
- ⁷ “Uncovering the Hidden Iceberg,” <https://www.landcoalition.org/en/resources/uncovering-the-hidden-iceberg/>.
- ⁸ How criminalisation is being used to silence climate activists across the world: <https://www.theguardian.com/environment/2023/oct/12/how-criminalisation-is-being-used-to-silence-climate-activists-across-the-world>; Human rights experts warn against European crackdown on climate protesters <https://www.theguardian.com/environment/2023/oct/12/human-rights-experts-warn-against-european-crackdown-on-climate-protesters>.
- ⁹ These include UN Special Procedures, OHCHR guidelines, the Escazú Agreement Secretariat, the Aarhus Convention Secretariat, the UNDRIP and UNDROP, universal rights to free, prior and informed consent (FPIC), the Right to a Clean, Healthy and Sustainable Environment, the International Covenant on Civil and Political Rights, and International Covenant on Economic, Social and Cultural Rights.
- ¹⁰ The GST is a process for “taking stock” of the implementation of the Paris Agreement with the aim of assessing the world’s collective progress towards achieving the purpose of the agreement and its long-term goals. The process started in June 2022 during the Bonn Climate Change Conference, the 56th session of the Subsidiary Body for Scientific and Technological Advice and the Subsidiary Body for Implementation (SB 56) and will end in COP 28.
- ¹¹ International Labour Conference – 111th Session, 2023 Date: 15 June 2023 Outcome of the General Discussion Committee on a Just Transition Proposed resolution and Conclusions submitted to the Conference for adoption [ILC.111/Record No. 7A \(ilo.org\)](#)