



Twenty-seventh meeting of the Working Group of the Parties to the Aarhus Convention
(Geneva, 26 - 28 June 2023)
Agenda item 4(a)

Thematic session on public participation in decision-making:
Safe public participation and protection of environmental defenders

**Statement by the
United Nations Special Rapporteur on Environmental Defenders
under the Aarhus Convention**

- I would like to thank the organisers for their kind invitation to speak at the occasion of this panel discussion on safe public participation and the protection of environmental defenders.
- To prepare for the Working Group of the Parties meeting, I have read the reports of the past sessions, which contain a lot of useful information, but also concrete recommendations.
- I have read with interest the Maastricht principles on public participation in decision-making ([Maastricht Recommendations on public participation in decision-making](#)) and the excellent leaflet prepared by the team supporting the Convention.
- Reading the different drafts of the Principles, I have been really impressed by the quality of the discussions and the substantive inputs from states and NGOs, year after year. And I'm looking forward to a fruitful discussion.
- But I have noted with a question mark, that there is no reference at all to EHRD in the Maastricht Principles, and I was wondering why? And I'm sure that there is an explanation. And if I turn to Fiona (the secretariat) I will get an immediate response. But at the same time, I would like to recall the vital importance of naming environmental defenders in all policy documents. Because we have an official definition of environmental defenders. But also because we all know all too well that they are the most at risk in the context of public participation, especially in the context of extractive industries, agri-business or mega projects. And I'm sure that in our discussions later on we will hear testimonies from some of them. Naming them as environmental defenders is a way to protect them.
- It is also important to name them in all policy documents, because the Convention's strategic Plan 2022-2030 reaffirms the commitment to ensuring due protection of environmental defenders and preventing the erosion of civic space, which is the case unfortunately in so many countries party to the Aarhus Convention, including some EU

countries, where environmental defenders are called “eco-terrorists”, “Green Khmers” or even “talibans”.

- Ladies and gentlemen, you may remember that my 2016 report on EHRD to the Human Rights Council included a specific section dedicated to the broad issue of consultations. And during all my official country visits, I have met with hundreds of defenders and indigenous people to discuss with them and hear from them testimonies of their experiences with governments and companies.
- I heard from them in most of the countries the systemic problems and the many obstacles they face:
 - They spoke of the imbalance of power between States, companies and defenders, which leads to fake or fabricated consultations.
 - About the exclusion and the marginalization of some defenders in their own communities or families.
 - They described the common practice by companies to divide and rule which leads to conflicts inside communities.
 - The ability of states and non-states actors to stigmatize dissent and to retaliate against critics, instilling mistrust and engendering more conflict in the mid-to long term.
 - The consultation too often not meaningfully implemented, or simply ignored by companies, with the complicity of Governments.
 - The problem of indigenous peoples that have not been “officially” identified as indigenous.
 - The power inequalities within communities, leaving isolated such groups as women or ethnic groups owing to one-size-fits-all approaches.
 - The linguistic barriers where indigenous and local communities don’t even understand what is at stake.
 - And the lack of support by corporations and State authorities for community-based environmental impact assessments and consultations, which could de-escalate potential conflicts.
 - And I could continue the list of problems identified in my consultations, but time is running and I want to briefly conclude by a few recommendations addressed to all of us, including myself:
- First of all, states have a duty to create a safe and enabling environment for defenders. And in my 2016 report you will find a set of guiding principles on how to create and maintain a safe and enabling environment.
- Preventive approaches, including ensuring the meaningful participation of defenders in the decision-making at all stages, are crucial to overcoming these challenges.
- Laws, contracts and human rights impact assessments by States and corporations should be developed with the active participation of defenders and communities. They should also contain provisions and procedures on the procedural rights of these communities and defenders. Such provisions should be included in national action plans on business and human rights, environmental impact assessments and decision-making on business concessions and land tenure.

- Governments should disclose confidentiality clauses in agreements between corporations and State actors.
- We should all develop an intersectional approach, embracing the heterogeneity and diversity of environmental defenders and understanding the various root causes and situations exposing them to risks and threats.
- I have seen good practices among international financial institutions, which include requiring borrowers to communicate to those affected by projects how their feedback in the design and execution of projects has been followed up; I have seen some of them denouncing reprisals against defenders and using their influence to protect environmental defenders at risk; and creating independent oversight mechanisms for activities and situations where there is a high risk of human rights violations. We should look at their model!
- For my part, as you know, we are going to organize a series of 3 or 4 consultations in the Aarhus region, and I will include a specific item on public participation in my consultations and, if you so wish, I could report back at our next Working Group of the Parties.
- I very much welcome participation of youth delegates to all meetings of the Aarhus Convention, but I would also like to note the excellent participation of children defenders to our meetings today. And I want to further discuss with specialized NGOs like Child Rights Connect the broad issue of a children friendly approach to participation. Because young and children defenders have also the power to say YES but also the right to say NO.
- To conclude, and because of the extra-territorial scope of my mandate, I would also like to remind to country delegates the role that Embassies and EU delegations have to play when consultations are organized on projects involving the participation of companies that have their headquarters in one the countries that are party to the Aarhus Convention. Don't forget that environmental defenders of those countries could appeal to my mandate if they would feel penalized, persecuted or harassed by those companies.
- Dear delegates, the last report I have presented to the Human Rights Council was on defenders living in conflict situations and humanitarian crises. And of course, I could not conclude my presentation today without a word of sympathy and care to all environmental defenders of the region who live currently very difficult times. I'm thinking of course of defenders in Ukraine and other countries affected by the tragic war.
- Thank you.