**Situation of Environmental Human Rights Defenders**

**Submission to the UN Human Rights Committee for the drafting of its General Comment No.37 on Article 21 (right of peaceful assembly)**

Date:

21 February 2020

Submission:

Key areas we would like to amend or strengthen:

1. Paragraph 28.

28. States must not deal with assemblies in a discriminatory manner, for example on the basis of nationality, race, ethnicity, age, political opinion, religion, belief, minority status, disability, sexual orientation or gender identity.[[1]](#footnote-2). Particular efforts should be made to ensure equal and effective protection of the right of peaceful assembly of individuals who are members of groups who are or have been subjected to discrimination.[[2]](#footnote-3) This includes the duty to protect participants from homophobic, sexual or gender-based attacks.[[3]](#footnote-4)

N1M proposes the inclusion of environmental human rights defenders in this paragraph. The Human Rights Council resolution 40/11 ‘Recognizing the contribution of environmental human rights defenders to the enjoyment of human rights, environmental protection and sustainable development’ sets out the rights and significance of environmental human rights defenders (EHRDs) and the high levels of discrimination and violence that they face. The rate killings of environmental defenders has been increasing, and between 2002 and 2017, in total at least 1558 people in 50 countries were killed for defending their environments and land rights[[4]](#footnote-5). In 2018 at least 164 environmental and land rights defenders were killed according to research by Global Witness[[5]](#footnote-6). Of the human rights defenders murdered in 2019, Frontline Defenders reports that an estimated 40% were working to defend land and environmental rights[[6]](#footnote-7). In her statement to the Human Rights Council in September 2019, Victoria Tauli-Corpuz, Special Rapporteur on the rights of Indigenous Peoples reported that, “extractive activities within indigenous peoples’ lands and territories undertaken without adequate consultation or consent are the main source of serious violations of their human rights, including violence, criminalisation and forced displacement”. Environmental human rights defenders have been specifically mentioned in Convention on Civil and Political Rights reports as those facing restrictions or persecution, such as Nguyen Ngoc Nhu Quynh in Vietnam[[7]](#footnote-8).

Our suggested wording:

*States must not deal with assemblies in a discriminatory manner, for example on the basis of nationality, race, ethnicity, age, political opinion, religion, belief, minority status, disability, sexual orientation or gender identity. Particular efforts should be made to ensure equal and effective protection of the right of peaceful assembly of individuals who are members of groups who are or have been subjected to discrimination.**This includes the duty to protect participants from homophobic, sexual or gender-based attacks.[[8]](#footnote-9)* ***Human rights defenders, particularly environmental human rights defenders who are subject to high rates of violence, must be protected.***

2. Paragraphs 79. and 92. of the draft General Comment – relating to terrorism

79. While terrorism and other similar acts of violence must be criminalised, such crimes must not be defined in a vague or overly broad manner that may curtail or discourage peaceful assembly.[[9]](#footnote-10)

In 2017 the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai, commented on the UK’s Prevent anti-terrorism policy, which been used to disproportionately extend surveillance and to curtail activities of environmental human rights defenders and civil society as a whole in the UK[[10]](#footnote-11). Recently, environmental movements such as Extinction Rebellion[[11]](#footnote-12), and established environmental and peace groups including Greenpeace and the Campaign for Nuclear Disarmament have been labelled as domestic extremists by the State[[12]](#footnote-13). UN Special Rapporteur on the rights of Indigenous Peoples, Victoria Tauli-Corpuz, was included on a 2018 list of some 649 people that the government of the Philippines under the Duterte administration filed in a Manila court as suspected terrorists[[13]](#footnote-14). The list included many other land and environmental defenders and Indigenous People, and others who were to be restricted from peaceful assembly and association due to their being listed ‘terrorists’.

Our suggested wording:

*While terrorism and other similar acts of violence must be criminalised, such crimes must not be defined in a vague or overly broad manner that may curtail or discourage peaceful assembly.* ***Peaceful assemblies must not be treated as, listed as, or implied to pose a terrorist threat.***

92. Wherever possible, only law enforcement officials who have been trained in the policing of assemblies should be deployed for that purpose.[[14]](#footnote-15) As a general rule, the military should not be used to police assemblies.[[15]](#footnote-16) The law enforcement officials responsible for policing assemblies should be suitably equipped, including where needed with appropriate less-lethal weapons and adequate personal protective equipment.[[16]](#footnote-17) States parties should ensure that all weapons, including less-lethal weapons, are subject to strict independent testing and should evaluate and monitor their impact on the rights to life and bodily integrity and the mental well-being of those affected.[[17]](#footnote-18)

Here we would like to suggest also excluding anti-terrorism policing units from being deployed as law enforcement at assemblies. Anti-terror police have been deployed at peaceful assemblies to protect water at Preston New Road anti-fracking camp, UK. Building on paragraph 79. this would add specific guidance on the policing of assemblies, which would support effective state action to uphold the right of peaceful assembly. Our suggested text:

*Wherever possible, only law enforcement officials who have been trained in the policing of assemblies should be deployed for that purpose.[[18]](#footnote-19) As a general rule,* ***neither the military nor anti-terrorism enforcement units should be used to police assemblies****.[[19]](#footnote-20) The law enforcement officials responsible for policing assemblies should be suitably equipped, including where needed with appropriate less-lethal weapons and adequate personal protective equipment.[[20]](#footnote-21) States parties should ensure that all weapons, including less-lethal weapons, are subject to strict independent testing and should evaluate and monitor their impact on the rights to life and bodily integrity and the mental well-being of those affected.[[21]](#footnote-22)*

Background:

This submission is developed by Not1More (N1M) a campaign group registered in the UK and operating internationally as a solidarity and support group for at-risk environmental defenders. N1M was founded in 2016 by three women. In 2017, when we organized the first conference in our International Forest Defender series, attended by UN Special Rapporteur on Human Rights and the Environment, John Knox. Not1More has supported defenders living through vilification, violence and death threats across the world, and has a track record of successful campaigns with grassroots activists. We are partnering with Oxford and Sussex Universities, University of Bahia (Brazil), University of Dhaka (Bangladesh), University of Graben / Butembo (DRC) on an international research project, supported by the British Academy, examining the root causes of violence against environmental defenders.

1. CCPR/C/GEO/CO/4, para. 8; CCPR/C/MNG/CO/6, para. 11; and A/HRC/31/66, paras. 15-16. [↑](#footnote-ref-2)
2. A/HRC/31/66, para. 16. [↑](#footnote-ref-3)
3. CCPR/C/CHL/CO/6, para. 19. See also *Fedotova v. Russian Federation* (CCPR/C/106/D/1932/2010), para. 10.4. [↑](#footnote-ref-4)
4. Butt, N., Lambrick, F., Menton, M. *et al.* The supply chain of violence. *Nat Sustain* **2,** 742–747 (2019). <https://doi.org/10.1038/s41893-019-0349-4> [↑](#footnote-ref-5)
5. Global Witness, Enemies of the State, 2019, *Global Witness,* London, <https://www.globalwitness.org/en/campaigns/environmental-activists/enemies-state/> [↑](#footnote-ref-6)
6. Font Line Defenders Global Analysis, 2019, *Front Line Defenders*, Dublin, <https://www.frontlinedefenders.org/sites/default/files/global_analysis_2019_web.pdf> [↑](#footnote-ref-7)
7. CCPR/C/VNM/CO/3, para. 45 (d) [↑](#footnote-ref-8)
8. CCPR/C/CHL/CO/6, para. 19. See also *Fedotova v. Russian Federation* (CCPR/C/106/D/1932/2010), para. 10.4. [↑](#footnote-ref-9)
9. CCPR/C/SWZ/CO/1, para. 36; CCPR/C/BHR/CO/1, para. 29. See also A/HRC/40/52. [↑](#footnote-ref-10)
10. A/HRC/35/28/Add.1, II. A. Countering extremism and terrorism [↑](#footnote-ref-11)
11. Dodd, V., and Grierson, J., 2020, *The Guardian*, 9 January 2020, <https://www.theguardian.com/uk-news/2020/jan/10/xr-extinction-rebellion-listed-extremist-ideology-police-prevent-scheme-guidance> [↑](#footnote-ref-12)
12. Dodd, V., and Grierson, J., 2020, *The Guardian*, 22 January 2020, <https://www.theguardian.com/environment/2020/jan/22/minister-denies-government-considers-extinction-rebellion-extremist> [↑](#footnote-ref-13)
13. Ellis-Petersen, H., 2018, *The Guardian,* 9 March 2018, <https://www.theguardian.com/world/2018/mar/09/philippines-lists-un-special-rapporteur-on-terrorist-hit-list-rodrigo-duterte> [↑](#footnote-ref-14)
14. CCPR/C/KHM/CO/2, para. 12; CCPR/C/GRC/CO/2, para. 42; and CCPR/C/BGR/CO/4, para. 38. [↑](#footnote-ref-15)
15. CCPR/C/VEN/CO/4, para. 14; and ACHPR, *Guidelines on Policing Assemblies in Africa*, para. 3.2. [↑](#footnote-ref-16)
16. *United Nations Human Rights Guidance on Less-Lethal Weapons in Law Enforcement* (2019); European Court of Human Rights, *Güleç* *v.* *Turkey* (application No. 21593/93), judgment of 27 July 1998, para. 71; and Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, principle 2. [↑](#footnote-ref-17)
17. General comment No. 36. [↑](#footnote-ref-18)
18. CCPR/C/KHM/CO/2, para. 12; CCPR/C/GRC/CO/2, para. 42; and CCPR/C/BGR/CO/4, para. 38. [↑](#footnote-ref-19)
19. CCPR/C/VEN/CO/4, para. 14; and ACHPR, *Guidelines on Policing Assemblies in Africa*, para. 3.2. [↑](#footnote-ref-20)
20. *United Nations Human Rights Guidance on Less-Lethal Weapons in Law Enforcement* (2019); European Court of Human Rights, *Güleç* *v.* *Turkey* (application No. 21593/93), judgment of 27 July 1998, para. 71; and Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, principle 2. [↑](#footnote-ref-21)
21. General comment No. 36. [↑](#footnote-ref-22)