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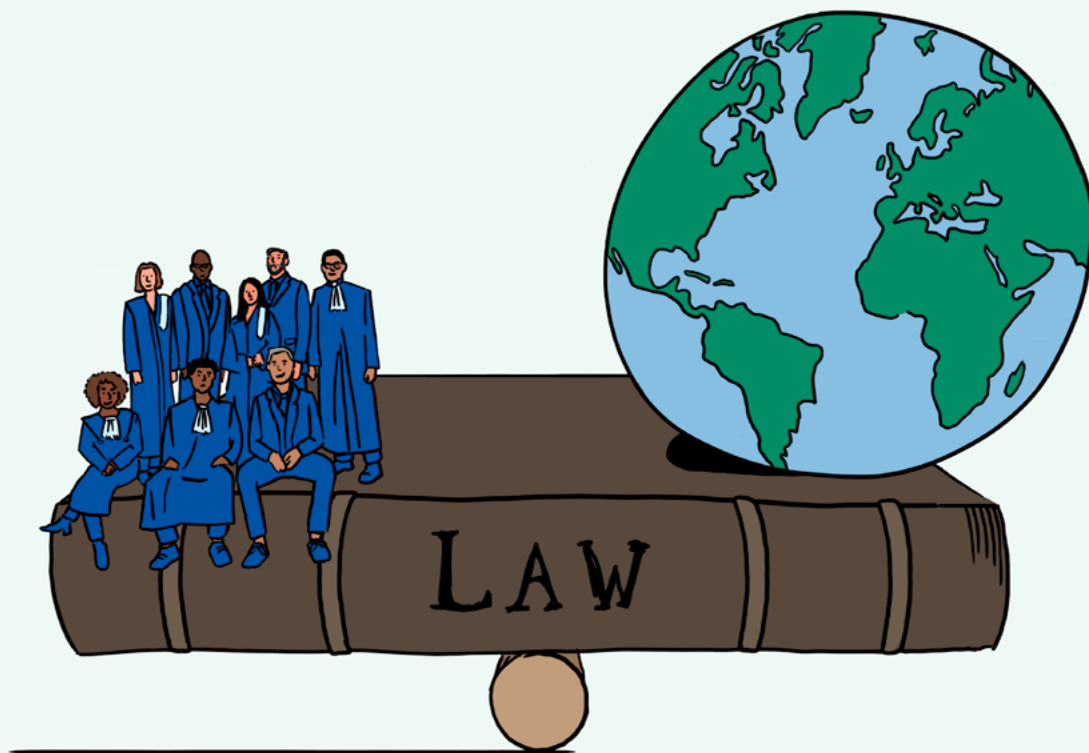
**ENVIRONMENTAL**

**JUSTICE UNDER THREAT**

**The Role, Risks, and Rights of Environmental Lawyers**

June 2025

Lawyers for Lawyers



**LAWYERS  
FOR  
LAWYERS**

## About the Author

Lawyers for Lawyers is an independent and non-political foundation that seeks to promote the proper functioning of the rule of law by pursuing freedom and independence of the legal profession. Lawyers for Lawyers supports lawyers worldwide who face reprisals, improper interference, or unreasonable restrictions in the execution of their profession. Lawyers for Lawyers was granted Special Consultative status with the United Nations Economic and Social Council in 2013.

## About the Report

This report forms part of the Environmental Lawyers Campaign launched in May 2022 to raise awareness about the challenges faced by environmental lawyers worldwide. Notwithstanding the many studies which rightly focus on the aggregate of “environmental defenders”, this report aims to highlight the specific role environmental lawyers play in providing access to justice in environmental matters, the unique risks they face for carrying out this work, and the need to advocate for their enhanced protection. The report addresses these topics and gives voice to the experiences of environmental lawyers from across the world. When lawyers are harassed, intimidated, or obstructed in retaliation for their work, it undermines the effective administration of justice and the rule of law. As a result, the human rights of both lawyers and their clients who try to defend the environment are at risk, as well as nature itself.

This report and the conclusions therein are authored by Lawyers for Lawyers and do not necessarily mirror the views of the individuals and organisations who were consulted.

## Acknowledgements

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Special thanks are extended to the environmental lawyers who were interviewed and featured in this report and to those who have chosen to remain anonymous for security reasons.

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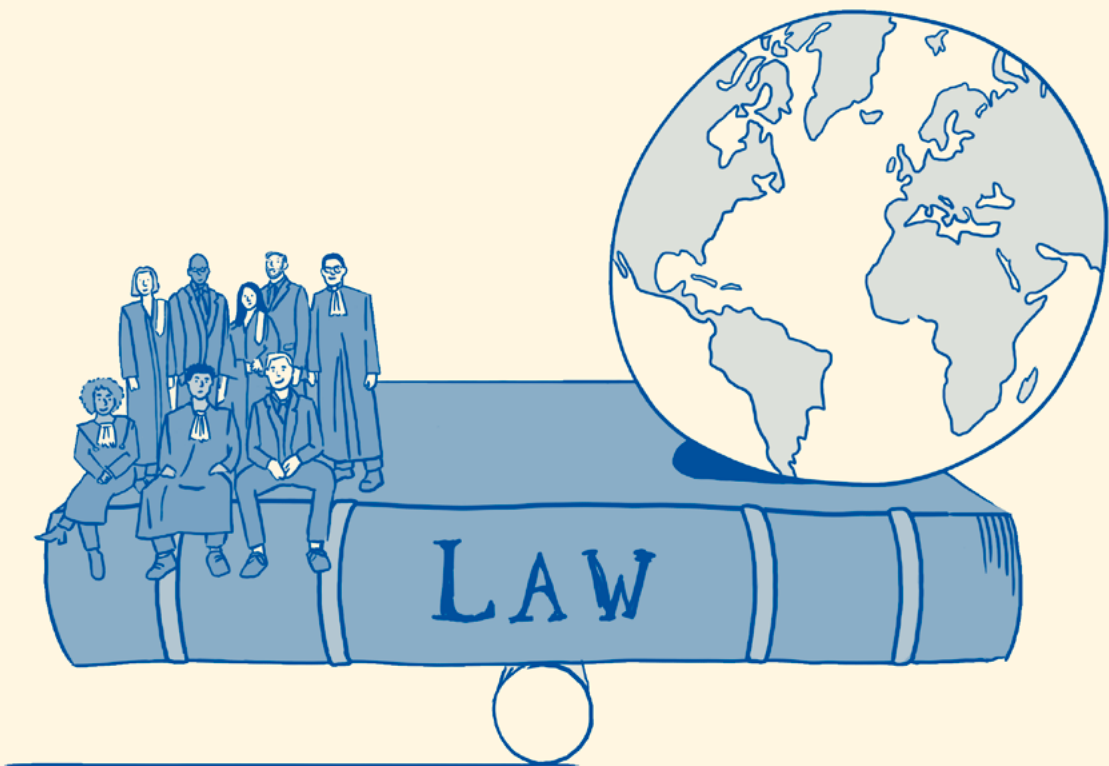




Verónica  
Guerrero

*in memoriam*





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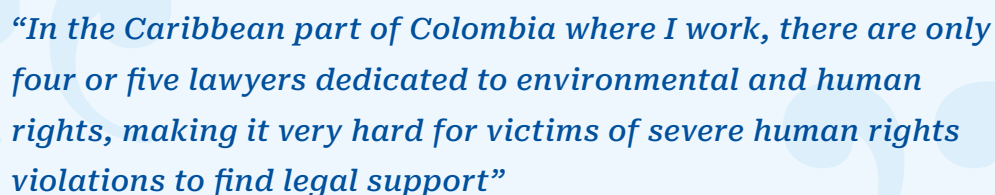
## Executive Summary

Environmental lawyers play a pivotal role in ensuring access to climate justice and defending the rights of communities facing environmental harm. Yet across the globe, these lawyers are increasingly subjected to threats, harassment, and undue interference. In response to this trend, Lawyers for Lawyers launched a campaign in 2022 (the “Environmental Lawyers Campaign”) to raise awareness about their plight. The present report is a result of that campaign and ongoing documentation efforts.

Grounded in the UN Basic Principles on the Role of Lawyers, the report draws on 25 in-depth interviews conducted with environmental lawyers across all continents between May 2022 and October 2024. It identifies widespread and growing threats of physical, legal, reputational, and digital nature that not only undermine the safety and independence of environmental lawyers but also the rights and livelihoods of the communities they serve. As a result, the human rights of both lawyers and their clients who seek to defend the environment are at risk – along with nature itself.

**Environmental lawyers are central to upholding the rule of law and ensuring access to climate justice,** particularly for marginalised communities disproportionately impacted by environmental degradation. Their work goes far beyond litigation: they empower communities through education and training, help monitor environmental harms, and facilitate access to remedies while holding powerful actors to account. Often working in remote, hazardous areas, they build trust with clients – many of whom are Indigenous Peoples, farmers, or grassroots activists – in order to effectively challenge harmful projects. Some lawyers are themselves members of marginalised groups and serve as a critical bridge between communities and the justice system, translating grievances into legal claims.

Despite the growing need for their services, environmental lawyers are both vastly under-resourced and alarmingly low in number. In several countries, entire regions rely on the efforts of just a handful of practitioners. This shortage is not accidental: their job comes with increased risk, as lawyers face physical attacks, harassment, and intimidation from both state and non-state actors. These tactics not only obstruct their ability to work effectively but also create a chilling effect that deters new lawyers from entering the field.



*“In the Caribbean part of Colombia where I work, there are only four or five lawyers dedicated to environmental and human rights, making it very hard for victims of severe human rights violations to find legal support”*

– **Adil Meléndez Márquez**, environmental lawyer

The report identifies a rise in threats and attacks against environmental lawyers in retaliation for their legal work. They include the following trends:

- **Stigmatisation:** Lawyers are frequently vilified as “anti-development” or “enemies of the State” due to the nature of their clients or causes. This mischaracterization erodes their credibility, encourages self-censorship, and isolates them socially and professionally.
- **Physical attacks and intimidation:** More than half of the interviewees reported experiencing physical threats, including kidnapping and assault. These attacks often follow periods of public defamation and are perpetrated by both State and non-State actors.
- **Legal harassment:** Environmental lawyers face SLAPP suits, arbitrary arrests, and baseless prosecutions, which not only drain limited resources but also discourage legal advocacy. Several environmental lawyers are currently imprisoned as a direct consequence of their legal work.
- **Barriers to information and due process:** Lawyers report systematic obstructions in accessing essential documents, such as Environmental Impact Assessments, undermining their ability to mount effective legal challenges in violation of the principle of equality of arms.
- **Surveillance and breaches of confidentiality:** One-third of the lawyers interviewed expressed concerns about surveillance. Arbitrary monitoring activities and the seizure of documents and devices compromise lawyer-client confidentiality and create a chilling effect on legal advocacy.

The right to access justice, including an effective remedy for environmental harms, fundamentally depends on the right to independent legal counsel. International and regional legal standards have long recognised the centrality the legal profession to the rule of law and protection of human rights. As such, lawyers are awarded a unique set of professional obligations and rights to fulfil their role. States have both negative and positive obligations to ensure environmental lawyers can perform this role effectively - free from undue interference, harassment, or intimidation. In addition, professional lawyers’ associations must protect the profession’s independence, by defending colleagues against improper restrictions, and promoting the role of lawyers in a democratic society. This follows from both the UN Basic Principles on the Role of Lawyers as well as the UN Declaration on Human Rights Defenders.

Without respect for the role of environmental lawyers and the protection of their rights, meaningful legal redress for environmental harm is severely undermined. This jeopardises global sustainability and human rights objectives, including those enshrined in the 2030 Agenda for Sustainable Development.

Lawyers for Lawyers calls on States to implement legal and practical measures to ensure the independence, safety, and protection of environmental lawyers. This includes access to essential information, respect for lawyer-client confidentiality, effective investigation of threats and attacks, and the establishment of protection programs in consultation with those affected. Professional associations of lawyers, international organisations such as the UNEP and UNDP, and other UN human rights bodies should similarly recognise and actively promote the vital role of environmental lawyers, raise awareness about the risks they face, and advocate for their enhanced protection.

*A full list of recommendations can be found in the full report (Chapter V).*



# Introduction

On 3 February 2022, environmental and human rights lawyer Verónica Guerrero was killed in her car in Jalisco, Mexico. Before her death, she represented the neighbourhood collective Urbi Quinta in its legal battle against several companies that had been accused of disposing waste in the Matatlán landfill. It is believed that the killing of Verónica Guerrero is directly linked to her legitimate professional activities as an environmental lawyer.<sup>1</sup> In other words, she was killed simply for doing her job.

Environmental lawyers play a vital role in the protection of the environment and human rights. It is the responsibility of lawyers to protect the rights of their clients, be it (groups of) individuals or organisations, from whatever quarter they may be threatened. Their work is indispensable to ensure effective access to justice for all, even more so for marginalised groups, and contribute to holding power to account in pursuit of a just and sustainable future. To fulfil this role effectively, lawyers are subject to codes of conduct and ethics, while also awarded specific rights and privileges to effectively carry out their professional duties.<sup>2</sup>

Violent incidents and threats against environmental lawyers directly linked to their work have surged globally. These threats include stigmatisation and vilification, physical attacks, legal harassment, restrictions on access to information, surveillance and searches and seizures of their premises, and, as in the case of Verónica Guerrero, even killings. The former Special Rapporteur on the independence of judges and lawyers, Diego García-Sayán, emphasized that ‘attacks on groups of lawyers defending certain causes have increased considerably in many countries in recent times’.<sup>3</sup> He warned that legal practitioners whose work touches on topics such as ‘the defence of human rights, [...] and the environment’ are at particular risk.<sup>4</sup> His successor, Margaret Satterthwaite, echoed his statements when

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1 Lawyers for Lawyers, ‘Killing of Mexican Lawyer Verónica Guerrero’ (7 February 2022), accessed 4 September 2024 <<https://lawyersfor-lawyers.org/en/killing-of-mexican-lawyer-veronica-guerrero/>>.

2 UN Basic Principles on the Role of Lawyers, adopted on 7 September 1990 during the Eight UN Congress on the Prevention of Crime and the Treatment of Offenders, Havana Cuba. Available at <[www.ohchr.org/en/instruments-mechanisms/instruments/basic-principles-role-lawyers](http://www.ohchr.org/en/instruments-mechanisms/instruments/basic-principles-role-lawyers)>.

3 UNHRC, ‘Protection of lawyers against Undue Interference in the Free and Independent Exercise of the Legal Profession: Report of the Special Rapporteur on the Independence of Judges and Lawyers, Diego García-Sayán’ (22 April 2022) A/HRC/50/36, para 106.

4 Ibid.



categorising the targeting of lawyers, including environmental lawyers, as one of the ‘top challenges’ that need to be addressed in pursuit of the independence of judges and lawyers.<sup>5</sup>

These developments take place at the backdrop of an increasingly hostile environment for advocates of climate justice. In recent years, civil society organisations and United Nations experts have taken steps to map and describe the situation of environmental defenders.<sup>6</sup> In this report, we aim to supplement their work, with the objective of increasing attention for the violations of the rights and privileges of environmental lawyers. It is a first attempt to document and illustrate the specific difficulties that lawyers face when representing clients in cases concerning environmental matters, and how this impedes on access to environmental justice. It calls for their enhanced protection and respect for their rights as guaranteed under international law, particularly as articulated in the UN Basic Principles on the Role of Lawyers (UN Basic Principles).

Although not binding, the UN Basic Principles represent the most comprehensive international normative framework aimed at safeguarding the right of access to legal assistance and the independent functioning of the legal profession. The obligations included therein are similarly enshrined in binding international and regional instruments and national legislation and may be binding by virtue of interpretation (by regional tribunals) of human rights treaties that they have ratified, as well as through binding domestic case law.<sup>7</sup> For this reason, the UN Basic Principles serve as a central reference framework in our analysis of the threats against environmental lawyers identified through this research, guiding our assessment of states’ and bar association’s obligations to uphold their rights.

The report is based on primary and secondary research on international legal standards for the protection of lawyers, human rights defenders, and environmental rights defenders, and their application in practice. It incorporates open-source materials, analysis of legal reports and expert policy briefs, and semi-structured interviews with 25 environmental lawyers worldwide conducted between May 2022 and October 2024. The report is structured into three sections. The first section underscores the critical role of environmental lawyers in facilitating access to environmental justice. The second section delineates the trends of harassment identified and exemplifies them through case studies. The third section addresses the obligations of States and bar associations to uphold the rights of environmental lawyers. The report concludes with a set of recommendations to generate awareness on the challenges and struggles encountered by environmental lawyers, to strengthen their protection, and to guarantee the free exercise of their profession.

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5 UNHRC, ‘Reimagining Justice: Confronting Contemporary Challenges to the Independence of Judges and Lawyers: Report of the Special Rapporteur on the Independence of Judges and Lawyers, Margaret Satterthwaite’ (13 April 2023) A/HRC/53/31, para 51.

6 See for example Global Witness, ‘Standing Firm, The Land and Environmental Defenders on the Frontlines of the Climate Crisis’ (13 September 2023); and UNGA, ‘Report of the Special Rapporteur on the Situation of Human Rights Defenders’ (3 August 2016) A/71/281, paras 2, 30, 46; ‘State Repression of Environmental Protest and Civil Disobedience: A Major Threat to Human Rights and Democracy, Position Paper by Michel Forst, UN Special Rapporteur on Environmental Defenders under the Aarhus Convention’ (UNECE, 28 February 2024) 4.

7 Law Society of England and Wales, ‘UN Basic Principles on the Role of Lawyers Independence of the Legal Profession and Lawyer/Client Rights Worldwide’ (February 2022) 4.



## II

# Access to environmental justice: The vital role of lawyers

### Key points

- Communities most affected by environmental degradation face the largest barriers to access to environmental justice
- These barriers relate to preexisting inequalities in terms of social, economic, and cultural marginalisation
- Environmental lawyers play a vital role in eliminating such barriers to access to justice, both in and out of courts, but are themselves under increased attack

## A. Structural barriers to environmental justice for affected communities

Today's 'triple planetary crisis'<sup>8</sup> of climate change, biodiversity and ecosystem loss, and pollution, undermines the enjoyment and protection of human rights and exacerbates environmental injustices. These crises disproportionately affect the most vulnerable and marginalized communities. The complexity and intersectionality of the environmental harms affecting these individuals call for a robust right to access to environmental justice, including the right to an effective remedy. In this context, international law assigns lawyers a key role in eliminating barriers to access to justice. Research shows, however, that they increasingly face threats in relation to their legitimate work.

Violations of the right to a clean, healthy and sustainable environment<sup>9</sup> concurrently interfere with other human rights.<sup>10</sup> This is especially the case for Indigenous Peoples<sup>11</sup> who maintain a close relationship with their ancestral lands and natural ecosystems. It not only hinders their right to life, health, food, water, sanitation, and development, but also damages their culture, spirituality, and traditional knowledge.<sup>12</sup> Their entire way of living is therefore threatened by environmental degradation. The interconnectedness of such environmental and human rights violations has been recognized by the UN Human Rights Committee's in its landmark decision *Daniel Billy et al v Australia*,<sup>13</sup> and was confirmed by different regional courts.<sup>14</sup> Correspondingly, those advocating against environmental abuses have the potential to enormously contribute to both social and environmental wellbeing, when allowed to conduct their activities safely.

Marginalised communities most affected by environmental degradation often have no other choice than to speak out against environmental threats that gravely endanger their lives. Many become environmental human rights defenders by 'accident' or 'necessity'.<sup>15</sup> Confronted with increasing pressure on already

8 Term and framework adopted by the UNDP. See UNDP, 'Environmental Justice', <[www.undp.org/rolhr/justice/environmental-justice](http://www.undp.org/rolhr/justice/environmental-justice)>.

9 Recognized by the UNHRC on 8 October 2021 (A/HRC/RES/48/13) and the UNGA on 28 July 2022 (A/RES/76/300).

10 For the interconnectedness of human rights in relation to the right to a clean, healthy, and sustainable environment, see for example, UNGA, 'Report of the Special Rapporteur on the Issue of Human Rights Obligations relating to the Enjoyment of a Safe, Clean, Healthy and Sustainable Environment' (19 July 2018) A/73/188.

11 Traditional communities that do not self-identify as indigenous are sometimes also referred to as 'local communities'. In recent years, however, the usage of the term 'Indigenous Peoples' alongside 'local communities' has sparked controversy and various UN agencies called for States and other stakeholders to refrain from conflating the two. Indigenous Peoples have different rights standing compared to local communities, since the latter group is not subject of the Declaration on the Rights to Indigenous Peoples. See 'Statement by the United Nations Expert Mechanism on Indigenous Peoples' (July 2023) <[www.ohchr.org/sites/default/files/documents/issues/indigenouspeoples/emrip/Statement\\_EMrip\\_July\\_2023.pdf](http://www.ohchr.org/sites/default/files/documents/issues/indigenouspeoples/emrip/Statement_EMrip_July_2023.pdf)>.

12 UNGA, 'Report of the Special Rapporteur of the Human Rights Council on the rights of indigenous peoples, Victoria Tauli-Corpuz' (29 July 2016) A/71/229, paras 9, 36 and 51.

13 *Daniel Billy et al. v. Australia*, CCPR/C/135/D/3624/2019 (UNHRC, 27 July 2022).

14 See, for instance: *Punta Piedra Garifuna Community and its members v. Honduras* (IACtHR, 8 October 2015), [167]; *African Commission on Human and Peoples' Rights v. Republic of Kenya*, no. 006/2012 (ACtHPR, 26 May 2017); IACtHR, *The Environment and Human Rights*, Advisory Opinion OC-23/17 (15 November 2017); ECtHR, *Environment and the European Convention on Human Rights* (Factsheet) (Last updated April 2024).

15 Ibid. See, also, IUCN, 'Environmental Defenders and Their Recognition Under International and Regional Law: An Introduction' (2021) 6.

scarce natural resources, they struggle to defend themselves and their environment from pollution and destruction caused by exploitative business practices and large-scale development projects. For this they pay the highest price. Human rights organisations and UN Special Rapporteurs have repeatedly held that environmental defenders, including those who may not necessarily self-identify as such, face a disproportionate level of (lethal) attacks.<sup>16</sup> Indigenous Peoples, who make up only around 5% of the global population yet face a disproportionate burden of environmental degradation due to their deep connection to their land, accounted for over a third (34%) of global killings in 2022.<sup>17</sup>

Violence against environmental human rights defenders is directly linked to institutionalised racism, systematic power inequalities, and stigmatisation. These factors sometimes encourage the oppression of environmental defenders and enable a climate of impunity for violations of their rights. As described by the former UN Special Rapporteur on the situation of human rights defenders, Michel Forst, 'private actors such as agribusinesses and extractive industries, as well as law enforcement agencies, have been regularly observed to commit violations against environmental human rights defenders from indigenous communities'.<sup>18</sup> In addition, national development strategies often fail to include specific approaches and processes for Indigenous Peoples that would ensure the conservation of their ancestral lands and recognise their rights to their livelihoods and environment.<sup>19</sup> Amidst these threats and challenges, human rights, particularly the right to access to justice including the right to an effective remedy, very often present 'the last and only resort to voice the plight of groups who are adversely affected by climate change'.<sup>20</sup>

Yet, these communities often face barriers when attempting to exercise their right to access to justice, including the rights to information, participation, and remedy, all of which are vital to the protection of the environment. These barriers may be of financial, cultural, linguistic, geographical or physical nature, but also often relate to a general lack of information.<sup>21</sup> Marginalised groups of environmental defenders might have limited knowledge about their rights and restricted access to information on how to claim them, lack awareness of existing protective measures, mechanisms or organisations that could support them,<sup>22</sup> or simply do not have the capacity to exercise them.<sup>23</sup> All of the aforementioned factors take on even more importance when compounded by extreme poverty and mistrust, stemming from their

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16 UNGA, 'Report of the Special Rapporteur on the situation of Human Rights Defenders, Mary Lawlor' (9 July 2024) A/79/123, para 80; UNHRC, 'Final warning: Death Threats and Killings of Human Rights Defenders: Report of the Special Rapporteur on the Situation of Human Rights Defenders, Mary Lawlor' (24 December 2020) A/HRD/46/35, paras 45 and 46.

17 Global Witness (n 6).

18 A/71/281 (n 6), para 56.

19 Ibid., paras 54 and 56.

20 Annalisa Savaresi and Margaretha Wewerinke-Singh, 'A Just Transition? Investigating the Role of Human Rights in the Transition Towards Net Zero Societies' (2024) *Select Proceedings of the European Society of International Law* 133.

21 UNHRC, 'Report of the Special Rapporteur on the Independence of Judges and Lawyers, Leandro Despouy' (13 May 2008) A/HRC/8/4, paras 24-32.

22 IUCN (n 15) 7.

23 A/71/281 (n 6), para 53.



negative experiences with the justice system.<sup>24</sup> Marginalised communities may be reluctant to engage with formal justice institutions and may worry that legal professionals will struggle to understand the problems they face.<sup>25</sup> To bridge this justice gap, the UN Special Rapporteur on the independence of judges and lawyers, Margaret Satterthwaite, has called for a ‘people-centred justice approach’ which seeks to empower people rather than solely respond to legal problems, with the ultimate goal of expanding access to justice.<sup>26</sup>

## B. The role of lawyers in enabling access and remedy

The environmental lawyers whose plight sparked this report play a vital role in addressing this justice gap, as they equip those most affected by environmental harms with the tools necessary to effectively seek redress. Besides their role in advancing the protection of environmental and human rights through the ever-growing body of environmental litigation,<sup>27</sup> they empower affected communities through education and training to help them understand and utilise their environmental rights. They regularly travel long distances to remote and often dangerous areas to meet with clients – which may include farmers, activists or Indigenous Peoples – for capacity building activities and environmental monitoring. When conducting their work, environmental lawyers, who may sometimes themselves be members of indigenous or minority groups, seek to build trust with affected communities to generate or reinstate their faith in the justice system.

The right to access to justice is firmly established under international law.<sup>28</sup> Serving both as a fundamental right and a mechanism to restore other violated rights,<sup>29</sup> its environmental dimension is enshrined in several international instruments.<sup>30</sup> In 2015, the Member States of the United Nations acknowledged the centrality of the right to access to justice by adopting Sustainable Development Goal 16 of the 2030

<sup>24</sup> A/HRC/8/4 (n 21), paras 26.

<sup>25</sup> UNGA, ‘Report of the Special Rapporteur on the Independence of Judge and Lawyers, Margaret Satterthwaite’ (13 July 2023) A/78/171, para 16.

<sup>26</sup> Ibid., paras 18 and 19.

<sup>27</sup> UNGA, ‘Report of the Special Rapporteur on the Promotion and Protection of Human Rights in the Context of Climate Change, Ian Fry’ (28 July 2023) A/78/255, para 45; UNEP, ‘Global Climate Litigation Report: 2023 Status Review’ (27 July 2023) 4.

<sup>28</sup> Universal Declaration of Human Rights (adopted 10 December 1948 UNGA Res 217 A(III), Article 8; International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171, Article 2(3).

<sup>29</sup> A/HRC/8/4 (n 21), para 17.

<sup>30</sup> See ECOSOC, ‘Human Rights and the Environment, Final Report’ (6 July 1994) E/CN.4/Sub.2/1994/9, Principle 20; UNGA, ‘Rio Declaration on Environment and Development’ (12 August 1992) A/CONF.151/26 (Vol. I), Principle 10; UNGA, ‘Declaration of the United Nations Conference on the Human Environment’ (15 December 1972) A/CONF.48/14/Rev.1, Principle 13; Aarhus Convention (adopted 25 June 1998, entered into force 30 October 2001) UNTS 2161, Article 9; and Escazú Agreement (adopted 4 March 2018, entered into force 22 April 2021) UNTS 3398, Article 8.

Agenda for Sustainable Development, committing themselves to ‘provide access to justice for all’.<sup>31</sup> This commitment has been expanded on by regional human rights mechanisms such as the Inter-American Court of Human Rights (IACtHR), which ruled that States have the obligation to guarantee access to environmental justice to ensure individuals can enforce environmental standards and obtain remedies and reparations.<sup>32</sup>



Ugandan lawyer **Dickens Kamugisha** is the CEO of the Africa Institute for Energy Governance (AFIEGO) and is actively involved in strategic litigation projects and community empowerment. In particular, he has worked with communities affected by projects seeking to exploit Uganda’s oil reserves.<sup>33</sup> Kamugisha identifies the needs and challenges of those seeking redress and assists them accordingly, both in and outside the courtroom. Above all, Kamugisha considers mobilising local communities to claim their rights a core part of his work. This entails educating people about their rights, especially those that are illiterate or unable to afford a lawyer. He encourages people to *demand* their rights, especially since 80% of the Ugandan people’s livelihoods depend on the environment.

In this context, international law recognises the critical role lawyers play in ensuring the exercise of the right to access to justice and the realization of the right to a fair trial, which includes the right to be assisted by a lawyer of one’s own choosing. The UN Basic Principles on the Role of Lawyers, as described in the introduction, aim to safeguard the right to access to legal assistance and set out a framework of obligations to uphold the independent functioning of the legal profession. Consecutive UN Special Rapporteur on the independence of judges and lawyers mandate holders have held that the aim of legal aid is to ‘contribute to the elimination of obstacles and barriers that impair or restrict access to justice by providing assistance to people otherwise unable to afford representation and access the court system’.<sup>34</sup> Given that the right to legal aid can be ‘construed as both a right and an essential procedural guarantee for the effective exercise of other human rights’, it should be recognised, guaranteed and promoted in both criminal and non-criminal cases.<sup>35</sup>

31 UNHRC, ‘Independence and Impartiality of the Judiciary, Jurors and Assessors, and the Independence of Lawyers’ (3 July 2024), A/HRC/56/L.3, 2.

32 *Advisory Opinion OC-23/17 of November 15, 2017, Requested by the Republic of Colombia* (IACtHR, 15 November 2017) [234, 237].

33 Right Livelihood, ‘AFIEGO of Uganda Receives Prestigious Right Livelihood Award’ (n.d.) accessed 12 December 2024 <<https://rightlivelihood.org/2022-announcement/14/pr4/>>.

34 UNGA, ‘Report of the Special Rapporteur on the Independence of Judges and Lawyers, Mónica Pinto’ (22 August 2016) A/71/348, paras 16-17.

35 UNHRC, ‘Report of the Special Rapporteur on the Independence of Judges and Lawyers’ (15 March 2013) A/HRC/23/43, para 28.

Although the legal and on-the-ground reality clearly demonstrate that environmental lawyers fulfil a key role in eliminating barriers to access to environmental justice for harm caused by States and businesses, their position is under increased threat. The physical attacks, harassment, threats, and intimidation tactics deployed by governments and non-state actors not only obstruct access to justice by impeding on lawyers' ability to effectively represent these groups, but they are also designed to have a "chilling effect". The increasing risks associated with the job discourage many young or aspiring lawyers from engaging with the field of environmental law and justice. Coupled with limited financial rewards due to the predominantly pro-bono nature of the work, this leads to a lack of environmental lawyers. To illustrate, **roughly half of the interviewed lawyers** indicated that, in their respective countries, affected communities rely on the services provided by one of very few lawyers active in this line of work.

**Gerthie Mayo-Anda**, a lawyer at the Environmental Legal Assistance Center (ELAC) in the Philippines, noted that government inaction forces communities to rely on local organisations like ELAC or their churches for support, increasing their workload. These organisations lack the resources to meet demand, and the challenging, non-lucrative nature of the work has resulted in a shortage of environmental lawyers in the Philippines.



Various stakeholders have identified the gap between affected communities' legal right to effective redress and the practical implementation thereof in the justice system. Grassroots organisations have found that affected communities often have limited access to lawyers, due to existing constraints in the justice sector and scarcity of specialised lawyers willing and able to represent them.<sup>36</sup> The former UN Special Rapporteur on the promotion and protection of human rights in the context of climate change similarly held that 'the limited number of environmental lawyers makes it difficult for individuals to seek justice'.<sup>37</sup> Access to environmental lawyers, and accordingly access to environmental justice, will remain a rare commodity unless duty-bearers comply with their human rights obligations and refrain from interfering with lawyers' legitimate work. If lawyers are unable to exercise their professional activities effectively, the international community's commitment to a sustainable, prosperous, and equitable future, as set out in the 2030 Agenda for Sustainable Development, is at risk.<sup>38</sup>

36 Zimbabwe Environmental Law Association, 'Environmental Human Rights Defenders, an Important Group in the Promotion of Environmental Rights' (29 September 2023), accessed 12 December 2024 <<https://zela.org/environmental-human-rights-defenders-an-important-group-in-the-promotion-of-environmental-rights/>>; Access Initiative, 'The Road to Realizing Environmental Rights in Africa: Moving from Principles to Practice' (n.d.) 5.

37 A/78/255 (n 27), para 43.

38 See UNGA, 'Transforming our World: the 2030 Agenda for Sustainable Development' (21 October 2015) A/RES/70/1.



# III

## Forms of harassment faced by environmental lawyers

### Key points

- Environmental lawyers are stigmatised for the cases they work on or the clients they represent, which encourages self-censorship and makes them more vulnerable to other rights violations.
- Environmental lawyers' security is threatened by physical attacks and legal harassment related to their professional activities, which States systematically fail to address. This fosters a culture of impunity which deters lawyers from representing clients in environmental cases out of fear of being targeted.
- The principle of equality of arms is often disregarded as environmental lawyers are precluded from effectively carrying out their professional functions because of restrictions on access to information and violations of lawyer-client confidentiality.



This chapter delves into the main trends uncovered through interviews with environmental lawyers. It is divided into five subsections, one for each trend. While it does not tell the stories of all the lawyers interviewed, it aims to illustrate the identified forms of harassment through specific examples, offering a brief glimpse into the different types of interference environmental lawyers around the world face while conducting their professional activities.

## A. Stigmatisation and vilification

Environmental lawyers are increasingly subjected to stigmatisation and defamation in the media and on social networks, where they are portrayed in a negative light.<sup>39</sup> The use of natural resources in order to pursue economic and social development can contribute to a culture in which those perceived as standing against ‘development’ projects are characterised as ‘enemies of the State’.<sup>40</sup> Lawyers are often labelled as “anti-development” or as “enemies of the State” by the government, companies they litigate against, and political parties with vested interests in development projects in connection to the cases they work on. This practice misinterprets the purpose of legal defence,<sup>41</sup> as lawyers have a duty to effectively represent their clients to the best of their abilities but should not be identified with their clients or their clients’ causes.<sup>42</sup> Through this stigmatisation and defamation, the professional reputation of lawyers is harmed, leading many to avoid speaking out on controversial issues to protect themselves. This self-censorship, driven by fear of further vilification, effectively limits their right to freedom of expression,<sup>43</sup> a critical issue that undermines the legal profession’s role in upholding justice.<sup>44</sup>

Stigmatising statements may also put at risk or violate other rights.<sup>45</sup> As observed by Michel Forst, the Special Rapporteur on environmental defenders under the Aarhus Convention, stigmatisation of environmental lawyers ‘is not only derogatory but also often defamatory, contributes to endangering environmental defenders [and] is used to justify their repression and a corresponding shrinking of their civic space’.<sup>46</sup> The vilification of environmental lawyers may also lead to threats to their physical integrity, unlawful surveillance, attacks, or an arbitrary deprivation of life, since the repetition of stigmatising statements may be interpreted by public officials or sectors of the society as ‘instructions, instigations, or any form of authorisation or support for the commission of acts that may put at risk or violate his or her right to life, personal safety, or other rights’.<sup>47</sup> Furthermore, the Inter-American Commission on

39 Forst, 2024 (n 6), 8; and A/HRC/50/36 (n 3), para 76.

40 John H Knox, ‘Policy Brief: Environmental Human Rights Defenders, a Global Crisis’ (*Universal Rights Group*, February 2017) 10.

41 A/HRC/50/36 (n 3), para 77.

42 UN Basic Principles on the Role of Lawyers, Principle 18.

43 Forst, 2024 (n 6), 9; and Irene Khan, ‘Preliminary Observations by the UN Special Rapporteur on Freedom of Opinion and Expression, Ms Irene Khan, at the end of her visit to the Philippines’ (*OHCHR*, 2 February 2024) 4, accessed 15 April 2025 <[www.ohchr.org/sites/default/files/documents/issues/expression/statements/20240202-eom-philippines-sr-freedex.pdf](https://www.ohchr.org/sites/default/files/documents/issues/expression/statements/20240202-eom-philippines-sr-freedex.pdf)>.

44 *Morice v. France*, no. 29369/10 (ECtHR, 23 April 2015) [133-136].

45 Inter-American Commission of Human Rights (IACHR), ‘Criminalization of the Work of Human Rights Defenders’ (31 December 2015), OEA/Ser.L/V/II, Doc. 49/15, paras 43, 85 and 90.

46 Forst, 2024 (n 6), 8.

47 OEA/Ser.L/V/II, Doc. 49/15 (n 45), para 85. See also, *Yarce et al v. Colombia* (Preliminary Objections, Merits, Reparations and Costs) IACtHR Series C No 325 (22 November 2016) [163]; and Khan (n 43) 4.

Human Rights found that the criminalisation of lawyers is sometimes preceded by actions such as statements by senior officials accusing them of committing crimes or illegal activities with the goal of delegitimising their work.<sup>48</sup> Consequently, the effective exercise of the legal profession is limited by the pressure caused by stigmatisation and vilification.<sup>49</sup>

**Half of the interviewed lawyers** reported having faced stigmatisation, demonisation, and delegitimisation by States, as well as non-State Actors, in connection to the cases they work on, or the clients that they represent. Lawyers from Colombia and South Africa reported that government officials, often politicians involved in large-scale development projects, employ this narrative. In Romania, the government reportedly labelled lawyers as ‘obstacles to development and progress’, and blamed environmental NGOs for surges in electricity or gas prices.<sup>50</sup> Lawyers from India mentioned that the State employs foreign conspiracy narratives, suggesting that the lawyers’ work is funded by foreign entities with the alleged goal of hampering national development.



**Brandon Abdinor and Thobeka Gumedde**, environmental lawyers at the Centre for Environmental Rights (CER) in South Africa, explained that CER’s environmental litigation has encountered pushbacks due to lawyers being labelled “anti-development” with defamatory news articles being regularly published implying they are “foreign funded” and accusing them of blocking development.<sup>51</sup> Consequently, those working for CER find their credibility undermined.

Lawyers from the Philippines and Peru reported being arbitrarily labelled as ‘terrorists’ by the government in absence of substantive evidence, with some of them even facing attempts to include them on official terrorist lists to ban them from travelling. This stigmatisation impedes, among others, their right to freedom of movement and right to participate in public affairs. The restriction of movement imposed on

48 OEA/Ser.L/V/II, Doc. 49/15 (n 45), para 15.

49 A/HRC/50/36 (n 3), para 76.

50 Bankwatch Network, ‘Members of the Romanian Parliament Attempt to Scapegoat Environmental NGOs for Increasing Electricity and Gas Prices’ (29 November 2021) accessed 19 June 2024 <[https://bankwatch.org/press\\_release/members-of-the-romanian-parliament-attempt-to-scapegoat-environmental-ngos-for-increasing-electricity-and-gas-prices](https://bankwatch.org/press_release/members-of-the-romanian-parliament-attempt-to-scapegoat-environmental-ngos-for-increasing-electricity-and-gas-prices)>.

51 See John Yeld, ‘Twitter Abuse Continues in Mabola Coal Mine Saga’ (*GroundUp*, 29 October 2018) accessed 24 June 2024 <<https://groundup.org.za/article/twitter-abuse-continues-mabola-coal-mine-saga/>>.

these lawyers is particularly problematic, as it prevents them from attending international conferences and events, connecting with peers, and advocating for their clients' cause.<sup>52</sup>

**Gerthie Mayo-Anda** has faced several defamation campaigns. Politicians involved in environmentally destructive activities propagated false information about her and her organisation. In the 1990s, Mayo-Anda was "red-tagged" and her organisation, Environmental Legal Assistance Center (ELAC), was "deemed communist" by the Philippine authorities. In May 2024, the Philippine Supreme Court ruled that 'red-tagging' constitutes a threat to people's life, liberty, and security.<sup>53</sup> Mayo-Anda has an ongoing dialogue with officials to ensure that she and her organisation are kept off the red-tagging list.



**Marco Chung Ramos** is an environmental lawyer based in Chaparrí, Peru, and co-founder of Aklla Pacha. He was labelled by the Peruvian Terrorism Department as a suspect of political terrorism after peacefully protesting for environmental rights. As a result, he has been placed on a list of political terrorism suspects, which prevents him from traveling. He also stated that he would be prosecuted for these allegations.<sup>54</sup> The Peruvian Government has systematically used counter-terrorism legislation to harass lawyers, suppressing the rights to freedom of assembly and association.<sup>55</sup>

Lawyers from Armenia, Bangladesh, India, and Indonesia, among others, indicated that political parties and businesses circulate disinformation about them in an attempt to discredit their work.<sup>56</sup> In addition, lawyers have been subjected to 'doxing', the unauthorised publication of personal and identifiable information, infringing upon their right to privacy and placing them at risk of further harm.

52 ICCPR, Articles 12, 19, and 25; Lawyers for Lawyers, 'Att. Marco Emanuel Chung Ramos: 'It is not just the protection of the environment; it is a protection of what is ours and of who we are' (3 May 2023) accessed 13 June 2024 <<https://lawyersforlawyers.org/en/att-marco-emanuel-chung-ramos-it-is-not-just-the-protection-of-the-environment-it-is-a-protection-of-what-is-ours-and-of-who-we-are/>>; ICJ, 'Danger in Dissent: Counterterrorism and Human Rights in the Philippines' (31 January 2022) 14-16, accessed 3 July 2024 <[www.icj.org/wp-content/uploads/2022/01/ICJ\\_PhilippinesRedTagging\\_270122.pdf](http://www.icj.org/wp-content/uploads/2022/01/ICJ_PhilippinesRedTagging_270122.pdf)>.

53 Supreme Court of the Philippines, G.R. No. 254753, *Siegfried D. Deduro v. Maj. Gen. Eric C. Vinoya* (July 4, 2023).

54 Lawyers for Lawyers, 'Att. Marco Emanuel Chung Ramos' (n 53).

55 United Nations Human Rights Office of the High Commissioner (OHCHR), 'Observations on the Human Rights Situations in the Context of the Protest of Peru' (19 October 2023) accessed 4 June 2024 <[www.ohchr.org/sites/default/files/documents/countries/peru/Peru-Report-2023-10-18-EN.pdf](http://www.ohchr.org/sites/default/files/documents/countries/peru/Peru-Report-2023-10-18-EN.pdf)>.

56 Disinformation is generally defined as 'false information that is knowingly shared with the intention to cause harm'.



**Muhammad Jamil** reported that he and his colleagues have been monitored by unidentified individuals while working in the field or travelling to case sites, particularly in mining areas. In 2020, his lawyer colleague and coordinator of the Mining Advocacy Network (JATAM) fell victim to doxing. His photos were edited and shared on social media, resulting in defamatory statements and hate speech. Additionally, hackers unsuccessfully attempted to take over his Facebook account. In 2023, Jamil himself was subjected to verbal abuse and digital harassment, including doxing.

**Syeda Rizwana Hasan** is an environmental lawyer and the Chief Executive of the Bangladesh Environmental Lawyers Association (BELA). Hasan has been the subject of smear campaigns, including defamatory videos and news reports criticising her personal life, including her marriage. These articles, often produced by organisations affected by BELA's legal actions, falsely claimed she was conspiring against the government. For example, a former sand miner and current lawmaker against whom BELA had previously filed cases, publicly accused BELA of soliciting bribes.



## B. Physical attacks

Environmental lawyers, especially those countering harmful business practices, corruption, and extractive industries, face significant risks of physical and sometimes lethal attacks.<sup>57</sup> Attacks against lawyers, including threats to their physical integrity, enforced disappearances and bodily harm, derive from both 'State officials as well as from private or unknown actors, including criminal organizations'.<sup>58</sup> In some cases, family members of lawyers are targeted as well. Physical attacks are often preceded by signs or forewarnings, such as stigmatisation and vilification.<sup>59</sup>

States systematically fail to adequately address these attacks, fostering a culture of impunity in which perpetrators, encouraged by the stigmatisation and vilification of lawyers, can violate the rights of both

<sup>57</sup> Front Line Defenders, 'Global Analysis 2022' (4 April 2023) 14. See further UNHRC, 'At the Heart of the Struggle: Human Rights Defenders working against Corruption Report of the Special Rapporteur on the Situation of Human Rights Defenders, Mary Lawlor' (28 December 2022) A/HRC/49/49, para. 9; and A/71/281 (n 6), para 30.

<sup>58</sup> A/71/348 (n 34), para 72.

<sup>59</sup> UNHRC, 'Final Warning: Death Threats and Killings of Human Rights Defenders, Report of the Special Rapporteur on the Situation of Human Rights Defenders, Mary Lawlor' (24 December 2020) A/HRC/46/35, para 16.



lawyers and their clients without facing any consequences.<sup>60</sup> This may create a climate in which lawyers may eventually refuse to represent clients in environmental cases out of fear of becoming the target of attacks. Physical attacks on lawyers show a blatant disregard for their security and international human rights standards, which are well-established to safeguard their essential role in upholding justice and human rights.<sup>61</sup> Mary Lawlor, the Special Rapporteur on the situation of human rights defenders, including lawyers, has stated that ‘unless the physical integrity of human rights defenders is guaranteed, they will not be able to fully contribute to the construction of a just society that respects human rights’.<sup>62</sup>

**60%** *of the interviewed environmental lawyers experienced physical attacks*

**Sixty percent of the interviewed environmental lawyers** experienced physical attacks related to their professional activities. Several cases of kidnapping were reported. These cases include the abduction of a lawyer’s husband in Bangladesh by unidentified assailants,<sup>63</sup> with similar incidents having occurred in the Democratic Republic of Congo.<sup>64</sup> Assassination attempts have been documented in various countries, including Colombia<sup>65</sup> and Mexico.<sup>66</sup> Lawyers from Peru indicated that police officers have physically assaulted them, while lawyers in both Peru and Colombia have faced death threats and physical intimidation from anonymous parties or paramilitary groups.<sup>67</sup> In the Democratic Republic of Congo, lawyers have been subjected to torture by security forces.<sup>68</sup> In Russia, lawyers connected to environmental organisation ‘PRINCIP’ have been physically assaulted by masked assailants when inspecting illegal dump

60 A/HRC/50/36 (n 3), para 70.

61 A non-exhaustive list: UNGA, ‘Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms’ (8 March 1999) A/RES/53/144 [Declaration on HRDs] art 12; ICCPR art 6-7, 9; Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) (adopted 10 December 1984, entered into force 26 June 1987) UNTS 1465 art 2; UN Basic Principles on the Role of Lawyers, Principles 16-17.

62 OHCHR, ‘Democratic Republic of Congo: Targeting human rights defenders must stop, UN expert says’ (19 June 2024) accessed 19 August 2024 <[www.ohchr.org/en/press-releases/2024/06/democratic-republic-congo-targeting-human-rights-defenders-must-stop-un](https://www.ohchr.org/en/press-releases/2024/06/democratic-republic-congo-targeting-human-rights-defenders-must-stop-un)>.

63 The Daily Star, ‘Husband of Bela’s Rizwana Abducted’ (*The Daily Star*, 16 April 2014) accessed 21 May 2024 <[www.thedailystar.net/husband-of-belas-rizwana-abducted-20269](https://www.thedailystar.net/husband-of-belas-rizwana-abducted-20269)>.

64 Lawyers for Lawyers, ‘Interview with Att. Olivier Bahemuke Ndoole’ (3 April 2023) accessed 18 June 2024 <<https://lawyersforlawyers.org/en/interview-with-att-olivier-bahemuke-ndoole-collaboration-with-our-neighbouring-countries-rwanda-and-uganda-is-necessary-to-protect-our-common-forests-and-wild-animals-but-the-lack-of-clear/>>.

65 Lawyers for Lawyers, ‘Concerns over Death Threat against Colombian Human Rights Lawyer Adil Meléndez Marquez’ (10 July 2023) accessed 18 June 2024 <<https://lawyersforlawyers.org/en/concerns-about-colombian-human-rights-lawyer-adil-melendez-marquez/>>.

66 OMCT, ‘Mexico: Attempted murder of Human Rights Defender Juan Carlos Flores Solís’ (29 November 2022) accessed 10 June 2024 <[www.omct.org/en/resources/statements/m%C3%A9xico-probable-intento-de-homicidio-contr-el-defensor-de-derechos-humanos-juan-carlos-flores-sol%C3%ADs](https://www.omct.org/en/resources/statements/m%C3%A9xico-probable-intento-de-homicidio-contr-el-defensor-de-derechos-humanos-juan-carlos-flores-sol%C3%ADs)>.

67 Lawyers for Lawyers, ‘Adil Meléndez Marquez’ (n 65).

68 Lawyers for Lawyers, ‘Olivier Ndoole Bahemuke’ (n 64).

sites in Arzamas.<sup>69</sup> In February 2023, a few days before the start of a lawsuit on the privatisation of natural resources initiated by PRINCIP, police officers attempted to break into the flat of lawyer Alexei Dmitriev, who was representing the organisation, reportedly in an attempt to intimidate him.<sup>70</sup>

Although identification of the perpetrators is challenging, the lawyers interviewed strongly believe that these acts of violence are committed by individuals linked to the companies they are litigating against, aiming to obstruct legal actions that may impact their business operations. Lawyers furthermore reported that authorities frequently do little to nothing to protect them, often responding too late. The lack of timely and effective intervention by law enforcement and judicial bodies creates an environment where violence against environmental lawyers is implicitly tolerated, further exacerbating the culture of impunity.



**Olivier Bahemuke Ndoole**, a Congolese environmental lawyer and activist, heads the “Congolese Alert for the Environment and Human Rights” (ACEDH), advocating for transparent, accountable, and sustainable governance of land tenure and nature conservation.<sup>71</sup> Ndoole reported experiencing attacks, torture, and kidnapping, which led to hospitalisation in 2015 and later to exile. After returning to the DRC in 2021, he again reported threats and criminal visits. In 2023, ACEDH’s office was attacked, leading to its temporary closure. Ndoole and his colleagues continued to receive death threats for their campaign to protect Virunga National Park. The authorities have not yet taken any measures, despite repeated calls for action.

**Kato Tumusiime**, a Ugandan lawyer with Youth for Green Communities (YGC) and the law firm Banturaki & Co. Advocates in Kampala, specializes in public interest litigation, environmental issues, and human rights in Uganda and East Africa. On 17 April 2024, Tumusiime was physically attacked and beaten on his way to court to represent student activists of the “StopEACOP” campaign.<sup>72</sup> During the attack, perpetrators stole Tumusiime’s laptop, phone, and court files, compromising their confidentiality and preventing him from proceeding with the case.



69 Activatica, Telegram post (21 July 2024, 12:50) accessed 12 February 2025 <<https://t.me/activatica/35929>>.

70 Activatica, “Экоактивиста стала разыскивать полиция накануне суда по его иску” (19 February 2023) accessed 13 February 2025 <<https://activatica.org/content/4c0d6841-8a6c-4be7-96d8-3b9137f85085/ekoaktivista-stala-razyskivat-policiya-nakanune-suda-po-ego-isku>>.

71 Alerte Congolaise pour l’Environnement et les Droits de l’Homme, ‘About Us’ accessed 28 May 2024 <[www.acedhrdc.org/about.php](http://www.acedhrdc.org/about.php)>.

72 Lawyers for Lawyers, ‘Attack and Robbery of Ugandan Environmental and Human Rights Lawyer Kato Tumusiime’ (2 July 2024) accessed 4 July 2024 <<https://lawyersforlawyers.org/en/attack-and-robbery-of-ugandan-environmental-and-human-rights-lawyer-kato-tumusiime/>>; Stop Eacop, ‘Why Stop EACOP? (n.d.)’ accessed 4 July 2024 <[www.stopeacop.net/why-stop-eacop](http://www.stopeacop.net/why-stop-eacop)>.



**Adil José Meléndez Márquez**, a Colombian human rights and environmental lawyer, has survived two assassination attempts and experienced multiple threatening calls from 2007 to 2023. On 19 October 2021, members of the paramilitary group Autodefensas Gaitanistas stated that Márquez, who had been collecting signatures opposing the Canal del Dique project as a lawyer representing Indigenous Peoples, was declared a military target. On 10 April 2023, Autodefensas Gaitanistas sent a WhatsApp message to Márquez, warning him that he was in danger as his activities were negatively impacting the organisation's interests. In January 2024, after winning the Sir. Henry Brooke Award, his personal guard in Colombia informed him that his protection measures had been revoked. While some of the protective measures have since been reinstated, Márquez continues to worry about his safety.

**Juan Carlos Flores Solís**, a Mexican environmental lawyer, has defended Indigenous Peoples and environmental rights for over 20 years. He collaborates with the People's Front in Defence of Land and Water in Morelos (FPDTA-MPT) focusing on the Nahua peoples' rights. Since the murder of his colleague, Samir Flores Soberanes, in 2019, Flores Solís has faced increased and repeated death threats due to his activities as the lead legal defence lawyer in a case against the Proyecto Integral Morelos, a billion-dollar project initiated by the Mexican government in collaboration with Spanish companies.<sup>73</sup> He sought protection from Mexico's Mechanism for the Protection of Human Rights Defenders and Journalists, which was initially denied. Subsequent raids on his home, intended to intimidate him, led to the provision of minor security measures.



On 5 April 2022, unknown groups raided Flores Solís' home, stole valuables and left a knife on his bed. Despite alerting the authorities about this incident and requesting police patrol, his home was broken-into again five days later. On 17 October 2022, Flores Solís narrowly escaped an assassination attempt when he discovered the bolts on his front tires had been tampered with.

<sup>73</sup> Front Line Defenders, 'Break-in and Death Threat against Environmental Human Rights Defenders Juan Carlos Flores Solís and Miryam Vargas Teutle' (8 April 2022) accessed 17 June 2024 <[www.frontlinedefenders.org/en/case/break-and-death-threat-against-environmental-human-rights-defenders-juan-carlos-flores-solis](https://www.frontlinedefenders.org/en/case/break-and-death-threat-against-environmental-human-rights-defenders-juan-carlos-flores-solis)>.

Several lawyers have been victims of lethal attacks in connection to their work on environmental cases. The former Special Rapporteur on the situation of human rights defenders raised concerns about the “shocking rate of killings [...] of environmental human rights defenders”.<sup>74</sup> This practice has been recorded in different regions, with most instances documented in Latin America.<sup>75</sup> According to Global Witness, between 2012 and 2022, a total of nineteen environmental lawyers from Brazil, India, Honduras, the Philippines, Indonesia, Iran, Liberia, Colombia, Mexico, and Thailand were killed.<sup>76</sup> These individuals were engaged in legal work related to agribusiness, hydropower, mining, and extractive industries.

On 3 February 2022, environmental and human rights lawyer **Verónica Guerrero** was shot and killed in her car in Tonalá, Jalisco, Mexico.<sup>77</sup> Guerrero represented the neighbourhood collective Urbi Quinta and had been defending the community in a legal dispute against private companies illegally dumping waste in the Matatlán landfill. Prior to her death, she received multiple threats, likely due to her involvement in protests against the landfill’s irregular use, which local authorities failed to address. The former Special Rapporteur on the independence of judges and lawyers, Diego García-Sayán, condemned her murder and urged authorities to investigate and ensure legal protections for lawyers.<sup>78</sup>

Only **fifteen percent of the interviewed lawyers**, from Mexico, Brazil, and Colombia, reported that their States established protection mechanisms for human rights defenders to guarantee their life, integrity, and security.<sup>79</sup> These protections range from relocation and panic buttons to bullet proof vehicles and safe houses. Mexican lawyers stated that the Protection Mechanism is inefficient, as it only implements such measures once the defenders have already been attacked, and they cannot be given to defenders who must travel for work.<sup>80</sup> In addition, these measures are often revoked or downgraded.<sup>81</sup> The mechanisms lack necessary personnel and budget,<sup>82</sup> and the legislation establishing them is vague and lacks precision.

<sup>74</sup> A/71/281 (n 6), para 2.

<sup>75</sup> Front Line Defenders, ‘Global Analysis 2022’ (n 57) 14.

<sup>76</sup> Global Witness, ‘In Numbers: Lethal Attacks Against Defenders Since 2012’ (2022) accessed 19 August 2024 <[www.globalwitness.org/en/campaigns/environmental-activists/numbers-lethal-attacks-against-defenders-2012/](https://www.globalwitness.org/en/campaigns/environmental-activists/numbers-lethal-attacks-against-defenders-2012/)>.

<sup>77</sup> Lawyers for Lawyers, ‘Killing of Mexican Lawyer Verónica Guerrero’ (n 1).

<sup>78</sup> Diego García-Sayán, ‘México: Condono el asesinato de la abogada Verónica Guerrero en el Estado de Jalisco’, (X, 6 February 2022) accessed 19 August 2024 <[https://x.com/ExRelator\\_ONU/status/1490126533704306688](https://x.com/ExRelator_ONU/status/1490126533704306688)>.

<sup>79</sup> Amnesty International, ‘No One Guarantees My Safety’: The Urgent Need to Strengthen Mexico’s Federal Policies for the Protection of Journalists’ (6 March 2024) AMR 41/7666/2024, 4; and Ministério dos Direitos Humanos e da Cidadania, ‘Programa de Proteção Aos Defensores de Direitos Humanos, Comunicadores e Ambientalistas (PPDDH)’ (3 May 2021) accessed 3 July 2024 <[www.gov.br/mdh/pt-br/navegue-por-temas/pessoas-ameaçadas-de-morte/acoes-e-programas/programa-de-protecao-aos-defensores-de-direitos-humanos-comunicadores-e-ambientalistas-ppddh](https://www.gov.br/mdh/pt-br/navegue-por-temas/pessoas-ameaçadas-de-morte/acoes-e-programas/programa-de-protecao-aos-defensores-de-direitos-humanos-comunicadores-e-ambientalistas-ppddh)>.

<sup>80</sup> Lawyers for Lawyers, ‘Juan Carlos Flores Solís: “Ensuring the right to life and self-determination of Indigenous peoples is our main goal”’ (20 February 2023) accessed 13 June 2024 <[www.lawyersforlawyers.org/juan-carlos-flores-solis-one-of-our-main-goals-is-to-ensure-the-respect-for-the-right-to-life-the-right-to-self-determination-of-indigenous-people-and-the-right-to-decide-over-what-happens/](https://www.lawyersforlawyers.org/juan-carlos-flores-solis-one-of-our-main-goals-is-to-ensure-the-respect-for-the-right-to-life-the-right-to-self-determination-of-indigenous-people-and-the-right-to-decide-over-what-happens/)>.

<sup>81</sup> The case of Adil José Meléndez Márquez, *supra* note 67.

<sup>82</sup> Lawyers for Lawyers, ‘Juan Carlos Flores Solís’ (n 80); Amnesty International, ‘No One Guarantees My Safety’ (n 79).



## C. Legal harassment

States, as well as non-State actors, frequently resort to the use of the legal and judicial system to intimidate and silence environmental lawyers, consequently restricting their activities and draining their resources.<sup>83</sup> This 'legal harassment' can take many forms, including strategic litigation against public participation (SLAPP), criminal prosecutions, or arbitrary arrest and detention.<sup>84</sup> **Half of the interviewed environmental lawyers** reported having directly or indirectly experienced different types of legal harassment or threats thereof. The Special Rapporteur on the independence of judges and lawyers, Margaret Satterthwaite, has raised serious concerns about the increased targeting of lawyers, including those specifically defending environmental causes. Amid global trends of autocratisation, these lawyers face heightened risks of threats, arrest, prosecution, imprisonment, and even death. To identify common and emerging trends of targeting of lawyers, Satterthwaite has committed to closely monitoring criminal and civil proceedings against lawyers, including SLAPP suits and other legal abuses aimed at punishing or silencing legitimate legal work.<sup>85</sup>

**50%**

*of the interviewed environmental lawyers reported having directly or indirectly experienced different types of legal harassment or threats thereof*

### Strategic litigation against public participation

In retaliation for carrying out their professional duties and engaging in public discussions on human rights and climate justice, SLAPP suits are often employed against environmental lawyers by corporate actors and wealthy individuals, drawing on the distinct power and resource imbalance.<sup>86</sup> In an attempt to halt these abusive lawsuits, anti-SLAPP legislation has been introduced worldwide, including by the European Council.<sup>87</sup> Nevertheless, SLAPP suits are still being employed against environmental lawyers and other human rights defenders, as the enforcement of this regulation remains limited.<sup>88</sup> These tactics

<sup>83</sup> Knox, 'Policy Brief' (n 40), 13.

<sup>84</sup> Ibid.

<sup>85</sup> A/HRC/53/31 (n 5), paras 51-52.

<sup>86</sup> GreenPeace, 'Sued into Silence: How the Rich and Powerful Use Legal Tactics to Shut Critics Up' (22 July 2020) accessed 11 June 2024 <[www.greenpeace.org/static/planet4-eu-unit-stateless/2020/07/20200722-SLAPPs-Sued-into-Silence.pdf](https://www.greenpeace.org/static/planet4-eu-unit-stateless/2020/07/20200722-SLAPPs-Sued-into-Silence.pdf)>; Michel Forst, 'Letter to the Ambassadors and Permanent Representatives to the European Union, in Brussels, of the European Union member States' (11 July 2023) 2, accessed 7 June 2024 <[https://unece.org/sites/default/files/2023-07/SR\\_letter\\_EU\\_anti-SLAPP\\_directive\\_2023-07-12.pdf](https://unece.org/sites/default/files/2023-07/SR_letter_EU_anti-SLAPP_directive_2023-07-12.pdf)>.

<sup>87</sup> European Parliament and Council of the European Union, 'Directive (EU) 2024/1069 of the European Parliament and of the Council of 11 April 2024 on protecting persons who engage in public participation from manifestly unfounded claims or abusive court proceedings ('Strategic lawsuits against public participation')' [2024] OJ 2024/1069, Preamble.

<sup>88</sup> BHRRC, 'SLAPPed but not Silenced: Defending Human Rights in the Face of Legal Risks' (15 June 2021) 4, accessed 11 July 2024 <[https://media.business-humanrights.org/media/documents/2021\\_SLAPPs\\_Briefing\\_EN\\_v657.pdf](https://media.business-humanrights.org/media/documents/2021_SLAPPs_Briefing_EN_v657.pdf)>.

violate freedom of expression,<sup>89</sup> freedom of peaceful assembly and association, the right to take part in the conduct of public affairs,<sup>90</sup> access to justice and the right to a fair trial,<sup>91</sup> which preclude lawyers from exercising their legal profession. Lawyers from Armenia, South Africa, and Malaysia reported that they have been targeted with SLAPP cases based on allegations of defamation brought forth by mining, logging, and shipbreaking companies across the world.



**Brandon Abdinor** and **Thobeka Gumede** reported the constant risk of defamation cases faced by environmental lawyers at the Centre for Environmental Rights (CER). In 2017, Mineral Sands Resources (MSR), a subsidiary of Mineral Commodities Limited (MRC), sued CER's lawyers and an activist, demanding 1.25 million South African Rands for alleged defamatory statements.<sup>92</sup>

CER argued this was a SLAPP suit, used to silence critics through intimidating legal action and to deter other activists from challenging companies like MSR.<sup>93</sup> In 2020 the Western Cape High Court accepted this defence. It was appealed before the Constitutional Court, which ruled that a SLAPP suit defence exists in South African law as part of the broad category of 'abuse of process'.<sup>94</sup>

<sup>89</sup> *OOO Memo v Russia*, no. 2840/10 (ECtHR, 15 March 2022) [33].

<sup>90</sup> ICJ, 'Southeast Asia: Governments Must Act to Counter Abusive Lawsuits Brought by Businesses Targeting Human Rights and Public Interest Advocates (SLAPPs)' (17 June 2023) accessed 11 June 2024 <[www.icj.org/southeast-asia-governments-must-act-to-counter-abusive-lawsuits-brought-by-businesses-targeting-human-rights-and-public-interest-advocates-slapps/](https://www.icj.org/southeast-asia-governments-must-act-to-counter-abusive-lawsuits-brought-by-businesses-targeting-human-rights-and-public-interest-advocates-slapps/)>.

<sup>91</sup> UNEP, 'Environmental Rule of Law and Human Rights in Asia Pacific: Strategic Litigation against Public Participation (SLAPPs), Summary for Decision Makers' (2023) section II, para 9.

<sup>92</sup> CER, 'Mining Company's SLAPP Suit against CER Lawyers, Activist in Court Today' (29 May 2019) accessed 12 June 2024 <<https://cer.org.za/news/mining-companys-slapp-suit-against-cer-lawyers-activist-in-court-today>>.

<sup>93</sup> CER, 'CER Attorneys raise Constitutional Defence in SLAPP Suit, and Experts join as friends of the Court' (20 November 2017) accessed 24 June 2024 <<https://cer.org.za/news/cer-attorneys-raise-constitutional-defence-in-slapp-suit-and-experts-join-as-friends-of-the-court#:~:text=As%20reported%20in%20May%202017,damages%20from%20the%20three%20defendants>>.

<sup>94</sup> Global Freedom of Expression, 'Case Analysis', accessed 16 April 2025 <<https://globalfreedomofexpression.columbia.edu/cases/mineral-sands-resources-pty-ltd-v-reddell-mineral-commodities-limited-v-dlamini-mineral-commodities-limited-v-clarke/>>.



**Nazeli Vardanyan**, founder of the NGO Armenian Forests, has been actively challenging the environmental impacts of mining projects in Armenia, notably the Amulsar Gold Mine. Due to her active involvement in addressing and supporting affected citizens, Nazeli Vardanyan faced a lawsuit from mining company Lydian Armenia in 2018, alleging slander and damage to the company's reputation. She has now taken the case to the European Court of Human Rights.<sup>95</sup>

### Criminal Prosecution and Arbitrary Arrest and Detention

Environmental lawyers increasingly face criminal prosecution and arbitrary arrest and detention for carrying out their legitimate work. These detentions often occur under vague or spurious pretexts, including tax evasion charges,<sup>96</sup> bribery,<sup>97</sup> accusations of 'picking quarrels and provoking troubles',<sup>98</sup> or 'unlawful assembly',<sup>99</sup> and are characterized by a lack of due process and fair trial rights, denial of access to legal counsel, and disproportionate interference with the right to liberty.<sup>100</sup> Such practices violate international human rights standards, which prohibit the arrest and detention on arbitrary grounds, such as the legitimate exercise of human rights.<sup>101</sup>

Environmental lawyers from Uganda, Peru, Brazil, Russia, and Indonesia reported that governments and private companies threaten them with criminal prosecution. Additionally, a small number of lawyers claimed to be victims of arbitrary arrest and detention, as a result of exercising their profession. In some of these instances, their devices and documents are seized, and as they are detained, they are physically precluded from attending any hearings or preparing cases, among other activities, rendering legal representation ineffective. In other cases, proceedings have been initiated by tax authorities to investigate the personal finances and tax assessments of both the lawyers and the organisations they work for.

95 Lawyers for Lawyers, 'Interview Nazeli Vardanyan: "Nothing Can Stop Me as an Environmental Lawyer"' (27 January 2023) accessed 12 June 2024 <<https://lawyersforlawyers.org/en/interview-nazeli-var-danyan-nothing-can-stop-me-as-an-environmental-lawyer-i-will-fight-un-til-justice-is-done-international-solidarity-and-support-will-guarantee-the-safety-of-environmental/>>.

96 Project88, 'Environmental leader Dang Dinh Bach, accused of "tax evasion" faces trial' (23 January 2022) accessed 13 February 2025 <<https://the88project.org/dang-dinh-bach-faces-trial/>>.

97 Ecological Crisis Group, Telegram: Поддержка экозащитников (7 August 2023) <[https://t.me/helpeco\\_channel/1174](https://t.me/helpeco_channel/1174)>. Lawyer Sergey Legkobitov was charged with bribery, allegedly in retaliation for his work on a class action lawsuit against the development of Mount Mashuk in Pyatigorsk, Russia.

98 Front Line Defenders, 'Chen Wuquan completes Sentence and is released from Prison' (2023) accessed 15 July 2024 <[www.frontlinedefenders.org/en/case/chen-wuquan-completes-sentence-and-released-prison](http://www.frontlinedefenders.org/en/case/chen-wuquan-completes-sentence-and-released-prison)>.

99 BHRCC, 'Uganda: Human Rights Defender Maxwell Atuhura released on Police Bond but faces Prosecution for "Unlawful Assembly"' (28 May 2021) accessed 19 August 2024 <[www.business-humanrights.org/en/latest-news/uganda-human-rights-defender-maxwell-atuhura-released-on-police-bond-but-faces-prosecution-for-unlawful-assembly/](http://www.business-humanrights.org/en/latest-news/uganda-human-rights-defender-maxwell-atuhura-released-on-police-bond-but-faces-prosecution-for-unlawful-assembly/)>.

100 Opinions adopted by the Working Group on Arbitrary Detention at its ninety-sixth session, 27 March–5 April 2023, Opinion No. 22/2023 concerning Đặng Đình Bách (Viet Nam)' (26 May 2023), A/HRC/WGAD/2023/22, paras 66, and 80.

101 WGAD, 'Fact Sheet No. 26 Rev.1' (2024) <[www.ohchr.org/sites/default/files/documents/publications/Fact-sheet-26-WGAD.pdf](http://www.ohchr.org/sites/default/files/documents/publications/Fact-sheet-26-WGAD.pdf)>. ICCPR art 7, 9 and 19; UN Basic Principles, Principles 16 and 23.



Lawyer **Dickens Kamugisha** is involved in legal proceedings against the East Africa Crude Oil Pipeline (EACOP) project in Uganda. On 13 October 2021, police raided the Africa Institute for Energy Governance (AFIEGO)'s Kampala office and arrested Dickens Kamugisha, falsely claiming the organisation lacked proper permits. Kamugisha argued that the accusation warranted fines, not arrest, in the absence of judicial intervention within 48 hours. Nonetheless, nine staff members were initially detained; three were released, and six were held overnight. They were given police bonds and told to return the next week, when Kamugisha and his colleagues were re-arrested.<sup>102</sup>

Following their release, Kamugisha and his colleagues were required to report to the police station as part of their police bond. Kamugisha views this as an effort to silence environmental advocates who seek governmental accountability and combat corruption. He asserts that these actions create a climate of fear, impacting not only AFIEGO staff but also the broader public.

**Đặng Đình Bách** is a prominent environmental lawyer and a leading figure in Vietnam's climate justice movement, advocating for a clean and equitable energy transition.<sup>103</sup> He co-founded and formerly served as Executive Director of the Law and Policy of Sustainable Development Research Centre (LPSD), a public interest law firm advising affected communities and engaging in legal advocacy on issues of environmental harm, land use and tenure, and industrial pollution. Bách has played a key role in raising awareness on the downstream impacts of dams on the Mekong mainstream, particularly their effects on vital food systems and biodiversity in Vietnam's Mekong Delta. He has also advised communities displaced and deprived of their livelihoods by the Son La hydroelectric plant - Vietnam's largest hydropower project.<sup>104</sup>



102 Africa Institute for Energy Governance (AFIEGO), 'Statement on Arrest of AFIEGO Staff' (Africa Institute for Energy Governance, 23 October 2021) accessed 23 May 2024 <<https://naturaljustice.org/wp-content/uploads/2021/10/AFIEGO-statement-on-the-arrest-of-its-staff-23-October-2021.pdf>>.

103 OHCHR, 'Viet Nam: End convictions and deplorable detention conditions for human rights defenders, UN experts say' (OHCHR, 14 February 2024) <<https://www.ohchr.org/en/press-releases/2024/02/viet-nam-end-convictions-and-deplorable-detention-conditions-human-rights>> accessed 18 April 2025.

104 International Rivers, 'A letter to river defender and climate advocate, Dang Dinh Bach' (23 January 2025) <https://www.internationalrivers.org/news/a-letter-to-river-defender-and-climate-advocate-dang-dinh-bach-in-prison/> accessed 17 April 2025.

On 24 June 2021, the Hanoi branch of the Security Investigation Agency arrested Bách and searched his home. Formal charges of tax evasion were announced nine days later, on 2 July 2021. He was held incommunicado following his arrest and denied access to his lawyer for nearly seven months, until 10 days before his trial, violating his right to prompt legal assistance and the right to adequate time and facilities to prepare his defence. Following a closed and arbitrary trial that UN human rights experts stated failed to meet international fair trial standards, he was sentenced to five years in prison.<sup>105</sup> There are strong grounds to believe that Bách was targeted for his environmental advocacy and legal work.

While in detention, Bách has been subjected to discriminatory and degrading conditions in detention, including denial of or restrictions on essential items such as hot water, adequate food, medication, hygiene products, books, writing materials. He has had limited access to family members and lawyers, and has reportedly suffered a physical attack by prison guards. In 2024, he undertook a third hunger strike to protest his treatment. Despite his declining health, he remains in custody, with release scheduled for 24 June 2026.<sup>106</sup>



On 13 March 2023, the Indian NGO Legal Initiative for Forest and Environment (LIFE)'s licence was suspended for 180 days due to an alleged violation of India's tax legislation, preventing it from receiving foreign funding. The Central Bureau of Investigation (CBI) alleged that environmental lawyer **Ritwick Dutta** transferred foreign funds to LIFE to litigate against Indian energy projects, harming national energy supply and economy.<sup>107</sup> On 24 May 2023, the Delhi High Court intervened and reinstated LIFE's licence. However, after this, Dutta was notified that both his personal income tax assessments and the tax assessments of LIFE from 2015 onwards were reopened for investigation.<sup>108</sup>

As a result, Dutta lost all retainers with international organisations and is no longer receiving foreign funding. Further complicating the continuation of LIFE's activities are the travel restrictions he faces due to the proceedings pending against him, along with the reluctance of young lawyers to join LIFE because of the chilling effect caused by harassment and restrictions against environmental lawyers.

105 UNHRC, 'Opinions adopted by the Working Group on Arbitrary Detention at its ninety-sixth session, 27 March–5 April 2023, Opinion No. 22/2023 concerning Đặng Đình Bách (Viet Nam)' (26 May 2023), A/HRC/WGAD/2023/22, para 32

106 OHCHR, 'Viet Nam: End convictions and deplorable detention conditions for human rights defenders, UN experts say' (OHCHR, 14 February 2024) <<https://www.ohchr.org/en/press-releases/2024/02/viet-nam-end-convictions-and-deplorable-detention-conditions-human-rights>> accessed 18 April 2025.

107 Lawyers for Lawyers, 'Ritwick Dutta - a leading figure in environmental Law' (14 March 2024) accessed 12 November 2025 <[www.lawyers-forlawyers.org/interview-with-mr-ritwick-dutta-leading-figure-in-environmental-law-in-india-for-the-past-20-years-and-founder-of-life-lawyers-initiative-for-forest-and-environment/](https://www.lawyers-forlawyers.org/interview-with-mr-ritwick-dutta-leading-figure-in-environmental-law-in-india-for-the-past-20-years-and-founder-of-life-lawyers-initiative-for-forest-and-environment/)>.

108 Ibid.



## D. Restrictions on access to information

Lawyers need to have timely access to relevant information, files, and documents to be able to offer effective legal representation to their clients. This is crucial to upholding the right to a fair trial and the principle of equality of arms.<sup>109</sup> This principle ensures that all parties have a fair opportunity to present their case, have equal access to evidence,<sup>110</sup> and are treated without discrimination,<sup>111</sup> preventing any party from being put at a disadvantage.<sup>112</sup> The right to access to information and the right to an effective defence are therefore interdependent.<sup>113</sup>

The challenge of obtaining information and evidence needed to substantiate claims poses a significant barrier to victims seeking effective remedies for human rights violations by business entities. Much of this crucial information is often controlled by the corporate defendant.<sup>114</sup> The denial of access to information severely impedes the ability of lawyers to effectively challenge environmentally harmful practices and decisions and enforce environmental laws.<sup>115</sup> Beyond its role in litigation, access to information acts as a preventative measure to avoid harmful projects moving forward, facilitating public participation, access to justice, and ensuring informed decision-making in environmental matters.<sup>116</sup>

**80%** *of the lawyers interviewed face significant obstacles in obtaining the necessary information for litigation*

**Eighty percent of the lawyers interviewed** face significant obstacles in obtaining the necessary information for litigation. Lawyers noted that transparency issues and difficulties in accessing information are often indicative of a highly politicised and corrupt project. In such cases, lawyers may receive threats and risk losing funding for their organisations and work if they proceed with their investigations. Additionally, issues such as missing documents or tampered plans contribute to the

109 UNHRC, 'Report of the Special Rapporteur on the independence of judges and lawyers, Gabriela Knaul, Addendum, Mission to Qatar' (31 March 2015) A/HRC/29/26/Add.1, para 59.

110 *Dombo Beheer BV v. The Netherlands*, no. 14448/88 (ECtHR, 27 October 1993) [33].

111 UN Human Rights Committee, 'General Comment No. 32, Article 14: Right to equality before courts and tribunals and to a fair trial' (23 August 2007), CCPR/C/GC/32, para 8.

112 *Kress v. France*, no. 39594/98 (ECtHR, 7 June 2001) [72].

113 *Jean-Marie Atangana v. Cameroon*, co. 416/12 (ACHPR, 8 August 2015) [104-109].

114 United Nations Committee on Economic, Social and Cultural Rights (UNCESR), 'General comment No. 24 (2017) on State obligations under the International Covenant on Economic, Social and Cultural Rights in the context of business activities' (10 August 2017) E/C.12/GC/24, para 42.

115 Jonas Ebbesson, 'Access to Justice at the National Level. Impact of the Aarhus Convention and European Union Law', in Marc Pallemerts (ed) *The Aarhus Convention at Ten, Interactions and Tensions between Conventional International Law and EU Environmental Law* (ELP 2011) 245.

116 A/71/281 (n 6), paras 17, 69, 93.

unreliability of available information. To verify false or incomplete reports, lawyers often attempt to gather evidence by visiting affected communities or company premises directly. Here too, they face obstacles such as needing specific permits to access certain areas, or the general difficulty of reaching remote communities. Lawyers from India reported that governments and corporate actors may silence communities through intimidation or offer financial incentives in exchange for support.

Environmental lawyers interviewed emphasized their reliance on Environmental Impact Assessments (EIAs), which provide crucial information on the environmental risks associated with certain projects or policies, including methods used to make such assessments.<sup>117</sup> However, companies often refuse to share EIAs. Lawyers have further reported that this refusal to publish is regularly ignored by government authorities, which limits lawyers' access to relevant information. In Romania, Bangladesh, Philippines, Indonesia, and Mexico, lawyers reported that intellectual property laws prevent the disclosure of sensitive but essential information such as EIAs for large-scale energy projects on nuclear reactors, mining and gas pipelines, coal power plants or other documents such as forest management plans. In some countries, such as Bangladesh, public authorities invoke national security exceptions restricting access to information rights. Often lawyers are compelled to file lawsuits to access the information needed for cases, but generally lack resources to do so, incurring costs and delays that impede environmental justice and prevent many communities from effectively seeking justice.

*“It should be a fundamental principle in international environmental justice that there is access to information about corporate activities. Discussions should not begin with the merits of the case, but with the understanding that victims have the right to obtain the information they need to build their case. Corporations often deliberately withhold information from the public to avoid vulnerability and limit public involvement in the discussion. In the pursuit of environmental justice, demanding transparency is a crucial first step.”*

**Channa Samkalden**, human rights lawyer in The Netherlands

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117 A/78/255 (n 27), para 23.

**Syeda Rizwana Hasan** indicated that the Bangladeshi government regularly restricts access to environmental information forcing the Bangladesh Environmental Lawyers Association (BELA) to initiate administrative procedures to obtain EIAs. In 2018, the government cited national security reasons to deny BELA's request for an EIA on the "Installation of Single Point Mooring with Double Pipeline" project. Despite no evidence suggesting a threat to national security, the exception was granted. Rising political tensions led BELA to refrain from appealing out of fear of being targeted and losing funding. In 2022, BELA's request and subsequent appeal for an EIA on the Barisal 350 MW Coal Power Plant were denied on intellectual property grounds.



JATAM-lawyer **Muhammad Jamil** noted that the Indonesian government often classifies mining data, such as permits and environmental documents, as intellectual property without proper justification. In addition, the government frequently issues or renews company licences in violation of regulations and without reassessing environmental risks. Jamil pursued legal action against multiple government agencies to obtain access to this information.<sup>118</sup> By mid-2017, these efforts prompted public bodies to adopt a more transparent approach regarding environmental and natural resource management information, including EIAs, environmental permits, and mining business permits.

## E Violations of lawyer-client confidentiality: Surveillance and seizure of documents

Against a backdrop of advancing technologies and the increasing use of surveillance software and tools, the actions and movements of environmental lawyers are also increasingly monitored.<sup>119</sup> According to Michel Forst, 'in several countries, environmental defenders have reported that the police are using

<sup>118</sup> Lawyers for Lawyers, 'Muhammad Jamil "the Denial and Concealment of Public Information Must Be Ended Now"' (20 November 2022) accessed 10 June 2024 <<https://lawyersforlawyers.org/en/muhammad-jamil-the-denial-and-concealment-of-public-information-must-be-ended-now/>>.

<sup>119</sup> IACHR, 'IACHR and UN Human Rights: Protecting Human Rights Defenders Is One of the Duties of States' (8 December 2023) accessed 19 June 2024 <[www.oas.org/en/iachr/jsForm/?File=/en/iachr/media\\_center/preleases/2023/280.asp](https://www.oas.org/en/iachr/jsForm/?File=/en/iachr/media_center/preleases/2023/280.asp)>; See also, Karolina Eklöw and José Francisco Alvarado Cobar, 'Surveillance as Slow Violence: Experiences from Young Environmental Activists' [2021] *Stockholm International Peace Research Institute* accessed 19 June 2024 <[www.sipri.org/commentary/blog/2021/surveillance-slow-violence-experiences-young-environmental-activists](https://www.sipri.org/commentary/blog/2021/surveillance-slow-violence-experiences-young-environmental-activists)>.

measures from organized crime legislation to carry out extensive investigation and surveillance [against them].<sup>120</sup> Environmental lawyers have been systematically subjected to surveillance as well as searches of their homes and offices, during which devices and documents may be seized and privileged information may be comprised. In addition, electronic means of communication between lawyers and their clients, such as text messages and e-mails, are confidential and should be protected from undue interference.<sup>121</sup> The resultant violations of the principle of lawyer-client confidentiality render a strong chilling effect on the lawyers and their clients, as they strike at the core of the trust underpinning their professional relationship.<sup>122</sup>

The IACtHR has highlighted that confidentiality between lawyers and their clients is central to the right to a fair trial, as well as the right to privacy.<sup>123</sup> Similarly, the ECtHR ruled that the surveillance of lawyers by government agencies is a violation of the right to respect for private and family life,<sup>124</sup> which not only protects the confidentiality of all individuals' correspondence, but also the exchange of information between lawyers and their clients.<sup>125</sup> The Court further stated that 'this is justified by the fact that lawyers are assigned a fundamental role in a democratic society, that of defending litigants. Yet lawyers cannot carry out this essential task if they are unable to guarantee to those they are defending that their exchanges will remain confidential'.<sup>126</sup>

**35%** *of the interviewees expressed concerns regarding surveillance by corporations, government entities or criminal organisations*

**Thirty-five percent of the interviewees** expressed concerns regarding surveillance by corporations, government entities or criminal organisations.<sup>127</sup> Identifying the source of such surveillance is often challenging, leading many legal professionals to operate under the assumption that their devices and communications are being monitored. Lawyers from Colombia, Guatemala, Indonesia, India, Bangladesh, the Democratic Republic of Congo, Thailand, and Brazil report taking precautions against potential surveillance. Surveillance is particularly dangerous as it often precedes physical attacks, exacerbating the risks faced by legal professionals.

<sup>120</sup> Forst, 2024 (n 6), 15.

<sup>121</sup> A/71/348 (N 34), para 46.

<sup>122</sup> *Pietrzak and Bychawska-Siniarska and Others v. Poland*, nos 72038/17 and 25237/18 (ECtHR, 28 May 2024) [215]. See also *Michaud v. France*, no 12323/11 (ECtHR, 6 December 2012) [118].

<sup>123</sup> *Members of the "José Alvear Restrepo" Lawyers Collective (CAJAR) v. Colombia* (Merits, Reparations and Costs) IACtHR Series C No 484 (18 October 2023) [557].

<sup>124</sup> *Altay v. Turkey* (No. 2), no. 11236/09 (ECtHR, 9 April 2019) [49 and 50].

<sup>125</sup> *Pietrzak v. Poland* (n 121), [215]; See also *Michaud v. France* (n 121), [118].

<sup>126</sup> *Michaud v. France* (n 121), [118].

<sup>127</sup> For example, Lawyers for Lawyers, 'Meeting between lawyer and local communities interrupted by military' (21 November 2014) accessed 28 May 2024 <<https://lawyersforlawyers.org/en/thailand-meeting-between-lawyer-and-local-communities-interrupted-by-military/>>.

**Nauê Bernardo Pinheiro de Azevedo** is a Brazilian political scientist and lawyer that has been working on social environmental litigation for the past decade.<sup>128</sup> Pinheiro de Azevedo stated that in 2022 it was leaked that the Bolsonaro government had been illegally monitoring people. Although he is not sure whether he is being surveilled, he takes precautions given the sensitive nature of his work and the alleged illegal monitoring activities under the Bolsonaro administration. He is careful about what he says, does, who he talks to, and does background research on people and locations wherever he goes.



**Sor Rattanamanee Polkla** is a Thai lawyer and founder of the Community Resource Centre Foundation (CRC).<sup>129</sup> In 2014, the government discovered the location where Polkla and her team were meeting with clients to discuss the construction of the Xayaburi hydroelectric dam. Military personnel interrupted the meeting, questioning its purpose, and attempting to escort her to a military camp.<sup>130</sup> This incident reoccurred in 2015 when an undercover military operative infiltrated another meeting related to the dam. CRC now implements more stringent measures to mitigate the risks associated with such surveillance, allowing only her team to attend these meetings.

**Olivier Bahemuke Ndoole** has received anonymous threatening messages prior to an attack on his office. He stated that these incidents indicate that he and his team were, and still are, being closely monitored, underscoring the pervasive and dangerous nature of such surveillance.



128 Climate Observatory, 'Our Story' (n.d.) accessed 28 May 2024 <[www.oc.eco.br/en/nossa-historia/](http://www.oc.eco.br/en/nossa-historia/)>.

129 Mekong Cultural Hub, 'Sor. Rattanamanee Polkla (Sor)' (n.d.) accessed 27 June 2024. <[www.mekongculturalhub.org/people/sor/](http://www.mekongculturalhub.org/people/sor/)>.

130 Lawyers for Lawyers, 'Meeting Between Lawyer and Local Communities Interrupted by Military' (n 124).



28%

*of the environmental lawyers interviewed reported their offices or homes being raided and seized by law enforcement*

Additionally, **twenty-eight percent of the environmental lawyers interviewed** reported their offices or homes being raided and seized by law enforcement. In some cases, these raids resulted in the seizure of privileged legal documents, with the potential of significantly compromising ongoing legal proceedings.<sup>131</sup>

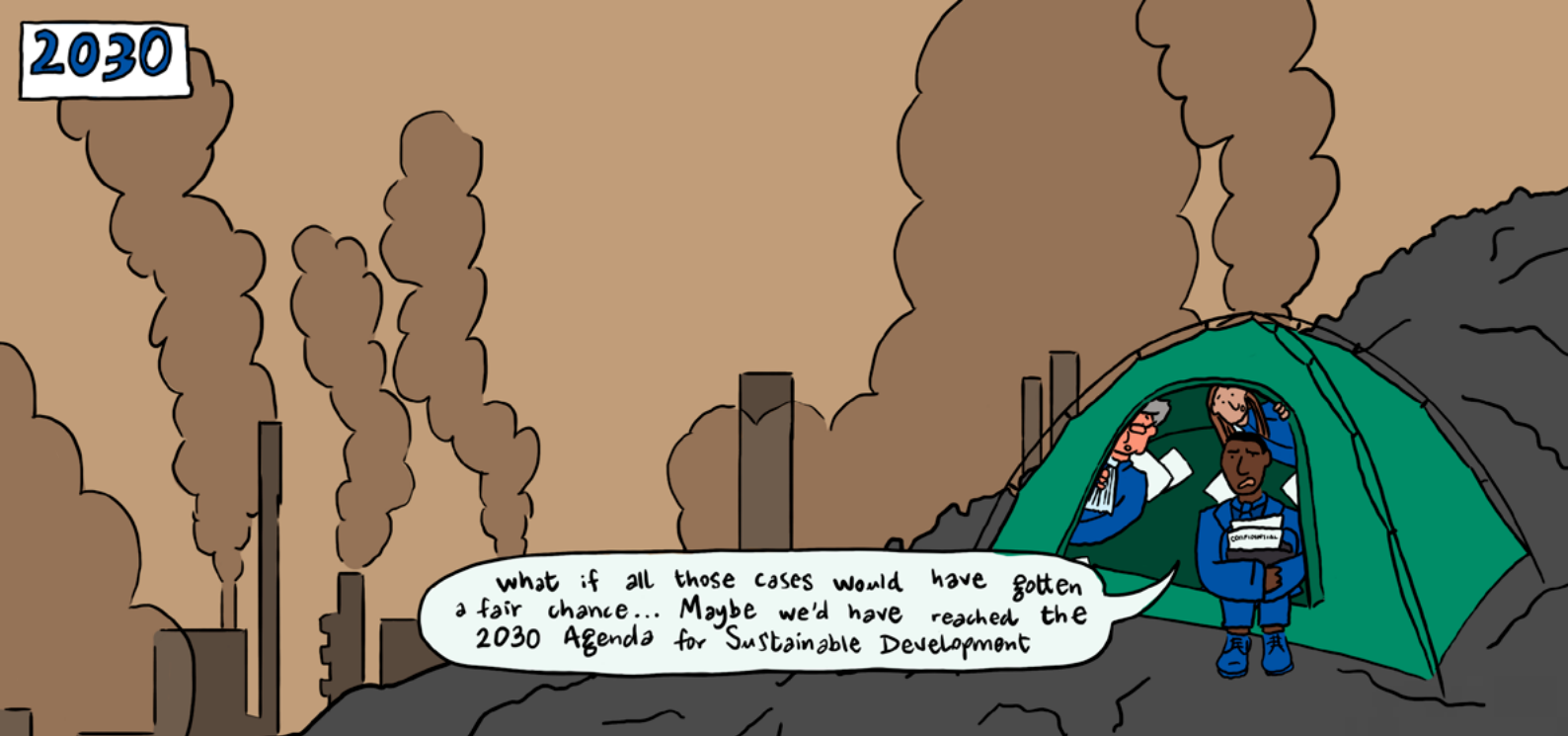


On 7 September 2022, Indian Income Tax Officers raided LIFE's offices, detaining environmental lawyers **Ritwick Dutta** and a colleague for three days without outside contact. The officers seized devices and copied information containing confidential details relevant to ongoing court proceedings. Consequently, Dutta had to withdraw from several cases due to the unlawful seizure of confidential information.<sup>132</sup>

<sup>131</sup> Lawyers for Lawyers, 'Ritwick Dutta' (n 103); Lawyers for Lawyers, 'Muhammad Jamil' (n 117); Lawyers for Lawyers, 'Juan Carlos Flores Solis' (n 80); Lawyers for Lawyers, 'Olivier Bahemuke Ndoole' (n 64); Les Amis de la Terre France, 'Uganda: Six Staff Members of Our Partner Organisation AFIEGO in Custody' (23 October 2021) accessed 10 June 2024 <[www.amisdelaterre.org/communique-presse/uganda-six-staff-members-of-our-partner-organisation-afiego-in-custody/](http://www.amisdelaterre.org/communique-presse/uganda-six-staff-members-of-our-partner-organisation-afiego-in-custody/)>

<sup>132</sup> Lawyers for Lawyers, 'Ritwick Dutta' (n 103).

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# IV

## Obligations of states and bar associations

### Key points

- The right to access to justice, including the right to an effective remedy, is contingent upon the independence of the legal profession, as determined by international law.
- States have international obligations to ensure that environmental lawyers can exercise their profession without undue interference or restrictions.
- Bar associations play an important role in safeguarding the rights of environmental lawyers, and should protect their individual members from improper interference.

## Lawyers and the right to access to justice in international law

As held by the former UN Special Rapporteur on the Independence of Judges and Lawyers, Leandro Despouy, ‘the legal complexity and richness of the concept of access to justice lies in the fact that it is both a right in itself and the means of restoring the exercise of rights that have been disregarded or violated’.<sup>133</sup> One of the core rights underpinning access to justice is the right to independent legal counsel of one’s own choosing. Recognised in a number of international instruments and jurisprudence, the right to legal counsel reflects the centrality of the legal profession to the rule of law and the protection of human rights.<sup>134</sup> It can be construed as both a right and an essential procedural guarantee for the effective exercise of other human rights, specifically the right to effective judicial protection (fair trial or due process) and the right to an effective remedy, including for environmental harm. It is also an important safeguard that helps to ensure fairness and public trust in the administration of justice.<sup>135</sup>

International and regional standards thus place the independence of the legal profession as the hallmark of a democratic system. Both the UN Human Rights Committee<sup>136</sup> and the Human Rights Council<sup>137</sup> have emphasised that lawyers should be able to counsel and represent their clients in accordance with their professional standards and judgment without restrictions, influences, pressure or undue interference. This supports the idea that, in order to comply with their obligations under the Covenant, State parties must refrain from interfering in judicial proceedings and also from influencing, pressuring or interfering in any way with the ability of lawyers to counsel and represent their clients.<sup>138</sup>

The Preamble of the UN Basic Principles (hereafter: ‘The Basic Principles’ or ‘the Principles’) stipulates that adequate protection of the human rights and fundamental freedoms requires ‘that all persons have effective access to legal services provided by an independent legal profession’.<sup>139</sup> According to Principles 12 to 15, lawyers should at all times maintain ‘the honour and dignity of their profession as essential agents of the administration of justice’. They should advise clients as to their legal rights and obligations, assist them in every appropriate way and taking legal action to protect their interests, while loyally respecting

<sup>133</sup> A/HRC/8/4 (n 21), para 17.

<sup>134</sup> Article 14(3) ICCPR includes the right to counsel as one of its core procedural guarantees. Other international and regional human rights treaties also include references to the right of access to a lawyer of one’s own choosing: International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, article 18(3)(b) and (d); Convention on the Rights of the Child, arts 37(d) and 40(2)(b); European Convention on Human Rights, arts 6(3)(b) and (c); Charter of Fundamental Rights of the European Union, arts 47 and 48; American Convention on Human Rights (ACHR), arts 8(2)(c), (d) and (e), and 25; African Charter on Human and Peoples’ Rights, article 7(1)(c); and Arab Charter on Human Rights, art 16(4).

<sup>135</sup> A/71/348 (n 34), para 19.

<sup>136</sup> UN Human Rights Committee, ‘CCPR General Comment No. 13: Article 14 (Administration of Justice), Equality before the Courts and the Right to a Fair and Public Hearing by an Independent Court Established by Law’ (13 April 1984), para 11.

<sup>137</sup> UNHRC, ‘Independence and impartiality of the judiciary, jurors and assessors, and the Independence of lawyers’ (22 June 2017) A/HRC/RES/35/12.

<sup>138</sup> A/HRC/50/36 (n 3), para 13.

<sup>139</sup> This is further enshrined and elaborated on in Principles 1-4.

their best interests.<sup>140</sup> While doing this, lawyers should promote the cause of justice, seek to uphold human rights and fundamental freedoms, and ‘at all times act freely and diligently in accordance with the law and recognized standards and ethics of the legal profession’.<sup>141</sup> In order to allow them to carry out these duties effectively, lawyers should be guaranteed independence from State authorities and non-State actors, who may put them at risk. The Basic Principles lay down a number of specific State obligations to this end, besides outlining the general need for States to ensure efficient procedures and responsive mechanisms for effective and equal access to lawyers, without distinction of any kind.<sup>142</sup>

These obligations are to be read in the wider context of obligations that States and bars associations respectively hold towards lawyers in their capacity of human rights defenders (‘HRDs’). The former UN Special Rapporteur has held that lawyers, when acting on behalf of their clients in defending their human rights and fundamental freedoms, should also be regarded as ‘human rights defenders’, and thus fall under the protective scope of the Declaration on Human Rights Defenders (‘The Declaration’).<sup>143</sup> Under the Declaration, lawyers have the right to the lawful exercise of their profession<sup>144</sup> and the right to provide professionally qualified legal assistance in defence of human rights, to contribute to the realisation of the right to an effective remedy,<sup>145</sup> including for environmental injustices. Although the Basic Principles are leading in this regard, the obligations set out below will also draw from the UN Declaration on HRDs and other relevant international and regional law sources that elaborate on the procedural safeguards pertaining to the right to access to environmental justice.<sup>146</sup>

*Note by author: This report focuses on the obligations of States and professional associations of lawyers towards environmental lawyers. We acknowledge that businesses are a separate group of duty-bearers vis-à-vis individuals and groups adversely affected by environmental degradation, and that the extent to which human rights principles guide their practices largely determines the need for environmental lawyers’ assistance. Therefore, an appendix addressing the responsibilities of businesses may be added to this report at a later stage.*

## A. Obligations of States

### i Refrain from identifying lawyers with their clients or their clients’ causes

As indicated in the previous chapter, environmental lawyers are often stigmatised, vilified, and even prosecuted for the representation or assistance of their clients or clients’ causes. This is contrary to

<sup>140</sup> UN Basic Principles, Principles 12,13, and 15.

<sup>141</sup> UN Basic Principles, Principle 14.

<sup>142</sup> See UN Basic Principles 1-4 for the general obligation to ensure access to legal assistance.

<sup>143</sup> Declaration on HRDs.

<sup>144</sup> Ibid., art 11.

<sup>145</sup> Ibid., art 9.3(c), in relation to the right to an effective remedy, art 9(1).

<sup>146</sup> Complemented by the UN Guidelines on Legal Aid, the CoE Recommendation No R(2000)21, and the African Charter on Human and People’s Rights (AfCmHPR) Guidelines on the Right to Fair Trial.

the role of lawyers in a democratic society,<sup>147</sup> as the pressure caused by these actions hinders the free exercise of the legal profession.<sup>148</sup> **Principle 18 of the UN Basic Principles** establishes that ‘lawyers shall not be identified with their clients or their clients’ causes as a result of discharging their functions’. This principle is also recognised in regional instruments,<sup>149</sup> as well as international professional standards,<sup>150</sup> and aims to enable ‘lawyers to perform their professional duties freely, independently, and without any fear of reprisal’.<sup>151</sup> In this sense, States are obliged to (a) respect lawyers’ freedom of representation; and (b) take proactive measures to prevent the identification of lawyers with their clients.<sup>152</sup>

**Principle 18,**  
of the UN Basic Principles

*Lawyers shall not be identified with  
their clients or their clients’ causes as  
a result of discharging their functions*

Under the first obligation, States should refrain from identifying environmental lawyers with the interests and activities of their clients,<sup>153</sup> which entails abstaining from stigmatising, vilifying, or criminalising them for discharging their functions as lawyers. As stated by the former Special Rapporteur on the rights to freedom of peaceful assembly and of association, this obligation is enhanced for the highest government authorities, as their actions send ‘a clear message to other officials that it is acceptable to perpetuate the intimidation and harassment of (...) defenders’.<sup>154</sup> The IACHR has further recognized that when these practices affect the reputation of human rights defenders, jeopardize their personal integrity, or facilitate their criminalization, States must provide them with an appropriate remedy.<sup>155</sup> The second obligation requires States to protect environmental lawyers from any identification with their clients from non-State actors. This includes referring any complaints to the appropriate body where there is evidence of this practice.<sup>156</sup>

This principle also indirectly contributes to ensuring both the clients’ right to an effective defence and the lawyers’ right to freedom of expression and assembly. Indeed, if environmental lawyers are identified

147 UNGA, ‘Report of the Special Rapporteur on the Independence of Judges and Lawyers, Leandro Despouy’ (28 July 2009) A/64/181, para 12.

148 A/HRC/50/36 (n 3), para 76.

149 CoE Recommendation No R (2000)21, ‘Committee of Ministers to Member States on the freedom of exercise of the profession of lawyer. Explanatory Memorandum’ para 40; and AfCmHPR Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa (2003), Principle I(g).

150 International Bar Association Standards for the Independence of the Legal Profession (1990), Standard 7.

151 UN Special Rapporteur on the Independence of Judges and Lawyers, ‘Comments on Legislation and Policy in Turkey’ (22 October 2018) OL TUR 15/2018, 3.

152 International Bar Association’s Human Rights Institute (IBAHRI), ‘International Legal Digest: Lawyers’ Protection and States’ Obligations’, 142.

153 A/64/181 (n 146), para 12.

154 UNHRC, ‘Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai’ (28 April 2015) A/HRC/29/25, para 42.

155 OEA/Ser.L/V/II, Doc. 49/15 (n 45), para 90.

156 ECOSOC, ‘Report of the Special Rapporteur on the independence of judges and lawyers, Mr. Param Kumaraswamy’ (12 February 1998) E/CN.4/1998/39, paras 179-181.



with the cause they are defending, this could lead to their reluctance to take on certain cases where they fear they could become the target of legal harassment,<sup>157</sup> precluding clients from having access to a lawyer of their choosing.<sup>158</sup> Furthermore, under the UN Basic Principles, lawyers are entitled to freedom of expression, belief, association and assembly,<sup>159</sup> and shall enjoy civil and penal immunity for relevant statements made during the exercise their profession.<sup>160</sup> According to the ECtHR, this ‘encompasses not only the substance of the ideas and information expressed but also the form in which they are conveyed. Lawyers are thus entitled to comment in public on the administration of justice, provided that their criticism does not overstep certain bounds’.<sup>161</sup>

## ii Ensure lawyers are able to perform their professional functions safely

As described in the chapters above, various forms of harassment pose widespread challenges for many environmental lawyers, and States often fail to establish mechanisms to protect these human rights defenders, or the measures taken prove to be insufficient.<sup>162</sup> The effective defence of human rights is only possible when individuals engaged in this work are protected from threats, physical, psychological, or moral harm, and other forms of harassment.<sup>163</sup> Under international human rights law, lawyers must be protected against attacks both in connection with the human rights of their clients and the human rights of the lawyers themselves. Harassment of lawyers may lead to violations of the rights of their clients, particularly their right to access to justice and the right to an effective remedy.

Additionally, Articles 9 and 11 of the UN Declaration on Human Rights Defenders recognise the right to the lawful exercise of one’s occupation or profession, as well as the right to offer and provide professionally qualified legal assistance in defending human rights and fundamental freedoms.

In accordance with **Principle 16 of the UN Basic Principles**, at an individual level, States must take measures to ensure that lawyers ‘are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference’, and ‘shall not suffer, or be threatened with, prosecution or administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics’. Principle 17 of the UN Basic Principles requires States to take measures to protect lawyers where their security is threatened because of exercising their profession.<sup>164</sup> Basic Principles 16 and 17 are an emanation of the right to liberty and security of

<sup>157</sup> A/71/348 (n 34), para 44.

<sup>158</sup> OEA/Ser.L/V/II, Doc. 49/15 (n 45), para 156.

<sup>159</sup> UN Basic Principles, Principle 23.

<sup>160</sup> UN Basic Principles, Principle 20. See also IBA, ‘IBA Standards for the Independence of the Legal Profession’ (1990).

<sup>161</sup> *Morice v. France* (n 44) [134]. See also *Tristan Donoso v. Panama*, (Preliminary Objections, Merits, Reparations and Costs) IACtHR Series C No 183 (27 January 2009) [114].

<sup>162</sup> See *supra*, Chapter III(B).

<sup>163</sup> *CAJAR v. Colombia* (n 122) [477]; and *Nogueira de Carvalho et al. v. Brazil* (Preliminary Objections and Merits) IACtHR Series C No 161 (28 November 2006) [140].

<sup>164</sup> UN Basic Principles, Principle 17.

person, enshrined, inter alia, in article 9 ICCPR.<sup>165</sup> Security of person ‘concerns freedom from injury to the body and the mind, or bodily and mental integrity’.<sup>166</sup>

**Principle 16(a),**  
of the UN Basic Principles

*Governments shall ensure that lawyers are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference*

This requires that States refrain from actions that hinder the work of lawyers or create environments that are hostile to human rights and environmental advocacy. Instead, States must recognize and uphold the importance and legitimacy of their efforts.<sup>167</sup> Conditions must be created that eliminate violations by both state agents and private individuals.<sup>168</sup> States should not only ensure that legal and formal conditions are in place for human rights defenders to carry out their work freely, but also the practical conditions, including providing the resources needed for their activities.<sup>169</sup> This duty is closely tied to the protection and recognition of the crucial role that lawyers working as human rights defenders play.<sup>170</sup>

The research findings in this report, indicate that environmental lawyers often operate under real threat to their physical security and are subjected to acts of violence.<sup>171</sup> Where there is knowledge of a situation of real and immediate danger, States must adopt preventive measures.<sup>172</sup> As emphasized by the former Special Rapporteur on the independence of judges and lawyers, Mónica Pinto, ‘States must respond appropriately to patterns of violence against lawyers, prevent and redress attacks against lawyers’.<sup>173</sup> Furthermore, ‘international human rights law requires States to take measures both to prevent future injuries and to address past injuries suffered by legal professionals, including the enforcement of criminal laws’.<sup>174</sup> In this regard, States must exercise due diligence by assessing foreseeable risks,

165 A/71/348 (n 34), para 66.

166 UN Human Rights Committee, ‘General Comment No. 35, Article 9 (Liberty and Security of Person)’ (16 December 2014) CCPR/C/GC/35, para 3.

167 IACHR, ‘Northern Central America, Situation of Environmental Defenders’ (16 December 2016) OEA/Ser.L/V/II, doc. 400/22, para 172.

168 *Fleury y otros v. Haiti* (Merits and Reparations) IACtHR Series C No 236 (23 November 2011) [81]; *CAJAR v. Colombia* (n 122) [477]; *Human Rights Defender et al v. Guatemala* (Preliminary Objections, Merits, Reparations and Costs) IACtHR Series C No 283 (28 August 2014) [142]; *Digna Ochoa and Family Members v. Mexico* (Preliminary Objections, Merits, Reparations and Costs) IACtHR Series C No 447 (25 November 2021) [100]; and *Nogueira v. Brazil* (n 162) [77].

169 *HRD v. Guatemala* (n 167) [142].

170 *Digna Ochoa v. Mexico* (n 167) [100]; and *Nogueira v. Brazil* (n 162) [74].

171 See *supra*, Chapter III section B.

172 *HRD v. Guatemala* (n 167) [140]. See further, IBAHRI, ‘International Legal Digest: Lawyers’ Protection and States’ Obligations’ 28-29.

173 A/71/348 (n 34), para 73.

174 *Ibid.*

gathering data, monitoring relevant indicators, and establishing guarantees of non-repetition to fulfil their preventive obligations.<sup>175</sup>

These obligations have been expanded on by regional human rights mechanisms such as the Inter-American Court of Human Rights (IACtHR). The IACtHR has condemned States for failing to uphold the rights to life, judicial protection, and dignity of human rights lawyers, particularly when threats and pressures are aimed at deterring their work.<sup>176</sup> These threats must be understood in the context of their role as lawyers and human rights defenders, and investigations should rigorously address the contextual elements related to their work.<sup>177</sup> Furthermore, the IACtHR has held that the murder of a lawyer and human rights defender, as retaliation for their advocacy, can create a climate of fear that discourages others from engaging in similar activities.<sup>178</sup> Therefore, it is crucial for States to implement robust protection measures to safeguard the rights of those involved in human rights defence, ensuring their continued participation in advocacy efforts.<sup>179</sup>

The positive obligation stated in **Principle 17 of the UN Basic Principles**, also entails the duty to investigate, prosecute and punish crimes perpetrated by both State and non-State actors against environmental lawyers<sup>180</sup> which is fundamental in addressing the issue of impunity in order to ensure a safe environment for environmental lawyers.<sup>181</sup> This obligation requires States to ensure impartial, prompt, and effective justice by conducting a comprehensive investigation<sup>182</sup> into alleged violations of human rights, prosecuting alleged perpetrators, and providing defenders with reparation and remedies.<sup>183</sup>

### **Principle 17,** of the UN Basic Principles

*Where security of lawyers is threatened as a result of discharging their functions, they shall be adequately safeguarded by the authorities*

175 *Kawas Fernández v. Honduras* (Merits, Reparations and Costs) IACtHR Series C No 196 (3 April 2009) [74]. See further, IBAHRI, 'International Legal Digest: Lawyers' Protection and States' Obligations' 28-29; Eva Rieter, 'Preventive Obligations: Some Introductory Comments' (7 February 2022) 68 NILR 68 373; and *HRD v. Guatemala* (n 167) [140].

176 *Digna Ochoa and Family Members v. Mexico* (n 167) [148 - 149].

177 Fundación del Consejo General de la Abogacía Española and Observatorio Internacional de la Abogacía en Riesgo, 'Amicus Curiae presentado por la Fundación del Consejo General de la Abogacía Española y el Observatorio Internacional de la Abogacía en Riesgo, ante la Honorable Corte Interamericana de Derechos Humanos en el Caso Digna Ochoa y Plácido y Familiares vs. México' (24 May 2021) 16.

178 *Acosta et al v. Nicaragua* (Preliminary Objection, Merits, Reparations, and Costs) (IACtHR, 25 March 2017) Series C no 334 [207].

179 *ibid.*

180 UNHRC, 'Report of the Special Rapporteur on the Situation of Human Rights Defenders, Margaret Sekaggya', (30 December 2009) A/HRC/13/22, paras 45-46; and UNGA, 'Declaration on HRDs', art 12.

181 A/HRC/13/22 (n 179), para 42. See also *Kawas Fernández v. Honduras* (n 174) [75].

182 *Digna Ochoa v. Mexico* (n 167) [100]; *Acosta et al v. Nicaragua* (n 177) [143].

183 UNGA, 'Report of the Special Rapporteur on the Situation of Human Rights Defenders' (4 August 2010) A/65/223, para 34.

### iii Guarantee lawyers' right to access to information

Access to information is a key procedural guarantee for environmental lawyers to be able to effectively assist their clients and thus ultimately contribute to obtaining access to environmental justice. The right to access information is derived from the freedom 'to seek, receive and impart information' as included in the right to freedom of expression under the UDHR (Article 19) and the ICCPR (article 19). In the context of access to environmental justice, it has been described as 'an essential tool for the exercise of other rights'<sup>184</sup> and coupled with the right to participation in environmental decision-making processes.<sup>185</sup> The Framework Principles on Human Rights and the Environment, developed by former UN Special Rapporteur John Knox through a comprehensive mapping of existing obligations and good practices, emphasize that to protect human rights from environmental harm, 'States should provide public access to environmental information by collecting and disseminating information and by providing affordable, effective and timely access to information to any person upon request'.<sup>186</sup> Article 6 of the UN Declaration on Human Rights Defenders echoes this obligation.

#### **Principle 21,** of the UN Basic Principles

*It is the duty of the competent authorities to ensure lawyers access to appropriate information, files and documents in their possession or control in sufficient time to enable lawyers to provide effective legal assistance to their clients (...)*

With regards to lawyers, the right to access information in preparation of a case is considered a core element of the principle of equality of arms. To enable lawyers to provide effective legal assistance to their clients, **Principle 21 of the UN Basic Principles** requires competent authorities to ensure that lawyers have 'access to appropriate information, files and documents in their possession or control in sufficient time'. The Special Rapporteur on the independence of judges and lawyers' mandate has repeatedly addressed the issue of access to information, recommending that lawyers' full access to appropriate information in possession or control of the authorities be guaranteed from the onset, in

184 UNHRC, 'Report of the Special Rapporteur on the adverse effects of the illicit movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights, Okechukwu Ibeanu' (18 February 2008) A/HRC/7/21, p 2.

185 Rio Declaration on Environment and Development, Principle 10, stipulates that: "Environmental issues are best handled with the participation of all concerned citizens, at the relevant level. At the national level, each individual shall have appropriate access to information concerning the environment that is held by public authorities [...]".

186 UNHRC, 'Framework principles on human rights and the environment' (24 January 2018) A/HRC/37/59, Framework Principle 7. See also UNCESR, 'General Comment No. 15 (2002), The Right to Water (Arts. 11 and 12 of the International Covenant on Economic, Social and Cultural Rights' (20 January 2003), E/C.12/2002/11, para 48; and UNGA, 'Report of the Special Rapporteur on the Situation of Human Rights Defenders, Margaret Sekaggya' (5 August 2013) A/68/262, para 62.

order to allow for the preparation of an adequate defence in conformity with the principle of equality of arms.<sup>187</sup> Although primarily linked to criminal proceedings, the principle of equality of arms is broadly interpreted as guaranteeing ‘procedural equality’, and also applies in civil and common law proceedings.<sup>188</sup> It requires that each party gets ‘a reasonable opportunity to present his case – including his evidence – under conditions that do not place him at a substantial disadvantage vis-à-vis his opponent’.<sup>189</sup>

In the context of environmental justice, international legal instruments place specific emphasis on the duty of States to provide information and conduct environmental impact assessments.<sup>190</sup> In accordance with Principle 17 of the Rio Declaration on Environment and Development, most States have adopted environmental impact assessment laws.<sup>191</sup> These assessments need to ‘examine the possible effects of the environmental impacts of proposed projects and policies on the enjoyment of all relevant rights’.<sup>192</sup> Various regional human rights bodies have affirmed this in their jurisprudence.<sup>193</sup>

#### iv Recognise and respect the principle of lawyer-client confidentiality

The ability of environmental lawyer to effectively conduct their professional activities cannot be guaranteed where they are subjected to surveillance or searches and seizures of their premises. Given their fundamental role in providing legal defence and assistance in democratic societies, environmental lawyers have the right to confidentiality in all communications with their clients.<sup>194</sup> Accordingly, **Principle 22 of the UN Basic Principles** requires governments to ‘recognize and respect that all communications and consultations between lawyers and their clients within their professional relationship are confidential’.<sup>195</sup> The principle of confidentiality that should prevail between lawyers and their clients is also recognised in international<sup>196</sup> and regional human rights treaties,<sup>197</sup> as well as in soft law instruments.<sup>198</sup>

187 A/HRC/29/26/Add.1 (n 108), para 59.

188 *B.d.B. et al. v. The Netherlands*, no. 273/1988’ (UNHRC, 2 May 1988) CCPR/C/35/D/273/1988 [6.4]. In this civil case the HRC observed: ‘article 14 of the Covenant guarantees procedural equality but cannot be interpreted as guaranteeing equality of results or absence of error on the part of the competent tribunal’.

189 *Dombo Beheer BV v. The Netherlands* (n 109), [33].

190 See, United Nations Framework Convention on Climate Change, art 6(a); Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters, arts 4, 5.

191 UNHRC, ‘Report of the Independent Expert on the issue of human rights obligations relation to the enjoyment of a safe, clean, healthy and sustainable environment, John H. Knox’ (30 December 2013) A/HRC/25/53, para 35.

192 A/HRC/37/59 (n 185), Framework Principle 8, para 21.

193 *Taşkın v. Turkey*, no. 46117/99 (ECtHR, 10 November 2004) [119]. See also *Öneryildiz v. Turkey*, no. 48939/99, 30 November 2004) [90] (applying the right to information in connection with the right to life); *SERAC and CESR v Nigeria* (2001) AHRLR 60 (ACHPR 2001) (Ogoniland case) [53] (deriving obligations from the right to health and the right to a healthy environment); and *Claude-Reyes et al. v. Chile*, (IACtHR, 19 September 2006) (ordering State to adopt necessary measures to ensure right of access to State-held information).

194 *Pietrzak v. Poland* (n 121) [215]; and *Michaud v. France* (n 121) [118].

195 UN Basic Principles, Principle 22.

196 ICCPR, art 14.

197 ACHR, art 8 (2)(d); and ECHR, art 6(3)(b).

198 IBA Standards (n 159) Standard 13; CoE Recommendation No R (2000)21, Committee of Ministers to Member States on the Freedom of Exercise of the Profession of Lawyer, Principles I(5)(6) and II (2); and AfCmHPR Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa (2003), Principle I(C).



**Principle 22,**  
of the UN Basic Principles

*Governments shall recognize and respect that all communications and consultation between lawyers and their clients within their professional relationship are confidential*

States consequently have the obligation to respect and protect lawyer-client privilege. Accordingly, the former UN Special Rapporteur on the independence of judges and lawyers previously recognised that this confidential nature is applicable to all communications between a lawyer and their client, and that such confidentiality ‘protects lawyers and their clients from illegal search and seizure of physical and electronic documents’,<sup>199</sup> as well as from any undue surveillance.<sup>200</sup>

Regional human rights courts have also recognised the importance of lawyer-client confidentiality.<sup>201</sup> The IACtHR has found that actions of intelligence by States are limited by this principle, which aims not only at guaranteeing individuals’ right to privacy, but also at preserving the respect of judicial guarantees and the right to defence of clients.<sup>202</sup> Respectively, the ECtHR has ruled that, even in the context of civil litigation or seeking of civil legal advice, lawyer-client privilege falls within the scope of the right to a private life and the right to defence of individuals.<sup>203</sup> The Court has further established that government agencies are under the obligation to ensure special safeguards against any form of intrusion, particularly arbitrary surveillance,<sup>204</sup> and searches and seizures at the premises of a lawyer,<sup>205</sup> including judicial authorization and post-surveillance control, notification and remedies.<sup>206</sup>

199 A/71/348 (n 34), para 45.

200 A/71/348 (n 34), para 45.

201 See *Egyptian Initiative for Personal Rights and Interrights v Arab Republic of Egypt*, co. 334/06 (ACHPR, 3 March 2011) [209-211]; *CAJAR v. Colombia* (n 122) [557]; *André and another v France*, no. 18603/03 (ECtHR, 24 July 2008) [41-43]; *Altay v. Turkey* (n 123) [49-50]; and *Pietrzak v. Poland* (n 121) [215].

202 *CAJAR v. Colombia* (n 122) [557].

203 *Altay v. Turkey* (n 123) [49-50].

204 See *Pietrzak v. Poland* (n 121) [215]; and *Kopp v. Switzerland*, no. 13/1997 (ECtHR, 25 March 1998).

205 *André and another v. France*, no. 18603/03 (ECtHR, 24 July 2008) [41-43].

206 *Pietrzak v. Poland* (n 121) [208]. See also ICJ, ‘Written Submissions on behalf of the International Commission of Jurists’ (28 July 2020) 10; and *Kruglov and Others v. Russia*, nos. 11264/04 and 15 others (ECtHR, 4 February 2020) [125].

## B. Obligations of professional association of lawyers

The UN Basic Principles also assign an important role to professional association of lawyers<sup>207</sup> and stipulate various obligations bars have vis-à-vis their members. According to **Principle 25**, professional associations, in cooperation with governments, should ‘ensure that everyone has effective and equal access to legal services and that lawyers are able, without improper interference, to counsel and assist their clients in accordance with the law and recognized professional standards and ethics’. Furthermore, **Principle 3 of the UN Basic Principles** state that professional associations of lawyers shall cooperate with State institutions in the organization and provision of services, facilities and other resources for legal services to poor and disadvantaged persons.

### **Principle 25** of the UN Basic Principles

*Professional associations of lawyers shall cooperate with Governments to ensure that everyone has effective and equal access to legal services and that lawyers are able, without improper interference, to counsel and assist their clients in accordance with the law and recognized professional standards and ethics.*

Moreover, professional associations of lawyers play a vital role in ‘protecting their members from persecution and improper restrictions and infringements’.<sup>208</sup> Former Special Rapporteur on the independence of judges and lawyers, Diego García-Sayán, considered that ‘the protection of individual members of the legal profession lies at the core of bar associations’ mandate, particularly in situations where they are not able to defend themselves adequately’.<sup>209</sup> Furthermore, professional associations “could have no greater objective or interest than the protection of the independence of the profession and its individual members and that they are duty bound to rush in aid of their members when they

<sup>207</sup> Under the UN Basic Principles, ‘lawyers shall be entitled to form and join self-governing professional associations to represent their interests, promote their continuing education and training to protect their professional integrity’ (Principle 24). According to the UNSRIJL, these professional associations include bar associations. See UNGA, ‘Report of the Special Rapporteur on the Independence of Judges and Lawyers’, (5 September 2018) A/73/365, para 74.

<sup>208</sup> UN Basic Principles, Preamble; and IBA, ‘IBA International Principles on Conduct for the Legal Profession’ (28 May 2011).

<sup>209</sup> UNGA, ‘Report of the Special Rapporteur on the Independence of Judges and Lawyers’, (5 September 2018), A/73/365, para 50.

are subject to harassment and intimidation'.<sup>210</sup> The responsibilities of these associations furthermore include actively defending and raising public awareness about lawyers' societal role and promoting the welfare of their members.<sup>211</sup>

**Principle 3**  
of the UN Basic Principles

*Governments shall ensure the provision of sufficient funding and other resources for legal services to the poor and, as necessary, to other disadvantaged persons. Professional associations of lawyers shall cooperate in the organization and provision of services, facilities and other resources.*

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<sup>210</sup> ECOSOC, 'Report of the Special Rapporteur on the Independence of Judges and Lawyers, Mr. Param Cumaraswamy, submitted pursuant to Commission on Human Rights resolution 1997/23, Addendum, Report on the mission of the Special Rapporteur to the United Kingdom of Great Britain and Northern Ireland' (5 March 1998) E/CN.4/1998/39/Add.4, para 36.

<sup>211</sup> IBA (n 207) Principle 18. See also Committee of Ministers of the Council of Europe, 'Recommendation No. R(2000)21 of the Committee of Ministers to Member States on the Freedom of Exercise of the Profession of Lawyer' (25 October 2000) Principle IV.



## Conclusion and recommendations

This report highlights the critical role of lawyers in advancing access to environmental justice while also addressing the lack of protection and the risks they face in fulfilling their duties. It underscores the escalating dangers that environmental lawyers encounter worldwide. Their fundamental right to practise law without interference is violated by both State and non-state actors. These professionals experience alarming patterns of stigmatisation, vilification, physical assaults, arbitrary arrests, legal harassment, and surveillance. Such injustices obstruct access to environmental justice and disproportionately affect marginalised communities.

Environmental lawyers also encounter a significant power imbalance when opposing large development projects and corporations. The cumulative effect of these challenges severely undermines fundamental human rights and exacerbates the precarious situations faced by both environmental lawyers and their clients. Addressing these issues requires heightened awareness and the urgent establishment of robust international mechanisms to protect environmental lawyers, uphold the rule of law, and ensure equitable access to environmental justice globally.

All the above inspires the following non-exhaustive list of recommendations, which address how states, bar association, and international organisations can enhance their engagement with and support for environmental lawyers.

## Recommendations to States

- States should take immediate measures to ensure sufficient safeguards are in place, both in law and in practice, to guarantee the full independence and safety of environmental lawyers and their effective protection against any form of harassment in connection with their professional activities, both in their capacity as lawyers as well as human rights defenders.
- States should take measures to guarantee environmental lawyers' access to appropriate information, files, and documents, including environmental impact assessment construed in line with international human rights standards necessary to provide effective legal services. In this context, States should consider adopting specific legislation on the right to information in the environmental sphere.
- States should take measures to ensure that lawyer-client confidentiality and right to privacy are respected, ceasing any type of unlawful surveillance, or searches and seizures of their premises, and ensure special safeguards against any infringements of lawyer-client confidentiality.
- States should promptly investigate and prosecute crimes committed against environmental lawyers by State and non-State actors, as well as any other instances of harassment, threats, or intimidation, in line with internationally recognised standards.
- States should establish targeted and accessible protection programs to ensure the safety of environmental lawyers and their families, including provisions for easily accessible emergency funding. These programs should be developed in consultation with the environmental lawyers themselves.
- States should take immediate action to engage and raise awareness within the private sector regarding their crucial role and responsibilities concerning environmental lawyers. It is imperative to develop and enact appropriate legislation that ensures private sector compliance with these responsibilities. This legislation should be robust and comprehensive, aiming to safeguard the vital role of environmental lawyers and uphold environmental justice standards. Governments must lead efforts to foster understanding and accountability among private entities, ensuring they contribute positively to environmental protection efforts in accordance with established legal frameworks.
- States should take anti-SLAPP measures, including the adoption of anti-SLAPP legislation, in order to ensure an early dismissal of SLAPP suits and the imposition of sanctions on those initiating them, in order to guarantee that environmental lawyers are able to actively engage in public participation.
- States, together with professional associations of lawyers should actively raise awareness and unequivocally support the critical role of environmental lawyers in delivering legal services, advancing environmental justice, and protecting human rights.

## Recommendations to professional associations of lawyers

- Professional associations of lawyers should have a designated contact point or reporting procedure, established in accordance with objective criteria and maintained by confidentiality, through which environmental lawyers can report instances of interference of harassment with their professional activities.
- Professional associations of lawyers should take immediate measures in response to any form of harassment of environmental lawyers by both States and non-State actors to guarantee that lawyers can effectively carry out their professional functions.
- Professional associations of lawyers should take a proactive stance in promoting the work of environmental lawyers and contribute to awareness campaigns on the risks and challenges they face, as well as the opportunities for recourse and support available.
- National and international unions of professional associations should convene meetings, in the form of a conference, expert groups or ongoing dialogues, to discuss the experiences of environmental lawyers and build capacity to receive and consider claims of violations of their rights.



## Recommendations to international organisations

- The UN Environment Programme (UNEP) and the UN Development Programme (UNDP) should strengthen their efforts to raise awareness about the plight of environmental lawyers, support their work in collaboration with international and local NGOs, and build the capacity of governments to understand and comply with their human rights obligations relating to environmental lawyers' rights and the right to access to environmental justice.
- The Office of the UN High Commissioner for Human Rights (OHCHR) should acknowledge the contribution of environmental lawyers to the SDGs (13, 16, among others) and support their cause by urging governments to sign and ratify the Aarhus Convention and ensure its effective implementation.
- The UN Human Rights Council should call on State Parties to guarantee that environmental lawyers can fulfil their professional duties free from improper interference, harassment, or intimidation, and that any crimes or violations committed against them are promptly and effectively investigated and prosecuted.
- The UN Special Rapporteurs on human rights defenders, on the independence of judges and lawyers, on human rights in the context of climate change, and on the protection of environmental defenders should raise the profile of environmental lawyers and acknowledge their vital role in providing access to environmental justice, as well as their contribution to the SDGs (13, 16, among others) to counter harmful narratives that undermine their work and enhance their protection.
- Regional human rights institutions in Africa and ASEAN should establish protective mechanisms, like those of the Inter-American human rights system, to provide emergency protection to environmental human rights defenders, including environmental lawyers.



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