

**Comments and Suggestions for UNEP’s Environmental Human Rights Defenders Policy  
International Environmental Law Unit – Law Division**

**Comment sheet for reviewers**

| <b>Para. number</b>   | <b>Provider of Comments/Reviewer</b><br>(Natural Justice: Lawyers for Communities and the Environment)  | <b>Comments/Suggestions</b>  |
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| <b>UNEP's response mechanism: monitoring and response to alleged violations Step 1 - Monitoring; Step 2 - Investigation and Verification; Step 3 - Response</b> |   |  |
| 5   | Diversification of channels for reporting incidents of violations or threat of violation to enhance accessibility to communities at the grassroots level. | <p>Human rights violations at the grassroots level account for a large percentage of the incidents that occur in the world yet, most of these incidents go unreported. Environment and land defenders in marginalized areas are highly vulnerable and exposed to threats due to lack of access to convenient and conventional channels of communicating their situations in order to get assistance.</p> <p>In this policy, we urge UNEP to incorporate and make available to communities, alternative and convenient communication channels for reporting incidents of human rights violations such as 24/7 hotline numbers, reporting apps and website application forms to complement the e-mail. This is important given the level of urgency required to respond to a defender’s request for support. It will also enhance the rate of response by UNEP especially where a defender is facing an imminent threat.</p> <p>With adequate training and capacity building, local organizations can also play an important role in promoting the greater protection of defenders. Local organizations can be trained to support community members in need of urgent assistance but have no access to other forms of communication to report the incidents quickly.</p> |

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|   |   | <p>Having an elaborate communications strategy is also important for ensuring that defenders at the community-level are aware of the existence of UNEP’s protection mechanism and the types of support they can access.</p> <p>The Covid-19 pandemic has revealed the crucial role of online mechanisms of communication as physical spaces become restricted. In the interests of community defenders, State parties should therefore be urged to refrain from taking measures intended to restrict internet access through legislation or charging exorbitant of internet costs.</p>  |
| 6 | <p>Coordination and collaboration in reporting and monitoring incidents of violations around the world.</p> | <p>Data and information about the incidents of violation around the world are scattered largely because several organizations are collecting evidence at different levels and in different countries. The challenge with having fragmented pieces of information from different quarters is that the outcomes presented may not reflect the true magnitude of the challenges that frontline defenders encounter in the world. From a campaign and advocacy perspective, a coordinated and collaborative approach to reporting and documenting incidents is essential for success.</p> <p>As the principal UN body mandated to promote the protection of environmental defenders which includes <i>inter alia</i> assisting states to address crucial issues related to environmental rights, UNEP’s defenders policy should incorporate a collaboration and coordination plan for evidence collection and documentation at the international level. A more coordinated system of reporting and monitoring of incidents of violations can be used to create awareness and and make evidence-based recommendations in support of the need for legal and policy reforms at the international, regional and national level.</p> <p>To achieve this, UNEP should consider establishing a mechanism in each country where organizations working to support environment and land defenders such as Natural Justice can directly input information on the cases they receive. Given the</p> |

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|          |  | <p>vulnerabilities such a system can be exposed to, mechanisms to guarantee safe reporting such as confidentiality considerations should be taken into account. This can be done through either concealing a victim’s name or by reporting through a coding system.</p>  |
| 7, 8 & 9 | <p>Specificity as to the nature of cases that would potentially require UNEP’s intervention.</p> | <p>Environmental defenders face myriads of threats including, but not limited to, physical violence, killings, intimidation and criminalization. The number and nature of threats are so many that it may be impossible to envisage all types of incidents that could occur. Although some threats may be classified as lethal, it is common that non-lethal threats may also eventually lead to lethal attacks. Whatever the nature of threat, an intervention is often necessary to protect the defender from any type of harm including physical, emotional or mental stress.</p> <p>It is almost inevitable that UNEP will receive thousands of reports of incidents and requests for assistance. However, given the limits and extent to which UNEP can intervene, the defender’s policy needs to provide clarity as to the nature of cases that would potentially require an intervention through this international mechanism. This can be done, for instance, by attaching the a list of threats and their categorizations as an annexure to this policy. However, the policy must appreciate the different and unique types of threats that women, indigenous communities and marginalized groups are exposed to which can be secondary threats but are considered important.</p> |
|          | <p>A less bureaucratic vetting and verification process.</p>                                     | <p>The urgent nature of the incidents reported require the establishment of less bureaucratic processes of vetting, verification and decision-making while of course ensuring that due diligence is thoroughly conducted. While this may be a delicate balance to strike, in our considered opinion, the vetting and verification process at the different levels with different offices may cause excessive delays in decision-making.</p> <p>To make the exercise more efficient and less bureaucratic, we recommend the establishment of a Committee comprising of representatives from the Law Division of</p>   |

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|  |  | <p>UNEP, the Regional Office of UNEP, UN Resident Coordinator, OHCHR regional or country office and their local partners and contacts, to make decisions on submissions received at the country level so as to speed up the process. The Committee can be guided by clear procedures and protocols.</p> <p>Natural Justice is currently housing an African Emergency Defender’s Fund in collaboration with the International Land Coalition (ILC) whose goal is to support environment and land defenders through emergency situations. Decisions on whether or not to support a case are determined by a Committee of five members including representatives from ILC, communities and experts in the field of human rights. This makes decision-making an easy exercise by minimizing the amount of time needed for correspondence at the different levels.</p>  |
|  | <p>Quick and prompt decision-making.</p> | <p>Prescribing a specific timeline within which a decision on a communication should be arrived at can make the process and response more effective. The underlying idea is to ensure that decisions are made quickly and promptly so as to ensure that the interventions made are timely.</p> <p>Based on our experience with the emergency fund, 48 hours is usually sufficient to arrive at a suitable decision where the information provided is sufficient and complete. However, since the number of cases the UN mechanism will receive might be potentially greater, we recommend that decisions should be made within 72 hours. If a robust reporting system is put in place to allow the applicant submit as much information and evidence as possible, the decision-making period will reduce significantly.</p> <p>The nature and magnitude of threat should also guide the degree of vetting and decision-making required to reach a final determination.</p> |

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| 10   | Provision for long-term interventions to supplement short-term interventions.                   | <p>We recognize the importance of the short-term interventions listed in paragraph 10 of the draft policy. However, we also recommend the incorporation of additional interventions that can elicit systemic changes and reforms at the national level towards greater protection of defenders.</p> <p>For example, the evidence collected by UNEP can be used to put pressure on state parties to make legal and policy reforms deliberately aimed at protecting environmental defenders from attacks. With better laws in place at the national level, citizens can hold leaders accountable for their actions.</p>   |
| <b>Programmatic support to environmental defenders</b> |   |   |
| 12   | Emphasis on greater protection for women, as well as, indigenous peoples and local communities. | <p>Women and indigenous communities who are often at the frontline of the battlefield face the greatest threats. Special protection must be afforded to them by supporting programs meant to enhance their resilience and capacity to protect themselves. This will involve providing trainings and workshops specifically designed to address their unique vulnerabilities with a focus on issues such as sexual violence, physical and digital security, psychological as well as psychosocial support. We also recommend the provision of infrastructural support in the form of providing contemporary technology and equipment that will enhance their access to quick reporting channels and connection to institutional support systems.</p> |