



# Criminalised for defending our planet

[www.landrightsnow.org](http://www.landrightsnow.org)

Indigenous Peoples and local communities demand an end to the criminalisation and violence they face for defending their collective lands and territories, on which all of us depend



## We will surrender our lives but not our land, hills and forests

Representatives of Datobeda village,  
Jharkhand, India who have been leading resistance  
to a limestone mine on their ancestral land



### Who are the defenders?

According to Global Witness, land and environmental defenders are people who take peaceful action, either voluntarily or professionally, to protect the environment or land rights. They are often ordinary people who may well not define themselves as “defenders” but were compelled to take action out of necessity for their survival and well-being.<sup>1</sup>

In 2019, for the first time ever, a UN resolution condemned the killing of environmental human rights defenders, and called for the release of all those who have been detained or imprisoned for exercising their human rights and fundamental freedoms.<sup>2</sup>

1 See <https://www.globalwitness.org/sv/campaigns/environmental-activists/defenders-earth/>  
2 <https://undocs.org/A/HRC/40/L.22/Rev.1>



**The resistance will continue,  
even if they kill me, even if  
they imprison me...**

**The people who depend on  
the river for their livelihood,  
who drink its water, they  
will continue to resist.**

**Bernardo Caal, indigenous Q'eqchi leader**  
*from Guatemala, serving a sentence of 7 years  
in prison for defending the Cahabón River  
against a hydroelectric dam*

The survival of up to 2.5 billion people depends on indigenous and community lands and territories, from the Amazon rainforest to the rangelands of Eastern Africa, farmland and mountains across the world. The lands customarily claimed and managed by Indigenous Peoples and local communities cover more than 50% of the world's surface, yet they legally own just 10%.<sup>3</sup>

This insecurity leaves vast amounts of land and those depending on it vulnerable to land grabbing from powerful actors such as governments, businesses and investors for monoculture plantations, fossil-fuel and mineral extraction, dams and roads, tourism, speculation or exclusionary conservation measures. The failure to recognise the collective land rights of Indigenous Peoples and local communities underpins much of the criminalisation, human rights violations and conflict found across the world today at a huge cost to communities and to nature on which we all depend.<sup>4</sup>

In the face of growing threats to their lands, communities are mobilising to defend their collective rights and raising the alarm about destructive investment projects that not only endanger their cultures, livelihoods and wellbeing but also many of the last remaining healthy ecosystems of our planet.<sup>5</sup>

As a result, repression against them is mounting. It takes different forms, but is always aimed at disrupting and discrediting the activism of those defending their land against those seeking profit from it. This repression is estimated to be hugely underreported, especially in contexts with restricted access to information, limited freedom of press and weak rule of law, as countless defenders are intimidated, branded as criminals, unjustly imprisoned, physically attacked and even murdered.<sup>6</sup>

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- 3 Who owns the land:  
<https://rightsandresources.org/en/publication/whoownstheland/>
  - 4 <https://www.landrightsnow.org/about/>
  - 5 <https://www.zerotoleranceinitiative.org/>
  - 6 <https://www.globalwitness.org/en/campaigns/environmental-activists/enemies-state/>

# What is criminalisation?



Governments and companies use criminalisation to intimidate and silence those who defend land, nature and human rights more broadly—including individuals, communities and organisations. In 2015, the Inter-American Commission on Human Rights described criminalisation as the “manipulation of the punitive power of the State by State and non-State actors in order to control, punish, or prevent the exercise of the right to defend human rights.”<sup>7</sup>

Following a typical pattern, communities and individual activists are targeted with smear campaigns and called ‘anti-development’ or accused of being terrorists or acting with vested interest (often when their actions are collectively supported), followed by trumped up charges and arrests. This is aided by the creation, adaptation, and arbitrary reinterpretation of laws,<sup>8</sup> thereby turning legitimate activities into illegal actions.<sup>9</sup>

Criminalisation is not just using the law to silence and stop activists, but also creating a climate of fear that discourages others from speaking out. Threats, harassments, interceptions, and stigmatisation, tarnish the image of activists, communities and organisations, reducing support from the public and pushing them to give up.<sup>10</sup>

Portraying community leaders and activists as **obstacles to development, a risk to national security, undermining traditional values or contributing to disruptive violent events** is a common strategy. Also common are personal attacks such as spreading **rumors** about their personal lives, families and sexual orientation.<sup>11</sup>

Criminalisation aims at hindering the work of communities and activists by forcing them to spend time, money and energy to defend themselves and each other rather than focusing on their work, while stigmatising them in the public eye.<sup>12</sup>

7 Criminalisation of Human Rights Defenders, OEA/Ser.L/V/IL Doc. 49/15, 31 December 2015 <http://www.oas.org/en/iachr/reports/pdfs/Criminalization2016.pdf>

8 Protection International, 2018, Criminalisation: Estigmatización y criminalización de defensoras y defensores de derechos humanos en Guatemala en el contexto de megaproyectos hidroeléctricos

9 Global Witness, 2019, Enemies of the State? How governments and business silence land and environmental defenders, p. 28 <https://www.globalwitness.org/en/campaigns/environmental-activists/enemies-state/>

10 Protection International, 2017, Criminalisation of rural-based human rights defenders in Kenya: Impact and counterstrategies p. 6

11 Tauli Corpuz, V., 2018, Report of the Special Rapporteur on the rights of indigenous peoples – Attacks and criminalisation of indigenous human rights defenders. Availability of prevention and protection measures, p. 3

12 <https://www.theyshouldhaveknownbetter.com/blog-amazon-watch>



The stigmatisation of communities as **obstacles to development** is often rooted in racist prejudice against Indigenous Peoples, labeling communities with close connections to their territories and nature as “backward”, “uncivilised”, “terrorists” or “enemies of the state”. Stigmatisation and criminalisation perpetuate stereotypes and have very negative consequences for individuals, communities and civic space more broadly. In addition, attempts to pursue justice in state legal systems is often alienating and extremely challenging for Indigenous Peoples, while customary systems of law, justice and healing are rarely considered.

On top of neutralising the activism of land and environmental defenders and advancing the agenda of governments and corporations, criminalisation affects the lives of the activists and their families and communities. Defenders fear for the safety of their loved ones and communities.

When defenders are harassed, prosecuted or imprisoned, their families suffer emotional, mental and often financial consequences. Family members—including women and children—are sometimes targeted as part of intimidation tactics. As many activists are volunteers, legal costs may push them to stop and find other work to support their families.

This is a huge loss for civil society and for local-to-global efforts to protect and defend human rights and the nature on which we all depend.

**The number of lawsuits brought by companies against defenders is rising. Strategic Lawsuits Against Public Participation (SLAPPs) are lawsuits filed by a private party with the intention to silence or intimidate another private party engaging in public participation, including criticism or opposition. Such lawsuits undermine peaceful public advocacy for human rights and can exacerbate criminalisation.<sup>13</sup>**

13 Silencing the critics: How big polluters try to paralyse environmental and human rights advocacy through the courts: <https://www.business-humanrights.org/en/silencing-the-critics-how-big-polluters-try-to-paralyse-environmental-and-human-rights-advocacy-through-the-courts>



## What are the effects of criminalisation?

- ▶ Psychological, emotional, reputational, and financial distress
- ▶ Vulnerability to physical and other attacks
- ▶ Breakdown of family and community life
- ▶ Impaired effectiveness and legitimacy of civil society organisations
- ▶ Reduction of the space for environmental defenders to pursue their work
- ▶ Increased degradation of the environment and impunity for polluters and environmental abusers
- ▶ Undermining the rule of law
- ▶ Deterioration of the independence and impartiality of the criminal justice system<sup>14</sup>

Stigmatisation and criminalisation create a climate of fear of retribution, often coupled with impunity for those who harass, threaten and harm defenders. Activists start to retreat as public support shrinks further, creating a vicious cycle that ultimately leads to all critical voices being silenced and destructive industries continuing unabated.<sup>15</sup>

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14 Report on the Misuse of Criminal Justice Systems to Retaliate Against Environmental Defenders, submitted to 173d Period of Sessions of the Inter-American Commission on Human Rights, p. 10 <https://www.business-humanrights.org/sites/default/files/documents/Report-on-the-Misuse-of-Criminal-Justice-Systems-to-Retaliare-Against-Environmental-Defenders-9.21.2019.pdf>

15 Protection International, 2017, *Ibid*, p. 27



Women human rights defenders are almost always exposed to rape, to abuse, to slander, often to insults, and we women are exposed to being stigmatised. Doors are closed to us because we are also stigmatised as 'argumentative,' as 'problematic,' and because people are taught that everyone has to keep quiet, even more so when it comes to woman, because we women have always been told to be "seen and not heard." We have always been told to keep it "private." So there are many ways to abuse a woman who defends human rights. We either walk among women or walk alone.

*Indigenous woman defender, 2019*<sup>16</sup>

## How are women affected differently?

Women who defend their communities' collective lands and territories face an even bigger challenge than men: they are targets of violence both for their activism and gender.<sup>16</sup> Women defenders are prone to multiple and intersecting forms of discrimination and face gender-specific and gender-based violence.<sup>17</sup> They receive additional threats as women, such as rape, as well as different reactions, criticisms and sometimes hostility from their own families, communities and movements as women challenging traditional notions of gender roles.

This difference in treatment occurs at all stages of criminalisation:

- ▶ **Smear campaigns:** women activists are targets of defamation aimed at tarnishing their reputation, affecting their professional and personal lives; they may find it harder to get support even within their own communities, especially if they are breaking out of the role traditionally assigned to women, and face criticism from their families, partners and friends.
- ▶ **Threats** specifically targetting women activists such as rape, sexual violence, and abuse.
- ▶ **Punishment:** criminal justice systems are influenced by existing biases against women in society, which often leads to trivialising their claims and imposing harsher judgements on women activists perceived to oppose societal norms.

It is important to recognise the specific challenges that women defenders face and the context they operate, in order to strengthen protection mechanisms and other, both local and international level responses to their specific concerns.

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- 16 Protection International, 2015, Criminalización de Defensoras y Defensores de Derechos Humanos: Categorización del fenómeno y medidas para su afrontamiento, p. 41
- 17 UN General Assembly Resolution 68/181, "Promotion of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms: protecting women human rights defenders"
- 18 <https://oxfamlibrary.openrepository.com/bitstream/handle/10546/620872/bp-colombia-women-environmental-defenders-021019-en.pdf>

# Recommendations

To end the criminalisation of land and environmental defenders, we ask that **states must take responsibility** and:

- 1 Address the root causes of attacks and criminalisation by formally recognising the collective land rights of Indigenous Peoples and local communities.
- 2 Promptly and impartially investigating all violent attacks against land and environmental defenders and take measures to provide for effective redress and reparation.
- 3 Ensure public officials do not stigmatise Indigenous and local communities and those defending their rights, and strengthen measures to ensure that public officials who use the justice system illegally to criminalise HRDs are duly punished.
- 4 Ensure legislation is in place so that companies registered in their jurisdictions, and those of their subsidiaries, are obliged to guarantee that economic projects are developed in a manner that respects human rights and those who promote and defend them and adopt clear policy commitments to that effect.
- 5 Undertake a comprehensive review of national laws, adopting laws to ensure due process and revoke laws and criminal procedures that violate internationally recognised rights such as the right to freedom of peaceful assembly and association and the right to freedom of opinion and expression.
- 6 Adopt legislation and policies to expressly support the protection of land and environmental defenders. Protection measures should ensure that both individual and collective protection aspects are addressed in practice, in close consultation with the defenders concerned, with a special emphasis on women.
- 7 Train law enforcement officials and prosecutors on human rights standards and refrain from the criminalisation of indigenous peoples and local communities who are peacefully defending their rights to lands and resources.

States have the obligation to respect, protect and fulfil human rights and fundamental freedoms. In addition, businesses have an independent responsibility not only to comply with applicable laws, but also to respect human rights and to take a proactive approach to prevent human rights violations.

