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African Commission on Human and Peoples' Rights to the General Comment on the protection and promotion of the right to environment in Africa in terms of article 24 of the African Charter on Human and Peoples' rights

**Submission in response to the [call for submissions](#)
by the Working Group on Extractive Industries, Environment and Human Rights Violations in Africa
of the African Commission on Human and Peoples' Rights**

20 July 2026

The focus of this submission is on the right to a healthy environment of environmental human right defenders (EHRD) in Africa. It is a synthesis of the Amicus Brief submission to the request for an Advisory Opinion on African States Obligations in the Climate Crisis to the African Court of Human and Peoples Rights.¹ This Amicus Brief was developed by Dr. Claudia Ituarte-Lima, Issabell Pope, Dr. Maria Andrea Nardi, Dr. Ana Maria Vargas Falla, Angeline Mbaria, Drishti Alagh, Emelie Andersson, Erin Gourley, Lathika Venkatapathy, and Meri Karhunen in the context of the Transnational Legal Clinic Defending a Living Earth (Defendbio Legal Clinic) at the Raoul Wallenberg Institute of Human Rights and Humanitarian Law (RWI) and the Sociology of Law Department at Lund University, Sweden.

This submission highlights relevant insights from the said Amicus Brief for interpreting and clarifying the content of Article 24 of the African Charter on Human and Peoples Rights. It provides an overview of the right to a healthy environment and the way Article 24 should be interpreted in relation to environmental human rights defenders (EHRD), based on international human rights law and the African Court of Human and Peoples Rights' jurisprudence.

Authoritative interpretations of the right to a clean, healthy and sustainable environment have clarified that this right has procedural elements – access to information, right to participation, and access to justice– and also has substantive elements – safe climate, healthy ecosystems and biodiversity, clean

¹ This Amicus Brief can be found here: <https://rwi.lu.se/publications/advisory-opinion-on-the-obligations-of-states-with-respect-to-the-climate-change-crisis-amicus-brief-on-environmental-human-rights-defenders/>

air, non-toxic environment, safe and sufficient water, and healthy and sustainable food.² EHRD advance the realisation of the substantive elements of this rights through a broad range of actions including through accessing information, participating and accessing justice in environmental matters. Therefore, the substantive and procedural elements of the right to a clean, healthy and sustainable environment are interdependent on each other.

Article 24 is important for upholding the rights of defenders and protecting their work. While EHRD are a vulnerable group due to the harassment, violence and rights violations they face; they should also be viewed as agents of change protecting healthy ecosystems and biodiversity, engaging in climate action and water stewardship and tackling pollution. By doing so, they also contribute to the realization of the rights not only of their communities but for present and future generations more broadly.

1.- Who are Environmental Human Rights Defenders?

The UN have defined EHRD as “Individuals and groups who, in their personal or professional capacity and in a peaceful manner, strive to protect and promote human rights relating to the environment, including water, air, land, flora and fauna”.³ EHRD is a broad definition that encompasses a range of individual and communities undertaking a range of different activities and work. The purpose and intention behind becoming an EHRD differs significantly between individuals. EHRD are often on the front lines in fighting against environmental violations and climate change within their local communities, countries and internationally, and driving efforts towards addressing climate change, biodiversity loss and pollution. The work of EHRD is actively contributing to climate action and environmental protection at the local, national, regional and international levels.⁴

What is important to note is that EHRD are diverse both in terms of who is a defender but also their work. This is an important notion in understanding what the obligations of states are in protecting EHRD as well as how their rights should be interpreted including recognising that some EHRD are more exposed and vulnerable to rights violations than others.⁵

Within the African region EHRD present themselves in a number of ways including youth holding up placards at marches, women organising themselves against industrial agriculture, and communities mobilising against land use conflicts.⁶

The importance of understanding who EHRD are and their role broadly within environmental protection and action in African relates to the need to conceptualise the way in which individual and communities can be viewed as EHRD. The diversity of who a defender is and the type of work that is undertaken needs to be reflected in the positive obligations of states under Article 24. Such understanding is an important context for interpreting Article 24 regarding EHRD.

² OHCHR, Information Notes: What is the Right to a Healthy Environment? (2023)

³ M. Forst, Situation of human rights defender's A/71/281 (3 August 2016) 7

⁴ M. Lawlor et al, Time to protect environmental defenders and ensure their safe participation in international forums relating to the environment and climate change, A joint statement by international and regional human rights experts, in the context of COP29 (29 October 2024)

⁵ M. Forst, Situation of human rights defender's A/71/281 (3 August 2016)

⁶ Claire Martens, 2024, Reflecting on African Environmental Defenders in 2024, in Natural Justice website <https://naturaljustice.org/reflecting-on-african-environmental-defenders-in-2024/>.

2.- The Right to a Healthy Environment and Environmental Human Rights Defenders

The right to a healthy environment recognised both at the international level and the African Regional level is an important right for upholding the rights of EHRD and ensuring that they are protected from violations by State and private actors. As the International Court of Justice has clarified⁷, regulation of the activities of private actors is an aspect of States' obligations to respond to climate change and should take due regard of human rights. The right to a healthy environment is an important entry point for understanding the interconnection between the work of defenders and the need to protect their human rights. Ensuring that EHRDs are protected from business actors should be a top priority for states.

The interdependency of the procedural and substantive elements of the right recognises that effective environmental protection requires human rights and environmental democracy principles to be upheld. The enjoyment of human rights by EHRD such as the right to freedom of opinion and expression and the right to right to freedom of peaceful assembly and association are fundamental to their ability to carry out their work.

Under international human rights law, the right to a healthy environment procedural elements – access to information, right to participation, and access to justice including effective remedies – and the substantive elements – safe climate, healthy ecosystems and biodiversity, clean air, non-toxic environment, safe and sufficient water, and healthy and sustainable food⁸ often express themselves through the work and actions of EHRD. There is a need to view the substantive and procedural elements of the right as indivisible.

In understanding the elements of the right to a healthy environment concerning EHRD, certain measures should be considered by states in relation to both the procedural and substantive elements. There should be the recognition that EHRD have the right to access information of states and businesses operating at various levels, and the right to generate their own ground-up information on matters relating to environmental protection. Access to information is imperative in enabling defenders to understand environmental harms and empowers them to challenge or develop approaches against such violations.

States should be proactive in placing measures that enable EHRD to participate in an effective, meaningful, open and inclusive way throughout each stage of environmental decision making from the local to the international level.

States should put in place measures that enable defenders to have access to justice in the form of effective, timely and independent investigations and remedies when environmental and human rights law have been breached. There should also be active steps in preventing the abuse of the law which aims to silence defenders – particularly strategic litigation against public participation (SLAPPs).

The procedural rights of EHRD should be interpreted in connection with the right to a healthy environments substantive elements to ensure that public authorities and society at large support their

⁷ International Court of Justice Obligations of States in respect of Climate Change (Advisory Opinion) [2025] ICJ 187

⁸ OHCHR, Information Notes: What is the Right to a Healthy Environment? (2023)

role in environmental protection, and to help rethink economic, social and cultural rights in a way that is aligned with sustainability pathways.

3.-Heightened Obligations and Accounting for Intersectional identities of Environmental Human Rights Defenders

EHRD are not a monolithic group who have the same experiences across the board when it comes to their work and the types of violations/harassment they face. States have heightened obligations towards certain groups of EHRD, and such obligations need to be accounted for within the wider interpretation of the right to a healthy environment of defenders.⁹ The intersectional identities of EHRD also bring about unique knowledge, life experiences and agency, and such considerations should contribute to the realisation and implementation of the rights of EHRD.¹⁰ Special consideration should be given to EHRD who are also children and youth, women, indigenous peoples and people with disabilities.

4.-African regional system and Environmental Human Rights Defenders

Although Africa lacks a binding regional instrument specifically protecting the rights of EHRD, there are existing relevant instruments that serve to interpret obligations concerning EHRD. The African Charter on Human and Peoples Rights (The African Charter), jurisprudence and approaches of the African Court and Commission in respect to states duty to protect provides a useful starting point for framing Article 24 regarding EHRD.

Article 24 of the African Charter guarantees “the right to a generally satisfactory environment favourable to [human] development”. The work by the African Commission on Human and Peoples Rights and jurisprudence by the African Court of Human and Peoples Rights has given profound meaning to this right, including for indigenous peoples who act as EHRD. In *African Commission on Human and Peoples Rights v Keyna (Ogiek)*¹¹, the African Court affirmed that states failure to protect ancestral land violates a spectrum of rights, including land, culture and development, and the collective wellbeing is inseparable from the environment. Accordingly, states must adopt effective legislation, administrative and practical measures to secure communal land tenure, prevent environmental degradation, and ensure that development or conservation initiatives do not undermine the cultural survival of such communities. Such obligations are echoed at the international level through the right to a healthy environment.

The Ogiek case provides a useful basis to ground states positive obligations towards EHRD, while there is no explicit mention of defenders, the Commission aligns itself with the notion that protection of communities and individuals is inseparable from the overall framework of environmental justice.

The African Court has also clarified that the right to reparations for a breach of human rights obligations is a fundamental principle of international law. Measures surrounding reparations must be meaningful, enforceable, comprehensive remedies that address the harm suffered, and contribute to

⁹ S. Nazrul Islam and J. Winkel, *Climate Change and Social Inequality* (DESA Working Paper No 152, United Nations Department of Economic and Social Affairs, October 2017)

¹⁰ Ituarte-Lima et al *A Healthy Earth for All: Catalyzing the Work of Environmental Human Rights Defenders Through Prevention*, in P. Moodley et al (eds) *Preventing Mass Human Rights Violations in the Context of the Climate Crisis*, The Prevention Project, June 2024
<https://app.box.com/s/4rx8ulon5z01stonnp7lyc66fk5rdzlh>

¹¹ *African Commission on Human and Peoples' Rights v. Republic of Kenya (the Ogiek case, Application No. 006/2012)*

non-repetition of new violations in the future.¹² Such acknowledgement of non-repetition is significant for EHRD, focusing not just on short term relief of violations but also ensure that more systematic and long-term environmental protection exist for present and future generations.

The African Commission has consistently emphasised that states obligations to ensure access to information, public participation and transparency are fundamental procedural component of environmental protection. In *SERAC v Nigeria*, the Commission found Nigeria in violation of its Charter obligations for withholding crucial information on the environmental and health impact in oil operations in Ogoniland. In its reasoning, the Commission articulated that the substantive right to health and a satisfactory environment of the African Charter imposes a positive obligation on states, which includes the procedural duty to inform the public and facilitate participation.¹³

5.- Concluding remarks and recommendations

The interpretation of Article 24 of the African Charter should be understood as encompassing both the duty to protect the environment and the obligation to safeguard those who defend it. African States are therefore required to respect, protect, and fulfil the rights of EHRDs under international and regional human rights law. In the context of the interconnected climate, biodiversity and pollution crises, the protection of EHRDs forms an integral part of States' broader environmental obligations, as defenders play a vital role in advancing a clean, healthy and sustainable environment and tackling these polycrises.

Fulfilling the positive obligations arising from Article 24 requires States to adopt effective measures to prevent violations against EHRDs and to ensure an enabling environment in which they can act free from intimidation, retaliation, criminalisation, or abuse of legal processes by public and private actors. These obligations must be implemented through an intersectional approach that recognises the diverse identities and vulnerabilities of EHRDs, addresses systemic patterns of marginalisation, and strengthens their essential contributions to climate resilience, biodiversity protection, and the safeguarding of ecosystems.

Building on international and regional law as well as authoritative interpretations such as the ICJ Advisory Opinion on climate change, the African Court on Human and Peoples' Rights has a critical opportunity to clarify the specific obligations of States towards EHRDs under Article 24 and to affirm their indispensable role in the realisation of environmental rights. By doing so, the Court can advance the African human rights system's contribution to Earth stewardship and to the realisation of the right to a healthy environment of present and future generations.

¹² Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, Adopted and proclaimed by General Assembly resolution 60/147 of 16 December 2005.

¹³ *Social and Economic Rights Action Center (SERAC) and Center for Economic and Social Rights (CESR) v Nigeria* (Communication No. 155/96) (Communication 155 of 1996) [2001] ACHPR 35 (27 October 2001)