

**‘Defending our land and nature is our right’**  
*Abuse of power against defenders of human rights, territories and the environment*  
**Background briefing - European tour March 2018**

**1. About the project ‘Defending our land and nature is our right’**

The project ‘Defending our land and nature is our right’, with support from the European Instrument for Democracy and Human Rights, aims at strengthening individual and collective capacities of environmental human rights defenders (EHRDs) from local communities and social organisations in four Andean countries (Bolivia, Colombia, Ecuador, Peru), in regions that suffer the negative impacts of extractive industries and energy projects.

Civil society organizations Colectivo de Abogados José Alvear Restrepo (CAJAR, Colombia), Centro de Desarrollo Humano (CEDHU, Ecuador), Asociación Pro Derechos Humanos (APRODEH, Peru) and Centro de Documentación e Información Bolivia (CEDIB), together with Broederlijk Delen (Belgium), are implementing a comprehensive programme of training in protection for EHRDs, strengthening of local and international networks that support their work, strategic litigation to sanction and remedy human rights violations against EHRDs and generating visibility and solidarity for EHRDs through advocacy and communication.

The project considers a **broad definition of EHRDs that includes all (groups of) people who in practice promote and defend human rights, the territories they live in and the environment**. In most cases the main actors are rural or urban communities, or other types of social organisations. Therefore, the project pays particular attention to this collective dimension, whereas existing protection schemes and mechanisms of EHRDs often focus on individuals.

During the last year, the coalition actively participated in successful civil society efforts in Latin America and the Caribbean, to include specific obligations for States related to the protection of EHRDs in a new, binding treaty to protect rights of access in environmental matters, in implementation of Principle 10 of the Rio Declaration<sup>1</sup>. It also presented its findings and recommendations to the Inter-American Commission for Human Rights, during a hearing in Bogotá<sup>2</sup>.

A new report titled *Abuse of power against defenders of human rights, territories and the environment – Report on extractivism and rights in Andean countries*<sup>3</sup> contributes to the discussions on the protection of EHRDs in the context of extractive industries and proposes recommendations to States, the private sector and the international community.

**2. Patterns of abuses against EHRDs**

From the analysis of four case studies in the Andean region, we identify three main patterns of violence against EHRDs in the context of extractive industries and energy projects:

- **Abuse of power through the use of force:** The aim of the use of force is threefold: facilitate access to land, guarantee territorial control and silence opposition to natural resources extraction projects. Both public and private actors are responsible. Examples are the violent

<sup>1</sup> Latin American and Caribbean countries declaration on Principle 10 (LAC-P10)

<sup>2</sup> 167th session, from February 22 to March 2, 2018

<sup>3</sup> Currently only available in Spanish, online at <http://bit.ly/2pnamxt>

repression of social protest and militarization; direct collaboration between the police force and companies; the involvement of paramilitaries and private security squads; threats and intimidations; and murders of EHRDs.

- **Abuse of power through the legal framework:** Several governments have introduced laws and policies in favour of companies and their projects, and to the detriment of the rights of local communities, ecosystems and EHRDs. Examples are norms that guarantee the protection of companies by police and military forces, norms that impose 'states of emergency' in favour of company activities, restrictions to political participation, the criminalization of EHRDs through legislation, and the absence of effective prevention and protection systems for EHRDs.
- **Abuse of power through discursive violence:** This type of power abuse has a double goal: one the hand to isolate communities affected by natural resources extraction as well as EHRDs; and on the other hand to actively promote the extractive development model. Examples are the public stigmatization of EHRDs in the media and other communication; not recognizing EHRDs as a legitimate conversation partner; and campaigns to minimize or deny the social and environmental impacts of extractive industries.

### 3. Key messages from the report

- **The work of EHRDs constitutes a fundamental contribution to democracy, justice and the sustainability of Latin American societies.** EHRDs help to safeguard fragile ecosystems and biodiversity; they contribute to environmental education; and they demand the fulfilment of national and international human rights obligations. Moreover, their demands reveal the impacts and conflicts related to extractive projects.
- **The abuse of power against EHRDs has the intention to intimidate, silence and even to make impossible the defence of land and the environment.** It limits the exercise of rights and prevents EHRDs from building alternatives to the development model based on the extraction of natural resources. To this end, a broad range of tactics is applied, murder being the most extreme example.
- **Three characteristics intensify the violence against EHRDs:** firstly, there is the patriarchal nature of the violence (women and children suffer different and graver effects than men). Secondly, the racist nature of the violence (e.g. against *campesinos*, indigenous peoples, workers, fishermen, and others: all of them inhabitants of rural areas in the four countries). Finally, the violence against EHRDs is also violence against nature as such: it envisages the destruction of the symbiotic relationship between EHRDs and their territory, and to open up fragile and biodiverse ecosystems to exploitation.
- **In many cases the activities of the police force have been privatized and put to the service of companies and their protection needs, their installations and interests,** instead of guaranteeing public security and civil rights as according to their constitutional mandate. Police and military are directly responsible for acts of violence against EHRDs. There exist diverse relationships of complementarity and collaboration between the police force and private actors in the four countries, who might operate within the legal framework (for example through outsourcing of police activities) or outside the law (paramilitaries, criminal organizations).
- **The abuse of power through physical violence is not a sporadic, coincidental or isolated phenomenon.** In several cases it is the intended result of legal arrangements that enable serious human rights violations, repression and criminalization against EHRDs. These

legal arrangements demonstrate the responsibility of states for various human rights violations.

- **The abuse of power and acts of violence against EHRDs are deepened by widespread impunity and by the absence of effective prevention and protection systems.** There is a general lack of practices respecting the rights to truth, justice and integral reparations of victims of human rights violations related to natural resources extraction. Companies and states should assume their responsibilities.
- **This reality of impunity is rooted in the abuse of power through discursive violence by both private actors and states,** which is disseminated through the media and in diverse public and private spaces. Discursive violence stigmatizes and silences voices that question extractive industries and their effects. At the same time, the extraction of natural resources is presented as the one and only development strategy, hiding the real conflicts that it provokes.
- **There is continuity between the era of war (in Colombia, Peru and even Ecuador) and the current struggles over land and territory.** The expansion of extractive industries, and access to and control over land and territory for exploitation purposes, has been a central aspect of peace processes in the region. Several of the areas where extractive projects are developed, have been epicentres of earlier conflicts (such as Ituango in Colombia, Cotabambas in Peru or the Cordillera del Condor in Ecuador).
- **The expression of power abuses through the use of force, norms and discourses, impedes adequate institutional processes to channel conflicts.** Hence, the fundamental issues underlying these conflicts (land, water, health, environmental pollution, and others) are not attended or discussed, nor responded to with public policies or integral means of reparation. This generates a perverse vicious circle, leading to more mobilization of EHRDs, who at their turn are again repressed, criminalized and attacked.
- **Extractive companies contribute to power abuses in different ways.** Firstly, both the police force and private security forces have been contracted by extractive companies involved in human rights violations such as the violent repression of protest and forced displacement. Companies have contributed to an insecure environment for EHRDs, promoting actions and campaigns to stigmatize EHRDs through contracted media, public declarations and other actions. It is unlikely that self-regulation, without binding mechanisms, is a sufficient and adequate response in order to make companies elevate their environmental standards and strictly implement respect for the rights of EHRDs throughout their corporate activities.
- **The consequence of these processes is the creation of territories governed by states of emergency,** be it legally or de facto, with legal frameworks to the benefit of corporate rights, and unfavourable to individual and collective human rights. Violence against EHRDs often occurs in a context of militarization of conflicts, with very high levels of surveillance and social control.

#### 4. Recommendations

Broederlijk Delen, APRODEH, CAJAR, CEDIB and CEDHU demand that **states recognize the systemic and coordinated nature** of the power abuses and violence against EHRDs. These abuses are inherent to the expansion of the extractive development model. The efficient protection of EHRDs requires politics that respond to the causes of the threats, violence and risks for their work.

States should **prioritize their obligation as duty bearers**, as well as respect the precautionary principle (which implies prioritizing access to water, biodiversity and strategic ecosystems), over extractive projects. This also requires the protection of natural resources as public goods of national importance.

Finally, states should **recognize the collective nature of the work of EHRDs**, which implies legal protection of collective rights to safety, freedom, etc.; the identification of collective risks for EHRDs to complement the analysis of individual risks; and finally also design protection policies and plans with a collective and community-oriented focus.

*The EU and UN institutions and mechanisms, and the parliaments and governments of EU member states, should stress these messages in their relations with governments in the Andean region authorities, as well as:*

- Pressure government in the Andean region to ratify the Latin American and Caribbean countries declaration on Principle 10 (LAC-P10) and refer to the agreement in their political dialogue with governments and state institutions.
- Support the growing international recognition of the right to a healthy environment through their policies and communications, including the importance of the work of EHRDs in realizing this right, and support the implementation of the UN Framework Principles on Human Rights and The Environment<sup>4</sup>.
- Condition trade and investment relations with the Andean countries to the respect for the rights of EHRDs.
- Speak out publicly on specific cases of power abuses and violence against EHRDs.
- Prioritize the protection of EHRDs in the new EU-CELAC strategy.
- Enhance the implementation of the EU Guidelines on Human Rights Defenders in the region, with a special focus on the needs of EHRDs.
- Support the elaboration of binding regulation in the field of business and human rights, and especially collaborate constructively towards the elaboration of a binding treaty at the UN level.

*Companies and financial institutions should:*

- Apply human rights due diligence in all stages of their projects and along the entire supply chain, with special attention to the situation of EHRDs.
- Respect EHRDs as legitimate actors for dialogue, and guarantee their participation in all stages of decision-making processes on projects related to the exploitation of natural resources.
- Restrain from financing or implementing projects that demonstrably violate the rights of EHRDs.

## **5. Contact**

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<sup>4</sup> Elaborated by UN Special Rapporteur John Knox and presented at the 37<sup>th</sup> session of the UN Human Rights Council.