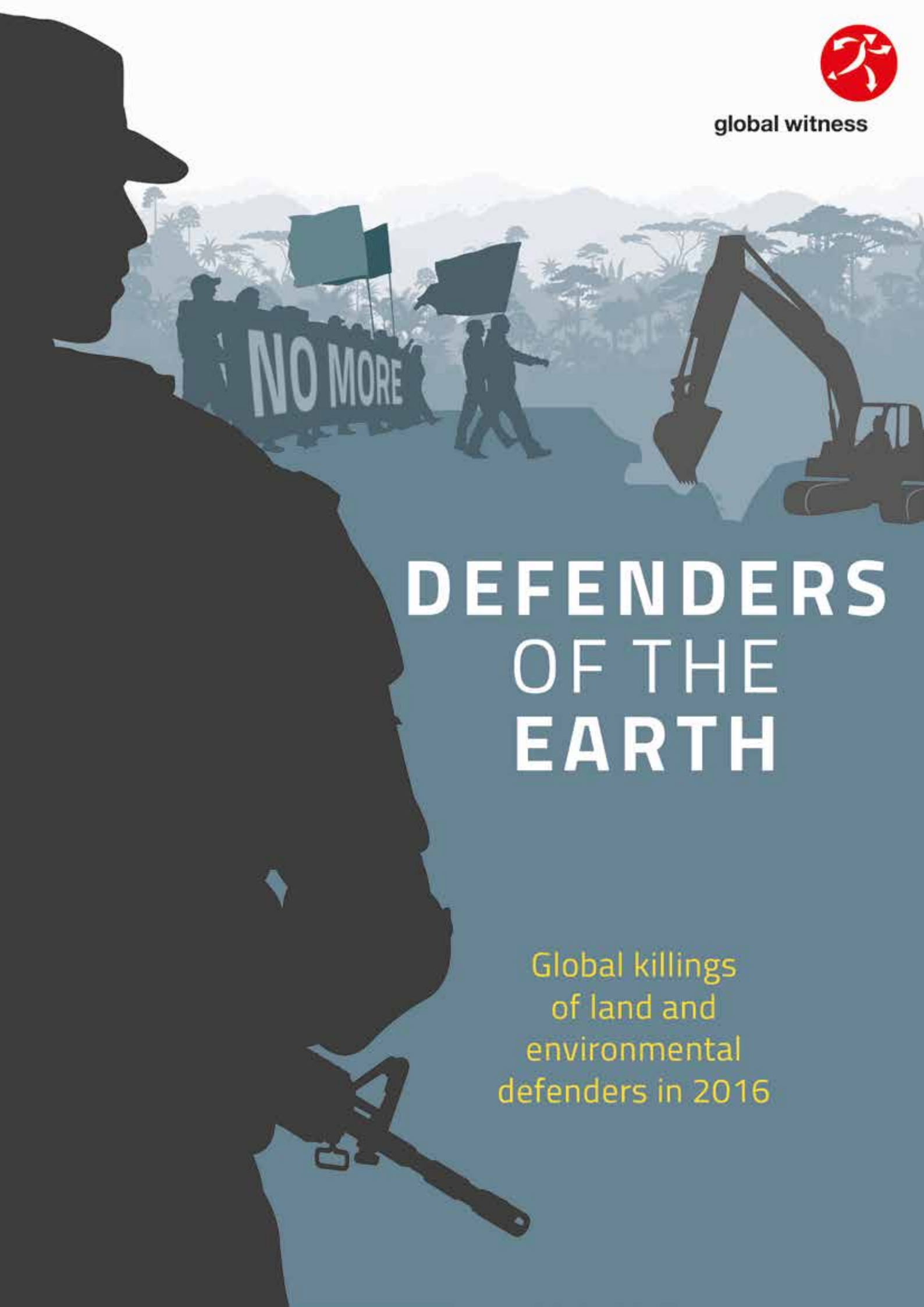
global witness



DEFENDERS OF THE EARTH

Global killings of land and environmental defenders in 2016

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OUR INSPIRATION:
THE NAMES OF THOSE MURDERED IN 2016

Global Witness documented the murder of 200 land and environmental defenders in 2016. This report is dedicated to their lives, and to all those around the world who stand up for land rights and the protection of the environment.
You are our inspiration.

Our message to those responsible for these murders is clear: **These defenders did not die – they multiplied.**

Anowarul Islam (Angur), Bangladesh
Mangal Mardi (Mongol Madri), Bangladesh
Mortuza Ali, Bangladesh
Ramesh Tudu, Bangladesh
Shyamal Hembrom (Shyamal Soren), Bangladesh
Zager Ahmed, Bangladesh
Zaker Hossain, Bangladesh
Alexsandro dos Santos Gomes, Brazil
Allysson Henrique Lopes (Bá), Brazil
Aponuyre Guajajara, Brazil
Assis Guajajara (Silvio Assis Guajajara), Brazil
Candide Zaraky Tenetehar/Guajajara, Brazil
Cleidiane Alves Teodoro, Brazil
Clodiodi Aquileu Rodrigues de Souza (Clodioude, Clodiode), Brazil
Edilene Mateus Porto, Brazil
Edmilson Alves da Silva, Brazil
Enilson Ribeiro dos Santos, Brazil
Fernando Gamela, Brazil
Francisca das Chagas Silva, Brazil
Genésio Guajajara, Brazil
Genivaldo Braz do Nascimento (Ninja), Brazil
Geraldo de Campos Bandeira, Brazil
Geraldo Lucas, Brazil
Iraúna Ka'apor, Brazil
Isaías Guajajara, Brazil
Isaque Dias Ferreira, Brazil
Ivanildo Francisco da Silva, Brazil
Jaison Caique Sampaio, Brazil
Jesser Batista Cordeiro, Brazil
João Luiz de Maria Pereira, Brazil
João Natalício Xukuru-Kariri, Brazil
João Pereira de Oliveira (João Bigode), Brazil
Joel Martins Gavião Krenyê, Brazil
José Bernardo da Silva (Zuza), Brazil
José Colírio Oliveira Guajajara, Brazil
José Dias de Oliveira Lopes Guajajara, Brazil
José Lisboa, Brazil
José Queiros Guajajara, Brazil
Leomar Bhorbak, Brazil
Luciano Ferreira de Andrade, Brazil
Luís Alberto Araújo, Brazil
Luis Antônio Bonfim, Brazil
Luís Carlos da Silva, Brazil
Luiz Jorge Araújo, Brazil
Luiz Viana Lima, Brazil
Marcus Vinicius de Oliveira (Marcus Matraga), Brazil
Nilce de Souza Magalhães (Nicinha), Brazil
Nivaldo Batista Cordeiro, Brazil
Ronair José de Lima, Brazil
Roni dos Santos Miranda (Rony), Brazil
Ruan Hildebran Aguiar, Brazil
Sebastião Pereira dos Santos, Brazil
Valdiro Chagas de Moura, Brazil
Valdomiro Lopes de Lorena, Brazil
Vilmar Bordim, Brazil
Zé Sapo, Brazil
Bruce Danny Ngongo, Cameroon
Lei Yang, China
Adrián Quintero, Colombia
Alberto Pascal García, Colombia
Amado Gómez, Colombia
Aníbal Coronado, Colombia
Anuar José Alvarez Armero, Colombia
Ariel Sotelo, Colombia
Camilo Roberto Taicus Bisbicusm, Colombia
Cecilia Coicue, Colombia
Cristian Anacona Castro, Colombia
Didier Losada Barreto, Colombia
Diego Alfredo Chirán Nastacuas, Colombia
Erley Monroy Fierro, Colombia
Evaristo Dagua Troches, Colombia
Gersaín Cerón, Colombia
Gil de Jesús Silgado, Colombia
Henry Pérez, Colombia
Jesús Adilio Mosquera Palacios, Colombia
Jhon Jairo Rodriguez, Colombia
Joel Meneses, Colombia
Johan Alexis Vargas, Colombia
José Antonio Velasco Taquinas, Colombia
Luciano Pascal García, Colombia
Luís Carlos Tenorio, Colombia
Manuel Chimá Pérez, Colombia
Manuel Dolores Pino Perafán, Colombia

Marco Aurelio Díaz, Colombia
Maricela Tombé, Colombia
Nereo Meneses (Nero, Mereo), Colombia
Nestor Ivan Martinez, Colombia
Orlando Olave, Colombia
Ramiro Culma Carepa, Colombia
Víctor Andrés Flórez, Colombia
William Alexander Oimé Alarcón (Williar), Colombia
William Castillo Chima, Colombia
Willington Quibarecama Naquirucama, Colombia
Yaneth Alejandra Calvache Viveros, Colombia
Yimer Chávez Rivera, Colombia
Dieudonné Tsago Matikuli, DRC
Fidele Mulonga Mulegalega, DRC
Jules Kombi Kambale, DRC
Munganga Nzonga Jacques, DRC
Patrick Prince Muhayirwa, DRC
Richard Sungudikpio Ndingba, DRC
Rigobert Anigobe Bagale, DRC
Sebinyenzi Bavukirahe Yacinthe, DRC
Venant Mumbere Muvesevese, DRC
Vincent Machozi, DRC
Benedicto Gutiérrez, Guatemala
Daniel Choc Pop, Guatemala
Héctor Joel Saquil Choc, Guatemala
Jeremy Abraham Barrios Lima, Guatemala
Juan Mateo Pop Cholom, Guatemala
Walter Manfredo Méndez Barrios, Guatemala
Allan Reyneri Martínez Pérez, Honduras
Berta Cáceres, Honduras
Elvin Joel Palencia Fuentes, Honduras
Jairo Ramírez, Honduras
José Ángel Flores, Honduras
José Pantaleón Alvarenga Galdámez, Honduras
Lesbia Yaneth Urquia, Honduras
Manuel Milla, Honduras
Nahún Alberto Morazán Sagastume, Honduras
Nelson Noé García Laínez, Honduras
Roberto Carlos Palencia Fuentes, Honduras
Rufino Alexis Bulnes Mejía, Honduras
Santos Filander Matute, Honduras
Silmer Dionisio George, Honduras
Abhishek Roy, India
Abraham Munda, India
Adangu Gomango, India
Anjuma Khatun, India
Dadli Lazar, India
Dashrath Nayak, India
Fakhruddin, India
Jagdish Binjwar, India
Manda Katraka, India
Mehtab Ansari, India
Narendra Kumar Sharma, India
Pawan Kumar, India
Ram Lakhan Mahato, India
Ranjan Kumar Das, India
Sheik Baji Sahid, India
Sidheshwar Singh, India
Manouchehr Shojaei, Iran
Mohammad Dehghani, Iran
Parviz Hormozi, Iran
Michael McCoy, Ireland
Bill Kayong, Malaysia
Alejandro Nolasco Orta, Mexico
Baldomero Enríquez Santiago, Mexico
Salvador Olmos García, Mexico
Naw Chit Pandaing, Myanmar
Soe Moe Tun, Myanmar
Ángel Flores, Nicaragua
Balerio Meregildo, Nicaragua
Bernicia Dixon Peralta, Nicaragua
Den Silwa, Nicaragua
Francisco Benlis Flores, Nicaragua
Francisco Benlis Peralta, Nicaragua
Francisco Joseph, Nicaragua
Gerardo Chale Allen, Nicaragua
Nelin Pedro Parista, Nicaragua
Rey Müller, Nicaragua
Rudy Manuel Centeno Solís, Nicaragua
Zafar Lund, Pakistan
Pedro Valle Sandoval, Peru
Quintino Cerceda, Peru
Alibando Tingkas, Philippines
Ariel Diaz, Philippines
Arnel Figueroa, Philippines
Baby Mercado, Philippines
Benjie Sustento,Philippines
Christopher Matibay, Philippines
Datu Mansulbadan Lalinan, Philippines
Edjan Talian, Philippines
Eligio Barbado, Philippines
Gaudencio Bagalay, Philippines
Gloria Capitan, Philippines
Hermie Alegre, Philippines
Jennifer Albacite, Philippines
Jerry 'Dandan' Layola, Philippines
Jimmy Mapinsahan Barosa, Philippines
Jimmy Saypan, Philippines
Joselito "Anoy" Pasaporte, Philippines
Jover Lumisod, Philippines
Makinit Gayoran, Philippines
Michael Sib-ot, Philippines
Remar Mayantao, Philippines
Ricky Peñaranda, Philippines
Rogen Suminao, Philippines
Rolan Lonin Casiano, Philippines
Ronel Paas, Philippines
Senon Nacaytuna, Philippines
Teresita Navacilla, Philippines
Violeta Mercado, Philippines
Sikhosiphi "Bazooka" Rhadebe, South Africa
Wizani Baloyi, South Africa
Roger Gower, Tanzania
Den Khamlae, Thailand
Anthony Twesigye, Uganda
Le Dinh Tue, Vietnam
Kennedy Zvavahera, Zimbabwe

EXECUTIVE SUMMARY

"They threaten you so you shut up. I can't shut up. I can't stay silent faced with all that is happening to my people. We are fighting for our lands, for our water, for our lives."[1]

Colombian Defender Jakeline Romero

Earlier this year, US legislators in North Dakota debated a proposed bill that would allow drivers to run over and kill an environmental protester without facing jail.[2] The bill was the latest chilling indication of a worldwide phenomenon which Global Witness is determined to help end: the increasing suppression of environmental and land rights activism which, in many countries, means the murder of those brave enough to raise their voice.

The data, analysis and human stories in this report demonstrate that the world is now more dangerous than ever for a group of people we should celebrate: those community activists, NGO staff and indigenous leaders on the front line of the struggle for our planet's future.

In 2016, **at least 200 land and environmental defenders were murdered** – the deadliest year on record. Not only is this trend growing, it's spreading – killings were dispersed across 24 countries, compared to 16 in 2015. With many killings unreported, and even less investigated, it is likely that the true number is actually far higher.

This tide of violence is driven by an intensifying fight for land and natural resources, as mining, logging, hydro-electric and agricultural companies trample on people and the environment in their pursuit of profit.

As more and more extractive projects were imposed on communities, many of those who dared to speak out and defend their rights were brutally silenced.

This report tells the stories of these activists and the threats they've faced. It highlights the courage of their communities as they stand up to the might of multinationals, paramilitaries and even their own governments in the most dangerous countries on Earth to be a defender.

The ruthless scramble for the Amazon's natural wealth makes **Brazil**, once again, the world's deadliest country in terms of sheer numbers killed, though **Honduras** remains the most dangerous country *per capita* over the past decade.

Nicaragua is beginning to rival that dubious record. An inter-oceanic canal is set to slice the country in two, threatening mass displacement, social unrest and the violent suppression of those who stand against it. Meanwhile a voracious mining industry makes the **Philippines** stand out for killings in Asia.

In **Colombia**, killings hit an all-time high, despite – or perhaps because – of the recently signed peace deal between the government and the guerrilla group, the FARC.[3] Areas previously under guerrilla control are now eyed enviously by extractive companies and paramilitaries, while returning communities are attacked for reclaiming land stolen from them during half a century of conflict.

India has seen killings spike against a backdrop of heavy-handed policing and the repression of peaceful protests and civic activism.

Defending national parks is now riskier than ever, particularly in Africa where large numbers of rangers are being killed, especially in the **Democratic Republic of Congo**.

And this isn't a problem confined to any one corner of the planet. Developed countries are ramping up other methods to suppress activists, notably in **the US**, where environmental defenders are being given every reason to protest by the Trump administration.

It is increasingly clear that, globally, **governments** and **companies** are failing in their duty to protect activists at risk. They are permitting a level of impunity that allows the vast majority of perpetrators to walk free, emboldening would-be assassins.

Incredibly, it is the activists themselves who are painted as criminals, facing trumped-up criminal charges and aggressive civil cases brought by governments and companies seeking to silence them. This **criminalisation** is used to intimidate defenders, tarnish their reputations and lock them into costly legal battles.[i]

Investors, too, are fuelling the violence by backing projects that trash the environment and trample human

i See Explanatory note on page 45

rights. Even development banks tasked with promoting sustainable development are implicated.

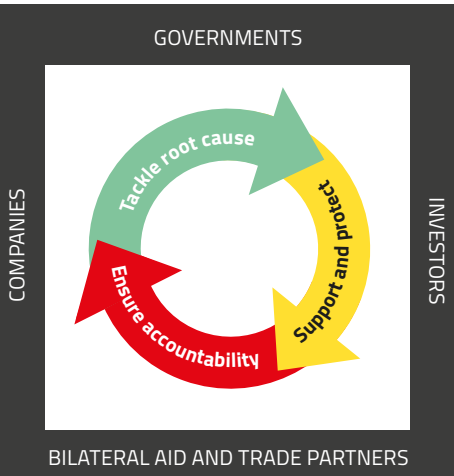
Governments and business are failing to tackle the main **root cause** of the attacks: the imposition of projects on communities without their free, prior and informed consent. Protest is often the only recourse left to communities exercising their right to have a say about the use of their land and natural resources, putting them on a collision course with those seeking profit at any cost.

Rhetoric on sustainable development and climate change will prove empty if those defending their land and the environment continue to risk their lives in doing so. Governments, companies and investors, therefore, must take a stand and guarantee that local communities and defenders are consulted rather than killed.

WHO NEEDS TO DO WHAT?

States have the primary duty, under international law, to guarantee that human rights defenders can carry out their activism safely. However, land and environmental defenders face specific and heightened risks because they challenge business interests. Therefore, to keep them safe, action is needed from:

- **Governments**
- **Companies**
- **Investors**
- **Bilateral aid and trade partners**



These actors must take steps to:

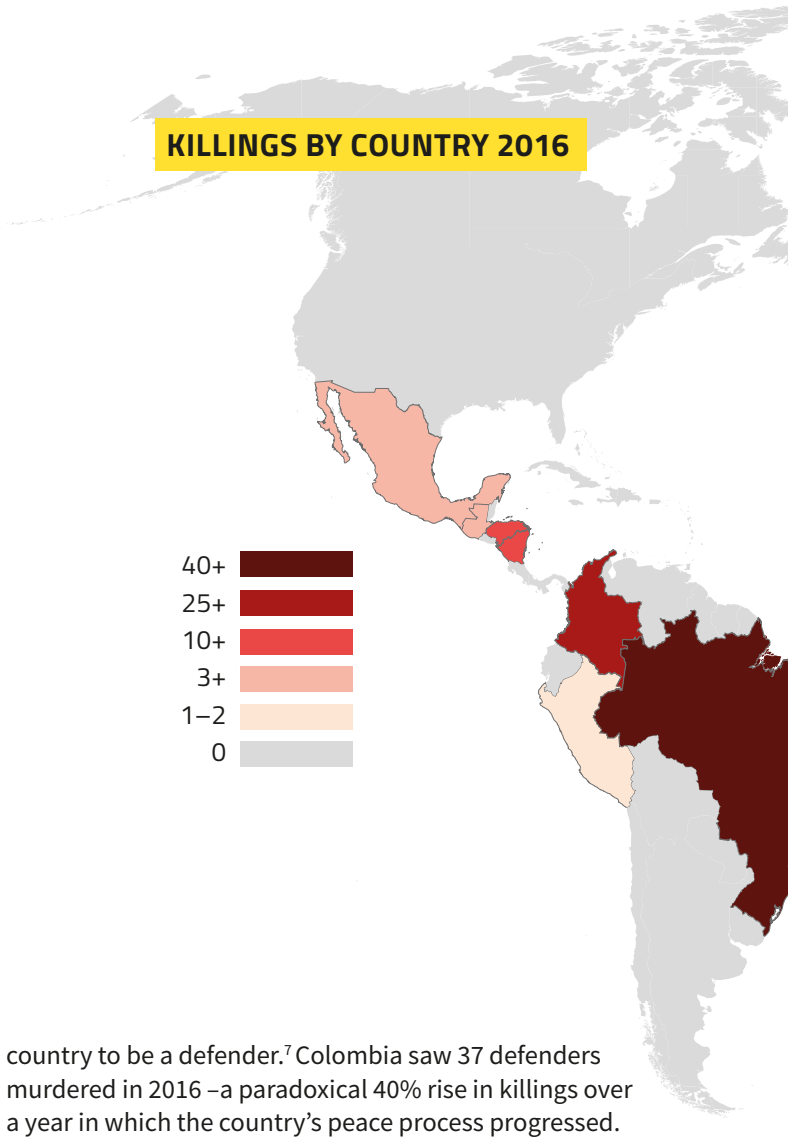
- **Tackle the root causes of risk** – Guaranteeing communities can make free and informed choices about whether and how their land and resources are used
- **Support and protect defenders** – Through specific laws, policies and practises
- **Ensure accountability for abuses** – This goes beyond the prosecution of those responsible for ordering or carrying out an attack, and extends to ensuring that those actors who failed to support and protect defenders face consequences for their inaction

Read our full set of recommendations on pp.39-41

10 KEY FINDINGS

- At least 200 defenders were murdered in 2016 – the **deadliest year** on record
- The phenomenon isn't just growing, it's **spreading**. Global Witness documented murders in 24 countries, compared to 16 in 2015
- Mining remains the **most dangerous sector** – with 33 defenders killed after having opposed mining and oil projects – though the number of murders associated with logging are on the rise
- Almost 40% of victims are indigenous, one of the **most vulnerable groups** of defenders[4]
- 60% of those murdered in 2016 were from **Latin America**. Brazil remained the deadliest country in terms of sheer numbers, with Nicaragua the worst place *per capita* last year. Honduras retains its status as the most dangerous place *per capita* over the past decade[5]
- Colombia has seen a **spike in murders** despite the signing of the peace accords, while killings in India increased threefold
- **Park rangers** and forest guards face heightened risks, with at least 20 murdered last year
- Governments and business are failing to tackle the **root cause** of the attacks: the imposition of extractive projects on communities without their free, prior and informed consent
- **Investors**, including development banks, are actually fuelling the violence by financing abusive projects and sectors, and failing to support threatened local activists
- **Criminalisation** and aggressive civil cases are being used to stifle environmental activism and land rights defence right across the world, including in 'developed' countries like the US

2016: MORE DEATHS IN MORE COUNTRIES



THE TIP OF THE ICEBERG

Our data on killings is likely to be an underestimate, given that many murders go unreported, particularly in rural areas. Our methodology requires cases to be verified according to a strict set of criteria (see Methodology), which can't always be met by a review of public information or through local contacts. Shrinking space for free speech and civic organisation in many countries means that there are almost certainly more defenders murdered than anybody is able to document.

A SPREADING PHENOMENON

Global Witness documented that a shocking 200 land and environmental defenders were killed in 2016 – almost 10% more than 2015, previously the deadliest year on record. Far more places are now affected, with killings across 24 countries in 2016, compared with 16 the previous year.

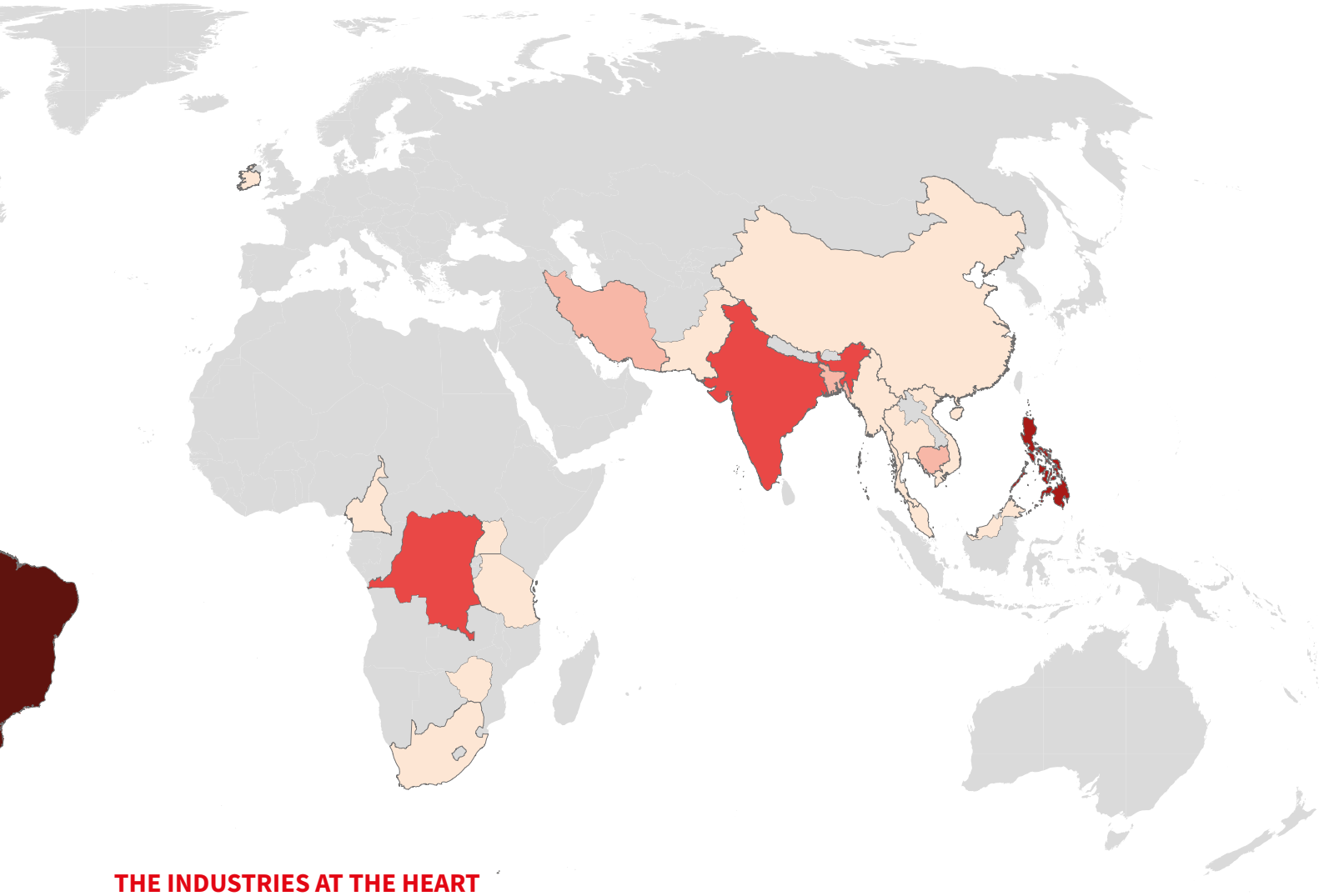
Almost 1000 murders have been recorded by Global Witness since 2010, with many more facing threats, attacks, harassment, stigmatisation, surveillance and arrest.[6] Clearly governments are failing to protect activists, while a lack of accountability leaves the door open to further attacks. By backing extractive and infrastructure projects imposed on local communities without their consent, governments, companies and investors are complicit in this crisis.

In 2016, Latin America accounted for more than 60% of killings. Brazil was the worst country in terms of absolute numbers, with many murders perpetrated by loggers and landowners in the Amazon. Nicaragua had the most killings *per capita*, as indigenous communities suffered violence at the hands of agricultural settlers. However the rise in murders in Honduras last year means the country is still, consistently over the past decade, the deadliest country to be a defender.[7] Colombia saw 37 defenders murdered in 2016 –a paradoxical 40% rise in killings over a year in which the country's peace process progressed.

Asia saw an 18% increase in murders of activists in 2016. The Philippines is consistently one of the deadliest places to defend the environment, with 28 killings in 2016; most linked to struggles against mining. The number of killings in India tripled to 16 in 2016 – police are the suspected perpetrators, shooting protestors in the majority of cases. Violence also soared in Bangladesh, where seven activists were murdered compared to none in 2015.

Defending national parks is now riskier than ever, particularly in Africa where the Democratic Republic of Congo again tops the list. All told, at least 20 park rangers and forest guards were murdered in 2016. Global Witness documented fewer killings in Peru and Indonesia than in previous years, though defenders in both countries continued to be threatened, attacked and criminalised.

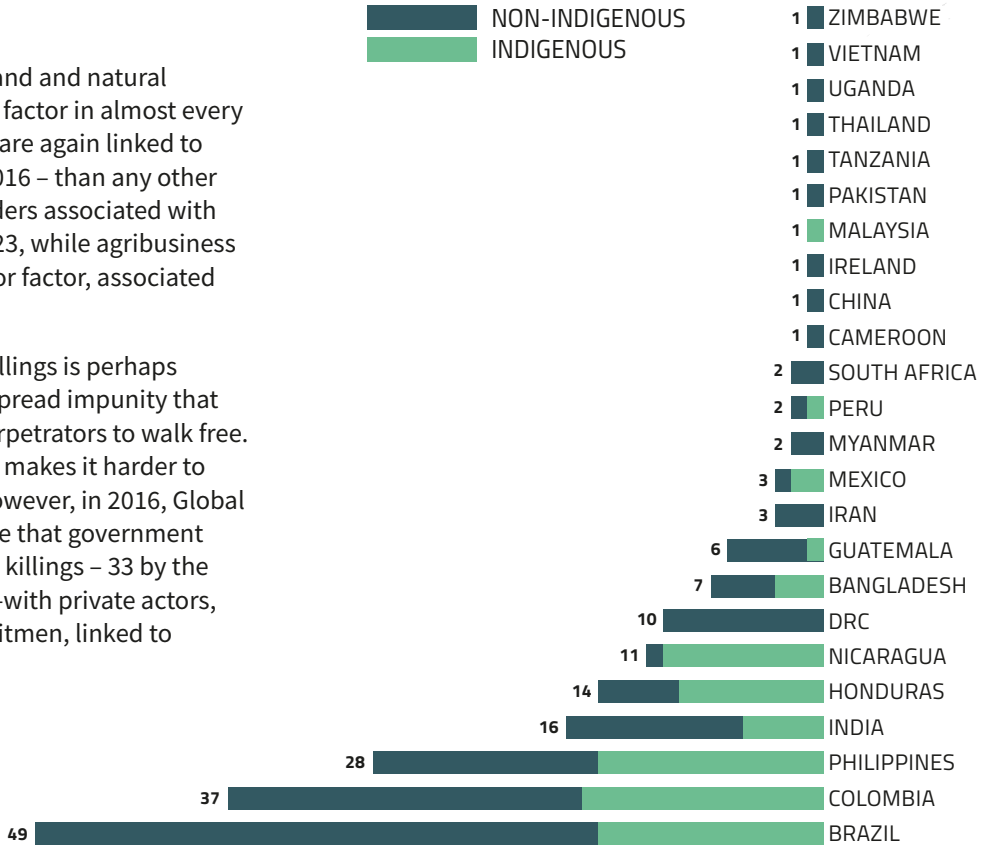
As in 2015, almost 40% of victims in 2016 were indigenous people. And although nine out of every 10 murdered activists were male, women defenders faced gender-specific threats including sexual violence, harassment of their children, and discrimination in their communities.



THE INDUSTRIES AT THE HEART OF THE VIOLENCE

Conflicts over the control of land and natural resources were an underlying factor in almost every killing in 2016. Mining and oil are again linked to more murders – 33 cases in 2016 – than any other industry. The number of murders associated with logging increased from 15 to 23, while agribusiness continued to represent a major factor, associated with 23 killings in 2016.

The upward curve in global killings is perhaps unsurprising, given the widespread impunity that allows the vast majority of perpetrators to walk free. This lack of prosecutions also makes it harder to identify those responsible. However, in 2016, Global Witness found strong evidence that government forces were behind at least 43 killings – 33 by the police and 10 by the military –with private actors, such as security guards and hitmen, linked to 52 deaths.



KEY QUESTIONS

WHO IS AT RISK?

Land and environmental defenders are people who take peaceful action, either voluntarily or professionally, to protect environmental or land rights. They are often ordinary people who may well not define themselves as 'defenders'. Some are indigenous or peasant leaders living in remote mountains or isolated forests, protecting their ancestral lands and traditional livelihoods from mining projects, dams and luxury hotels. Others are park rangers tackling poaching and illegal logging. They could be lawyers, journalists or NGO staff working to expose environmental abuse and land grabbing.

Land and environmental defenders often clash with political, business and criminal interests, who collude to steal their natural resources.

These powerful forces marginalise defenders, branding their actions 'anti-development'. Many defenders face years of death threats, criminalisation, intimidation and harassment, but receive little or no protection from authorities.

These activists defend internationally recognised human rights, such as the right to a healthy environment, the right to participate in public life, the right to protest and the right to life. As such, they are a subset of human rights defenders, meaning that governments are obliged to protect them as set out in the UN Declaration on Human Rights Defenders,[8] whilst business should respect their rights as per the UN Guiding Principles on Business and Human Rights.[9]

WHAT'S DRIVING THE ATTACKS?

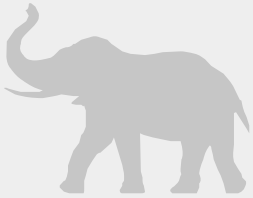
Struggles between governments, companies and local communities over the use of land and natural resources underpinned most of the killings documented by Global Witness. In some cases we could identify the specific sectors defenders had questioned or opposed prior to their murder.

Sector	Total
Mining & oil	33
Logging	23
Agribusiness	23
Poaching	18
Water & Dams	7
Other	4

WHO IS RESPONSIBLE?

With perpetrators rarely prosecuted, it is difficult to know who is attacking defenders or who is ordering those attacks. However, there were cases in which we could identify the following suspected perpetrators:

We identified potential **paramilitary** involvement in 35 cases, predominantly in Colombia and the Philippines. The **police** were the suspected perpetrators of 33 murders worldwide, while **landowners** appeared to be behind 26 attacks. **Private security guards** seem to have been involved in 14 cases. **Poachers** were accused of being behind 13 murders, predominantly in Africa. Other actors associated with murders of defenders were the **military**, **settlers**, **loggers**, **hired gunmen** and **business representatives**.



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WHAT OTHER THREATS ARE FACING DEFENDERS?

Murders represent the sharp end of a range of threats and restrictions facing defenders. According to a recent UN report on the situation of environmental defenders,[10] others include:

Violent attacks

Judicial harassment

Travel Bans

Enforced disappearance[ii]

Sexual harassment

Illegal surveillance

Threats and attacks on family

Blackmail

Death threats

Use of force in peaceful protests

ii See explanatory note on page 45

WHERE THE SITUATION HAS WORSENED

In this section we highlight the situation in three countries that stand out.

Colombia had its worst year on record, in spite – or perhaps because – of the recently signed peace deal.

India has seen killings spike against a backdrop of criminalised civic action and heavy-handed policing.

And the **Democratic Republic of Congo**, the bloodiest country in Africa for environmental defence, in a continent where park rangers are threatened by poachers as much as by industry.

COLOMBIA: PROFIT OVER PEACE

- 37 land and environmental defenders killed in 2016 – by far the worst year on record
- Paramilitaries were the suspected perpetrators in 22 murders
- Following the peace process, returning community members are being attacked for reclaiming land stolen during the conflict, while increased investment intensifies the struggle for natural resources

Jakeline Romero has faced threats and intimidation after speaking out against abuses of powerful corporations in Colombia.
© Christian McLaughlin

Jakeline Romero, a Wayúu indigenous and women's rights activist, received this text message in December 2016: "Don't focus on what doesn't concern you [if] you want to avoid problems. Your daughters are very lovely, so stop stirring other people's pots […] Bitch, avoid problems because even your mother could be disappeared if you keep talking."[11]

Jakeline has faced threats and intimidation after speaking out against abuses committed by paramilitaries and powerful corporations in La Guajira, in Colombia's north-eastern peninsula.[12] As a teacher travelling her region since the age of 18, she had been horrified at the damage being wreaked by the internationally financed Cerrejón coal mine[13] upon the local environment.[14] She was brave enough to take a stand.

"For the Wayúu people we are paying with our lives. We are paying with our culture. We are paying with the threat of being extinguished… Simply because we defend this small piece of land that used to give us enough to eat."[15] Jakeline Romero

One day in 2014, it became clear just what this would mean for her family, when her teenage daughter got out of school and received a call from an unknown number. A voice said: "Tell your family to take care of themselves and of you – because we are going to kill you".[16]

Jakeline is one of many indigenous leaders under threat in Colombia – Global Witness data shows that in 2016 it was the second most dangerous country for communities defending their land or the environment. A staggering 37 activists lost their lives last year, a trend continuing into 2017.[17]

On the surface, it seems strange that this should be happening now. In November 2016, the Colombian government signed an historic peace agreement with the armed guerrilla movement, the FARC, formally bringing an end to half a century of civil war.

So why is violence against land and environmental defenders actually escalating? The answer comes down to a complex struggle for land.

As the FARC demobilises, a dangerous web of militias and paramilitary groups are jostling to control the territories it leaves behind. This brings them into conflict with indigenous and Afro-Colombian communities, who are seeking to reclaim ancestral lands taken from them during the civil war.[18]

At the same time, with the peace deal signed, the government is pushing for increased foreign investment,[19] which has historically put more pressure on indigenous lands from large-scale developments.[20] During the civil war, the multinationals behind such developments were frequently accused of complicity with paramilitary forces guilty of gross human rights violations.[21]

THE ROLE OF MULTINATIONALS

The case of Jakeline and her organisation, the Fuerza de Mujeres Wayúu, is emblematic of an increasingly familiar pattern across Colombia. They had to take a stand against the devastating impact of vast coal mines on their lands because their construction was allegedly imposed on the community without their consent.

El Cerrejón, owned by London-listed companies Glencore, BHP Billiton and Anglo-American, is Latin America's largest open-pit mine. Over the past three decades, Cerrejón's expanding operations have displaced numerous indigenous and Afro-Colombian communities and, the Wayuú allege, depleted and polluted the region's precious water resources, resulting in severe droughts.[22]

The Wayúu claim that they were never properly informed or consulted before the mine's imposition and expansion.[23] Those guilty of threatening Jakeline and her family have not been brought to justice.[24] Against this background, community leaders like Jakeline feel that protesting is the only way to be heard and their only chance of winning justice.

The crisis escalated in 2014 when Cerrejón sought licences to reroute part of the Ranchería River, the main water source and lifeline of the Wayúu.[25] As Jakeline spoke out against the company's plans, the harassment and threats escalated:

"We were opposing the diversion of the river and calling for a meaningful consultation for the affected Wayúu communities. That made us more visible, which is when the situation got more complicated for us. We felt that we were watched. People were asking 'what are these women doing? Who is coordinating things? Who is this Jakeline Romero?"[26]

A recent ruling by the Colombian Constitutional Court ordered the mine to repair environmental damages to one of the nearby communities.[27] Cerrejón had previously denied to the Guardian newspaper that it was generating toxic waste or substances harmful to the local community, and insisted it had taken steps to ensure compliance with Colombian law on air quality.[28] They also condemned

the threats suffered by Wayúu activists in La Guajira and stated they are committed to exemplary ethical behaviour.[29]

However, with community complaints continuing and spokespeople like Jakeline facing threats, it seems more drastic measures are required to end the conflict. As Jakeline says, "The company must freeze operations and start serious discussions with us about whether any of us want this project, how they will remedy the abuses that have taken place, and how our water and our environment can be protected. Especially given their global commitments on climate change."[30]

FAILING TO RECOGNISE, FAILING TO PROTECT

It is not just companies who are failing to protect these environmental and land activists – it is their own public officials. A government programme is in place to protect human rights defenders in Colombia, but according to civil society watchdog Somos Defensores, it is massively under-resourced and failing to do the job.[31] Jakeline is officially 'protected' by the programme, but told us that the support offered was long delayed and completely inadequate.

"To me it seems that this failure to protect, it's a strategy of the state. They threaten you so you will shut up. As a woman and as a Wayúu, I can't shut up. I can't stay silent faced with all that is happening to my people. We are fighting for our lands, for our water, for our lives. This is not peace. There is no peace in Colombia whilst our natural resources are sold like this."[32]

The government's failure to protect defenders is potentially undermining its own drive for peace, as many of these activists are leading the process of reconciliation in their communities. Emilsen Manyoma - leader of the organisation CONPAZ - [33] was just such an activist, working to create spaces free from armed groups in her community, and speaking out against right-wing paramilitary groups and the displacement of locals from their land by international mining and agribusiness interests.[34] She was killed, along with her husband, on 17 January 2017. Their bodies were found with stab and gunshot wounds.[35]

Paramilitaries are thought to be behind 22 murders in 2016,[36] but the government refuses to denounce them, claiming they no longer exist in Colombia since the end of the war.[37] Police and local authorities also seek to blame murders committed by paramilitary forces on "local causes".[38]

There is a blanket denial at the highest level of the government that the killings of indigenous leaders and environmental defenders are systematic. In an interview with the BBC earlier this year, Defence Minister Luis Carlos Villegas proclaimed:

"When a […] member of a social organisation is murdered, what can't be automatic is to generate a link between that person and the defence of human rights or social leadership, which leads to the argument that [these killings] are systematic. […] In these cases, no systematic links have been documented."[39]

The Colombian government must do more to recognise and protect these defenders who are on the front line of the peace process: prosecuting those responsible for ordering and carrying out attacks against them, and prioritising the effective implementation of the country's protection programme. It must also be wary of pushing for large-scale foreign investment in risky sectors and historically violent regions without ensuring human rights are protected. Foreign companies and investors, meanwhile, must not add to the death toll by seeking profit over peace.

37 land and environmental activists in Colombia were killed in 2016 – the deadliest year on record. © Rafael Ríos

INDIA: STAMPING DOWN ON PROTEST

- 16 land and environmental defenders killed in 2016 – the worst year on record
- Police were the suspected perpetrators in 10 cases, while logging and mining were the main industries linked to murders
- State repression is on the rise with civil society and human rights defenders subjected to increased criminalisation

In February 2016, Manda Katraka, a 21-year-old Dongria Kondh tribesman, was ambushed by local police and shot dead.[40] Manda was attacked when collecting natural liquor from the forest with his friend Dambaru Sikaka for a local celebration.[41] Dambaru heard gunfire and saw security forces carrying Manda's body away. Local leaders of the Dongria Kondh claim the state has declared war against them to safeguard mining interests.[42]

Murders of environmental and land defenders have shot up dramatically in India. Global Witness recorded six murders in 2015. A year later, in 2016, India had become the fourth deadliest country in the world, with 16 killings. It is a sign of rising state repression and the criminalisation of civil society.

When the Dongria Kondh filed complaints with the police and staged protests demanding that Manda's killers be charged, the security forces dismissed them and labelled Manda a Maoist insurgent. Prafulla Samantara, a social activist and winner of this year's Goldman Prize for environmental defenders,[43] told us:

"In India, they say we are Maoists and extreme leftists. But we are democratic, we are non-violent. […] I am branded as anti-development by the corporates, by the ruling class and by the police who say we are a threat to law and order."[44]

For over a decade, the Dongria Kondh have protested against mining in their sacred Niyamgiri Hills. In 2004, UK-based mining company Vedanta Resources launched a US$2 billion project in partnership with Odisha State to build a massive open-pit mine to extract bauxite, an ore used to make aluminium. It was feared the mine would destroy large areas of forest, pollute vital water sources and force members of the Dongria Kondh tribe to leave their lands.

Prafulla knew that the Dongria Kondh were in the dark regarding the proposed mine; the only public hearing was held far from the planned site and in a language the Dongria Kondh do not speak. He travelled from village to village to warn the tribe of the coming threat, and helped it organise peaceful protests.

Prafulla Samantara was physically assaulted and intimidated during his campaign to ensure the respect of tribal people's rights in north-eastern India. © Goldman Prize

"They say I am against the nation's development, but I am doing my duty as a citizen of India. Our constitution says that we have a responsibility to preserve and to protect our resources and also the rights of the people." Prafulla Samantara

Prafulla filed a petition with India's Supreme Court, which made an historic ruling in favour of the Dongria Kongh's right to vote on the Vedanta mine. By August 2013, all 12 tribal village councils had unanimously voted against it. In August 2015, in a major victory for the Dongria Kondh, Vedanta announced the closure of an aluminium refinery it had built in anticipation of the mine's opening.[45]

However, Prafulla says that police violence against the indigenous people who opposed the mine has only

increased since the court ruling.[46] He too has been physically attacked and intimidated by "hired goons" he believes are connected to the company. Meanwhile Vedanta are eyeing up new mining investments in Odisha and the neighboring state of Chhattisgarh.[47]

In response to the abuse suffered by the Dongria Kondh, the Church of England did the right thing and divested its shares in Vedanta, which totalled £3.8 million,[48] as did the Norweigian pension fund. It told the company "There continues to be an unacceptable risk that your company will cause or contribute to severe environmental damage and serious or systematic human rights violations."[49] The World Bank Group's private arm, the International Finance Corporation, supported Vedanta indirectly via its financial intermediary investments in Axis Bank[50] and YES Bank.[51]

Whilst Vedanta accepts it did not engage effectively with local people prior to the unanimous vote against the mine, it points out that it relinquished rights in the Niyamgiri Hills in 2015 without mining commencing and says that there were never any displacements, relocations or human rights abuses resulting from its activities there. Vedanta also told Global Witness it played no part in any intimidation suffered by Prafulla, whilst expressing sympathy, emphasising that rigorous adherence to ethical business practice is expected of its employees and suppliers who work under codes which address such issues. The company is committed to sustainability and local development initiatives, it says.

RISING TIDE OF POLICE BRUTALITY

The murder of Manda and the repression of the Dongria Kondh is part of a disturbing trend of increasing police brutality in India, with the Modi administration determined to stifle opposition to 'development' policies by any means necessary. Nearly half of the defenders Global Witness recorded were killed when engaging in public protests and demonstrations.

Elsewhere, the Adivasi tribespeople too have been brutally repressed for opposing large-scale mining in Chhattisgarh. They've been subjected to a crushing combination of alleged land grabs, intimidation and criminalisation by government and legislative representatives. They've been threatened and attacked for resisting eviction, and protestors have been detained.[52]

Writer and social activist Rinchin has been working alongside the Dalit Adivasi Mazdoor Sangathan, who are part of the wider 'save Chhattisgarh' movement, known as Chhattisgarh Bachao Andolan for the last six years.

"There is a complete breakdown of the law. Large numbers of the Adivasi population are illegally losing their land to corporations, through land grabs."[53]
Rinchin

Tamnar Block in Raigarh district of Chhattisgarh is the site of one of the struggles. The previous owner, Jindal Power Ltd, is accused of duping villagers out of their land, and the current operator South Eastern Coalfields Limited (SECL), has refused to take responsibility for displacing people and causing pollution. Out of desperation, the Adivasi began to blockade the coal mines.

Rinchin says: "In July there were women standing in pouring rain for seven days, eating and sitting in coal dust in front of the mine. The sub-divisional magistrate (SDM) came and there was an agreement that [positive action would be taken by the companies and the government] these things would be done. But when this never happened, in November around 500 people executed the blockade, listing the demands again, including a demand for jobs. This time government was harsher.

"When people stood their ground and would not leave, the SDM came and started shouting that he would penalise anyone he found on that spot and every outsider who was there… would be dug into the ground. Under massive pressure we had to take back our coal blockade with the promise that next day most of the demands would be met.[54]

Mine operator Jindal denies that any land it mines in Chhattisgarh was acquired other than by due process of the law and that any displaced persons had the

Social activist Rinchin has been supporting local communities in their struggle against coal companies grabbing their land and causing pollution. © Ravi Mishra/Global Witness

Under Indian law, indigenous communities must be consulted before any development project takes place. In practice, these rights are often cast aside.
© Ravi Mishra/Global Witness

opportunity to make representations and received the compensation prescribed by Indian law. Additionally Jindal makes significant investments in local communities and infrastructure, it says.

SECL has said that it took on operations from Jindal in 2015, being satisfied that Jindal had acquired lawful rights for the mining and had paid appropriate compensation. SECL has continued to employ many displaced by the mining and undertaken a variety of initiatives to improve the local environment, education and facilities, it says.

"None of the demands have been met by the government or the company." Rinchin

CLAMPDOWN ON CIVIL SOCIETY

National legislation giving communities the right to be consulted is often ignored.[55] The government is even manipulating the law to clamp down on NGOs that support indigenous tribes in defending their rights in the context of large-scale mining and dams.

In April 2015, the government revoked Greenpeace India's registration under the Foreign Contribution Regulation Act, preventing it from receiving overseas financial backing in an effort to halt its operations. In November 2016, a further 25 NGOs, most of them human rights organisations, also had their licenses revoked under the Act. Media reports quoted unnamed officials from the Ministry of Home Affairs as saying that the NGOs were denied licenses because their activities were "not conducive to the national interest".[56] UN experts say these revocations are illegal under international law.[57]

The Modi administration's shrinking of civil society space is particularly disturbing when viewed in parallel to the government's aggressive pursuing of foreign investment for large-scale infrastructure, power and mining projects, and apparent disregard of local, particularly indigenous, voices. Under Indian law, these communities must be consulted before any development project takes place. In practice, these rights are often cast aside.

The Indian government should embrace the mobilisation of local communities, harnessing their knowledge to bring about sustainable and mutually beneficial development, rather than continuing the collision course which has seen a surge in the murder of activists, often at the hands of state forces.

DRC: PARK RANGERS UNDER ATTACK

- 10 defenders killed in the DRC in 2016 – the highest number in Africa
- 9 of those killed were park rangers
- The DRC government is threatening those campaigning against abuses in the natural resource sector

Natural predators are the least of Rodrigue Katembo's worries as chief warden of Upemba National Park. This 10,000km area of outstanding natural beauty and rich biodiversity in south-eastern Democratic Republic of Congo (DRC) is also home to armed groups and criminal gangs.[58]

When Global Witness spoke to Rodrigue about the job's challenges, he told us: "My predecessor was ambushed and decapitated by Mai Mai rebels. Upemba is very risky. The ranger team has no social support, no material support, no food. They're unable to even take their kids to school."[59]

Well-armed poachers have also killed park rangers. These violent murders are part of a disturbing trend across Africa. In the past year, Global Witness has documented similar killings in South Africa, Cameroon, Uganda and Zimbabwe.[60]

The threat of violence forced Rodrigue to abandon his previous post at Virunga National Park – a UNESCO World Heritage Site and home to some of the world's last remaining mountain gorillas.[61] Half of DRC's murdered park rangers in 2016 worked in Virunga, where exploration by extractive companies has multiplied the risks for rangers, who are already at threat from the poachers operating in the park.

In 2007, the DRC government granted companies rights to explore for oil over 85% of Virunga's territory.[62] Aware of the devastation that oil drilling could wreak, Rodrigue made an extraordinarily courageous decision. He went

Park ranger Rodrigue Katembo risked his life to uncover shady dealings that threatened Africa's oldest national park. © Goldman Prize

"When you look at what has been happening around the mining exploration, when you look at the ambush against the park director [...] when you look at all these incidents, there is no investigation, there is nothing, there are no steps that have been taken to look into these crimes."[77]
Rodrigue Katembo

undercover with a film crew to expose the corruption and private interests behind the park's exploitation; a move which was likely to put his life in grave danger.

REVEALED: THE SHADY TRUTH

The resulting documentary, the Oscar-nominated *Virunga*, was released in 2014. It provides compelling evidence that British oil company Soco International benefited from the 'climate of violence' in and around the park in its pursuit of Virunga's oil.[63]

It includes undercover footage of Rodrigue being offered thousands of dollars to spy on the park's director, Emmanuel de Mérode, and report back to Major Burimba Feruzi, a Congolese intelligence officer regularly paid by Soco. De Mérode was subsequently shot and wounded in April 2014, in an apparent assassination attempt as he returned to the park having reportedly delivered evidence of suspected corruption for the public prosecutor.[64] There is no evidence that Soco were connected with the attack.[65] The film also captured a Soco official and one of the company's contractors appearing to admit that Soco paid off armed rebels who operated in the park and might encroach on the search for oil.

Further evidence released by Global Witness in June 2015 showed that the same Congolese intelligence officer who tried to bribe Rodrique received US$42,250 (equivalent to over 30 years' salary for a Congolese army Major) from Soco in spring 2014.[66] There is also evidence that Soco paid a local MP, at the time a government minister, to campaign on its behalf.[67] The MP helped organise payments to local organisations to hold a pro-oil demonstration in the park.

Soco has stated that it never employed any Congolese soldiers, and that any financial arrangements were "above board" and agreed with the Congolese government.[68] It said that it treats any allegations of this nature with the "utmost seriousness" and that the company is "committed to operating under the best business practices".[69] In a 2014 letter to Global Witness, Soco denied breaching UK bribery laws and condemned the use of violence and intimidation.[70]

Virunga exposed Soco's *modus operandi* to the world. It prompted the Church of England to divest its total holdings of £1.6 million in the company in July 2015,[71] and the EU Parliament to adopt a resolution seeking to prevent oil exploration in the park and neighbouring areas in December of the same year.[72] The EU parliament also called on the UK's Serious Fraud Office to investigate all bribery and corruption allegations relating to Soco International.

FEARS FOR THE FUTURE

There is no guarantee this story will have a happy ending, as Soco's oil exploration may increase pressure for Virunga to be opened up.[73] The Congolese government may yet hand the oil licence to another company. Web news service *Africa Intelligence* ran an article in May this year on how the state-run exploration company Cohydro has been in talks with a little-known firm Quest Oil International, which is reportedly linked to Soco, over the transfer of drilling permits in the park.[74]

And, every day, Virunga's rangers continue to risk their lives to protect Congo's wildlife. Rodrigue has fought off numerous armed attacks and suffered death threats.[75] In September 2013, he was arrested on spurious charges and tortured for 17 days.[76]

Rodrigue told us that the government provides no protection to the rangers, or compensation to the families of those who have died.[78]

"The only thing keeping me motivated to stay in Upemba is that the guards trust me and want me to stay. If I were to leave, all the other guards would desert and the poaching would start again. Then you would have a park with no wildlife. I am staying there for them."[79]

A CONTROVERSIAL HISTORY

Conservation efforts in the DRC have a controversial history. The creation of national parks has impacted local communities, leading to human rights abuses, loss of livelihoods and even conflict between park rangers and local people.[80] These communities are not always consulted before national parks are created, and face restricted access to their lands and resources, upon which their lives depend.[81]

What is more, the DRC is an increasingly unsafe space for civil society to operate, with more and more national and international activists facing trumped-up legal charges because of their work.[82] Indeed, Global Witness staff were thrown out of the country last year.[83] The febrile political climate in the DRC has exacerbated this problem.

THE CONTEXT FOR KILLINGS

Defenders need protecting from the threats they face. But the only way for these threats to be prevented in the first place, is if their **root causes** – such as land disputes, state and corporate corruption, and impunity for crimes against activists – can be addressed and eliminated.

In the cases Global Witness has come across the world over, there is one root cause of violence against defenders that stands out above all others: **denying communities the right to take informed decisions about the use of their land and resources.**

This section looks at how this key root cause might be tackled.

It also examines the shared **responsibility** for protecting defenders, analysing the role of **development banks and other investors**. Finally, recognising that murder is just the sharpest end of the range of threats facing defenders, we look at how those protecting their land and the environment are being **criminalised** around the world.

Excluding communities from decision making on their land and natural resources leads to conflict and violence against activists. © Goldman Prize

THE ROOT CAUSE: A LACK OF COMMUNITY CONSULTATION AND CONSENT

Imagine waking up one day to discover that the land your family has lived on for generations has been leased to developers. You have to be out by the time the bulldozers arrive. You can't see the documents behind the deal, you won't get any compensation. And if you don't go quietly, armed men will make you wish you had.

This kind of 'land grab' is happening more and more often, as investors scramble to acquire cheap land for everything from pineapple plantations, to logging and mining. It is this lack of community consultation and consent that sparks many of the conflicts and ultimately the murders documented by Global Witness.

WHEN THE BATTLE LINES ARE DRAWN

When communities have their land, forests and rivers taken from them without their permission or even knowledge, they are given little choice but to take a stand. They become defenders.

At the same time, the companies and investors that are taking the land, forest or river harden their position. Their project has already been approved, they have invested resources, so they have more to lose. They no longer hope to make money, they expect to. The stakes are higher, and so are the incentives to silence dissent. The battle lines have been drawn.

Time and again, this dynamic and its deadly consequences are played out globally. When communities are excluded from the beginning, they are more vulnerable to attacks later.

In Ethiopia's Omo Valley, a US$1.8 billion hydro-electric project has recently been completed.[85] With impacts upon the local lake, river and soil, the project threatens the livelihoods of thousands of people who depend on fishing, cattle grazing and planting crops to survive.[86] It also risks damaging the environment on both sides of the border with Kenya.[87] Proper plans weren't published; the communities weren't freely consulted.[88] They were forced to protest.

In the ensuing conflict, those demanding their rights have faced violence, harassment and arrest.[89]

"If communities and environmental defenders were active partners in the design of [business] projects from the very beginning, it would make them less vulnerable to attacks later"[84] – UN Special Rapporteur on human rights defenders

THE LEGAL AND BUSINESS CASE FOR CONSULTATION

International law (see page 23) sets out communities' rights to participate in decisions about how their land and natural resources are used.

There is also a strong business case for proper consultation: excluding communities from decision-making tends to lead to social conflict, stalled projects and legal disputes, which all come with severe financial and reputational risks. Consulting communities tends to lead to more collaboration, contributing to a stable operating environment and helping businesses overcome local obstacles.[90]

Projects should never begin or evolve without the free, prior and informed consent of affected communities. Local residents have the right to say no. They should be able to participate in critical processes such as human rights, environmental and social impact assessments for projects like mines, dams or highways. When governments fail to guarantee these rights, companies and investors have a duty to uphold them before pushing ahead.[91]

Yet rights to participation and consent are frequently violated. Even when supposed community consultations occur, individuals are often put under duress, denied full information, or only convened when crucial decisions have already been taken behind closed doors. Indigenous people often suffer disproportionately. Project information rarely exists in languages and formats which the local community can access and understand, and violence is often used to force 'agreement': almost 40% of the murders Global Witness documented in 2016 were of indigenous leaders.[92]

In Malaysia, for example, it is alleged that the state-owned company behind a series of planned hydroelectric dams manipulated community consultations, selecting participants and threatening elders.[93] Unsurprisingly, many locals are opposed to the initiative, which would submerge forests and force around 20,000 indigenous people from their land.[94] Opponents have faced threats and harassment.[95] In a rare move, the local Sarawak government cancelled the most controversial project, the Baram Dam, in early 2016.[96]

Consulting properly can prevent conflicts, keep activists safe and secure the future of projects beneficial to both company and community. For example, after over two years of consultations, Engie's wind farm in France is expected to operate for over 20 years without costly protests.[97]

It also allows communities to say no. In Cajamarca, Colombia, for example, South African giant AngloGold Ashanti hopes to install Latin America's biggest mine, sourcing gold from an open pit.[98]

A popular referendum in March saw 98% of residents vote against the project, and prevented tense protests from escalating.[99] This may not be the end of the story though. Mining Minister, German Arce, has suggested the referendum's result might not be implemented, while the company is yet to confirm its withdrawal.[100]

The eyes of many are following the case, to assess whether the Colombian Government and AngloGold Ashanti have learnt a lesson which all governments and businesses need to grasp: that only by guaranteeing the meaningful participation of affected communities and respecting their right to veto a project, can abuses be prevented and the safety of local activists guaranteed.

Governments and business are responsible for ensuring that free, prior and informed consent is guaranteed before projects go ahead. © Giles Clarke/Global Witness

INTERNATIONAL LAW ON FREE, PRIOR AND INFORMED CONSENT[iii]

International law, guidance and practise protect the principle that all communities should be able to make free and informed choices about whether and how their land and natural resources are used and developed, with individuals having the right to say 'no' to business projects which affect their rights, their land or their environment.

International experts have developed a number of tools exploring what proper free, prior and informed consent (FPIC) should look like in practice,[A] but key principles include:

- **FREE – nobody should be coerced, intimidated, or manipulated into giving their approval to a project. Where defenders are under threat, therefore, conditions for FPIC do not exist.**
- **PRIOR – sufficient time should be given for decision-making before bidding for licences and land takes place, and before each significant study, change or phase in a project.**
- **INFORMED – communities must have all the information they need. The information must be objective, accurate, and accessible in their native language.**
- **CONSENT – the right to veto a project should be guaranteed. Consultation is not consent.**

Under international law, the right to give or withhold FPIC is best understood as an expression of the right to self-determination. It can be interpreted as applying to all self-identified peoples who maintain customary (ie. administered under traditional systems and customs) relationships with their land and natural resources,[B] particularly indigenous peoples. This is enshrined in International Labour Organization Convention 169 on Indigenous and Tribal Peoples[C] plus the UN Declaration on the Rights of Indigenous Peoples,[D] and reiterated by a range of expert guidance.[E]

However, there is an increasing recognition that the principle of FPIC should be applied to *all* communities whose land, resources or rights might be affected by a business project.[F] The right of every citizen to participate in public affairs has long been outlined in the International Covenant on Civil and Political Rights,[G] whilst the UN Declaration on the Right to Development is clear that all individuals should be able to participate freely and meaningfully in development and its benefits.[H]

The UN-REDD Programme, aimed at preserving forests to reduce carbon emissions, states that FPIC is a means to ensure "the full and effective participation of relevant stakeholders [including…] local communities".[I] Regional conventions have reiterated the need to guarantee public participation,[J] and the UN Special Rapporteur for the right to food has asserted that "any shifts in land use can only take place with the free, prior, and informed consent of the local communities concerned."[K] The palm oil sustainability watchdog RSPO agrees that FPIC is a requirement for all potentially affected communities;[L] a principle reinforced by Michelin Tyres,[M] the Colombian Constitutional Court,[N] and government agencies of Indonesia,[O] amongst others.

As well as governments, business also has the responsibility to ensure that FPIC is guaranteed before projects go ahead. The UN Guiding Principles on Business and Human Rights not only underscore the business duty to respect international human rights law, regardless of the capacity or will of the state to enforce it, but also reiterate the importance of meaningful consultations with potentially affected groups.[P] IFC Performance Standard 7 too articulates expectations upon investors in regards to the necessary consent of communities with customary relationships with their land.[Q]

iii See explanatory notes on page 45

NICARAGUA – DIVIDED FOR PROFIT

- 11 defenders killed in 2016 – making it the most dangerous country in the world *per capita*
- 10 of those murdered were indigenous people, with most killed in conflicts with settler communities over land. Meanwhile rural ‘campesino’ defenders faced threats, harassment and attacks, including for opposing the construction of an inter-oceanic canal
- Activists were increasingly criminalised: foreign environmentalists were expelled, community leaders arrested and legislation passed restricting freedoms of speech and association

“We have carried out 87 marches, demanding that they respect our rights and we have had no response. The only response we have had is the bullet.”[102]
Francisca Ramírez

Francisca Ramírez, a 39-year-old mother of five, is fighting to prevent her country from being carved in two. She has been threatened, assaulted and arrested for opposing plans for an inter-oceanic canal that would force up to 120,000 indigenous people from their land.[103]

In October, one of her children was beaten by men in military uniform.[104] According to campaigners, more than a hundred protesters have been imprisoned.[105] In an attack against a march, Francisca told Global Witness a member of her community lost an eye and another was shot in the stomach.[106]

In 2013, the Nicaraguan government signed into law a 100-year concession to a Chinese company, the Hong Kong Canal Development Group (HKND).[107] It permitted the company to build a canal that will slice through the middle of the country, connecting the Atlantic and Pacific oceans. This major new shipping route will be three times the size of the Panama Canal.[108]

It is already a striking example of the conflict caused by not consulting communities over large-scale development projects.

THE GREEN LIGHT WITHOUT CONSENT

Francisca first heard about the canal when developers arrived in her village to inform the community that their land would be wiped out. Francisca looked in more detail at the government's plans and found they contravened international law.[109] She joined, and later led, a grassroots campesino organisation, the CDTLS,[110] calling on the Nicaraguan government to respect the rights of rural communities and revoke Law 840, the legislation that granted the canal concession to HKND.

Such an enormous project should have been preceded by careful consideration of the environmental consequences and extensive public debate. In fact, HKND was granted the concession without a bidding process and with no prior environmental impact assessment.[111] Law 840 was rubber-stamped by parliament in one week, with no amendments and no public consultation.[112] According to analysis by Nicaraguan lawyers, Law 840 violates 40 articles of the Nicaraguan constitution and grants extraordinary powers to the Chinese company, including the right to expropriate whatever land it deems necessary.[113]

Incredibly, HKND is also exempt from any liability for breach of contract, so it would bear no responsibility if the project failed or wreaked environmental destruction on Nicaragua.[114]

STANDING UP TO HAVE A SAY

Francisca has rallied *campesino* groups from around the country who will be adversely affected by the canal to call for a meaningful say in its development. In June 2015, 30,000 people gathered for an anti-canal protest – Francisca organised 40 trucks so her community could attend.[115]

But her opposition came with a heavy price: Francisca and her family were repeatedly assaulted.[116] "The children live in fear," she says.[117] In response, the European Court of Human Rights passed a resolution urging the Nicaraguan government to "refrain from harassing and using acts of reprisal against Francisca Ramírez and other human rights defenders,"[118] and establish a public process to assess the environmental impact of the canal.

President Daniel Ortega's government recently tried to negotiate in secret with Francisca, but she refused.[119]

"The government wants to talk to us behind closed doors, but the position of the campesinos is that we are prepared to have an open and public dialogue, because we don't want anything to be hidden."[120] Francisca Ramírez

Resistance to the canal takes place against a terrifying backdrop of multiple murders in indigenous communities elsewhere in the country which have stood up against the arrival of argricultural settlers and demanded the government guarantee their land rights.[121] Even requests by the Inter-American human rights system haven't spurred the government into protecting community activists from being disappeared, mutilated and murdered.[122]

Tangible improvements in the government's attitude to dissenting voices are necessary if defenders like Francisca are to be kept safe, and the spirit of the European Court resolution fulfilled.

Yet the contrary is currently the case: laws restricting free speech have tightened, human rights defenders have been arrested, and environmental activists expelled from the country.[123]

The Nicaraguan government must reverse these conditions and safeguard the participation of local communities in decisions regarding business projects. If not, its status as the world's worst country *per capita* for land and environmental defenders will continue.

HONDURAS –SILENCED FOR SPEAKING UP

- 14 defenders killed in 2016 – affirming Honduras as the most dangerous country *per capita* over the last decade, with 127 murders since 2007
- Hydro dams and agribusiness were the industries most linked to murders
- Widespread corruption, a lack of community consultation, and the government's failure to protect activists are the driving forces behind the attacks

"Mother Nature – militarized, fenced-in, poisoned – demands that we take action."[124] Berta Cáceres, COPINH

The brutal murder of Honduran activist Berta Cáceres shocked the world. Around midnight on 2 March 2016 gunmen broke down the door of her home and shot her dead. Cáceres, mother of four, lost her life because she opposed the construction of the Agua Zarca hydropower dam on her community's land. She was one of 14 land and environmental activists killed in Honduras in 2016 – making it the most dangerous country in the world over the last decade to be a defender.[125]

It did not have to be this way. Cáceres was only forced to take a stand because the indigenous Lenca people, whose access to the Gualcarque River - with which they hold significant spiritual ties - was set to be affected by the dam, were never consulted on its development by the Honduran state or the company contracted to build it, Desarrollos Energéticos SA (DESA).[126]

FAILING TO CONSULT

The ex-mayor who granted the dam's licence is facing charges for his failure to consult with the Lenca.[127] It is a welcome development, but it has not halted the construction of the dam, or the threats, violence and murders against members of the organisation Cáceres led, the COPINH.[128] When asked to comment by Global Witness, DESA has denied any involvement in the murder of Berta Cáceres or in any other violence linked to the Agua Zarca dam.

The UN Special Rapporteur on indigenous rights visited Honduras in April 2017 and said the state's failure to consult indigenous peoples had forced them into "peaceful protest, which unfortunately has resulted in the criminalisation of those who defend their lands."[129]

The same tragic pattern has also played out in other communities across Honduras.

In Santa Elena, for example, villagers first heard of the Los Encinos dam when bulldozers arrived late at night to begin construction. Community member Ana Mirian helped organise a series of peaceful protests, calling on the company to formally consult with those who would be affected.[130] The company's response, with apparent backing from powerful state actors,[131] was to arrange for a sham consultation in October 2014. Eyewitnesses attest that around 600 El Salvadoran nationals were transported over the border to forge signatures agreeing to the dam on behalf of the local community.[132] The list of signatories is missing from the official minutes of the consultation.[133]

REFUSING TO BE INTIMIDATED

Ana Mirian continued fighting to give her community a say, but has suffered brutal consequences. In October 2015, her home was raided by 30 heavily armed men, including soldiers and police.[134] They held guns to her children's heads, and savagely beat her and her pregnant sister-in-law, who lost her baby.[135] A few months later, Ana Mirian lost all of her family's belongings in an arson attack on her home.[136] But she refuses to be cowed.

"We must keep up the fight, we can't be frightened by all the killings that have happened. We must not lose our spirit, our children's future depends on it."[137] Ana Mirian Romero

When asked to comment by Global Witness on these allegations, the sole Director of the Los Encinos dam project, Arnold Castro denied any responsibility for attacks against indigenous activists.

In spite of the international outcry that followed Berta Cáceres' death, the Honduran government is still failing

Ana Mirian was savagely beaten, almost losing her baby, after speaking out against a hydro dam planned on her community's land. © Front Line Defenders

to support and protect land and environmental activists, some of whom are also grappling with aggressive legal cases being brought against them. In February 2017 the dam company Cáceres opposed filed civil charges against activist Suyapa Martínez, who had been vocal in demanding justice for the murder of Berta Cáceres, demanding US$40,000 in damages for releasing "inexact and prejudicial information" about the company. The case was thrown out.[138]

The Honduran government's response to a recent Global Witness report on the reasons behind attacks on land and environmental defenders in the country was emblematic. Whilst some officials opened their door for a frank dialogue, a congresswoman filed a case against us, a Minister called for our arrest and, rather than meeting with us, the President set about questioning our report´s veracity.[139] Business representatives were equally belligerent.[140]

Yet the country does possess a valuable opportunity to tackle one of the root causes of threats against defenders, given current negotiations around a proposed law on the free, prior and informed consent of indigenous and afro-Hondurans regarding the use of their land. It is crucial that this chance isn't lost, meaning the government must heed recent calls from the UN and include indigenous and environmental organisations, like Cáceres' COPINH, in defining the law.[141]

INVESTOR RESPONSIBILITY: BACKING BLOODY BUSINESS

Another troubling dimension to the brutal murder of award-winning environmentalist Berta Cáceres was the role of investors. For years, the Dutch Development Bank (FMO) and the Finnish Development Bank (Finnfund) continued to bankroll the hydroelectric project Berta opposed, even after she and others had reported numerous threats and attacks. The banks only spoke out when Berta's murder was met with international outcry, and announced their withdrawal from the project only when an employee of the company they were investing in, was arrested for alleged involvement in the killing.[142] Had they acted sooner, Berta might still be alive and their reputations might still be intact.

In the vast majority of cases, land and environmental defenders are threatened because they have questioned or opposed a commercial project. This means that companies and investors have the power to support defenders, and ensure that communities can express their views on, and even protest against, projects without facing threats or attacks. With much of the violence driven by the thirst for profit, those who hold the purse strings can be a force for good.

THE ROLE OF DEVELOPMENT BANKS

The Berta Cáceres case shows that this is not only an issue for private investors. Disgracefully, even those international institutions charged with stimulating growth in developing countries are often part of the problem. Many of the projects that give rise to threats, murders or attacks are financed by development banks, whether multilaterals like the World Bank and the IFC, or national institutions like the FMO and Finnfund.

In 2016 a coalition of 169 NGOs from around the world called on development banks to "do everything within their powers" to ensure the public can have a say about the projects they finance. They demanded that defenders be able to "hold [development banks] to account without risking their security".[143] Many organisations have also called on the FMO to learn lessons from the Berta Cáceres tragedy and include strong provisions for the protection of defenders in its sustainability and human rights policies.[144] Generally, the banks' responses to these calls have so far been sorely insufficient.

WHAT INVESTORS CAN DO

To prevent fuelling violence, investors should pay special attention to countries and sectors where defenders face the greatest risks, ensuring this analysis forms part of an extensive due diligence process. If any proposed investment can't reliably ensure that abuses of the rights of defenders are prevented, then the investment shouldn't go forward. Failure to carry out or adhere to this due diligence could have significant impacts upon the project, with a company potentially losing its risk insurance cover for example, and thus making the venture unviable. Where they do choose to do business, investors must develop specific policies and take actions to prevent and respond to any threats that defenders might face.

They should talk to the communities affected by their projects, to assess whether they feel safe and listened-to when they raise objections or concerns. They should evaluate whether or not information about the business is available in languages and formats that local people can easily access, so they can effectively engage in decision making. If these conditions are not in place, then investment should be frozen.

Investors should never stand idle as defenders are threatened or attacked for voicing opinions on the projects which they, or their intermediaries, finance. The minimum they can do is to raise concerns with the local authorities, their shareholders and their clients; using their leverage to minimize harm. They should condemn the threats publically, and open dialogue with those at risk to understand what other measures they can take to protect them and remedy any harm done.[145]

As things stand, the silence of many investors is putting those who speak out against their projects at even greater risk.

Extractive companies and their investors have a duty to speak out when communities opposing their projects are threatened and attacked. © Ravi Mishra/Global Witness

Silence is interpreted as a green light by those wishing to repress defenders. Shareholders and consumers may conclude that investors actually *condone* attacks against activists. Investors must act as soon as a threat is made. They can't wait for a direct link to be proven through prosecutions – which are highly uncommon – or through the testimony of clients or governments, who are often trying to cover their tracks.

For example, the HidroItuango hydroelectric project in Colombia continues to be financed by the Inter-American Development Bank (IDB)[146] and its private financing arm, the Inter-American Investment Corporation (IIC).[147] The Colombian Ombudsman's Office[148] and UN experts[149] have documented that members of the local community and of the organization Rios Vivos have faced threats and attacks in response to their opposition to the project. Rios Vivos has even denounced assassinations of its members.[150]

Yet the IIC does not appear to have taken this evidence into account, suggesting it continues to rely upon its client company as its sole source of information. It has not acknowledged any responsibility, nor taken clear steps to minimize the risk of future attacks or secure remedy for the defenders already affected. Its reluctance to act has arguably left local activists, the project's future and the Bank's reputation all at risk.

Investors must ensure the impact they have on defenders is positive. For as long as the investment keeps flowing while the threats and attacks continue to occur, lives will be lost, and business will be bad.

Responses by the World Bank and others to soaring violence have been sorely insufficient. © 2015 Anadolu Agency / Getty

THE LEGAL AND BUSINESS ARGUMENTS FOR INVESTOR ACTION

There is both a business case and a legal imperative for investors to engage with and protect land and environmental defenders.

Affected communities' and defenders' local expertise is essential for investors to identify, prevent and mitigate human rights abuses, therefore minimizing adverse business impacts resulting from financial and non-financial legal, reputational, operational, and regulatory risks.

Their local knowledge can help investors navigate specific laws and contexts, establish risk management procedures, and design effective grievance policies, mitigation strategies and remediation mechanisms, building strong foundations for a project's long-term security and effectiveness. By engaging defenders, investors are better prepared to prevent and mitigate negative human rights impacts and build relationships with local stakeholders.

This approach can minimise the risk of community conflict and social strife, which often lead to interrupted production, security costs, crisis management, litigation and negative reputational impact. In other words, projects are more likely to be successful and sustainable.

Ethical business and the management of environmental, social and governance risks are often rewarded by both consumers and markets. What is more, a context in which defenders are safe is a context conducive to business stability too. Both benefit from transparency, rule of law and civic freedoms

International law – interpreted via the UN Guiding Principles on Business and Human Rights – obliges investors to respect the right of citizens, including defenders, to express their views on and protest against business activities.[151] Investors must therefore guarantee that they, their clients and contractors, refrain from harming defenders or impeding their rights. They should heed the Guiding Principles' recommendation to engage with all stakeholders, including defenders.[152]

Investors should implement policies and practices guided by the UN Declaration on Human Rights Defenders, which articulates how existing human rights law should be applied to protect defenders. They should also be led by international norms and good practises concerning community participation and free, prior and informed consent (see page 23).

THE PHILIPPINES: COAL AND THE IFC

- 28 defenders killed in 2016 – the highest number in Asia for the fourth year running
- Most murders were linked to mining, coal and extractive industries, whilst half of those killed were indigenous people
- The government's regulatory rhetoric on mining is contradicted by a discourse threatening defenders

"The World Bank is masquerading as an institution that is concerned about climate change. But here they are indirectly funding coal projects, funding projects that led to the death of an environmentalist."[153] Valentino de Guzman, Philippine Movement for Climate Justice

On the evening of 1 July 2016 Gloria Capitan was chatting with a friend inside her family's karaoke bar when armed assassins on motorbikes shot her dead at close range. Gloria's eight-year-old grandson watched as she died.[154] She was killed because of her activism.[155]

Gloria was 57. A grandmother of 18, she was heartbroken to see her grandchildren fall ill with respiratory problems and skin allergies, a result of the intense air pollution caused by the vast coal power plants and storage facilities in her hometown of Lucanin.[156] That's why she campaigned against them. She had been threatened already. The investors said nothing.

COAL BOOM

In the Philippines the coal sector is booming. In 2015, 45% of the country's power was generated by coal, while its extraction, both for power plants and other industries, is expected to rise considerably in the coming years.[157] Bataan Province, where Gloria lived, is home to two coal-fired power plants and two storage facilities. With coal at the centre of power supply in the Philippines, production is set to increase.[158]

The IFC should steer clear of risky investments linked with environmental abuses and threats against defenders in the Philippines. © Mariano Sayno / Getty

In 2015 the provincial Health Office rejected Gloria's permit to operate her bar. They told her it would have to close because of the health risk posed by ash from a local power plant.[159] Meanwhile, in her province, the expansion of an existing plant and the development of two new coal-fired power stations was approved.[160]

Two of these projects are owned or part-owned by San Miguel Power, which has received hundreds of millions of dollars from two Philippine commercial banks, Rizal and BDO Uniba.[161] Both banks are propped up by the World Bank's International Finance Corporation (IFC). The IFC owns US$149 million of Rizal's shares, US$150 million of BDO Unibank's, and is represented on the boards of both.[162] With such a significant stake in the banks' holdings, the IFC could influence their lending decisions. It could steer them away from risky investments that are going against international agreements, damaging the environment and associated with threats against defenders. In 2013, the World Bank introduced a new energy policy that sought to limit funding of coal-fired power plants to "rare circumstances".[163] However, via the IFC and private banks, World Bank investments continue to support the coal boom in the Philippines that Gloria opposed.

"It is difficult to speak up against giants. Against industries that can buy anything, even governments."
Derek Cabe, Coal-Free Bataan Movement

DEFYING THE THREATS

In March 2015 Gloria filed a petition with the local authorities and the Department of Environment and Natural Resources, carrying the signatures of her community. It detailed the impact coal production was having on local people's health.[164] As Gloria began to speak out publically, the threats and intimidation began.

A representative from the Coal-Free Bataan Movement told Global Witness that Gloria was offered bribes of US$300 a month and hospital treatment for her sick husband. On refusing the bribe, Gloria received an anonymous threat: "I care about all of you. I'd hate to see any of you buried under a mound of earth."[165]

It remains unclear who ordered the killing of Gloria Capitan. There is no evidence that her killers acted on the instructions of San Miguel Power.

Global Witness documented the murder of 28 land and environmental defenders in the Philippines in 2016, a third of whom were campaigning against mining and extractives. As the government moves towards reforming the extractive sector, it is imperative that it also puts in place policies and institutional reforms that will safeguard those on the frontline of the struggle for land and the environment.[166]

Gloria Capitan was killed after receiving threats for her campaign against coal pollution. © The Coal-Free Bataan Movement.

BRAZIL: DAMS AND THE BNDES

- 49 defenders killed in 2016 – year-after-year it is the most dangerous country in terms of numbers
- The logging industry was linked to 16 murders, while landowners were the suspected perpetrators of many killings in the Amazon
- The government has rolled back environmental legislation and debilitated human rights institutions

Nilce de Souza Magalhães' body was found tied to a rock and washed up on the shore of the Madeira River in July 2016. She had been missing for six months, her body submerged in the depths created by the Jirau dam at Porto Velho – a project she spent the last years of her life opposing.[167]

Brazil has consistently been the deadliest country for land and environmental defenders since Global Witness began compiling data. In 2016 a staggering 49 people were killed for protecting their lands: 16 defending Brazil's rich forests from loggers, a growing number fighting expanding agribusiness and its powerful lobby in government.[168]

Nilce, a fisherwoman and a grandmother, took on the Jirau dam as it devastated fish stocks in a river the community has fished for generations. She became a leading activist and part of the Movement of People Affected by Dams (MAB) in the state of Rondônia.[169]

The last time Nilce was seen alive was just a few weeks after speaking out on behalf of the uprooted fishing communities at a national hearing in the capital Brasilia.[170]

Police sentenced Edione Pessoa da Silva with 15 years in prison for her murder, seeking to blame the death on a personal conflict between him and Nilce.[171] However, in a statement MAB insisted that Nilce was killed because of her activism.

Nilce de Souza Magalhães' body was found tied to a rock and washed up on the shore of the Madeira River in July 2016. © Joka Madruga/Terra Sem Males

"We demand a full investigation and a trial. We will remain firm in the fight, denouncing the persecution of those affected by dams and charging that no investigation be thrown under the rug to protect more powerful people."[172]
Movement of People Affected by Dams (MAB)

ROLLING BACK PROTECTION

Despite the shocking and growing number of murders, the Brazilian government is actually rolling back protection for environmental defenders. Almost as soon as it came into power in August last year, Michel Temer's administration dismantled the Ministry for Human Rights.[173] A national programme for the protection of human rights defenders is under-resourced and ineffective.[174] Two of Nilce's MAB colleagues, Lurdilane Gomes da Silva and Iza Cristina Bello, have received death threats in the past year.[175]

The murders are emblematic of the extreme levels of violence in rural Brazil. Local organisation Land Pastoral Commission (CPT) ascribes this to the aggressive and state-backed advance of business projects – including agribusiness, mining and energy companies – over indigenous, traditional and small-scale farming communities, which have organised a growing collective resistance to tackle the problem. According to CPT, the roots of conflict are to be found in Brazil's history of colonialism and slavery, and the fact the government has never resolved the structural problems of its agrarian sector.[176]

This is why many organisations suggest the conflict can only be resolved through the implementation of the agrarian reform policy set forth in the Brazilian Constitution.[177] However, the strong influence of the rural elite over national politics, which has deepened with the current political crisis, has so far prevented this from happening. Meanwhile, the violence escalates. CPT documented 61 murders of individuals – including land and environmental defenders – due to land conflicts in Brazil in 2016.[178]

It's clear that, to stem the tide of killings, the Brazilian government must beef up its support for environmental and land defenders, especially in the most remote parts of the country.

IRRESPONSIBLE INVESTMENT

Community members in Porto Velho would probably not need protection, however, if the dam hadn't received the investment it needed to go ahead. It received US$1.78bn in direct financing from Brazil's national development bank, BNDES, as well as from several international and Brazilian commercial banks.[179] They were not deterred by dire warnings from scientists, who foresaw environmental disaster when the dam was granted its licence a decade ago.[180] In 2014, these fears were realised when the region suffered unexpected and devastating floods, with parts of the city of Porto Velho submerged under 18 metres of water, tens of thousands of people homeless, and livelihoods lost.[181]

Yet the international investments kept coming. In August 2016, just one month after Nilce's body was found, the Jirau dam was registered to receive financing under the UN's Clean Development Mechanism, an international emissions-trading scheme.[182]

Investment can be the life-blood of development projects for the good of both people and business. But too often investors are ploughing money into projects like the Jirau dam, and thereby financing the destruction of the environment and the devastation of local communities.

Investors in agribusiness, extractives and hydropower projects must ensure that the projects they fund are a force for good.

The Brazilian government must strengthen its support for environmental and land defenders, especially in the most remote parts of the country, containing vital yet threatened ecosystems.
© Kevin Schafer / Barcroft USA / Getty Images

CRIMINALISATION: A GLOBAL PHENOMENON

As well as threats and attacks, land and environmental defenders are increasingly facing trumped-up and aggressive criminal and civil cases by governments and companies in an effort to silence them. This 'criminalisation' is used to intimidate defenders, tarnish their reputations and lock them into costly legal battles. Once charged, they are often stigmatised publicly, branded as criminals by the government and in the media. This means of silencing dissent is particularly cruel when you take into account the huge disparity of resources between businesses and governments, often with armies of well-paid lawyers at their disposal, and defenders, often humble farmers in remote communities.

Criminalisation tends to be used as a tactic when governments and business collude to prioritise short-term profit over sustainable development. Increasingly governments are filing spurious criminal charges against activists – subjecting them to police raids, wrongful arrests, fines and imprisonment. Over the course of 2015 and 2016 the Business and Human Rights Resource Centre documented at least 134 criminalisation cases of this type.[183]

Some of the same companies which have been loath to use their resources to properly consult communities or support defenders, have filed civil cases against activists for slander, defamation and spreading false information – often with the backing of governmental actors.[184] Defenders are also being charged with common crimes such as property damage or disruption of public works for opposing large infrastructure projects like hydro dams and mines. Some of the key testimony against defenders is often provided by business representatives.[185]

INCENDIARY RHETORIC

Criminalisation often goes hand-in-hand with incendiary rhetoric, branding defenders' actions as 'terrorism' and making attacks on them more likely. For example, before the murder of renowned environmentalist Berta Cáceres in 2016, the dam company she opposed brought baseless charges against her for "usurpation and continued damage" of its property.[186] It then called on the Honduran government to "act with all resources at its disposal to persecute, punish and neutralise" her organisation COPINH.[187]

Governments must ensure that activists can peacefully voice their opinions without facing arrest. © Rafael Ríos

Although criminalisation of land and environmental defenders is especially prevalent in Latin America,[188] it is increasingly becoming a global reality. Human Rights Watch have reported on recent trumped-up charges being brought against critics of World Bank-funded projects in Cambodia, Ethiopia, India, Uganda and Uzbekistan.[189]

GLOBAL SUPPRESSION

This abuse of legal processes to crush dissent is part of a broader trend of suppression of civil society globally.[190] It is certainly not confined to developing countries. In 2016 the UN accused Australia of undermining environmental defenders by publicly vilifying their work and filing unjust charges against protestors in Tasmania under new laws.[191] Proposed laws in Australia would also criminalise the legitimate actions of environmental defenders, categorising them as "disrupting business operations".[192] In Canada, environmental groups and First Nation Peoples fear new anti-terrorism legislation will be used to step up the surveillance of protesters opposed to oil and mining projects.[193] The Canadian media has also reported on several government agencies that are systematically spying on environmental organisations.[194]

Governments must address the skewing of their criminal justice systems that permit this form of persecution, ensuring that activists can peacefully voice their opinions without facing arrest, and are guaranteed due process when charges are brought against them. It also means reforming laws that unjustly target environmental activism and the right to protest. Similarly, companies have to stop abusing the judicial process to silence defenders. Rather than being threatened with legal action, defenders should be celebrated for their work.

The Standing Rock Indian reservation is protesting against the construction of an oil pipeline under Lake Oahe, which the tribe considers to be sacred.
© ROBYN BECK/AFP/Getty Images

THE US: STANDING ROCK AND THE SUPPRESSION OF PROTEST

- No defenders were murdered in the US in 2016, although criminalisation increased

- Indigenous activists were on the frontline of a broader movement – increasingly stigmatised under the new administration – against fracking, oil pipelines and monocultures

- Environmental protection legislation is being weakened and anti-protest laws hardened at both state and federal level

Earlier this year North Dakota legislators debated a bill that would allow motorists to run over and kill an environmental protester without facing jail.[195] Narrowly defeated, it was followed by a suite of new proposals seeking to significantly increase the financial and legal burden of peaceful protest in the state.[196] UN experts noted this potential new legislation "will highly increase penalties for participating in protests and therefore is likely to have a chilling effect on protesters in North Dakota."[197]

The bills have a clear target: the indigenous Sioux tribe and their supporters, who came together at the Standing Rock Indian reservation to protest against the construction of an oil pipeline under Lake Oahe, which the tribe considers to be sacred. The Sioux were not properly consulted on the development, according to the UN.[198] They claim that their right as indigenous people under international law to free, prior and informed consent has been violated.[199]

The Dakota Access Pipeline, operated by Energy Transfer Partners, will channel oil 1,200 miles from the Bakken shale oil fields in North Dakota to an oil-tank farm near Patoka, Illinois.[200] It was temporarily blocked by the Obama administration in December 2016,[201] but an executive order signed by President Trump just four days into his presidency, amid conflict-of-interest claims,[202] meant construction could recommence.[203]

Campaigner Kandi Mossett – a citizen of the Mandan, Hidatsa and Arikara Nations, working for the Indigenous Environmental Network (IEN) – says her North Dakota community is directly impacted by Bakken.

Kandi says the weight of history can stop indigenous Americans from battling environmental threats: "Historically when the government says it is going to take something away from us, they do, and we don't get anything for it. My own community, where the oil is coming from for the Dakota Access Pipeline, is heavily controlled by the fossil-fuel industry. My tribal council signed a contract, saying we might as well get paid."

ANTI-PROTEST LEGISLATION

New anti-protest bills have been introduced in 18 states since the US election last November, some on the route of the pipeline.[204] The proposed bills employ a variety of tactics, including increased penalties for blocking roads and allowing for the seizure of protesters' assets.[205] In South Dakota, a bill was signed into law in March giving the governor and sheriff powers to make it illegal for more than 20 people to gather on public land.[206] In North Carolina a bill protecting motorists who hit protestors with their cars (allegedly inspired by the failed North Dakota legislation) was approved by the State House of Representatives and is awaiting the vote in the State Senate.[207]

Lee Rowland of the American Civil Liberties Union says these bills have been "dressed up" as addressing obstruction or public safety, when in fact they "have one intent and effect, and that is to suppress dissent".[208]

Kandi feels that legislation "is meant to be a deterrent, but for people living through the destruction in our communities, we don't have a choice. We either fight back, or continue to die a death by a thousand cuts. The whole system is broken and crooked and you can see it. It's making it harder for us to practice our first amendment rights."

SETTING THE TONE

The state-level crackdowns on peaceful protest are in line with the tone and actions of the Trump administration. Trump has introduced a series of executive orders to 'enhance law and order', that some civil rights experts say are over-reaching and unnecessary.[209] In response to protests earlier this year, a statement on the White House website proclaimed: "Our job is not to make life more comfortable for the rioter, the looter, or the violent disrupter."[210]

In proposing to cut the budget of the Environmental Protection Agency by 31%,[211] signing executive orders to remove restrictions on pollution and carbon emissions,[212] and pulling the US out of the Paris Climate Agreement,[213] the Trump administration has given environmental defenders much to protest against.

The Standing Rock camp, which became the largest gathering of Native Americans in more than 100 years,[214] was broken up by National Guard and police officers in February 2017.[215] Law enforcement officials, heavily armed with military equipment and riot gear, forcibly entered and evicted protesters from the camp.[216] They were accused of using excessive force against protesters and human rights violations.[217]

Kandi was one of the Water Protectors who stood in peaceful protest for several months at Standing Rock, happy that the Sioux tribal council, unlike her own, were choosing to protect their land.

Campaigner Kandi Mossett says her own community is heavily controlled by the fossil fuel industry. © Emily Arasim/Women's Earth & Climate Action Network (WECAN)

Protesters[218] and journalists[219] covering Standing Rock have been charged with criminal offences. Kandi says: "Anybody that's exercising their first amendment rights – particularly against the fossil fuel industry – has an easier time of being jailed. Right now around 800 people[220] that were arrested at Standing Rock are facing charges."

A recent leak of over 100 documents to news website *The Intercept*[221] from an employee of TigerSwan, the private security firm employed by Energy Transfer Partners, showed intrusive military-style surveillance and a counterintelligence campaign against the Standing Rock

Civil rights experts say Trump's executive orders to 'enhance law and order' and state-level crackdowns on peaceful protest are over-reaching and unnecessary. © ROBYN BECK/AFP/Getty Images

Water protestors and their allies. They even branded the protestors "jihadists".

TigerSwan did not respond to *The Intercept's* request for comment. Energy Transfer Partners also declined, saying it does not "discuss details of our security efforts".

Kandi experienced TigerSwan's tactics first-hand, saying: "They were intentionally instigating trouble and had people do bad things. Cattle and buffalo that were butchered, and it was these terrible TigerSwan infiltrator people that were working with the police, working with the government. They were doing these things and blaming them on the Water Protectors, but now the truth is coming out."[222]

Despite the increasingly hostile legislative environment, the movement has cause for cautious optimism that the Dakota Access Pipeline could be shut down. A recent federal ruling said the Army Corps did not adequately consider the effects of a possible oil spill on the fishing and hunting rights of the Standing Rock Sioux tribe, ordering the US Army Corps of Engineers to reconsider its environmental review.[223]

Kandi holds out hope for the future.

"We're going up against the government; we're going up against trained military people with guns and weapons. We have our sage and our sweet grass. This is what we're dealing with on just one pipeline. Standing Rock helped us gain attention for our plight as Native Americans in this country."[224] Kandi Mossett

RECOMMENDATIONS: WHAT NEEDS TO BE DONE?

Land and environmental defenders will only be able to carry out their activism safely when a range of actors take action to prevent attacks against them, protect those defenders who are at risk, and react when threats do occur.

With this in mind, we have grouped our recommendations along the following lines:

- **Tackle Root Causes:** The only effective prevention in the long-term. This means combatting corruption and impunity, securing and respecting land titles, and guaranteeing the right of affected communities[225] to give or withhold their free, prior and informed consent regarding the use of their land and natural resources.

- **Support and Protect:** A range of measures can be taken by business and governments to recognise publically the important role of defenders, advocate for their protection, provide them with the tools they need to carry out their activism effectively, and guarantee their safety when they are at risk.

- **Ensure accountability:** In order to prevent future threats and dissuade would-be aggressors, those responsible for attacks on defenders must be brought to justice, while those who fail to support and protect them should face political, financial and judicial consequences.

WHO IS RESPONSIBLE?

States (through their governments) have the primary duty, under international law, to guarantee that human rights defenders can carry out their activism safely. However, land and environmental defenders face specific and heightened risks because they are challenging business interests.

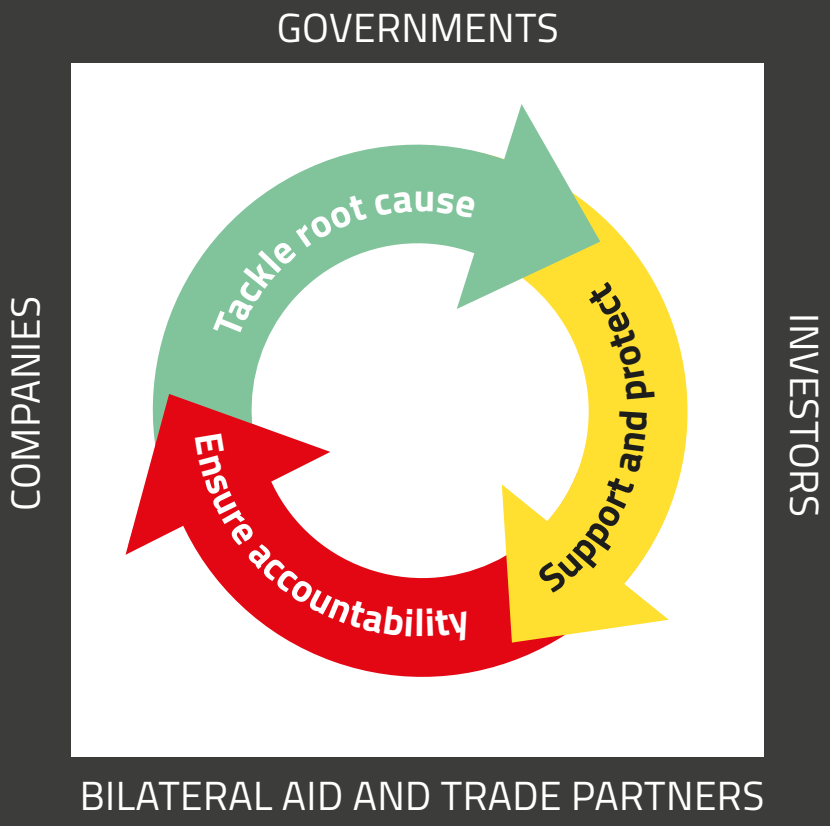
There are a range of actors who can influence business projects. Therefore there are a range of actors who can – and must – act to keep defenders safe.

Companies, investors and **bilateral aid and trade partners**, have a responsibility – as well as a business incentive – to take action alongside national and local **governments** to protect defenders and respect their rights.

Overleaf are a range of general recommendations; each and every one of which can and should be interpreted and implemented by governments, companies, investors, and bilateral aid and trade partners. In order to illustrate them, we have included an example for each recommendation of how it might look if implemented by one actor or another.

In order to prevent future threats and dissuade would-be aggressors, those responsible for attacks on defenders must be brought to justice.© The Coal-Free Bataan Movement

RECOMMENDATIONS AND EXAMPLES OF IMPLEMENTATION



TACKLE ROOT CAUSE

> Guarantee that no business project goes ahead without the free, prior and informed consent of affected communities at every stage of the project cycle

Example: An investor ensures independent verification of whether or not affected communities have given their free prior and informed consent for the use of their land for a project they hope to back, and withholds financing from the project if this cannot be proven

> Guarantee the informed and meaningful participation of affected communities in environmental, social and human rights impact assessments, as well as other processes related to the planning and implementation of business projects

Example: A company freezes a project because they are unable to verify whether a potentially affected community has participated meaningfully in local environmental and social impact assessments

> Sanction and eradicate corruption, particularly regarding the allocation of licenses in the natural resource sector[226]

Example: A national government ensures their judiciary has the independence, resources and mandate necessary to prosecute public officials found guilty of bribery or abuse of office

> Ensure that land rights are protected and respected, particularly in regards to indigenous and community land titling

Example: A bilateral aid donor provides financial and technical support, through their embassy, to help a national government simplify community land titling and clear backlogs of titling requests and disputes effectively

SUPPORT AND PROTECT

- Implement specific laws, policies and practices for the recognition, support and protection of human rights defenders,[227] and guarantee the human and financial resources necessary for their effective implementation

Example: A company creates a human rights or sustainability policy which outlines which specific measures they will employ to contribute to the protection of human rights defenders,[228] and details how implementation will be resourced and enforced

- Make strong public statements recognising the important and legitimate role of land and environmental defenders, committing to their protection

Example: Local representatives of a development bank meet with at-risk defenders in a country where they finance projects, in order to explore how they can best support them. They then issue a press release recognising the legitimate role of defenders and committing to support them

- Speak out to condemn threats and attacks against defenders wherever they occur

Example: A company publicly condemns a reported threat against a defender who has questioned a project of theirs, and also privately advocates for their protection with the local government

- Suspend those specific business projects where defenders have been threatened, until robust measures are taken to prevent further threats against those at risk

Example: An investor freezes their backing for a project because a credible report has been made of a threat against a defender who opposed one of their projects.

- Implement protective measures for at-risk defenders, which are commensurate with the specific risks, context, identity and requests of each individual

Example: At the request of a defender at risk and based on an expert risk analysis, a local government provides the defender's indigenous organisation with police guards and a satellite telephone, and orders the private security guards stationed in their community to be unarmed

- Create spaces for dialogue between companies, investors, public officials, affected communities and defenders

Example: An embassy convenes and facilitates dialogue between business representatives, government officials, affected communities and human rights defenders before a company or investor domiciled in their country commits to a new project locally

ENSURE ACCOUNTABILITY

- Bring to justice those responsible for ordering or carrying out any threat or attack against a land or environmental defender

Example: A national government creates and fully resources a special prosecutor for the investigation of crimes against defenders, which collaborates with international bodies wherever the victim requests so, and successfully prosecutes both the material and intellectual authors of such crimes

- Carry out due diligence to assess whether land and environmental defenders can operate safely in specific industry sectors and countries and – where this is not the case – cease to promote, implement or back (directly or via intermediaries) business projects, until guarantees of defenders' safety have been made

Example: A development bank establishes a clear due diligence process allowing them to assess the rights and security of land and environmental defenders in countries where they are planning financing, and decides not to invest in a certain sector where this process proves that defenders active around this sector have been threatened and attacked

- Make aid to countries, and investment in projects, conditional upon whether specific measures for the security of land and environmental defenders are in place or not

Example: A bilateral aid donor establishes effective criteria through which to measure the extent to which defenders are safe and able to operate in the countries to which they grant assistance, and withholds part or all of this aid until such criteria are met

- Guarantee accountability, remedy and reparations for defenders, organisations and communities affected by threats and attacks

Example: A company establishes a safe and effective grievance and remedy mechanism which enables local defenders to bring complaints of threats, attacks and obstacles associated with their activism related to a business project

CONCLUSION: A WATERSHED YEAR

"We must keep up the fight. We must not lose our spirit, our children's future depends on it."[229] Ana Miriam Romero

More activists murdered across more countries. Defenders arrested, protests outlawed. Rural and indigenous communities manipulated and ignored.

The facts paint a bleak picture.

Yet many of the stories are inspirational.

Prafulla faced threats and smears, yet was ultimately successful in gaining an historic Supreme Court sentence which could protect tribal peoples from abusive mining across India.

Ana Mirian was pregnant when the police beat her up, and almost lost her baby. But her determination that her daughter grow up in a brighter Honduras has prevented a hydro company from stealing her community's indigenous lands.

Francisca's tireless mobilisation of rural communities across the country means that you no longer have to be rich to know your rights in Nicaragua. And it is the bravery of Rodgrigue and his colleagues which means that the mountain gorillas remain in Virunga, in spite of local poaching and the impact of big business.

Not only do land and environmental defenders have the right to be heard and protected. It makes great sense to do so.

They are the experts on the ground who can identify, prevent and mitigate the human rights impact of business projects, avoiding conflict and unnecessary risks and costs. They are on the front line of the struggle to slow climate change, and often the proponents of sustainable development which benefits local communities.

And yet these expert voices are being shut out, silenced, killed off.

Global Witness calls upon governments, companies and investors to make 2017 a watershed year.

It is imperative that policies be put in place, and actions taken: to guarantee communities can give or withhold their free, prior and informed consent regarding the use of their land; to support defenders and guarantee their safety; and to hold those responsible accountable when attacks do take place.

In the words of Berta Cáceres: "Mother Nature… demands that we take action".

Government, companies and investors have the power to make 2017 a turning point in the treatment of land and environmental defenders. © Goldman Prize

METHODOLOGY

This report is based on research on killings and enforced disappearances of land and environmental defenders, who we define as people who take peaceful action to protect land or environmental rights, whether in their own personal capacity or professionally. The period of time covered by this report is from 1 January 2016 to 31 December 2016. As for previous reports, cases were identified by searching and reviewing reliable sources of publicly online information through the following process:

> Opportunistic: We identified datasets from international and national sources with details of named human rights defenders killed in 2016, such as the Frontline Defenders 2016 annual report and the Programa Somos Defensores annual report on Colombia, and then researched each case.

> Systematic: We set up search engine alerts using keywords and conducted other searches online to identify relevant cases across the world.

> Verified: Where possible, we checked with in-country or regional partners to gather further information on the cases and verify that they were applicable to our definition. The following criteria needed to be met for a case to be included:

> Credible, published and current online sources of information.

> Details about the type of act and method of violence, including the date and location.

> Name and further biographical information about the victim, such as their occupation, organisational and political affiliations and - where relevant - their ethnic or indigenous identity.

> Clear, proximate and documented connections to an environmental or land issue.

In some cases, the criterion of an online source is negated by the capacity of respected local organisations to carry out and transmit to Global Witness the results of their own investigation and verification of cases.

We have recorded data about the cases using the HURIDOCS Event Standard Formats and Micro-Thesauri, an approach which is widely used to manage and analyse material of this nature. While we have made every effort to identify and investigate cases in line with the methodology and criteria, it is important to add that our research mostly relies on public information and that we have not been able to conduct detailed national-level searches in all countries. Language is another limitation; besides English, the main languages that we have searched in are Spanish and Portuguese. Due to the large number of countries and potential sources, we have concentrated our searches on those countries where initial alerts indicated that there were potentially relevant cases to investigate. Our contact with local organisations is also patchy; Global Witness has well established links in some countries but they are lacking in others.

In summary, the figures presented in this report should be considered to be only a partial picture of the extent of killings of environmental and land defenders across the world in 2016. Relevant cases have been identified in 24 countries in 2016, but it is possible that they also occurred in other countries where human rights violations are widespread and likely to also affect land and environmental defenders. Reasons why we may not have been able to document such cases in line with our methodology and criteria include:

> Limited presence of civil society organisations, NGOs and other groups monitoring the situation in the field.

> Suppression of the media and other information outlets.

> Wider conflicts and/or political violence, including between communities, that make it difficult to identify specific cases.

It should be noted that we include in our database friends, colleagues and family of murdered defenders if a) they appear to have been murdered as a reprisal for the defender's work, or b) if they were killed in an attack which also left the defender dead.

Finally, Global Witness is committed to fighting the impunity in which the majority of killings of defenders are currently found. We will only take cases out of our database, where a successful prosecution has concluded that the motive for the murder of the individual was not his or her land or environmental activism, and when the individual's organisation and/or family believe that due process was followed in that prosecution.

DATA IN REAL TIME

As of July 2017, Global Witness will be providing regularly updated data on the killings of defenders via an online collaboration with The Guardian newspaper, which can be found at **www.globalwitness.org/guardian**. We will keep that data up-to-date according to the same criteria and with the same limitations as outlined here.

However, sometimes verification of cases is time-consuming, meaning that – whilst we endeavour to update our database in real-time, inevitably the names of some individuals will be added weeks, or even months, after their death.

ACKNOWLEDGEMENTS

Global Witness has drawn on information from many organisations for the research on this report. In particular, we are grateful for the assistance provided by:

- Comissão Pastoral da Terra (CPT), Brazil
- Programa Somos Defensores, Colombia
- Unidad de Protección a Defensoras y Defensores de Derechos Humanos (UDEFEGUA), Guatemala
- Asociación para una Ciudadania Participativa (ACI-PARTICIPA), Honduras
- Centro Mexicano de Derecho Ambiental (CEMDA), Mexico
- Centro por la Justicia y Derechos Humanos de la Costa Atlántica de Nicaragua (CEJUDHCAN), Nicaragua
- Coordinadora Nacional de Derechos Humanos (CNDDHH), Peru
- Kalikasan, Philippines
- Karapatan, Philippines
- Alyansa Tigil Mina, Philippines
- Protection International, Thailand
- Front Line Defenders
- The Thin Green Line Foundation
- International Ranger Federation
- Pesticide Action Network Asia and the Pacific (PANAP)
- Comité Cerezo, Mexico
- Digital Empowerment Foundation (DEF), India
- Konsorsium Pembaruan Agraria (KPA), Indonesia
- Conselho Indigenista Missionário (CIMI), Brazil
- Comisión Ecuménica de Derechos Humanos del Ecuador (CEDHU), Ecuador
- Chitrangada Choudhury
- Covenant Consult Myanmar

EXPLANATORY NOTES

'CRIMINALISATION' (PAGE 6)

Oxford Dictionaries define "criminalisation" as "The action of turning someone into a criminal by making their activities illegal" or "the action of turning an activity into a criminal offence by making it illegal". Both are increasingly true for the way in which States – often in collusion with business – are using the judicial apparatus to restrict the work of land and environmental defenders, obliging them to use their time and resources in often costly legal battles rather than their legitimate human rights defence. Criminalisation includes the creation and implementation of laws unduly restricting or criminalising human rights defence, social protest and freedom of expression, and the mis-application of counter-terrorism and national security laws against defenders. It sits alongside other judicial and non-judicial actions being used to restrict their rights or affect the reputation of defenders in a way which suggests that their activism might be criminal, including public statements by State or business officials suggesting that defenders are criminals; arbitrary and pre-trail detention; and the denial of due process to defenders subjected to criminal or civil trails. In the same vein, it is also increasingly common to see cases in which private actors that have apparently previously failed to act to respect the rights of defenders, instead use their resources to bring civil cases against them, with the apparent intention of preventing defenders from criticising the human rights impact of a business project.

For more on the various ways in which the judicial system is being used to restrict the work of defenders, see: http://www.oas.org/en/iachr/reports/pdfs/criminalization2016.pdf and http://protectioninternational.org/wp-content/uploads/2012/02/ProtectionInternational_English_Update.pdf

'ENFORCED DISAPPEARANCES' (PAGE 11)

Amnesty International have helpfully explained this phenomenon in layman's terms: "The legal term may be clunky - "enforced disappearance" - but the human story is simple: People literally disappear, from their loved ones and their community, when state officials (or someone acting with state consent) grab them from the street or from their homes and then deny it, or refuse to say where they are. It is a crime under international law. Often people are never released and their fate remains unknown. Victims are frequently tortured and in constant fear of being killed. They know their families have no idea where they are and the chances are no one is coming to help. Even if they escape death and are eventually released, the physical and psychological scars stay with them." Amnesty International, 'Disappearances', Available at: https://www.amnesty.org/en/what-we-do/disappearances/ (accessed: 14 June 2017);

The official definition is found in 'the International Convention for the Protection of All Persons from Enforced Disappearance', Available at: http://www.ohchr.org/EN/HRBodies/CED/Pages/ConventionCED.aspx (accessed: 14 June 2017).

'FREE, PRIOR AND INFORMED CONSENT' (PAGE 23)

[A] A limited list would include: Global Witness, The Oakland Institute and International Land Coalition, 'Dealing With Disclosure: Improving Transparency In Decision-Making Over Large-scale Land Acquisitions, Allocations And Investments'. Available at: https://www.globalwitness.org/sites/default/files/library/Dealing_with_disclosure_1.pdf (accessed 13 June 2017); Oxfam America, (2013), 'Free, Prior, and Informed Consent in Africa: An Emerging Standard for Extractive Industry Projects'. pp. 27-35. Available at: https://www.oxfamamerica.org/static/media/files/community-consent-in-africa-jan-2014-oxfam-americaAA.PDF (accessed: 14 June 2017); Roundtable on Sustainable Palm Oil, (2015), 'Free, Prior and Informed Consent Guide for RSPO Members'. Available at: http://www.forestpeoples.org/sites/fpp/files/publication/2016/01/rspo-free-prior-and-informed-consent-fpic-companies-2015-english.pdf (accessed: 20 June 2017); Forest Peoples, 'Making FPIC- Free Prior and Informed Consent- Work: Challenges and Prospects for Indigenous Peoples.' Available at: http://www.forestpeoples.org/sites/fpp/files/publication/2010/08/fpicsynthesisjun07eng.pdf (accessed: 19 June 2017); UN-REDD Programme, (January 2013),'Guidelines on Free, Prior and Informed Consent'. Available at: http://www.uncclearn.org/sites/default/files/inventory/un-redd05.pdf (accessed: 20 June 2017); Asia Indigenous Peoples Pact (AIPP) and (International work Group for Indigenous Affaris (IWGIA), (2012), 'Training Manual On Free, Prior And Informed Consent (Fpic) In Redd+ For Indigenous Peoples'. Available at: http://www.forestpeoples.org/sites/fpp/files/publication/2012/10/fpic-manual-web21.pdf (accessed: 20 June 2017); Oxfam, (June 2010), 'Guide to Free, Prior and Informed Consent'. Available at: https://www.culturalsurvival.org/sites/default/files/guidetof-reepriorinformedconsent_0.pdf (accessed: 20 June 2017); The Center for People and Forests (RECOFTC), (April 2012), 'Putting Free, Prior, and Informed Consent into Practice in REDD+ Initiatives'. Available at: https://www.recoftc.org/project/grassroots-capacity-building-redd/training-manuals-and-guides/putting-free-prior-and-informed-consent-practice-redd-initiatives (accessed: 20 June 2017); Forest Peoples Programme, 24 February 2016), 'Liberia FPIC Training Materials: Communities in the Driving Seat'. http://www.forestpeoples.org/topics/agribusiness/training/2016/liberia-fpic-training-materials-communities-driving-seat (accessed: 20 June 2017).

[B] Phrase adapted from Food and Agriculture Organisation of the United Nations, (FAO) (2014), FAO Governance of Tenure Technical Guide No.3, 'Respecting free, prior and informed consent'. p.9. Available at: http://www.fao.org/3/a-i3496e.pdf (accessed: 13 June 2017).

[C] International Labour Organization, C169 - Indigenous and Tribal Peoples Convention, 1989 (No. 169). Available

at: http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C169 (accessed: 20 June 2017).

[D] The UN declaration on the rights of indigenous peoples includes seven provisions expressly recognizing the duty of States to secure FPIC from indigenous peoples, and establishes that "Indigenous peoples shall not be forcibly removed from their lands or territories. No relocation shall take place without the free, prior and informed consent of the indigenous peoples concerned and after agreement on just and fair compensation and, where possible, with the option of return".

See: United Nations Declaration on the Rights of Indigenous Peoples, (March 2008), Article 10, p. 6. Available at: http://www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf (accessed: 13 June 2017).

[E] Notably, Article 1 of the International Covenant on Economic, Social and Cultural Rights also safeguards the right to self-determination.
See too: UN-REDD Programme, (2013), 'Guidelines on Free Prior and Informed Consent'. Section 1.4, Normative Framework: Human Rights-Based Approach contains a good overview of the protection of FPIC in international human rights texts, pp. 12-16. Available at: http://www.uncclearn.org/sites/default/files/inventory/un-redd05.pdf (accessed 13 June 2017);

A raft of other guidance exists. We would highlight: The UN Committee on the Elimination of All Forms of Racial discrimination (CERD) General Recommendation 23 on indigenous peoples calls upon states to "Ensure that members of indigenous peoples have equal rights in respect of effective participation in public life and that no decisions directly relating to their rights and interests are taken without their informed consent" and "Recognize and protect the rights of indigenous peoples to own, develop, control and use their communal lands, territories and resources and, where they have been deprived of their lands and territories traditionally owned or otherwise inhabited or used without their free and informed consent, to take steps to return those lands and territories". Office of the High Commissioner for Human Rights (OHCHR), (18 October 1997), 'General Recommendation No. 23: Indigenous Peoples'. Available at: http://www.tebtebba.org/index.php/all-resources/category/24-committee-on-the-elimination-of-racial-discrimination-cerd?download=217:general-recommendation-no-23-indigenous-peoples (paragraph 4d), (accessed: 13 June 2017);

UN Sub-commission on the promotion and protection of human rights, working group on indigenous populations says "Indigenous peoples should not be coerced or intimidated, their consent should be sought and freely given prior to the authorisation or start of any activities, they should have full information about the scope and impacts of any proposed developments, and ultimately their choices to give or withhold consent should be respected". Commission on Human Rights: Sub-Commission on the Promotion and Protection of Human Rights Working Group on Indigenous Populations, 18-22 July 2005, 23rd session (14 July 2005), 'Legal commentary on the standard of FPIC'. Available at: www2.ohchr.org/english/issues/indigenous/docs/wgip23/WP1.doc (accessed: 13 June 2017);
Food and Agriculture Organisation of the United Nations, (FAO), (2014), FAO Governance of Tenure Technical Guide No.3, 'Respecting free, prior and informed consent'. Available at: http://www.fao.org/3/a-i3496e.pdf (accessed: 13 June 2017).

[F] Texts endorsing this principle include:The Convention on Biological Diversity (CBD, 1992) which expressly affirms the principle of FPIC for all. Article 8 (j) states that "[a]ccess to traditional knowledge, innovations and practices of indigenous and local communities should be subject to prior informed consent or prior informed approval from the holders of such knowledge, innovations and practices."

UN FAO Technical Guide, 'Respecting Free, Prior and Informed Consent', says "FPIC requires ensuring that communities can meaningfully participate in decision-making processes and that their concerns, priorities and preferences are accommodated in project designs, indicators and outcomes. … FPIC thus additionally requires that communities can negotiate fair and enforceable outcomes and withhold their consent to a project if their needs, priorities and concerns are not adequately addressed". p.1;

Roundtable on Sustainable Palm Oil, (2013), 'Principles and Criteria for the Production of Sustainable Palm Oil 2013'. Available at: http://www.rspo.org/publications/download/224fa0187afb4b7 (accessed: 13 June 2017); The Espoo Convention, (2015), 'Convention on Environmental Impact Assessment in a Transboundary Context (Espoo, 1991) - the 'Espoo (EIA) Convention'. Available at: http://www.unece.org/env/eia/about/eia_text.html (accessed: 20 June 2017).

Aarhus Convention also contains important provisions guaranteeing public participation, which bolster arguments that FPIC ought to apply to all affected communities. Aarhus Convention, (25 June 1998), Convention On Access To Information, Public Participation In Decision-Making And Access To Justice In Environmental Matters'. Available at: https://www.unece.org/fileadmin/DAM/env/pp/documents/cep43e.pdf (accessed: 20 June 2017)

[G] Office of the High Commissioner for Human Rights (OHCHR),(16 December 1976), International Convent on Civil and Political Rights. Available at: http://www.ohchr.org/EN/ProfessionalInterest/Pages/CCPR.aspx (accessed: 13 June 2017)

[H] Article 2 (3) : "States have the right and the duty to formulate appropriate national development policies that aim at the constant improvement of the well-being of the entire population and of all individuals, on the basis of their active, free and meaningful participation in development and in the fair distribution of the benefits resulting therefrom". See: United Nations: Declaration on the Right to Development: A/RES/41/128, (4 December 1986). Available at: http://www.un.org/documents/ga/res/41/a41r128.htm (accessed: 13 June 2017)

[I] The UNREDD programme has made the argument that "although the term 'FPIC' is not expressly referred to in the Cancun Agreements or in the Appendix on REDD+ safeguards, FPIC is addressed indirectly because the text "note[s]" that the General Assembly has adopted UNDRIP (which itself sets out the principle of FPIC). Securing FPIC is a means to meet the Cancun Agreements' requirement of countries to promote and

support "respect for the knowledge and rights of indigenous peoples and members of local communities" and to ensure "the full and effective participation of relevant stakeholders, inter alia, indigenous peoples and local communities". See UN-REDD Programme, (2013), 'Guidelines on Free Prior and Informed Consent'. Available at: http://www.uncclearn.org/sites/default/files/inventory/un-redd05.pdf p. 15. citing Cancun Agreements, paras. 69, 72; and Appendix I, paras. 2(a), (c) and (d)

[J] The UNREDD programme assesses that "International courts and human rights commissions in the African and Americas regions in particular have also made it clear that binding regional human rights treaties and conventions such as the African Charter on Human and Peoples Rights (Banjul Charter) (1981) as well as the American Convention on Human Rights (1969) and the American Declaration on the Rights and Duties of Man (1948), all recognize the State's duties and obligations to secure FPIC". See: UN-REDD Programme, (2013), 'Guidelines on Free Prior and Informed Consent'. Section 1.4, Normative Framework: Human Rights-Based Approach contains a good overview of the protection of FPIC in international human rights texts, p. 14. Available at: http://www.uncclearn.org/sites/default/files/inventory/un-redd05.pdf (accessed 13 June 2017)

[K] Office of the High Commissioner for Human Rights (OHCHR), (2015), 'Lands and Human Rights – Standards and Applications. p. 83. Available at: http://www.ohchr.org/Documents/Publications/Land_HR-StandardsApplications.pdf (accessed 13 June 2017)

[L] The document states that "The RSPO standard refers to both 'indigenous peoples and local communities' and requires the same processes and respect for rights of both groups by members, including notably in relation to respect for the right to give or withhold FPIC." See: Roundtable for Sustainable Palm Oil (2015), 'Free, Prior and Informed Consent Guide for RSPO Members', p23. Available at: http://www.rspo.org/news-and-events/announcements/free-prior-and-informed-consent-guide-for-rspo-members-2015-endorsed (accessed: 13 June 2017); Roundtable for Sustainable Palm Oil, (21 January 2016), 'Free, Prior And Informed Consent Guide For Rspo Members (2015) Endorsed'. Available at: http://www.rspo.org/news-and-events/announcements/free-prior-and-informed-consent-guide-for-rspo-members-2015-endorsed (accessed: 14 June 2017)

[M] Michelin's policy on sourcing sustainable natural rubber states that "The Group is committed to 'free, prior and informed consent' (FPIC) principle of local communities likely to be affected by its operations".
See: Michelin (2016), 'Sustainable Natural Rubber Policy', p.8. Available at: https://purchasing.michelin.com/Espace-documents (accessed 13 June 2017)

[N] Recent Colombian Constitutional Court decisions appear to refer to the right of peasant farming communities to participate in decision-making on development in so far as rural communities should be able to development their own "life plan" (plan de vida): "En particular, el artículo 64 hace alusión al deber estatal de garantizar ciertos bienes y servicios a la población rural en razón a su especial condición de vulnerabilidad, con el fin de que puedan desarrollar su plan de vida"
Colombia Constitutional Court ruling 2015: Sentencia C-635-15

[O] Exemplary: Declaration National Programme for the Recognition and Protection of Customary Communities through REDD+ (Reduction of Emissions from Deforestation and Forest and Peat-land Degradation), (1 September 2014). Available at: http://www.forestpeoples.org/sites/fpp/files/news/2014/09/Declaration%20Text_English.pdf (accessed 19 June 2017)

[P] What's more, former UN Special Representative on the Rights of Indigenous Peoples, James Anaya, argues that "Corporations must, however, exercise due diligence to mitigate power imbalances and avoid outcomes that are not compliant with human rights standards, and States must act to protect against such power imbalances and ensure the adequacy of any agreements. Because of the significant disparities in power, negotiating capacity and access to information that typically exist between corporations and indigenous peoples, the protective role of the State is especially important in this context. This duty to protect includes providing for appropriate grievance mechanisms."
See: Human Rights Council, Report of the Special Rapporteur on the Rights of Indigenous Peoples, James Anaya, (July 2012), UN Doc., A/HRC/21/47, paragraph 71

[Q] International Finance Corporation, (January 2012) Performance Standards on Environmental and Social Sustainability, Performance Standard 7 on Indigenous Peoples. Available at: http://www.ifc.org/wps/wcm/connect/115482804a0255db96fbffd1a5d13d27/PS_English_2012_Full-Document.pdf?MOD=AJPERES (accessed: 13 June 2017)

ENDNOTES

1 Global Witness interview with Jakeline Romero (15 May 2017).

2 The measure was rejected with 50 voting against and 41 in favour of the legislation. See: LegiScan, Bringing People to the Process, 'North Dakota House Bill'. Available at: https://legiscan.com/ND/bill/1203/2017 (accessed: 19 June 2017).

CNN, (26 January 2017), Proposed Laws Would Crack Down on Protestors who Block Roadways'. Available at: http://edition.cnn.com/2017/01/25/us/nd-protest-driver-bill-trnd/ (accessed: 19 June 2017); Los Angeles Times, (3 February 2017), 'In North Dakota, it could become legal to hit a protester with your car', Available at: http://www.latimes.com/nation/la-na-bills-protest-criminal-20170201-story.html (accessed: 19 June 2017).

3 The Revolutionary Armed Forces of Colombia (Fuerzas Armadas Revolucionarias de Colombia—Ejército del Pueblo).

4 75 of the 200 victims in 2016 were indigenous people.

5 Global Witness statistics from 2016.
Brazil saw 49 killings of land and environmental defenders in 2016, the most of any country. Nicaragua, with a population of 6 million, saw 11 killings in 2016 compared with Honduras' 14 (pop. 8 million) making it the most dangerous country per capita last year. However Global Witness has documented 127 killings in Honduras over the last decade compared with 26 in Nicaragua, making Honduras the most dangerous country per capita historically.

6 Global Witness has documented 953 killings of land and environmental defenders globally since 2010. See Global Witness (15 April 2014), 'Deadly Environment'. Available from: https://www.globalwitness.org/en/campaigns/environmental-activists/deadly-environment/ and Global Witness reports 'How Many More' (2015) and 'On Dangerous Ground' (2016) available from: https://www.globalwitness.org/en/campaigns/environmental-activists/ .

7 Nicaragua, with a population of 6 million, saw 11 killings in 2016 compared with Honduras' 14 (pop. 8 million) making it the most dangerous country per capita last year. However Global Witness has documented 127 killings in Honduras over the last decade compared with 26 in Nicaragua, making Honduras the most dangerous country per capita historically. See Global Witness (15 April 2014), 'Deadly Environment'. Available from: https://www.globalwitness.org/en/campaigns/environmental-activists/deadly-environment/ and Global Witness reports 'How Many More' (2015) and 'On Dangerous Ground' (2016) available from: https://www.globalwitness.org/en/campaigns/environmental-activists/.

8 UN General Assembly Resolution A/RES/53/144 (1998), UN Declaration on Human Rights Defenders. Available at: http://www.ohchr.org/EN/Issues/SRHRDefenders/Pages/Declaration.aspx (accessed:19 April 2017).

9 OHCHR (2011), 'Guiding Principles on Business and Human Rights'. Available at: http://www.ohchr.org/ Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf (accessed: 19 April 2017).

10 UN Special Rapporteur on Human Rights Defenders (3 August 2016), A/71/281. Available at: https://www.protecting-defenders.org/sites/protecting-defenders.org/files/57d2a3364_0.pdf (accessed: 15 June 2017).

11 In an email to Global Witness, Jakeline Romero confirmed that the threatening messages said "…no se meta en lo que no le incumbe evite problemas, sus hijas están muy lindas y piense en ellas, gran malparida perjudicial evite problema porque hasta su madre se la desaparezco para que siga de sapa…"
The threat was also reported in the following sources: El Espectador (21 December 2016), 'Amenazan a dos líderes indígenas en La Guajira'. Available at: http://www.elespectador.com/noticias/judicial/amenazan-dos-lideres-indigenas-guajira-articulo-671471 (accessed: 14 June 2017); La Libertad (15 December 2016), 'Mujeres indígenas Wayúu denuncian amenazas contra una de sus líderes'. Available at: http://lalibertad.com.co/wp/2016/12/15/mujeres-indigenas-wayuu-denuncian-amenazas-contra-una-de-sus-lideres/ (accessed: 14 June 2017);
Contagio Radio (15 December 2016), 'Amenazan a Jakeline Romero Lideresa Wayúu'. Available at: http://www.contagioradio.com/amenazan-jackeline-romero-lideresa-wayuu-articulo-33804/ (accessed: 14 June 2017).

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For Arnold Castro as the owner of Los Encinos, see: Santa Elena municipality mayor's office (18 October 2013) Certification of meeting minutes;
For Arnold Castro as the owner of La Aurora see: Secretary of state for the interior and population departments (7 October 2010) Certification of decision by the legal

services unit.

Inversiones Encinos is the company that owns the Los Encinos dam whilst Inversiones La Aurora owns the La Aurora dam. As sole director of both companies Global Witness considers that he actively controls the companies and rep resents their interests.

132 Global Witness interview with numerous members of the Lenca indigenous movement of La Paz (MILPAH), (23 October 2015).

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See: Santa Elena Municipality (6 October 2014), Minutes from consultation on dam feasibility study.

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CPT's methodology differs from that of Global Witness since, as well as documenting the murders of land and environmental defenders, they also cover rural workers killed because of their labour and union activism. Likewise, they record killings of individuals in land conflicts that they consider are generated by a lack of governmental action to tackle the root causes of rural violence. However, these individuals do not always fit into Global Witness' definition of land and environmental defenders.

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