

JOINT STATEMENT

France must ensure implementation of Duty of Vigilance Law to protect human rights defenders.

27 January 2021 – The situation of violence against human rights defenders (HRDs¹) around the globe is alarming. HRDs, as well as their relatives and families, are intimidated, stigmatized, persecuted, harassed, criminalized, attacked and even killed while defending their communities' rights, land, territory or environment. The severe shrinking of civic spaces ultimately undermines the possibility for HRDs to defend human rights.

Even though France has adopted a pioneer legal framework to protect human rights from violations resulting from business activities, HRDs are put at risk in the context of two major French companies' large scale projects. This is not acceptable.

Transnational companies can play a major role in directly perpetrating, contributing to or tolerating different actions of violence against HRDs defending their human rights, environment or land against corporate large-scale projects. Companies are often found deliberately influencing communities' decision-making on their corporate projects, for instance by promising benefits to selected community members or interfering with participating mechanisms. These divisions and lobbying tactics generate polarization and fuel violent social conflicts. Furthermore, businesses often move forward with their projects despite evident failure of public authorities to guarantee the protection of HRDs and of human rights for the communities affected by such projects.

The cases of rural and indigenous communities in [Uganda and Tanzania](#), and of the [Unión Hidalgo](#) indigenous community in Mexico illustrate these trends. Until today, these communities face increasing criminalization, threats and escalating violence, while they are simply trying to defend their land, livelihoods, and human rights.

Both cases are linked to the development of mega-projects by French companies, Total and EDF (Électricité de France). Affected communities and civil society organizations from Mexico and Uganda are seeking justice in France under the French Duty of Vigilance Law (*loi sur le devoir de vigilance*, 2017). This Law creates a legally binding duty for parent and outsourcing companies to effectively prevent and mitigate the risks of serious violations to human rights, fundamental freedoms, the safety or physical integrity of individuals and the environment caused along their operations worldwide.

In both cases - and in many others - repeated intimidation and an increasing climate of violence prevent affected communities and other stakeholders from freely expressing their concerns about corporate projects. Shrinking of HRD's civic space undermines

¹ As described in the United Nations Declaration on Human Rights Defenders, to be a human rights defender, a person can act to address any human right (or rights) on behalf of individuals or groups. Human rights defenders seek the promotion and protection of civil and political rights as well as the promotion, protection and realization of economic, social and cultural rights. For background on HRDs and civic space, see for instance :

<https://www.ohchr.org/EN/Issues/Business/Pages/HRDefendersCivicSpace.aspx>

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their ability to claim and defend their rights, in particular the right to free, prior and informed consent.

As a result, the complainants in both the Total and EDF case argue that the companies did not adequately prevent serious human rights violations caused by their subsidiaries' and subcontractors' activities, thus breaching their Duty of Vigilance.

On 27 January 2021, in an expert online meeting on the situation of human rights defenders and the implementation of the French Duty of Vigilance Law, these demands were reinforced by Mary Lawlor, UN Special Rapporteur on the situation of human rights defenders: "In 2019, 357 HRDs were killed. Half of them were land, environmental or indigenous rights defenders, facing land-intensive industry projects. There are not only many obstacles for those seeking the defence of their rights, but also little protection available to them. This is a point to keep at the forefront of our minds when thinking about the implementation of the loi de vigilance."

For the French Duty of Vigilance Law to develop its full potential as a preventative mechanism, a human-rights based approach with a gender and intersectional perspective is required. All stakeholders implementing the Duty of Vigilance Law must take into account the reality and concrete needs of the affected people.

Therefore, we, the undersigned organizations, call:

- on the French courts to fully apply the Duty of Vigilance Law and pay special attention to risks for human rights defenders during the proceedings; in particular by enjoining companies to take precautionary measures to preserve the safety of HRDs until they comply with their Vigilance obligations and effectively prevent further risks for their safety or physical integrity. French Courts should also consider the objective of the Duty of Vigilance Law, driven by the protection of fundamental freedoms;
- on the French government to take measures to ensure the law is better respected, and, in particular, to ensure that companies receiving public funding respect their obligations under the duty of vigilance law, which should include identification of risks for HRDs and effective implementation of prevention and mitigation measures. In cases where these issues are not adequately tackled by companies, the French government should consider ceasing funding to those companies;
- on French and multinational companies to respect and fulfill their new legal duties under the Duty of Vigilance Law. Voluntary commitments to respect human rights often declared by companies are meaningless if not translated into concrete actions. Concretely, companies must identify in their Vigilance Plan the specific risks for HRDs affected by their projects. They must then list and take appropriate mitigating measures for these risks. If a company cannot mitigate the risks related to their projects, they must consider suspending or canceling these projects, or disengage from contractors.

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Signatures

350Africa.org
350 France
ActionAid France
Advocates for Community Alternatives (ACA) Ghana
AFIEGO (Uganda)
Africa Europe Faith & Justice Network - AEFJN - (Belgium)
African Coalition for Corporate Accountability - ACCA
Amigos da Terra Brasil / Friends of The Earth Brazil
Amis de la Terre France / Friends of the Earth France
Amnesty International France
Cairo Institute for Human Rights Studies - CIHRS (Belgium)
CCFD-Terre Solidaire (France)
Centre for Citizens Conserving - CECIC (Uganda)
CGT - Confédération Générale du Travail (France)
CRED (Uganda)
Due Process Law Foundation (USA)
ECCHR (Germany)
Environmental Rights Action / Friends of the Earth Nigeria
FIDH
France Amérique Latine - FAL (France)
Friends of the Earth Africa
Friends of the Earth Asia Pacific
Friends of the Earth Europe
Friends of the Earth International
Global Catholic Climate Movement (GCCM)
Global Forest Coalition
Greenpeace France
Greenpeace México A.C.
Inclusive Development International (USA)
International Service For Human Rights - ISHR (Suisse)
Justiça Ambiental JA! / Friends of the Earth Mozambique
Just Share (South Africa)
Legal Rights and Natural Resources Center / Friends of the Earth Philippines
Milieudefensie / Friends of the Earth Netherlands
NAPE / Friends of the Earth Uganda (Uganda)
National Coalition of Human Rights Defenders Uganda ([Report: Silencing defenders](#))
NAVODA (Uganda)
ORRA - Oil Refinery Residents Association (Uganda)
PODER (Mexico)
ProDESC (Mexico)
ReAct (Réseaux pour l'Action transnationale) (France)
Réseau des Organisations de la Société Civile pour le Développement du Tonkpi (ROSCIDET) - (Côte d'Ivoire)
Sahabat Alam Malaysia - Friends of the Earth Malaysia
SAVE Virunga (International)

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SETEM Catalunya (Catalunya)

SOMO (Netherlands)

SÜDWIND - Association for Development Policy and Global Justice (Austria)

Survie (France)

SystExt (France)

The Civil Society Focal Group on Business & Human Rights in Mexico

TROCA- Plataforma por um Comércio Internacional Justo (Portugal)

UDAPT - Unión de afectados por Texaco-Chevron (Ecuador)

Union syndicale Solidaires (France)

WJ&G -Water Justice & Gender (Netherlands)

World Organisation Against Torture (OMCT)

