Statement by Margaret Sekagya

SPECIAL RAPPORTEUR ON THE SITUATION OF
HUMAN RIGHTS DEFENDERS

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Mister Chair,
Excellences,
Ladies and Gentlemen,

I am very pleased to be here today in what will be my last address to the General Assembly as Special Rapporteur on the situation on human rights defenders. I took over the mandate in 2008 and I must say that it has been a really inspiring, although at times challenging, mission to carry out the mandate of overseeing and reporting on the situation of defenders worldwide.

Over the past five years, I have tried to make the work of defenders visible. I also tried to contribute to their empowerment and protection. And I have done so with all the tools at my disposal. However, claiming and defending rights remains a dangerous business.

Five and a half years down the road, I must say that I am deeply concerned about the consolidation of a trend to use legislation to clamp down on defenders and restrict the space in which they operate. They are often branded as “enemies of the State”, harassed, stigmatised and criminalized for doing their work. Certain groups, such as women defenders and those on women’s rights and gender issues; those working on access to land and environment; or journalists and media workers, face heightened risks due to the work that they do. Non-State actors are responsible for violations against defenders, often in collusion with State authorities. And, in some instances, when defenders try to engage with human rights mechanisms or international bodies to report on human rights situations, they face acts of intimidation and reprisals.

It is not all a bleak picture, and in some parts of the world important progress is being made in terms of establishing and consolidating safe and enabling environments, including legal and institutional frameworks, for defenders to be able to carry out their activities. However, important challenges persist and we all need to remain vigilant and be ready to speak up when needed.

_Honorable Chair, Distinguished Delegates, Ladies and Gentlemen,_

In my report to the General Assembly this year, I have chosen to focus on the **relationship between large-scale development projects and the activities of human rights defenders**. I have previously reported on a worrisome trend of violations against human rights defenders which defend the rights of
communities affected by such projects, including indigenous peoples, minorities and people living in poverty.

Human rights defenders working in this context commonly face threats, harassment, intimidation, criminalization and physical attacks. Often, they are also accused of being against development if their actions oppose the implementation of development projects that have a direct impact on natural resources, the land and the environment. Examples of such projects include the construction of hydroelectric power stations, electric pylons, dams, highways and cement factories, and the operations of various extractive industries. Human rights defenders also speak out against forced evictions that occur in connection to development programmes and projects.

My predecessor, Hina Jilani, expressed related concerns already in 2007 in her report to the Human Rights Council regarding the risks and challenges faced by defenders working on economic, social and cultural rights. She highlighted the risks faced by defenders working on land rights, natural resources and environmental issues and those campaigning against illegal or forced evictions. Moreover, she noted that defenders working on land rights and natural resources comprised the second group of defenders at risk of being killed. Six years later, the situation of this group of defenders seems to have worsened.

As I have previously indicated in my reports to the General Assembly in 2010 on non-State actors and to the Human Rights Council in 2012 on environmental and land rights defenders, there have been numerous violations committed by private corporations and businesses against human rights defenders. In several cases, security guards employed by oil and mining companies have allegedly threatened to kill, harassed and attacked human rights defenders during peaceful protests. There have also been cases where local authorities have allegedly colluded with the private sector and cases in which private companies had aided and abetted the commission of violations against human rights defenders. I am deeply concerned about the risks that defenders working in the context of development projects face and their high exposure to attacks to their physical integrity. As a response to these trends, I would strongly advocate for a rights-based approach to large-scale development projects. Besides the elements normally contained in this approach in relation to development programming, I stress the need for transparency and access to information; the need for protection, which needs to be provided to affected communities and those defending their rights in this context, as well as the need to ensure accountability of duty-bearers and access to appropriate remedy.
Rights-based approach to large-scale development projects and its implications for the safe and effective participation of human rights defenders

The human rights-based approach is based on the normative framework of international human rights standards. A rights-based approach to development programming aims to redress discriminatory practices and the unfair distribution of power and resources, which in my view is the main obstacle to sustainable development. It can contribute to establishing the mechanisms and conditions which are necessary for people that are affected by development projects to safely and effectively claim their rights. Moreover, it ensures that States are held accountable and meet their international obligations.

In my report, I flesh out the following principles as necessary components to a human rights-based approach in the context of large-scale development projects; equality and non-discrimination, participation, protection, transparency and accountability, including access to appropriate remedy. These should be integrated in all stages of policymaking, from assessment, project design and planning to implementation, monitoring and evaluation.

With regard to these specific principles, I wish to make the following observations and recommendations:

Equality and non-discrimination
Equality and non-discrimination imply that the human rights of communities and population groups affected by large-scale development projects should not be adversely affected at any stage of the process. This means that defenders working on behalf of or as part of populations affected by such projects should be fully and meaningfully involved in their design, implementation and evaluation. Those responsible for large-scale development projects should make sure that those traditionally marginalized and excluded from decision-making are able to voice their opinion and participate on their own terms in the process. At the outset, data collected during the assessment stage needs to be collected in such a way as to allow for it to be disaggregated by gender, income, social or other status, and other relevant factors. Particular attention should be paid to multiple grounds of discrimination, as the intersection of such grounds could lead to different and even more adverse effects among those affected by the projects. In line with the UN Guiding Principles on Business and Human Rights, I believe the best way of ensuring that the principles of equality and non-discrimination are respected in the context of large-scale development projects is through the use of human rights impact assessments. Such assessments should be designed and conducted on a regular basis, with due consideration being given to human rights obligations, not just the impact of the project on trade or sustainability, as traditional impact assessments have done.
Participation

Besides being a right in itself, participation is an obvious means of ensuring respect for other human rights, including the right to be treated equally and without discrimination. Participation goes beyond mere consultation; it implies active involvement and empowerment of affected communities and human rights defenders. It is essential that communities and those defending their rights are able to participate actively, freely and meaningfully in assessment and analysis, project design and planning, implementation, monitoring and evaluation of development projects. Information conveyed about the project must be in the languages of the affected communities, and their participation should be facilitated in a manner that takes into consideration their language and level of literacy and is culturally sensitive. In this context, human rights defenders working with local communities can play a crucial role in facilitating communication between them and those responsible for the policy or project and in conveying information in ways that are understandable to those affected. A central aspect in this regard is the need to build the capacity of those traditionally marginalized or excluded from decision-making processes to analyse issues affecting them and voice their opinion on those issues during the process. State and non-State actors responsible for development projects should take this on as a matter of priority.

Protection

Human rights defenders involved in the implementation and monitoring of large-scale development projects are in dire need of protection. As previously stated, my predecessor and I have observed a worrisome trend in which human rights defenders working in this context are highly exposed to serious risks. Very often, they receive threats, including death threats, which are often followed by attacks. In many cases, they are arrested and detained and their activities are criminalized and branded as "anti-Government" or "against development". I would like to underline that States have an obligation to provide protection to those claiming their legitimate right to participate in decision-making processes and voicing their opposition to large-scale development projects. Ensuring the effective participation of rights holders in projects can contribute significantly to defusing tensions with duty bearers, which in turn would be a first step towards enhancing the protection of rights holders. In cases where private security forces are employed by private companies, these should receive adequate training on human rights, including with respect to the role and rights of defenders, and have in place mechanisms for reporting and investigating any potential allegations of abuse. Private companies should assess the risks associated in consultation with the affected communities.
Transparency and access to information

It is crucial that relevant information about large-scale development projects is available and accessible for rights holders to understand how their rights will be affected, how to claim rights that could be undermined by a large-scale development project and how to ensure the accountability of stakeholders and duty bearers. Human rights defenders are also affected, as they often play a key role in communicating the aims of the project and in building trust among affected communities. The principle of maximum disclosure corresponds most closely with international human rights standards and that principle should apply to any access-to-information regime, including in connection to large-scale development projects that could have an impact on matters of public interest. In this connection, information should be made available in a timely manner about project conceptualization and preparation, including contracts and subcontracts, documents with information about parties involved, financing frameworks, terms and conditions, impact assessments and mitigation strategies of large-scale development projects. Lack of transparency can lead to the disempowerment and vulnerability of defenders and affected communities. It can also seriously undermine the credibility and legitimacy of both State and non-State actors that are involved in these projects and lead to heightened tension with affected communities and those defending their rights.

Accountability mechanisms and redress

The principle of accountability implies that all stakeholders, especially those considered as duty bearers, are responsible for specific outcomes and actions, in accordance with their obligations under the standards, laws, rules and regulations that govern their work. To this end, mechanisms must be in place for rights-holders to communicate their grievances, claim responsibilities and obtain effective redress if violations occur, without fear of intimidation of any sort. I am deeply concerned about reports, including from the Working Group on the issue of human rights and transnational corporations and other business enterprises, detailing harassment, persecution and retaliation against human rights defenders seeking judicial remedy for business-related violations. It is essential that those who wish to report human rights concerns and violations can safely access accountability and grievance mechanisms. While the justice system is the avenue normally sought out by affected communities and defenders, it does not always provide a timely or appropriate response in the context of large-scale development projects. The existence of other accountability mechanisms, whether State-based or non-State-based, is therefore crucial. National human rights institutions have played a key role in some of these cases. Private enterprises, as well as State donors and private donors, can contribute to ensuring accountability, for example by establishing mechanisms, either by themselves or in cooperation with other stakeholders. All non-judicial grievance mechanisms, whether State- or non-State-based, should be legitimate, accessible, predictable, equitable, transparent, rights-
compatible, a source of continuous learning and, in the case of company- or project-level mechanisms, based on dialogue and engagement

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In conclusion, I would like to reiterate the following points regarding the role of human rights defenders operating in the context of large-scale development projects:

- Communities and those defending their rights play a crucial role in shaping development policies and projects that are people-centred, non-discriminatory and sustainable for all;
- Human rights defenders can play a key role in ensuring that dialogue is used to reinforce social cohesion and pre-empt conflict and the radicalization of positions;
- State and non-State actors responsible for large-scale development projects need to engage with stakeholders, including affected communities and those defending their rights, in good faith, not just as a mere formality;
- Defenders can play a crucial role as members of teams conducting human rights impact assessments, taking part in formal multi-stakeholders oversight mechanisms and mediation and grievance mechanisms, and as independent watchdogs monitoring the implementation of large-scale development projects;
- Rather than being against development, defenders play an important role in advancing development. This is particularly relevant in the context of the discussion on the post-2015 development agenda. Civil society is calling for meaningful participation, higher levels of accountability from Governments and international institutions, and the protection of human rights under the rule of law.

I thank you for your attention and encourage you to consult the full report with recommendations to all stakeholders.