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# Protecting the Protectors: A Legal Appraisal of International Protection for Environmental Defenders

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**ABSTRACT**

*The international protection of environmental defenders remains fragmented, insufficient, and unevenly applied across regions. This article analyses the bases and limitations of existing protection and demonstrates how an interpretative extension of current legal instruments can strengthen safeguards without awaiting a new treaty. The approach adopted is primarily legal and analytical, based on an examination of relevant international texts. It also relies on doctrinal and critical analysis of international human rights law and environmental law. The analysis shows that the current protection of environmental defenders remains fragmented, insufficient, and unevenly applied across regions. The absence of a specific international legal status, the growing criminalisation of their activities, and the persistence of impunity for violence constitute major obstacles. The study concludes that the international protection of environmental defenders must evolve toward a more dynamic and effective interpretation of existing norms. Interpretative extension makes it possible to respond to contemporary emergencies without relying exclusively on lengthy treaty negotiations. It therefore offers a pragmatic solution for better protecting those who work to safeguard the environment and, ultimately, humanity itself. The study recommends strengthening the evolving interpretation of existing instruments so that the situation of environmental defenders is explicitly taken into account. States should improve cooperation, ensure better implementation of their international commitments, and end impunity for violence. Finally, the Escazú experience should inspire other regions of the world toward the adoption of more effective regional or universal protection mechanisms.*

***Keywords:*** *Environmental defenders, International protection, Interpretative extension, Human rights, Escazú Agreement*

## I. INTRODUCTION

Daily, environmental human rights defenders face violence and violations of their rights as a direct consequence of their engagement in the protection of the environment and the promotion

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of human rights.[1] This statement by the UN Special Rapporteur on the situation of human rights defenders sums up with brutal clarity the reality faced by thousands of people around the world who are fighting to protect the environment, biodiversity and the climate.[2] In 2024 alone, Global Witness documented 146 murders and long-term disappearances of land and environmental defenders, equivalent to around three people killed or disappeared every week throughout the year.[3] Since 2012, when the organisation began its tally, the number of environmental defenders killed or disappeared has reached 2,253.[4]

Colombia remains the deadliest country for environmental activists, with 48 murders recorded in 2024, accounting for a third of victims worldwide.[5] In Mexico, between 2015 and 2025, at least 199 environmental defenders were murdered, an average of one every three weeks.[6] Even in Europe, according to Réseau Action Climat, reporting a position paper by Michel Forst, the UN Special Rapporteur on environmental defenders under the Aarhus Convention, the level of political, police and judicial repression against environmental defenders in several European countries is "alarming".[7] This systematic repression is accompanied by increasing criminalisation: abusive legal proceedings, terrorism charges, constant harassment, police surveillance, bans on demonstrations and restrictions on freedom of expression.[8] Environmental defenders face threats not only from State actors, but also from powerful non-State actors: extractive multinationals, organised criminal groups, and armed militias protecting illegal economic interests.[9]

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[1] Michel Forst (Special Rapporteur on the Situation of Human Rights Defenders), *Situation of Human Rights Defenders*, ¶ 26, U.N. Doc. A/71/281 (Aug. 3, 2016).

[2] *Id.* ¶ 7.

[3] GLOBAL WITNESS, *Roots of Resistance: Documenting the Global Struggles of Defenders Protecting Land and Environmental Rights* (Sept. 17, 2025), https://globalwitness.org/en/campaigns/land-and-environmental-defenders/roots-of-resistance/ (last visited Nov. 18, 2026); *see also* LES AMIS DE LA TERRE FRANCE, *Défendre les droits humains et l'environnement : à quel prix ? L'enjeu crucial de la protection des défenseur.se.s* 1 (May 2019), https://www.amisdelaterre.org/wp-content/uploads/2019/06/proteger-les-defenseurs---amis-de-la-terre---mai-2019.pdf (last visited Nov. 18, 2026).

[4] GLOBAL WITNESS, *supra* note 3.

[5] GLOBAL WITNESS, *supra* note 3.

[6] Mathieu Tourliere, *Au Mexique, 199 défenseurs de l'environnement ont été assassinés en dix ans*, LE MONDE (Apr. 16, 2026), https://www.lemonde.fr/international/article/2026/04/16/au-mexique-199-defenseurs-de-l-environnement-ont-ete-assassines-en-dix-ans_6680580_3210.html (last visited Nov. 18, 2026).

[7] RÉSEAU ACTION CLIMAT, *L'ONU alerte sur la répression croissante des défenseurs de l'environnement en Europe* (Feb. 28, 2024), https://reseauactionclimat.org/lonu-alerte-sur-la-repression-croissante-des-defenseurs-de-lenvironnement-en-europe/ (last visited Nov. 18, 2026); *see* Michel Forst (UN Special Rapporteur on Environmental Defenders under the Aarhus Convention), *State Repression of Environmental Protest and Civil Disobedience: A Major Threat to Human Rights and Democracy* 2 (Position Paper, Feb. 2024), https://ecnl.org/sites/default/files/2024-04/Design%20MF%20position%20paper%20FEB%202024%20-%20ENGLISH%20TOC.pdf (last visited Nov. 18, 2026).

[8] AMNESTY INTERNATIONAL FRANCE, *La répression mondiale des défenseurs de l'environnement menace l'action climatique* (Nov. 8, 2024), https://www.amnesty.fr/dossiers/repression-mondiale-des-defenseurs-de-lenvironnement/ (last visited Nov. 18, 2026); Forst, *State Repression*, *supra* note 7, at 7–8.

[9] Femke Wijdekop, IUCN NL, *Les défenseurs de l'environnement et leur reconnaissance selon le droit international et régional : une introduction* 6 (2021), https://www.iucn.nl/app/uploads/2021/03/les_defenseurs_de

Environmental defenders are individuals or groups who, either individually or collectively, act to protect the environment, preserve biodiversity, combat climate change, and defend land rights and natural resources.[10] This category includes environmental activists, Indigenous communities defending their territories, campaigners against polluting projects, lawyers specialising in environmental law, civil society organisations (CSOs) and all those who, through peaceful means, work to protect the environment.[11] The UN Special Rapporteur has confirmed that those defending land rights and the right to natural resources are also included in this category of defenders.[12] This broad definition is essential, as it recognises the inseparable link between environmental protection and the defence of fundamental human rights.[13]

The protection of environmental defenders therefore aims to safeguard those who defend this universal living space.[14]

In the face of this growing repression, the question arises as to how to strengthen the international protection of these essential defenders. Interpretative extension refers to the legal mechanism of broadening the scope of existing legal instruments through a broad and evolving interpretation of their provisions.[15] In public international law, the interpretation of treaties is governed by the 1969 Vienna Convention on the Law of Treaties, which underpins the principle of 'effective application': ensuring that provisions protecting fundamental rights are given full effect.[16] An interpretative declaration is a unilateral declaration that a State may make when it wishes to be legally bound by an international convention, in order to clarify its understanding of the treaty's provisions.[17] Such a declaration may bridge what appears to be a gap between what the treaty says and what the State would have liked it to say.[18] Interpretative extension is based on the principle of favour in human rights matters: where there is any doubt, the interpretation that offers the greatest protection of fundamental rights must prevail.[19]

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_lenvironnement_et_leur_reconnaissance_selon_le_droit_international_et_regional.pdf (last visited Nov. 18, 2026); GLOBAL WITNESS, *supra* note 3.

[10] U.N. Doc. A/71/281, *supra* note 1, ¶ 7.

[11] *Id.* ¶ 8.

[12] Wijdekop, *supra* note 9, at 5.

[13] U.N. Doc. A/71/281, *supra* note 1, ¶ 7.

[14] Romuald Ngono & Armelle Olinga, *Strengthening Indigenous Land Rights in Cameroon* (Int'l Inst. for Env't & Dev., Jan. 2023), https://www.iied.org/21296iied (last visited Nov. 18, 2026).

[15] INTERPRÉTATION ET DROIT (Paul Amselek ed., Bruylant 1995); *see especially* Serge Sur, *L'interprétation en droit international public*, *in id.*, https://www.afri-ct.org/2005/l-interpretation-en-droit/ (last visited Nov. 18, 2026) (extract).

[16] Vienna Convention on the Law of Treaties arts. 31–33, May 23, 1969, 1155 U.N.T.S. 331.

[17] COMMISSION DU DROIT INTERNATIONAL, *Guide de la pratique sur les réserves aux traités*, directive 1.2, U.N. Doc. A/66/10/Add.1 (2011).

[18] Jean-Benoît Minyem, *Les déclarations interprétatives en droit international public* (2010) (mémoire de Master en relations internationales, Institut des Hautes Études Internationales); IRÉNÉE-GILDAS MAZI, LES DÉCLARATIONS INTERPRÉTATIVES EN DROIT INTERNATIONAL PUBLIC (Generis Publishing 2021).

[19] INTERPRÉTATION ET DROIT, *supra* note 15, at 235.

International protection refers to the legal framework and protection mechanisms established at international level to guarantee respect for fundamental rights.[20] This framework exists in theory, but its practical application to environmental defenders poses a problem.

This topic is of major theoretical interest for several reasons. Firstly, it raises questions about the capacity of international law to evolve in the face of new global challenges.[21] The protection of environmental defenders lies at the intersection of several branches of law: international human rights law, international environmental law, international criminal law and treaty law.[22] This complex intersection provides fertile ground for analysing how international law adapts to new realities.[23] The question of interpretative extension raises fundamental doctrinal debates regarding the method of treaty interpretation. Should priority be given to a strict interpretation, respecting the original intent of the States Parties, or to an evolutionary interpretation, adapting treaties to new social and environmental realities?[24] This question goes to the heart of the theory of international law and its capacity to be a living law, capable of evolving without the need for lengthy and complex renegotiations.

Environmental defenders play a crucial role in combating climate change and preventing ecosystem destruction. By protecting biodiversity, natural resources and public health, they contribute to safeguarding the environmental conditions essential to human survival.[25] Without their action, many environmental abuses would go unpunished and numerous destructive projects would be carried out unchecked. The protection of these defenders is therefore not merely a matter of individual human rights, but an essential prerequisite for the protection of the environment itself. The climate crisis demands massive public mobilisation, and this mobilisation cannot take place if defenders are systematically repressed and murdered with impunity.[26]

From a legal perspective, this issue is of particular interest as it highlights the shortcomings of the current international system. There is no universal international treaty specifically dedicated to the protection of environmental defenders.[27] Protection is fragmented across geographical

[20] MICHEL PRIEUR, DROIT DE L'ENVIRONNEMENT (7th ed., Dalloz 2016).
[21] Sali Aliyou, *La protection de l'environnement en période de covid-19 au Cameroun*, 13 REVUE ACADÉMIQUE DE LA RECHERCHE JURIDIQUE 786 (2022).
[22] *See generally* Wijdekop, *supra* note 9, at 8–18.
[23] ENVIRONNEMENT ET DROITS DE L'HOMME 178 (Pascale Kromarek ed., UNESCO 1987).
[24] INTERPRÉTATION ET DROIT, *supra* note 15, at 235.
[25] AMNESTY INTERNATIONAL, *No Future Without Courage: Human Rights Defenders in the Americas Speaking Up on the Climate Crisis* 2–3, 11, AI Index AMR 01/7411/2023 (Nov. 2023), https://www.amnesty.org/en/wp-content/uploads/2023/12/AMR0174112023ENGLISH.pdf (last visited Nov. 18, 2026).
[26] AMNESTY INTERNATIONAL, *supra* note 25, at 3.
[27] *See* Wijdekop, *supra* note 9, at 8–18.

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regions: Latin America and the Caribbean benefit from the Escazú Agreement, the world's first binding instrument to include specific provisions on the protection of environmental defenders.[28] In Europe, Africa and Asia, no equivalent instrument exists. In Africa, Maurice Kamto has analysed continental environmental law, highlighting the strengths and weaknesses of African institutional frameworks.[29] The transition from legal norms to legal effectiveness poses immense challenges. As Professor Maurice Kamto points out, the implementation of environmental law faces a twofold complexity: on the one hand, a dense profusion of regulations and, on the other, a glaring lack of institutional coordination.[30] Within this complex web, the actions of non-State actors (NGOs, CSOs, associations and citizens, particularly Indigenous Peoples and Local Communities (IPLCs)) prove to be the most dynamic means of ensuring effectiveness in addressing State failures, particularly in contexts characterised by the practical marginalisation of civic engagement.[31]

This situation creates an unacceptable inequality in protection: an environmental defender in Latin America benefits from a legal framework of protection that their counterparts in other regions of the world do not have. Furthermore, even in regions where such instruments exist, their effectiveness remains limited by States' lack of political will to implement them in practice.[32]

International recognition of environmental rights began with the 1972 Stockholm Declaration, which proclaims a fundamental right to an environment of a quality that permits a life of dignity and well-being, and was subsequently reinforced by the 1992 Rio Declaration and its Principle 10 on access to information, public participation and access to justice in environmental matters. Alexandre Kiss helped to establish the theoretical foundations for the human right to the environment as a fundamental right.[33] In 2022, the UN General Assembly recognised the right to a clean, healthy and sustainable environment as a human right, marking a major step

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[28] CENTRE FRANÇAIS D'INFORMATION SUR LES ENTREPRISES (CFIE), *Accord d'Escazú, un traité historique pour la protection des défenseurs de l'environnement* (Oct. 9, 2018), https://cfie.net/2018/10/09/accord-descazu-traite-historique-protection-defenseurs-de-lenvironnement/ (last visited Nov. 18, 2026); Mary Lawlor (Special Rapporteur on the Situation of Human Rights Defenders), *Final Warning: Death Threats and Killings of Human Rights Defenders*, ¶ 33, U.N. Doc. A/HRC/46/35 (Dec. 24, 2020).

[29] MAURICE KAMTO, DROIT DE L'ENVIRONNEMENT EN AFRIQUE 18 (EDICEF 1996).

[30] Maurice Kamto, *La mise en œuvre du droit de l'environnement : forces et faiblesses des cadres institutionnels* 1 (paper presented at the Colloque international sur la mise en œuvre du droit de l'environnement en Afrique, Abidjan, 2013).

[31] *Cf.* Claude Béland, *La participation citoyenne : un rempart de la démocratie*, 7 ÉTHIQUE PUBLIQUE, no. 1, 2005, https://doi.org/10.4000/ethiquepublique.1982 (citizen groups, co-operatives and non-profit organisations as schools of democratic practice).

[32] Aliyou, *supra* note 21.

[33] Alexandre Kiss, *Définition et nature juridique d'un droit de l'homme à l'environnement*, *in* ENVIRONNEMENT ET DROITS DE L'HOMME, *supra* note 23, at 13–28; MARTINE RÉMOND-GOUILLOUD, DU DROIT DE DÉTRUIRE : ESSAI SUR LE DROIT DE L'ENVIRONNEMENT 24 (Presses Universitaires de France 1989); PRIEUR, *supra* note 20, at 45.

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forward in international environmental protection. Finally, the Escazú Agreement represents an important milestone, as it specifically protects environmental defenders and strengthens access to information, public participation and justice.

Despite these legal advances, repression against environmental defenders continues to intensify worldwide. Why is the existing international legal framework, despite being extensive, proving insufficient to effectively protect these key actors in the ecological transition? How can international law be developed to strengthen the protection of environmental defenders without requiring new treaties, a process that is both lengthy and uncertain?

The central hypothesis of this article is that the interpretative extension of existing international human rights instruments constitutes an accessible and immediate route to strengthening the protection of environmental defenders. More specifically, it is hypothesised that the 1998 Declaration on Human Rights Defenders can be interpreted to explicitly and fully include environmental defenders, that existing mechanisms can extend their scope through evolutionary interpretation, and that this interpretative extension can be complemented by the creation of specific mechanisms without requiring a new universal treaty.

This analysis adopts a rigorous methodological approach combining doctrinal analysis[34] of international treaties, a comparison of regional protections, an examination of the case law of regional human rights courts, and factual data from UN and NGO reports.[35] Although the relevant texts protect defenders, they prove to be insufficient; an interpretative extension of existing instruments constitutes a viable path towards enhanced international protection.

## II. THE STRUCTURAL INADEQUACY OF THE INTERNATIONAL PROTECTION REGIME

Although international law has made significant progress in recognising environmental rights and the protection of human rights defenders, the current legal framework applicable to environmental defenders reveals significant structural shortcomings. This inadequacy is all the more striking given that repression against these defenders continues to intensify globally.

### A. The absence of specific legal provisions for environmental defenders

International law provides a set of instruments that could, in theory, protect environmental defenders, but which have significant shortcomings in their practical application.

[34] PIERRE-MARIE DUPUY & JORGE E. VIÑUALES, INTERNATIONAL ENVIRONMENTAL LAW 62–70, 81–88 (2d ed. 2018); JAMES CRAWFORD, BROWNLIE'S PRINCIPLES OF PUBLIC INTERNATIONAL LAW 339–44 (9th ed. 2019); PHILIPPE SANDS ET AL., PRINCIPLES OF INTERNATIONAL ENVIRONMENTAL LAW 197–205, 244–51 (4th ed. 2018).
[35] LE DROIT : UNE ARME AU SERVICE DU VIVANT ? PLAIDOYERS ET CONTENTIEUX STRATÉGIQUES (Christel Cournil & Anne-Sophie Denolle eds., Pedone 2024).

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**i. Indirect and fragmented international protection**

International recognition of environmental rights and defenders has been growing for several decades, creating a legal framework that could serve as a basis for the protection of environmental defenders. The Stockholm Declaration on the Human Environment, adopted at the 1972 United Nations Conference, set out for the first time a fundamental right to an environment of a quality that permits a life of dignity and well-being.[36] Although this declaration is not legally binding, it established a moral and political standard that has influenced the subsequent development of international environmental law.

Twenty years later, the Rio Declaration on Environment and Development, adopted at the 1992 Earth Summit, reinforced this recognition by establishing Principle 10 on access to information, public participation in decision-making and access to justice in environmental matters.[37] This principle implicitly recognises the role of citizens and civil society organisations in environmental protection, thereby laying the foundations for the recognition of environmental defenders.[38] At the same time, the 1998 Declaration on Human Rights Defenders, adopted by the United Nations General Assembly in Resolution 53/144, establishes a general framework for the protection of all those who peacefully campaign for the promotion and protection of human rights.[39] Although this declaration does not explicitly mention environmental defenders, it constitutes the most important legal basis for their current protection.[40]

The Escazú Agreement, adopted on 4 March 2018 in Escazú, Costa Rica, and in force since 22 April 2021, represents a major step forward in the specific protection of environmental defenders.[41] This multilateral treaty, concluded under the auspices of the United Nations, is the first binding instrument in the world to include specific provisions on the protection of environmental defenders.[42] It sets out obligations to protect these defenders against threats, violence and intimidation, facilitates public participation in environmental decision-making,

[36] U.N. Conference on the Human Environment, *Declaration of the United Nations Conference on the Human Environment*, princs. 1–2, U.N. Doc. A/CONF.48/14/Rev.1 (June 16, 1972).
[37] U.N. Conference on Environment and Development, *Rio Declaration on Environment and Development*, princ. 10, U.N. Doc. A/CONF.151/26 (Vol. I), annex I (Aug. 12, 1992).
[38] JEAN-PIERRE BEURIER, DROIT INTERNATIONAL DE L'ENVIRONNEMENT (5th ed., Pedone 2017).
[39] G.A. Res. 53/144, annex, Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, U.N. Doc. A/RES/53/144 (Dec. 9, 1998).
[40] LA PRÉVENTION DES VIOLATIONS DES DROITS DE L'HOMME (Emmanuel Decaux & Sébastien Touzé eds., Pedone 2015).
[41] Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean, Mar. 4, 2018, 3388 U.N.T.S., U.N. Reg. No. 56654 (entered into force Apr. 22, 2021) [hereinafter Escazú Agreement].
[42] CFIE, *supra* note 28; U.N. Doc. A/HRC/46/35, *supra* note 28, ¶ 33.

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and guarantees access to information and justice in environmental matters.[43] Although the Escazú Agreement serves as a model for other regions of the world, it remains geographically limited to Latin America and the Caribbean and does not cover defenders in other parts of the world, which constitutes a major limitation.[44]

In 2022, the United Nations General Assembly recognised the right to a clean, healthy and sustainable environment as a human right in Resolution 76/300.[45] This recognition marks a historic turning point in the international enshrinement of environmental rights and has the potential to strengthen the protection of defenders fighting for this right.[46] Furthermore, the UN Special Rapporteur on the situation of human rights defenders has confirmed that those defending land rights and the right to natural resources are also included in the category of human rights defenders.[47] This broader interpretation is essential, as it recognises the inseparable link between environmental protection and the defence of fundamental human rights.[48]

The 1998 Declaration on Human Rights Defenders, whilst fundamental, does not explicitly mention environmental defenders, which creates uncertainty regarding their precise status.[49] The Escazú Agreement, whilst important, covers only a limited geographical region, leaving millions of defenders without specific protection. Taken in isolation, these instruments do not constitute a coherent and universal legal framework for the protection of environmental defenders.[50] The universal legal vacuum concerning environmental defenders is offset by indirect and fragmented protection. The European Court of Human Rights has read Article 8 of the European Convention on Human Rights as protecting individuals against serious environmental pollution, which protects environmental defenders only indirectly.[51] The American Convention on Human Rights offers similar protection, but the Inter-American Court has only recently developed specific case law on environmental matters.[52] The African Charter

[43] Escazú Agreement, *supra* note 41, arts. 1–3, 5–9.
[44] *Id.* art. 21, annex 1; *cf.* Áine Ryall, *The Aarhus Convention: Standards for Access to Justice in Environmental Matters*, *in* ENVIRONMENTAL RIGHTS: THE DEVELOPMENT OF STANDARDS 116 (Stephen J. Turner et al. eds., 2019).
[45] G.A. Res. 76/300, The Human Right to a Clean, Healthy and Sustainable Environment, ¶ 1, U.N. Doc. A/RES/76/300 (July 28, 2022).
[46] Yann Aguila & Jorge E. Viñuales, *A Global Pact for the Environment: Conceptual Foundations*, 28 REV. EUR. COMPAR. & INT'L ENV'T L. 3 (2019), https://doi.org/10.1111/reel.12277.
[47] Wijdekop, *supra* note 9, at 5; U.N. Doc. A/71/281, *supra* note 1, ¶ 7.
[48] LE DROIT : UNE ARME AU SERVICE DU VIVANT ?, *supra* note 35, at 368.
[49] HERMINE KEMBO TAKAM GATSING, LE SYSTÈME AFRICAIN DE PROTECTION DES DROITS DE L'HOMME : UN SYSTÈME EN QUÊTE DE COHÉRENCE (L'Harmattan 2014).
[50] RODA VERHEYEN, CLIMATE CHANGE DAMAGE AND INTERNATIONAL LAW: PREVENTION DUTIES AND STATE RESPONSIBILITY 189–212 (Martinus Nijhoff 2005).
[51] *Tătar v. Romania*, App. No. 67021/01 (Eur. Ct. H.R. Jan. 27, 2009).
[52] Henry Jiménez Guanipa & María Barraco, *The Inter-American Human Rights System's Impact on the Protection of the Right to a Healthy Environment*, *in* THE IMPACT OF THE INTER-AMERICAN HUMAN RIGHTS SYSTEM:

on Human and Peoples' Rights, in Article 24, recognises the right of all peoples to a general satisfactory environment favourable to their development, but the African Commission has developed only limited case law on environmental defenders.[53]

**ii. The lack of autonomous recognition of environmental defenders**

An analysis of the current international legal framework reveals fundamental structural shortcomings[54] that significantly limit its effectiveness in protecting environmental defenders. The most glaring shortcoming is the absence of a specific international status dedicated to environmental defenders.[55] There is no universal international treaty that explicitly recognises and specifically protects environmental defenders as a distinct category of human rights defenders. This absence creates a legal vacuum at UN level, even though similar categories such as human rights defenders, journalists and trade unionists benefit from more specific protection frameworks.[56]

Latin America and the Caribbean benefit from the Escazú Agreement, whilst Europe, Africa and Asia have no equivalent regional instrument.[57]

Environmental defenders are indirectly protected through the extension of existing mechanisms for the protection of human rights defenders, but this extension is neither explicit nor systematic.[58]

States' interpretative declarations are often restrictive, narrowing the scope of the treaties rather than broadening it.[59] States may make interpretative declarations to bridge what they perceive as a gap between what the treaty says and what they would have liked it to say, but these declarations tend to limit obligations rather than strengthen them.[60]

The lack of a universal mechanism dedicated to environmental defenders also means that there is no specific emergency procedure to respond swiftly to threats against these defenders.

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TRANSFORMATIONS ON THE GROUND 237 (Armin von Bogdandy et al. eds., 2024), https://doi.org/10.1093/oso/9780197744161.003.0013; Diego Mejía-Lemos, *The Protection of the Environment through International Human Rights Litigation: Taking Stock of Challenges and Opportunities in the Inter-American System*, 22 HUM. RTS. L. REV. ngac015 (2022), https://doi.org/10.1093/hrlr/ngac015.

[53] African Charter on Human and Peoples' Rights art. 24, June 27, 1981, 1520 U.N.T.S. 217; MUTOY MUBIALA, LE SYSTÈME RÉGIONAL AFRICAIN DE PROTECTION DES DROITS DE L'HOMME (Bruylant 2005); ALIOUNE SALL, LE CONTENTIEUX DE LA VIOLATION DES DROITS DE L'HOMME DEVANT LA COUR DE JUSTICE DE LA CEDEAO (L'Harmattan 2019).

[54] KAMTO, *Droit de l'environnement en Afrique*, *supra* note 29, at 18.

[55] Wijdekop, *supra* note 9, at 12–15.

[56] Kamto, *La mise en œuvre du droit de l'environnement*, *supra* note 30, at 4; CRAWFORD, *supra* note 34.

[57] GLOBAL WITNESS, *Missing Voices: The Violent Erasure of Land and Environmental Defenders* (Sept. 10, 2024).

[58] Wijdekop, *supra* note 9, at 10–11.

[59] SANDS ET AL., *supra* note 34, at 197–251.

[60] COMMISSION DU DROIT INTERNATIONAL, *supra* note 17, directives 1.3–1.3.3, https://legal.un.org/ilc/texts/instruments/french/draft_articles/11_2011.pdf (last visited Nov. 18, 2026).

Existing mechanisms, such as the UN Special Procedures, must interpretatively extend their mandate to cover environmental defenders, but this extension is neither automatic nor systematic. Furthermore, regional human rights protection mechanisms (the European Court of Human Rights, the Inter-American Court of Human Rights, the African Commission on Human and Peoples' Rights) do not have consistent case law regarding the specific protection of environmental defenders.

The lack of a specific status also creates problems of legitimacy and recognition. Environmental defenders are often perceived as 'activists' rather than as human rights defenders in their own right, which can more easily justify repression.[61] This distorted perception is reinforced by the lack of explicit recognition in international law, creating a vicious circle in which the lack of legal recognition justifies repression, and repression hinders recognition.

Soft law instruments, whilst important for setting standards, are not legally binding and depend on the goodwill of States for their implementation. The Rio Declaration, the Stockholm Declaration and the Declaration on Human Rights Defenders are all soft law instruments that do not create direct legal obligations.[62] This lack of binding force considerably limits their effectiveness.[63] States may endorse these declarations without necessarily putting in place the necessary concrete protective measures within their territories.

The protection of environmental defenders is also hampered by the lack of harmonisation between international environmental law and international human rights law. These two branches of international law have developed in a parallel yet distinct manner, creating difficulties in their practical application.[64] The lack of systematic integration between these two branches makes it difficult to provide effective protection for defenders who operate at the intersection of these two fields.[65]

The lack of a specialised monitoring mechanism for environmental defenders constitutes another significant structural shortcoming. The expert committees under the human rights treaties (Human Rights Committee, Committee on Economic, Social and Cultural Rights, Committee against Torture) have no specific mandate to monitor the situation of environmental defenders. The UN Special Procedures have only a general mandate covering human rights

[61] U.N. Doc. A/71/281, *supra* note 1, ¶¶ 7, 25.
[62] G.A. Res. 53/144, *supra* note 39.
[63] SUSTAINABLE DEVELOPMENT IN WORLD INVESTMENT LAW (Marie-Claire Cordonier Segger, Markus W. Gehring & Andrew Newcombe eds., Kluwer L. Int'l 2011).
[64] DUPUY & VIÑUALES, *supra* note 34, at 235.
[65] *See generally* Catherine Redgwell, *Life, the Universe and Everything: A Critique of Anthropocentric Rights*, *in* HUMAN RIGHTS APPROACHES TO ENVIRONMENTAL PROTECTION (Alan E. Boyle & Michael R. Anderson eds., Clarendon Press 1996).

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defenders, with no specialisation in environmental defenders. This lack of specialisation limits the monitoring bodies' ability to understand and address the specific nature of violations against environmental defenders.

### B. The limited effectiveness of protection mechanisms in the face of increasing repression

Beyond the structural shortcomings of the legal framework, the reality on the ground demonstrates the ineffectiveness of existing protection mechanisms in the face of increasing and systematic repression of environmental defenders.

#### i. Contemporary forms of repression against environmental defenders

Repression against environmental defenders takes many and multifaceted forms, ranging from the most brutal physical violence to the most subtle judicial criminalisation. Physical violence constitutes the most dramatic and visible form of repression. In 2024, Global Witness documented 146 murders and long-term disappearances of land and environmental defenders worldwide.[66] Since 2012, this figure has risen to 2,253 defenders killed or disappeared, an average of around 173 people per year.[67] Colombia is the deadliest country, with 48 murders in 2024 alone, accounting for a third of the victims worldwide.[68] In Mexico, between 2015 and 2025, at least 199 environmental defenders were murdered, an average of one every three weeks.[69] In Brazil, the Philippines, Honduras and many other countries, environmental defenders continue to be killed every year.[70]

In Africa, the situation is equally worrying. In 2019, members of the International Land Coalition (ILC) Africa documented abuses against more than 100 land and environmental defenders across the continent, whilst other records show 15 people killed that same year.[71] Cameroon, a country severely affected by illegal logging and other environmental crime, is one of the countries in the Congo Basin where environmental defenders face growing threats.[72]

Several NGOs are working to protect environmental defenders in Africa and Cameroon. They include Écosystèmes et Développement (ECODEV), a Cameroonian non-profit organisation

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[66] *Près de 150 défenseurs de l'environnement tués en 2024, majoritairement en Amérique latine selon une ONG*, LE FIGARO (Sept. 17, 2025), https://www.lefigaro.fr/flash-actu/pres-de-150-defenseurs-de-l-environnement-tues-en-2024-majoritairement-en-amerique-latine-selon-une-ong-20250917 (last visited Nov. 18, 2026).

[67] GLOBAL WITNESS, *supra* note 3.

[68] LE FIGARO, *supra* note 66.

[69] Tourliere, *supra* note 6.

[70] GLOBAL WITNESS, *supra* note 3.

[71] INTERNATIONAL LAND COALITION (ILC) AFRICA, *ILC Africa Launches the African Defenders Emergency Fund* (Feb. 12, 2020), https://africa.landcoalition.org/en/newsroom/ilc-africa-launches-african-defenders-emergency-fund/ (last visited Nov. 18, 2026).

[72] GLOBAL INITIATIVE AGAINST TRANSNATIONAL ORGANIZED CRIME, *New Network Aims to Combat Transnational Environmental Crime in the Congo Basin* (Apr. 24, 2025), https://globalinitiative.net/announcements/new-network-to-combat-transnational-environmental-crime-congo-basin/ (last visited Nov. 18, 2026).

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with an environmental focus, created on 10 January 2015 and legally registered on 18 July 2016, whose mission is to contribute to the preservation of forest, aquatic and marine ecosystems and the conservation of biodiversity through the promotion of sustainable, equitable and environmentally responsible development,[73] and the other member organisations of the Coordination of Independent External Observation, which specialise in monitoring illegal logging, supporting Indigenous communities and advocating legislative reforms that are sensitive to community rights.[74] At regional level, APEM (Action pour la Promotion et Protection des Peuples et Espèces Menacés), together with APADIME (Cameroon) and IVINDO FM (Gabon), launched in July 2024 a network of environmental defenders in the Congo Basin, bringing together stakeholders from Cameroon, Gabon and the DRC.[75]

Criminalisation is an equally devastating form of repression, albeit less visible than murders. Environmental defenders are subjected to abusive legal proceedings, accusations of terrorism and comparisons with criminal organisations.[76] These accusations are often used to discredit their cause, prevent them from taking action, and keep them under constant surveillance. In Mexico, for example, the Mexican Centre for Environmental Law reports the growing problem of the criminalisation of environmental defenders.[77] In Europe, Michel Forst, the UN Special Rapporteur on environmental defenders under the Aarhus Convention, has identified a trend of repression and criminalisation of environmental defenders engaged in peaceful protest and civil disobedience in several European countries.[78]

Systematic harassment constitutes a third form of repression, present in virtually every country where environmental defenders are active. This harassment takes various forms: constant death threats, police or private surveillance, verbal or physical intimidation, defamation in the media, and smear campaigns orchestrated by interest groups.[79] Activists are often followed by unidentified vehicles, their homes are under surveillance, their communications are intercepted, and their families are threatened. This constant harassment creates a permanent climate of fear that can discourage activism without the need for direct physical violence.[80]

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[73] Écosystèmes et Développement (ECODEV), *À propos de nous*, https://eco4dev.org/a-propos-de-nous/ (last visited Nov. 18, 2026).
[74] For further information on this network, *see* Coordination de l'Observation Indépendante Externe (C-OI), *Qui sommes-nous ?*, https://oiecameroun.org/qui-sommes-nous/ (last visited Nov. 18, 2026).
[75] Global Initiative against Transnational Organized Crime, *supra* note 72.
[76] Amnesty International France, *supra* note 8; Forst, *State Repression*, *supra* note 7, at 7–8.
[77] Global Witness, *supra* note 3.
[78] Réseau Action Climat, *supra* note 7; Forst, *State Repression*, *supra* note 7, at 2, 8.
[79] Amnesty International France, *supra* note 8; Wijdekop, *supra* note 9, at 5.
[80] EarthRights International, *Indigenous Environmental Defenders Under Risk for Protecting the Amazon Rainforest: The Cases of the Wampis Nation and FENAMAD* (Apr. 18, 2022), https://earthrights.org/publication/indigenous-environmental-defenders-under-risk-for-protecting-the-amazon-rainforest-the-cases-of-the-wampis-nation-and-fenamad/ (last visited Nov. 18, 2026).

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Restrictions on freedom constitute a fourth form of repression, particularly prevalent in authoritarian or semi-authoritarian regimes. Environmental defenders face bans on demonstrations, limitations on freedom of expression, association and assembly, and a shrinking democratic space.[81] These restrictions are systematically used to stifle environmental activism.[82]

**ii. The limitations of international response mechanisms**

Despite the theoretical existence of international protection mechanisms, their effectiveness remains severely limited by several structural and political factors. The limited effectiveness of international instruments is evident: many States fail to fulfil their international obligations regarding the protection of human rights defenders, let alone those specifically concerning environmental defenders.[83] The 1998 Declaration on Human Rights Defenders, although adopted by consensus at the UN, is not legally binding, which limits its enforceability.[84] States may sign treaties and endorse declarations without necessarily implementing the necessary concrete protective measures within their territories, as the Secretary-General's report on the twentieth anniversary of the Declaration and the Special Rapporteur's report on killings of defenders show.[85]

Access to justice remains extremely limited for environmental defenders who are victims of violations. Legal proceedings are lengthy, costly, complicated by language and administrative barriers, and often dominated by powerful economic interests. Defenders who expose environmental violations or threats to their safety face major obstacles in obtaining redress. The Escazú Agreement establishes an ambitious legal framework for ensuring access to justice in environmental matters. Nevertheless, its practical effectiveness remains constrained by persistent implementation gaps, including inadequate national institutional capacity, procedural and financial barriers to judicial remedies, and insufficient political commitment on the part of some States Parties.[86]

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[81] Wijdekop, *supra* note 9, at 5; AMNESTY INTERNATIONAL FRANCE, *supra* note 8.

[82] HUMAN RIGHTS WATCH, *"Working on Oil is Forbidden": Crackdown against Environmental Defenders in Uganda* (Nov. 2, 2023), https://www.hrw.org/report/2023/11/02/working-oil-forbidden/crackdown-against-environmental-defenders-uganda (last visited Nov. 18, 2026).

[83] G.A. Res. 53/144, *supra* note 39.

[84] *See* Michel Forst (Special Rapporteur on the Situation of Human Rights Defenders), *Situation of Human Rights Defenders*, ¶¶ 3, 18, U.N. Doc. A/73/215 (July 23, 2018).

[85] U.N. Secretary-General, *Twentieth Anniversary of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms*, at 3–15, U.N. Doc. A/73/230 (Sept. 27, 2018); U.N. Doc. A/HRC/46/35, *supra* note 28, ¶¶ 5–6.

[86] Danielle Andrade-Goffe, Carole Excell & Andrea Sanhueza, *The Escazú Agreement: Seeking Rights to Information, Participation, and Justice for the Most Vulnerable in Latin America and the Caribbean* (World Res. Inst., Oct. 27, 2023), https://doi.org/10.46830/wrirpt.19.00135; ECON. COMM'N FOR LATIN AM. & THE CARIBBEAN,

Insufficient protection against non-State actors constitutes a major shortcoming of existing mechanisms. Environmental defenders are often threatened not by States, but by extractive multinationals, organised criminal groups, armed militias and illegal landowners.[87] International mechanisms for the protection of human rights are primarily designed to protect against State-perpetrated violations, leaving a significant grey area regarding violations committed by non-State actors.[88] States have an obligation to protect against violations committed by third parties, but this obligation is rarely implemented in practice.[89]

Widespread impunity for murders and attacks against environmental defenders is perhaps the most obvious sign of the ineffectiveness of protection mechanisms. According to the UN Special Rapporteur on the situation of human rights defenders, killings of defenders are fuelled by widespread impunity, and those responsible often escape any accountability.[90] This impunity creates a vicious circle: the lack of prosecution encourages killers to strike again, discourages other defenders, and sends the message that the lives of environmental defenders are worthless. In Colombia, despite the commitments made in the 2016 Peace Agreement to protect human rights defenders (including environmental defenders), only 5.2 per cent of the murders of social leaders and human rights defenders committed since 2002 have been resolved in court.[91]

International monitoring mechanisms, whilst in place, are severely underfunded and lack the resources to address violations effectively. The Secretary-General has called for the human rights mechanisms, including the special procedures, to be put on a more sustainable financial footing.[92]

The lack of cooperation by States with international protection mechanisms constitutes a major obstacle to the effectiveness of these mechanisms. States often ignore communications from Special Rapporteurs, fail to respond to requests for investigations, and deny international investigators access to their territory.[93] This lack of cooperation makes it virtually impossible to investigate violations effectively and to implement protection recommendations.

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*Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean: Implementation Guide*, U.N. Doc. LC/TS.2021/221/Rev.1 (Apr. 2023).

[87] Wijdekop, *supra* note 9, at 6; GLOBAL WITNESS, *supra* note 3.

[88] JAMES CRAWFORD, STATE RESPONSIBILITY: THE GENERAL PART 189–212 (Cambridge Univ. Press 2013).

[89] Wijdekop, *supra* note 9, at 12, 15; *see also* Fabián Salvioli (Special Rapporteur on the Promotion of Truth, Justice, Reparation and Guarantees of Non-recurrence), *Role and Responsibilities of Non-State Actors in Transitional Justice Processes*, pt. III, U.N. Doc. A/HRC/51/34 (July 12, 2022).

[90] U.N. Doc. A/HRC/46/35, *supra* note 28, ¶¶ 5–6.

[91] GLOBAL WITNESS, *supra* note 3; AMNESTY INTERNATIONAL, *Colombia: Hope at Risk: The Lack of a Safe Space to Defend Human Rights in Colombia Continues* 5, 11, AI Index AMR 23/7248/2023 (Nov. 9, 2023), https://www.amnesty.org/en/wp-content/uploads/2023/11/AMR2372482023ENGLISH.pdf (last visited Nov. 18, 2026).

[92] Secretariat, *Activities of Special Rapporteurs, Independent Experts and Working Groups of the Special Procedures of the Human Rights Council Undertaken in 2022*, ¶ 34, U.N. Doc. A/HRC/52/70 (Apr. 4, 2023).

[93] U.N. Doc. A/HRC/52/70, *supra* note 92, ¶ 8.

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## III. Interpretative extension as a tool for strengthening legal standards

Whilst the current legal framework has significant gaps and proves insufficient in the face of increasing repression, the interpretative extension of existing instruments opens up concrete prospects for strengthening the protection of environmental defenders. This approach relies on the capacity of international law to evolve through interpretation, without requiring new treaty negotiations, which would be lengthy and uncertain.

### A. The legal foundations of interpretative extension

The mechanism of interpretative extension is based on well-established theoretical and practical foundations in international law, developed by leading scholars whose work underpins the evolutionary approach to interpretation.

#### i. General rules of interpretation as a basis

The theory of treaty interpretation in public international law has been extensively developed by leading scholars whose work underpins the evolutionary approach to interpretation and enables the gaps identified in the current legal framework to be addressed. Sinclair established that the interpretation of treaties should not be fixed at the time of their adoption, but must evolve in line with the changing circumstances and values of the international community.[94]

Articles 31 to 33 of the 1969 Vienna Convention on the Law of Treaties set out the general rules of interpretation that underpin this interpretative extension.[95] These rules of interpretation make it possible to adapt treaties to the new challenges of sustainable development and environmental protection.[96] The principle of 'effective application' (*ut res magis valeat quam pereat*) requires that provisions protecting fundamental rights be interpreted in such a way that they are given full effect rather than rendered illusory; this principle is essential for addressing the shortcomings of the current framework.[97]

James Crawford develops the idea that international human rights law is subject to a particular form of interpretation, characterised by an 'evolutionary interpretation' that adapts the standards to contemporary realities.[98] This approach is particularly relevant for environmental defenders, whose protection addresses realities such as the climate crisis and the destruction of

[94] Ian Sinclair, The Vienna Convention on the Law of Treaties 65–89 (2d ed. 1984).
[95] Vienna Convention on the Law of Treaties, *supra* note 16, arts. 31–33.
[96] Sustainable Development in World Investment Law, *supra* note 63, at 189.
[97] Les Conventions de Vienne sur le droit des traités : commentaire article par article 470 (Olivier Corten & Pierre Klein eds., Bruylant 2006).
[98] Crawford, *supra* note 34, at 567.

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biodiversity, which were not envisaged in the same way at the time the human rights instruments were adopted.[99] The Inter-American Court of Human Rights, in its 2017 Advisory Opinion OC-23/17 on 'The Environment and Human Rights', explicitly applied this evolutionary interpretation to recognise the right to a healthy environment as an autonomous right, thereby setting an important legal precedent.[100]

The principle of favour in human rights matters constitutes a second important foundation for interpretative extension. This principle requires that, in the event of doubt as to the meaning of a protective provision, the interpretation most favourable to fundamental rights must prevail.[101] This approach is echoed by Michel Forst, former UN Special Rapporteur on the situation of human rights defenders, in his landmark report on environmental defenders, in which he adopts an inclusive definition of environmental human rights defenders that covers defenders of both environmental and land rights.[102]

Contemporary legal doctrine has developed these concepts specifically in relation to environmental defenders, who, it argues, must be afforded enhanced protection due to the importance of their mission for collective survival, an argument which underpins the need for this interpretative extension.[103] The interpretation of human rights instruments must therefore take account of contemporary environmental realities.[104]

This evolutionary approach to interpretation is also supported by scholars specialising in environmental law, thereby establishing a link between the two branches of law. The lack of harmonisation between environmental law and human rights highlights how international environmental law and international human rights law must be interpreted in an integrated manner, reinforcing one another.[105] The protection of environmental defenders requires a transnational interpretation of human rights instruments to transcend current territorial boundaries.[106]

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[99] *Id.*
[100] *The Environment and Human Rights*, Advisory Opinion OC-23/17, Inter-Am. Ct. H.R. (ser. A) No. 23 (Nov. 15, 2017).
[101] Alain Pellet, *La mise en œuvre des normes internationales des droits de l'homme : « Souveraineté du droit » contre souveraineté de l'État ?*, *in* CEDIN, DROIT INTERNATIONAL ET DROITS DE L'HOMME : LA PRATIQUE JURIDIQUE FRANÇAISE DANS LE DOMAINE DE LA PROTECTION INTERNATIONALE DES DROITS DE L'HOMME 101–40 (Hubert Thierry & Emmanuel Decaux eds., Montchrestien 1990).
[102] U.N. Doc. A/71/281, *supra* note 1, ¶¶ 7–8.
[103] LE DROIT : UNE ARME AU SERVICE DU VIVANT ?, *supra* note 35, at 368.
[104] SANDS ET AL., *supra* note 34, at 197.
[105] DUPUY & VIÑUALES, *supra* note 34, at 234.
[106] Redgwell, *supra* note 65, at 81; VERHEYEN, *supra* note 50, at 189–212.

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**ii. The evolving interpretation of human rights instruments**

The interpretative extension of existing instruments to environmental defenders is based on several legal and jurisprudential mechanisms. The UN Special Rapporteur on the situation of human rights defenders, Michel Forst, explicitly confirmed in his 2016 report that those who defend land rights and the right to natural resources are included in the category of human rights defenders protected by the 1998 Declaration.[107] This institutional recognition constitutes a first step towards the formal interpretative extension of the scope of the Declaration, thereby addressing the lack of a specific legal status.

The case law of international human rights tribunals has contributed to the development of legal principles capable of strengthening the protection of environmental defenders, particularly where their activities involve defending Indigenous peoples' territorial and environmental rights. In *Kichwa Indigenous People of Sarayaku v. Ecuador* (2012), the Inter-American Court of Human Rights affirmed the State's obligation to consult Indigenous communities, in good faith and through appropriate procedures, before undertaking projects likely to affect their territories and interests. It further emphasised the importance of effective participation, access to information and environmental impact assessments. Although the judgment does not expressly establish a specific legal status for environmental defenders, its recognition of Indigenous participation and territorial protection provides an important jurisprudential foundation for safeguarding individuals and communities engaged in environmental defence.[108] In its Advisory Opinion OC-23/17 of 2017, the same Court explicitly recognised that environmental degradation may threaten the rights to life, personal integrity and participation, thereby strengthening the protection of environmental defenders and establishing case law that can be applied more broadly.[109]

In Africa, the African Commission on Human and Peoples' Rights, in its decision in *Social and Economic Rights Action Center (SERAC) v. Nigeria* (2001), recognised the right of peoples to a general satisfactory environment as one of the rights protected by the African Charter, thereby paving the way for the protection of environmental defenders on the African continent.[110] The European Court of Human Rights, in its judgment in *Tătar v. Romania* (2009), recognised that environmental pollution can affect the right to respect for private and family life, establishing a

[107] U.N. Doc. A/71/281, *supra* note 1, ¶¶ 7–8.
[108] *Kichwa Indigenous People of Sarayaku v. Ecuador*, Merits and Reparations, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 245, ¶¶ 165–167, 180–186, 204–208 (June 27, 2012).
[109] *The Environment and Human Rights*, *supra* note 100.
[110] *Social & Economic Rights Action Center (SERAC) v. Nigeria*, Commc'n No. 155/96, ¶¶ 52–54 (Afr. Comm'n on Hum. & Peoples' Rts. Oct. 27, 2001).

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link between environmental protection and fundamental human rights which can be extended by interpretation to the protection of defenders.[111]

The extension to land rights and natural resources is particularly important, as it recognises the inseparable link between environmental protection and the defence of economic and social rights. IUCN NL, in its 2021 publication, highlights the central role of Indigenous peoples and local communities in defending their territories, natural resources and biodiversity. Their efforts, alongside those of other land-rights defenders, fall within the scope of international human rights protection.[112]

The right of recourse, explicitly provided for in the Escazú Agreement, constitutes another mechanism for extension that can be generalised through interpretation. This agreement requires each Party to ensure access to judicial and administrative mechanisms to challenge any decision, action or omission that affects or could affect the environment adversely or violates laws and regulations related to the environment. This provision can serve as a model for extending the right of recourse to environmental defenders in other parts of the world, through an interpretation of existing instruments relating to access to justice, thereby enabling the creation of a universal mechanism through interpretative extension.[113] The right of access to justice can be interpreted to explicitly include legal actions for the protection of the environment.[114]

The territorial scope of protection can also be extended through an evolutionary interpretation, thereby transcending territorial boundaries. Traditionally, the protection of human rights is limited to the territory of the State Party, but this limitation can be transcended through interpretation where violations have cross-border effects. The protection of environmental defenders must necessarily extend beyond national borders, as environmental issues are by their very nature transnational.[115] This approach is reinforced by the principle of common but differentiated responsibilities, which recognises that all States have a responsibility to protect the global environment.[116]

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[111] *Tătar*, App. No. 67021/01, ¶¶ 107–120.
[112] Wijdekop, *supra* note 9, at 5–6; G.A. Res. 53/144, *supra* note 39.
[113] Escazú Agreement, *supra* note 41, art. 8(2)(c).
[114] THE PROTECTION OF HUMAN RIGHTS IN AFRICAN CRIMINAL PROCEEDINGS (M. Cherif Bassiouni & Ziyad Motala eds., Martinus Nijhoff 1995).
[115] SANDS ET AL., *supra* note 34, at 234–267; *see also* Wijdekop, *supra* note 9, at 13.
[116] *Rio Declaration*, *supra* note 37, princ. 7; DUPUY & VIÑUALES, *supra* note 34, at 234.

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### B. The normative and institutional implications of enhanced protection

This interpretative extension is not confined to legal theory; it can be put into practice through strengthened operational mechanisms and the creation of specific instruments tailored to the needs of environmental defenders.

#### i. Strengthening the normative scope of existing instruments

Strengthening existing mechanisms constitutes the first concrete step in interpretative extension, as it enables the optimisation of instruments already in place without requiring new treaty negotiations, thereby allowing gaps to be addressed swiftly. Extending the 1998 Declaration on Human Rights Defenders to explicitly include environmental defenders is an immediate priority to address the lack of a specific legal status. This extension can be achieved through an interpretative statement by the UN Secretary-General or a General Assembly resolution clarifying the scope of the Declaration.[117] It can be carried out without amending the text of the Declaration, simply through an evolving interpretation.[118]

The mandate of the Special Rapporteur on the situation of human rights defenders may also be extended by interpretation to explicitly cover environmental defenders, thereby enabling the creation of a specialised monitoring mechanism to address the lack of a specialised oversight mechanism. This clarification can be achieved through a resolution of the UN Human Rights Council, without requiring the creation of a new special mandate.[119]

The urgent alert mechanism, already used by Special Rapporteurs to respond swiftly to threats against human rights defenders, can be extended to environmental defenders, thereby creating a specific emergency procedure to address the current lack of such a procedure. This mechanism enables immediate communications to be sent to States facing imminent violations. Extending this mechanism to all threatened environmental defenders would simply require clarification of its scope by the Office of the High Commissioner for Human Rights.

Periodic reports on the situation of human rights defenders could also include systematic monitoring of the situation of environmental defenders, thereby creating a database for monitoring purposes. The Special Rapporteur's reports already address the situation of defenders working on land and the environment,[120] but this practice could be systematised and made mandatory by a resolution of the Human Rights Council. Such systematisation would

[117] G.A. Res. 53/144, *supra* note 39.
[118] LA PRÉVENTION DES VIOLATIONS DES DROITS DE L'HOMME, *supra* note 40, at 44.
[119] *See* Human Rights Council Res. 52/4, ¶ 2, U.N. Doc. A/HRC/RES/52/4 (Apr. 3, 2023).
[120] Mary Lawlor (Special Rapporteur on the Situation of Human Rights Defenders), *Success through Perseverance and Solidarity: 25 Years of Achievements by Human Rights Defenders*, ¶¶ 81–83, U.N. Doc. A/HRC/52/29 (Dec. 21, 2022).

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enable the creation of an international database on the situation of environmental defenders, thereby facilitating the monitoring and evaluation of their protection.

**ii. Adapting institutional protection mechanisms**

Beyond strengthening existing mechanisms, interpretative extension may lead to the creation of new, specific mechanisms dedicated to environmental defenders, thereby complementing the legal framework. An additional protocol to the 1998 Declaration, specifically dedicated to environmental defenders, would constitute a major step forward without requiring the negotiation of a new universal treaty, thereby enabling the creation of a specific international status to fill the gap. This protocol could be adopted by the United Nations General Assembly and would pave the way for specific protection mechanisms.

An international protection programme for environmental defenders, similar to existing protection programmes for human rights defenders, could be established by the Office of the High Commissioner for Human Rights to address the ineffectiveness of current mechanisms. This programme would include measures for physical protection, financial and legal support, and a network of international solidarity.[121]

An international observatory for environmental defenders could be established to systematically monitor violations, killings, criminalisation and other forms of repression, thereby filling the gap in systematic data collection. This observatory would complement the work of Global Witness and Amnesty International by providing official and verified data that can be used in international proceedings.[122] IUCN NL points, among the good practices of civil society, to an existing model: the Observatory for the Protection of Human Rights Defenders created by the International Federation for Human Rights (FIDH) and the World Organisation Against Torture (OMCT).[123]

A compensation fund for victims and the families of environmental defenders who have been murdered or subjected to violations would constitute a concrete measure of redress to tackle impunity. This fund could be financed by voluntary contributions from States, international organisations and private foundations.

The creation of a regional protection mechanism in regions lacking specific instruments, particularly in Africa, Asia and Europe, would complement the Escazú Agreement and reduce geographical inequalities in protection. The African Commission on Human and Peoples'

[121] FRONT LINE DEFENDERS, *Global Analysis 2022* 4–15 (2023), https://www.frontlinedefenders.org/en/resource-publication/global-analysis-2022 (last visited Nov. 18, 2026).
[122] GLOBAL WITNESS, *supra* note 3.
[123] Wijdekop, *supra* note 9, at 22.

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Rights has already tasked its working groups with preparing a draft African regional legally binding instrument to regulate the activities of transnational corporations and other business enterprises, which could include provisions on environmental defenders.[124] In Europe, the Committee of Ministers of the Council of Europe adopted in October 2024 a recommendation on young people and climate action, which calls on member States to protect the rights of young people and young environmental defenders.[125]

## IV. Conclusion

The protection of environmental defenders is one of the most pressing legal challenges in contemporary international law. This analysis demonstrates that the current international legal framework, whilst extensive in theory, proves insufficient in the face of the growing repression suffered by these key actors in the ecological transition. The absence of a specific international legal status, the regional fragmentation of protection, and the ineffectiveness of existing mechanisms reveal profound structural shortcomings.

The quantitative data is damning: 146 defenders killed or disappeared in 2024 alone and 2,253 since 2012, with widespread impunity in many countries. This systemic violence, accompanied by judicial criminalisation, constant harassment and sexual violence, demonstrates the inability of current mechanisms to provide effective protection.

However, the interpretative extension of existing international instruments offers an accessible and immediate pathway to strengthening protection. This approach rests on solid legal foundations. International case law, notably the 2017 Advisory Opinion OC-23/17 of the Inter-American Court, has already begun to recognise environmental defenders as beneficiaries of international protection. The Escazú Agreement serves as a model that can be extended by interpretation to other regions, thereby helping to reduce the geographical inequalities identified as a major shortcoming.

This approach has the advantage of being achievable without the need for new negotiations on universal treaties, a process that is lengthy, uncertain and potentially blocked by resistance from States. Nevertheless, interpretative extension alone cannot resolve all the problems. It must be complemented by genuine political will on the part of States, adequate funding for protection mechanisms, and better cooperation with international monitoring bodies. The report on the

[124] African Commission on Human and Peoples' Rights, Resolution on Business and Human Rights in Africa, ACHPR/Res.550 (LXXIV) 2023, ¶ 2(c) (Mar. 7, 2023), https://achpr.au.int/sw/node/3726 (last visited Nov. 18, 2026).

[125] Council of Europe, Committee of Ministers, Recommendation CM/Rec(2024)6 on Young People and Climate Action, ¶ 1, app. ¶ 1 (Oct. 23, 2024), https://rm.coe.int/cm-rec-2024-6-young-people-and-climate-action/1680b21a0e (last visited Nov. 18, 2026).

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activities of the special procedures in 2022 confirms this challenge: the substantive reply rate to the communications sent that year was only 43.58 per cent.[126]

The future will depend on the international community's ability to translate theoretical advances into effective protection. The recognition of the right to a clean, healthy and sustainable environment by the UN General Assembly in 2022 represents a historic opportunity. The possible drafting of an international convention dedicated to defenders, similar to the Escazú Agreement but on a universal scale, could be the logical culmination of this development.

Ultimately, the protection of environmental defenders cannot be treated as a marginal issue. It is an essential prerequisite for the protection of the environment itself, for without protection for those who defend it, legal instruments would remain a dead letter. Protecting defenders means protecting the future of humanity as a whole. The climate crisis demands massive public mobilisation, which is impossible if defenders are systematically repressed with impunity.

International law has a duty to adapt by offering protection commensurate with the importance of their mission. Interpretative extension is an essential first step, but it must be followed by concrete action to transform the law into effective protection. The time for theoretical analysis is over; now is the time for determined legal and political action to save those who are saving the planet.

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[126] U.N. Doc. A/HRC/52/70, *supra* note 92, ¶ 8.

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