

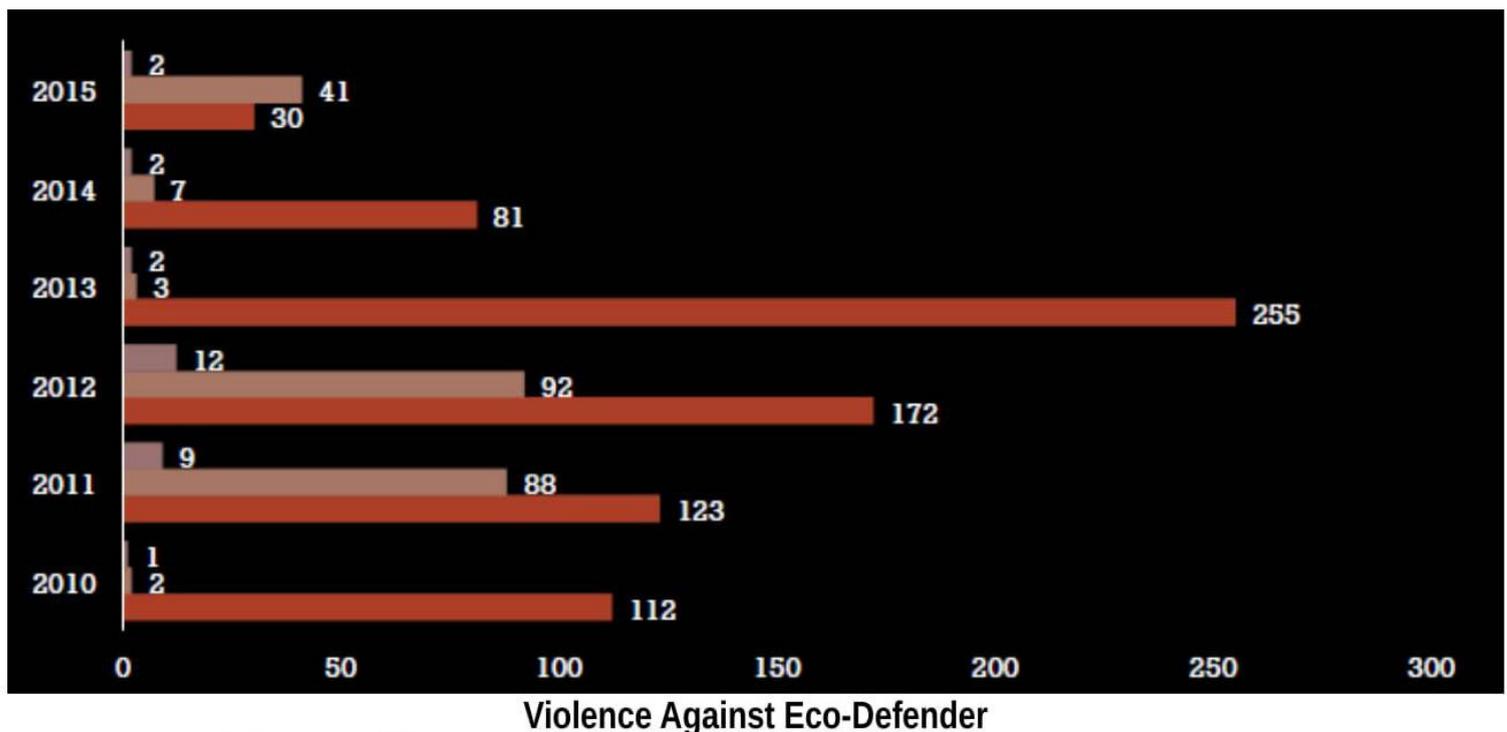


Indonesia for Global Justice

## The Human Rights Treaty on TNCs and Other Business: “State Obligations on The Protections to Human Rights Defender”

The power of corporations and countries has indeed disturbed by the resistance that carried out by human rights defenders. Not limited on criminalization, violence and threats is the consequences for human rights activists when the issue or the case they handled become public concern. It does not only happen to the activists, but also affected people who are actively involved in the struggle, either through the peasant unions, fisher folk unions, women organizations, and other people organizations.

The trend of human rights violations against environment and human rights defenders will be increase in the future, along with the increasing of conflict over natural resources. This is not an assumption, but based on strong argumentation that the government does not change the model of development which still relies on the exploitation of natural or agrarian resources with high risks for the environment and the people. Based on data from WALHI, noted from 2004 to 2016, there are 33 of WALHI activists who got criminalized, persecution, threats to attempted murder.



Notes: Died Torture Arrest

Source: Walhi, Kontras, Aman 2015

### Various Forms of Human Rights Violations against Human Rights Defenders

Criminalization of human rights defenders is the case that often occurs. Anwar Sadat, former Director of WALHI South Sumatera criminalized by the state. Sadat with one other WALHI activist, Pak Kamal and 27 peasants were arrested during the mass mobilization requires the completion of agrarian conflicts that occurred decades between people and the PTPN VII (National Sugar Plantation Company) Cinta Manis South Sulawesi in 2013 ago. Similar with Eva Bande, a woman activist who was arrested on 2010. She was arrested



## Indonesia Focal Point for TNC's Crimes Advocacy

for the struggle to defend people rights in the conflict between farmers and Kurnia Luwuk Sejati Inc. and Berkat Hutan Pusaka Inc. in the district of Banggai, Central Sulawesi. Advocacy on the issues ranging from indigenous land grabbing, land certified evictions, dispute on the transmigration project, deforestation that causes environmental damage, expansion of palm oil plantation in the Bangkiriang life sanctuary region, illegal palm oil plantation business, to the criminalization of citizens.

Several violence that led to the death of human rights activists also often occur in the conflict over natural resources. Indra Pelani, an activist from Tebo Jambi Peasant Union, killed by security of Wira Karya Sakti (WKS) Company. Indra killed by mob and beatings by the Rapid Reaction Unit of WKS security forces. Even more on the latest case, 2 days after Peasant Day Commemoration (exactly on 26 September 2015) environmentalists, peasant from Selok Awar-Awar Lumajang – East Java village, tortured by a group of pro mines. Pak Salim has died and Pak Tosan seriously injured.

Civil lawsuit also becoming a threat to the environment and the struggle for natural resources/agrarian justice. It's experienced by the people who fight for the source of water in Gemulo Malang – East Java. Aside from criminal charges, they also threatened with a civil penalty to the demands reached 30 billion rupiah. Previously, Ibu Hajjah Mimi, a women leader of indigenous people in Southeast Sulawesi is also subject to civil penalties for 8 billion rupiah.

Shapes and layers of violence experienced by women human rights and environment defenders are not experienced by men. Gender-based violence in the conflict over natural resources is a specific and typical violence that experienced by women. Women human rights defenders have a special vulnerability to various acts of intimidation, sexual harassment, prejudice, denial or rejection of society and even arrest. Women human rights defenders more pressure either from family, social environment, only because they gender identity as a woman. Construction of gender placing women only in the domestic domain and simply accept what is decided by men as well as women's reproductive role is a challenge for women to fight for their rights of others.

“However, their particular situation and role require special awareness and sensitivity both to the ways in which they might be affected differently by such pressures and to some additional challenges. It is essential to ensure that women human rights defenders as well as men are protected and supported in their work and, indeed, that such women are fully recognized as human rights defenders”. (Office of the United Nations High Commissioner for Human Rights, “Human Rights Defender: Protecting the Right to Defend Human Rights)

### **Our Proposals: Building a Protection Norm for Human Rights Defender**

Guarantee of the human rights protection for the defenders have been regulated in the United Nations Declaration on the Right and Responsibility of Individulas, Groups and People Organizations to promote and protect human rights and fundamental freedoms, known as the Declaration of Human Rights Defenders, as endorsed by the UN General Assembly on 9 December 1998, which, although as the Declaration is not legally binding but should be a reference for the UN member states.

Related to this declaration, human rights defenders have the rights to promote and strive for the protection and

fulfillment of human rights and fundamental freedoms at the national level (Article 1), to develop and discuss new ideas and principles of human rights, and to advocate their ideas and principles are accepted (Article 7), and be protected effectively under national law in order to react against or opposing, through peaceful means, activities and acts, including negligence by the State, which resulted in violations of human rights and fundamental freedoms as well as violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms (Article 12 Paragraph (2)). These provisions should be made into the norm of the treaty on TNCs. As the reference, Indonesia has a law governing environment. This law position (relevant) citizen and victims-survivors as participant in the protection and on conservation of environment. This law also put punitive damage to the perpetrators and belligerents. This model could be employed on how the treaty develop the component of human rights defenders in it.

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