

The Honourable Jonathan Wilkinson  
Minister of Environment and Climate Change  
Fontaine Building, 12th floor  
200 Sacré-Coeur Blvd  
Gatineau, Quebec K1A 0H3

September 21, 2020

Dear Minister,

While the health and economic crises provoked by the COVID-19 pandemic have swept around the world with devastating impact, attention to the global climate crisis has waned. At a time when delays can be catastrophic, the 26<sup>th</sup> United Nations Climate Change Conference has been postponed. But the climate crisis itself has not been put on hold. Your government has recently expressed an intention to launch an “ambitious green agenda” to guide Canada’s economic recovery from the pandemic. We very much appreciated the opportunity to meet with your Chief of Staff Marlo Reynolds last week, and we now await further indications of the government’s plans in this week’s Throne Speech.

What is needed is a national plan to significantly reduce our emissions and phase out the production and consumption of fossil fuels, while ensuring that no one is left behind and that sufficient climate financing is available to countries in the Global South. It is vital that Canada centre Indigenous Peoples, their rights, responsibilities and knowledges in the development of climate policy. In short we are looking to the government to:

- put people and climate at the centre of COVID-19 economic recovery plans, ensuring that these plans contribute to redressing systemic injustices and inequality, such as those based on gender, ethnic origin or other protected characteristics;
- adopt a national plan that provides for ambitious emissions reductions compliant with human rights standards;
- adopt “just transition” plans, ensuring that all those who might lose their job due to the transition are able to secure alternative livelihoods that provide for sustainable and decent work; and to ensure that reliable, sustainable and affordable energy is available to everyone, including people living in poverty, women, Indigenous communities, and those most affected by the lack of adequate and affordable energy;
- regulate businesses to reduce emissions and ensure respect for human rights throughout their global operations;
- rapidly phase-out fossil fuel production and consumption, beginning with the elimination of fossil fuel subsidies and the most carbon-intensive fossil fuels;
- adopt adaptation measures to help people to adapt to the inevitable impacts of climate change in line with human rights standards;
- ensure sufficient climate finance is provided to countries in the Global South to assist them in reducing emissions, protecting those at risk, and providing remedy for impacted people;
- protect the right to protest and those who defend human rights;
- ensure the right to remedy for those whose rights are affected by climate change or climate-related policies or measures; and

**National Office:**

312 Laurier Avenue East, Ottawa, ON K1N 1H9  
Tel: (613) 744-7667 Fax: (613) 746-2411  
info@amnesty.ca

**Toronto Office:**

1992 Yonge Street, 3rd floor, Toronto ON M4S 1Z7  
Tel: (416) 363-9933 Fax: (416) 363-3103  
toronto@amnesty.ca

**Vancouver Office:**

Suite 430, 319 West Pender, Vancouver, BC V6B 1T3  
Tel: (604) 294-5160 Fax: (604) 294-5130  
vancouver@amnesty.ca

- support global and national recognition of the right to a safe, clean, healthy and sustainable environment.

We have provided further elaboration and background to these recommendations in the briefing that we have attached as an Annex to this letter.

In conclusion, Minister, let us again emphasize that transitioning away from a carbon economy as quickly as possible is a vital human rights imperative. It is crucially important that such a move is fair for everybody and contributes to enhancing human rights for all. We hope that you will take on board Amnesty's recommendations. We would welcome an opportunity to meet with you or your officials to pursue further discussion.

Sincerely,



Alex Neve  
Secretary General  
Amnesty International Canada  
(English branch)



France-Isabelle Langlois  
Directrice générale  
Amnistie internationale Canada francophone

## ANNEX

### 1. ENSURE A JUST RECOVERY THAT PUTS PEOPLE AND CLIMATE AT ITS CENTRE

The decisions we take now will have huge implications for our future. We are running out of time to tackle the climate crisis. In managing the economic fallout of the pandemic, it is of utmost importance that responses limit - rather than advance – the climate emergency.<sup>1</sup>

Canada must not:

- Use the COVID-19 crisis as an excuse to roll-back environmental standards for example on climate change, air and water pollution, and the protection of biodiversity;<sup>2</sup>
- Use the COVID-19 emergency as a pretext to unreasonably delay or oppose the adoption of sufficiently ambitious national emission reduction plans and related human rights-compliant implementation measures, including those to ensure a “just transition” which are essential to protect the rights of workers, communities and people living in poverty who would be affected by transitions in the energy economy;<sup>3</sup>
- Unconditionally inject vast amounts of public money to bail out fossil fuel energy companies and aviation companies, thus entrenching fossil fuel dependency;
- Use the economic impacts of COVID-19 as a reason to reduce or fail to increase international cooperation and assistance, including climate finance.

Instead, Canada should:

- Ensure that economic stimulus packages, including those that cover private corporations, prioritise support for workers over corporate profit. Assistance to fossil fuel energy companies should target workers and protection of their rights, and the maintenance of current services, rather than new exploration and development. Any such assistance should be conditioned with time bound commitments to phase out fossil fuels in line with the latest IPCC scientific advice. Assistance to aviation companies should be targeted at protection of workers’ adequate standard of living and should be conditional on time-bound commitments to reduce emissions in absolute terms without relying on offsets,<sup>4</sup> including by reducing the number of flights over a period of time;

---

<sup>1</sup> For more information about Amnesty International’s positions and demands on this matter see: *Public statement: Responses to COVID-19 pandemic must not ignore the climate crisis*, 14 May 2020, <https://www.amnesty.org/en/documents/pol30/2327/2020/en/>; Advocacy briefings ahead of G20 Finance Ministers meeting, July 2020: 1. COVID-19 Response Measures: Recommendations To G20 Finance Ministers On International Cooperation And Assistance <https://www.amnesty.org/en/documents/ior30/2624/2020/en/>; 2. Investing in People - Recommendations to G20 Finance Ministers, <https://www.amnesty.org/en/documents/ior30/2614/2020/en/>; 3. A Just Recovery with Climate at its Centre: Recommendations to G20 Finance Ministers, <https://www.amnesty.org/en/documents/ior30/2623/2020/en/>

<sup>2</sup> OHCHR, “COVID-19: “Not an excuse” to roll back environmental protection and enforcement, UN rights expert says”, 15 April 2020, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25794&LangID=E>. See also Amnesty International, USA: Immediately revoke COVID-19 suspension of environmental protections, 27 March 2020, <https://www.amnesty.org/en/latest/news/2020/03/usa-immediately-revoke-covid-19suspension-of-environmental-protections/>

<sup>3</sup> Although the economic impacts of the COVID-19 crisis may require States to allocate resources towards a transition away from fossil fuels more slowly than they otherwise could have done so, they should set out a clear time-line to phase out fossil fuels aligned with the IPCC scientific guidance and establish rules and regulations to accomplish this in order to incentivize energy producers to cease fossil fuel development and shift to renewable energy.

<sup>4</sup> Open Letter to the Chancellor on a UK Government Support Package to the Aviation Industry, 31 March 2020, <https://www.greenpeace.org.uk/news/the-airlines-industry-wants-a-government-bailout-heres-what-needs-to->

- Invest in sectors that support a just transition to a zero-carbon economy and resilient society, creating green and decent jobs and opportunities. In particular, help workers and communities dependent on the fossil fuel industry and other sectors affected by the transition to access green and decent jobs and opportunities; ensure women, the most marginalized and those most impacted by the climate crisis have equal access to jobs and opportunities in the emerging zero-carbon sectors;
- Ensure transparency over recovery plans and facilitate diverse and public participation in shaping and influencing the recovery and the transition towards a zero-carbon economy, paying particular attention to the needs and voices of the most marginalized, those most impacted by the effects of the pandemic and the climate crisis;
- Explicitly and publicly recognise the important role that human rights defenders play in responding to the pandemic, including the monitoring of government responses in relation to climate, and ensure they are protected from physical and verbal attack and enabled to carry out their important work;
- Increase international cooperation and assistance, and support countries in the Global South move towards zero-carbon economies at the speed needed while protecting people affected by climate impacts

## **2. ADOPT A NATIONAL PLAN THAT PROVIDES FOR AMBITIOUS EMISSIONS REDUCTIONS COMPLIANT WITH HUMAN RIGHTS STANDARDS**

Canada must adopt new NDCs and a mid-century plan to align its emissions reduction targets for 2030 and 2050 and related implementation plans, as well as its climate and energy-related policies, with the imperative to keep the increase of global average temperature as low as possible, and no higher than 1.5°C above pre-industrial levels. These NDCs and mid-century plans should be consistent with international human rights obligations and include relevant indicators, targets and benchmarks.

Moreover, Canada must ensure the meaningful public participation of civil society organisations and all individuals and groups most affected by the climate crisis and by the responses to the crisis in the design, implementation, monitoring and evaluation of such plans. In particular, transparent and inclusive processes should be put in place to ensure women, Indigenous peoples, minorities, children, persons with disabilities and other groups facing marginalization or discrimination are provided with equal opportunities to meaningfully participate. The Government of Canada must also ensure that the policy-making process is protected from undue corporate influence, including from fossil fuel, agribusiness and other industries responsible for high greenhouse gas emissions.

The IPCC recommends that to keep global heating below 1.5°C, states must take measures to ensure that emissions are reduced by 45% from 2010 level by 2030, and reach zero net by 2050. Its mandate precluded it from saying how these reductions should be distributed among countries. In accordance with the Principle of Common but Differentiated Responsibilities and Capabilities, Amnesty International advocates that wealthy industrialised countries like Canada must adopt the most ambitious emission reduction targets that would enable them to reduce greenhouse gas emissions by 50% *well before* 2030 and reach zero carbon emissions by 2030 or as soon as feasible after that while ensuring a just transition that enhances human rights.

In its NDC, Canada should prioritise measures to avoid and reduce emissions over reliance on the use of mechanisms aimed at achieving negative emissions, i.e. removing CO<sub>2</sub> from the atmosphere and storing it on land, underground or in the oceans, and should limit any such reliance to nature-based mechanisms, such as restoration of natural ecosystems. The IPCC has warned that relying on industrial carbon dioxide removal mechanisms (CDR) could be problematic given the “limitations on the speed, scale, and societal acceptability of CDR deployment” and the “significant impacts on land, energy, water or nutrients” of most current and potential CDR measures if deployed at large scale.<sup>5</sup> This is consistent with the concerns expressed by Indigenous peoples and numerous environmental, development and human rights organisations about the adverse effects on food security, biodiversity and human rights of industrial-based CDR measures, such as bioenergy with carbon capture and storage.

While certain delays in finalising new NDCs might be unavoidable in the context of the COVID-19 pandemic, Canada must not use the COVID-19 emergency as a pretext to unreasonably delay or oppose the adoption of a sufficiently ambitious national emission reduction plan and related human rights-compliant implementation measures, including those to ensure a “just transition”. Although the COVID-19 crisis may require States to allocate resources towards a transition away from fossil fuels more slowly than they otherwise could have done so, they should set out a clear time-line to phase out fossil fuels aligned with the IPCC’s scientific guidance and establish rules and regulations to accomplish this in order to incentivise energy producers to cease fossil fuel development and shift to human rights-consistent renewable energy.

### **3. ADOPT JUST TRANSITION PLANS IN LINE WITH HUMAN RIGHTS**

Canada must adopt a just transition plan that is human rights compliant to ensure that the shift towards a zero-carbon economy and a more resilient society is just and fair for all, in line with states’ human rights obligations, and creates opportunities to reduce inequality, combat discrimination, promote gender and intergenerational justice and fulfil human rights. Canada must raise and allocate resources to ensure a just transition, including by raising resources from climate polluting industries, through appropriate fiscal measures, while protecting lower-income individuals from negative impacts.

A truly just transition is imperative to ensure that the rights of all people affected are guaranteed. A truly just transition is also essential to ensure that the shift to a zero-carbon economy happens at the speed and scale required to limit global heating to 1.5°C or below, while ensuring at the same time that human rights are protected.

Amnesty International fully supports the implementation of “ILO guidelines for a just transition towards environmentally sustainable economies and societies for all”.<sup>6</sup> Just transition must include other human rights considerations as well. Just transition plans must be non-discriminatory and guarantee the human rights of all people who may be disproportionately impacted by the transition towards a zero-carbon economy, including workers, women, Indigenous peoples, refugees and migrants, persons with disabilities and other minorities and frontline communities and groups already facing marginalization and discrimination.

---

<sup>5</sup> IPCC, Special Report: Global Warming of 1.5 °C, Summary for Policy-Makers, page 18.

<sup>6</sup> See [https://www.ilo.org/wcmsp5/groups/public/---ed\\_emp/---mp\\_ent/documents/publication/wcms\\_432859.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_emp/---mp_ent/documents/publication/wcms_432859.pdf)

In particular Canada's just transition plans must:

- Assist workers who are reliant on fossil fuel production and all those who might lose their jobs due to the transition to secure alternative livelihoods that provide for sustainable and decent work.
- Include national and regional employment strategies and plans of action based on and addressing the concerns of all affected workers on the basis of a participatory and transparent process that includes employers' and workers' organizations as well as impacted communities. (This approach is consistent with governments' international and regional obligations to guarantee economic and social rights for all without discrimination and should be an inherent part of all macroeconomic policy and planning, not just with respect to the climate crisis).
- Support communities reliant on fossil-fuel use and production or on other livelihoods to use alternative and human rights-consistent sources of energy and to maintain an adequate standard of living and social cohesion.
- Ensure that social protection measures are sufficient both in terms of coverage and level of support to mitigate the negative impacts on local communities.
- Prioritise employment creation in affected areas and communities through appropriate reskilling, training and the provision of assistance for job seekers, in order to mitigate against any negative impacts of the transition. This should include promoting and supporting the creation of green and other new jobs which deliver both sustainable and decent employment for workers that respects and fulfils their economic and social rights, is non-discriminatory and takes into account the needs of groups who are already suffering from discrimination and marginalisation, including women, Indigenous peoples, refugees and migrants, children, persons with disabilities and other minorities.
- Promote investment towards infrastructure and services that take into account the situation of women and promote policies to recognize, reduce and redistribute household and care work.<sup>7</sup>
- Foster access to reliable, sustainable and affordable energy to all people, as part of the government's duty to ensure an adequate standard of living, including people living in poverty, women and all those most affected by the lack of adequate and affordable energy. If the transition away from fossil fuels results in energy price increases, just transition plans should ensure low-income users of energy are not disadvantaged.
- Ensure that climate measures respect the rights of Indigenous peoples and all communities and groups most impacted by them. Just transition plans should respect, protect and fulfil Indigenous Peoples' right to land, territory and resources and include the obligation to seek the free, prior and informed consent (FPIC) of Indigenous peoples before moving forward with any transition project that may impact their human rights. Other communities or groups likely to be impacted by climate measures, must be provided opportunities for full and meaningful participation, without discrimination, in the decision-making process leading to the adoption of those measures. This requires an analysis of existing formal and informal structures of participation and organization at the community/local level in order to understand processes that may facilitate or hinder their participation, and to develop, where needed, a targeted strategy to ensure their access to information, participation, consultation and FPIC.

---

<sup>7</sup> See for example [https://www.ilo.org/wcmsp5/groups/public/---ed\\_protect/---protrav/---ilo\\_aids/documents/publication/wcms\\_592348.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---ilo_aids/documents/publication/wcms_592348.pdf)

- Ensure that companies involved in the supply chains of “green” technology that are important in the shift away from fossil fuels, such as electric vehicles and energy storage, respect human rights throughout their operations.<sup>8</sup>
- Include provisions to ensure that all of the Government of Canada’s interventions are monitored through the use of human rights compliant indicators and benchmarks.

#### **4. RAPIDLY PHASE OUT FOSSIL FUEL PRODUCTION AND CONSUMPTION, COMMENCING WITH ELIMINATING FOSSIL FUEL SUBSIDIES AND THE MOST POLLUTING FOSSIL FUELS**

Canada must put an end to fossil fuel subsidies by the end of 2020. To maximize the benefits of ending fossil fuels subsidies and avoid regressive effects on low-income people and marginalised groups, Canada should redeploy the resources freed to renewable energy and just transition measures, including social protection. This approach is essential to protect human rights, as the elimination of fossil fuel subsidies must not undermine the ability of low-income people to secure their right to an adequate standard of living, but should in fact release resources to ensure the fulfilment of economic, social and cultural rights.

Canada must phase out the use of all fossil fuels within its jurisdiction as quickly as possible, and by no later than 2050, in line with the latest IPCC scientific evidence, and ensure that affordable (distributed) renewable energy generated in full compliance with human rights standards is available to all. In particular, Canada must ensure an immediate phase out of the most carbon-intensive forms of fossil fuels, such as coal, fracking, peat and tar sands, with the aim for countries in the Global North to completely end their production and use by 2025. This change could be brought about by adopting legislation requiring all energy producers within Canada’s jurisdiction to phase out all fossil fuels by specified dates. To maximise the law’s impact, it should also be accompanied by a tax on profits of energy companies derived from fossil fuels (additional to general corporate taxes). Revenues from this tax should be used to support measures for a human-right consistent transition and to support people in countries in the Global South whose rights have been affected by the impacts of the climate crisis.

Canada should also cease further investments to expand fossil fuel exploration and production including the development of new infrastructure. That means refraining from starting or authorising new fossil fuel projects, including exploration, production and development of new infrastructure, at home and abroad. Such projects lock-in increased emissions and are economically unviable given that fossil fuels need to be phased out by 2050. As a matter of priority, Canada should not allow investment in the dirtiest forms of fossil fuel, thus prohibiting the opening of new coal mines, the construction of new coal-fired power plants<sup>9</sup> and the extraction of oil from tar sands.

---

<sup>8</sup> See for example Amnesty International, Amnesty challenges industry leaders to clean up their batteries, 21 March 2019, <https://www.amnesty.org/en/latest/news/2019/03/amnesty-challenges-industry-leaders-to-clean-up-their-batteries/>

<sup>9</sup> United Nations General Assembly, Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, A/74/161, 15 July 2019, para. 77



## **5. REGULATE BUSINESSES TO REDUCE EMISSIONS AND ENSURE RESPECT FOR HUMAN RIGHTS THROUGHOUT THEIR GLOBAL OPERATIONS**

Canada must establish regulations and policy measures to ensure that businesses reduce emissions by *at least* 45% by 2030 compared to 2010 levels and to zero before 2050, in line with the IPCC's scientific evidence. This includes requiring companies to provide and make public detailed reporting of the global greenhouse gas emissions associated with the production and use of fossil fuels and to set clear emissions reduction targets, consistent with the IPCC's scientific evidence and not excessively relying on offsets and CDR mechanisms, for their operations and supply chains. This also includes requiring banks, investment companies, insurance companies, institutional investors and international financial institutions, at the very minimum, to stop new investments in fossil fuel projects or companies, while ensuring that the costs of this lack of investment is not born by workers and communities.

Canada must also adopt laws obliging companies to respect human rights and conduct human rights and environmental due diligence on their global operations, value chains and business relationships, and establishing civil and criminal liability for damage.

## **6. ADOPT ADEQUATE ADAPTATION MEASURES TO PROTECT HUMAN RIGHTS**

Canada must adopt and implement human rights-consistent adaptation measures that adequately protect people from the foreseeable and unavoidable impacts of the climate crisis. Irrespective of the scale of mitigation measures adopted, climate change effects are being experienced and will continue due to the inertia of the climate system and the long-term effects of previous greenhouse gas emissions. Research has shown that climate change has led to the increased intensity and frequency of weather-related disasters and drives slow-onset events such as sea-level rise, desertification, glacial retreat and related impacts, land and forest degradation, loss of biodiversity, ocean acidification, increasing temperatures. These events have devastating impacts for people and communities, including Indigenous peoples, for example by pushing them out of their homes and lands and into precarious living conditions with tremendous impact and risks to their human rights.

Based on the obligation for states to protect the enjoyment of human rights from harmful effects of climate change, Canada must adopt all necessary measures to assist those within its jurisdiction to adapt to the foreseeable and unavoidable effects of climate change, thus minimizing the impact of climate change on their human rights.<sup>10</sup> In particular, Canada must take all necessary steps to identify in advance and build the resilience of frontline communities at risk of climate change-related impacts, through investments in infrastructure, mitigation plans and technology that would protect them and their livelihoods from droughts, floods, soil erosion, changing rainfall patterns that impact food production, etc. The planning, design and implementation of these adaptation measures must be carried out in manner that is human rights compliant and includes meaningful consultation with all affected people and with the FPIC of Indigenous people. Where relevant, special mechanisms must be put in place to facilitate genuine consultation with women, Indigenous peoples, minorities, children, persons with disabilities, migrants and refugees and other groups facing marginalization or discrimination.

---

<sup>10</sup> See for example Report of the Special Rapporteur on the environment and human rights, 1 February 2016, A/HRC/31/52, para. 68.



All states have these obligations, regardless of whether the state is responsible for the effects of the climate crisis, because states have an obligation to protect human rights from harms caused by third parties.<sup>11</sup> However, some states may be unable to take sufficient adaptation measures in a manner that ensures at least minimum essential levels of economic, social and cultural rights for their population. Therefore, wealthier states, including Canada, have the duty to provide such support (financial and technical, bilateral and/or multilateral) for the realisation of economic, social and cultural rights.<sup>12</sup>

## **7. ENSURE SUFFICIENT CLIMATE FINANCE IS IN PLACE FOR COUNTRIES IN THE GLOBAL SOUTH TO REDUCE EMISSIONS, PROTECT THOSE AT RISK AND PROVIDE REMEDY**

Canada must ensure sufficient financing and support is in place for countries in the Global South to be able to reduce emissions, protect people facing the impacts of the climate crisis, including through stronger adaptation measures, and provide remedy for the losses and damages people have already suffered. Based on the obligation to provide international assistance and cooperation, all countries in a position to do so, including Canada, must provide funding and technical assistance to the poorest states for human rights-compliant climate change mitigation and adaptation initiatives, as well as just transition measures. Climate finance to low-income countries should be composed of grants, not loans.<sup>13</sup>

In addition, based on the duty of international cooperation and on the duty to provide remedy for human rights violations (in this case, the failure to prevent foreseeable human rights harm), wealthy industrialised countries, including Canada, must substantially increase their funding and support, including technology transfer, for human rights-compliant measures to tackle the climate crisis in less wealthy countries. Canada must also provide financial means, technical support and access to remedy, including compensation, to people in countries in the Global South whose rights have been negatively affected as the result of loss and damage caused by the climate crisis. This includes ensuring that new and additional finance is mobilized specifically to support and compensate people in countries in the Global South for the losses and damages suffered.

States and international organizations must ensure that projects supported by national and international climate finance mechanisms respect, protect and fulfil human rights, including by adopting effective human rights safeguards and ensuring access to effective remedies. Too often projects for climate change mitigation and adaptation in countries in the Global South funded through climate finance have resulted in human rights violations and the exacerbation of social and economic inequalities, for example “green energy” projects that have led to the forced eviction of Indigenous peoples from their ancestral lands and consequent severe impacts on a wide range of their rights, including their right to self-determination and culture. It is therefore essential that all climate funds adopt or strengthen and effectively implement adequate human rights safeguards, including procedures and mechanisms to ensure effective remedy for human rights violations.

---

<sup>11</sup> See Human Rights Committee, General Comment Nr 31, para 8; Committee on Economic, Social and Cultural Rights, General Comment Nr 12, para. 15.

<sup>12</sup> See Amnesty International’s policy position on international cooperation and assistance and economic, social and cultural rights, June 2011, Index Nr. POL 39/001/2011

<sup>13</sup> General Assembly, Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, 15 July 2019, A/74/16, para. 68.

This is particularly crucial in the context of the ongoing negotiations of the implementation rules for Article 6 of the Paris Agreement, particularly ahead of the establishment of a new international mechanism known as the “Sustainable Development Mechanism” (SDM). However, it applies to all other international and national climate funds. In addition to avoiding human rights risks, projects funded through climate finance should prioritise projects that advance the enjoyment of human rights, including promoting gender justice and fulfilling the rights of Indigenous Peoples.

## **8. PROTECT THE RIGHT TO PROTEST AND THOSE WHO DEFEND HUMAN RIGHTS**

Canada must protect the rights of everyone to speak out and mobilize for climate action or the protection of land, territory and environment, including through civil disobedience, and comply with all collective and individual demands that reflect human rights obligations. Groups and individuals who claim human rights, including the right to a healthy environment, play a key role in the fight against the climate crisis and environmental destruction. States should see them as crucial allies, not adversaries. They are human rights defenders and must be recognized and protected in line with the UN Declaration on Human Rights Defenders.<sup>14</sup> Accordingly, Canada must guarantee a safe and enabling environment for all those engaging in this struggle,<sup>15</sup> and ensure a culture of zero tolerance against those who attack them.

The rights to freedom of expression and to information, assembly and association are essential to ensuring that human rights defenders and other sectors of civil society are able to play their role in demanding decisive climate action, exposing corruption and those who put our environment at risk. Measures to limit such rights, including increased criminal and civil penalties for those who take part in non-violent protests and civil disobedience, censorship, surveillance and curbs on freedom of association, constrain activism and put a gag on civic space.

Criminalization, physical attacks and killings of environmental and land defenders, particularly of Indigenous defenders, continue to be a scourge across much of the world. Such attacks do not simply affect individuals and their immediate social circle, they also create widespread fear and an enduring chilling effect in affected communities and wider civil society, and put the environment in further jeopardy. Such attacks do not take place in a vacuum. They happen because of widespread impunity, corruption, and because environmental activists are often stigmatized, defamed, silenced and ignored adding to the risk they face.

Canada should:

- Applaud, recognise and protect human rights defenders and ensure civil society thrives. Rights to freedom of expression and information, to association and assembly should be guaranteed within a safe and enabling environment.
- Thoroughly investigate all human rights violations such as harassment and physical attacks of environmental human rights defenders and bring perpetrators to justice.

---

<sup>14</sup> See <https://ohchr.org/EN/Issues/CivicSpace/Pages/DeclarationHumanRightsDefenders.aspx>

<sup>15</sup> The elements of a safe and enabling environment are detailed in the Report of the Special Rapporteur on the situation of human rights defenders, Margaret Sekaggya, 2013, UN Doc. A/HRC/25/55

- Refrain from using any legal and administrative provisions or the misuse of the judicial system to harass, criminalize and stigmatise their activities.
- Ensure businesses act responsibly and comply with their human rights obligations by:
  - o Guaranteeing that local communities are consulted and Indigenous people can exercise their free prior and informed consent before any exploration, mining, or energy-related project is initiated;
  - o Disincentivizing strategic lawsuits against public participation (SLAPPs) by introducing legislation to curb vindictive lawsuits that punish climate and environmental activism and freedom of expression.

## **9. ENSURE THE RIGHT TO REMEDY FOR THOSE WHOSE RIGHTS ARE AFFECTED BY CLIMATE CHANGE OR CLIMATE-RELATED MEASURES**

Canada must ensure access to domestic and international administrative, judicial, legislative or any other appropriate means to adjudicate claims of human rights violations resulting from climate change or climate-related projects and measures, including when conduct within their jurisdiction harms the rights of people outside their borders. Relevant human rights bodies have clarified that the right to access an effective remedy extends to human rights violations caused by environmental harm, including harms related to climate change.<sup>16</sup>

Victims should have access to an effective remedy when states and companies cause foreseeable human rights harm. This could be when a state fails to take the most ambitious measures possible to the full extent of its abilities to reduce greenhouse gas emissions within the shortest possible time-frame, both nationally and through international cooperation. Or when states adopt climate change mitigation or adaptation projects that result in human rights violations. The failure to respect procedural rights in climate change initiatives and projects also gives rise to obligation to provide effective remedies to the affected people.

In order to provide effective remedies, states must provide access to administrative, judicial, legislative or any other appropriate means to adjudicate claims of human rights violations resulting from climate change or climate-related projects and measures, including when the violations have occurred abroad. Remedies to victims must be comprehensive and include measures of restitution and remediation, compensation, rehabilitation, satisfaction and guarantees of non-recurrence. States must ensure that all affected individuals have equal access to remedies. States should refrain from seeking to throw up any obstacles to remedy, including by taking restricting positions before tribunals that raise the cost to victims of seeking remedy.

## **10. ENSURE GLOBAL RECOGNITION OF THE RIGHT TO A SAFE, CLEAN, HEALTHY AND SUSTAINABLE ENVIRONMENT**

Canada should legally recognize the right to a safe, clean, healthy and sustainable environment. Additionally, Canada should support the adoption of a UN resolution at the Human Rights Council and the General Assembly recognizing the right to a safe, clean, healthy and sustainable environment.

---

<sup>16</sup> Report of the Special Rapporteur on the environment and human rights, 2016, 1 February 2016, A/HRC/31/52, para. 62

More than 80% of UN member states having already recognized the right to live in a safe, clean, healthy and sustainable environment through their constitutions, legislation, or ratification of regional treaties.<sup>17</sup> However, Canada and the UN have yet to recognize this right.

The UN Special Rapporteur on human rights and the environment<sup>18</sup> has clarified that the substantive components of the right to a safe, clean, healthy and sustainable environment are: clean air, safe climate, healthy and sustainably produced food, access to safe water and adequate sanitation, non-toxic environments in which to live, work and play, healthy ecosystems and biodiversity. The procedural elements include access to environmental information, public participation in environmental decision-making, and access to justice with effective remedies.

A UN resolution recognizing such right is more urgent than ever. Humanity faces an unprecedented global environmental crisis due to the combined impacts of climate change, biodiversity decline, pollution, and the depletion of natural resources. The COVID-19 pandemic has shown with devastating clarity how closely our wellbeing is linked to our relationship with nature. Environmental degradation, deforestation, and biodiversity loss create the conditions for the type of animal-to-human transmission of viruses that has repeatedly resulted in fatal epidemics.<sup>19</sup> Similarly, climate change has been directly linked to the increase of vector-borne and water-borne diseases.<sup>20</sup> It is imperative that we rethink our relationship with nature and the global recognition of the right to a safe, clean, healthy and sustainable environment can be an important first step in that direction.

A draft resolution on the right to a safe, clean, healthy and sustainable environment is expected to be tabled at the Human Rights Council in 2021. A UN resolution on the right to a safe, clean, healthy and sustainable environment would also put this right on equal footing with other human rights principles, acknowledging that a healthy environment, including to a safe climate, is indispensable for a life of dignity and security and highlighting each generation's responsibilities toward future generations. A UN resolution would also prompt all states to prioritize and accelerate actions towards respecting, protecting, and fulfilling this vital human right and motivate the other remaining UN member States that do not yet legally recognize this right to do so. It would increase recognition and appreciation of the work of environmental defenders and would give them a powerful tool to hold governments and corporations accountable for human rights violations and abuses and environmental harm.

---

<sup>17</sup> Human Rights Council, Right to a healthy environment: good practices. Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, 30 December 2019, A/HRC/43/53

<sup>18</sup> Human Rights Council, Right to a healthy environment: good practices. Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, 30 December 2019, A/HRC/43/53; Human Rights Council, Framework Principles on Human Rights and the Environment: The main human rights obligations related to the enjoyment of a safe, clean, healthy and sustainable environment. Report of the Special Rapporteur on Human Rights and the Environment. 2018..

<sup>19</sup> B.A. Wilcox and B. Ellis, *Forests and emerging infectious diseases of humans*, Unasylva No. 224 Vol. 57, 2006/2, FAO, <http://www.fao.org/3/a0789e00.htm>; Keesing F. et al, Impacts of biodiversity on the emergence and transmission of infectious diseases, *Nature*, Vol. 468, 2010; National Geographic: Deforestation is leading to more infectious diseases in humans, 22 November 2019, <https://www.nationalgeographic.com/science/2019/11/deforestation-leading-to-more-infectious-diseases-in-humans/>

<sup>20</sup> WHO, *Climate Change And Infectious Diseases*, 2003, <https://www.who.int/globalchange/climate/en/chapter6.pdf>