



**DEFENDING  
HUMAN RIGHTS  
IN THE AMERICAS:  
NECESSARY,  
LEGITIMATE AND  
DANGEROUS**

**AMNESTY  
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**Our vision is for every person to enjoy all the rights enshrined in the Universal Declaration of Human Rights and other international human rights standards.**

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# 1. INTRODUCTION

Defending human rights in Latin America and the Caribbean continues to be a dangerous activity. Despite the fact that it is a human right recognized by international instruments, defending human rights has cost lives, physical integrity and freedom of hundreds of human rights defenders in the region.

In the past few years, Amnesty International has documented killings, abductions, death threats, intimidation and an increased use of the legal system to intimidate and repress the defence of human rights throughout the region.

There are very few cases of abuses against human rights defenders where advances are made in the investigations and those responsible for these serious human rights violations are brought to justice. The lack of impartial and thorough investigation means that it is not established who is behind those attacks, leaving human rights defenders at the mercy of interests created by powerful and violent sectors, which act knowing full well that the most likely outcome is that they may never have to account for their actions.

The scale of the problem varies from country to country, as does the will of States to recognize and address the situation. Certain groups of human rights defenders are particularly vulnerable to attacks, including those defending human rights related to land, territory and natural resources, the rights of women, girls, and lesbian, gay, bisexual, transgender, and intersex (LGBTI) people, and migrants' rights. Those fighting against impunity as well as journalists and trade unionists defending human rights are also more exposed to risk.

Many human rights defenders and their organizations work simultaneously in defending a variety of rights, since their work is defined by the needs and contexts in which they operate. This reaffirms the universal and interdependent nature of human rights and the need to address them in this way. It also coincides with the fact that many cases are related to human rights defenders working in places where communities suffer marginalization, discrimination, deeply rooted poverty, and neglect by the State.

Governments urgently need to adopt specific measures to prevent, eliminate and sanction these serious abuses, and ensure a safe and enabling environment for exercising this right, ensuring comprehensive protection so that human rights defenders can freely carry out their legitimate activities.

Finally, it must be recognized that, in spite of the violence, frequent attacks and intimidation suffered by human rights defenders, they continue to demonstrate their strength and commitment to the protection of the rights of all individuals in the Americas. For Amnesty International, the work, dedication, commitment, and tenacity with which human rights defenders address serious problems and difficulties will always be a source of profound inspiration and respect. It is time for

the governments of the Americas and their authorities at all levels to demonstrate their commitment to human rights and to those who defend and promote them by specific and robust actions.

## METHODOLOGY

Amnesty International's work in this area is based on the standards set out in the United Nations (UN) Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (Declaration on Human Rights Defenders). The Declaration reiterates and reaffirms the rights established in various treaties and international customary law, as well as in other relevant human rights norms. From a regional perspective, the Organization of American States (OAS) and its institutions have also repeatedly reaffirmed the right to defend human rights and the obligation of States to protect individuals exercising this right.<sup>1</sup>

To prepare this report over 200 cases of human rights abuses and violations against human rights defenders in which Amnesty International took action, between September 2012 and November 2014, were analyzed. These cases took place in the following countries: **Argentina, Bolivia, Brazil, Colombia, Cuba, Dominican Republic, Ecuador, El Salvador, Guatemala, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru and Venezuela.** The report is also based on dozens of conversations with human rights defenders in several countries of the region and in national, regional and international meetings. Amnesty International's active participation in the three regional thematic hearings that took place before the Inter-American Commission on Human Rights (IACHR) in 2014 was also a source of information.<sup>2</sup> The meeting with over 20 Latin American women human rights defenders organized by Amnesty International in mid 2014 at its headquarters in London, United Kingdom, also provided information for this report.

## 2. THE RIGHT TO DEFEND HUMAN RIGHTS

**“Defending human rights is not only a legitimate and honorable activity, but a right in itself”**

Margaret Sekaggya,

UN Special Rapporteur on the situation of human rights defenders.<sup>3</sup>

*Article 1* - “Everyone has the right, individually and in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms” (UN Declaration on Human Rights Defenders).

International human rights law establishes and protects the right to defend human rights as an autonomous and independent right. The UN Declaration on Human Rights Defenders, adopted by consensus by the United Nations (UN) General Assembly in 1998, recognizes this right and develops provisions contained in legally binding instruments such as the International Covenant on Civil and Political Rights (ICCPR).

As it is derived from this declaration and the international treaties which it reaffirms, the right to defend human rights reiterates and confirms the importance of certain rights which involve the exercise of this same right, such as the right to freedom of expression, peaceful assembly and association, among others.<sup>4</sup> This neither removes nor diminishes the autonomy and independence of the right to defend human rights as a right *per se*, but reaffirms it. By demonstrating the multiplicity of variables and rights that are involved in the right to defend human rights, we can understand its complexity and the need to see and value it in its entirety so that its effective enjoyment can be achieved. Evaluating this right in its entirety has in turn a direct impact on the possibility of closing the gap between the promise of justice and rights for all individuals and its reality.

The right to defend human rights can be exercised individually or in association with others, through numerous actions that may be interrelated and which in turn may involve the enjoyment of other rights. Whatever the action by which this right is exercised, its implementation will have a bearing on the possibility that all individuals can enjoy other rights. Those exercising the right to defend human rights are those who by their actions expose human rights violations and abuses, document their severity, support victims, survivors and their families, and together with them seek justice, truth, memory, redress, prevention and no repetition.

The exercise and effective enjoyment of the right to defend human rights is fundamental for the effective enjoyment of many other human rights. In this sense the recognition of its relevance, autonomy, independence and multidimensional scope is central and necessary to understand the extent of State obligations and the actions they should take in order to achieve the effective enjoyment of this right. Examples of these actions include:

- refraining from preventing, limiting, obstructing, punishing or repressing the implementation of this right;
- protecting and providing effective guarantees for the effective enjoyment of this right; and
- protecting those who exercise this right, effectively, comprehensively and from a differentiated approach.

The right to defend human rights is an autonomous and independent right which engenders international responsibility when it is not respected, protected or guaranteed. When actions in defence of human rights are prevented, limited, punished or suppressed, or when nothing is done to prevent or eliminate such situations, the obligations arising from this right are not being complied with. States must take specific measures to create a safe and enabling environment for exercising this right. This must be a priority for States, since in addition to being an international responsibility, the actions of human rights defenders are essential for achieving the progress needed so that human rights can be enjoyed by everyone.



## 3. THE REALITY OF MANY HUMAN RIGHTS DEFENDERS IN LATIN AMERICA AND THE CARIBBEAN

"...exercising the defence of human rights is probably one of the most dangerous activities we face today"

Iduvina Hernández, Director of the Asociación para el Estudio y la Promoción de la Seguridad en Democracia [*Association for the Study and Promotion of Security under Democracy*] – SEDEM – in Guatemala

The reality of many human rights defenders in Latin America and the Caribbean is frightening. Human rights defenders remain at very high risk, and the response of the States of the region still falls short; even when attacks are perpetrated by non-state actors, States should act with due diligence.

### 3.1 TYPES OF ATTACKS AGAINST HUMAN RIGHTS DEFENDERS

During the last two years, the predominant types of aggression continued to be attacks on life and personal integrity, gender-based violence, punishments for exercising the right to freedom of expression, peaceful assembly and of association, stigmatization, and attacks on reputation.

To these we must also add the adoption and application of ambiguous and restrictive regulations for the defence of human rights, such as Executive Decree 16 approved on 4 June 2013 in Ecuador, which grants the president ample powers to monitor and dissolve non-governmental organizations. In December 2013, this Decree was applied against the Fundación Pachamama [*Pachamama Foundation*] in Ecuador, which was dissolved arbitrarily in less than three days and without following the minimum rules of due process. This organization was working for the rights of the Indigenous Peoples and environmental rights. The order of closure said that the organization was interfering in public policies and threatening State security. The organization has denied any involvement in violent acts or those contrary to the defence of human rights.<sup>5</sup>

### 3.1.1 KILLINGS, ATTEMPTED KILLINGS, PHYSICAL VIOLENCE, ABDUCTIONS, AND DEATH THREATS

Margarita Murillo, *campesino* (peasant farmer) leader and human rights defender with over 40 years' experience in the defence of human rights and of the improvement of the living standards of peasants in Honduras, was shot and killed on the morning of 27 August 2014 when she was working in a plot of land belonging to her peasant farmer group in El Planón, Cortés Department. Her body was found next to her mattock with shots to her face and chest. This fatal attack occurred after she had reported that in the last few days that she was being followed and had received death threats. Three days after the murder, police officers tried to force their way into the home of Margarita Murillo's daughters, claiming that it was necessary for the investigation of her death.<sup>6</sup>

The killing of Margarita Murillo is one of the many cases on which Amnesty International took action between September 2012 and November 2014. During this period, killings, attempted killings, physical violence, abductions, and death threats also predominated in several countries in the region. Amnesty International's regional report of 2012 had already showed that this regional trend was a predominant and very worrying situation.<sup>7</sup> Two years later, in addition to this situation not improving at the regional level, we have observed that in some countries it is deteriorating.

In **Colombia** for example, human rights defenders, including community leaders, continue to face serious dangers. The Office in Colombia of the United Nations High Commissioner for Human Rights was made aware of at least 40 killings of human rights defenders in the first nine months of 2014.<sup>8</sup> According to the non-governmental organization (NGO) Somos Defensores [*We are Defenders*], over 70 human rights defenders were killed and more than 200 received threats in 2013 alone,<sup>9</sup> while at least 30 were killed and over 100 received threats in the first six months of 2014.<sup>10</sup> Among the victims were Indigenous and of Afro-descendant activists, activists defending the right to land and community leaders.

Between September and October 2014 alone over a hundred human rights defenders, community leaders, leaders promoting peace and land restitution, politicians, and journalists received death threats in Colombia. This series of threats was made in a mass mailing, through a printed statement and emails signed by paramilitary groups.<sup>11</sup>

**Guatemala** is another example of the deterioration of the situation of human rights defenders. In 2013, the Unidad de Protección a Defensoras y Defensores de Derechos Humanos en Guatemala [*Unit for the Protection of Human Rights Defenders in Guatemala*] (UDEFEGUA), a specialized NGO working on the situation of human rights defenders, recorded a total of 657 cases of attacks against human rights defenders in the country. This reflects an increase of 46 percent compared to 2012 and is the highest figure of incidents recorded in a single year by UDEFEGUA over the last 14 years.<sup>12</sup>

In view of this deterioration of the situation of human rights defenders in the

Americas, it is important to emphasize that several human rights defenders who were killed or subjected to other attacks on their life or personal integrity had already been attacked or threatened. In some cases they already had precautionary or protection measures, provided either by the Inter-American Commission or the State. In the 2013 report of the Office in **Mexico** of the United Nations High Commissioner for Human Rights, an analysis was conducted based on 89 attacks against human rights defenders that included "...26 women, 35 men, 11 human rights organizations and four family members of human rights defenders. From this group, at least 23 individuals or organizations already had precautionary measures... [and] at least 55 individuals had already been victims of some type of aggression..."<sup>13</sup>

This is the case of Malú García, a defender who for years has worked for the rights of women and supported family members of women abducted and killed in Mexico. On 17 October 2013 she received another threat when she was participating in advocacy activities in Mexico City. The caller described her children and where they were and threatened to abduct and kill them. Both she and her children should have had bodyguards, as stipulated by the precautionary measures granted by the Inter-American Commission on Human Rights and enforced by the federal government. At the time of the calls, she was accompanied by one of the two assigned bodyguards, but the bodyguards assigned to her children were not working. Malú García had already been forced to leave Ciudad Juárez, in the state of Chihuahua, after receiving death threats related to her human rights work.<sup>14</sup>

In **Venezuela**, Humberto Prado and Marianela Sánchez, active members of the Observatorio Venezolano de Prisiones [*Venezuelan Prisons Watch*], were intimidated, threatened, and stigmatized on several occasions in the last few years. In 2012, Marianela Sánchez's husband was abducted and his belongings were stolen. The kidnappers warned him that his wife should stop complaining about prison conditions and criticizing the government, or their family would face the consequences. On 12 April 2013, Marianela Sánchez and her family again received death threats. In 2011 Humberto Prado also received an anonymous death threat after reporting the situation in El Rodeo prison and after being branded a liar and agitator in the Venezuelan media. Since then he has been verbally attacked in the press on several occasions, including in statements by the Minister of Prison Services, who accused him of lying and organizing violent protests in the prisons and other destabilizing and criminal activities. In February 2014, the Minister of the Interior accused Humberto Prado of participating in acts of violence during the protests and conspiring to destabilize the government and prisons. In October 2014 the President of the National Assembly, in his weekly television programme, read information supposedly sent by a member of the public on the visit of Humberto Prado to Panama at the end of September and mentioned that he met with "strange people". Humberto was participating in the Regional Forum on the Optional Protocol to the Convention against Torture organized by the Association for the Prevention of Torture. In the same programme it was said "remember that he has strong links to the prison mafia and is always behind disturbances in public order and order in the prisons (...)".

Although such serious attacks attempt to silence and intimidate anyone who tries to speak out or bring to light a human rights issue, human rights defenders continue to resist, persist and insist, even when they are the subjects of repeated attacks and aggressions.

The life and the personal integrity of human rights defenders, their families and colleagues are at high risk. Their protection must be a priority for the States of the Americas and all those who share in this responsibility.

### 3.1.2 PUNISHED FOR EXERCISING THE RIGHTS TO FREEDOM OF EXPRESSION, ASSOCIATION AND PEACEFUL ASSEMBLY – MISUSE OF THE JUSTICE SYSTEM

On 1 July 2014, lawyers Daniel Biral and Silvia Daskal were arrested and assaulted by the military police in São Paulo, **Brazil**, after asking a police officer why he was not carrying the identification officers must carry during public order operations. Together with approximately 500 other people the lawyers were attending a public meeting to talk about the abuses committed by the São Paulo military and civil police during the recent protests and to protest against what happened. In addition, Daniel Biral was physically assaulted by police officers until he lost consciousness while being transported to the police station. At the station, the police chief refused to accept the lawyer's complaint against the officers and only recorded the statement of the military police. Daniel Biral was released that afternoon, but an investigation was opened against him for contempt (*desacato*), because he asked the question described above.<sup>15</sup> The investigation was closed in November.

The misuse of the justice system against human rights defenders, also known as the criminalization of the defence of human rights, is another regional trend on the rise.

Amnesty International has received information about dozens of cases of criminalized human rights defenders in countries of the region, such as Colombia, Cuba, Ecuador, Guatemala, Honduras, Mexico and Peru.

In 2013 and 2014 several very worrying situations of violence, human rights violations and excessive use of force against public protests took place.<sup>16</sup> In several cases this violence also affected human rights defenders, who, after joining peaceful demonstrations, expressing critical views, raising questions publicly or documenting the abuses of the security forces in the context of public protests, were attacked or criminally accused following the events.

In Latin America and the Caribbean baseless accusations and unfair detentions based on fabricated evidence and irregular or delayed proceedings are common. These are attempts to suppress, limit or punish a leadership, legitimate work or a critical viewpoint as well as to send a message acting as a deterrent to the rest of the population. Both state and non-state actors with strong interests have misused the justice system. Several human rights defenders have faced long and costly criminal proceedings, where even though they have not been arrested, the possibility of losing their freedom has been a constant threat. Others have been

detained for long periods of time.

On 28 November 2012 the Supreme Court of Justice in **Mexico** ordered the release of Ramón Aniceto and Pascual Cruz, after acknowledging that they were innocent. The two indigenous leaders and human rights defenders had been unjustly imprisoned for nearly three years on the basis of trumped-up charges. Both had been arrested in January 2010 and sentenced in the first and second stages of proceedings by the Puebla courts to over six years in prison for the alleged theft of a vehicle. The allegation against them was made by an individual, a member of the local powerful (*cacique*) group that was restricting and abusing the distribution of water. The aim was to undermine the leadership and human rights work of José Ramón Aniceto and Pascual Cruz, who were promoting free and unrestricted access to water for the entire community of Atla, in the municipality of Pahuatlán, state of Puebla.<sup>17</sup>

In cases like this one it is also common that the due process is not respected, including the lack of respect for guarantees such as the following: the presumption of innocence, judicial warrant, impartial evaluation of evidence, respect of personal and ethnic identity and legal assistance. Amnesty International has known cases where evidence that is already discredited is used again to implicate another human rights defender who is a member of the same organization.

Frequently, even though the absence of a legal basis is completely obvious, the proceedings go forward. Such an example is the case of Iduvina Hernández, director of the Asociación para el Estudio y la Promoción de la Seguridad en Democracia [*Association for the Study and Promotion of Security under Democracy*] (SEDEM) in **Guatemala**. This prominent human rights defender, whose work is focused on achieving mechanisms and reforms so that the security forces do not commit human rights violations in Guatemala, has been vilified and harassed and continues to face criminal accusations based on alleged crimes, many of them committed when she was only a minor.<sup>18</sup>

We have also observed in several countries short-term detentions without charges, which take place at important times for human rights defenders. In **Cuba**, between 21 and 25 September 2012, nearly 70 members of the Cuban Damas de Blanco [*Ladies in White*] group, who were going to an event in Havana, were arrested. On 26 September all had been released without charges. More recently, on 6 November 2014, officers from the Department of State Security called several members of the Damas de Blanco to testify or visited them in their homes to discourage them from attending the demonstrations on 7 November. These demonstrations were in support of Sonia Garro Alfonso, Ramón Alejandro Muñoz González and Eugenio Hernández Hernández, against whom proceedings were being brought that day. Sonia Garro is a member of the Damas de Blanco, Ramón Muñoz is her husband and Eugenio Hernández is a neighbour. The three of them were arrested on 18 March 2012 during a demonstration by a group of government supporters outside the home of Sonia Garro and Ramón Muñoz. They were arrested by State security officials who were attempting to prevent the couple from taking part in the events commemorating the anniversary of the crackdown on dissent that began on 18 March 2003 and led

to the imprisonment of 75 peaceful activists.<sup>19</sup>

In several cases the arrests have also involved other types of harassment to gather alleged evidence. In **Colombia**, the security forces and other actors have repeatedly labelled those leading the defence of human rights as guerrillas and consequently this has led to arbitrary detentions and other types of serious attacks.

Several human rights defenders have faced more than one accusation or criminal proceeding, and repeated unjustified delays. In cases where judges or public prosecutors have granted justice, for example by refusing to file illegal arrest warrants, procedural appeals have been used or other authorities have been called on so that criminal proceedings can go on.

On 28 March 2013 in **Ecuador**, community leaders Federico Guzmán, Efraín Arpi and Carlos Pérez were released after serving an eight-day sentence in prison. They were detained after the sentence was upheld for the crime of illegally obstructing highway, following a peaceful protest on 4 May 2010 against a proposed Water Law. In 2010, the three were accused of sabotage, arrested for three days and prohibited from traveling abroad. When the State Prosecutor's Office was unable to proceed with the accusations of sabotage, he accused them of obstructing a highway. Under the new charge, the three accused were released on bail after paying 3,000 US dollars. In August 2010, a judge declared the three innocent of the crime of illegally obstructing a highway. The State Prosecutor's Office appealed against this decision and in August 2011 the three were declared guilty. The judge originally ordered a sentence of one year imprisonment but reduced it to eight days "because they are people who are not a danger to society, and the motivations for their misconduct were of an altruistic and social nature in favor of the people..., in the defence of water [since] they were afraid it was contaminated by mining activity...."<sup>20</sup>

Sometimes the justice system has been misused with the complicity of the State; in others, by benefiting from the lack of an effective justice system. In any case, even when the situation can be reviewed, the impact involves great financial, moral, family, organizational and community costs and there is no redress. This also promotes the mistaken impression that the defence of human rights is an illegal activity.

In October 2013 in **Paraguay**, three years after facing illegal proceedings at huge costs, a judge decided to discontinue the criminal proceedings against four members of the non-governmental organization *Iniciativa Amotocodie* [*Amotocodie Initiative*] in view of the lack of evidence and complete inability on the part of the Public Prosecution Service to provide grounds for the accusations against them. In this decision the same judge said that the good name, reputation and honour of the accused were not affected. In spite of this, the impact for these human rights defenders at the personal and financial level as well as regarding their work and their organization was already real and very high. Even the defence of isolated groups of the indigenous Ayoreo people, for whose rights the *Iniciativa Amotocodie* was working, was affected.<sup>21</sup>

It should also be emphasized that frequently, when human rights defenders have been the subject of attacks and a criminal complaint is filed to that regard, they then find that the investigation is turned against them, their families, colleagues and friends.

The detention of human rights defenders, with or without an authorized arrest warrant, is arbitrary when the objective is to prevent or punish the legitimate exercise of the right to defend human rights.

Recognizing the urgent need to take measures to prevent and stop the use of legislation to hinder or limit unduly the defence of human rights, on 12 April 2013 the UN Human Rights Council adopted a resolution on the protection of human rights defenders.<sup>22</sup> There, the States urge themselves, among other things, to ensure that human rights defenders can perform their important role in the context of peaceful demonstrations, and to establish provisions or "...procedural safeguards, including in criminal cases against human rights defenders, in accordance with international human rights law to avoid the use of unreliable evidence, unwarranted investigations, and procedural delays...".<sup>23</sup>

### 3.1.3 GENDER-BASED VIOLENCE AND DISCRIMINATION

On 11 February 2013, a man appeared in the offices of the Organización Femenina Popular [*Popular Women's Organization*] (OFP), in Barrancabermeja, **Colombia**, asking for information on a validation programme of a *bachillerato* (secondary school qualification) for adults. After being assisted by Gloria Amparo Suárez, legal representative of the OFP, he asked her: "Why don't you all spend time doing things like this instead of fucking around at the national level and causing problems?" He then asked Gloria Amparo Suárez if she knew where her children were. He then showed her his cell phone and said: "we do", and showed her some pictures of her children. He also showed her a picture of the OFP director, Yolanda Becerra. It showed Yolanda Becerra getting out of a car she had received as part of the governmental protection programme. He said: "Tell Becerra [...] that we know all her movements, so as you know already, stop this shit and keep quiet, because we don't want to have to fuck with you". Since 1972, the OFP has worked for women's rights and victims' right to truth, justice and reparation. Over 100 attacks have been carried out against members of the organization, many of them by paramilitaries.<sup>24</sup>

Many women human rights defenders in the region have been assaulted in retaliation for their human rights work and because they "are women". In addition, several also face other sources of discrimination such as racism, classism or gender stereotyping. Attacks against women are often linked to the role socially expected of them, in many cases the role of mother and carer, which implies that the subjects of the attacks are their families, primarily their underage children.

Based on the information collected by Amnesty International in conversations with dozens of women human rights defenders from Latin America and the Caribbean, for them, defending human rights involves doing so in conditions of inequality and confronting many challenges and discrimination. In addition to their activities in the

defence of human rights, they typically continue to bear heavy burdens of domestic work or care of the nuclear family.

Many human rights defenders must confront violence, inequality and stereotypes from childhood, and then are immersed in other situations of human rights abuses which in turn drive them to become human rights defenders. Participating in the defence of human rights in the contexts of discrimination and violence against women also means that human rights defenders face situations of “emotional loneliness” and family, community and social rejection, unless they give up the defence of human rights.

In view of this situation, several women human rights defenders choose to “continue in silence”, which in turn makes them even more vulnerable to the main source of risk. This implies the need to recognize and combat the “guilt effect” which makes the situation of vulnerability and risk they face even more acute.

No importance is given to the work these women human rights defenders do; nor are the threats against them taken seriously. Furthermore, in many cases the protection of several women human rights defenders has been seriously affected by the lack of recognition of their work as defenders, situations of domestic violence, and because they are discredited and suffer discrimination from within their own organizations, social networks and communities.<sup>25</sup>

As already pointed out in the regional report of 2012, for women human rights defenders the target of the attacks is often the body, and the assaults are of a sexual nature.<sup>26</sup> On 24 July 2013 in **Honduras**, two international volunteers – one man and one woman – who were accompanying a rural community whose members had been harassed and threatened after campaigning against a mining project, were temporarily abducted by over 30 armed men. During that time, the kidnappers accused the volunteers of being communists and members of the resistance, threatened them and told them that it was their fault they couldn’t work in the mining project. Several of the perpetrators made comments and threats of a sexual nature to the woman.<sup>27</sup>

At the time of documenting and taking action, whether for prevention, investigation, redress or protection, it is essential to take into account the gender dimension, the identity of the individuals and the different impact such attacks may have on women human rights defenders and their family, friends and colleagues, such as the psychosocial impact, stigmatization and exclusion.

Women human rights defenders as well as their support networks and organizations have made great efforts to make visible the gender-based violence and discrimination they face in response to their human rights actions. They have also established that “self-care” is an essential element for effective protection with a gender-based perspective. However, they have also emphasized that there are obstacles for this to be recognized and supported within the work carried out in support of women human rights defenders.<sup>28</sup>



In the 18 May 2014 resolution of the Organization of American States (OAS) it is recognized explicitly and emphatically that the human rights of women human rights defenders deserve special attention and protection. On 18 December 2013, the UN General Assembly adopted the first resolution on the protection of women human rights defenders.<sup>29</sup> This resolution expresses concern because of “the systemic and structural discrimination and violence faced by women human rights defenders and women’s rights defenders” and asks States to develop and implement, together with women human rights defenders, specific gender-based policies to ensure their protection. This resolution constitutes a significant advance, but the explicit agreement that States shall refrain from invoking any customs, traditions, or religious considerations to avoid complying with their international obligations to eliminate violence against women is still pending.<sup>30</sup>

### 3.2 HUMAN RIGHTS DEFENDERS MOST AT RISK

The fact that many human rights defenders work simultaneously in more than one human rights area is due to the universal, interdependent and interrelated nature of human rights, which is reflected in the reality of the individuals and their communities, many of them trapped in cycles of discrimination, exclusion and human rights violations.

Based on the analysis of the actions taken by Amnesty International we can identify that certain groups of human rights defenders are at greater risk of being attacked. The greatest number of actions taken by Amnesty International in the last two years was related to individuals defending human rights in subjects related to the following: land, territory and natural resources; the rights of women and girls; the rights of lesbian, gay, bisexual, transgender and intersex (LGBTI) people; migrants’ rights; the fight to end impunity for human rights violations; and journalists and trade unionists who defend human rights.

Also in the last two years several attacks against young human rights defenders and those promoting human rights education in groups of young people took place.<sup>31</sup> Some of these young people were assaulted at the same time as their parents, who are also human rights defenders. This is the case of the Indigenous leader Tomás García, who was shot dead, and his son Allan García Domínguez, 17 years of age, who was wounded in the same incident on 15 July 2013, when the army fired into a protest of the Indigenous Lenca communities of Río Blanco, Santa Bárbara, in west **Honduras**. They were demonstrating against a hydroelectric project in the lands where their communities have been living for centuries, alleging lack of adequate and prior consultation and consent. The communities belong to the Consejo Cívico de Organizaciones Populares e Indígenas de Honduras [*Civic Council of the Indigenous and Popular Organizations of Honduras*] (COPINH).<sup>32</sup>

#### 3.2.1 LAND, TERRITORY AND NATURAL RESOURCES

The greatest number of actions taken by Amnesty International in the last two years was again on behalf of human rights defenders in areas related to land, territory, and natural resources.

Indigenous Peoples, Afro-descendant communities and the rural and peasant farmer population continue to be hardest hit in these contexts; their leaders, who are human rights defenders, are particularly persecuted and attacked by State or non-state actors.

The great inequalities between rich and poor, the disparities in land distribution, disputes over lands and natural resources, and the promotion and implementation of large-scale projects without complying with the minimum international human rights standards required, persist and in some cases are becoming worse.

## ARMED CONFLICT IN COLOMBIA

In Colombia the issue of land has been at the centre of the armed conflict, as well as at the centre of the peace negotiations. Since 2012 the Colombian government and the country's main guerrilla group, the Fuerzas Armadas Revolucionarias de Colombia [*Revolutionary Armed Forces of Colombia*] (FARC), have been holding talks to finally put an end to the 50-year-old of armed conflict.

During the armed conflict the control of territory and the imposition of economic interests have led to human rights violations and abuses. Those leading the defence of human rights in these cases or who have tried to expose these situations publicly have been the target of serious attacks.

On 25 March 2014, Juan Martínez, one of the leaders of the Asociación de Trabajadores del Campo [*Rural Workers Association*] (ASOTRACAMPO) was in his home located on the farm El Tamarindo, on the outskirts of Barranquilla, Atlántico Department, when a woman involved in a group of alleged paramilitaries told him: "Until today you are alive Juancito, we already have the people to kill you". After receiving threats, on 12 April 2013, Narciso Enrique Teherán Mejía was shot dead when he was sleeping at his home. He was the son of the vice-president of ASOTRACAMPO and also a defender of land rights. ASOTRACAMPO represents over 130 families, the majority of which were forcibly displaced during the armed conflict; since 2001 they have been living peacefully on part of the El Tamarindo farm. There have been repeated attempts to drive them out from these lands. On 30 October 2013, they were declared "military targets" by the paramilitary group Rastrojos – Barranquilla Urban Commandos.<sup>33</sup>

Those leading land restitution efforts and who represent displaced communities, the human rights defenders accompanying them, and some state authorities have also been the target of attacks as a result of their work.

There is a general consensus that the negotiations between the government and the FARC offer a very good opportunity to change the country's situation. The land issue has been one of the central elements of the negotiations and the success or failure of the talks could ultimately depend on the ability of the Colombian State to effectively and successfully protect leaders and human rights defenders and to effectively return land to the victims of the conflict who were forced to abandon or were dispossessed from them.<sup>34</sup>

## LAND DISPUTES

Land disputes are an underlying cause of the high levels of violence in several parts of the region. Those who take the lead or are outspoken regarding the human rights abuses which are committed in these contexts are persecuted and attacked. In the last two years, in several of these cases, instead of seeing an improvement in the situation, we observed with concern that it is deteriorating.

In **Honduras** for example, there are several long-standing land disputes between peasant communities and powerful landholders. In the Bajo Aguán region local organizations have reported that there have been at least 120 killings in the last five years which are related to these disputes.<sup>35</sup> On 11 November 2014, Juan Ángel López was killed after two people shot him in the back when he was going to his home in the community of Rigores, Bajo Aguán. He had only returned to his home a few months prior to that, after having had to leave the place because he had received several death threats. Juan Ángel López was an active member of the Movimiento Unificado Campesino de la margen izquierda del Río Aguán [*Unified Peasant Movement of the Río Aguán Left Bank*] (MUCA) and president of the Cristo Rey cooperative, of the Marañones peasant settlement.

On 28 August 2014, the Inter-American Commission on Human Rights (IACHR) expressed its concern over several threats and arrests that had been perpetrated against several peasant leaders with precautionary measures granted by the Commission in May 2014, and because of the series of violent evictions which had occurred in the area, all of which is in the context of the agrarian conflict in the region. At the same time the State was reminded of its obligation to investigate *ex officio* events of this nature and to sanction those responsible.<sup>36</sup>

In Latin America and the Caribbean, it is also common for these disputes to involve territories of Indigenous Peoples or Afro-descendant communities. As they live in ancestral lands over which they have a special relationship for their identity, culture, survival and traditions, their rights to them have special legal protection.<sup>37</sup> Even so, many of these communities are driven off their lands, reduced to small extensions or run the constant risk of losing them. Those leading the claims for their rights to be respected are usually the subject of serious abuses.

In **Peru**, on 1 September 2014, Indigenous leaders Edwin Chota Valera, Jorge Ríos Pérez, Leoncio Quinticima Meléndez and Francisco Pinedo were killed by suspected illegal loggers. They were travelling to the Brazilian border for a meeting to discuss how to combat illegal logging in their community. All were leaders of the Asháninka de Alto Tamaya-Saweto Indigenous community in the Ucayali region. Edwin Chota Valera was a renowned leader of the Asháninka community who fought for the property rights over their ancestral lands and against the illegal felling on their land. He had already received several threats made by illegal loggers, and although he had requested protection from the authorities, this had still not been offered.<sup>38</sup>

## MEGAPROJECTS

The expansion of megaprojects or large-scale development projects in Latin America is ongoing and has resulted in continuing conflicts over lands, territories and natural resources.

There are still many cases of abuses and attacks against human rights defenders that have taken place in the context of megaprojects where there has been a lack of consultation or free, prior and informed consent on the project; where social divisions have been created or there has been violence against the affected communities that have expressed their concern about the environmental and health impact of such projects. The most active and outspoken in the defence of human rights in these contexts continue to be the subject of attacks and intimidations.

In **Mexico**, several members of Indigenous communities in the state of Oaxaca are opposed to the construction of a wind farm on their lands and argue that an adequate consultation process has not been conducted to obtain their free, prior and informed consent, and that they are concerned about the impact the construction would have on their agriculture and lands. As a result of their opposition, these communities, as well as their leaders and human rights defenders have been the targets of threats, abuses and intimidation over several months. One of the most recent threats occurred on 8 July 2014, when the staff of the office of the human rights organization Comité de Defensa Integral de Derechos Humanos Gobixha [*Gobixha Comprehensive Human Rights Defence Committee*] (CODIGO-DH) received two threatening telephone calls. They were warned that they would face serious reprisals for supporting another human rights defender, Carmen Ruiz, who was working for the Indigenous communities of the region with the Asamblea Popular del Pueblo Juchiteco [*Popular Assembly for the Community of Juchiteco*] (APPJ).<sup>39</sup>

At the time of writing, the human rights defender Bettina Cruz Velázquez, co-founder of the Asamblea de los Pueblos Indígenas del Istmo de Tehuantepec en Defensa de la Tierra y el Territorio [*Assembly of the Indigenous Peoples of Tehuantepec Isthmus in Defence of Land and Territory*] (APIITDTT) in **Mexico**, and who has actively and publicly defended the rights of Indigenous Peoples regarding the construction of the wind farm, was about to receive the decision of the federal judicial authority in a judgment against her. In 2011, following peaceful demonstrations by members of APIITDTT in front of the offices of the Comisión Federal de Electricidad [*Federal Electricity Commission*], the Attorney General's Office of the Republic (Procuraduría General de la República - PGR) brought proceedings against her. On 22 February 2012, PGR officials detained her when she was leaving a meeting with the Comisión Federal de Electricidad accompanied by a human rights lawyer. She was accused of illegally detaining staff of the Federal Electricity Commission and damage to public property. Bettina Cruz has also been the target of several abuses and threats because of her human rights work, for which since 2012 she has received protection measures by the state mechanism for

the protection of human rights defenders and journalists.<sup>40</sup>

In the last few years in **Guatemala**, individuals and groups have distributed, on social networking sites and in the national print media, documents describing human rights defenders as “terrorists and communists” who create conflicts for their own economic benefit and who oppose the country’s development. In addition, local organizations have reported an increase in the number of baseless criminal accusations against human rights defenders in the context of the right of assembly and demonstration and large-scale projects. According to this information, in 2013, 58 legal complaints against human rights defenders were submitted in the courts, which reflects an increase compared to the 18 complaints made in the previous year.<sup>41</sup>

The December 2013 report of the United Nations Special Rapporteur on the situation of Human Rights Defenders stated that the use of a human rights focus in large-scale development projects is essential in contributing to the creation and consolidation of a safe and enabling environment for the defence of human rights, and called for specific measures to be taken to protect the communities affected and those defending their rights in these contexts. She also emphasized that “communities and those defending their rights should be able to participate actively, freely, and meaningfully in.... the design and planning, implementation, monitoring and evaluation of development projects. Defenders working with local communities can play a crucial role in facilitating communication between these communities and those responsible for the policy or project. Defenders can be instrumental in advancing development, and can ensure that dialogue is used to reinforce social cohesion and pre-empt conflict... [it] could be a first step towards enhancing the protection of rights holders.”<sup>42</sup>

### 3.2.2 BODY, GENDER IDENTITY AND SEXUAL DIVERSITY

#### VIOLENCE AND DISCRIMINATION AGAINST WOMEN

Violence, discrimination and human rights violations against women and girls continue to be a source of great concern in the Americas. Although the human rights of women and girls are recognized in international human rights standards, their reality is something very different, and it is of great concern that this continues to be a contentious issue in several sectors of society, frequently at the cost of their own lives, integrity or freedom.

An example of this is the case of unsafe abortions and the limited access to contraceptive services and information on sexual and reproductive health which affect a significant number of women and girls, primarily those living in poverty or marginalized sectors of society. This gender-based discrimination and violence is also reflected in the abuses and intimidation faced by those defending these rights, raising awareness, supporting those affected or publicly exposing cases of major concern.

Between April and May 2013 in **El Salvador**, the Agrupación Ciudadana por la Despenalización del Aborto [*Citizens for the Decriminalization of Abortion*] and the Colectiva Feminista para el Desarrollo Local [*Women's Collective for Local Development*] accompanied a 22-year-old woman at her request to have access to a therapeutic abortion. The woman was in the 11<sup>th</sup> week of gestation and found to have an anencephalic fetus, and her pregnancy was a serious risk to health and life. In a setting in which the law prohibits any type of termination of pregnancy, the organizations mentioned faced a smear campaign by the media and conservative groups who accused them of being murderers and holding the young woman requesting the abortion hostage in their headquarters, inciting hatred, stigmatization and discrimination against the defenders working on this case. Subsequently and since 10 August 2014, these same human rights defenders are facing another new wave of stigmatization, accusations and harassment by the press in El Salvador, who are trying to misinform and discredit the work they are doing for 17 women who have been unjustly detained. These women are facing sentences of up to 50 years in prison following judicial proceedings without due process of law and are being criminalized basically for having had obstetric emergencies and because they are women from disadvantaged sectors of society. Some of the human rights defenders have also been threatened with being taken to court if they continue with their work in favor of these women. The lawyer who took on the legal defence of some of the 17 women has also been the subject of criticism and discrediting in the media and in the street, being labelled an “abortion lawyer”, among other things. Still, his commitment is stronger, since “he believes that someone unjustly condemned has no reason to be in prison.”<sup>43</sup>

## LGBTI

Gender-based violence also affects individuals who exercise or defend sexual diversity.

In the last two years in **Haiti** there have been cases of threats against human rights defenders who have sought justice in cases of sexual violence or who have defended the rights of women or LGBTI individuals.<sup>44</sup> In the second half of 2013, there was a wave of attacks and verbal attacks against LGBTI people and those defending their rights. During the summer there were several demonstrations against them in various parts of the country. On 21 November, the office of the Kouraj organization, which was working for LGBTI rights, was attacked. Men armed with machetes and handguns forced their way into Kouraj's office, stole information, and beat and tied up two Kouraj members who were in the office at the time. A few days before, members of Kouraj heard people making threats outside the office, saying it was an office of homosexuals and that they would attack it soon. Since the attack, they have continued to receive anonymous calls and threats with homophobic insults.<sup>45</sup> In November 2014 they were threatened again.

In August 2014, Javed Jaghai, member of the organization J-FLAG (Forum of Lesbians, All-Sexuals and Gays), who was working for the rights of LGBTI individuals in **Jamaica**, was forced to suspend a legal action in favor of the rights of LGBTI individuals in Jamaica. After receiving a series of death threats against him

and his family, he decided not to go ahead with the appeal he had lodged in February 2013 with the Supreme Court to review and repeal the laws criminalizing consensual sexual acts between adult men.

Those defending LGBTI rights are subjected to very diverse abuses and attacks, since often they are perceived as transgressors of social and cultural values. Due to stigmatization and exclusion, LGBTI rights defenders are usually at greater risk because they are often denied protection and recognition as legitimate human rights defenders.

### 3.2.3 MIGRANTS

During the last two years, threats and assaults against those defending the rights of migrants and their descendants continued, in a climate that appears increasingly hostile towards those emigrating from one place to another.

On 11 November 2014, over 50 human rights organizations jointly condemned Sentence TC-0256-14 of the Constitutional Court of the **Dominican Republic**, in which the instrument accepting the jurisdiction of the Inter-American Court of Human Rights (IACtHR) was declared unconstitutional, and which also attempted to question several decisions of the Inter-American system of human rights, especially those related to situations of structural discrimination and the arbitrary deprivation of nationality of persons of Haitian descent living in the country.

At the end of 2013, procedures were started to implement the controversial Dominican Constitutional Court Decision 0168-13, with retroactive effect to 1929, which in practice deprives individuals with foreign descent of Dominican nationality, making them stateless. It also led to an increase in hostile rhetoric, threats and acts of intimidation against persons of Haitian descent, Haitian migrants and those defending their human rights. On 4 November 2013, the Day of the Constitution, hundreds of people taking part in a nationalist demonstration in Santo Domingo shouted “death to the traitors”. Ana María Belique, a Dominican of Haitian descent and leader of the *Reconoci.do* movement, who advocates for recognition of the Dominican nationality for Dominicans of Haitian descent, reported a series of threats against her, from September 2013. On one occasion, she received a threat via Twitter saying: “we are ready for anything...if what you want is blood, then blood you will get” and “We’re going to have to move you to the same place where Sonia Pierre lives”, referring to the leading human rights defender Sonia Pierre, who for years tirelessly defended the rights of Dominican-Haitian women and who died in 2011. On 30 January 2014, the IACHR granted precautionary measures to the *Reconoci.do* movement, asking the Dominican State to take measures to protect the lives and integrity of the group’s members.

Each year, thousands of irregular migrants attempt to cross Mexico from Central and South America to reach the United States. Many are arrested by the Mexican immigration authorities and returned to their countries of origin; others persevere at the cost of serious abuses against them. Many irregular migrants are abducted and abused by criminal gangs who have made a big business out of this situation, sometimes with the complicity of the local authorities. Impunity for abuses against

migrants, who are in an extremely vulnerable situation, has allowed these abuses to increase, despite the government's commitment to guarantee the respect of migrants' rights. As a result, those defending their rights or reporting these situations are also the subject of attacks and threats in reprisal for their actions.

On 24 June 2014, José Ramón Verdugo Sánchez (also known as Brother Ramón), coordinator of the migrants' shelter 'Todo por Ellos' [*Everything for Them*], in **Mexico**, received a death threat from an ex-resident of the shelter who had joined a known local Central American gang. The perpetrator told José Ramón Verdugo Sánchez: "I'm sorry brother, I know you've helped me a lot, but I have to kill you, I have to kill everyone here in the shelter, I have to kill them because they ordered me to do it". Another shelter coordinator, Jorge Adevar Echeverría Escalante, asked for help from the police officer who was supposed to provide protection as part of the protection measures offered by the Protection Mechanism for Human Rights Defenders and Journalists, but he refused to act. José Ramón Verdugo Sánchez then pushed the panic button provided by the State as part of the same safety measures, but only had a response 20 minutes later. Meanwhile, he called a high-ranking federal police officer through whom a patrol arrived nearly an hour after the incident, when the perpetrator had already left. The *Todo por Ellos* migrants' shelter offers humanitarian assistance and temporary lodging to children, adolescents and minors traveling alone, as migrants, through Mexico.

In its recent report on the subject, the IACHR recognized explicitly and repeatedly the important work that individuals and organizations from the civil society in Mexico are doing to safeguard the life and integrity of thousands of migrants, and called on the Mexican authorities to do the same and adopt effective measures for their protection. "...acts of violence and other attacks against human rights defenders not only affect the guarantees due to every human being but also attack the crucial role they play in society and lead to the vulnerability of all those individuals they are working for."<sup>46</sup>

### 3.2.4 FIGHTING IMPUNITY

Fighting against impunity for human rights violations in Latin America and the Caribbean is a task requiring enormous efforts and often involves facing high risks of new human rights violations against those trying to establish the truth or demanding justice. Many of these human rights defenders are survivors of human rights violations, family members of survivors or both.

In **Venezuela**, on the morning of 17 October 2014, human rights defender Luis Uzcátegui was stopped, beaten severely and threatened by four people near his house in the city of Coro, Falcón State. Among the attackers were two Falcón State police officers. Immediately after the attack, Luis Uzcátegui came to report what had happened at the local offices of the Cuerpo de Investigaciones Científicas, Penales y Criminalísticas [*Scientific, Penal and Criminal Investigations Unit*] (CICPC). While he was giving a statement, he realized that the same state police officers who had assaulted him were talking with members of the CICPC. Luis Uzcátegui remained in custody for nine hours in the CICPC offices. They did not tell him why he was detained and he was not permitted to see a lawyer or contact his



family. While he was being detained, some police officers tried to persuade him to withdraw his statement so that he could be released and not to undergo a medical examination. He believes that the attack is in retaliation for his human rights work in Falcón State and his demand for justice for the homicide of his brother Néstor Uzcátegui, who was killed by state police in 2001. In September 2012 the Inter-American Court of Human Rights ruled that the Venezuelan State had violated the right to life of Néstor Uzcátegui and the right to the physical integrity and freedom of Luis Uzcátegui and several Uzcátegui family members. The Court also ruled that the State must investigate, sanction and redress this violations. However, the trial of those suspected of killing Néstor Uzcátegui is yet to be started, since it has been postponed several times, the latest on 17 September 2014. Luis Uzcátegui is a founding member of the *Comité Pro Defensa de los Derechos Humanos Familiares Víctimas del Estado Falcón [Committee for the Defence of Victims' Families' Human Rights of Falcón State]* (COPRODEH) and currently is a member of the *Comité Pro Defensa de Víctimas de Violaciones de Derechos Humanos del Ciudadano Público [Public Citizens' Committee for the Defence of Victims of Human Rights Violations]* (COPROVIDH).

Throughout all of Latin America, the search for justice for the victims of human rights violations, their family members, human rights defenders, organizations of civil society and entire communities has frequently faced powerful interests, which has involved heavy reprisals against them.

In **Colombia** there is an overwhelming number of death threats, acts of intimidation, and attacks against survivors or victims of human rights violations, their families, lawyers and the organizations supporting them. Those who have tried to get out of the vicious circle of violence and have sought justice have been heavily persecuted.

On 3 and 4 March 2014, Yomaira Mendoza, leader of the Zona Humanitaria de Caño Manso [*Caño Manso Humanitarian Zone*], in the municipality of Carmen del Darién, Chocó Department, in the Curvaradó river basin, **Colombia**, again received death threats by text message. Since January 2014 she has received frequent threats and has even received up to five threats by text messages in a single day. She was later put under surveillance and followed and had to be relocated again. The threatening text messages started after Yomaira Mendoza made a statement to the Office of the Attorney General in January, seeking justice for the killing of her husband, the leader José Eustoquio Cifuentes Rojas, committed on 7 January 2007, and for the illegal seizure of lands by powerful economic actors who have the support of paramilitary groups. In spite of repeated orders by Colombia's Constitutional Court to return the collective lands to the Afro-descendant communities who were forcibly removed from them in the late 1990s, these orders have not been complied with, and the communities continue to face threats and intimidation.<sup>47</sup>

In the fight against impunity, human rights organizations, lawyers and legal officials committed to the defence of human rights and justice have also been heavily persecuted.

In **Mexico**, human rights lawyer Leonel Rivero Rodríguez reported a series of acts of intimidation and harassment against him. On 10 March 2014 his office, which is also his home, in Tuxtla Gutiérrez, Chiapas State, was broken into. Six days before, three unidentified men burst into a hotel where the lawyer was in a meeting with members of the communities of the state of Michoacán regarding a sensitive human rights case he is representing together with his colleague from Defensa Estrategica en Derechos Humanos A.C. [*Strategic Defence in Human Rights, A.C.*], Augusto César Sandino Rivero Espinosa. On 17 January, Leonel Rivero received a threatening telephone call. Leonel Rivero Rodríguez had already reported other acts of harassment and surveillance in 2013. The lawyers from Defensa Estratégica en Derechos Humanos are working on several human rights cases, such as enforced disappearance.<sup>48</sup>

In **Honduras**, Judge Mireya Efigenia Mendoza Peña was killed in broad daylight on 24 July 2013 in El Progreso, Yoro Department. Armed men on a motorbike fired around 20 shots at her, several of them at her head, when she was at the wheel of her car. Mireya Efigenia Mendoza Peña, a judge in the El Progreso Tribunal, was also a member of the Asociación de Jueces por la Democracia [*Association of Judges for Democracy*] (AJD) and a member of its board of directors between 2012 and 2014. AJD is a non-governmental organization that works to strengthen the justice system in Honduras.<sup>49</sup>

Even when the search for justice and the fight against impunity may cost life itself in many countries in Latin America, the demands to put an end to human rights abuses and violations are echoing throughout the national courts, the Inter-American system of human rights, the institutions of the United Nations and in the streets of the Americas.

### 3.2.5 JOURNALISTS AND TRADE UNIONISTS

In the last two years the situation has not improved for the individuals who exercise and defend the human rights to freedom of expression, assembly and association. On the contrary, it seems that the space for exercising these rights by individuals and civil society organizations is increasingly shrinking. Journalists and trade unionists defending human rights continue to be the subject of serious attacks.

Not every journalist or trade union member is a human rights defender, but some of them make a “special effort” to contribute to the protection and implementation of human rights. The protection of their freedoms is not only a prior and fundamental condition for the defence of human rights, but also a necessary element for them to conduct their work effectively.

#### TRADE UNIONISTS

In 2012, in its second regional report on the situation of human rights defenders, the IACHR reiterated that in addition to recognizing and protecting the rights, autonomy and independence of trade unions, States must take measures to guarantee and protect the life and personal integrity of their members. “The extrajudicial execution of a trade union leader, in addition to being a violation of the

right to life, can have a damaging effect on the workers of the trade union movement and this diminishes...the freedom of assembly".<sup>50</sup> Accordingly, it has been observed that in "...countries where threats or acts of violence against trade unionists take place, the levels of trade union membership drop, making it impossible for the trade unions to represent the workers' interests. In **Guatemala**, where 523 trade unionists were killed in the last six years, only 1.6% of the workers are union members."<sup>51</sup>

**Colombia** continues to have one of the highest rates of killings of trade unionists. The trade unionists are victims of constant death threats and killings in the context of labour disputes and in campaigns for their socio-economic rights. According to the Colombian NGO Escuela Nacional Sindical [*National Trade Union School*] (ENS), in 2013 at least 27 trade unionists were killed and 188 received threats.<sup>52</sup>

On 16 June 2014, José Onofre Esquivel Luna, vice-president of the Bugalagrande division of the Sindicato Nacional de Trabajadores de la Industria de Alimentos [*National Trade Union of Food Industry Workers*] (SINALTRAINAL), which represents workers in the Nestlé plant in Bugalagrande, Valle del Cauca Department, was travelling by car to Medellín, Antioquia Department, when two men on motorbikes started to shoot at him. He was travelling with two bodyguards in a vehicle, all assigned to him by the Unidad Nacional de Protección [*National Protection Unit* – UNP]. The bodyguards returned fire and killed one of the attackers. The other was wounded and arrested but was later released due to statute of limitations. José Onofre Esquivel Luna had travelled to Medellín to attend a meeting of SINALTRAINAL leaders from various regions in Colombia, which was due to begin on 17 June. The meeting was suspended because of the attack. In the days following the attack, José Onofre Esquivel was also followed by unidentified individuals. José Onofre Esquivel Luna had received death threats from paramilitaries on 8 November 2013, one day before they killed Oscar López Triviño, another member of the same trade union in Bugalagrande. In the last few years, SINALTRAINAL has participated in several labour disputes, which often involve large multinational companies. Since SINALTRAINAL's creation in 1982, its members have received repeated death threats from paramilitaries, and over 20 have been killed. According to the trade union, 13 of the people killed were working for Nestlé.<sup>53</sup> Nestlé has previously denied any connection with the paramilitary violence; however, the company must perform due diligence in accordance with international human rights standards. At the very least, the due diligence must be demonstrated by helping the authorities conduct thorough and impartial investigations on these serious events, taking measures towards ensuring the safety of the trade unionists and ensuring that the company does not benefit from human rights violations.<sup>54</sup>

## JOURNALISTS

In the last two years the situation for journalists working for human rights in Latin America and the Caribbean has also been very discouraging. Although not every journalist is a human rights defender, it is important to note that according to the IACHR Special Rapporteur for Freedom of Expression, violence against journalists in

the Americas has worsened in the last few years; "...between January 1, 2010 and November 1, 2013, at least 78 journalists and media workers were killed in the region for reasons which could be related to carrying out their profession. Dozens more have disappeared or moved from their places of work, and hundreds of others received threats or were harassed or attacked as a response to their professional activities."<sup>55</sup>

In **Brazil** during the Football World Cup protests, several journalists were also suppressed and assaulted. On 12 June 2014 in São Paulo, São Paulo State, a journalist from the international news network CNN and two other journalists covering a demonstration were wounded after the Military Police used excessive use of force and less-lethal weapons to disperse a peaceful demonstration. That same day in Belo Horizonte, Minas Gerais State, Karinny de Magalhães, member of the group *Mídia Ninja* [*Ninja Media*], was covering a demonstration when she was arrested by the Military Police and taken unlawfully to a military batallion, accused of causing damage to a police vehicle. However, at the time of the damage, Karinny was broadcasting images live in a place far from where the events occurred. Karinny claims that she suffered physical and psychological violence, and, apparently, the police beat her until she lost consciousness. She was in prison for two days and released on 14 June. On 13 July, the last day of the Football World Cup, at least 15 journalists, photographers and camera crew from Brazil and abroad, who were collecting information during a demonstration in the Plaza de Saens Peña in Río de Janeiro, were assaulted by Military Police, some of whom broke their equipment.<sup>56</sup>

In **Cuba**, there are still serious restrictions to the right to freedom of opinion and expression. These include the freedom to seek, receive and impart information and ideas through any medium and regardless of borders. The State maintains a total monopoly on television, radio, the press, Internet providers and other electronic means of communication.<sup>57</sup> In this context, Roberto de Jesús Guerra Pérez, director of the independent new agency Hablemos Press [*Let's Talk Press*], founded in 2009 by independent journalists and human rights activists, was the subject of several attacks. In June 2014, he received several death threats via his mobile phone and his landline at his home, which is also the headquarters of Hablemos Press. On the morning of 11 June, Roberto de Jesús Guerra Pérez was walking through the area of the Plaza de la Revolución, in the centre of Havana, on his way to use the Internet services of the Czech Republic embassy, when he was physically assaulted by an unknown assailant who fractured his nose and caused contusions all over his body. While he was being beaten up, four men riding motorbikes stopped next to him. According to Roberto's report, one of the men said: "enough, enough, don't hit him any more", and then the four rode off. Roberto recognized one of the four men as one who had participated in the crackdown of demonstrations organized by dissidents. Roberto and his wife reported the attack in the Cerro Police Station in Havana. That night, the police asked Roberto to come to the station, where they showed him photographs, from among which he identified his attacker. At around 6 PM on 17 June, the same man who had attacked Roberto was shouting threats in front of his house. Among other things, he threatened to kill Roberto and set fire to the house. Roberto's wife returned to the same station to report these new events, but the officers refused to see her. On 6 April 2014, he was detained for six hours

on arriving at the Havana airport. They confiscated the material he was carrying, including documents from the IACHR in Washington D.C., where on 25 March he had attended a hearing related to freedom of expression in Cuba. Roberto de Jesús Guerra Pérez has faced constant harassment by the authorities, has been arrested on several occasions, and has been threatened with prison if he continues his activities as a journalist.<sup>58</sup>

The right to freedom of opinion and expression includes the right to submit criticisms and proposals for improving the functioning of public affairs, and to call attention to any aspect of the work of the authorities that may hinder or impede the promotion, protection and realization of human rights and fundamental freedoms.<sup>59</sup>

As the United Nations Special Rapporteur on extrajudicial, summary or arbitrary executions said: "...an attack on a journalist represents an assault on the foundations of the human rights project and on informed society as a whole. Violence against a journalist is not only an attack on one particular victim, but on all members of the society."<sup>60</sup>

## 4. COMPREHENSIVE PROTECTION IS ESSENTIAL TO ACHIEVE A SAFE AND ENABLING ENVIRONMENT FOR THE DEFENCE OF HUMAN RIGHTS

“...there is a great deal of hope in this new age for humankind that we can connect with each other and act better as a civil society, so that we can achieve significant advances in the recognition and protection of human rights defenders.”

*María Belén Páez, President of the Fundación Pachamama [Pachamama Foundation] in Ecuador (organization closed arbitrarily in December 2013)*

Achieving a safe and enabling environment for the defence of human rights must be a goal of all the States of the Americas. It is clear that to close the gap between the promise of justice and human rights for everyone and the reality of this goal, it is essential to recognize and protect human rights defenders so that they can perform their work effectively and without fear of reprisals.

The United Nations Declaration on Human Rights Defenders sets out the minimal standards that States must adopt to allow human rights to be defended without obstacles or unjust reprisals, and includes the following: the obligation to protect, promote and implement human rights; taking the necessary measures to protect human rights defenders against any type of violence, threat, reprisal, discrimination or pressure, or any other undue action as a response to their legitimate exercise of the right to defend human rights; creating all the necessary conditions in the social, economic, political, legal and any other relevant domains to ensure that everyone can perform his or her work and activities in the defence of human rights; and, providing an effective remedy when human rights defenders have been victims of human rights abuses.<sup>61</sup>

## A SAFE AND ENABLING ENVIRONMENT FOR HUMAN RIGHTS DEFENDERS

In her report published on 23 December 2013, the UN Special Rapporteur on the Situation of Human Rights Defenders set out a series of measures, including political and legal mechanisms, that States must adopt to ensure that human rights defenders can enjoy comprehensive protection and a safe and enabling environment to be able to, in practice, carry out their work in the defence of human rights without fear of reprisals.<sup>62</sup> These measures for achieving a “safe and enabling environment for human rights defenders” should include, among others, the following:

- a. A legal, institutional and administrative framework that encourages: the respect and protection of human rights, the fight against impunity for attacks and assaults on human rights defenders, and the implementation of comprehensive protection measures with a gender-based perspective that enables them to continue their work.
- b. Specific measures to investigate and sanction cases of attacks and threats against human rights defenders, whether those responsible are State or non-state actors. Not to take action against such levels of impunity totally contravenes an environment in which human rights can be defended.
- c. Strengthening national human rights institutions, their effectiveness and independence, as these can also play an important role in the protection of human rights defenders.
- d. Offering effective protection for human rights defenders and developing special protection policies and mechanisms which at the very least: take human rights defenders and organizations of civil society into account in the design and implementation process of these programmes, that they be established by law, include an early warning system, take into account the situation of human rights defenders’ family members, have staff who are skilled and specialized in human and gender-based rights, do not delegate the responsibility of offering safety measures to private security bodies, and have the human and financial resources necessary to perform their duties effectively.
- e. Strengthening the safe access of human rights defenders to international human rights protection mechanisms.
- f. Promoting a culture of respect of human rights that recognizes publicly and unequivocally the fundamental role of human rights defenders in society, and recognizes that the exercise of the protection and promotion of human rights is a legitimate activity. Human rights defenders themselves also have a role to play in creating a safe and enabling environment, developing their activities peacefully and in a framework of respect for international human rights principles and standards.
- g. Taking specific measures in regard to the risks and challenges faced by human

rights defenders who promote women's rights or gender-based issues.

h. Respect and support of non-state actors for the work of human rights defenders. Non-state actors, particularly private companies, should support, respect and protect human rights defenders and their work. Companies should take human rights defenders into account in implementing the standard on due diligence regarding human rights, which, according to the accepted international norms, includes identifying, preventing, mitigating and accounting for how they address their human rights impact.<sup>63</sup> Private companies should contribute decisively to the promotion and protection of the rights and work of human rights defenders, and therefore to the consolidation of a safe and enabling environment for the defence of human rights.

In this context the recommendation made in the June 2014 report of the Working Group on the issue of human rights and transnational companies and other businesses is particularly relevant. It calls on States to ensure the protection of human rights defenders working in areas related to the impact of business activities, especially large infrastructure and productive projects, and communicate clearly to private companies that they also need to respect the rights of human rights defenders.<sup>64</sup>

## COMPREHENSIVE PROTECTION

Comprehensive protection is essential for achieving a safe and enabling environment for the defence of human rights. In this context it is relevant to emphasize that, given the serious situation of violence faced by human rights defenders in Latin America and the Caribbean, it is a matter of urgency to work with specific measures towards a comprehensive and effective protection system. Although state protection programmes or mechanisms and their efficacy are a priority need, it is also necessary to keep working on and integrating a comprehensive perspective on protection.

This comprehensive protection should start with the following: the public recognition of the legitimacy and importance of human rights defenders and their work, and the public and unequivocal condemnation of the abuses committed in retaliation for their work; the provision and implementation of specific protection measures that have the necessary human and economic resources; a gender-sensitive perspective as well as a sensitive approach towards other differences of geographic, social and economic origin; and measures that can address the causes underlying the attacks.

It should also be emphasized that without the investigation and sanction of the abuses and attacks against human rights defenders, they cannot be effectively protected. Again, the cases on which this document is based show that the majority of the most serious attacks occur after other threats and aggressions have taken place and the perpetrators of these have not been held accountable.

According to the experience and testimony of human rights defenders in the region,



the attacks on them are not investigated or are quickly dismissed. “This impunity encourages the perception that there is a context in which attacks are tolerated because they are part of an inherent risk to the work of defending human rights (...). The deficiency of the authorities responsible for the administration of justice exposes human rights defenders to greater risks, creates a generalized perception of helplessness and vulnerability, and encourages violations in the absence of consequences for the perpetrators (...). Among the elements giving rise to the fact that the investigations lack objectivity and impartiality, which results in impunity, we can point out, among others: the premeditated ignorance or denial to accept that the victim of the attack is a human rights defender; the irregular or deficient integration of the preliminary investigations; the separation into various criminal proceedings the several aggressions against the same victim; the disintegration of the investigations claiming different statuses of the criminal subjects; the delay and obstruction of the investigation operation or obtaining justice; prolonged periods of inactivity; and omissions in performing due diligence to clarify the facts.”<sup>65</sup>

## STATE PROGRAMMES AND MECHANISMS

Some States have taken special measures to offer protection to human rights defenders in situations of risk. In the last two years there were advances in the mechanisms, units, or programmes of some States, but it was also evident that they are yet to manage and to address the scale of the problem and that they are yet to overcome several challenges.

In **Brazil**, it has been 10 years since the official launch of the National Programme for the Protection of Human Rights Defenders in October 2004. As the Programme was established by a decree and still faces various challenges, in 2009 preparations for a draft law were started in the National Congress with the idea of giving it a legal basis. The objective of the project is to achieve the effective operation of the protection system, a clearer and more fluid interaction between the federal government and the states, and strengthening it in issues related to jurisdiction, responsibility, management method, structure and budget in accordance with the reality faced by Brazilian human rights defenders. According to the testimony of human rights defenders in Brazil, of the 27 states, eight adopted the Programme but of these only five are complying with its protection function.

In **Colombia**, the UNP continued to provide security measures to thousands of persons at risk, including human rights defenders. According to the NGO Somos Defensores, between January 2012 and September 2013 the UNP “...received 20,537 requests (4,140 of them from human rights defenders or social leaders) and considered 1,524 cases of human rights defenders to be at genuine risk, this means that 20.4% of the UNP protection measures are directed to human rights defenders and social leaders, and only 36.8% of the protection requests made by human rights defenders to the Unit are being recognized as actually being at risk.”<sup>66</sup> In addition, in several cases many weaknesses in these protection measures became evident, for example: the long delays in implementing the security measures, the ineffectiveness of several measures (such as providing a vehicle for secure transport but without gasoline or a budget for it), and that usually the

measures were reactive and not preventive, individual and not collective, or without a differential focus as stipulated by Colombian legislation.

In September 2014, the UNP was involved in a corruption scandal in which high-ranking officials were accused of profiting from contracts with private contractors to whom the UNP had subcontracted most of its protection work. That same month, the UNP acknowledged that due to budget issues it had to withdraw the protection plans from several of its beneficiaries.<sup>67</sup>

In 2004 in **Guatemala**, after the call from the national and international civil society, Internal Agreement 11-2004 of the Presidential Commission on Human Rights in Guatemala (COPREDEH) was approved. This created the Unidad Coordinadora de Protección para Defensores de Derechos Humanos, Administradores y Operadores de Justicia, Periodistas y Comunicadores Sociales [*Coordinating Unit for the Protection of Human Rights Defenders, Legal Administrators and Officers, Journalists, and Media Commentators*] with the idea of articulating the State's responses to requests for protection of human rights defenders in situations of risk. However, in addition to the fact that this Unit has neither the resources nor the political will to become a national protection mechanism, in the last two years civil society organizations have criticized it since it would be working with the idea of closing the protection measures granted in favour of human rights defenders, and not with the idea of strengthening their protection.

In the last two years, the Instancia de Análisis de Ataques Contra Defensores de Derechos Humanos en Guatemala [*Unit for the Analysis of Attacks Against Human Rights Defenders*] in Guatemala, created by Ministerial Agreement No. 103-2008 to establish and analyze the patterns of attacks on human rights defenders, has also been strongly criticized by civil society since they have seen that its function has been undermined and weakened. To the point that the organizations representing civil society in this setting, organizations knowledgeable and specialized in the subject of protection of human rights defenders, decided to withdraw. In 2013 the Office in Guatemala of the United Nations Office of the High Commissioner for Human Rights stated that: "Despite efforts by several institutions to re-establish its role, the Unit for the Analysis of Attacks Against Human Rights Defenders in Guatemala lost relevance."<sup>68</sup>

In **Honduras** a national protection mechanism has yet to be created, and the institutions that could currently offer protection do not have the necessary training, adequate resources or public confidence. In fact, "many human rights defenders, owing to their fear of the police, refrain from asking for protection because they think that contacting the police exposes them to a greater security risk and potential reprisals (...) several human rights defenders reported that the police officers assigned to provide them with protection were frequently rotated and lacked training. They stated that the lack of knowledge about the police officer assigned to provide their protection increased their feeling of insecurity. One human rights defender benefiting from precautionary measures commented that the police officers assigned for protection were confused about their task and presumed that the human rights defender was on provisional release. Consequently, the person

who was supposed to be receiving protection was treated like a suspect rather than a victim.”<sup>69</sup>

In June 2014, the Honduras Congress discussed a draft of the Ley de Protección para los Defensores de Derechos Humanos, Periodistas, Comunicadores Sociales y Operadores de Justicia [*Law of Protection for Human Rights Defenders, Journalists, Media Commentators and Legal Officers*], which would create a national protection mechanism. In August, after a call from national and international organizations, this draft was finally shared with civil society organizations which as a result could give their suggestions and comments on its contents. However, at the time of writing, the content of the final draft of the law was yet to be known and it was yet to be finally approved.

In **Mexico** in 2012, the Congress unanimously approved the Ley para la Protección de Personas Defensoras de Derechos Humanos y Periodistas [*Law for the Protection of Human Rights Defenders and Journalists*], after several years of active participation by civil society organizations. This Law created a Protection Mechanism to ensure the safety of human rights defenders and journalists, an important step towards the recognition and protection of human rights defenders. However, over two years after it came into force, the Protection Mechanism still faces significant challenges to ensure its effective implementation, while the risks and abuses faced by human rights defenders are increasing.

Dozens of human rights defenders and journalists in situations of risk in Mexico who have requested protection have to date not received a timely or effective response. The processing of their applications face excessive delays, and rarely is there a follow-up mechanism by the authorities enabling them to evaluate the efficacy of the measures announced. According to information from the Secretaría de Gobernación [*Minister of the Interior*], in September 2013, 203 applications for protection had been received and of these 41 had not been accepted. In February 2014, the Secretaría de Gobernación acknowledged that only 41 of the 130 cases accepted to date had received protection, while the 89 remaining cases were waiting for a response. Although the government affirms that the Mechanism is operating effectively, at the beginning of 2014 there were several incidents which indicated there were several underlying problems. These include the resignation of the director of the Human Rights Unit and the sudden departure of at least four other key staff members. In view of this situation, the civil society members of the Junta de Gobierno del Mecanismo [*Mechanism Governing Board*] publicly expressed its concern over the deep credibility crisis of the body and the absence of adequate management, work plans and political support enabling the Mechanism to fulfil its mission. They also took the decision to temporarily withdraw from the Governing Board.<sup>70</sup>

Although the government affirms that the mechanism is functioning effectively, it is still not fully operational because it lacks enough properly trained and experienced staff, the necessary material resources and the high-level political support required to guarantee that the authorities implement the protection measures effectively and in a coordinated way.

## INTERNATIONAL AND REGIONAL MECHANISMS

International and regional protection mechanisms have been fundamental in forcing the authorities to take effective action to protect human rights defenders in situations of risk.

In April 2014, the United Nations Human Rights Council took the decision to extend for three more years the mandate of the Special Rapporteur on the situation of human rights defenders, reaffirming that States have the obligation to protect all the human rights and essential freedoms of everyone, emphasizing that the respect and support for the work of human rights defenders are essential for the general enjoyment of human rights and recognizing the importance of the work carried out by the Rapporteur.<sup>71</sup>

In her last report to the Human Rights Council, the Special Rapporteur on the situation of human rights defenders, Margaret Sekaggya, gave her conclusions and an account of her activities during her period as Rapporteur. From May 2008 to November 2013, the Rapporteur sent over 1,500 communications to around 130 States (around 1,000 were urgent appeals and approximately 500 were allegation letters); of these, almost one third, around 400, were to countries in Latin America.<sup>72</sup>

In June 2014, Michel Forst was appointed as new Special Rapporteur by the President of the United Nations Human Rights Council. As part of the vision for his mandate it has been proposed, among other things, to work for the most at risk human rights defenders, taking into account the legal obstacles, in order to provide more effective protection.<sup>73</sup>

The United Nations Special Rapporteur also recognized the significant value of the regional human rights mechanisms and their contribution to protection. During the 153<sup>rd</sup> session of the IACHR in Washington, D.C., the Special Rapporteur on the Rights of Human Rights Defenders of the IACHR, Commissioner José de Jesús Orozco Henríquez, and the United Nations Special Rapporteur on the situation of human rights defenders held a working meeting to strengthen the cooperation between the two mandates.<sup>74</sup>

The relevance of the international and regional protection mechanisms for human rights defenders, the need to strengthen the mechanisms and programmes at a national level and the deterioration of the situation that defenders face in the Americas also coincide with the fact that “at present, around a third of the precautionary measures provided by the Inter-American Commission [on Human Rights] every year are intended to protect the life and integrity of human rights defenders and justice operators in the region.”<sup>75</sup>

The precautionary measures of the IACHR continue to be a crucial tool and almost the only way to activate the mechanisms and measures to ensure the protection of human rights defenders at risk. Following the process to strengthen this system

and the reform of the Rules of Procedure of the IACHR, which came into force in August 2013, article 25 of the Rules on precautionary measures now contains definitions of the criteria of “severity”, “urgency” and “irreparable” harm, so that they are considered when protection measures are requested. In this context, human rights defenders and civil society organizations of the region have asked the Commission that its interpretation be in accordance with the criteria that are already established in case law and other decisions of the system, and according to the concept of irreparable harm in the broad sense, not only restricted to life or personal integrity, but also taking into account the universality and interdependence of human rights. In other words, emphasizing the principle of effective protection and also taking into account the context in which the human rights defender faces attacks, impunity and non-compliance of the State of precautionary measures previously granted by the IACHR to human rights defenders in situations of risk.<sup>76</sup>

## THE INTERNATIONAL COMMUNITY

In several cases the role of the international community has also been essential for achieving the protection of human rights defenders in situations of risk. In this context, 2014 also marked the tenth anniversary of the European Union Guidelines on Human Rights Defenders and, in the context of this framework, Amnesty International called on European Union Member States to renew and strengthen their efforts to effectively protect those facing violence in retaliation for their human rights work.<sup>77</sup>

In December 2013, Switzerland publicly launched its own Guidelines for the Protection of Human Rights Defenders, recognizing the fundamental role these individuals play to make advances in the protection and promotion of human rights and to strengthening the rule of law. It also recognized as priorities these issues as well as the crucial importance of protecting human rights defenders.<sup>78</sup>

In June 2014 the Organization for Security and Co-operation in Europe (OSCE) published its Guidelines for the Protection of Human Rights Defenders, based on the international obligations on this matter and recognizing the international dimension of the protection of human rights defenders. These directives include a series of guidelines that States must comply with, both at the domestic level and abroad.<sup>79</sup>

## CIVIL SOCIETY NETWORKS AND ORGANIZATIONS

Finally, it is also necessary to recognize the fundamental importance of the effective protection that organizations and networks at the local, national, regional and international levels offer to individuals at risk as a result of defending human rights. This solidarity has saved lives, offered crucial support in the most complicated times and has made visible situations that previously were not even considered. In this context, we must continue supporting them, building links and strengthening efforts.

## 5. CONCLUSIONS AND RECOMMENDATIONS

Human rights defenders in Latin America and the Caribbean continue to contribute substantially to the protection, promotion and effective enjoyment of human rights for everyone. These human rights defenders show enormous strength and commitment to the human rights cause in the face of the reality in the region. Even though they confront serious and often frequent attacks and intimidation against them and their families, they continue advancing their efforts.

The actions of human rights defenders are essential, legitimate and necessary for advancing towards the achievement of justice and rights for everyone. However, even when this is recognized by several States and regional and international institutions, their situation and the context in which they work are not improving and in some cases are deteriorating.

The right to defend human rights is an autonomous and independent right, recognized in international human rights law. However, exercising this right in several countries in Latin America and the Caribbean is a dangerous activity which for many human rights defenders has cost them their lives, integrity or liberty, or that of some of their family members or members of their communities or organizations.

It is a matter of urgency that the authorities of these States, at their various levels, recognize the legitimacy and importance of human rights defenders and act accordingly by promoting the international, regional and national legal framework of protection for human rights defenders, and taking specific measures to prevent, correct and sanction the abuses and attacks which take place against human rights defenders in retaliation for their human rights work.

The actions of States in favour of human rights defenders must seek to achieve a safe and enabling environment for the defence of human rights. To do that, measures must be taken that improve the full protection of human rights defenders, recognizing the legitimacy and importance of their work, offering effective measures, with a gender approach and a differentiated perspective in relation to the risks, and also taking action to fight impunity and sanction those responsible for the abuses.

The violent reaction to the legitimate work of defending human rights in the Americas reflects the powerful interests that many human rights defenders question in trying to end the vicious circles of discrimination, inequality, exclusion and injustice in the region. It also partly explains why the defenders who are at greatest risk of facing serious abuses and attacks continue to be those defending human rights related to land, territory and natural resources; those defending the

rights of women and girls, LGBTI people or migrants; those fighting against impunity; and, journalists and trade unionists who make visible and defend human rights.

It is a great concern that individuals who have already suffered attacks in previous years have faced new abuses, including in cases where the victims had been provided with protection measures. It is deplorable that, in spite of the reports and greater visibility of the situation faced by human rights defenders, there is still no decisive action by States to strengthen the mechanisms, programmes and policies for the protection of human rights defenders.

The right to defend human rights includes the right to express criticisms and participate in peaceful public protests in the defence of human rights, among others. In the past few years, we still observe with concern the violence and excessive use of force to suppress peaceful protests, and specifically the attack on those defending human rights in these contexts.

Also of utmost concern is that the misuse of the justice system has intensified to criminalize human rights defenders. The hearing before the IACHR in 2014 and the resolution of the United Nations Human Rights Council in 2013 on that subject are of particular importance because they demonstrate the need for States to take measures to correct this situation, such as the training of justice officials in the subject and the preparation of special protocols or guidelines to prevent the criminalization of human rights defenders.<sup>80</sup>

It is necessary to strengthen the recognition of the autonomy, independence and magnitude of the right to defend human rights, to fully understand the scope of State obligations and, therefore, the actions they should take to achieve the effective enjoyment of this right. Such obligations include the following: refraining from hindering, limiting, obstructing, punishing or suppressing the exercise of this right; protecting and providing effective guarantees for the fully enjoyment of this right; and effectively protecting those carrying out this right.

The responsibility of States on this matter is not limited to setting up a protection mechanism or offering certain security measures. It is also needed to adopt a vision of comprehensive protection based on the recognition of the legitimacy of human rights defenders and to seek to achieve in practice a safe and enabling environment for the defence of human rights.

In this context, Amnesty International calls on the governments of the entire region to reinforce their actions to comply with the obligations derived from the right to defend human rights and their obligation to protect effectively those individuals exercising this right.

## RECOMMENDATIONS

### **Amnesty International urges the governments of the region to:**

- Put an end to the attacks, violence and other abuses committed by state and non-state actors against human rights defenders and to take all the measures necessary so that human rights defenders can freely carry out their legitimate human rights work.
- Publicly recognize human rights defenders as legitimate and crucial actors and promote the legitimacy and relevance of their work in all levels of government.
- Take all measures necessary to make the authorities at all levels fully aware of the right to defend human rights and the need to protect those who are exercising this right.
- Address the underlying causes of the attacks, responding to their human rights demands with specific measures and facilitating communication channels at the very least.
- Recognize and respect alternative ways of defending human rights, such as peaceful protests and public activities.
- Adopt and implement a perspective of development that recognizes, respects, promotes and protects both human rights and the right to defend human rights and those exercising this right.
- Design and implement processes of due diligence to prevent and sanction human rights abuses by non-state actors committed against human rights defenders in retaliation for their actions.
- Recognize human rights defenders as legitimate actors and interlocutors, facilitating effective mechanisms of dialogue and active participation.
- Investigate, sanction and redress the attacks on human rights defenders, ensuring that instead of investigating their personal lives, the investigations are focused on determining what could have caused the attack and who can be acting in retaliation for their work. When a human rights defender has been subjected to more than one attack, such incidents must be analyzed jointly.
- Establish guarantees or the minimum procedural safeguards required to identify, prevent, correct and sanction the misuse of the justice system to criminalize human rights defenders. The investigation of these cases must analyze explicitly the possibility that the justice system is being misused to suppress the work of human rights defenders.



- Take all measures necessary to effectively protect human rights defenders, using a focus that is differentiated, gender-sensitive and respects the diversity of human rights defenders. Protection must be accessible without the need to depend on international institutions' request of protection or the ability of the human rights defenders to fund the measures.
- Ensure that a perspective which is sensitive to differences and gender is integrated in every protection measure, policy, mechanism, risk analysis, or investigation of attacks against human rights defenders. The particular challenges and various levels of aggression faced by human rights defenders and those who defend women's rights and gender-based issues must be recognized.
- Reinforce the existing mechanisms or bodies specialized in protection so that they can operate effectively in countries like Brazil, Colombia, Guatemala and Mexico. The Honduran authorities should establish a protection mechanism, with the backing and participation of human rights defenders and the necessary human and financial resources so that it can operate effectively.

**Amnesty International urges the international community and international and regional human rights bodies to:**

- Continue promoting the recognition and protection of human rights defenders by maintaining adequate contact with these individuals; putting their cases before the relevant authorities to urge them to comply with their human rights obligations, and offering them tangible recognition and support.
- Proactively continue to promote, develop and implement the guidelines adopted for the protection of human rights defenders.
- Reaffirm the right to defend human rights as one which is autonomous, independent and fully recognized by international human rights law.

**Amnesty International urges the relevant non-state actors, particularly private companies and business consortiums planning or developing projects to:**

- Ensure that their activities do not infringe the human rights of others, including those of human rights defenders.
- Design and implement due diligence processes regarding human rights that are adequate to identify any risks that their activities or those of any business partner may involve for the rights of the inhabitants of their areas of operation, as well as for the rights of human rights defenders, and to implement measures intended to mitigate those risks and to prevent human rights abuses.
- Ensure that the human rights defenders of those communities or individual who are affected or may be affected by these projects, are recognized as legitimate actors and valid interlocutors; and, ensure that adequate and effective mechanisms of dialogue and active participation are offered or facilitated.

## ENDNOTES

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- <sup>1</sup> See the most recent OAS (OEA) resolution on this subject: OEA/Ser.G, CP/CAJP-3251/14 rev.4
- <sup>2</sup> The hearings took place in sessions 150 and 153 of the Comisión Interamericana de Derechos Humanos [*Inter-American Commission on Human Rights*] and are available on the following website under the titles: Situation of human rights defenders in the Americas (March 24); Challenges for the protection of women against violence 20 years after the Belém do Pará Convention (March 26) and Misuse of the criminal law to criminalize human rights defenders (October 31).  
<http://www.oas.org/es/cidh/multimedia/sesiones/default.asp>
- <sup>3</sup> A/HRC/25/55, paragraph. 128
- <sup>4</sup> See Fact Sheet No. 29 of the UN, available at:  
<http://www.ohchr.org/Documents/Publications/FactSheet29sp.pdf>
- <sup>5</sup> Amnesty International UA: 326/13 Index: AMR 28/003/2013
- <sup>6</sup> Amnesty International, Honduras: Peasant leader shot dead. AU: 219/14 Index: AMR 37/010/2014
- <sup>7</sup> Amnesty International Transforming Pain into Hope: Human Rights Defenders, AMR 01/006/2012, available at: <http://www.amnesty.org/en/library/info/AMR01/006/2012/es>
- <sup>8</sup> OACNUDH Colombia, the United Nations in Colombia condemns the increase of attacks against social leaders September 26 2014. Available at:  
<http://www.hchr.org.co/publico/comunicados/2014/comunicados2014.php3?cod=19&cat=94>
- <sup>9</sup> Somos Defensores, D for Defence, Annual Report 2013 Information System on Attacks against Human Rights Defenders in Colombia – SIADDHH, 2014.
- <sup>10</sup> Somos Defensores, Imagine, 2014.
- <sup>11</sup> See: <http://www.amnesty.org/en/library/info/AMR23/033/2014/en>
- <sup>12</sup> UDEFEGUA, Silence is history: Annual report 2013, January 2014.
- <sup>13</sup> OACNUDH in Mexico, Report on the Situation of human rights defenders in Mexico: Update 2012 and account 2013. June 2013, paragraph 24. Available at:  
[http://hchr.org.mx/files/doctos/Informe\\_defensoresDH\\_2013\\_web.pdf](http://hchr.org.mx/files/doctos/Informe_defensoresDH_2013_web.pdf)
- <sup>14</sup> Amnesty International, THREATS AGAINST A HUMAN RIGHTS DEFENDER AND HER FAMILY, UA: 294/13 Index: AMR 41/068/2013
- <sup>15</sup> Amnesty International, BRAZIL: POLICE ABUSE DURING A PEACEFUL PUBLIC ASSEMBLY, UA: 169/14 Index Number: AMR 19/007/2014.
- <sup>16</sup> See the following Amnesty International reports on protest:  
 Brazil: " They use a strategy of fear ": Protecting the right to Protest in Brazil, AMR 19/005/2014;  
 Venezuela: Human rights at risk in protests, AMR 53/009/2014;

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USA: On the Streets of America, Human Rights Abuses in Ferguson, published by AI USA.

<sup>17</sup> Amnesty International, Mexico: Amnesty International celebrates the release of two prisoners of conscience in Puebla, AMR 41/074/2012

<sup>18</sup> See article: Defending human rights defenders, a necessary condition for development with social inclusion, by: Nancy Tapias Torrado, Amnesty International Research on the Situation of Human Rights Defenders in the Americas; Marcia Aguiluz, Director of CEJIL Mesoamérica [*CEJIL Mesoamerica*] and Alejandra Vicente, Senior CEJIL Lawyer. Available at: <http://livewire.amnesty.org/es/2014/05/30/defender-a-quienes-defienden-los-derechos-humanos-condicion-necesaria-para-el-desarrollo-con-inclusion-social/>

<sup>19</sup> Amnesty International, Cuba: Arrested and left in limbo as trial postponed yet again, press release dated November 7, 2014.

<sup>20</sup> Amnesty International, Ecuador: Case sets a worrying precedent for the right to protest, AI: AMR 28/001/2013

<sup>21</sup> Amnesty International, Defend human rights defenders in the Americas: International Day of human rights defenders, AMR 01/006/2013

<sup>22</sup> A/HRC/RES/22/6.

<sup>23</sup> A/HRC/RES/22/6, paragraphs 6 and 11 (c).

<sup>24</sup> Amnesty International URGENT ACTION, WOMEN HUMAN RIGHTS DEFENDERS THREATENED, UA: 37/13 Index: AMR 23/006/2013

<sup>25</sup> See the hearing before the Inter-American Commission on Human Rights in the 150<sup>th</sup> session “Challenges for the protection of women against violence 20 years after the Belém do Pará Convention” available at: <http://www.oas.org/es/cidh/multimedia/sesiones/150/default.asp>

See also the blog IM-Defensoras [*IM-Defenders*] “Making our organizations places free from violence against human rights defenders...” Available at: <http://activismocongruente.blogspot.mx/2014/11/pronunciamiento-16dias.html>

<sup>26</sup> Amnesty International, Transforming Pain into Hope: Human Rights Defenders, AMR 01/006/2012, available at: <http://www.amnesty.org/en/library/info/AMR01/006/2012/es>

<sup>27</sup> Amnesty International, Human rights activists abducted in HONDURAS, UA: 200/13 Index: AMR 37/008/2013.

<sup>28</sup> See for example the book “Journeys for thinking and acting. Experiences of selfcare of women human rights defenders in Mesoamerica” from the Iniciativa Mesoamericana de Mujeres Defensoras de Derechos Humanos [*Mesoamerican Women Human Rights Defenders Initiative*], May 2014. Available at: <http://www.awid.org/esl/Library/Travesias-para-pensar-y-actuar-Experiencias-de-autocuidado-para-defensoras-de-derechos-humanos-en-Mesoamerica>

<sup>29</sup> A/RES/68/181.

<sup>30</sup> See the joint statement: UN Adopts Landmark Resolution on Protecting Women Human Rights Defenders. Available at: <http://www.ishr.ch/news/un-adopts-landmark-resolution-protecting-women-human-rights-defenders>

<sup>31</sup> See for example: UA: 203/13 Index: AMR 23/034/2013, Amnesty International

<sup>32</sup> Amnesty International AU: 188/13 Index: AMR 37/006/2013 and Further information on AU: 103/13

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Index: AMR 23/013/2014

<sup>33</sup> Amnesty International UA: 103/13 Index: AMR 23/017/2013 y

<sup>34</sup> For detailed information on this subject, see: Amnesty International, A land title is not enough: ensuring sustainable land restitution in Colombia, AMR 23/031/2014.

<sup>35</sup> Observatorio de Derechos Humanos del Aguán [*Aguán Human Rights Watch*] (OPDHA), Statistical Report on Violent Deaths Related to the Land Disputes in Bajo Aguán 2008 – 2013, February 2014.

<sup>36</sup> IACHR expresses concern for threats and arrests of peasant leaders in Bajo Aguán, Honduras, August 29, 2014. Available at: <http://www.oas.org/es/cidh/prensa/Comunicados/2014/094.asp>

<sup>37</sup> See for example: for indigenous peoples Agreement 169 of the International Labor Organization and the United Nations Declaration on the Rights of Indigenous Peoples; for Afro-descendant communities the relevant domestic norms in Brazil or Colombia and the 15 June 2005 decision on the Case of the Moiwana Community vs. Suriname of the Inter-American Court of Human Rights (Series C), No 124.

<sup>38</sup> Amnesty International UA: 228/14 Index: AMR 46/007/2014.

<sup>39</sup> Amnesty International UA: 177/14 Index: AMR 41/026/2014

<sup>40</sup> Amnesty International MEXICO: NO TO THE LEGAL PROSECUTION OF HUMAN RIGHTS DEFENDERS, Public Statement, September 25, 2014, Index: AMR 41/037/2014

<sup>41</sup> See: UDEFEGUA, Silence is history: Annual report 2013, January 2014, available at: [http://protectionline.org/files/2014/09/5\\_UDEFEGUA\\_informe-anual-2013.pdf](http://protectionline.org/files/2014/09/5_UDEFEGUA_informe-anual-2013.pdf) (consulted on November 17, 2014); and, Public Statement on Convergence for Human Rights, From stones in the shoe to burial mounds on the road of impunity, racism and exclusion, February 20, 2014, available at: <http://www.scribd.com/doc/208425805/Comunicado-Criminalizacion-de-la-manifestacion-Convergencia-por-los-Derechos-Humanos-De-piedras-en-el-zapato-a-tumulos-en-el-camino-de-la-impuni> (consulted on November 17, 2014)

<sup>42</sup> A/HRC/25/55, paragraphs 93 to 97

<sup>43</sup> See the following Amnesty International report with detailed information on the worrying situation in El Salvador on this subject: On the brink of death: Violence against women and the abortion ban in El Salvador, AMR 29/003/2014

<sup>44</sup> See also the following Amnesty International documents: Haiti: Submission to the UN Human Rights Committee: 112th Session of the UN Human Rights Committee, October 7-31, 2014, AMR 36/012/2014; AU: 192/14 Index: AMR 36/011/2014; AU: 153/14 Index: AMR 36/010/2014, etc.

<sup>45</sup> Amnesty International UA: 320/13 Index: AMR 36/021/2013

<sup>46</sup> See: IACHR, Human rights of migrants and other persons in the context of human mobility in Mexico, OEA/Ser.L/V/II. Doc.48/13, particularly paragraphs 18, 248, 276 and 284.

<sup>47</sup> Amnesty International UA: 50/14 Index: AMR 23/009/2014

<sup>48</sup> Amnesty International UA: 57/14 Index: AMR 41/008/2014

<sup>49</sup> Amnesty International Public Statement: Honduras: Amnesty International condemns the recent killings of individuals defending justice, equality and human rights, July 29, 2013. Index: AMR 37/007/2013

<sup>50</sup> IACHR. SECOND REPORT ON THE SITUATION OF HUMAN RIGHTS DEFENDERS IN THE

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AMERICAS. OEA/Ser.LV/II. Doc. 66. Paragraphs 258 and 263.

<sup>51</sup> International Trade Union Confederation. Countries at risk, trade union rights violations, 2013, page 8. Available at: <http://www.ituc-csi.org/paises-en-situacion-de-riesgo?lang=es>

<sup>52</sup> Email received from ENS on January 20, 2014.

<sup>53</sup> Amnesty International More information on UA: 310/1 Index: AMR 23/025/2014

<sup>54</sup> See for example: UN Commentary on 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, July 2011, pp. 22-23, and Guiding principles on companies and human rights: Putting into practice the United Nations framework to “protect, respect, and remedy”, prepared by the special representative of the Secretary General on the issue of human rights and transnational companies and other commercial businesses, available at [http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR\\_SP.pdf](http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_SP.pdf)

<sup>55</sup> IACHR Special Rapporteur for Freedom of Expression. Violence against Journalists and Media Workers: Interamerican Standards and National Practices on Prevention, Protection, and Seeking Justice. OEA/Ser.LV/II CIDH/RELE/INF.12/13, paragraph 4.

<sup>56</sup> Amnesty International, Protests during the Football World Cup: final overview, AMR 19/008/2014

<sup>57</sup> Article 53 of the Constitution of Cuba stipulates that: “Citizens’ right to freedom of speech and of the press recognized in accordance with the purpose of the socialist society. The material conditions for exercising these freedoms are provided by the fact that the press, radio, television, cinema and other mass media are the property of the state or society and may not be the subject, in any case, of private property, which ensures their use for the exclusive service of the working people and the interest of society. The law regulates the exercise of these freedoms”

<sup>58</sup> Amnesty International UA: 159/14 Index: AMR 25/001/2014

<sup>59</sup> UN Declaration on Human Rights Defenders, article 8

<sup>60</sup> A/HRC/20/22. Paragraph 24.

<sup>61</sup> Articles 2, 9 and 12.

<sup>62</sup> A/HRC/25/55, paragraphs 54-126

<sup>63</sup> See for example: UN Commentary on 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, July 2011, pp. 22-23, and Guiding principles on companies and human rights: Putting into practice the United Nations framework to “protect, respect, and remedy”, prepared by the special representative of the Secretary General on the issue of human rights and transnational companies and other commercial businesses, available at [http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR\\_SP.pdf](http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_SP.pdf)

<sup>64</sup> A/HRC/26/25, paragraphs 69 and 94

<sup>65</sup> See the Regional Subject Hearing: Situation of human rights of human rights defenders in the Americas before the IACHR in its 151<sup>st</sup> session, available at <http://www.oas.org/es/cidh/multimedia/sesiones/150/default.asp>

<sup>66</sup> Programa No Gubernamental de Protección a Defensores de Derechos Humanos [*Non-governmental Programme for Protection of Human Rights Defenders*]. Special Report: Protection at the Blackboard,

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2014, page 27. Available at: <http://www.somosdefensores.org/index.php/en/publicaciones/informes-siaddhh>

<sup>67</sup> See: El Heraldo. Por faltarle \$70 mil millones, UNP podría desmontar esquemas de seguridad desde octubre: MinInterior [*El Heraldo. Because of a shortfall of \$70 billion, the UNP could dismantle safety schemes from October: Department of the Interior*] <http://www.elheraldo.co/nacional/por-faltarle-70-mil-millones-unp-podria-desmontar-esquemas-de-seguridad-desde-octubre>

<sup>68</sup> Report of the High Commissioner for Human Rights on the activities of his office in Guatemala, annual report 2013, A/HRC/25/19/Add.1, paragraph 49.

<sup>69</sup> A/HRC/22/47/Add.1, paragraphs 98 and 99

<sup>70</sup> Amnesty International. Public letter to the President of Mexico. AMR 41/018/2014

<sup>71</sup> A/HRC/RES/25/18

<sup>72</sup> A/HRC/25/55

<sup>73</sup> A/69/259

<sup>74</sup> See also: ONU, Strengthening ties to protect people in the Americas, November 21 2014, available at: <http://www.ohchr.org/EN/NewsEvents/Pages/InterAmericanCommission.aspx>

<sup>75</sup> IACHR, Funciones e Iniciativas [*Functions and Initiatives*]. Available at: <http://www.oas.org/es/cidh/defensores/mandato/funciones.asp>

<sup>76</sup> See: IACHR, Regional hearing on the Situation of the human rights of human rights defenders in the Americas, March 24 2014, available at: <http://www.oas.org/es/cidh/multimedia/sesiones/150/default.asp>

<sup>77</sup> [http://eeas.europa.eu/human\\_rights/guidelines/defenders/docs/16332-re02\\_08\\_en.pdf](http://eeas.europa.eu/human_rights/guidelines/defenders/docs/16332-re02_08_en.pdf)

<sup>78</sup> The Guidelines are available at: <http://imumi.org/attachments/2014/directrices-suizas-proteccion-defensoras-ddhh.pdf>

<sup>79</sup> The Guidelines are available at: <http://www.osce.org/odihr/119633>

<sup>80</sup> See section 3.1.2 of this document.



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