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## **OPEN LETTER TO THE HEADS OF STATE AND GOVERNMENT PRESENT AT THE VII SUMMIT OF THE AMERICAS**

Amnesty International welcomes the holding of the VII Summit of the Americas as a regional forum to promote dialogue between the governments of the American continent.

The organization believes that prioritizing the protection and promotion of human rights of all people without discrimination is crucial to the Summit's main theme: "Prosperity with Equity". The region still suffers from profound social and economic inequalities, a situation which has a profound impact on the human rights of individuals across the region. Despite the progress made in recent years, such inequality undoubtedly remains one of the main causes of the suffering, atrocities and abuses faced by millions of America's people.

Amnesty International believes the participation of Cuba for the first time since the creation of the Summit of the Americas as a hemispheric political forum is a positive step and hopes that it will contribute to closer and more constructive relations between all member countries, without exception.

We call on the heads of state and government at this Summit of the Americas to include in their final declaration firm commitments to reduce social inequalities, promote equitable development and guarantee the protection of human rights without discrimination and to take immediate action and implement policies to fulfil these commitments. Amnesty International would like to take the opportunity provided by this regional meeting to reiterate to all heads of state and government present at the VII Summit of the Americas some of its main concerns regarding the human rights situation in the hemisphere.

### ACCESS TO JUSTICE AND THE FIGHT TO END IMPUNITY

The lack of access to justice continues to be among the continent's most serious problems because it frustrates the exercise of citizenship and, therefore, weakens the rule of law. Access to redress for human rights violations continues to be out of the reach of millions of people, especially those belonging to deprived and marginalized communities. Some of the most common obstacles are weak and under-resourced judicial and law enforcement institutions and a lack of political will to strengthen them and to ensure their independence.

Such obstacles to justice are exacerbated by attacks against human rights defenders, witnesses and others involved in the judicial process. Journalists who denounce abuses of power, human rights violations and corruption are also frequently targeted.

In Mexico, for example, incomplete and limited investigations into the case of the 43 students at Ayotzinapa teacher training college, who were subjected to enforced disappearance, highlighted serious failures on the part of the Mexican government in investigating widespread and entrenched corruption and collusion between state officials and organized crime, as well as shocking levels of impunity and the government's failure to respond to one of the worst human rights crises in the continent. This case is symbolic of the grave weaknesses in the way in which human rights violations are dealt with in Mexico. But this was no isolated case or atypical situation in this country, which continues to be the scene of forced disappearances, impunity and corruption.

In Venezuela, one year after the demonstrations in support of and against the government that shook the country between February and July 2014, leaving 43 dead, hundreds of people injured, dozens of people tortured and ill-treated, the victims and their families are still waiting for justice.<sup>1</sup>

Amnesty International insists on the need to guarantee the independence of the public authorities and improve the effectiveness of justice systems, including access to these systems without any form of discrimination.

## PUBLIC SECURITY AND HUMAN RIGHTS

In recent decades, the increase in violence and influence of non-state actors, including criminal networks and transnational companies that operate with impunity and with an increasingly transnational impact, have challenged the power of the state and governments' capacity to protect human rights. The response of governments, which in some cases has included the use of the armed forces to control criminal networks, has itself generated grave human rights violations and restricted the freedoms of expression and peaceful protest.

Growing discontent at the high levels of impunity and corruption, as well as at economic policies that privilege the few, has expressed itself in protests in which hundreds of thousands of people have taken to the streets to demand accountability from their governments and an end to human rights violations. This outpouring of dissatisfaction and demands has taken place against the backdrop of an erosion of democratic space and continuing criminalization of dissent.

In recent years, we have witnessed, with great concern, the continued use of excessive force by the security forces in response to massive protests in Brazil, Canada, Chile, Ecuador, the USA, Guatemala, Haiti, Mexico, Peru and Venezuela.

In Brazil, thousands of people took to the streets to protest as the country prepared to host the 2014 World Cup. The scale of the protests was unprecedented, with hundreds of thousands of people participating in mass demonstrations in dozens of cities. In many instances, the police response to the wave of protests in 2013 and 2014, including during the World Cup, was violent and abusive.

In the USA, the shooting of Michael Brown and the decision of the grand jury not to indict the police officer responsible sparked months of protest in and around Ferguson. The use of heavy-duty riot gear and military-grade weapons and equipment to police the demonstrations served to intimidate protestors exercising their right to peaceful assembly. Several other deaths of young Afro-Americans and Mexican immigrants at the hands of police officers showed that it is necessary to review the laws on the use of force in the USA.

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<sup>1</sup> See the recent Amnesty International report on this issue: "The Faces of Impunity. A Year After the Protests, Victims Still Await Justice".  
<https://www.amnesty.org/en/documents/amr53/1239/2015/en/>

Amnesty International calls on the region's states to respect the right to demonstrate peacefully and to establish clear and efficient mechanisms against the excessive use of force by the security forces. The organization also calls on governments to prioritize the protection of human rights in its public security policies.

### THE RIGHTS OF MIGRANTS AND THEIR DESCENDANTS

In some of the region's countries, insecurity, violence and economic hardship drive a growing number of migrants to cross the borders in search of protection and improved living conditions for themselves and their families. The flow of Central American migrants, especially unaccompanied minors, who cross Mexico and try to gain entry into the USA, has led to a humanitarian crisis, particularly given the conditions in which they are detained and the grave human rights violations to which they are subjected. Migrants crossing Central America and Mexico are often killed, abducted or face extortion by criminal gangs, often operating in collusion with the authorities. Women and children are at particular risk of sexual violence and people trafficking. These violations are rarely investigated.

Discrimination against migrants and their descendants is pervasive and states show little interest in addressing the causes of such entrenched exclusion. In September 2013, the Dominican Republic's Constitutional Court issued a widely criticized judgement which had the effect of retroactively and arbitrarily depriving Dominicans of foreign descent born between 1929 and 2010 of their Dominican nationality. The vast majority of those affected were of Haitian descent. In the Bahamas, proposed reforms on migration have raised concerns about the violation of the rights of migrants and their descendants, such as the requirement to hold an identity document in order to enrol at schools as from September 2015.

Amnesty International requests states to comply with international standards that protect migrants, including the prohibition of the arbitrary deprivation of nationality. It also demands the repeal of decrees and rulings that infringe the human rights of migrants and their descendants, independently of their legal status, and calls for measures to prevent mass deportations without adequate guarantees for the rights of migrants.

### THE RIGHTS OF INDIGENOUS PEOPLES AND AFRO-DESCENDANT COMMUNITIES

The region's indigenous peoples and Afro-descendant communities continue to suffer discrimination and inequality in the fields of housing, water, health and education. These groups continue to encounter social, political and economic threats to their collective well-being and their very existence. Their cultural heritage, ancestral lands and right to self-determination are under constant attack. State and non-state actors, such as businesses and powerful landowners, often forcibly remove them from their lands in the name of social and economic development, without consulting them or obtaining their free, prior and informed consent. Development programmes often result in environmental and cultural destruction and community displacement.

In 2014, the Afro-descendant communities of Buenaventura, a port on the southeast coast of Colombia, were the victims of a growing wave of violence, including killings and forced disappearances, mainly at the hands of paramilitary groups and criminal gangs. Some of the victims were dismembered. The violence was concentrated in poor areas of the city that have been chosen as locations for the development of port infrastructure or other economic projects.<sup>2</sup>

Amnesty International urges the region's states to respect the principles in the 2007 United Nations Declaration on the Rights of Indigenous Peoples, which are universally accepted in our continent, and the Inter-American system's case law on this issue. In particular, we urge governments to ensure effective consultation and free, prior and informed consent of indigenous peoples in the event of them being affected by development projects, including extractive industry projects.

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<sup>2</sup> Colombia: Death Threats Received in "Humanitarian Zone" (AMR 23/016/2014) <https://www.amnesty.org/en/documents/AMR23/016/2014/en/>

Amnesty International welcomes the resumption of negotiations on the American Declaration on the Rights of Indigenous Peoples and reiterates its request to member states of the Organization of American States (OAS) to ensure that the Declaration adequately reflects the opinions and experiences of those whose rights are at stake<sup>3</sup>. This document provides an opportunity to strengthen regional compliance with the United Nations Declaration and focus on the specifics of the indigenous peoples' situation in our continent. However, the American instrument will not be legitimate without the support of the indigenous peoples. On this issue, Amnesty International expresses its concern at the late notification to indigenous representatives about the meetings this year and the limited financial support for attendance at the negotiations, which has created barriers to the effective participation of the indigenous peoples of all the countries in our region. In addition, pressures to quickly conclude negotiations on many pending issues made it more difficult for indigenous peoples to make their voices heard and their opinions considered.

### THE RIGHTS OF WOMEN AND GIRLS

Violence against women and girls continues to be one of the main human rights challenges throughout the continent. States in the region are failing to put the protection of women and girls from rape, threats and killings at the forefront of their political agenda. Slow and patchy implementation of legislation to combat gender-based violence remains a serious concern and the lack of resources available to investigate and prosecute these crimes raises questions about official willingness to address the issue, which affects all our societies.

In August 2013, the region's states made a certain amount of progress when they reached a historic agreement in Montevideo, Uruguay, acknowledging that the criminalization of abortion causes increased maternal mortality and morbidity and does not reduce the number of abortions. In December 2014, abortion was decriminalized in some circumstances in the Dominican Republic, although the relevant legislation has not yet entered into force. In January 2015, the Chilean government presented a draft bill on the decriminalization of abortion under certain circumstances that will be discussed during the course of the year. However, at the end of 2014, the sexual and reproductive rights of women and girls continued to be violated, with terrible consequences for their health and life. In Chile, El Salvador, Haiti, Honduras, Nicaragua and Suriname, a total ban on abortion in all circumstances, including for girls and women pregnant as a result of rape or who experience life-threatening complications in their pregnancies, remains in place. In El Salvador, at least 129 women have been incarcerated on pregnancy-related grounds in the past decade and 15 are awaiting the outcome of a request for a state pardon, their ultimate chance of legal remedy against sentences of up to 50 years for obstetric complications.

Amnesty International calls on governments to allocate resources to the fight against gender-based violence in the continent and to put into practice policies to promote the sexual and reproductive rights of women and girls. In addition, Amnesty International urges Chile, El Salvador, Haiti, Honduras, Nicaragua and Suriname to repeal laws that punish abortion and guarantee access to abortion in law and in practice, at least in cases in which pregnancy entails a risk to the life or physical and mental health of the woman or girl, when the foetus cannot survive in the womb and when pregnancy is a consequence of rape or incest.

### RIGHTS OF LGBTI COMMUNITIES

Discrimination and violence against lesbian, gay, bisexual, transgender and intersex (LGBTI) people continues despite legislative progress in some countries against discrimination on the grounds of sexual orientation and gender identity. In Honduras, for example, LGBTI people continue to face threats, physical attacks and even killings, despite legislative reforms that punish discrimination against LGBTI people. In Jamaica, attacks, harassment and threats against the LGBTI community are not investigated thoroughly. In Trinidad and Tobago, even though the Constitutional Reform Committee recognized in 2013 the "high level of violence and abuse against LGBTI people", it made no recommendations to

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<sup>3</sup> See Amnesty International: Too Many Obstacles to Participation of Indigenous Peoples in Negotiations of New OAS Declaration Risks its Legitimacy. [HTTPS://WWW.AMNESTY.ORG/EN/DOCUMENTS/IOR60/1180/2015/EN/](https://www.amnesty.org/en/documents/IOR60/1180/2015/EN/)

eliminate laws that criminalize consensual sexual relations between people of the same sex and that ban the entry of homosexuals into the country.

Canada continues to postpone the approval of a law that would add gender identity to the list of hate crimes in the criminal law and to the prohibited grounds of discrimination under national human rights legislation.

A clear and resounding message that discrimination against the LGBTI community will not be tolerated is crucial for this VII Summit of the Americas. Equity cannot be achieved without an explicit recognition of this community in our region.

#### TORTURE AND OTHER CRUEL, INHUMAN AND DEGRADING TREATMENT

The Americas has some of the most robust anti-torture laws and mechanisms at the national and regional level. And yet throughout the region, the widespread use of torture and other ill-treatment and the failure to prosecute the perpetrators or to provide reparation to victims continues to be a serious concern.

Throughout the continent, cruel, inhuman and degrading treatment is common in prisons or at the time of arrest and is mainly used against criminal suspects to inflict punishment or extract confessions to be used in evidence against them. In addition, thousands of people are held in pre-trial detention for long periods in the region's prisons, at which overcrowding, violence and the lack of basic services constitutes cruel, inhuman and degrading treatment.

Amnesty International urges states to promote and implement comprehensive policies to prevent torture and other cruel, inhuman and degrading treatment and to ensure full accountability and access to remedy for any instances of such human rights violations.

#### ARMED CONFLICT

Peace talks between the Colombian government and the Revolutionary Armed Forces of Colombia (Fuerzas Armadas Revolucionarias de Colombia, FARC) offer the best chance in more than a decade to put a definitive end to the region's longest-running internal armed conflict. But all sides continue to commit human rights violations and abuses and violations of international humanitarian law (IHL), principally against indigenous, Afro-descendant and peasant communities, human rights defenders and trade unionists. At least 55 human rights defenders and 20 trade union members lost their lives in 2014 and there has been a massive increase in the number of death threats against human rights defenders, peace and land activists, politicians and journalists.

Neither the government, nor FARC has made an explicit commitment to guarantee justice for all victims of the conflict. This, combined with government attempts to promote legislation that will exacerbate impunity, threatens to undermine the long term viability of any eventual peace agreement. Amnesty International calls on the parties to the conflict to put an end to human rights violations and abuses and violations of IHL and ensure that an eventual peace agreement is compatible with international law and that victims have full access to truth, justice and reparation.

#### HUMAN RIGHTS DEFENDERS

Human rights defenders in the region continue to face many problems in carrying out their work. Many of these people put their own lives, physical integrity and freedoms at risk by simply defending rights. In recent years, Amnesty International has documented killings, abductions, death threats, intimidation and an increase in the use of the judicial system to intimidate and repress the defence of human rights throughout the region.

In only a few cases has any progress been made in investigating abuses against human rights defenders and bringing the perpetrators of these grave human rights violations to justice. The lack of impartial and thorough investigations results in a failure to identify those responsible for attacks, leaving human

rights defenders at the mercy of the interests of powerful and violent sectors who act in the knowledge that they are unlikely to be held to account for their actions.

The scale of the problem varies from country to country, as does the willingness of states to recognize and deal with the situation. Some groups of human rights defenders are at particular risk of attack, including those focusing on human rights issues related to land, territory and natural resources; the rights of women, girls, lesbian, gay, bisexual, transgender and intersex (LGBTI) people; and migrants' rights. Other sectors that are most exposed to risk are those who fight against impunity and journalists and trade unionists who defend human rights. Many human rights defenders and their organizations are engaged in the defence of a range of rights as their work is shaped by the needs and circumstances in which they work. This reaffirms the universal and interdependent nature of human rights and the need to approach their defence in this way. It also reflects the fact that many defenders work in places where communities are subjected to marginalization, discrimination, entrenched poverty and are abandoned by the state.

Governments must urgently adopt practical measures to prevent, eliminate and punish these grave abuses; guarantee a safe environment for human rights defenders; and ensure comprehensive protection so they can freely go about their legitimate activities. In addition, Amnesty International rejects any form of intimidation and criminalization of the vital work carried out by human rights defenders in the Americas. Protection of human rights defenders is an indication of the strengthening of the rule of law and, therefore, of access to justice.

Our international movement is aware of the great challenges that the region faces regarding the enjoyment of and guarantees for basic rights. Despite such challenges, we believe it is necessary for states to strengthen and act in accordance with their commitment to human rights. We make an urgent call to all heads of state and government to reaffirm this commitment in the Final Declaration of the VII Summit of the Americas and translate it into policies and actions at all levels.