

# AMERICAS: THE SITUATION OF STATE PROTECTION MECHANISMS FOR HUMAN RIGHTS DEFENDERS

Several countries in the Americas have established national protection mechanisms to guarantee the safety of human rights defenders as well as other at-risk groups, like trade unionists, journalists and justice officials. The purpose of this brief document is to present Amnesty International's assessment of the implementation of national mechanisms in Brazil, Colombia, Honduras and Mexico, and to evaluate Guatemala's public policies for the protection of rights defenders. This analysis is based on Amnesty International's years of monitoring the situation of human rights defenders across the region, and on close work with local civil society organizations and social movements in each country.<sup>1</sup> It is also based on Amnesty International's many interactions with national and local authorities to address the concerning situation facing human rights defenders. Through our research and advocacy work, Amnesty International has been able to document the impact of measures adopted by states to create a safe and enabling environment for the exercise of the right to defend human rights, as recognized by 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<sup>2</sup> and other international and inter-American norms and standards, including in jurisprudence.<sup>3</sup>

## BRAZIL

In 2004, a resolution<sup>4</sup> of the National Council of Human Rights Defenders established the Programme for the Protection of Human Rights Defenders in Brazil (PPDDH).<sup>5</sup> In 2007, a presidential decree created a National Policy for the Protection of Human Rights Defenders to establish principles and guidelines for the protection of human rights defenders in accordance with Brazilian law and the international treaties to which Brazil is a signatory.<sup>6</sup> However, the policy and the programme have suffered setbacks and have been subject to the political leanings of successive administrations.

From the beginning, the Programme for the Protection of Human Rights Defenders required the implementation of agreements between the federal government and state governments. Only eight of Brazil's 26 states created such agreements with the federal government and implemented parts of the programme. Further, the programme lacks a legal framework and sufficient funding and personnel and focuses only on the physical safety of rights defenders during emergencies. Therefore, the programme has not been able to address the causes of the risks and threats faced by human rights defenders. Amnesty International also concluded that, because the programme's security measures generally focused on relocating those who are at risk, the programme impeded the capacity of rights defenders to continue their defence of human rights, and therefore resulted in a process of demobilization.

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<sup>1</sup> Amnesty International, "State Protection Mechanisms for Human Rights Defenders" (Index: AMR 01/6211/2017). Available at: <https://www.amnesty.org/en/documents/amr01/6211/2017/en/>

<sup>2</sup> OHCHR, "Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms," (A/RES/53/144), 8 March 1999. Available at: <https://www.ohchr.org/en/professionalinterest/pages/rightandresponsibility.aspx>

<sup>3</sup> See: Interamerican Court of Human Rights, "Human Rights Defender et al. Vs. Guatemala, decision of 28 August 2014, Kawas Fernández Vs. Honduras, decision of 3 April 2009 (Merits, Reparations and Costs); Nogueira de Carvalho et al. Vs. Brasil, decision of 28 November 2006 (Preliminary Objections and Merits)" and Interamerican Commission of Human Rights, "Second Report on the Situation of Human Rights Defenders in the Americas," OEA/Ser.LV/II. Doc. 66, 31 December 2011.

<sup>4</sup> Resolution No. 14/2004 of Council for the Defence of Human Rights, which is linked to the Special Secretary of the Presidency for Human Rights, established the Coordinating Office of the National Programme for the Protection of Human Rights Defenders.

<sup>5</sup> Special Secretary for Human Rights, Justice and Citizen Ministry, "Protection of Human Rights Defenders." Available at: <http://www.sdh.gov.br/assuntos/combatos-as-violacoes/programas/defensores-dos-direitos-humanos-1> (Only available in Portuguese).

<sup>6</sup> Presidential Decree n. 6044 of 12 February 2007. Available at: [http://www.planalto.gov.br/ccivil\\_03/ato2007-2010/2007/decreto/d6044.html](http://www.planalto.gov.br/ccivil_03/ato2007-2010/2007/decreto/d6044.html) (Only available in Portuguese).

Though the programme is an important step forward, it continues to face various challenges, among them limited implementation at the state level and a lack of funding. Since 2009, a proposed law has been debated that would establish a legal framework for the protection mechanism and clarify the roles of the federal government and state governments, as well as other issues related to jurisdiction, responsibility, management, structure and programme budget.<sup>7</sup>

In April 2016, Decree 8724 was issued. It institutionalized the National Programme for Human Rights Defenders.<sup>8</sup> According to the Brazilian Committee of Human Rights Defenders, the decree weakened protections for rights defenders because it suppressed civil society's participation in the programme's operations. Since the programme's creation, civil society had participated in risk analysis, proposed protection strategies and strategies to address structural issues, and participated in decision-making about whom to include in and exclude from the programme. Further, the decree restricted the application of the programme to people under threat, which contradicts a programme regulation that states that protection should also be provided to all at-risk or vulnerable rights defenders.<sup>9</sup>

In Brazil, the great majority of the killings of human rights defenders have occurred in the context of conflicts over land and natural resources.<sup>10</sup> Though there is no official count of the rights defenders killed every year, the Pastoral Commission of Land (Comissão Pastoral da Terra) documented the killings of 70 people in conflicts over land and natural resources in 2017.<sup>11</sup> This is the highest number since 2003 and indicates an increase over the last years in the number of rights defenders killed in conflicts related to land and natural resources. The dismantling of the National Programme for the Protection of Human Rights Defenders over the last two years has left hundreds of threatened rights defenders without effective mechanisms to guarantee their safety.<sup>12</sup>

The threats and attacks against rights defenders occur in a context of impunity. In general, authorities do not investigate or bring to justice the people responsible for planning and carrying out these attacks. In March 2018, for example, the human rights defender Marielle Franco was killed and at the date of publication of this document authorities still have not identified the perpetrators. The lack of a forceful response from the state to identify the intellectual and material authors of the killing of Marielle Franco sends a concerning message that authorities tolerate these acts and exposes other rights defenders to greater risk. The absence of truth and justice in this case demonstrates the State's lack of commitment to human rights defenders in the country.

During the Human Rights Council's third Universal Periodic Review on Brazil from 2017, the country accepted several recommendations to guarantee the safety of human rights defenders and declared that the Programme for the Protection of Human Rights Defenders is working throughout the country<sup>13</sup>, however civil society organizations claim otherwise. Amnesty International urges Brazil to implement these recommendations promptly and effectively through the re-establishment of the Protection Programme and other necessary measures to put an end to the killings, threats and attacks against human rights defenders, as well as the prevailing impunity enjoyed by the perpetrators of these crimes.

## COLOMBIA

Since its creation in 2011, the Interior Ministry's National Protection Unit (Unidad Nacional de Protección – UNP) has provided

<sup>7</sup> In July 2009, proposed law N° 4.575 / 2009 was presented. It created the National Programme for the Protection of Human Rights Defenders. Though it was approved by all the necessary committees in the legislature, the proposed law still has not been voted on.

<sup>8</sup> Presidential Decree N° 8.724 of 27 April 2016. Available at: [www.planalto.gov.br/ccivil\\_03/\\_ato2015-2018/2016/Decreto/D8724.html](http://www.planalto.gov.br/ccivil_03/_ato2015-2018/2016/Decreto/D8724.html) (Only available in Portuguese).

<sup>9</sup> Brazilian Committee of Human Rights Defenders, "Lives in Fight: Criminalization and Violence against Defenders of Human Rights in Brazil." Available at: [terradedireitos.org.br/uploads/arquivos/WEB\\_Terra-de-Direitos\\_Vidas-em-Luta\\_100817\\_web.pdf](http://terradedireitos.org.br/uploads/arquivos/WEB_Terra-de-Direitos_Vidas-em-Luta_100817_web.pdf) (Only available in Portuguese).

<sup>10</sup> Global Witness, "At what cost? Irresponsible business and the murder of land and environmental defenders in 2017." Available at: [www.globalwitness.org/fr/campaigns/environmental-activists/a-qu%C3%A9-precio/](http://www.globalwitness.org/fr/campaigns/environmental-activists/a-qu%C3%A9-precio/)

<sup>11</sup> The Pastoral Land Commission report is available at: [www.cptnacional.org.br/publicacoes-2/destaque/4319-assassinatos-no-campo-batem-novo-recorde-e-atingem-maior-numero-desde-2003](http://www.cptnacional.org.br/publicacoes-2/destaque/4319-assassinatos-no-campo-batem-novo-recorde-e-atingem-maior-numero-desde-2003) (Only available in Portuguese).

<sup>12</sup> Amnesty International, "Brazil: Police Killings, Impunity and Attacks on Defenders: Amnesty international Submission for the UN Universal Periodic Review – 27th Session of the UPR Working Group May 2016" (Index: AMR 19/5467/2016).

<sup>13</sup> OHCHR, "Universal Periodic Review – Brazil," *OHCHR | Freedom of Religion: UN Expert Hails Albania, but Notes New Challenges and Unresolved Issues from the Past*. Available at: [www.ohchr.org/EN/HRBodies/UPR/Pages/BRindex.aspx](http://www.ohchr.org/EN/HRBodies/UPR/Pages/BRindex.aspx)

physical security measures to over 4,000 people at risk, including human rights defenders and victims of armed conflict. In 2017, the UNP received 3,152 protection requests and implemented 411 protection measures for rights defenders.

The UNP informed Amnesty International that the Unit is composed of 2,187 public servants in the General Directorate, the Sub-directorate of Risk Evaluation and the Subdirectorate of Protection, and that its sole headquarters is in Bogota. In 2018, the Unit had a budget of 693,101,000,000.00 Colombian pesos (approximately USD \$240 million). The UNP has 387 armored vehicles, 599 conventional vehicles, 2,364 security personnel, 362 relocation assistance grants, 2,935 bulletproof vests and 3,298 communication devices. Regarding request processing times, once the UNP receives a protection request, it has at least 90 days to evaluate risk and present its analysis before the Risk Evaluation and Measure Recommendation Committee. This agency then issues an Administrative Directive through a resolution that recommends the protection measure to be implemented within 60 days, unless events require more immediate action.

The mechanism has made some progress through the adoption of a protocol for collective protection plans for rights defenders and in offering protection to entire at-risk groups or communities. However, the foreseen measures will still focus on the protection of individuals and will still be carried out by police officers. Some civil society organizations have reported that individual measures, like the assignment of bulletproof vests, do not take into account the specific contexts of certain petitions, like the gender or age of the at-risk rights defender, and may sometimes aggravate risk to those who receive protection in areas of armed conflict. Similarly, these types of measures are not successful when the risks are of a collective nature and cannot be addressed by these physical and individual measures.

These civil society organizations have criticized certain emergency measures for the consequences they could have on the human rights of those who receive protection. For their part, those who receive protection call attention to delays in the application of security measures, with the aggravating factor that in many cases the measures are implemented after several months, which is counted as part of the time that they are supposed to be valid for, and the inefficacy of several measures (like providing a vehicle for safe transport without gasoline, a mobile phone without credit or a bulletproof vest in areas with high temperatures, making it impossible to wear, in an area of armed conflict that increases reported risk). Further, they note that measures are generally reactive instead of preventive, focused on individual instead of collective protection, and lack differential focuses<sup>14</sup> as required by Colombian law.

Amnesty International has repeatedly urged the UNP to provide more effective, coordinated and comprehensive protection mechanisms, including preventive and collective measures designed within a prevention policy, to guarantee the safety of rights defenders, especially those who work in rural areas and are collective leaders in Afro-descendant, *campesino* and Indigenous communities. Amnesty International has also reiterated the importance of guaranteeing the participation of at-risk rights defenders and civil society organizations in identifying appropriate protection measures through adequate consultation. The lack of coordination between protection and prevention systems and the high levels of impunity in cases of attacks and threats against human rights defenders continue to challenge the Colombian state. They perpetuate and exacerbate the risks faced by rights defenders because they deliver a message that one can attack rights defenders without fear of punishment.<sup>15</sup>

The UNP also provides emergency measures while cases are being evaluated. However, according to information provided to Amnesty International from human rights organizations, these emergency measures are not being implemented systematically and are more likely to be implemented in cases supported by national human rights organizations.<sup>16</sup> In the cases where these measures are implemented, civil society organizations have expressed concern that these are quickly withdrawn if the level of risk is

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<sup>14</sup> According to the Office of the United Nations High Commissioner for Human Rights, a well-founded conceptualization should begin by stating that a differential focus has two meanings: it is at once a method for analysis and a guide for action. In the first case, it uses a reading of a situation that aims to make visible the discrimination faced by those groups or individuals considered different by a majority or by a hegemonic group. In the second case, it takes this analysis into account to offer adequate attention and protection to the rights of a population. More information is available at: [www.hchr.org.co/index.php/76-boletin/recursos/2470-ique-es-el-enfoque-diferencial](http://www.hchr.org.co/index.php/76-boletin/recursos/2470-ique-es-el-enfoque-diferencial)

<sup>15</sup> Amnesty International, "The Years of Solitude Continue. Colombia: The Peace Agreement and Guarantees of Non-repetition in Chocó." (Index: AMR23/7425/2017). Available at: [www.amnesty.org/en/documents/amr23/7425/2017/en](http://www.amnesty.org/en/documents/amr23/7425/2017/en)

<sup>16</sup> Somos Defensores Programme, "Thorn in the side. 2017 annual report on the System of Information on Aggressions against Human Rights Defenders in Colombia – SIADHH," 2018. Available at: [www.somosdefensores.org/index.php/en/](http://www.somosdefensores.org/index.php/en/)

considered “ordinary,” considered by authorities to mean equal to the risks of living in society.

On 21 August 2015, the Interior Ministry adopted a protocol to implement a collective protection plan.<sup>17</sup> According to information provided to Amnesty International by the UNP, 22 collective measures were implemented in 2017. At the end of 2017, the government emitted Decree 2078 in which it adopted the Collective Protection Roadmap for the Prevention and Protection Programme of the Interior Ministry and the National Protection Unit. However, the NGO Somos Defensores affirms that it is not aware of any administrative resolution on collective protection issued and implemented by the UNP under this decree. Further, it reported to Amnesty International that the UNP has not granted collective protection measures, so neither communities nor collectives have benefitted from such measures.

After a spike in killings of community leaders in the first trimester of 2018,<sup>18</sup> President Juan Manuel Santos announced a series of ten urgent measures to protect human rights defenders. These include the acceleration and application of a programme of collective security measures, the formulation of a plan for Defense Ministry intervention in the areas with the most incidents, the creation of Basic Protection Units in Police Protection Stations and a system of rewards for the identification of perpetrators, among other initiatives.<sup>19</sup>

The 2016 Peace Agreement with the Revolutionary Armed Forces of Colombia (FARC) included measures to create and strengthen institutions involved in dispensing justice and protecting rights defenders. For example, the National Commission of Security Guarantees was created to formulate and supervise public policy to dismantle “criminal organization and behaviors,” including paramilitary groups and their support networks, which “attack human rights defenders, social movements and political movements [among others].” The commission has made some progress, like the strengthening of the Office of the Ombudsman’s early warning system.<sup>20</sup> However, more than a year after its creation, despite some progress, the commission has been criticized by civil society for the slow pace of its actions, and especially for not having a comprehensive public policy to dismantle the criminal organizations that attack human rights defenders.<sup>21</sup> Further, the Peace Agreement called for the creation of a Comprehensive Security and Protection Programme for Communities and Organizations in the Country’s Territories that would promote measures to prevent the stigmatization of rights defenders and campaigns to recognize their valuable work. As part of the Agreement, authorities also committed to formulate a comprehensive protocol to protect human rights defenders as requested by civil society organizations. According to the latest report from the Kroc Institute of the University of Notre Dame, which is tasked with monitoring the implementation of the Agreement, this programme has been implemented minimally. The institute reports that the increase in the number of killings and threats against human rights defenders is one of the principal concerns in relation to the Agreement’s implementation.<sup>22</sup>

The UNP has informed Amnesty International that its director holds annual public hearings on accountability in which any organization that defends human rights and any interested person may participate, not only the beneficiaries of the protection programme. Further, according to the Unit, its personnel are constantly meeting with those who the programme protects so they can

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<sup>17</sup> Interior Ministry of Colombia. Resolution 1085. August 2015. This resolution defines collective measures as: “individual protection actions, when these have an impact on the collective to be protected; infrastructure support for protection; organizational and community strengthening; the strengthening of institutional presence; promotion of judicial and administrative measures that counteract risk factors; formulation and implementation of strategies designed to counteract the causes of risk and threats.”

<sup>18</sup> OAS, “IAHRC urges Colombia to take urgent measures to protect human rights defenders and social leaders.” 27 August 2018. Available at: [www.oas.org/es/cidh/prensa/comunicados/2018/065.asp](http://www.oas.org/es/cidh/prensa/comunicados/2018/065.asp)

<sup>19</sup> Caracol Radio, “These are the 10 actions to protect leaders announced by Santos,” *Caracol Radio*, 10 July 2018. Available at: [caracol.com.co/radio/2018/07/10/nacional/1531253279\\_708973.html](http://caracol.com.co/radio/2018/07/10/nacional/1531253279_708973.html) (Only available in Spanish).

<sup>20</sup> The Early Warning System aims to develop the institutional policies that allow effective intervention to prevent massive human rights violations and infractions of International Humanitarian Law through monitoring armed conflict, its impacts and consequences, and the release of warning documents. More information available at: [www.defensoria.gov.co/es/delegadas/4/](http://www.defensoria.gov.co/es/delegadas/4/) (Only available in Spanish).

<sup>21</sup> The National Commission of Security Guarantees for Leaders advances slowly. More information available at: [colombia2020.elespectador.com/pais/la-comision-nacional-de-garantias-de-seguridad-para-lideres-va-paso-lento](http://colombia2020.elespectador.com/pais/la-comision-nacional-de-garantias-de-seguridad-para-lideres-va-paso-lento) (Only available in Spanish).

<sup>22</sup> Kroc Institute for International Peace Studies of the Keough School of Global Affairs at the University of Notre Dame, “Second Report on the Effective Status of the Implementation of the Colombia Peace Accord December 2016 – May 2018” *University of Notre Dame*, August 2018, p. 133. Available at: [kroc.nd.edu/assets/284864/informe\\_2\\_instituto\\_kroc\\_final\\_with\\_logos.pdf](http://kroc.nd.edu/assets/284864/informe_2_instituto_kroc_final_with_logos.pdf)

give feedback on the protection offered.

Amnesty International has reiterated that it is necessary to strengthen the mechanism of protection for human rights defenders in Colombia so that it can become a comprehensive state policy that does not depend solely on central authorities like the UNP.<sup>23</sup>

## HONDURAS

In Honduras, the Law for the Protection of Human Rights Defenders, Journalists, Social Communicators and Justice Officials, known as the Protection Law, was adopted on 15 May 2015 and is considered a positive step toward guaranteeing protection for and the safety of human rights defenders. The Honduras National Protection System was created based on the Colombian and Mexican models and is composed of the National Protection Council for Human Rights Defenders, Journalists, Social Communicators and Justice Officials (National Protection Council), the Protection System General Directorate, the Protection Mechanism Technical Committee and the Human Rights Department in the Office of the Secretary of State, which falls under the Office of Security. The Secretary of State of the Ministry of Human Rights, Justice, Interior and Decentralization (Interior Ministry) handles the system's general management. The Protection Council allows participation from civil society and representatives of professional associations of justice officials and journalists.<sup>24</sup> However, it is limited in its capacity to analyze and suggest changes to the protection system. For its part, the Protection Mechanism Technical Committee that analyzes risk and recommends protection measures for adoption is composed solely of state institutions.<sup>25</sup>

On 20 August 2016, the Regulation on the Protection Law was published. According to information provided by the state, authorities have held workshops with certain representatives of civil society organizations and have invited rights defenders to publicize information about the mechanism and the development of its protocols through the civil society organizations that participate in the National Protection Council. However, despite the workshops, rights defenders still report a lack of information about and consultation from the National Protection System.

Currently, 36 people work in the mechanism, of whom seven are assigned to the risk analysis unit, three to the case reception and immediate action unit and three to the technical and legal office. The rest have administrative roles. According to the Unified Transparency Portal, managed by the Institute for Access to Public Information, the system had a budget of 10,028,325 lempiras (approximately USD \$417,000) in 2017.

The Interior Ministry has identified the principal patterns of threats and attacks against rights defenders: they are followed by unknown vehicles, threatened through social media, their personal vehicles are sabotaged and they receive anonymous threats. According to information provided by the General Directorate of the Justice System, in the first two months of 2018 the protection system received 262 petitions for protection, of which 173 were in process and 67 were denied because they did not meet the requirements established by the Protection Law. System representatives informed Amnesty International that when the administrative process for protection measures is activated, the General Directorate of the protection system emits a resolution granting protection within 24 hours of receiving the petition. In the resolution, petitioners are granted protection measures that respond to the gravity and urgency of their specific situation. As an accountability mechanism, the system must report three times per year to the National Protection Council about its activities. Budget information for state institutions and their activities can also be found through the Unified Transparency Portal managed by the Institute for Access to Public Information. Honduran civil society organizations have told Amnesty International that the system's protection measures still have a strong law enforcement focus. This impedes civil society's effective participation in the different phases of decision-making on protecting rights defenders and in the adoption of measures to fight impunity in cases of attacks or threats against rights defenders. The Committee of Relatives of the Detained and Disappeared in Honduras (COFADEH), for example, has called attention to the system's focus on reactive, not

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<sup>23</sup> Amnesty International, "Colombia: The Rise in Attacks against Human Rights Defenders is the Main Challenge in Implementing the Peace Agreement. Public statement," (Index: AMR 23/8190/2918). Available at: [www.amnesty.org/en/documents/amr23/8190/2018/en/](http://www.amnesty.org/en/documents/amr23/8190/2018/en/)

<sup>24</sup> Of its 14 members, only two are representatives of human rights organizations (which must be accredited by the National Human Rights Commission), one is a representative of the Association of Honduran Lawyers, two are representatives of the journalists' union and the national press association, and one is a representative of judges and magistrates.

<sup>25</sup> Amnesty International, "We Are Defending the Land with Our Blood: Defenders of Land, Territory and Environment in Honduras and Guatemala," (Index: AMR 01/4562/2016). Available at: [www.amnesty.org/en/documents/amr01/4562/2016/en/](http://www.amnesty.org/en/documents/amr01/4562/2016/en/)

preventive, protection measures. The protection system confirmed to Amnesty International that it has been granting infrastructure and technology protection measures and other kinds of preventive measures in addition to having publicly recognized three times the work of human rights defenders from January to May 2018. This represents an important step forward for the implementation of measures that do not involve police and that are aimed at addressing the structural causes of violence against rights defenders. However, such public recognition from the authorities must be continual and must not be expressed only through isolated messages.

In December 2016, the director of the National Protection System informed Amnesty International about the approval of two protocols, one for the implementation of precautionary measures and another related to risk analysis. Representatives of the human rights organizations on the National Protection Council said that they were not consulted about these protocols and did not have access to the relevant documents. Further, Amnesty International has no knowledge of a protocol about collective protection measures. However, the Secretary of State for Human Rights informed the organization that it had begun to implement collective measures for five collectives in the country. The Human Rights Ministry informed the organizations that protocols were being developed with the support of civil society and differentiated risk analysis methodologies.

Amnesty International considers that, to improve the system's work, it is necessary to strengthen coordination with the Public Prosecutor's Office to ensure prompt and effective investigation of the attacks and threats against human rights defenders. Amnesty International has information that indicates that the representatives of this institution do not regularly attend National Protection Council meetings. Further, this institution is only present on the Protection Mechanism Technical Committee through the Human Rights Public Prosecutor. This prosecutor has jurisdiction only over attacks perpetrated by state authorities, not those perpetrated by non-state actors. This is a weakness considering the impunity that continues to be a principal concern related to attacks on rights defenders.<sup>26</sup>

## GUATEMALA

There is no unified protection mechanism in Guatemala as there is in the countries mentioned above. However, the Presidential Commission on Human Rights (COPREDEH), the Office of the Viceminister of the Interior and the Public Ministry have internal divisions responsible for protecting human rights defenders and analyzing patterns of attacks with the goal of adopting measures designed to address the structural causes of the attacks.

In 2004, after calls from national and international civil society groups, COPREDEH approved Internal Accord 11-2004, which created the Coordinating Unit for the Protection of Human Rights Defenders, Administrators and Justice Officials, Journalists and Social Communicators. This agency is exclusively responsible for implementing protection measures dictated by international human rights mechanisms like the Interamerican System for the protection of human rights and UN treaty bodies.

In 2008, the Interior Minister created the Agency of Analysis of Attacks Against Human Rights Defenders through Ministerial Accord No. 103-2008 with the aim of determining and analyzing patterns in attacks against human rights defenders. The agency is composed of a representative of the Interior Ministry, a representative of the Civil Intelligence Executive Directorate and the head of the National Police Human Rights Unit. It also invites to its events a representative from the Public Ministry, two representatives from national human rights organizations and a representative of international organizations. The ministerial agreement that created the analysis agency was renewed in 2012 for four years. In 2016, instead of renewing it, the Public Ministry, the Ministry of the Interior and COPREDEH signed an inter-institutional agreement on human rights that addresses protection for rights defenders.<sup>27</sup> For two years, the agency functioned but did not have a normative framework for its actions until 2018 when the Interior Ministry again renewed the agency's mandate for four years through Decree 23-2018. Despite this step forward, the state continued to fail to comply with the ruling of the Interamerican Court of Human Rights in the *Human Rights Defender et al. v. Guatemala*, in which the Guatemalan state was ordered to establish a comprehensive public policy regarding human rights defenders.

According to information provided by the Interior Ministry, the agency analyzed risk in 293 cases in 2017, of which 27 involve rights

<sup>26</sup> Amnesty International, "We Are Defending the Land with Our Blood: Defenders of Land, Territory and Environment in Honduras and Guatemala," (Index: AMR 01/4562/2016). Available at: <https://www.amnesty.org/en/documents/amr23/8190/2018/en/>

<sup>27</sup> Public Ministry of Colombia, "Public Ministry, Interior Ministry, and COPREDEH sign interinstitutional agreement on human rights." Available at: <https://www.mp.gob.gt/noticias/2016/03/01/mp-mingob-y-copredeb-firman-convenio-interinstitucional-en-materia-de-derechos-humanos/> (Only available in Spanish).

defenders. Of this group, 25 perimeter protection measures and one personal protection measure were granted, and one was denied. The Interior Ministry confirmed that the measures granted have a narrowly political focus and that there is no special protocol for providing security to rights defenders related to ethnic identification or gender identity. This prevents security measures from adequately addressing the risk faced by those who need protection. Similarly, the Interior Ministry itself informed Amnesty International that the principal aggressions toward rights defenders are threats and assaults that aim to impede the defence of human rights, including labour rights, access to justice and freedom of expression, among others.

The Interior Ministry has identified certain difficulties that inhibit the adequate functioning of the agency, among them a lack of qualified personnel and physical space, unwillingness on the part of rights defenders to receive protection measures and the difficulty of accessing certain areas of the country for its personnel. The Interior Ministry has recognized the importance of the signing of the ministerial agreement that renews the agency's mandate as a step forward that will allow it to strengthen its work to protect human rights defenders. It also believes that the investigation units in the specialized criminal investigation division of the National Police that investigate crimes committed against rights defenders have been strengthened, along with the capacities of other criminal and human rights investigation units.

For its part, the Unit for the Protection of Human Rights Defenders in Guatemala (UDEFEQUA) informed Amnesty International that it believes that the agency has been dismantled as an institution and that it no longer has the resources necessary to guarantee effective protection for human rights defenders. UDEFEQUA regrets that the majority of the cases upon which the agency has acted involve police officers and mayors considered justice officials, which, according to UDEFEQUA, takes attention away from at-risk rights defenders and allows the agency to prioritize only those cases where internal government pressure is applied directly to the agency. Further, UDEFEQUA has criticized the agency for receiving reports only through written correspondence to the Interior Ministry and not electronically, which limits the agency's ability to respond to high-risk situations that require swift action. Some human rights organizations have also stated that the majority of rights defenders do not know about the agency, and that most complaints about the agency's work have gone without answer.

In June 2018, human rights organizations, journalists and unions chose to withdraw from the agency after the Interior Ministry refused to meet with the Human Rights Ombudsman to address the killings of several rights defenders in the country, supposedly because members of civil society organizations were to be present. According to UDEFEQUA, this stance from the Interior Ministry and the President of the Republic contradicts what they expressed to the international community about their interest in creating a comprehensive public policy to protect human rights defenders and creates a climate of stigmatization that encourages aggression against human rights defenders.<sup>28</sup>

On 14 May 2018, the Attorney General approved General Directive 05-2018, which approves a protocol for the investigation of crimes committed against human rights defenders. This directive aims principally to establish a tool for the investigation and criminal prosecution of crimes against human rights defenders, as well as to guarantee their effectiveness and adherence to national and international standards in the field. The directive specifies important investigation standards designed to permit unimpeded and independent action on the part of prosecutors in cases of crimes of a public nature committed against rights defenders. The directive also dictates comprehensive procedures for supporting victims and their families that respond to their individual circumstances, especially their ethnic and gender identity. Similarly, the directive establishes certain rapid response procedures, like transport to a Public Prosecutor's Office in the first 24 hours after the commission of a crime for rights defenders in Guatemala City, or 72 hours for rights defenders outside of Guatemala City, and the convening of meetings in the first 72 hours to define the parameters of and expedite investigations. Also, the Attorney General has the capacity to order immediate protection measures such as personal, perimeter or fixed post security through coordination with security institutions, and, when appropriate, when human rights organizations that can support the protection of victims and witnesses.

The directive also establishes measures designed to prevent crimes against human rights defenders from being repeated. These include publicity campaigns to legitimize and dignify human rights defence, public petitions for apologies and public recognition of responsibility and scholarships, professional training or other measures that contribute to reparation for the economic damages incurred by victims. Amnesty International considers the directive an important step forward to address impunity in attacks against human rights defenders. It is important that authorities responsible for applying the directive in all of the departments of the country

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<sup>28</sup> UDEFEQUA, "The government confirms policy of aggression against human rights defenders." Available at: <http://udedefegua.org/> (Only available in Spanish).

have adequate training to implement measures effectively, and that they use the measures to address the structural causes of attacks against human rights defenders in the country.

## MEXICO

In April 2002, the Mexican Congress unanimously approved the Law for the Protection of Human Rights Defenders and Journalists (the Protection Law) that created a protection mechanism to provide protective and preventive measures for at-risk rights defenders and journalists. On 12 November 2012, the mechanism was established at the federal level in a context of increasing violence against human rights defenders. Despite various improvements since its creation, like the implementation of the Prevention, Monitoring and Analysis Unit and an important training process for mechanism personnel, many challenges remain. According to information provided by the Ministry of the Interior, 38 public servants work in the mechanism, nine of whom are assigned to the Case Reception and Rapid Response Unit, 21 of whom work in the Risk Evaluation Unit and eight of whom work in the Prevention, Monitoring and Analysis Unit. In 2018, the Mechanism had a budget of 200,000,000 Mexican pesos (approximately USD \$10,710,000).

The Protection Law establishes that the mechanism may grant three types of measures: preventive, protective and urgent protective measures. The latter are processed through a special process when the life, physical integrity, liberty or security of the petitioner are at immediate risk. These may involve evacuations, temporary relocations, special security units, protection of property and other measures necessary to safeguard the life, physical integrity and liberty of beneficiaries.

In 2017, the Ministry of the Interior informed Amnesty International that the mechanism implemented 12 preventive measures and received 102 petitions for protection from rights defenders, which was a 55% increase compared with the 57 petitions of the previous year. According to the Ministry of the Interior, 66 petitions were processed through ordinary channels, 26 were processed through the accelerated process and ten were not granted. The mechanism also implemented five collective measures that protected 34 people.

The mechanism has three hours to respond to petitions from human rights defenders and a maximum of nine hours to implement urgent protection measures once they are granted. The organization Services and Consulting for Peace A.C. accompanies human rights defenders through the protection mechanism. According to this organization, based on the last three cases they accompanied, the mechanism did not comply with the timeframes established by law. For non-urgent cases, the law establishes a period of ten days from the time a petition is presented to perform a risk analysis, determine the level of risk and identify the measures to be taken, and 30 days for implementation. These timeframes are not appropriate for the circumstances or needs of beneficiaries. For the cases that were considered non-urgent, the average time for opening the case was one to two months. Risk analysis, discussion of a protection plan and approval by the government's board took an average of three to five months. The full implementation of protection plans has taken anywhere from several months to a year in certain cases accompanied by Services and Consulting for Peace A.C. The Ministry of the Interior informed Amnesty International that 34% of the perpetrators of aggressions reported by rights defenders who have used the mechanism are public servants, 32% are individual criminals or criminals with ties to organized crime and 34% have not been identified. The principal crimes reported by rights defenders are threats (75%), assaults (22%) and kidnapping or deprivation of liberty (3%).

The Protection Law establishes cooperation agreements between the federal government and state governments to develop coordinated actions to facilitate the effective and efficient operation of the protection mechanism. These agreements have led to the creation of State Protection Units (UEP). Civil society organizations believe UEPs can be an important tool for the adequate implementation of the measures dictated by the mechanism at the local level but have expressed concern about whether they have the personnel and budget necessary to implement the measures appropriately. Civil society organizations are also concerned about coordination problems between different authorities that act in different areas. To strengthen coordination between institutions, including those at the state level, it is crucial to create a comprehensive protection plan for rights defenders. Regarding the institutional relationships of the mechanism with other authorities, it is important to emphasize the lack of political support received by the mechanism from other institutions.

The Ministry of the Interior has reported that the principal challenges in guaranteeing the adequate functioning of the mechanism involve: the refinement of risk analysis methodology, the transition from a protection model to a prevention model, the incorporation of gender perspectives in their actions, the creation of a catalogue of protection and prevention measures for digital harassment,

interaction with civil society organizations, the formulation of a communication strategy that publicizes the mechanism and the strengthening of coordination with State Protection Units.

Amnesty International has noted that the major focus of the mechanism when it offers protection to those at risk is very limited. It is limited to a catalogue of measures with a political and reactive focus that do not address the underlying causes of violence against rights defenders and journalists. The mechanism does account for the people around those who are at risk, like other members of a beneficiary's organization or family members. It is worth noting that the protection mechanism considers the design of early warning systems and contingency plans prevention measures, because they aim to address deep-rooted institutional factors, like impunity, for example, that may encourage violations of defenders' rights. Thus far, the mechanism has generated two early warnings that are active in Chihuahua and Veracruz.

In August 2018, the protection mechanism publicly reported that it was in danger of running out of funds before the end of the year.<sup>29</sup> The mechanism stated that it faced a budget shortfall in the Fund for the Protection of Human Rights Defenders and Journalists. It further stated that it could run out of funding as soon as October and could therefore fail to continue protection for beneficiaries and to protect new petitioners. The Space for Civil Society Organizations for the Protection of Human Rights Defenders and Journalists OSC<sup>30</sup>, legislators<sup>31</sup> and the UN and the Interamerican Court of Human Rights<sup>32</sup> expressed their concern about this possibility and urged the federal government to grant the mechanism the resources it needs to function fully.

The protection mechanism regularly reports on its actions and the resources assigned to it through the two channels: an annual report on its activities that the National Executive Coordinator of the Mechanism must present to the Mechanism's Governing Board, in which it includes information on the Fund for the Protection of Human Rights Defenders and Journalists"; and a monthly statistical report that contains breakdowns of information on the cases attended by the mechanism.

## RECOMENDATIONS

Amnesty International values efforts to establish tools to protect human rights defenders in the region. However, the organization believes the creation of effective and immediate protection mechanisms must be accompanied by comprehensive public policies that address the structural causes that create a climate of risk for human rights defenders. These policies must include a differential focus that accounts for the individual needs of human rights defenders based on their gender, ethnicity, etc. States and other relevant actors must also publicly commit to guarantee that human rights can be defended without fear of reprisal. Therefore, Amnesty International recommends to the states that they:

- Formulate comprehensive action to protect human rights defenders through legislation, plans, programmes and policies, so that measures may be taken that combat the structural causes, such as impunity, stigmatization and discrimination, that increase the risks to and attacks against these individuals.
- Publicly recognize at the highest levels of local and federal government the legitimate work of human rights defenders.
- Promote and widely disseminate the United Nations Declaration on Human Rights Defenders.

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<sup>29</sup> César Martínez, "Protection Mechanism will remain without funding," Reforma Group, 21 August 2018. Available at: [www.reforma.com/aplicacioneslibre/articulo/default.aspx?id=1472162&md5=af88049d3d3d87d7afea0cad4803e7b4&ta=0dfdbac11765226904c16cb9ad1b2efe&lcmd5=a51194c93a2db19f17db5b6821a926e0](http://www.reforma.com/aplicacioneslibre/articulo/default.aspx?id=1472162&md5=af88049d3d3d87d7afea0cad4803e7b4&ta=0dfdbac11765226904c16cb9ad1b2efe&lcmd5=a51194c93a2db19f17db5b6821a926e0) (Only available in Spanish).

<sup>30</sup> Espacio OSC, "Call for the federal government to allocate resources and guarantee the operations of the Mechanism for the Protection of Human Rights Defenders and Journalists." Available at: [www.espacio.osc.mx/el-espacio-osc-hace-un-llamado-al-gobierno-federal-para-dotar-de-recursos-y-garantizar-el-funcionamiento-del-mecanismo-para-la-proteccion-de-personas-defensoras-de-derechos-humanos-y-periodistas/](http://www.espacio.osc.mx/el-espacio-osc-hace-un-llamado-al-gobierno-federal-para-dotar-de-recursos-y-garantizar-el-funcionamiento-del-mecanismo-para-la-proteccion-de-personas-defensoras-de-derechos-humanos-y-periodistas/) (Only available in Spanish).

<sup>31</sup> Mexican Chamber of Deputies, "MORENA Deputies Urge to Provide Resources to the Protection Mechanism for Human Rights Defenders and Journalists, to Guarantee Their Operation," Congressional Records, 23 December 2017. Available at: [www5.diputados.gob.mx/index.php/esl/Comunicacion/Agencia-de-Noticias/2018/Septiembre/18/180-Urgen-diputados-de-Morena-dotar-de-recursos-al-Mecanismo-de-Proteccion-para-Personas-Defensoras-de-Derechos-Humanos-y-Periodistas-para-garantizar-su-funcionamiento](http://www5.diputados.gob.mx/index.php/esl/Comunicacion/Agencia-de-Noticias/2018/Septiembre/18/180-Urgen-diputados-de-Morena-dotar-de-recursos-al-Mecanismo-de-Proteccion-para-Personas-Defensoras-de-Derechos-Humanos-y-Periodistas-para-garantizar-su-funcionamiento) (Only available in Spanish).

<sup>32</sup> UN News, "UN and IAHRU urge funding for the Protection Mechanism for Journalists," ONU Noticias Mexico, 6 September 2018. Available at: [www.onunoticias.mx/onu-y-cidh-urgen-fondos-para-mecanismo-de-proteccion-a-periodistas/](http://www.onunoticias.mx/onu-y-cidh-urgen-fondos-para-mecanismo-de-proteccion-a-periodistas/) (Only available in Spanish).

- Implement public information campaigns to publicize the tools available to protect rights defenders.
- Guarantee broad participatory processes that involve civil society during the formulation of norms and mechanisms to protect human rights defenders.
- Adopt a focus on prevention and collective protection in protection strategies offered to human rights defenders.
- Ensure that the protection measures adopted are formulated in consultation with affected individuals and according to their wishes.
- Train public servants constantly and continually on international frameworks related to the right to defend human rights.
- Allocate adequate personnel, funding and space for the execution of activities necessary to protect rights defenders.
- Strengthen cooperation between protection mechanisms and criminal investigation authorities to coordinate and promote prompt, exhaustive, independent and impartial investigations into the attacks, threats and assaults against human rights defenders, and bring to justice both the material and the intellectual authors of these crimes.