



**HUMAN RIGHTS IN THE AMERICAS:
CHALLENGES AND OPPORTUNITIES AT A TIME OF REGRESSION**



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Amnesty International welcomes the XLVII General Assembly of the Organization of American States (OAS) as a regional space in which dialogue is promoted between the different countries of the American hemisphere.

The organization believes it is essential to make human rights a crosscutting priority of public policy in the Americas if we are to address the central theme of this XLVII General Assembly, which is: “Strengthening Dialogue and Concertation for Prosperity”. Amnesty International believes, however, that the serious social and economic gaps, gaps in participation, in access to justice and in the exercise of human rights that are still prevalent in the region, from north to south, are undoubtedly one of the main causes of the suffering and abuse faced by millions of the continent’s inhabitants. The Americas continues to be the most unequal and violent region in the world.

Throughout the region, we are facing major setbacks in the fundamental rights of the vast majority. This crisis has been precipitated by increased barriers and restrictions to accessing justice and fundamental freedoms. Waves of repression have become increasingly visible and violent; States are now frequently resorting to the use of irregular justice systems and security apparatuses to respond to dissidence and growing discontent among their citizens.

Discrimination, insecurity, poverty and environmental damage continue to be the legacy of our region. Within this inequality gap, there is also a clear failure to comply with international human rights standards, shored up by corruption and a lack of accountability.

During this General Assembly, we call upon States to include firm commitments to guaranteeing human rights protection for all, without distinction, in the Final Declaration “Strengthening Dialogue and Concertation for Prosperity”. These commitments will need to be translated into actions and policies for immediate implementation.

Amnesty International would like to take the opportunity of this regional meeting to reiterate a number of regional human rights considerations to all Heads of State attending the XLVII OAS General Assembly:

- **LACK OF ACCESS TO JUSTICE AND FLAWED PUBLIC SECURITY POLICIES**

Historical and widespread barriers to accessing justice, along with a weakening of the rule of law, are common to many countries of the region. Alongside this, human rights abuses often go unpunished and, in some cases, the lack of independent and impartial justice systems only ends up further protecting the political and economic interests of the few. A lack of concrete actions aimed at bringing the perpetrators of human rights violations to justice also results in a consolidation of abusive practices within the bodies responsible for law enforcement.

Non-state agents - including companies and criminal groups - exercise ever greater influence and are, in many cases, responsible for the growing levels of violence and human rights abuses. Most States, for their part, have not been able to respond to the situation in accordance with international human rights standards, and many of the human rights violations committed are thus the result of a trend towards the militarization of public security in the region.



In Mexico, for example, the authorities are so reluctant to accept criticism that they have gone as far as to deny the human rights crisis facing their country, and thus the possibility of anyone accessing adequate justice. Although almost 30,000 people have been reported disappeared, thousands have lost their lives due to security operations in the context of the war on drugs and organized crime, and thousands more have been forcibly displaced due to the violence, the authorities seem to ignore the criticism from Mexican civil society and international organizations, including the UN and Inter-American Human Rights systems.

In July 2016, a Paraguayan court sentenced a group of peasant farmers to up to 30 years in prison for the murder of six police officers and other related crimes in the context of a land conflict in Curuguaty in 2012. This sentence was recently upheld by the Court of Appeal on 20 May. And yet there is no information from the investigations on the deaths of 11 peasant farmers in the same incident. The Attorney-General has offered no credible explanation as to why these deaths were not investigated, nor of reports that the crime scene was tampered with and the peasant farmers tortured while in police custody.

Two years after the US Senate submitted a report on the issue, no-one has been brought to justice in the US for human rights violations committed in the context of the CIA's secret detention and interrogation program following the attacks of 11 September 2001.

In response to civil unrest - and in particular peaceful protest -, some States are increasingly resorting to use of the Army for public security tasks. The police force, as well as other institutions responsible for law enforcement, are thus adopting military techniques, skills and equipment in public security operations. Although the war on organized crime is often given as justification for this militarization, it is clear that this has enabled States to violate human rights rather than address the underlying causes of the violence.

Excessive and unnecessary use of force has been a constant in countries such as Chile, Ecuador, El Salvador, Jamaica, Mexico, Peru, the Dominican Republic and Venezuela.

In Venezuela, for example, in the context of the mass protests taking place over the last two months and more, the government has responded with military action in which acts of torture and other ill-treatment of demonstrators often occur, along with arbitrary detentions. The use of military courts for civilian prosecutions also underscores the deep crisis facing human rights in the country.

Unlawful killings in Jamaica are a constant in police operations, and this has been the case for nearly two decades now. Moreover, the families of victims of unlawful killings, particularly wives, continue to suffer constant harassment and intimidation from the police. They furthermore face serious difficulties in accessing justice and reparation. There is also evidence of many unlawful killings committed by the security forces in the Dominican Republic.

Amnesty International calls on the region's States to guarantee both the independence of the government authorities and the effectiveness of the justice systems, including providing access to these without discrimination. The organization also urges the region's States to respect people's right to demonstrate peacefully and urges them to establish clear and effective mechanisms to prevent the excessive use of force on the part of the security forces.

- **HUMAN RIGHTS DEFENDERS**

Defending human rights is extremely dangerous work in many countries of the Americas. Journalists, justice workers, as well as the political opposition and witnesses to human rights violations, continue to receive threats and attacks,



suffer torture, ill-treatment, forced disappearance and, in the worse cases, lose their lives at the hands of State and non-State agents seeking to silence them. Human rights activists also continue to suffer defamation and smear campaigns. Although there has clearly been some progress in investigating a number of these attacks, this has been insufficient either to bring those responsible to justice or to send a message to society that violence against human rights defenders will not be tolerated.

Human rights defenders and social activists who oppose large-scale development projects and multinational corporations run a particular risk of reprisals. Women human rights defenders and those belonging to historically excluded communities are also more likely to suffer acts of violence, suffering discrimination due to their gender, ethnicity or sexual orientation, and with a differential impact not only on their work as defenders but also on their work as members of traditionally excluded groups.

In Mexico so far in 2017, six journalists and five human rights defenders have been murdered because of the work they were doing. These people are at the forefront of the country's human rights crisis and received no effective protection from the authorities. In 2010, Mexico inaugurated a new Special Prosecutor's Office for Crimes against Freedom of Expression but this has so far shown itself to be completely ineffective, much like the mechanism for protecting human rights defenders and journalists, another initiative that lacks either the resources or the political will to really address the issue.

In Brazil, human rights defenders continue to face numerous attacks, threats and murder. In Nicaragua, the State ignores reports of human rights violations and human rights activists suffer persecution. The serious situation of prisoners of conscience in Venezuela is exacerbated by the government's constant determination to suppress dissidence. Honduras and Guatemala are the most dangerous countries in the world in which to defend land, territory and the environment; those who work to defend the land and environment continue to suffer a wave of threats. The justice system is used to criminalize them through the imposition of false charges, in addition to which they suffer smear campaigns, aggression and murder. The murder in March 2016 of the well-known Honduran indigenous leader Berta Cáceres - shot by armed men in her home - highlights the widespread violence suffered by those working to protect the country's land, territory and environment.

In Colombia, an alarming number of human rights defenders - particularly community leaders and environmental activists - are suffering threats and murder. In Argentina, the social leader Milagro Sala was arrested and formally charged for peacefully protesting in Jujuy. Despite an order for her release being issued, further court cases were brought to ensure that she remained in custody. In October 2016, the UN Working Group on Arbitrary Detention concluded that Milagro Sala's detention was arbitrary and demanded her immediate release.

In Chile, lawyers acting for members of the Mapuche people, as well as the traditional authorities of that same people, have suffered intimidation and attacks due to their work on the right to territory and the right to a fair trial in the cases initiated against Mapuche people. In Peru, the peasant environmental defender, Máxima Acuña, who won the prestigious Goldman prize in 2016, has been prosecuted for usurpation in an unfounded case against her and her family. In Ecuador, restrictive legislation and actions aimed at silencing criticism are seriously limiting the rights to freedom of expression and association. Dissidence is criminalized, in particular when it relates to those who are opposing extractive projects on the lands of indigenous peoples.

In Cuba, despite statements of political openness and the re-establishment of relations with the United States in 2015, civil society and opposition groups continue to suffer harassment for criticizing the government. Human rights defenders and political activists have publicly been referred to as "subversives" and "anti-Cuban mercenaries". Some of these people are arbitrarily detained only to be subsequently released without charge, something that can happen several times a month.



States and multilateral organizations must urgently adopt concrete measures to prevent, eliminate and punish abuses against these people and to guarantee a safe and conducive environment in which to defend human rights. Amnesty International is seriously concerned at the smear campaigns suffered by human rights defenders in the course of their work. The organization also rejects all forms of intimidation or criminalization of the work done by people who are defending and promoting human rights in the Americas. Protecting and exercising the defense and promotion of human rights strengthens the rule of law and, consequently, access to justice.

- **REFUGEES, MIGRANTS AND STATELESS PERSONS**

Central America is at the origin of a rapidly growing refugee crisis. Given the relentless violence in this frequently forgotten part of the world, requests from Central American citizens for asylum in Mexico, the United States or other countries are continuing to grow, to the point that they are now reaching levels unheard of since the end of the armed conflicts in that region.

Hundreds of thousands of people travel to Mexico, either to seek asylum in that country or to continue their journey on to the United States. Many of them are held in harsh conditions or face murder, kidnap or extortion on the part of criminal groups often acting in collusion with the authorities. These human rights abuses affect large numbers of boys, girls, unaccompanied adolescents and LGBTI in particular, either during the journey or once they are being held. Women and girls also run a serious risk of sexual violence and human trafficking.

Repatriations from Mexico and the United States continue to be a painful reality, despite the overwhelming indications that many asylum seekers may well suffer extreme violence if they are sent back. Many are returned to the situations of mortal danger from which they were attempting to flee; many die at the hands of criminal gangs operating in the countries of the Northern Triangle. Honduras, Guatemala and El Salvador are all feeding this increasingly serious crisis by failing to protect their citizens from violence. There is no evidence to suggest that comprehensive programs of protection have been established for those being repatriated from Mexico and the United States. Instead of taking responsibility for their role in this crisis, the Central American states simply cite the human rights abuses being suffered by people crossing Mexico on their way to the United States. These States also claim, without any justification, that the majority of these people are fleeing for economic reasons rather than due to the increase in violence, murder, threats, extortion and intimidation being suffered on a daily basis by many of the population due to clashes between gangs over territorial control.

In other countries of the region, migrants and their families suffer widespread discrimination, exclusion and ill-treatment. In the Bahamas, ill-treatment of undocumented migrants of Cuban or Haitian origin is a constant. The Dominican Republic has deported thousands of people of Haitian descent - including Dominican-born people who were effectively rendered stateless- often without any regard for international law and international standards on expulsion. On their arrival in Haiti, many of these people settled in improvised camps where they live in appalling conditions.

Amnesty International calls on the countries of the Northern Triangle to recognize their responsibility in the region's protection crisis, and calls for the design and implementation of public policies and legal frameworks that will provide protection for deportees, particularly vulnerable groups such as boys, girls, adolescents, indigenous peoples, women and LGBTI. The organization also calls on States to implement international standards in the context of human movements, including the arbitrary prevention of nationality. It urges States to ensure that all reception, reintegration and protection programs for deported migrants take into account the specific rights and protection



needs of groups such as women, indigenous peoples, LGBTI and unaccompanied minors. Amnesty International urges States to channel economic aid to the countries of origin in order to design and implement protection mechanisms for people at risk both before and after the migration has occurred.

In addition, the organization calls rules that violate the human rights of migrants and their descendants, regardless of their legal status, to be repealed and for legislative, administrative and judicial measures be taken to avoid mass deportations without adequate guarantees of the rights of those migrants. Furthermore, within the context of the OAS General Assembly, Amnesty International calls upon States to eradicate this situation of statelessness on the continent.

- **WOMEN'S AND CHILDREN'S RIGHTS**

There has been little real progress in combating violence against women and girls on the continent. The majority of perpetrators of sexual violence and femicide are never brought to justice. In countries such as Brazil, Canada, El Salvador, the United States, Jamaica, Mexico, Nicaragua, the Dominican Republic and Venezuela, among others, many cases of gender violence continue to be reported.

These numerous violations of sexual and reproductive rights have a considerable impact on the health of women and girls. The Americas continues to have the largest number of countries in which there is a total ban on abortion. In some of these countries, women are imprisoned simply for being suspected of having had an abortion, and sometimes after suffering a miscarriage or some other form of obstetric emergency.

In Nicaragua, women in poverty are the main victims of maternal mortality, and the rate of teenage pregnancies is among the highest in the region. Moreover, Nicaraguan women are subject to some of the most restrictive abortion legislation in the world as it is banned regardless of circumstance, even when the woman's life is in danger. In the Dominican Republic, a reform of the Criminal Code that sought to decriminalize abortion in specific cases has again been postponed. In Chile, legislative reform that seeks to decriminalize abortion continues to be discussed.

Despite all this, there are signs of hope in the region. In El Salvador, the court ruling ordering the release of María Teresa Rivera - who had served 4 years of a 40-year prison sentence following a miscarriage - is a significant step towards justice in the country. A woman in Argentina, sentenced to 8 years' imprisonment after suffering a miscarriage, was released following a ruling of the Supreme Court of Justice that stated there were insufficient grounds to continue her detention. This constitutes another victory for human rights.

Amnesty International calls on States to allocate the necessary resources to fight gender violence on the continent and to put policies into practice that promote women's and girls' sexual and reproductive rights. Amnesty International also urges the countries in which abortion is criminalized regardless of circumstance to repeal those laws and remove the barriers that prevent access to safe and legal abortions, as a minimum for cases in which the pregnancy is placing the life or physical or mental health of the woman or girl at risk, when the foetus will not be able to survive outside the womb or when the pregnancy is the result of rape or incest.

- **INDIGENOUS PEOPLES' RIGHTS**

In June 2016, following 17 years of negotiation, the OAS adopted the American Declaration on the Rights of Indigenous Peoples. Despite this, indigenous peoples continue to suffer violence, murder and the excessive use of



force by the police all over the continent, in addition to abuses of their right to land, territories, natural resources and culture. In countries such as Argentina, Brazil, Chile, Colombia, Ecuador, Mexico, Peru and Paraguay, the daily reality for these peoples is one of exclusion, poverty, inequality and systematic discrimination.

Indigenous peoples continue to be forcibly displaced from their lands by State and non-State agents - including landowners and companies - seeking economic benefit for themselves. Development projects - including those of the extractive industries - are threatening the indigenous peoples' culture and leading to the forced displacement of entire communities. Moreover, the right to consultation and free, prior and informed consent continues to be systematically denied. It is essential that the region's States pay due attention to indigenous and peasant farmer women across the continent in the context of the impact of natural resource extractive projects, as well as in relation to their participation in decision-making on development projects that affect their lands and territories.

In May 2016, leaders from the indigenous and Afrodescendant communities of the Rama y Kriol territory stated that the agreement for the Nicaragua Grand Canal had been signed without any effective consultation process. There has been increasing violence in the North Atlantic Autonomous Region of Nicaragua, where indigenous Miskito populations are suffering threats, attacks, sexual violence, murder and forced displacement at the hands of non-indigenous settlers.

Amnesty International calls for a guarantee of prior and informed consultation as an indigenous right, in accordance with the provisions of ILO Convention 169 concerning Indigenous and Tribal Peoples in Independent Countries and the American Declaration on Indigenous Peoples. In the context of megaprojects and extractive industries, Amnesty International urges States to ensure that consultation creates trust between the parties, respects the indigenous peoples' representative institutions and is conducted in a systematic and transparent manner for mutual understanding and decision-making by consensus.

- **THREATS TO THE INTER-AMERICAN HUMAN RIGHTS SYSTEM**

Despite the scale of the challenges facing human rights in the region, the Inter-American Commission on Human Rights - fundamental for defending and promoting human rights, as well as guaranteeing access to justice on the part of victims who are unable to achieve this in their own country - was affected by a financial crisis throughout most of 2016. This crisis is due to insufficient resources being allocated by OAS Member States, in a clear demonstration of their lack of political will to promote and protect human rights both inside and outside their own countries.

With an annual budget of approximately USD 8 million, the Inter-American Human Rights System, comprising the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights, is the worst funded in the world: it has fewer resources than the corresponding systems in both Africa (USD 13 million) and Europe (USD 104.5 million). Although the Inter-American Commission did finally receive additional funding, there is a worrying possibility that this political crisis may continue if States do not provide adequate funding to the institution and cooperate with it, regardless of how critical it is with regard to the human rights situation on the continent.

The Inter-American system continues to be an essential driver of the enforcement, protection and promotion of human rights on the continent; for many victims of serious human rights violations, it is their last hope of obtaining restitution of their rights. The Inter-American system has played a leading role not only in times of dictatorship and internal armed conflict but also in times of democracy on our continent, guaranteeing that when States cannot or



do not want to investigate human rights violations, the victims have an international legal system capable not only of ruling on human rights violations but also of enforcing comprehensive reparation.

Amnesty International urges the region's States to grant the necessary resources in order to avoid a future financial and political crisis within the Inter-American system, and to do so by means of direct contributions both to the system and to the OAS. It also urges the OAS to prioritize sufficient resources within its budget to ensure the full functioning of the Inter-American Commission which, to date, has been allocated only 6% of the organization's total budget. Lastly, in the context of the OAS General Assembly, the organization urges the region's States to undertake to defend and promote human rights by guaranteeing the autonomy and independence of the Inter-American Commission within the OAS.