



## Persecution and resistance

The experience of human rights  
defenders in Guatemala and  
Honduras

August 2007

AI Index: AMR 02/001/2007

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*Persecution and resistance: The experience of human rights defenders in Guatemala and Honduras*  
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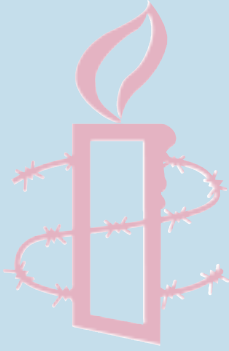
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**Cover image: An activist negotiates with police at a demonstration. © Adivima**



# Persecution and resistance:

The experience of human rights defenders in Guatemala and Honduras

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**Marcelino (top) and Leonardo Miranda, November 2005**

On 8 January 2003, Marcelino and Leonardo Miranda, Indigenous leaders of the Civic Council of Popular and Indigenous Organizations (Consejo Cívico de Organizaciones Populares e Indígenas – COPINH), were arrested in the Planes community, Montaña Verde, Lempira Department, western Honduras. The brothers spent over three years wrongfully imprisoned before they were finally released in mid-2006.

Many of the initial charges brought against them were subsequently dropped for lack of evidence. However, in December 2003 they were convicted of the 2001 murder of Juan Reyes Gómez, despite evidence that the case against them was fabricated in reprisal for their role in trying to secure a communal land title for the Montaña Verde communities. They were sentenced to 25 years' imprisonment.<sup>1</sup>

The brothers were arrested in the context of an ongoing land dispute between Indigenous groups trying to secure communal land titles and local landowners who allegedly wanted to use the disputed land for cattle ranches, logging or the cultivation of coffee beans. Numerous community leaders have reportedly been threatened and intimidated by people believed to be linked to local landowners and there have been a number of cases of fabricated criminal charges against community leaders, reportedly following complaints by landowners.<sup>2</sup>

Throughout 2004 various appeals were lodged against the conviction of the Miranda brothers, on the grounds of procedural irregularities in their trials. All were rejected. On 27 October 2005, a new appeal was lodged on the grounds that the law had been wrongfully applied. This last appeal was successful and the Supreme Court acquitted Marcelino and Leonardo Miranda of murder. The brothers were finally unconditionally released on 12 July and 15 August 2006.

<sup>1</sup> For more information see, Amnesty International, *Human rights defenders at risk: Honduras: Montaña Verde Prisoners of Conscience*, (AI Index: AMR 37/001/2006); Public Statement: *Honduras: Amnesty International welcomes the release of Miranda Brothers*, (AI Index: AMR 37/006/2006)

<sup>2</sup> For more information see, Public Statement: *Honduras: Prisoner of conscience Feliciano Pineda released – a first step towards justice* (AI Index AMR 37/003/2006).

# Introduction

**H**uman rights defenders are crucial actors of our time. They are at the forefront of the struggle for civil, political, social and economic rights – a position which often puts them at particular risk of attacks and intimidation. In Central America, Amnesty International has documented attacks and threats against human rights defenders working to promote and protect a wide range of rights, some of whose cases are highlighted in this report. They represent some of the most marginalized civil society groups – from Indigenous peoples to members of the lesbian, gay, bisexual and transgender (LGBT) community, and women’s groups.

The persecution of human rights defenders remains a major concern in Central America.<sup>3</sup> Despite positive advances in the development of international human rights standards on their protection, reports of killings, death threats, harassment and intimidation of human rights defenders in Central America continue. Unfounded investigations and prosecutions, surveillance of offices and homes and the theft of important human rights information and documents are just some of the tactics used to intimidate them and prevent them from continuing their work. Those responsible for violations against human rights defenders often evade justice. Investigations into these abuses are often grossly inadequate.

Human rights defenders<sup>4</sup> work for the realization of any or all of the rights set out in the Universal Declaration of Human Rights. The rights they defend may be civil and political (such as the right to be free from torture or to a fair trial), economic and social (such as the right to the highest attainable standard of health) or cultural (such as the right of Indigenous people to have control over their land and resources).

In her 2007 report, the Special Representative of the UN Secretary-General on the situation of human rights defenders noted that defenders working on land rights, natural resources or environmental issues seem to be particularly at risk of attacks and violations of their rights.

*“Defenders working in [the field of economic, social and cultural rights] face violations of their rights by the State and/or face violence and threats from non-State actors because of their work. Violations of their rights seem to take all the forms that*

<sup>3</sup> In its Considerations of the report submitted by the government of Guatemala, the UN Committee against Torture noted an increase in reports of acts of harassment and persecution, including threats, killings and other human rights violations, experienced by human rights defenders, and expressed concern about the fact that such acts remain unpunished. For more information see: Consideration of Reports submitted by states parties under Article 19 of the Convention, Conclusions and recommendations of the Committee against Torture, Guatemala, CAT/C/GTM/CO/4, 25 July 2006, para 12.

<sup>4</sup> Amnesty International uses this term in an open-ended and inclusive manner. However, this is in no way intended to ignore or challenge the use of other terms appropriate in specific countries or contexts.

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*violations of the rights of defenders working in the field of civil and political rights take. There are some differences though, perhaps the most important being that defenders working in the field of ESCR often have a harder time having their work accepted as human rights work. This might have several effects, including difficulties attracting funding, a lack of coverage from the media to violations of these defenders' rights, and a lack of attention paid to these violations and a hesitation in seeking remedial measures at the domestic or international level."*

Hina Jilani, Report submitted by the Special Representative of the UN Secretary-General on human rights defenders to the Human Rights Council, 24 January 2007<sup>5</sup>

This report focuses primarily on the risks faced by human rights defenders in Honduras and Guatemala, as Amnesty International believes the pattern of human rights abuses against human rights activists in both these countries is widespread, showing no signs of improvement and therefore in need of serious attention by national and international governments.

## Government responsibility

When a government fails to condemn, prevent or remedy violations against human rights defenders it sends a message that such violations are tolerated. The lack of affirmative, decisive and comprehensive measures by governments to protect human rights defenders so they can carry out their human rights work creates an environment in which their work can be undermined and their security seriously compromised.

The governments of Guatemala and Honduras are parties to – that is, have voluntarily undertaken a legal commitment to uphold the provisions of – numerous international and regional human rights treaties. The supremacy of international and regional human rights treaties over ordinary law is established in several Constitutions in Latin America, including those of Guatemala and Honduras.

Governments have a duty to guarantee respect for human rights. They have a responsibility to take effective action to ensure that state agents act within the rule of law to prevent abuses, to investigate those abuses which are committed, to bring those implicated in human rights violations to justice, and to award reparation to their victims. Any state that fails to protect human rights defenders against attacks, harassment and threats by its own agents can be held responsible for human rights violations under international law.

States also have a duty to protect people from violations by private individuals and groups, including companies. This includes ensuring that they act within the rule of law and holding them to account for the negative impact of their activities on respect for human rights.

Governments have obligations to take action against those who hamper or threaten the work of human rights defenders. If the state fails to act with due diligence<sup>6</sup> to prevent, investigate and punish abuses, including harassment of human rights defenders, it is responsible under international human rights law.<sup>7</sup>

Despite the commitments undertaken by governments in the region, Amnesty International continues to document abuses against human rights defenders aimed at

<sup>5</sup> Report submitted by the Special Representative of the UN Secretary-General on human rights defenders to the Human Rights Council, A/HRC/4/37, 24 January 2007.

<sup>6</sup> The standard of due diligence is the degree of effort states must undertake to implement rights in practice and to protect people from abuses by others. If a right has been violated, the state must restore the right as far as possible and seek to hold accountable those responsible. Appropriate compensation must also be provided to the victims.

<sup>7</sup> The International Covenant on Civil and Political Rights and the American Convention on Human Rights require state parties to "ensure" the rights of these treaties; an obligation which the UN Human Rights Committee and the Inter-American Court of Human Rights respectively have indicated extends to protection against acts inflicted by people acting in their private capacity.

## Legal framework for the protection of human rights defenders

The Universal Declaration of Human Rights<sup>8</sup> and the American Declaration of the Rights and Duties of Man<sup>9</sup> contain important standards relevant for the work of human rights defenders, and so do the core human rights treaties which flow from the two Declarations,<sup>10</sup> to which Guatemala and Honduras are parties. These instruments protect, for example, the right to life and personal liberty, the protection against arbitrary deprivation of liberty, the right to a fair trial, the right to freedom of expression, movement, association, and religion to name a few and entail the obligation of states to respect and ensure the human rights and fundamental freedoms of all persons under its jurisdiction.

In addition to the international and regional treaties, the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms (Declaration on Human Rights Defenders), which was adopted by the UN General Assembly in 1998, is a set of safeguards designed to guarantee the rights of human rights defenders and ensure their proper protection.

“Article 1 of the United Nations Declaration on Human Rights Defenders provides: Everyone has the right, individually and in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels.” Therefore, every person who in any way promotes or seeks the realization of human rights and fundamental freedoms, nationally or internationally, must be considered a human rights defender.<sup>11</sup>

The Declaration sets out the rights of human rights defenders and the specific freedoms and activities which are fundamental to their work. These include the right to know, seek, obtain and receive information about human rights and fundamental freedoms; the right to participate in peaceful activities against violations of human rights; the right to criticize and complain when governments fail to comply with human rights standards; and the right to make proposals for improvement.

By adopting the Declaration, states undertook to ensure that defenders are able to carry out their human rights work without interference, obstacles or fear of retaliation.

The governments of the Americas also recognized the importance of individuals, groups and non-governmental organizations (NGOs) that promote human rights in several resolutions. The most recent resolution regarding human rights defenders was adopted by the Organization of American States (OAS) in June 2007.<sup>12</sup>

preventing them from exercising these rights. The cases detailed in this report illustrate some of the difficulties, dangers and challenges facing human rights defenders in Guatemala and Honduras and the failure of governments to live up to their obligation to ensure that human rights defenders are able to carry out their work free from attacks, fear and intimidation. It ends with recommendations to governments on the key steps they should take to make the commitments they have made a reality.

<sup>8</sup> Adopted by United Nations General Assembly resolution 217 A (III) of 10 December 1948.

<sup>9</sup> Adopted by the Ninth International Conference of American States, Bogotá, Colombia, 1948.

<sup>10</sup> See Annex 1, Table of international and regional treaties ratified by Guatemala and Honduras.

<sup>11</sup> Inter-American Commission on Human Rights, *Report on the situation of human rights defenders in the Americas*, March 2006, para13.

<sup>12</sup> Organization of American States, *Human Rights Defenders: Support for the individuals, groups and organizations of civil society working to promote and protect human rights in the Americas*, AG/RES. 2280 (XXXVII O/07), June 2007.

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Protesters at the Chixoy Dam,  
September 2004





Around 20 Mayan communities were forcibly displaced as a result of the construction of the Chixoy Hydroelectric Dam in the Baja Verapaz Department, Guatemala, in the 1970s and 1980s. The Organizing Committee of Communities Affected by the Chixoy Dam (Coordinadora de comunidades afectadas por la hidroeléctrica Chixoy, COCAHICH) campaigns for these Indigenous communities to receive adequate compensation, and for recognition of the loss of livelihoods, homes, land and culture which the communities suffered as a result of their displacement.

From early 2005 until July 2007, nine members of COCAHICH were under investigation for alleged crimes committed during a peaceful demonstration at the dam in September 2004. Despite a report from the regional prosecutor (*Fiscal Regional*) stating that a police report claimed that community members were participating in a peaceful protest, and that there was no damage to the dam, the nine were charged with various offences.<sup>13</sup> These included threats and coercion, actions against public services and actions against the internal security of the nation.<sup>14</sup>

In February 2005, all nine COCAHICH members were put under restriction orders (*medidas sustitutivas*), requiring them to present themselves to their local Magistrates (*juzgado de paz*) every 15 days for the duration of the investigation. Although the investigative phase should only have lasted six months according to Guatemalan law, the Public Prosecutor's Office did not formalize the charges until December 2005, and the investigation continued for over two years.

On 10 April 2007, three of the four charges against the nine COCAHICH members were formally dismissed by a Sentencing Tribunal (*Tribunal de Sentencia Penal, Narcoactividad y Delitos contra al Ambiente del Departamento de Alta Verapaz*). On 10 July 2007, the San Cristóbal Verapaz Magistrate's Court (*Juzgado de Paz del Municipio de San Cristóbal Verapaz*) decided not to pursue the remaining charge, and the case against the COCAHICH members was closed.

For over two years during the investigation against them, the nine members of the community were obliged to report every 15 days to their local magistrates. For some of the accused this was a two-day walk each way. Amnesty International believes that the restriction orders placed on the nine members of the community were unnecessarily restrictive and intended to prevent and inhibit their human rights work on behalf of the communities affected by the Chixoy dam.

<sup>13</sup> For more information, see Amnesty International, *Guatemala: Human rights defenders at risk* (AI Index: AMR 34/019/2004).

<sup>14</sup> For more information, see Amnesty International, *Guatemala: Human rights defenders at risk* (AI Index: AMR 34/016/2006).

## Case studies

This chapter highlights cases of human rights violations, including killings and attacks, threats and intimidation, against human rights defenders in Guatemala and Honduras. These experiences reflect those of many defenders in these countries and indeed in other countries in the region. In many cases those believed to be implicated are members of the security forces. In other cases, private actors that may be linked to financial interests are often believed to be involved.

Human rights defenders in Central America face a series of obstacles to their work. In some cases, grave violations of human rights result in defenders having to stop or radically curtail their human rights activities. Direct attacks or threats to their lives sometimes mean that human rights defenders are forced to flee their homes or even countries. However, these violations also have wider repercussions by creating a climate of fear where other human rights defenders are only too aware how easily they too could become the targets of direct attack.

Amnesty International has documented harassment through a range of means including surveillance. It has received large numbers of reports of raids and break-ins at the offices of human rights organizations or at the homes of human rights defenders. During these raids, crucial human rights information related to their work has been seized. The raids show a similar pattern: valuable items are often left untouched and computer data is copied and files removed. Investigations into the theft of human rights information have produced virtually no tangible results.

The legal system is sometimes misused in order to harass and intimidate human rights defenders. This also has the result of stigmatizing the individuals and organizations in question and generating a negative perception of their work. Criminal proceedings that are initiated with unsubstantiated evidence or judicial proceedings that remain unresolved for extended periods of time also curtail their ability to carry out their legitimate work. This is especially true of human rights defenders working in small grass-roots organizations at the local level.

In its 2006 report, the Inter-American Commission on Human Rights drew attention to those groups of defenders which it termed “especially exposed”. Among those identified as at particular risk were *campesino* and community leaders. It stated that it had received “many complaints that indicate that many leaders have been targeted by threats and attacks because of their work to protect economic and social rights.”<sup>15</sup>

<sup>15</sup> Inter-American Commission on Human Rights, *Report on the situation of human rights defenders in the Americas*, March 2006, para215.

Indigenous and Afro-descendant leaders, who play a vital role in the religious, cultural and political life of their communities, were also highlighted by the Commission as being targeted for violations. The Inter-American Commission on Human Rights has noted that Indigenous leaders involved in protecting their territories and natural resources and defending their rights to autonomy and cultural identity have been the victims of a pattern of killings and threats. It also noted that in the vast majority of cases these crimes have been committed with impunity.<sup>16</sup>

For many years Amnesty International has been concerned about abuses against Indigenous peoples in Honduras, including intimidation, attacks and killings. Amnesty International's research suggests that many of the abuses and arbitrary detentions against Indigenous leaders, including leaders from Afro-descendant communities, have been designed to obstruct their efforts to secure recognition of their communities' claim to communal land titles. These abuses have taken place in the context of the generalized failure by the authorities to carry out investigations and bring those responsible to justice. In some instances, members of the security forces in Honduras have been reportedly directly implicated in attacks against human rights defenders.<sup>17</sup>

Environmental activists are also increasingly threatened as their work becomes more visible. Amnesty International has received and documented a number of cases in Honduras where local communities and their leaders have been killed and threatened in an apparent reprisal for highlighting environmental damage. Environmentalists in Guatemala have also suffered serious attacks and threats as a result of their work, in some cases having had to abandon their country due to fears for their safety.

According to the Human Rights Defenders Protection Unit of the National Human Rights Movement in Guatemala, the number of reported attacks against human rights defenders rose in 2006. More than half of the 278 acts of intimidation and attacks against human rights defenders reported in 2006 were directed against individuals and organizations focusing on economic, social and cultural rights, including labour rights, the rights of Indigenous people and housing rights.

During a visit in May 2006 the UN High Commissioner for Human Rights stated that there had been no significant progress in combating impunity for human rights violations or eliminating clandestine groups in Guatemala. According to the UN High Commissioner, "complaints of threats and attacks on human rights defenders have scarcely been investigated. This fuels the perception that there is inadequate political will to protect defenders."<sup>18</sup> The attacks against human rights defenders reported by the UN High Commissioner included threats and abductions, hit-lists, surveillance and criminal accusations against human rights defenders, as well as break-ins at the headquarters of organizations working with victims, especially victims of the internal armed conflict.

Defenders of lesbian, gay, bisexual and transgender rights who are subjected to death threats or other attacks frequently meet with the attitude that "they get what they deserve". They have also struggled for space to place these issues on the national and international human rights agenda. Nevertheless their work has begun to be recognized and reflected in the analysis of the expert monitoring bodies, including the Special Representative of the UN Secretary-General on human rights defenders.

<sup>16</sup> Inter-American Commission on Human Rights, Report on the situation of human rights defenders in the Americas, March 2006, para 220.

<sup>17</sup> Report submitted by the Special Representative of the UN Secretary-General on human rights defenders. Addendum. Compilation of developments in the area of human rights defenders, Honduras, E/CN.4/2006/95/Add.5, para 724.

<sup>18</sup> Report of the High Commissioner for Human Rights on the work of its office in Guatemala, A/HRC/4/49/Add.1, February 2007, para 57.

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## Killings and attacks

Israel Carías Ortíz, a peasants' rights activist in Guatemala, and his two sons – 11-year-old Robin Aroldo Ramírez and nine-year-old Luswin Alexis Ramírez – were killed as they were walking home on 6 February 2007<sup>19</sup> According to reports, they were stopped at some point during the three-hour walk from the nearby town of Zacapa to their community in Los Achiotes and shot at point-blank range.

Israel Carías was a local leader in the Committee of Peasant Unity (Comité de Unidad Campesina, CUC), and president of the Los Achiotes Integral Development Association (Asociación Integral de Desarrollo Los Achiotes, ACIDEA). For many years the CUC had been involved in efforts to resolve the continuing land dispute over the Los Achiotes farm, in Zacapa Department, south-eastern Guatemala, which has reportedly been occupied by landless rural workers for around 90 years.

The community of Los Achiotes has recently been involved in negotiations with the Guatemalan government to resolve their claim to the farmland. The community has also lodged complaints about alleged attempts by local landowners to annex some of the land illegally. In March 2007 representatives from the Land Registry Office had been due to measure the disputed land, suggesting that progress towards a resolution of the long-running land dispute was in sight at the time of the killings.

To date the investigation into the three killings has produced no results.

**Mourners carry the coffins of Israel Carías Ortíz and his two sons – 11-year-old Robin Aroldo Ramírez and nine-year-old Luswin Alexis Ramírez, February 2007.**

<sup>19</sup> See Amnesty International, *Guatemala: Ola de ataques contra activistas de derechos humanos en el 2007 requiere investigación inmediata* (AI Index: AMR 34/006/2007).

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**“Our struggle will bear fruit the day that  
the international community helps us to  
stamp out the corruption and impunity  
which exist in Guatemala.”**

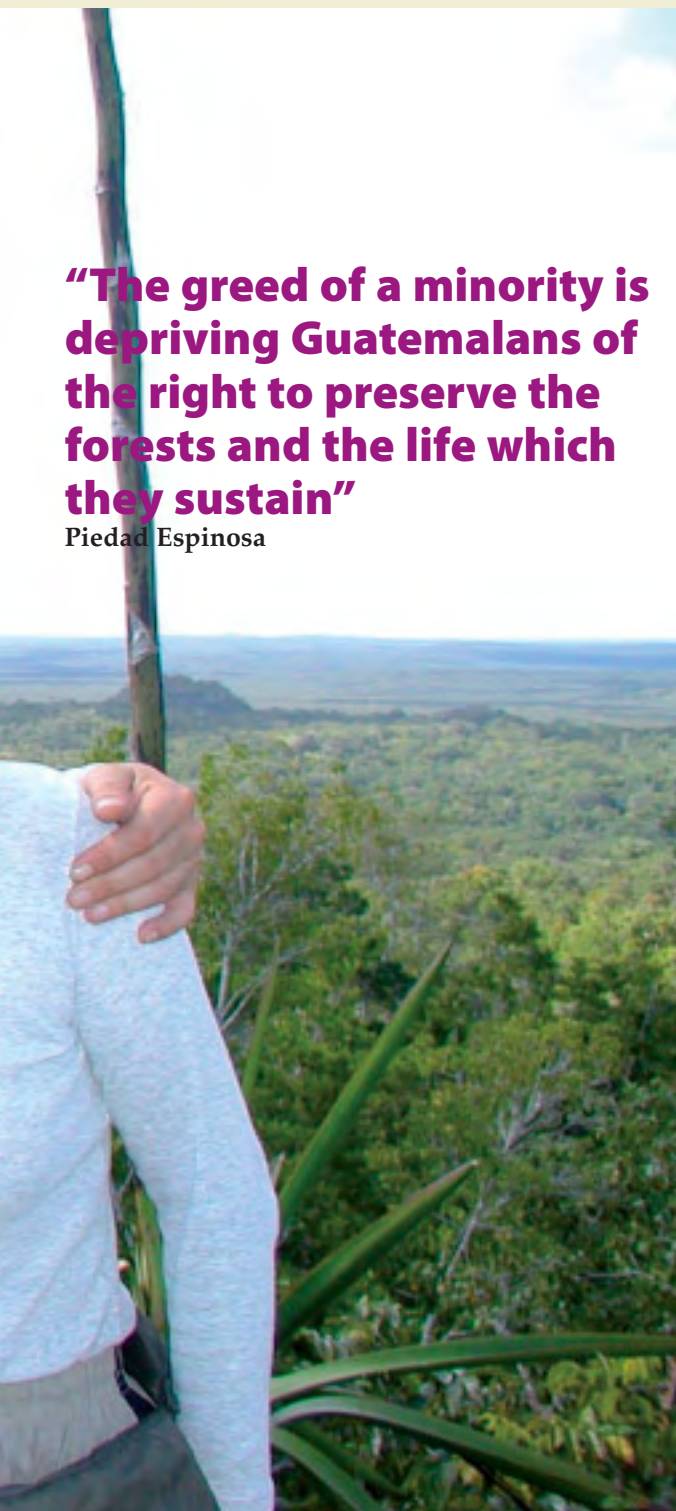
Carlos Albacete Rosales

© Private



**“The greed of a minority is depriving Guatemalans of the right to preserve the forests and the life which they sustain”**

Piedad Espinosa



Carlos Albacete Rosales and Piedad Espinosa Albacete, environmental activists working for the Guatemalan non-governmental organization Trópico Verde, were attacked on 10 January 2007 as they were returning home from La Aurora National Airport shortly after midnight. As their taxi approached their home, a car overtook them and partially blocked the road. At least three men got out and began to fire at the taxi. The swift reaction of the taxi driver, who immediately accelerated and drove away, probably saved their lives. The men continued to shoot at the taxi as it drove away, but did not give chase. The attackers were wearing dark-coloured bullet-proof vests and were dressed in clothing similar to that used by the police but without the identifying insignia.

Trópico Verde campaigns on a range of environmental issues. Its main focus is protecting ecologically important forests and wetlands. Over the past four years it has been active in trying to prevent the destruction of the Mayan Biosphere Reserve. This nature reserve in the Petén region of northern Guatemala was created in 1990 to help preserve one of the largest tropical rainforests in Central America. This particularly contentious area of Trópico Verde's work has involved them in exposing attempts by cattle ranchers and alleged drug traffickers to take over land inside the Reserve.

The attack on Carlos Albacete and Piedad Espinosa and the lack of progress in identifying those responsible has seriously affected the work of Trópico Verde. Reports suggest that the investigation into the attack has been marked by a series of irregularities, including tampering with ballistic evidence, which have contributed to the failure to bring those responsible to justice.

Both Carlos Albacete and Piedad Espinosa left Guatemala soon after the attack as a result of serious concerns for their safety. They continue to work from abroad to highlight their environmental concerns. Other members of Trópico Verde continue to work inside Guatemala, but the atmosphere of insecurity created by the attack and other threats against them have meant that they have had to reduce the profile of their work.

**Carlos Albacete Rosales and Piedad Espinosa Albacete, in the Mayan Biosphere Reserve, January 2005.**

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Donny Reyes, treasurer of the lesbian, gay, bisexual and transgender organization Rainbow Association (Asociación Arcoiris) in Honduras, was arbitrarily detained on 18 March 2007. He was reportedly stopped by six police officers as he left the Rainbow Association offices in Tegucigalpa with a colleague and asked to show his identity documents. Although he did so, the police asked him to get into the police car and reportedly beat him and physically forced him into the car. They then took him to the Comayagüela police station. The officer who put him in the cell reportedly told the other inmates, "look, I'm bringing you a little princess, you know what to do." Donny Reyes told Amnesty International that the other detainees took this as a signal to beat him and rape him repeatedly.<sup>20</sup> He was released after six and a half hours when he agreed to pay 200 lempiras (approximately US\$10). Three days later, he reported what had happened to the Public Prosecutor's Office and to a senior police officer. He also underwent forensic examinations to record the injuries he had suffered. Up to the time of writing, investigations into the arbitrary detention and the subsequent attack against Donny Reyes have not advanced.

The Rainbow Association provides training for human rights defenders on issues of sexual orientation, gender identity and HIV/AIDS prevention.

Since it was set up in 2003, it has been subject to a pattern of intimidation and attacks. For example, on 12 June and 1 July 2006 the Association's offices were raided by unidentified individuals who confiscated documents and destroyed computers and furniture. In December 2006, the then Director of the Association, José Richard Figueroa, was forced to leave Honduras for his own safety. In May 2007, the Association moved their office because members felt intimidated by the persistent presence of police patrol cars outside the former offices.

<sup>20</sup> For more information, see Amnesty International, *Honduras: Fear for safety – Donny Reyes*, (AI Index: AMR 37/002/2007).

**Donny Reyes (centre) with two other members of Arcoiris, December 2006**







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*Above:* Supporters of the Association for a More Just Society (ASJ) at the spot where Dionisio Díaz García was killed commemorate his death, February 2007.

*Right:* Dionisio Díaz García at a press conference, Tegucigalpa, September 2006.



## Threats and intimidation

On 17 May 2007, Félix Antonio Cáceres Alvarenga, a lawyer working for the Association for a More Just Society (Asociación para una Sociedad más Justa, ASJ), a Honduran human rights organization, reportedly received a death threat. The text message sent to his mobile phone read: “It would be best for you to leave [a private security company] alone or you’ll end up like Dionisio”.

The threat referred to Dionisio Díaz García, another ASJ lawyer, who was shot dead on 4 December 2006 as he was driving to the Honduran Supreme Court to prepare for a hearing. At the time of his death he was representing a number of security guards who claimed that they had been unfairly dismissed by a private security company. On 7 December, three days after the killing, the President of the organization, Carlos Hernández, received a text message in English which read: “You are the next because you are the heat [sic – head].” Other members of the ASJ had received death threats against Dionisio Díaz in the days before his killing and both he and the ASJ Project Director Dina Meza had reported being followed by cars without number plates in the area around the ASJ offices.

Throughout 2006, ASJ members were threatened and put under surveillance, apparently in connection with their work on abuses of labour rights and human rights violations. However, threats against members of the ASJ have intensified since the killing of Dionisio Díaz. Dina Meza has reportedly received threatening voice messages on her mobile phone while other ASJ members have received threats in text messages as well as threatening messages which have been posted on the comments section of an e-magazine issued by the ASJ.

The ASJ is a Christian human rights organization whose work focuses on improving access to justice for all sectors of society, including marginalized groups. Its work includes investigating abuses of labour rights by private security firms and fast food companies, as well as providing support for women who experience violence. In 2001, the ASJ launched an e-magazine to provide an alternative space to publish information about human rights violations and reports of corruption.

On 20 December 2006, just over two weeks after Dionisio Díaz was killed, the Inter-American Commission on Human Rights asked the Honduran government to implement precautionary measures on behalf of members of the ASJ. To Amnesty International’s knowledge, the implementation of protection measures has so far been inadequate, irregular and has not been properly evaluated. The ASJ’s human rights activities have also been affected by the fact that they are being required to divert at least US\$1,000 each month of their own funds to cover the costs of this protection even though the authorities have a duty to provide it.

Those responsible for the killing of Dionisio Díaz have still not been brought to justice and the authorities have failed to conduct adequate investigations into the threats and intimidation against ASJ members.

**“There’s been a lot of pressure over the last 10 years, but a lot of hope as well.”**

**ASJ member speaking at a public meeting in London, organized by AIUK in July 2007.**

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On 8 November 2005, an arson attack destroyed the house of Wilfredo Guerrero, President of the Committee in Defence of the Land (Comité de Defensa de la Tierra). The Committee campaigns for the protection of the ancestral lands of the Garifuna community of San Juan Tela, Atlántida Department, in northern Honduras. The area is threatened by plans to develop private tourist complexes which would damage or destroy the traditions, culture and way of life of the Afro-descendant community. Wilfredo Guerrero was responsible for keeping the community's documents, including those relating to land rights. All were destroyed in the fire. Despite initial investigations into the attack confirming that the fire had been started deliberately, no one has been charged in connection with the attack.

The fire was the latest in a sequence of events which have hindered his work defending the human rights of his community. In September 2003 Wilfredo Guerrero was detained and charged with illegally seizing land and threatening employees of the real estate company. Although he was released on bail after 24 hours, the charges were not lifted and for almost four years Wilfredo Guerrero has continued to be subjected to restriction orders requiring him to report to the local magistrate in San Juan Tela every week until the investigation into his case is completed. Amnesty International believes that these orders are part of efforts to intimidate him and to make his human rights work more difficult. In addition, by failing to resolve the case and maintaining the restriction orders for almost four years, the authorities are in effect imposing a punishment without allowing him the opportunity to prove his innocence.

**Wilfredo Guerrero, President of the Committee in Defence of the Land, and (right) Jessica García, President of the Patronato San Juan Tela, March 2007.**

Jessica García, President of the Patronato San Juan Tela, was forced at gunpoint to sign over community land to a real estate company in June 2006. The gunman has never been identified. She had been repeatedly harassed by security guards working for a real estate company throughout March 2006.

On 7 July 2006, the Inter-American Commission on Human Rights requested that the Honduran authorities adopt precautionary measures to protect the life and physical integrity of the leaders of the community.<sup>21</sup> However, the Honduran authorities have yet to comply fully with the Commission's recommendations. Police officers reportedly call at the homes of community leaders under protection measures three times a week asking them to sign a document stating that protection is being given, and then leave. Community leaders have refused to sign the documents or accept the protection offered because of the inadequacy of the measures proposed. Threats and intimidation against the leaders of the community of San Juan Tela were continuing at the time of writing.<sup>22</sup>

<sup>21</sup> Precautionary or provisional measures ("interim measures") are a procedural mechanism used by several international tribunals and quasi-judicial organs. In the Inter-American system, the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights have the authority to decree precautionary and provisional measures respectively. For more information, see Inter-American Commission on Human Rights, Report on the situation of human rights defenders in the Americas, March 2006, Chapter VII: Precautionary measures.

<sup>22</sup> For more information see: Amnesty International, *Honduras: Further information on fear for safety – Jessica García – members of the Garifuna community of San Juan Tela*, (AI Index: AMR 37/003/2007); *Honduras: fear for safety – Jessica García – members of the Garifuna community of San Juan Tela* (AI Index: AMR 37/005/2006).



**18 Persecution and resistance:**  
The experience of human rights defenders in Guatemala and Honduras



© MadreSelva Collective



Flaviano Bianchini, an environmental activist with the MadreSelva Collective (Colectivo MadreSelva), a Guatemalan environmental group, received an anonymous call on his mobile phone on 13 January 2007. The caller warned him “Be careful, be careful” before hanging up. Over the next six days he received five identical calls. On 25 January, he received the first of three phone calls warning him to “Stop fucking around”. In February, after several weeks under surveillance by unidentified men, Flaviano Bianchini, an Italian national, returned home to Italy because of serious concerns for his safety.

The phone calls and surveillance appear to be linked to a report he presented at a press conference on 5 January 2007 on contamination of the Tzalá River in Sipakapa, San Marcos Department. In the report he alleged that the river, which is the main source of water for Indigenous people in the region, had been contaminated with heavy metals as a result of mining activity in the area.

On 19 December 2006 the MadreSelva Collective presented a complaint to the relevant ministries regarding the alleged contamination of the Tzalá River. On 8 March 2007, the legal representative of a mining company reportedly pressed charges against the MadreSelva Collective and Flaviano Bianchini, claiming that there was no scientific evidence to support the allegations of contamination. The Guatemalan authorities have reportedly not taken any steps to investigate the charges against MadreSelva and Flaviano Bianchini.

The MadreSelva Collective has faced threats and intimidation on several occasions in the past because of its campaigns against major projects, such as open-pit mining and the construction of hydroelectric dams which are believed to threaten to destroy the local environment and the livelihoods of those communities who depend upon it.

**Activists with the MadreSelva Collective hold a street meeting to protest against open-cast mining in the municipality of San Marcos, January 2005.**

## 20 Persecution and resistance:

The experience of human rights defenders in Guatemala and Honduras

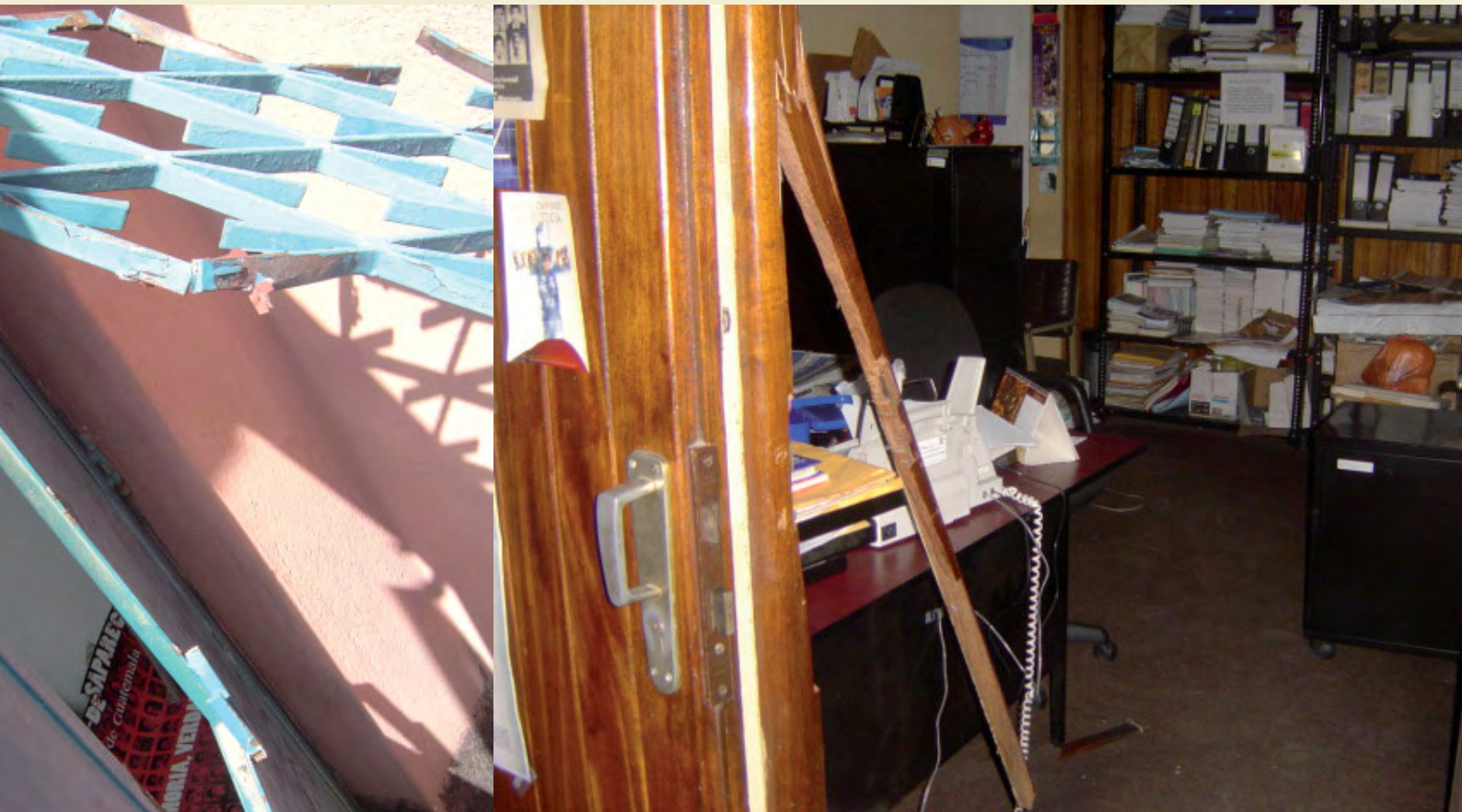
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In February 2007, offices shared by three national human rights organizations in Guatemala City were raided. Valuable information was stolen and the offices themselves were vandalized. The raid was seen as an attack on the human rights movement in the country as a whole, such was the importance and prominence of the some of the organizations targeted.

- ▶▶ the National Movement for Human Rights (Movimiento Nacional por los Derechos Humanos – MNDH) is the umbrella organization which brings together most human rights NGOs in Guatemala.
- ▶▶ the Human Rights Defenders Protection Unit (Unidad de Protección de Defensoras y Defensores de Derechos Humanos – UPDDH) is the branch of the MNDH which investigates and documents attacks and threats against human rights defenders.
- ▶▶ the Association for Communication of Art and Peace (Asociación Comunicación para el Arte y la Paz – COMUNICARTE) works on the production of audiovisual materials and had recently produced video material on the issue of consent by local communities for mining activities.





On the day that the break-in was discovered, the UPDDH were set to publicly launch their 2006 annual report which recorded a 19.4 per cent increase in attacks against human rights defenders compared with 2005.

**Offices of human rights organizations in Guatemala City, raided in February 2007.**

Thirteen computers were stolen which contained information about human rights violations and mining activities. In particular they held information on forthcoming local referendums organized by Indigenous communities on the question of mining activities. A number of such consultations and referendums had already been held which apparently revealed widespread opposition by Indigenous communities to the expansion or initiation of mining projects in rural areas. COMUNICARTE had been involved in filming such referendums. The stolen computers also contained information on financial and operational details of the member organizations of MNDH. Paper files relating to mining from both the MNDH and COMUNICARTE were stolen. The master tapes of COMUNICARTE's entire documentary collection, cameras, projectors and money were also taken from the office. Human faeces were left in the office.

While members of staff were standing outside the building waiting for the police to arrive, a red Toyota Corolla drove by and one of the passengers leaned out and filmed them before driving off.

## 22 Persecution and resistance: The experience of human rights defenders in Guatemala and Honduras

The offices of the National Coordinating Committee of Indigenous and Peasant Farmers (Coordinadora Nacional Indígena Campesina, CONIC) in Guatemala City were broken into and ransacked sometime between late Sunday evening and Monday morning on 7-8 May 2006. Doors were broken down, desks were searched and turned upside-down, cash was stolen, documents were thrown on the floor, and files and computers were searched and some destroyed.

For the two weeks prior to the break-in, CONIC reported that they had received strange phone calls and unknown people appeared at the offices asking for people who did not work there. In April 2006, CONIC had called for national demonstrations by Indigenous communities in support of its negotiations with the government regarding land reform. CONIC works on individual cases of land conflict at the grass-roots level.

According to information received, members of CONIC were only called upon to give their statements during the first months of 2007, around seven months after the break-in. There are no visible results of the investigation to date.

## Inadequate protection

States have a duty to ensure the protection of those who are engaged in the promotion and protection of human rights. The fact that many human rights defenders who have been attacked or killed in Guatemala and Honduras had previously been the victims of threats and intimidation shows that the authorities are failing to fulfil their obligations.

In order to be effective, protection must take a holistic perspective, encompassing not only immediate and practical measures, but also ensuring that those responsible for threats, killings and intimidation are brought to justice.

*“The Commission wishes to reiterate that the most effective way to protect human rights defenders in the hemisphere is by effectively investigating the acts of violence against them, and punishing the persons responsible. In the region of the Americas, one of the great problems affecting human rights defenders is the failure to investigate the attacks to which they are subjected, which has accentuated their vulnerability. This is especially relevant when it comes to protecting the right to life and personal integrity.”<sup>23</sup>*

The failure to provide adequate protection can have devastating consequences, not only for the individuals involved but also for the human rights situation in general, particularly if human rights defenders feel forced to flee the country for their safety.

Adequate protection can only be achieved if it is provided with the consent and co-operation of the human rights defenders at risk. Protection which would be implemented by the same state agencies who are believed to have been involved in abuses can intensify rather than reduce the risk and is unlikely to be acceptable. Appropriate and effective protection must necessarily be the result of discussion and agreement with the defenders themselves.

At the international and regional level, many governments in the Americas have played a decisive role in supporting the principles of the UN Declaration on Human Rights Defenders and designing regional instruments for its implementation. However, at the national level, they have failed to take the actions needed to turn these rights and protections into everyday realities for human rights defenders.

<sup>23</sup> Inter-American Commission on Human Rights, *Report on the situation of human rights defenders in the Americas*, March 2006, para 202.

The governments of Honduras and Guatemala have begun to develop some initiatives in order to protect human rights defenders and ensure a safer environment where they can carry out their work without fear of reprisals. In July 2005, the Guatemalan authorities issued a public statement which recognized the legitimacy of the work of human rights defenders and reiterated their intentions to support their work and protect them.<sup>24</sup> This followed the creation in 2004 of the Human Rights Defenders Unit within the Presidential Coordinating Committee for the Executive's Human Rights Policy (COPREDEH), which is in charge of overseeing the implementation of protection measures ordered by the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights. At the time of writing, an initiative to create an integral public policy for the protection of human rights defenders is reportedly being consulted with members of civil society.<sup>25, 26</sup> Amnesty International welcomes this development and reiterates the need to incorporate the suggestions from the consultation and to implement a thorough and adequate mechanism of protection that not only concentrates on providing immediate security measures but that is matched with impartial and thorough investigations into human rights violations against human rights defenders who continue to be at risk. The fact that high numbers of attacks, threats and even killings continue to be recorded demonstrates that the Guatemalan authorities still need to develop a holistic approach to protection that tackles the historic problem of impunity.

According to the Human Rights Defenders Protection Unit of the National Human Rights Movement, the implementation of protection measures is often highly irregular and measures are often only implemented properly at an initial stage. It is reported that investigations into threats and intimidation against human rights defenders granted precautionary measures by the Inter-American Commission on Human Rights have not produced any concrete results (2000-2006). The Special Unit for Crimes Committed against Human Rights Activists, Judicial Officers, Journalists and Trade Unionists created within the Public Prosecutor's Office reportedly lacks adequate resources to be able to conduct investigations across the country, leaving human rights defenders who work in remote areas more vulnerable.<sup>27</sup>

In Honduras, efforts to improve protection for human rights defenders lack an institutional framework. Since the creation in 1992 of the Human Rights Ombudsman (Comisión Nacional de Derechos Humanos de Honduras, CONADEH), no fresh initiatives appear to have been developed. As the cases in this report show, while the Honduran government has followed the requests made by the Inter-American Commission on Human Rights to provide protection measures for human rights defenders at risk, these appear to be inadequately implemented in the majority of cases. The measures appear to have only a very limited impact on the lives of those defenders who face continuing risks. Moreover, as in the case of Guatemala, investigations into the threats and acts of intimidation against human rights defenders rarely produce results.

The failure of some governments to remove political or legal obstacles they claim impede the implementation of requests made by the Inter-American Commission on Human Rights for protection of individuals, including human rights defenders, is just one clear example of the contradiction between rhetoric and practice.

While structural problems and the lack of resources may be a constraint in pursuing improvements, in reality and as the previous and following cases illustrate, it is the absence of political will on the part of governments that allows the violations against human rights defenders to continue and impunity to prevail.

**24** Comisión Presidencial Coordinadora de la Política del Ejecutivo en Materia de Derechos Humanos, *Informe de la Unidad Coordinadora de Protección para Defensores de Derechos Humanos, Administradores y Operadores de Justicia, Periodistas y Comunicadores Sociales*, 10 November 2006, p 17.

**25** Comisión Presidencial Coordinadora de la Política del Ejecutivo en Materia de Derechos Humanos, *Informe de la Unidad Coordinadora de Protección para Defensores de Derechos Humanos, Administradores y Operadores de Justicia, Periodistas y Comunicadores Sociales*, 10 November 2006, p 19.

**26** According to reports, in June 2007 the Guatemalan government introduced an emergency telephone service for human rights organizations in an effort to prevent attacks against human rights defenders. It has not yet been possible to evaluate its effectiveness. See Unidad de Protección de Defensoras y Defensores de Derechos Humanos del Movimiento Nacional por los Derechos Humanos, *Informe sobre la situación de Defensoras y Defensores de Derechos Humanos*, Enero a Junio 2007.

**27** Front line, Defenders of human rights defenders and the National Movement for Human Rights, *Frontline Guatemala, Attacks against human rights defenders* (2000-2005), August 2006, pp 147-151.

**“The commitment to defend life is what nourishes us, what gives us hope to carry on with our struggle, and to believe that things can change. We're being threatened constantly, but if our struggle is to be worthwhile, it depends on us carrying on. I have small grandchildren – I want them to be able to live in a healthy environment.”**

Victor Ochoa, General Coordinator  
of the Environmentalist  
Movement of Olancho (MAO),  
March 2007



*This page: Victor Ochoa, General  
Coordinator of MAO, March 2007.  
Opposite: Rene Gradiz, a leading  
member of MAO, March 2007.*



## 26 Persecution and resistance:

The experience of human rights defenders in Guatemala and Honduras

Two environmental activists – Heraldo Zúñiga and Roger Iván Cartagena – were shot dead on 20 December 2006 in Guarizama, Olancho Department, Honduras. The two men, both members of the Environmentalist Movement of Olancho (Movimiento Ambientalista de Olancho, MAO), were killed in execution-style shootings reportedly carried out by members of the national police.

According to the information received, the police forced them to get out of their car and stand against the wall of the building next to the municipal office of Guarizama, before firing around 40 rounds at them. Four police officers were accused of the killings and were placed in preventive detention in the police station of Juticalpa on 5 February 2007. They remain detained at the time of writing pending trial.

MAO has been campaigning against deforestation and illegal logging in Olancho Department since 2000. The organization has been lobbying the Honduran Congress to approve a proposed Forestry Law that would protect the forest by regulating government and private investment and guaranteeing communities the right to participate in the sustainable use of natural resources.

In May 2006, Heraldo Zúñiga had expressed fears for his safety. He said that, after publicly exposing illegal logging in the Salamá region in western Olancho Department, he received several death threats. A request was filed with the Inter-American Commission on Human Rights requesting precautionary measures for MAO members and in May 2006 the Inter-American Commission on Human Rights had requested that the Honduran government provide information on the case.

On 16 June, the Honduran authorities reportedly informed the Commission that protection measures had only been implemented for Padre Andrés Tamayo, leader and founding member of MAO. To Amnesty International's knowledge no protection measures had been provided to any other member of MAO, including Heraldo Zúñiga from whom precautionary measures were requested.

Following the killings of Heraldo Zúñiga and Roger Iván Cartagena, on 22 December 2006 the Commission ordered the Honduran government to urgently implement precautionary measures on behalf of members of MAO.

According to information received, the Honduran authorities have not fully complied with this and have only provided MAO with limited and sporadic protection. For example, in January 2007 police visited the MAO offices only twice and the houses of four MAO members twice each, despite the high security risks faced by MAO.

In addition, there are concerns about the impartiality and effectiveness of protection provided by members of the National Civil Police, the same police force reportedly responsible for the killings of Heraldo Zúñiga and Roger Iván Cartagena.

There are continuing reports of threats and intimidation targeting MAO members. For example on 10 February 2007, a text message to a member of Heraldo Zúñiga's family warned him that he and Padre Andrés Tamayo would be the next people to be killed.

MAO's work has been severely hampered by this continuing harassment. MAO members have had to restrict their activities to certain areas and curtail visits to communities for fear of attacks. Additional security measures, such as changing the location of meetings and switching cars during journeys are also posing additional obstacles for their human rights work.

A number of irregularities have been reported regarding the investigations into the killings of Heraldo Zúñiga and Roger Iván Cartagena. For example, reports suggest that forensic evidence from the scene of the killings was tampered with. The initial hearing has been repeatedly postponed and police have so far failed to present proper reports of the investigation to the courts.<sup>28</sup>

<sup>28</sup> See Amnesty International, *Honduras: Environmental activists killed in Olancho Department*. (AI Index: AMR 37/001/2007)

**Opposite: David Zúñiga, March 2007. His son, Heraldo Zúñiga, was killed in December 2006.**



# Conclusions and recommendations

In recent years, defenders have fought to make the promise of the Universal Declaration of Human Rights relevant to new and emerging threats to human dignity. All human rights defenders need and have a right to protection, but it is defenders exploring new ways of realizing these rights who are often the most exposed to risk, ridicule and resistance. Those working to redress the historical neglect of economic, social and cultural rights risk making powerful enemies when they question the distribution of economic resources and call for greater accountability of those whose actions fuel poverty and inequality. For this reason, the Special Representative of the UN Secretary-General on human rights defenders has urged States to:

*"[...] adopt appropriate measures to disseminate and to ensure full observance of the Declaration on Human Rights Defenders by all State authorities in order to make sure that all defenders come under the protection of the Declaration on Human Rights Defenders, including those working in the area of ESCR [economic, social and cultural rights].*

*The Special Representative recommends that States show increased tolerance for criticism and see human rights defenders working in the field of ESCR as a resource and make use of the often specialized knowledge of defenders in order to achieve the realization of all ESCR."*

Hina Jilani, Special Representative of the UN Secretary-General on human rights defenders, report to the Human Rights Council, January 2007

The governments of Guatemala and Honduras have ostensibly committed themselves to social reform and poverty reduction, yet this report shows that major allies in the struggle to improve human dignity and alleviate suffering continue to face danger due to a lack of government will to recognize important human rights work. The governments of Guatemala and Honduras need to stop treating members of the human rights community, especially those from poorer, more marginalized areas, as enemies and instead engage with them in serious debate about both their work and their protection needs to prevent further killings and attacks. Advancing human rights is a mutual endeavour between state and civil society, not an opposing one.



## Amnesty International's recommendations

Amnesty International urges the governments of Honduras and Guatemala to fulfil their obligations to protect human rights defenders by undertaking to:

1. Explicitly commit themselves to promoting respect for human rights and to the protection of human rights defenders.
2. Recognize the legitimacy of the work of all human rights defenders, including those working on economic, social and cultural rights, in line with the UN Declaration on Human Rights Defenders.
3. Issue public statements that support the legitimacy of the work of human rights defenders and promote support for their work among society at large and make it clear that statements that denigrate or undermine their work, aims or legitimacy will not be tolerated.
4. Take the necessary steps to develop a national plan of action to implement the UN Declaration on Human Rights Defenders to ensure that human rights defenders are able to carry out their legitimate work without fear of reprisals. This plan should include:
  - a) Multi-disciplinary proposals at the political, legal and practical levels, which aim to improve the environment in which human rights defenders operate;
  - b) Measures to ensure their immediate protection;
  - c) The allocation of appropriate human and financial resources.
5. Respect requests made by the Inter-American human rights system for precautionary and protective measures in specific cases to safeguard the physical and mental integrity of human rights defenders. Measures should be fully implemented and their effectiveness should be evaluated, in consultation with those who benefit from them, within a reasonable time.
6. Adopt a more integrated view of protection through the development of integrated programmes for the protection of human rights defenders that include preventive measures, such as thorough criminal investigations into attacks and threats against human rights defenders as well as security measures to assist with immediate safety issues.
7. In cases where the Inter-American human rights system has not yet issued a recommendation, the authorities should take the initiative and put in place measures to safeguard the physical integrity of human rights defenders who have reported being intimidated, threatened or attacked. The protection offered to human rights defenders should be prompt, effective and impartial, and should be provided in strict accordance with their wishes.

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8. Ensure that exhaustive and impartial investigations are conducted into human rights violations against human rights defenders, that those responsible are identified and brought to justice and that the victims and their relatives are provided with appropriate reparation. The results of such investigations should be made public.
9. Ensure that the criminal justice system is not used to the detriment of members of human rights and social organizations in order to harass them or curtail their legitimate activities for the defence of human rights.
10. Ensure that effective mediation and resolution services are put in place to resolve long-running disputes over issues such as land tenure, labour rights and Indigenous land titles, with a view to preventing the escalation of tensions which can lead to human rights defenders becoming the targets of threats and attacks.

# Appendix

## Treaties ratified by Guatemala and Honduras

For full text see:

International treaties: <http://www.ohchr.org/english/law/>

International Treaties	Guatemala	Honduras
International Covenant on Civil and Political Rights (ICCPR)	5 May 1992	25 August 1997
International Covenant on Economic, Social and Cultural Rights (ICESCR)	19 May 1988	17 February 1981
Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)	12 August 1982	3 March 1983
Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)	5 January 1990	5 December 1996
Convention on the Rights of the Child (CRC)	6 June 1990	10 August 1990

Regional Treaties	Guatemala	Honduras
American Convention on Human Rights "Pact of San José, Costa Rica"	25 May 1978	8 September 1977
Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social, and Cultural Rights "Protocol of San Salvador"	5 October 2000	N/A
Inter-American Convention to Prevent and Punish Torture	29 January 1987	N/A
Inter-American Convention on Forced Disappearance of Persons	25 February 2000	11 July 2005
Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women "Convention of Belém Do Pará"	4 April 1995	12 July 1995



## Persecution and resistance

### The experience of human rights defenders in Guatemala and Honduras

Following the killing of a Honduran human rights lawyer on his way to a court hearing in December 2006, other lawyers and human rights defenders from the same organization received text messages warning them they risked a similar fate if they continued their work. Several weeks later, an attack on two environmentalists in Guatemala forced them to flee the country in fear for their lives.

Despite positive advances in the development of international human rights standards, reports of killings, attacks, death threats, harassment and intimidation against human rights defenders in Central America continue. Those responsible for these attacks are rarely identified and brought to justice.

Focusing on individual cases in Honduras and Guatemala, this report reveals some of the obstacles, dangers and challenges facing human rights defenders working to defend and promote the economic, social and cultural rights of some of the most marginalized civil society groups. It also points to the failure of the governments in question to live up to their obligation to ensure that these activists can carry out their important work free from attacks, fear or reprisals.

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