

CONNECTING THE AMERICAS

PROSPERITY WITH
RESPECT FOR HUMAN
RIGHTS

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Amnesty International is a global movement of more than 3 million supporters, members and activists in more than 150 countries and territories who campaign to end grave abuses of human rights.

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

We are independent of any government, political ideology, economic interest or religion and are funded mainly by our membership and public donations.

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THE SIXTH SUMMIT OF THE AMERICAS

Prosperity is only possible if States respect human rights

Amnesty International is calling on the Heads of State of the American continent to redouble their commitment to human rights and the instruments and mechanisms that promote and protect them at regional level. The organization is sending out this message in advance of the Sixth Summit of the Americas, which is due to take place on 14 and 15 April 2012 in Cartagena de Indias, Colombia. Bearing in mind that the Summit slogan is “Connecting the Americas: Partners for Prosperity”, Amnesty International is reminding Heads of State that genuine, sustainable prosperity, without discrimination, can only be achieved on the basis of full respect for the human rights of all the continent’s inhabitants.

In the region of the world where inequality is greatest and despite the progress made in strengthening the rule of law, demands for the effective protection, respect and enjoyment of human rights are still reverberating. Individuals, human rights defenders, civil society organizations and Indigenous Peoples are continuing to demand that their rights be respected and their actions often bring them into conflict with powerful economic and political interests. At the heart of many of these conflicts are economic development policies which leave many people, especially those living in poverty or in marginalized communities, at risk of greater exploitation, suffering and abuse.

This statement emphasizes several issues that are particularly topical on the eve of the Sixth Summit of the Americas: the rights of Indigenous Peoples, violence against women and girls, the situation of human rights defenders, the struggle for justice and the state of the Inter-American human rights system (IAHRS).

The Sixth Summit of the Americas will take place just as the IAHRS is about to issue important rulings with regard to the rights of Indigenous Peoples. For example, Indigenous communities from Ecuador and Canada have appealed to the IAHRS because of the absence

of an adequate response from their States. The decisions the IAHR makes on those cases may strengthen Inter-American jurisprudence concerning the right to consultation, free, prior and informed consent, access to justice and reparation. The Fourth Summit of Indigenous Leaders of the Americas, which coincides with the Sixth Summit, will address these concerns which are shared by hundreds of Indigenous communities the length and breadth of the continent.

The hemisphere has seen some progress with regard to legislation and mechanisms for combating violence against women and girls. However, a great deal remains to be done to ensure that such legislation is accompanied by concrete measures that guarantee the stability and effectiveness of the mechanisms, as well as by the (economic and human) resources required to ensure that all State bodies, especially the justice system, national police forces and the health system, are equipped to combat violence against women and girls. In the search for prosperity for everyone in the hemisphere, it is necessary to continue moving towards gender equality and the elimination of all forms of discrimination against women and girls. In this regard priority must be given without delay to the sexual and reproductive rights of women and girls in the Americas, including, for example, the urgent need to protect women's right to make free and informed decisions about when to have children and how many, without being subjected to coercion or discrimination, as established in regional and international human rights treaties.

Despite the progress made with regard to the rule of law in the hemisphere, Amnesty International is still documenting cases in which human rights defenders have been threatened or killed and in which impunity mechanisms have been strengthened or remain in place. This is reflected in a recent report by the Inter-American Commission on Human Rights (IACHR)¹, which sets out issues of particular concern with regard to the situation of those defending human rights in the hemisphere and reaffirms and promotes standards to ensure their comprehensive protection. Human rights defenders play a crucial role in ensuring that everyone, including those belonging to marginalized groups within society, can claim their civil, political, economic, social and cultural rights and thus benefit from the prosperity the States are trumpeting.

States have not only failed to take effective action to ensure full access to justice in cases involving human rights violations and abuses; in some instances they are promoting policies that could strengthen the impunity that surrounds such cases.

¹ Second Report on the Situation of Human Rights Defenders in the Americas (2012). OEA/Ser.L/V/II. Doc. 66. 31 December 2011.

The IAHR has played a key role in insisting that OAS member States put an end to impunity for human rights violations and abuses, protecting human rights defenders and supporting respect for the right to prior consultation and free, prior and informed consent. Existing initiatives and proposals for reforming the system ought to help strengthen it. The respect for human rights that the IAHR protects and the strengthening of the system itself are key to making progress towards prosperity for the Americas, so that civil society as a whole can call for and determine the type of prosperity it wants and to ensure that this call is not used to consolidate greater inequality in the region.

THE RIGHTS OF INDIGENOUS PEOPLES

For the fourth consecutive time within the framework of the Americas Summit, representatives of the continent's Indigenous organizations will meet to ensure that their concerns are heard by the Heads of State and Government. One of the main demands of the Fourth Summit of Indigenous Leaders of the Americas is for the right of Indigenous Peoples to be consulted with regard to legislative or administrative measures that specifically affect them to be effectively respected. In the case of measures that adversely affect Indigenous communities, States are obliged to obtain the free, prior and informed consent of the communities affected so that their physical or cultural survival is not put at risk.

From Alaska to Tierra del Fuego there are examples of Indigenous communities whose right to consultation has been infringed. In Brazil, Indigenous communities from Xingú river basin are demanding to be consulted about the building of the Belo Monte hydroelectric dam because of the impact the dam will have on their lives and culture. In July 2011, the the Indigenous Kichwa People of Sarayaku, who are participating in the Fourth Summit of Indigenous Leaders, took their case to the Inter-American Court of Human Rights after Ecuador refused to consult them about a petroleum project on their territory. In October 2011, the Inter-American Commission heard the case of Indigenous people from Vancouver Island, who have been refused the right to consultation and consent in relation to the sale and transfer of their ancestral lands

Lack of respect for the fundamental rights of Indigenous Peoples has also manifested itself in threats, killings, harassment, evictions, forced displacement and unfounded legal proceedings. In Brazil, Colombia, Guatemala and Mexico, among others, Indigenous communities have been forced to leave their lands, often in a violent manner. When they protest to draw attention to such abuses, Indigenous demonstrators are often subjected to excessive use of force by the security forces, as has happened in Bolivia and Peru. The judicial authorities have brought spurious legal charges against demonstrators or their leaders in Ecuador and Mexico.

The States of the Americas have obligations with regard to the collective rights of Indigenous Peoples. Fifteen States have ratified International Labour Organization Convention 169 and all States of the region have signed up to the United Nations Declaration on the Rights of Indigenous Peoples. The IAHR has issued rulings and reports on these issues. Several national courts have recognized these rights, including the right to consultation and free, prior and informed consent. Now all that remains is for governments to comply fully with their obligations.

THE RIGHT OF WOMEN AND GIRLS TO LIVE FREE FROM VIOLENCE

It is worrying that protecting women and girls from rape, threats and murder does not appear to feature as a priority on the policy agendas of the region's States. It is impossible to have prosperity while disregarding half of the population. The failure to properly enforce legislation for combating discrimination and gender-based violence remains a serious concern. As do the hurdles, stereotypes and gender-based discrimination girls and women have to endure in order to get justice. The lack of resources made available for investigating and prosecuting such offences calls into question the genuine will of the authorities to address violations of the human rights of women and girls.

Violations of the sexual and reproductive rights of women and girls are still common practice throughout the Americas, entailing serious consequences for their lives and health. The limited access to contraception services and information about sexual and reproductive issues, especially for the most marginalized women and girls in the hemisphere, is a serious concern. The Honduran Supreme Court recently deemed it constitutional to criminalize the distribution and use of emergency contraception (sometimes referred to as the morning after pill), thus undermining the significant advances made in the region (over a period of many years) with regard to the sexual and reproductive rights of women and girls. States must commit themselves to ensuring that such advances are not left to the discretion of whichever government happens to be in office.

In El Salvador, Chile and Nicaragua abortion is completely banned, even for girls and women who have become pregnant as a result of rape or whose lives or health are in serious danger if they continue with the pregnancy. Those who try to secure an abortion and those who help women and girls in such situations to abort face long prison sentences. In other countries, although access to abortion is guaranteed in law, in practice it is denied as a result of discriminatory treatment as illustrated by, for example, lengthy legal proceedings that make it virtually impossible, especially for those who cannot afford to go to a private clinic.

HUMAN RIGHTS DEFENDERS

The work of organized civil society and human rights defenders is crucial if progress is to be made in bringing “prosperity” to the region. Their initiatives and actions have proved to be key to the effective enjoyment of human rights by everyone in the continent. Their actions help to ensure that the commitments made by States are delivered and to this end States should provide them with all the guarantees they require in order to be able to carry out their work without fear of reprisals.

States should therefore demonstrate that they are genuinely committed to “prosperity” by granting recognition and effective protection to human rights defenders. Otherwise human rights defenders will continue to be subjected to killings, threats, wrongful arrest, intimidation and persecution. Such attacks, by both State and non-State actors (legal and illegal), are frequent and widespread in the region, and States’ response is often inadequate. Indeed, on several occasions the only way to secure State protection for those who have found themselves in danger for having defended human rights has been through the Inter-American human rights system. Without the measures decreed by it, defenders in the region would be at greater risk.

Unfortunately, the list of human rights defenders killed in the Americas is long. In Colombia, for example, over 45 human rights defenders and community leaders were murdered in 2011, many of whom were spearheading land restitution processes. For example, on 7 June 2011 Afro-Colombian leader Ana Fabricia Córdoba, who was working on behalf of several displaced communities as well as to secure the restitution of land in the Urabá region, was murdered in Medellín, Antioquia department. Her death was preceded by repeated threats but, although protection measures had been requested, the Colombian government never granted them.

Human rights defenders in several Latin American countries have been frequently and repeatedly subjected to threats and intimidation, which almost always go unpunished. For example, in El Bajo Aguán in Honduras, leaders and members of organizations working for the agrarian rights of peasant farmers involved in land disputes with major landowners have been attacked and subjected to death threats on several occasions.

In addition, several human rights defenders are currently being wrongfully detained on unfounded charges or because of fabricated proceedings, the only purpose of which is to punish legitimate activities and hinder the defence of human rights. This is the case, for example, for Indigenous leaders and community defenders of the right to water José Ramón

Aniceto Gómez and Pascual Agustín Cruz from Atla community, municipality of Pahuatlán, in Puebla State, Mexico, who have been deprived of their liberty since 13 January 2010, and Maximino García Catarino, a member of the *Organización para el Futuro de los Pueblos Mixtecos*, Organization for the Future of the Mixtec Peoples, who has been held in Ayutla de los Libres Prison in Guerrero State, Mexico, since 20 January 2012.

These cases are a clear illustration of some of the massive inequalities that still exist in the region, the fundamental work being done by human rights defenders to make them visible and overcome them and the serious abuses that they are facing. Questioning these inequalities and abuses tends to annoy those who want to favour the interests of the few, often at the expense of the most vulnerable sectors of society. Regional “prosperity” must be for everyone, equally and without discrimination, and for that to happen it is essential that the fundamental work carried out by human rights defenders in the Americas be recognized, that any attacks against them be investigated and punished, and that they be effectively protected.

JUSTICE AND THE INTER-AMERICAN HUMAN RIGHTS SYSTEM (IAHRS)

Many of the human rights cases that have reached domestic courts have made slow progress and have encountered problems of different kinds or been directly hindered, either because of a structural lack of access to the justice system or because the latter was not independent. The difficulties encountered when “navigating” domestic justice systems are often exacerbated by the use of violence – either in the form of threats to life or physical integrity or the direct use of violence against witnesses, lawyers, human rights defenders, prosecutors and judges. In countries such as Brazil, Colombia, Haiti, Mexico, Honduras, Venezuela, Guatemala and Cuba, incidents of this kind are still occurring. Those attacked have also included journalists who have dared to expose instances of the abuse of power, human rights violations and abuses, and corruption.

For its part, the Inter-American human rights system (IAHRS) has continued to expand and grow stronger over the years to the extent that it has become an essential mechanism for promoting and protecting human rights in the Americas, a necessary complement to the protection provided by State bodies, especially domestic justice systems.

Thousands of victims and relatives have seen the IAHRS as the only possible means of having their rights protected and obtaining justice when the latter has been denied to them at domestic level. Protecting the integrity and independence of the Inter-American system is

essential if “prosperity” and the effective enjoyment of rights for everyone in the hemisphere is to be a reality with no exceptions or discrimination.

Since last year OAS member States have been debating possible reforms to the Inter-American system, and in particular the Inter-American Commission on Human Rights (IACHR), with the stated intention of strengthening it. That stage of the debate ended in January 2012 with the issuing of a report by the Special Working Group to Reflect on the Workings of the IACHR with a view to strengthening the IAHRs, which was subsequently approved by the OAS Permanent Council. The Working Group report contains valuable conclusions in support of the IAHRs as well as a considerable number of recommendations, some of which could affect the independence and effectiveness of the system if they are implemented in the way described in the report.

Amnesty International welcomed the fact that the abovementioned report reiterated “the importance assigned by the member states to the Inter-American human rights system (IAHRs) in terms of its role in the promotion and protection of internationally recognized human rights as a basic element for consolidation and strengthening of democracy in the Hemisphere”² and recognized that “the autonomy and independence of the Inter-American Commission [...] are essential elements for maintaining its credibility, legitimacy, and efficacy”³. Precisely in order to preserve the autonomy and independence of the IACHR, it is essential that States allow it, without interference, to assess the recommendations contained in the report and endorsed by the Permanent Council on the basis of its guiding principles and to only apply those that it deems appropriate for improving and increasing human rights protection in the hemisphere.

In this regard, it is relevant to stress the importance of the operational independence of the IACHR and the fact that many of the recommendations contained in the report that deserve to be considered could only be implemented without jeopardizing fundamental tasks currently carried out by the IACHR if it had the necessary financial resources for doing so. It is clear that the IACHR cannot relinquish any of the essential protection activities it currently carries out – whether related to individual petitions, precautionary measures or measures of other kinds – in order to carry out the additional tasks States are recommending it should do in the said report. It is therefore up to the OAS member States to provide the IACHR with the resources it needs to implement whatever recommendations it may deem appropriate.

² Report, p.7, i.1

³ Report, p.8, i.3

It is evident that the existence of the necessary resources is key to the proper functioning of the IACHR and the IAHR as a whole. The Working Group report recognizes that “financial strengthening of the IAHR is necessary and urgent in any effort to achieve its comprehensive consolidation”⁴. As emphasized in the report, “through adequate resource allocation it will also be possible to improve the workings of the organs and ensure the *predictability*, sustainability, and planning of its activities and priorities”⁵. Amnesty International agrees that it would be desirable for the total funding of the IAHR to come out of the regular OAS budget and that, as long as that cannot be achieved, the financial needs of the IAHR should be supplemented with funds taken from voluntary contributions and other sources and preferably given to the IAHR with no specific purposes in mind. Thus, one possible approach consistent with the stated intention of strengthening the IAHR would be to increase its funding, and especially that of the IACHR and all its existing rapporteurships, units and working groups as well as any future ones.

⁴ Report, p. 16, 7. *Financial Strengthening of the IAHR*.

⁵ Report, p. 16, 7. *Financial Strengthening of the IAHR*.

RECOMMENDATIONS

Amnesty International is appealing to the Heads of State gathered together at the Sixth Summit of the Americas to reaffirm their commitment to ensuring full respect for the human rights of everyone in the region without discrimination of any kind. In particular Amnesty International is calling on States to:

Indigenous People's rights

- Introduce any legislative and public policy changes that may be necessary in order to comply with and protect the right to consultation and free, prior and informed consent in accordance with international and regional human rights standards;
- Refrain from authorizing activities related to the exploration and exploitation of natural resources or carrying out any type of economic development project that may affect Indigenous Peoples without properly consulting them in accordance with international and regional standards;
- Establish and maintain the necessary conditions to enable Indigenous leaders and the members of such communities to peacefully defend their rights without fear of reprisal.
- Take steps to fully implement the rights recognized in the United Nations Declaration on the Rights of Indigenous Peoples.

The rights of women and girls

- Provide the necessary resources so that legislation and mechanisms for combating violence against women and girls can be implemented;
- Draw up national action plans to ensure that the rights of women and girls, including their sexual and reproductive rights, are protected;
- Ensure effective access to contraception services and information about sexual and reproductive matters for all women and girls, including those in the hemisphere who are most marginalized;
- Each and every one of the States in the hemisphere should send out a clear and emphatic signal indicating that they are committed to zero tolerance with regard to violence against women and girls.

Human Rights Defenders

- Value the work being done by human rights defenders, who are key actors in ensuring progress towards the effective enjoyment of human rights and the "prosperity" of the hemisphere;
- Publicly and explicitly recognize the legitimacy and importance of the work of human

rights defenders;

- Refrain from making statements that undermine or discredit the work of human rights defenders;
- Refrain from using the justice system to prevent and punish action to defend human rights;
- Establish and implement investigation protocols that facilitate the prompt, effective and impartial investigation of cases of abuses or attacks directed at human rights defenders;
- Strengthen or establish national mechanisms for ensuring the prompt and effective protection of human rights defenders whose lives or physical integrity are at risk.

Justice – Impunity

- Ensure access to justice for all without discrimination;
- Take effective action to end impunity with regard to human rights abuses and violations, which would include fully complying with the IAHR's recommendations in that regard;
- Refrain from adopting policies that promote legislation and other measures that strengthen impunity mechanisms.

Inter-American Human Rights System

- Protect the integrity and independence of the IAHR as a guarantee for ensuring that "prosperity" and the enjoyment of rights by everyone in the hemisphere becomes a reality with no exceptions.
- Preserve the autonomy and independence of the IACHR and, in so doing, allow the IACHR to decide, without interference, what measures should be implemented in order to improve the existing system and bring about greater and better human rights promotion and protection within the hemisphere.

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