



On the front line

Bulletin on human rights defenders in Latin America and the Caribbean

Mexico: Digna Ochoa



Digna Ochoa y Plácido © AI

Digna Ochoa y Plácido was a leading Mexican human rights lawyer who had won international awards in recognition of her work. She had worked with the Miguel Agustín Pro Juárez Human Rights Centre (PRODH) for many years on cases in which public officials, including members of the Offices of the Prosecutor General and the armed forces, had been implicated in serious human rights violations. She had campaigned to expose the perpetrators and to pressurise the authorities to bring them to justice.

In common with many of her colleague human rights defenders in Mexico, Digna Ochoa had received several death threats, been the victim of an assault in which she was tied up and an attempted kidnapping in which she was beaten. None of these incidents had been investigated effectively or satisfactorily. Then, on 19 October 2001, at 37, Digna Ochoa was shot dead in an office in the centre of Mexico City. She had been shot twice, once in the leg and once in the head. Her death sent shock waves through the international community.

The investigation into Digna's death has been the object of intense national and international scrutiny. But despite being well resourced, it has been suffered serious procedural flaws, irregularities and omissions. The investigation passed through the hands of three investigating teams. After a series of blunders during the initial stages of the investigation a senior prosecutor was assigned to the case. He resigned after failing to prevent repeated leaks of confidential and selective information to the press indicating his investigation would find that she committed suicide. Last summer, a new prosecutor, Margarita Guerra was appointed by a panel of three prominent members of civil society.

In July 2003, there were more leaks to the media of information indicating that the Prosecutor would conclude the case as suicide, once again calling into question the authorities handling of the case. On 19 July the Mexico City Prosecutor and the Special Prosecutor on Digna Ochoa's case, held a press conference to announce the conclusion of the case and present their findings. The 3000 page conclusion, including case file material and harrowing case file pictures were posted on the web. However, at the press conference it became clear that all internal procedural steps had not been followed to close the case. The Mexico City prosecutor said the conclusions had yet to be internally endorsed and did not represent a definitive decision on the case.

Other procedural flaws undermining the credibility of the investigation include questions over the thoroughness of the original autopsy, the documentation of the scene of the crime and the mysterious appearance of crucial evidence 18 months after the crime. An independent evaluation by an expert of the Inter-American Human Rights Commission found irregularities in the collection, processing and preservation of evidence and samples. Lawyers working on behalf of the relatives have had requests to submit evidence refused. Some witnesses were not guaranteed safe conditions to offer their testimonies, and full cooperation from all the authorities, in particular the Ministry of Defence, was not properly established. There has been no effective investigation into these flaws and omissions.

But the greatest affront to the relatives has been the attempt by the authorities to publicly discredit Digna's human rights work by insinuating that her life as a human rights defender was a fraud and her human rights work insignificant. Disregard for the relatives and Digna's memory coupled with repeated flaws in the investigation, particularly in its earliest stages, cast doubt over the authority's capacity to conduct a full, exhaustive and impartial investigation and look likely to seriously compromise the credibility of any eventual conclusions the authorities may reach.

The international community tells governments to up their support for the work of human rights defenders

During the first six months of 2003 various international and regional mechanisms for the protection of human rights issued new resolutions and reports on the plight and safety of human rights defenders and their freedom to carry out human rights activities.

In the Americas, the General Assembly of the Organization of American States, held between 8 – 10 June 2003, in Santiago, Chile, adopted another Resolution AG/RES.1920 (XXXIII-O/03) on Human Rights Defenders: Support for the Individuals, Groups and Organizations of Civil Society Working to Promote and Protect Human Rights in the Americas. This year's resolution is based on

concerns "that situations persist in the Americas that directly or indirectly prevent or hamper the work of individuals, groups or organizations working to promote and protect fundamental rights." The resolution reiterates, "support for the work carried out, at both the national and regional level, by human rights defenders" and "condemn[s] actions that...hamper the work of human rights defenders in the Americas". The resolution urges member states to "continue stepping up their efforts to adopt the necessary measures to safeguard the lives, freedom, and personal safety of human rights defenders and, in all cases of transgressions against human rights defenders, to conduct thorough and impartial investigations, and to ensure that the findings thereof are transparent and disseminated."

At the United Nations, a resolution on human rights defenders at the 59th session of

the UN Human Rights Commission (E/CN.4/2003/L.87), called upon all States to promote and give full effect to the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, known as the UN Declaration on Human Rights Defenders); condemned all human rights violations committed against human rights defenders; and decided to extend the mandate of the Special Representative of the Secretary-General on Human Rights Defenders for a further three years.

The UN Special Representative to the Secretary General on Human Rights Defenders,

Ms. Hina Jilani, expressed her concern that the global situation

of human rights defenders has not improved in the past year.

In her third report to the UN Commission on Human Rights (UN Index: E/CN.4/2003/104) presented in March 2003, Ms. Hina Jilani recounts how strategies have been put in place by some States to restrict the environment in which human rights defenders operate e.g. closing down non-governmental organizations; bureaucracy slowing down their registration; or having their funding cut off. According to the report, expanding policies, legislation and procedures described as "security" or "counter-terrorism" measures that affect or restrict the work of defenders are a major concern. Special security legislation generally has affected the ability of judicial institutions to protect defenders from arbitrary actions. While recognising the responsibility of States to guarantee security, the Special Representative stresses that "the imperative of security will not be served by violating human rights".

The Special Representative further states that there have also been disturbing incidents involving excessive and indiscriminate use of force against those exercising their right of peaceful assembly.

The Special Representative also recognizes that private sector actors including transnational

and national corporations are increasingly culpable of violations of economic, social and cultural rights of populations in many countries of the South; particularly indigenous populations.

In addition, the report lists some positive developments: the release from detention of defenders that were subjects of urgent actions under her mandate; the fact that some states have taken the very positive initiative of examining ways through which the Declaration on defenders could be translated into their national legislation; the strengthening of defenders' networks and coalitions; the development of guidelines (E/CN.4/2002/18, annex) by the OHCHR on the respect for human rights in the context of State counter-terrorism activities and their presentation to the UN CTC by the HC in Oct 2002.

UN Recommendations:

The Special Representative recommends the implementation of the UN Declaration on Human Rights Defenders through the development and implementation of multiple strategies." Some of her other recommendations include:

- Working more closely with the implementing bodies of the UN as its many bodies have a fundamental role to

- play in implementing the Declaration;
- strengthening national judicial systems on int'l standards;
- setting minimum human rights standards for counter-terrorism and security legislation;
- identifying the "seasonal" changes in the vulnerability of defenders as a basis for adoption of regional strategies for protection that would be especially active on behalf of certain defenders during periods of expected vulnerability;
- protecting the "contextual space" that defenders require to work (including the rights of assembly/expression; possibility of legally registering and obtain funding for a human rights organization);
- recognising the human rights responsibilities of multinationals;
- giving greater attention to acts committed by paramilitary and armed opposition groups and enable more direct contact and engagement with these groups.

Amnesty International requests the European Union and EU Members States to adopt more specific and comprehensive foreign policies to protect human rights defenders in the Americas

Amnesty International's Memorandum to the European Union and EU Member States: Addressing the dangers and difficulties faced by human rights defenders in Latin America and Caribbean States, (AI Index: AMR 01/005/2003), was presented on 28 March 2003 in Greece at the meeting between EU governments and governments from the Americas.

Amnesty International's memorandum to the EU sets out concrete recommendations by which the EU can measure compliance with the human rights commitments and clauses contained in EU agreements with third countries since

1995 and put in practice human rights commitments made in the Political Declaration of the Madrid Commitment of 17 May 2002.

Amnesty International called on the European Union and Member States, in its relations with Latin America and Caribbean States, to:

1. Assist governments in Latin America and the Caribbean to develop concrete plans on policy and practice to implement the principles of the UN Declaration on Human Rights Defenders.
2. Insist that plans to implement the principles of the UN Declaration on Human Rights Defenders do not consist solely of measures for practical protection, but consist of comprehensive measures aimed at preventing violations and addressing the root cause of such violations.

Such plans should include measures suggested by Amnesty International in its recommendations for the protection of human rights defenders (see Appendix I), for example: effective investigations to bring those responsible to justice; steps to implement legislation that promotes the principles of the UN Declaration on Human Rights Defenders, in particular the right to freedom of expression and freedom of association; reform or repeal of legislation that may impinge on these rights, for example, security legislation or criminal defamation laws that are used to harass human rights defenders through legal means; strategies to identify and deal with state and non-state groups hostile to human rights work and those who carry out such activities.

3. Set benchmarks to assess the implementation of these plans. Benchmarks may include: the designation of political responsibilities for overseeing implementation of plans on policy and practice regarding human rights defenders; allocation of budgets for this purpose; evaluation structures and reports on the effectiveness of the measures adopted; legislative measures; satisfactory conclusion on judicial investigations on a selection of emblematic cases of violations against defenders; establishment of special mechanisms to ensure such investigations; prompt replies to urgent appeals sent by UN mechanisms and compliance with UN recommendations; serious dialogue with defenders regarding their needs; public campaigns to offset hostility towards those who promote and protect human rights.
4. Take up discussions regarding plans to implement the principles of the UN Declaration on Human Rights Defenders with authorities at all levels of the state apparatus, including state authorities in federal systems, and departmental and municipal authorities.
5. Ensure that plans to develop policy and practice for the implementation of the principles of UN Declaration on Human Rights Defenders address the recommendations made by the UN Special Representative on Human Rights Defenders, in particular recommendations made on the situation of human rights defenders in Guatemala and Colombia, as well as recommendations made to all States; recommendations by the UN High Commissioner for Human Rights; and recommendations by the Inter-American Human Rights System.
6. Ensure that practical protection programs for the protection of human rights defenders include judges, prosecutors and other government officials, who suffer human rights violations due to their commitment to human rights protection, as well as witnesses, but that such programs are tailored according to the differing needs of these sectors.
7. Highlight the important experiences and recommendations of civil society and human rights groups in improving public security and combating terrorism and insist on the effective incorporation of these considerations into programs aimed at developing policy and practice to improve regional security and combat terrorism. Ensure that programs of cooperation to combat terrorism respect internationally recognised human rights and do not impinge on or threaten the security of human rights defenders. Ensure that programs of assistance in security provided by governments of the EU, including training in security operations and security and intelligence equipment, adopt the appropriate safeguards and controls to ensure such assistance is not used to interfere with or hamper the activities of human rights defenders

8. Ensure that cooperation programs involving the media and promotion of freedom of expression include components that seek to ensure the media plays a positive role in promoting the UN Declaration on Human Rights Defenders and the legitimate work of human rights defenders.
9. Ensure that cooperation programs in education include components that promote the UN Declaration on Human Rights Defenders and the legitimate work of human rights defenders.
10. Ensure that programs on democracy and human rights include components which encourage and emphasize the importance and legitimacy of critical scrutiny by civil society of government policy and practice on human rights.
11. Ensure that the EU Regional Program of Support to Ombudsman in Latin America incorporates advice and assistance on monitoring respect for the principles of the UN Declaration on Human Rights Defenders, as well as recognizing ombudsman as human rights defenders, who may also on occasion require protection.
12. Support and encourage the establishment of mechanisms which ensure the proper participation of the relevant sectors of civil society, including human rights defenders, in the formulation and implementation by governments of policies and practices to further political, civil, economic., social and cultural rights. Including efforts to establish measures to improve public security and combat terrorism. Promote compliance with human rights principles and standards in free trade agreements by ensuring human rights defenders are invited to submit opinions and recommendations and set up mechanisms to ensure proper attention to these considerations.

Amnesty International calls on the European Union and EU Member States, in their efforts to protect human rights defenders and their work in Latin America and the Caribbean, to:

13. Support human rights defenders in their efforts to ensure states adopt policies and practice to guarantee respect for and implementation of the principles of the UN Declaration on Human Rights Defenders.
14. Support human rights defenders protection programs adopted by non-governmental organizations which aim to provide protection when governments fail to guarantee the safety of defenders and their freedom to carry out their work.
15. Support international non-governmental organizations engaged in providing protective accompaniment as a protection measure to human rights defenders at risk.
16. Ensure emergency procedures are adopted so that human rights defenders fleeing their countries due to a well-founded fear of persecution can quickly apply for and be granted asylum.
17. Support visits by EU delegations to countries in Latin America and the Caribbean to verify the situation of human rights defenders.
18. Ensure EU diplomatic missions guarantee respect for the principles of the UN Declaration on Human Rights Defenders by instructing staff to:
 - Act quickly to condemn threats and attacks against human rights defenders.
 - Help overcome the isolation of many human rights defenders and help legitimise their important work by receiving defenders and visiting their offices and areas of work.
 - Closely monitor investigations into threats and attacks against human rights defenders and send regular reports regarding the situation of human rights defenders to their respective Foreign Ministries.
 - Ensure dialogue with human rights defenders reflects all sectors of society, in particular more marginalised sectors such as campaigners for women's rights, gay, lesbian and transgender activists, environmentalists, leaders of displaced communities and community workers. Attend and observe trials of human rights defenders.
 - Facilitate national and international meetings of human rights defenders.
 - Refrain from making unsubstantiated statements or allegations that may jeopardise the integrity or security of human rights defenders.

19. Support the mandate of the Human Rights Defenders Unit of the Inter-American Commission on Human Rights, and explore areas of collaboration.
20. Encourage all governments to support the mandate of the UN Special Representative to the Secretary General on Human Rights Defenders.

If you would like to receive a copy of the report *Amnesty International's Memorandum to the European Union and EU Member States: Addressing the dangers and difficulties faced by human rights defenders in Latin America and Caribbean States*, (AI Index: AMR 01/005/2003) please contact:
Americas Human Rights Defenders Program, Amnesty International, International Secretariat, 1 Easton St., London WC1X 0DW UK.
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Guatemala: Escalating attacks on human rights defenders in the lead up to elections in November 2003

Six and a half years since the signing of the Peace Accords in 1996 the human rights situation in Guatemala, far from having improved, has been marred by high levels of human rights violations, severe restrictions on citizens' fundamental rights with political violence becoming particularly acute in the lead up to presidential elections in November. Those at risk of abuses include indigenous people, women, human rights defenders, land activists, members of the legal community and journalists working on impunity, fundamental rights issues and those covering the upcoming election.

On 13 March 2003, the Guatemalan Government signed a document to establish a commission to investigate clandestine structures suspected of perpetrating attacks and threats against human rights defenders and *operadores de justicia* (members of the legal community including judges,

prosecutors and lawyers, and journalists). The *Comisión para la Investigación de Cuerpos Illegales y Aparatos Clandestinos de Seguridad* (CICIACS), Commission to Investigate Illegal Armed Groups and Clandestine Security Apparatus, came about due to continued lobbying by Guatemalan human rights organizations with the support of the Human Rights Ombudsman.

The CICIACS initiative has been widely welcomed by many sectors of Guatemalan society and the international community. However, it is feared that delays in the establishment of the Commission may lead to a derailment of the initiative in the context of the upcoming Guatemalan elections in November 2003.

Escalation in new abuses

New abuses continue to be reported on a daily basis. The

vast majority of these abuses are directed against human rights defenders and others who dare to challenge and speak out against prevailing impunity and the concentration of political and economic power in the hands of the few.

After the signing of the document to establish the CICIACS commission, increased harassment of human rights defenders was reported, including a raid on the house of Mario Polanco, the Director of the human rights organization the *Grupo de Apoyo Mutuo* (GAM), Mutual Support Group, one of the main organizations involved in the CICIACS initiative. Other serious attacks against members of human rights organizations occurred between the end of March and the beginning of April, suggesting a systematic effort to intimidate human rights defenders in relation to the signing of the CICIACS document.

Thelma de Lam, the newly appointed *Fiscal Especial para los Defensores de los Derechos Humanos*, Special Prosecutor for Human Rights Defenders, and Marines Martínez, one of her assistant Special Prosecutors, received death threats in June this year. The special unit is mandated by the Guatemalan state to investigate crimes carried out against human rights activists.

On 20 June, three armed men entered the house of Marines Martínez, in Guatemala City, and demanded to see her. After one of the domestic employees told the men that Marines was not at home, they told her to tell Marines “if you carry on with your investigations, you’re going to get a surprise tonight” (*‘si siguiera investigando va a recibir una sorpresa esta noche’*). On 23 June, Thelma de Lam received two anonymous calls on her mobile phone. The first caller told her “you should be careful with what you’re doing” (*‘Tuviera cuidado con lo que esta haciendo’*), and the second caller told her to stop her work with the *Ministerio Público* (MP), Public Prosecutors Office (*‘termine su*

trabajo con el Ministerio Público’).

Journalists have also reported being subject to intimidation over recent weeks. In one incident, Rubén Zamora editor of a major Guatemalan newspaper, which has denounced corruption amongst high level government officials, was held at gunpoint for several hours in his home, before the assailants left warning him to stop his work. The attack came the day after Zamora published an opinion piece which charged the FRG’s presidential candidate, General Efraín Ríos Montt, with being an integral part of the so-called “parallel power structure” which Zamora said had not only run the country for the last twenty years, but also headed up the country’s extensive organised crime network.

Carmen Judith Morán Cruz, regional correspondent for the news service agency, *Centro de Reportes Informativos sobre Guatemala* (CERIGUA), Centre for Information on Guatemala, in the town of Salamá, Baja Verapaz department, also recently received an anonymous death threat warning her to

resign or her family would suffer the consequences

The Salamá branch of CERIGUA works on a variety of sensitive local issues including covering exhumations and local land conflicts. It has also covered the incident on 14 June in which the current president of Congress, Efraín Ríos Montt, currently seeking to be Presidential candidate for the ruling *Frente Republicano Guatemalteco* (FRG), Guatemalan Republican Front, was forced to abandon a rally in the nearby town of Rabinal. The rally was taking place at the same time as a ceremony to re-bury those massacred during the military government’s counterinsurgency strategy of the 1980s.

Human rights defenders working in rural areas are particularly exposed to attack. Since February 2003, Daniel Pascual, Juan Tiney and Rafael Chanchavac Cux, national indigenous and community leaders, have been subject to incidents ranging from death threats and robberies in which important documents were stolen, to attacks on their physical integrity.

Cuba: International outcry at detention of dissidents

In what appears to have been the biggest crackdown in recent decades, journalists, members of human rights groups, political activists and others across the country have been sentenced to lengthy prison terms after manifestly unfair trials.¹ Human rights organizations, the United Nations, the European Union and foreign governments condemned these detentions by the Cuban government.

Marcelo López Bañobre, a human rights defender, was sentenced in April to 15 years in prison for, among other activities, “sending information to international organisations like Amnesty International”. His conviction was part of the crackdown in mid-March by Cuban security forces that rounded up 75 opponents over the space of a few days. Most of the leaders of Cuba’s opposition movement, people who had been activists for a decade or more, were detained. The government claimed these individuals were foreign agents whose activities endangered Cuban independence and security. They were given hasty and unfair trials, and, shortly after being taken into custody, were sentenced to harsh prison terms of up to 28 years. Amnesty International considers the 75 to be prisoners of conscience and has demanded their unconditional and immediate release.

¹ See, *Cuba: ‘Essential measures?’ Human rights crackdown in the name of security* (AI Index: AMR 25/017/2003).

The international community has responded with vigour to the convictions in Cuba. While urgent pressure is needed on the Cuban authorities so that those imprisoned solely for the peaceful exercise of fundamental freedoms are immediately and unconditionally released, the international community must act with like vigour and determination to prevent and stop equally serious violations against human rights defenders in other parts of Latin America and the Caribbean; for example, Guatemala and Colombia where human rights defenders face emergency situations.

TAKE ACTION TO PROTECT HUMAN RIGHTS DEFENDERS

Haiti: repression of women's movement

On Monday 10 March, the umbrella women's organisation *Coordination Nationale de Plaidoyer pour les Droits des Femmes (CONAP)* organised a peaceful march in Port-au-Prince, in commemoration of international women's day, to protest at the difficult conditions faced by Haitian women. Organisers had reportedly fulfilled the requirements of article 31.2 of the Haitian Constitution by informing the police of the march in advance. Nonetheless, the march was forcibly broken up by officers of the *Police Nationale d'Haïti*, and participants were harassed and threatened by pro-government counter demonstrators in the presence of the officers. The counter demonstrators also threatened journalists who were attempting to cover the events. The action of the police shows clear disregard for article 12 of the Declaration on the Right and Responsibility of Individuals,

Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (United Nations General Assembly resolution 53/144):

- Everyone has the right, individually and in association with others, to participate in peaceful activities against violations of human rights and fundamental freedoms.

- The State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or *de jure* adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the present Declaration.

Take Action!

Write to the Haitian authorities:

- expressing your concern at the action of the police during the peaceful march of women's organizations in Port-au-Prince;
- calling for a full and impartial investigation into the threats against the women's organizations by the counter demonstrators, with the results made public and those responsible brought to justice.

Minister of the Interior

M. Jocelerme Privert
Ministre de l'Intérieur
Palais des Ministères
Port-au-Prince, HAITI



Bolivia – defenders attacked

CEJIS lawyers © AI

Amnesty International is seriously concerned for human rights defenders who have been victimised because of their legitimate human rights work in Bolivia. These include activists, lawyers, members of the clergy and personnel of the Ombudsperson's Office working on a range of issues including impunity for past human rights violations, land-related disputes and indigenous rights.

On 23 April 2003, lawyer, Cliver Rocha was attacked in the town of Riberalta, Beni Department. He works for a local non-governmental organization called *Centro de Estudios Jurídicos e Investigación Social* (CEJIS), Centre for Legal Studies and Social Research, which provides legal advice on indigenous land claims.

As he was being beaten the attackers reportedly demanded that he leave the area. He had previously reportedly been attacked on 13 March, as he left a hearing at the land court. His attacker was a local businessman who is apparently a member of a family which has claims on the Tacana indigenous lands.

Since 2001 Amnesty International has noted with concern a worrying pattern of attacks against CEJIS lawyers. CEJIS has made public complaints regarding this and other attacks suffered by its lawyers, but Amnesty International is not aware of the existence of any investigations into these attacks.

For further information regarding human rights defenders in Bolivia see Amnesty International's recent report, *Bolivia: The Need to Protect Human Rights Defenders*, (AI Index AMR 18/004/2002).

TAKE ACTION!

- expressing concern for the safety of Cliver Rocha and other human rights defenders in Bolivia;
- urging the Bolivian authorities to take immediate and effective action to protect Cliver Rocha and other threatened defenders so that they be allowed to perform their legitimate work as human rights defenders without threats and harassment;
- calling for a full and impartial investigation into the threats received, with the results made public and those responsible brought to justice.

APPEALS TO:

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Update – Espírito Santo, Brazil

The 'special mission' to Espírito Santo sent by the federal government has been an important initial step in increasing security and opening investigations into those with criminal links in high places.

In December the arrest of several figures believed to be very powerful within organised crime showed that the federal mission has been taking its responsibilities seriously. The alleged material and intellectual authors behind the killing of lawyer Marcelo Denadai, and a former president of the bank of Espírito Santo were arrested.

It is vital that the new federal government maintain and support the federal mission in Espírito Santo. So far the signs have been encouraging, with the federal government publicly declaring their support for the mission and their commitment to ending the stranglehold of organised crime in the state.

In late February there was some more good news with the arrest of the former president of the Espírito Santo legislative assembly, and the man believed to be the 'head' of organised crime in the state.

Despite these positive steps, human rights defenders working in the state continue to be at risk. On 24 March a state judge working with the federal task force, Alexandre Martins, was shot dead as he arrived for work. The state secretary for public security made statements saying that the principal suspect for ordering his killing was the former military policeman who had been transferred to Acre on the orders of Judge Martins.

This publication is produced by the Program to Promote the Protection of Human Rights Defenders in Latin America, established by Amnesty International in May 1997 to follow-up the Defenders Conference (Bogotá, Colombia, May 1996). Please distribute this bulletin as widely as possible. For more information and to join the Program's Defenders Network, write to:

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