



# **‘WE ARE DEFENDING THE LAND WITH OUR BLOOD’**

DEFENDERS OF THE LAND, TERRITORY AND ENVIRONMENT  
IN HONDURAS AND GUATEMALA

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**Cover photo:** March in support of the right to water, Guatemala City, 22 April 2016.  
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## EXECUTIVE SUMMARY



↑ ⓘ Monte Olivo River, Alta Verapaz, Guatemala, 11 April 2016.  
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This Amnesty International report examines the situation faced by defenders of the land, territory and environment and in Honduras and Guatemala. It is the first in a series of reports to be published on this group of defenders in several countries in the Americas.

Human rights defenders are people who, individually or collectively, take action to defend, protect or promote human rights using non-violent means. They can operate at different levels and in different contexts, from the local to the national or international level.

One group of human rights defenders focuses on defending and promoting environmental and territorial rights and rights linked to access to land. This group includes among others:

- Indigenous and Afro-descendant people and communities seeking to have their territorial and other rights respected, protected and guaranteed. The territory includes both the ancestral lands where communities have lived and the natural resources found there, which they refer to as “natural assets”. The culture, way of life and world view of these communities is intimately linked to the territory.

**The right to territory** is based on Article 17 of the Universal Declaration of Human Rights; Article 1 of the International Covenant on Civil and Political Rights and of the International Covenant on Economic, Social and Cultural Rights; Articles 3, 10, 25 and 26 of the UN Declaration on the Rights of Indigenous Peoples; and International Labour (ILO) Convention 169 on Indigenous and Tribal Peoples.



- Individuals and communities, usually campesinos (peasant farmers), some of them Indigenous and Afro-descendant, who are demanding that their human rights be respected in the context of individual and collective actions to gain access to land.

Those campaigning **for access to the land** are working to protect a range of rights including the rights **to food** (Article 12 of the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights); **to adequate housing** (Article 11 of the International Covenant on Economic, Social and Cultural Rights); **to health** (Article 12 of the International Covenant on Economic, Social and Cultural Rights and Article 10 of the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights); and **to work** (Article 6 of the International Covenant on Economic, Social and Cultural Rights and the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights).

- People and communities demanding respect for and protection of the environment and/or restitution and compensation for environmental damage in the areas where they live.

**The right to a healthy environment** is set out in Article 12 of the International Covenant on Economic, Social and Cultural Rights, Article 29 of the UN Declaration on the Rights of Indigenous Peoples and Article 11 of the Additional Protocol to the American Convention on Human Rights in Area of Economic, Social and Cultural Rights.

Defenders all over the world who work to protect and promote the rights to territory, the environment and those linked to access to land are at great risk of being attacked for their activities. Latin America is the most dangerous region for people working on these issues. In 2015 alone, the NGO Global Witness recorded 185 killings of defenders of the land and the environment around the world, and 122 of these were in Latin America.

This report focuses on Honduras and Guatemala, countries where a high number of attacks and threats against defenders of the land, territory and environment have been recorded and where the governments have recently approved the creation and strengthening of mechanisms to protect human rights defenders.

According to Global Witness, Honduras is the country with the highest number per capita of killings of defenders of the land, territory and environment in the world: 12 defenders were killed there in 2014 alone. In Guatemala, between 2000 and August 2015, defenders of Indigenous rights and of the environment were the targets of the greatest number of attacks, according to the Protection Unit for Human Rights Defenders in Guatemala (La Unidad de Protección a Defensoras y Defensores de Derechos Humanos, UDEFEGUA).

## HONDURAS: TAKING THEM OUT OF CIRCULATION

Amnesty International's research confirms the high level of violence against human rights defenders who work to protect and promote the rights to territory, the environment and those linked to access to land which exists in Honduras. The 2009 coup intensified the atmosphere of hostility towards human right defenders in the country. Most of the communities and movements interviewed by Amnesty International in Honduras included people who had been granted precautionary measures by the Inter-American Commission on Human Rights

(IACHR). 'Precautionary measures' refers to a protection mechanism for serious and urgent situations creating a risk of irreparable harm to a person or a group of people. Several of these people have continued to be threatened and attacked over the years; some have even been killed. Such was the case of the defender of Indigenous Peoples and the environment **Berta Cáceres, General Coordinator of the National Council of Popular and Indigenous Organizations of Honduras (Coordinadora General del Consejo Cívico de Organizaciones Populares e Indígenas de Honduras, COPINH)**, who was assassinated on 2 March 2016.

Amnesty International's research shows that the Honduran authorities have failed to implement effective protection measures for defenders. The state has also failed to create suitable communication channels so that those for whom precautionary measures have been ordered can propose means of protection appropriate for the structure of their organization and for the context in which they carry out their rural and community work, as well as meeting their specific protection needs.

The recent approval of the Law to Protect Human Rights Defenders, Journalists, Social



↑  Altar paying tribute to defender Berta Cáceres, in El Roble, Rio Blanco Community, Intibucá, Honduras, 13 March 2016.  
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Commentators and Justice Officials is a positive development for the right to defend human rights. It provides an opportunity for Honduras to address the protection of defenders of territory, the environment and rights associated with access to land in a comprehensive manner. In this context, the state faces the challenge of promoting inclusive discussions with various sectors of civil society on mechanisms and protection measures for defenders.

It is essential that Honduras adopt measures to deal with the structural causes of violence against defenders and to create a favourable environment for the right to defend human rights. These measures should include recognition at the highest levels of the state of the legitimacy of defenders' work.

Impunity for attacks on defenders remains the norm in Honduras. The failure to carry out prompt, thorough and impartial investigations so that the perpetrators of these attacks can be brought to justice sends a message that this violence is tolerated by the authorities. The state must take steps to put an end to impunity and in doing so help create an environment in the country that is favourable to the defence of human rights.

## GUATEMALA: THE NEW “ENEMY WITHIN”

The armed conflict in Guatemala that ended in 1996 continues to have repercussions for the defence and promotion of human rights in the country. The doctrine of the “enemy within” that labelled any dissenting voice or opinion that went counter to the mainstream as the “enemy”, lives on today in attitudes that cast defenders of environmental and territorial rights and rights linked to access to land as the “opposition”, “enemies of the state” and even “terrorists”. Equally, current social conflicts over land, territory and the environment occur in areas where the armed conflict was most intense. Amnesty International’s research shows that in Guatemala a discourse prevails which seeks to stigmatize and discredit human rights defenders, especially those working on issues associated with territory, land and the environment. Amnesty International is concerned that statements designed to denigrate defenders are followed by an increase in the violence and intensity of attacks, assaults and threats against them.

This social stigma is accompanied by the misuse of the justice system by the authorities to criminalize legitimate activities in defence of human rights. The case of seven defenders of the right to water in northern Huehuetenango is an example of this abuse of justice. The defenders were held in pre-trial detention for at least a year and a half, despite the fact that there was no evidence to support the charges against them. It is vital that the Guatemalan authorities take steps to create a favourable environment for the defence of human rights in order to curb the stigmatization and criminalization of defenders. Measures should include recognizing the



*Rigoberto Juárez, Arturo Pablo, Francisco Juan Pedro, Domingo Baltazar, Ermitaño López, Adalberto Villatoro and Mynor López, criminalized human rights defenders from northern Huehuetenango, during their trial in July 2016, Guatemala City, Guatemala, 6 July 2016*  
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legitimate work carried out by defenders of environmental and territorial rights and rights linked to access to land. Public officials must also refrain from making statements aimed at discrediting these defenders.

Similarly, impunity in cases of threats and attacks against defenders of the land, territory and environment continues to be a concern in Guatemala. In most of the cases documented by Amnesty International for this report, investigations to determine the possible perpetrators of attacks have remained stalled for years. In only a very small minority of cases have the suspected perpetrators been brought to justice. In only a handful of cases have the perpetrators of such attacks been brought to trial. Putting an end to impunity must be a priority for the Guatemalan authorities in order to move towards fulfilling the state's obligation to guarantee the right to defend human rights.

## MAIN RECOMMENDATIONS

### **Amnesty International calls on Honduras and Guatemala to:**

- Recognize, publicly and at the highest levels of both local and national authorities, the legitimacy of the work of human rights defenders addressing issues of access to land and territorial and environmental rights.
- Refrain from using language that stigmatizes, abuses, disparages or discriminates against human rights defenders, including characterizing them as: "terrorists", "enemies", "opponents", "drug dealers" or "criminals".



Centre for the Administration of Justice (CAJ) of Santa Eulalia, Huehuetenango, Guatemala, 3 July 2016.  
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- Ensure comprehensive protection of human rights defenders working in the area of access to land and territorial and environmental rights.
- Establish participatory processes within civil society that include defenders working in rural areas or in community-based settings when adopting laws and mechanisms for the protection of human rights defenders.
- Incorporate preventive and collective approaches in strategies for the protection of human rights defenders.
- Create spaces for dialogue to analyse proposals for protection measures put forward by human rights defenders who work to protect and promote the rights to territory, the environment and those linked to access to land.
- Initiate timely, independent and impartial investigations into attacks, threats and assaults against human rights defenders who work to protect and promote the rights to territory, the environment and those linked to access to land and bring to justice those responsible.
- Develop and implement public policies to protect defenders that are in line with the criteria set out by the Inter-American Court of Human Rights in its judgments in the cases of *Luna López vs Honduras*, 10 October 2012, and of *Human Rights Defender et al vs Guatemala*, 28 August 2014.
- Refrain from misusing the justice system to intimidate, harass and discredit human rights defenders who work to protect and promote the rights to territory, the environment and those linked to access to land.
- Issue directives or guidelines that make clear to those conducting criminal investigations who is a human rights defender and what their work entails.
- Impose sanctions on officials who misuse the justice system in order to criminalize human rights defenders.
- Recognize the human rights of Indigenous Peoples and Afro-descendants, including the right to territory, as well as their economic, social and cultural rights, including the right to a healthy environment, and ensure their rights are protected and respected when planning and implementing projects to explore and exploit natural resources.
- Carry out timely, independent, and impartial investigations into reports of human rights violations and crimes under international law committed during the 2009 coup in Honduras and the internal armed conflict in Guatemala and ensure the rights to truth, justice and reparation for the victims.

**Amnesty International also calls on national human rights institutions in both countries to:**

- Monitor and recommend the pursuit of criminal investigations arising from reports of attacks against human rights defenders.
- Include proposals for strategies for the protection and recognition of human rights defenders who work to protect and promote the rights to territory, the environment and those linked to access to land in discussions between networks of human rights institutions and Ombudspersons.

**Amnesty International makes the following recommendations to international human rights bodies and the international community:**

- Those countries involved in security cooperation agreements with Honduras or Guatemala should ensure constant monitoring of the police, military and judicial investigation bodies for whom they provide or fund training.
- Diplomatic representatives of the European Union and its member states in Guatemala and Honduras should ensure that the European Union Guidelines on Human Rights Defenders are implemented. This recommendation also applies to representatives of non-member states which have similar guidelines in relation to human rights defenders.

**Finally, Amnesty International calls on companies and their representatives:**

- To apply due diligence, as set out in the UN Guiding Principles on Business and Human Rights, so as to ensure that the human rights of individuals and communities are respected in the context of activities and projects related to the exploitation of natural resources.

# METHODOLOGY



↑  Meeting of the Independent Lenca Indigenous Movement of La Paz (MILPAH), Santa Elena, La Paz, Honduras, 10 March 2016.  
@Amnesty International/ Anaïs Taracena

In January and February 2016, Amnesty International interviewed 12 human rights organizations in Honduras, 10 human rights organizations and defenders in Guatemala, and four international organizations providing support to human rights defenders in both countries.

During March 2016, Amnesty International interviewed one organization and nine communities working on rights to territory, the environment and those linked to access to land in Honduras. In April, meetings were held with 10 such communities in Guatemala. Visits to both countries included meetings with focus groups of 20 to 30 defenders as well as in-depth interviews with representatives from the communities. Amnesty International also interviewed seven organizations providing legal support, technical assistance or protection to these defenders in Honduras and five such organizations in Guatemala. In all the meetings with communities, efforts were made to ensure a balance of gender and age.

In addition, in both countries, Amnesty International met officials responsible at the national level for ensuring recognition, protection and access to justice for human rights defenders. Delegates from the National Commission for Human Rights (Comisionado Nacional de Derechos Humanos, CONADEH) in Honduras and the Human Rights Ombudsperson (Procurador de Derechos Humanos, PDH) in Guatemala were also interviewed. Following the visit to Honduras, Amnesty International requested information from the National Agrarian Institute, the Attorney General's Office and the Ministry of Defence. Amnesty International received a reply from only the National Agrarian Institute.

In July 2016, Amnesty International returned to Guatemala. They interviewed Indigenous leaders and representatives from the Santa Cruz Barillas and Santa Eulalia communities in northern Huehuetenango who are demanding their right to territory in the context of hydroelectric projects. Amnesty International visited the prison in Huehuetenango where two defenders from the area were detained. They also observed part of the trial of seven defenders of Q'anjob'al territory, which began on 6 July 2016. They also met the authorities in the Department of Huehuetenango to discuss issues of justice and the protection of human rights defenders.

Both in Honduras and in Guatemala, official documents were reviewed, as well as documents, photographs and videos in which the communities reported or complained about their situation at the local, national or international level. In Guatemala judgments and judicial records were also reviewed.

## CLARIFICATION ON THE SCOPE OF THIS REPORT

While the majority of cases about human rights defenders contained in this report were documented in the context of projects by companies to exploit natural resources, Amnesty International focused its research on the actions and responsibilities of the state in Guatemala and Honduras, whose duty it is to ensure rights. Therefore this report does not address the issue of any possible responsibility on the part of any of the companies mentioned, except where this is explicitly stated.

In addition, this report refers to the exploration and exploitation of natural resources to describe projects which the defenders oppose as part of their work to defend human rights. The term "natural assets" is also used interchangeably with the term natural resources. Although international treaties refer to natural resources, the communities interviewed viewed this term as implying an equivalence with commercial goods which obscures their intrinsic connection with the identity of the peoples affected.

## ACKNOWLEDGEMENTS

Amnesty International would like to thank all the women and men, young and old, and all the Indigenous, campesino and Mestizo communities who agreed to speak to the organization. We wish to extend our thanks to them for sharing their experiences of promoting human rights, their quest for justice for the attacks they have suffered and their struggle to continue their legitimate work of defending and promoting the rights to which every person is entitled.

Amnesty International would also like to thank the international, national, regional and local organizations who have provided legal, technical and other forms of support to individuals and communities working to protect human rights in Honduras and Guatemala. Their perspectives were invaluable in the drafting of this report.


Thanks are also due to the lawyers who day in and day out pursue investigations into attacks on defenders of the land, territory and environment or who act as their defence lawyers in cases brought against them. Their knowledge of the cases provided a clearer insight into the reality of the experience of those seeking to access justice.



We also thank the National Commission for Human Rights (Comisionado Nacional de Derechos Humanos, CONADEH) in Honduras and the Human Rights Ombudsperson (Procurador de Derechos Humanos, PDH) in Guatemala for receiving us.

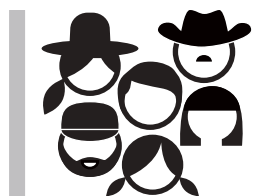
Finally, Amnesty International would like to thank the Honduran and Guatemalan authorities who met with the organization and who provided information about state efforts to recognize and protect human rights defenders, as well as the challenges that remain.



↑  Q'eqchi' Indigenous Peoples from Polochic Valley talk about their struggle to access land, Cobán, Alta Verapaz, Guatemala, 13 April 2016.  
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# 1. DEFENDING THE LAND, NATURAL RESOURCES, THE ENVIRONMENT, LIFE...

Day after day, human rights defenders are attacked for taking part in peaceful protests; for documenting and publicly denouncing human rights abuses and violations; for seeking justice, truth, reparation and non-repetition of those violations; for providing human rights education; and for a host of other activities aimed at fostering respect for and ensuring human rights. In the most extreme cases, human rights defenders have been killed because of their work.



## HUMAN RIGHTS DEFENDERS

Human rights defenders are people who individually or collectively, some as part of an organization or a movement, take action to defend, protect or promote human rights at the local, national or international level in cities as well as rural areas, using non-violent means.<sup>1</sup>

In 2011, the UN Special Rapporteur on the situation of human rights defenders reiterated that those around the world working on issues related to the environment and the land are the defenders at greatest risk because of their activities.<sup>2</sup> Indeed, most Amnesty International actions on Latin America in recent years involved people defending rights connected with these issues.<sup>3</sup>

Latin America is the most dangerous region in the world for human rights defenders working on issues related to the environment, land and territory. In 2015 alone, the NGO Global Witness recorded 185 killings of members of these groups of defenders around the world; 122 were in Latin America.<sup>4</sup> These defenders are frequently the targets of threats, monitoring and surveillance and arbitrarily subjected to criminal proceedings for their activities. They

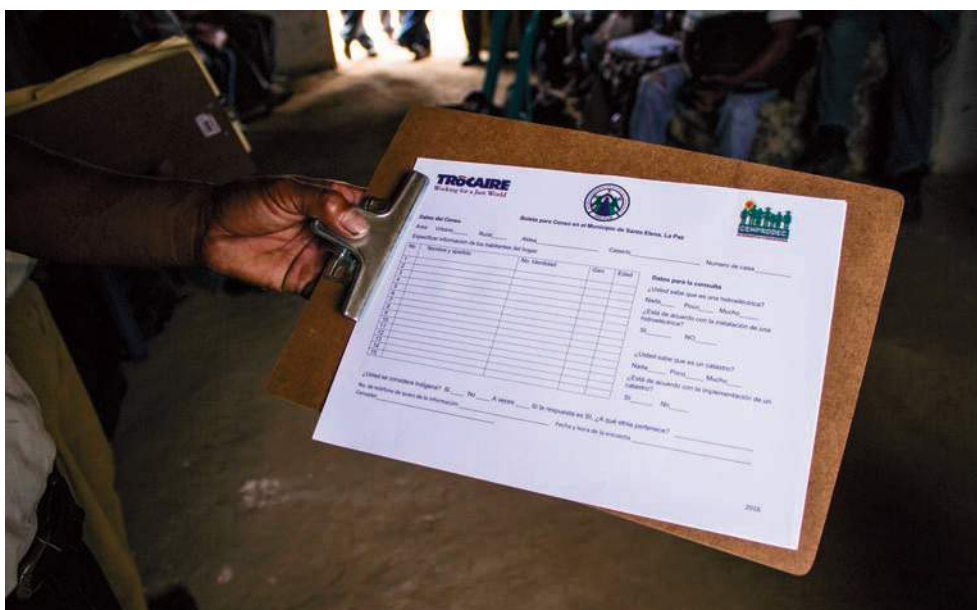
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<sup>1</sup> Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (A/RES/53/144), 8 March 1999. Available at: <http://www.ohchr.org/Documents/Issues/Defenders/Declaration/declaration.pdf>.

<sup>2</sup> Report of the Special Rapporteur on the situation of human rights defenders, (A/HRC/19/55), 21 December 2011, paras 60–92. Available at: [http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session19/A-HRC-19-55\\_en.pdf](http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session19/A-HRC-19-55_en.pdf).

<sup>3</sup> Amnesty International, *Defending human rights in the Americas: necessary, legitimate and dangerous* (Index: AMR 01/003/2014), December 2014, p. 17. Available at: <https://www.amnesty.org/es/documents/amr01/0003/2014/en/>.

<sup>4</sup> Global Witness, *On dangerous ground*, United Kingdom, 2016, p. 9. Available at: <https://www.globalwitness.org/en/reports/dangerous-ground/>



↑ Census sheet used by MILPAH in order to obtain the free, prior and informed consent of Indigenous people regarding hydroelectric projects and the land registry, La Paz, Honduras, 10 March 2016. @Amnesty International / Anaïs Taracena

are criminalized, stigmatized, declared the enemies of development and even accused of terrorism. Excessive force is used against them, for example during evictions by state security forces or to disperse public protests.<sup>5</sup>

**“When we do this work, we are not thinking about my rights, my water, my country – we are thinking about people all over the planet and all over the country.”**

**Martín Gómez, Deputy National Coordinator of the Independent Lenca Indigenous Movement of La Paz (Movimiento Indígena Lenca Independiente de La Paz, MILPAH)**

Human rights defenders who work to protect and promote the rights to territory, the environment and those linked to access to land, include but are not limited to:

- Indigenous and Afro-descendant people and communities seeking to have their territorial and other rights respected, protected and guaranteed. Territory includes both the ancestral lands where the communities have lived and the natural resources found there, which they refer to as natural assets. The culture, way of life and world view of these communities is intimately linked to the territory.

<sup>5</sup> Inter-American Commission on Human Rights Second report on the situation of the defenders of human rights in the Americas OEA/Ser.L/V/II, December 2011. Available at: <http://www.oas.org/en/iachr/defenders/docs/pdf/defenders2011.pdf>.

- Individuals and communities, usually campesinos (peasant farmers) some of them Indigenous and Afro-descendant, who are demanding that their human rights be respected in the context of individual and collective actions to gain access to land.
- People and communities demanding respect for and protection of the environment and/or restitution and compensation for environmental damage in the areas where they live.

## FACTORS CONTRIBUTING TO SOCIAL UNREST IN GUATEMALA AND HONDURAS

In Guatemala and Honduras, social conflicts have erupted in a number of locations linked to plans for the location, development, construction, exploitation of projects to explore or exploit natural resources, to their partial or permanent termination, as well as to their effects on the lives of people and communities living nearby. These conflicts are triggered by a number of factors, including:

- Violations of the right of Indigenous Peoples and Afro-descendants to free, prior and informed consent.
- Divisions within communities, and even within families, stemming from the promotion of projects for the exploration and exploitation of natural resources.
- The lack of impartial and reliable information passed between communities about projects and the failure of the authorities and companies to disseminate the information they hold.
- The deployment of the military for public security operations as well as the militarization of and/or increased military deployment in territories where projects are being, or are scheduled to be, implemented.
- Communities' perception that the authorities are biased and prioritize such projects over the common good.
- Fear about the harmful effects of projects which explore and exploit natural resources, as well as the lack of information and consultation on what the risks are and what can be done to mitigate them.

According to Global Witness, Honduras has the highest number of killings per capita of defenders of the land, territory and environment of any country in the world: 12 were killed in 2014.<sup>6</sup> Meanwhile in Guatemala, according to the Protection Unit for Human Rights Defenders in Guatemala (La Unidad de Protección a Defensoras y Defensores de Derechos Humanos, UDEFEGUA) between 2000 and August 2015 the defenders targeted for the largest number of attacks were those working on Indigenous rights and the environment.<sup>7</sup>

Some features of the defence of human rights in context of land, territorial and environmental rights are common to both Honduras and Guatemala. These include the use of the military to carry out public security operations and high levels of poverty, corruption and impunity.

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<sup>6</sup> Global Witness, *How many more? 2014's deadly environment: the killing and intimidation of environmental and land activists, with a spotlight on Honduras*, United Kingdom, 2015, p. 9. Available at: <https://www.globalwitness.org/en/campaigns/environmental-activists/how-many-more/>.

<sup>7</sup> UDEFEGUA. "El acompañante", August 2015. Available at: [http://udefegua.org/wp-content/uploads/2015/08/acompa%C3%B1ante\\_agosto.pdf](http://udefegua.org/wp-content/uploads/2015/08/acompa%C3%B1ante_agosto.pdf) (in Spanish only).



## MILITARIZED SOCIETIES

The military is used to carry out public security operations in both Guatemala<sup>8</sup> and Honduras.<sup>9</sup> The two countries have created special forces, units made up of officers with military training, to combat violence and organized crime and to ensure public security.

Military forces are designed and trained to defend countries from external attack and to defeat an enemy. This operational model is not appropriate for maintaining public security and the use of the armed forces in public order operations carries a number of significant risks, above all the use of excessive force. In this context, states have an obligation to take concrete actions to avoid human rights violations.<sup>10</sup>



↑  Military forces in the street in San Juan Cotzal, Nebaj, Guatemala, 6 April 2016.  
@Amnesty International / Anaïs Taracena

In Honduras, the Interagency Security Force (Fuerza de Seguridad Interinstitucional, FUSINA) carries out military and police operations. It was created in 2014 and incorporates the National Police, the Honduran Armed Forces, the Public Prosecutor's Office, the Supreme Court of Justice and the National Investigation and Intelligence Directorate (Dirección

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<sup>8</sup> Inter-American Commission on Human Rights Situation of Human Rights in Guatemala (OEA/Ser.L/V/II.) Doc. 43/15, 31 December 2015, para. 173-185. Available at: <http://www.oas.org/en/iachr/reports/pdfs/Guatemala2016-en.pdf>.

<sup>9</sup> Inter-American Commission on Human Rights Situation of Human Rights in Honduras, (OEA/Ser.L/V/II.) Doc. 42/15 31 December 2015, paras 216–218. Available at: <http://www.oas.org/en/iachr/reports/pdfs/Honduras-en-2015.pdf>.

<sup>10</sup> Inter-American Commission on Human Rights Situation of Human Rights in Guatemala (OEA/Ser.L/V/II.) Doc. 43/15, 31 December 2015, para. 179.; Inter-American Commission on Human Rights Situation of Human Rights in Honduras, (OEA/Ser.L/V/II.) Doc. 42/15 31 December 2015, para. 244.

Nacional de Investigación e Inteligencia, DNII).<sup>11</sup> In addition, in 2013, a special police unit was created, known as the “Tigers”, whose functions include maintaining public order, preventing and investigating crimes, apprehending suspects and carrying out action plans in strategic urban and rural areas.<sup>12</sup> Finally, the Public Order Military Police Force was set up to maintain security and its responsibilities include apprehending those with links to organized crime or who threaten public order in any way, gathering evidence and carrying out investigations and intelligence operations against organized crime.<sup>13</sup>

At the same time, the National Police is in the process of being reformed and strengthened. Various media outlets have reported allegations of police involvement in high-profile killings<sup>14</sup> and of military involvement in attacks on social movements and human rights defenders.<sup>15</sup>

In Guatemala, nine Special Reserve Public Security Squads (Escuadrones del Cuerpo Especial de Reserva para la Seguridad Ciudadana) were created in 2015 to support the National Police during public security operations. The Squads are composed of military personnel operating in the capital, in neighbouring municipalities and in the Departments of San Marcos, Quetzaltenango, Huehuetenango, Quiché, Zacapa, Chiquimula and Izabal.<sup>16</sup> Most of these areas have seen social conflict linked to exploration and exploitation of natural resources.

Army units have been deployed in Indigenous territories, despite the commitments made in the Agreement on the Strengthening of Civilian Power and the Role of the Army in a Democratic Society – which is part of the Agreement on a Firm and Lasting Peace – regarding the creation of a National Civil Police Force and the demilitarization of these territories.

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<sup>11</sup> Inter-American Commission on Human Rights Situation of Human Rights in Honduras, (OEA/Ser.L/V/II.) Doc. 42/15 31 December 2015, para. 221.

<sup>12</sup> Inter-American Commission on Human Rights Situation of Human Rights in Honduras, (OEA/Ser.L/V/II.) Doc. 42/15 31 December 2015, para. 225.

<sup>13</sup> Inter-American Commission on Human Rights Situation of Human Rights in Honduras, (OEA/Ser.L/V/II.) Doc. 42/15 31 December 2015, para. 226.

<sup>14</sup> *El Heraldo*. “Cúpula policial planificó y asesinó al zar antidrogas”, 5 April 2016. Available at: <http://www.elheraldo.hn/pais/946201-466/c%C3%BApula-policial-planific%C3%B3-y-asesin%C3%B3-al-zar-antidrogas>. (in Spanish only)

<sup>15</sup> *The Guardian*. “Berta Cáceres’s name was on Honduran military hitlist, says former soldier”, 21 June 2016. Available at: <https://www.theguardian.com/world/2016/jun/21/berta-caceres-name-honduran-military-hitlist-former-soldier>.

<sup>16</sup> Inter-American Commission on Human Rights Situation of Human Rights in Guatemala (OEA/Ser.L/V/II.) Doc. 43/15, 31 December 2015, para. 186.

## POVERTY, IMPUNITY AND CORRUPTION

Half of the population in Honduras and Guatemala live below the poverty line. In 2014, 62.8% of the population of Honduras lived below the national poverty line,<sup>17</sup> while the country's Gini index<sup>18</sup> for 2013 was 53.7%.<sup>19</sup> Guatemala's Gini index in 2014 was 52.4%<sup>20</sup> and 59.3% of the population lived below the national poverty line.<sup>21</sup> In 2015, a million people were undernourished in Honduras<sup>22</sup> and 2.5 million in Guatemala.<sup>23</sup>



↑  Imprisoned human rights defender from northern Huehuetenango, Guatemala City, Guatemala, 6 July 2016.  
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<sup>17</sup> World Bank, Poverty headcount ratio at national poverty lines (% of population) Available at: <http://data.worldbank.org/indicator/SI.POV.NAHC?locations=HN>.

<sup>18</sup> The Gini index measures inequality in the distribution of income in a country. An index coefficient of 0 is equivalent to complete equality and 100 represents complete inequality.

<sup>19</sup> World Bank Gini index. Available at: <http://data.worldbank.org/indicator/SI.POV.GINI?locations=GT>.

<sup>20</sup> World Bank Gini index. Available at: <http://data.worldbank.org/indicator/SI.POV.GINI?locations=GT>.

<sup>21</sup> World Bank, Poverty headcount ratio at national poverty lines (% of population), Guatemala. Available at: <http://data.worldbank.org/indicator/SI.POV.NAHC?locations=GT>.

<sup>22</sup> United Nations Millennium Development Goals Indicators Monitoring Compliance with Judgment, <http://mdgs.un.org/unsd/mdg/Search.aspx?q=Honduras>.

<sup>23</sup> United Nations Millennium Development Goals Indicators Guatemala. Available at: <http://mdgs.un.org/unsd/mdg/Search.aspx?q=Guatemala>.

In Guatemala, Indigenous Peoples are among the sections of society most affected by poverty,<sup>24</sup> while in Honduras it is the rural population as well as Indigenous and Afro-descendant communities that experience the highest levels of poverty.<sup>25</sup> As it is often Indigenous and Afro-descendant people and communities, as well as campesinos, who are involved in the defence of their territorial and environmental rights and rights linked to access to land, poverty has an impact on the exercise of the right to defend rights. Amnesty International's research confirmed that most defenders are agricultural workers, therefore have limited incomes, while many others do not have or cannot get a job that provides an income for themselves and for their families. Their precarious economic situation deteriorates further still when defenders have to take on the costs of peaceful protest, of challenging decisions that they believe violate their rights in the courts or of legal representation and travelling to appear in court.

Access to justice continues to be a right that is not fully guaranteed in either of the two countries. In 2013, 80% of murders in Honduras went unpunished. In addition, those responsible for abuses and violations of human rights during the 2009 coup had still not been identified, prosecuted or tried by 2015.<sup>26</sup> In relation to the right to access to justice, the Inter-American Commission on Human Rights (IACHR) has described the situation in Guatemala as one of "structural impunity".<sup>27</sup>

Widespread impunity can be seen in the lack of progress in investigations into cases of killings, assaults and threats against people defending territory. Amnesty International found that the majority of cases of assaults reported by defenders, including killings, which should be investigated by the authorities remain stalled in preliminary investigations and the few that do make progress involve lengthy procedures that are costly and emotionally draining for the victims.

Furthermore, according to Transparency International's 2015 report in which countries were ranked in terms of perception of levels of corruption, with 167 being the most corrupt, Guatemala was ranked at 123 and Honduras at 112.<sup>28</sup>

The levels of impunity and corruption in Guatemala led to the creation of the International Commission against Impunity in Guatemala (Comisión Internacional contra la Impunidad en Guatemala, CICIG), under an agreement between the UN and Guatemala signed in December 2006. The CICIG has contributed to addressing impunity and corruption in the country by investigating and prosecuting high-profile cases.

In Honduras, the creation of an International Commission against Impunity was one of the demands made by those who took part in several months of public protests in 2015 against ongoing corruption scandals in the country. The government agreed to the creation of the

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<sup>24</sup> Inter-American Commission on Human Rights Situation of Human Rights in Guatemala (OEA/Ser.L/V/II.) Doc. 43/15, 31 December 2015, paras 70, 77 and 78.

<sup>25</sup> Inter-American Commission on Human Rights Situation of Human Rights in Honduras, (OEA/Ser.L/V/II.) Doc. 42/15 31 December 2015, paras 392 and 417.

<sup>26</sup> Inter-American Commission on Human Rights Situation of Human Rights in Honduras, (OEA/Ser.L/V/II.) Doc. 42/15 31 December 2015, para. 263. Y 274.

<sup>27</sup> Inter-American Commission on Human Rights Situation of Human Rights in Guatemala (OEA/Ser.L/V/II.) Doc. 43/15, 31 December 2015, para. 393.

<sup>28</sup> Transparency International. "Corruption Perceptions Index 2015". Available at: <http://www.transparency.org/cpi2015/#results-table>.



Mission to Support the Fight against Corruption and Impunity in Honduras (Misión de Apoyo contra la Corrupción y la Impunidad en Honduras, MACCIH) within the Organization of American States (OAS). At the time of writing it had been operating in the country for three months.

## GUATEMALA: THE LEGACY OF ARMED CONFLICT

The armed conflict in Guatemala ended with the signing of the Agreement on a Firm and Lasting Peace in December 1996. However, the effects of the conflict are still felt by human rights defenders both in the way they are seen by different sectors of society and the authorities' response to the attacks against them.

There are also a number of demands by Indigenous Peoples that have not been addressed by the state authorities relating to the recognition of the ancestral lands which they were forced to flee during the conflict and the titles of which were subsequently found to be in the hands of third parties who did not belong to the communities. These areas were the scene of many human rights violations during the conflict, including the strategy known as the "scorched earth" policy.<sup>29</sup>

In relation to access to land, Amnesty International has received information that during the armed conflict, the state promoted the settlement of campesinos in some areas. These families were not given titles to the land on which they lived and worked for years. The same areas were subsequently designated natural reserves by the authorities and as a consequence these campesino families were viewed as squatters. Paradoxically, claims have been made that these reserves have since become the site of the exploitation of natural resources.

The conflicts that have flared in the context of Indigenous territories and campesino lands is also linked to corruption in land registration and the involvement of organized criminal elements in the appropriation of land.<sup>30</sup> The situation is made even more volatile because most conflicts over land are settled through criminal actions: by usurpation or aggravated usurpation.<sup>31</sup> This creates a climate that facilitates the criminalization of the activities of various groups seeking access to land or demanding their right to territory.

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<sup>29</sup> The expression "scorched earth" refers to punitive operations against the civilian population involving massacres, the destruction of villages and the displacement of communities suspected of belonging to or collaborating with the guerrillas. For more information see, the Commission for Historical Clarification, Guatemala, *Memory of Silence: Conclusions and Recommendations*, Guatemala, First Edition, June 1999, paras 585 and 787. Inter-American Court of Human Rights, *Case of the Río Negro Massacres vs Guatemala*, Judgement of 4 September 2012, (Preliminary objection, merits, reparations and costs), para. 57.

<sup>30</sup> *Prensa Libre*, "Corte de Constitucionalidad restituye tierra a comunidad", 18 July 2014. Available at: <http://www.prensalibre.com/departamental/Corte-Constitucionalidad-restituye-tierra-comunidad-0-1176482581>; and RD, "CICIG y MP desarticulan red criminal de despojo de bienes en Petén", 6 April 2016. Available at: <http://reportajede.news/?p=4783> (both in Spanish only).

<sup>31</sup> The Inter-American Commission on Human Rights recalled that in Guatemala charges of usurpation have been used excessively and the definition of these crimes is both vague and very broad. Its remarks took into consideration General Instruction No. 3-2012, issued by the Public Prosecutor's Office, which sets out the guidelines and protocols in relation to reports of crimes of usurpation. See, Inter-American Commission on Human Rights, *Criminalization of Human Rights Defenders*, OEA/SER.L/V/II.Doc.49/15, par. 267, 31 December 2015.



↑  Women Indigenous leaders participating in the march in support of the right to water, Guatemala City, Guatemala, 22 April 2016.  
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The Agreement on a Firm and Lasting Peace Agreement includes, among other commitments, the Agreement on the Rights of Indigenous Peoples and the Agreement on Social and Economic Aspects of the Agrarian Situation. These sought to address some of the causes of conflicts associated with land and territory as well as the discrimination and exclusion experienced by Indigenous Peoples. However these two agreements are the elements of the peace accords which the authorities have most signally failed to fulfil.<sup>32</sup>

The 1965 Public Order Act, which regulates the declaration of states of emergency, also harks back to the time of the armed conflict. On several occasions the authorities have declared states of emergency in the context of demonstrations against mining and hydroelectric projects.<sup>33</sup>

The doctrine of “the enemy within”, which stems from the armed conflict, continues to have a negative impact on the activities in defence of territory, land and the environment. The concept of the enemy within encompassed “armed insurgents... any dissenting opinion or movement that diverged from official discourse, including intellectuals, artists, students, teachers, union leaders”.<sup>34</sup> It was used to justify various grave human rights violations against the people listed.<sup>35</sup> Today, the doctrine of the enemy within can still be seen in the labelling of human rights defenders, particularly those working on rights relating to land, territory or the environment as “opponents of development”, “guerrillas”, “communists”, “anti-development”, “terrorists” or “eco-terrorists”.

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<sup>32</sup> Inter-American Commission on Human Rights, Situation of Human Rights in Guatemala (OEA/Ser.L/V/II.) Doc. 43/15, 31 December 2015, para. 71.

<sup>33</sup> See also: Amnesty International, Mining in Guatemala: Rights at risk, (Index: AMR 34/002/2014).

<sup>34</sup> Inter-American Commission on Human Rights, Situation of Human Rights in Guatemala (OEA/Ser.L/V/II.) Doc. 43/15, 31 December 2015, para. 44.

<sup>35</sup> Commission for Historical Clarification, Guatemala, Memory of Silence: Conclusions and Recommendations, Guatemala, First Edition, June 1999, para. 25, p. 27.

## HONDURAS: VIOLENCE AND INSTITUTIONAL CRISIS

Honduras is still experiencing the repercussions of the 2009 coup during which a whole range of abuses and violations of human rights were committed, for which most of the perpetrators continue to enjoy impunity.<sup>36</sup> This was the context in which the IACHR granted precautionary measures to protect the life and physical integrity of certain state authorities, human rights defenders,<sup>37</sup> journalists and trade unionists who were in danger because of their work.<sup>38</sup>

Many social leaders who are the beneficiaries of these precautionary measures continue to receive threats, including death threats, and continue to be attacked. One of them was **Berta Cáceres of the National Council of Popular and Indigenous Organizations of Honduras (Consejo Cívico de Organizaciones Populares e Indígenas de Honduras, COPINH)**, who was killed on 2 March 2016. Many of these precautionary measures remain in place seven years after the coup or else have given rise to broader measures for social movements and organizations severely affected by violence, such as the campesino communities of Bajo Aguán, Department of Colón.<sup>39</sup>

At the time of the coup and in subsequent years an important part of the regulatory framework in relation to the exploitation of natural resources was established. The General Law on Water was adopted in 2009, the Law for the Protection of New Plant Varieties and the Mining Law were issued in 2012 and the Law on Special Development Zones (known as the ZEDS Act) was approved in 2013. These laws have an impact on how exploration permits and licences for the exploitation of natural resources are granted and, therefore, their development and implementation have an impact on the protection of rights to territory and the environment.

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<sup>36</sup> Inter-American Commission on Human Rights, Situation of Human Rights in Honduras, (OEA/Ser.L/V/II.) Doc. 42/15 31 December 2015, para. 17.

<sup>37</sup> Among the human rights defenders granted the precautionary measures were: Rafael Alegría, national leader of Vía Campesina; Salvador Zuniga, then a member of COPINH; several social leaders of Guapinol de Tocoa - Colón; Andrés Tamayo, President of the Olancho Environmental Movement; members of the Coordinating Committee of Popular Organizations of the Aguan (Coordinadora de Organizaciones Populares del Aguan, COPA); Hedme Castro, the then Director of the Alba Nora Gúnera school and currently a member of the organization ACI PARTICIPA; Antonia Damary Coello Mendoza and 17 members of the Committee of Relatives of the Disappeared in Honduras (Comité de Familiares de Detenidos Desaparecidos en Honduras, COFADEH).

<sup>38</sup> Inter-American Commission on Human Rights, Honduran Minister of Foreign Affairs, Patricia Rodas, and request for information on other individuals and Amplification of Precautionary Measures PM 196/09.

<sup>39</sup> Inter-American Commission on Human Rights, PM 240/11 - Eight members of the El Aguán Authentic Movement for Campesino Claims (Movimiento Auténtico Reivindicador de Campesinos Aguan, MARCA), Honduras; PM 50/14 – Campesino leaders from Bajo Aguán, Honduras.



↑ ⓘ Pascuala Vásquez, member of the Elders Council of COPINH, Utopía Community Centre, Intibucá, Honduras, 14 March 2016.  
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Although Honduras has succeeded in reducing the murder rate from 90.4 per 100,000 people in 2012<sup>40</sup> to 58.5 per 100,000 in 2015,<sup>41</sup> the level of violence in the country remains alarmingly high. The high level of violence in the country is combined with the lack of legitimacy of Honduran institutions, stemming from allegations of collusion with organized crime;<sup>42</sup> corruption; and the failure to respond effectively to the complaints and needs of the population.<sup>43</sup>

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<sup>40</sup> United Nations Office on Drugs and Crime (UNODC), Global Study on Homicide, Vienna, 2013, p. 24. The information on Honduras relates to 2012.

<sup>41</sup> *La Prensa*, “Unos 10 puntos baja tasa de homicidios, según la Policía”, 23 December 2015. Available at: <http://www.laprensa.hn/honduras/913995-410/unos-10-puntos-baja-tasa-de-homicidios-seg%C3%BAAn-la-polic%C3%Ada> (in Spanish only).

<sup>42</sup> *The New York Times ES*, “Un informe revela nombres y hechos relacionados con asesinatos cometidos por la policía en Honduras”, 15 April 2016: <http://www.nytimes.com/es/2016/04/15/un-informe-revela-nombres-y-hechos-relacionados-con-asesinatos-cometidos-por-la-policia-en-honduras/>; *La Prensa*. “Publican que Policía asesinó a jefe antidrogas en Honduras”, 4 April 2016: <http://www.laprensa.com.ni/2016/04/04/internacionales/2013057-publican-que-policia-asesino-a-jefe-antidrogas-en-honduras> (in Spanish only).

<sup>43</sup> Inter-American Commission on Human Rights, Situation of Human Rights in Honduras, (OEA/Ser.L/V/II.) Doc. 42/15, 31 December 2015, para. 216. Available at: <http://www.oas.org/en/iachr/reports/pdfs/Honduras-en-2015.pdf>.



## 2. HONDURAS: TAKING THEM OUT OF CIRCULATION

Vulnerability, violence and impunity. These are the words that best describe the situation of defenders of the rights to territory and the environment or those related to access to land in Honduras.

### The Garifuna community of Barra Vieja in the municipality of Tela.

They are working to ensure respect for their ancestral territory in the context of the construction of a tourist complex.

### The Garifuna community of Triunfo de la Cruz in the municipality of Tela.

They are demanding that their ancestral territory be respected in the context of local tourist complexes.

### Pico Bonito National Park Foundation

(Fundación Parque Nacional Pico Bonito, FUPNAPIB) which manages the Pico Bonito National Park.

FUPNAPIB is seeking environmental protection for the nature park in the context of the construction of a hydroelectric project on the Cuyamel River.

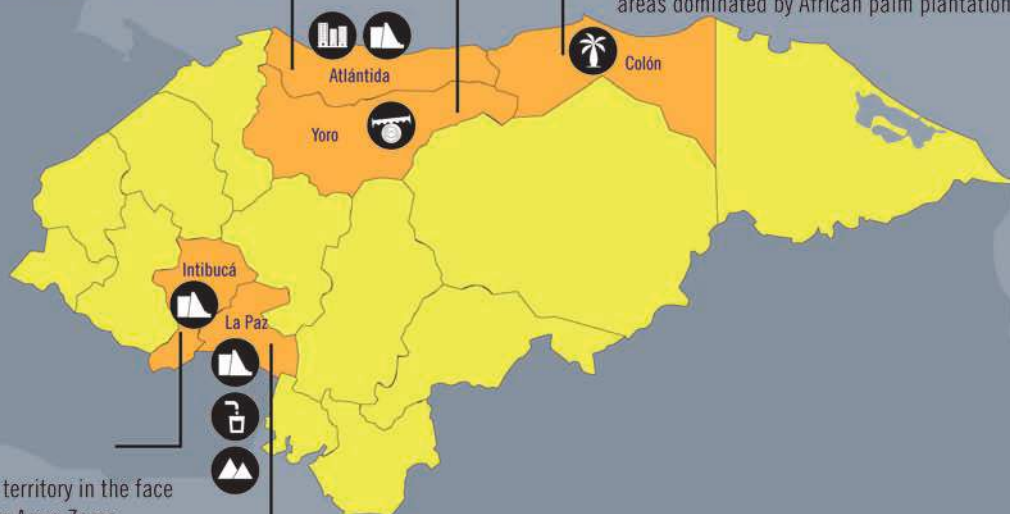
### COMMUNITIES INTERVIEWED IN HONDURAS

### Indigenous Tolupán community in the municipality of San Francisco de Locomapa.

They are seeking to protect their territory from exploitation for timber and mining.

### Campesino communities in Bajo Aguán.

The communities are demanding that their rights be respected regarding access to the land in areas dominated by African palm plantations.



### Lenca Indigenous communities.

They are working to ensure respect of their territory in the face of projects including the construction of the Agua Zarca hydroelectric installation.

### Lenca Indigenous communities in the municipality of Santa Elena.

They are demanding their right to territory in the context of the Los Encinos hydroelectric installation.

### Lenca Indigenous communities in the municipality of San José.

They are demanding that their right to territory be respected in the context of the La Aurora hydroelectric installation.

### Lenca Indigenous communities in the municipality of Santa María.

They are campaigning for their right to territory, which they feel is threatened by a land registry review, to be respected.

### Lenca Indigenous communities in the municipality of Aguanqueterique.

They are calling for their rights to territory and to water to be respected.



LOGGING



HYDROELECTRIC PROJECT



ACCESS TO LAND



PALM PLANTATION



CONSTRUCTION



ACCESS TO WATER



↑  Hat paying tribute to Berta Cáceres, La Esperanza, Intibucá, Honduras, 14 March 2016. @Amnesty International / Anaís Taracena

In 2009, the year of the coup, the Inter-American Court of Human Rights condemned Honduras for the killing of Blanca Jeannette Kawas Fernández, an environmental rights defender, in 1995. As part of the reparation measures, the IACHR ordered that a monument be erected in her memory and that a park be named the Jeanette Kawas National Park. In addition, it declared that “the State shall have a period of two years to carry out a national awareness and sensitivity campaign regarding the importance of the work performed by environmentalists in Honduras and their contribution to the defense of human rights, in accordance with paragraph 214 of this Judgment.”<sup>44</sup> To date, the state has not implemented such a campaign.<sup>45</sup> All defenders who were asked about this campaign agreed that it had not been carried out. This conclusion was also supported by the office of the National Commission for Human Rights (Comisionado Nacional de Derechos Humanos, CONADEH).<sup>46</sup>

Seven years later, on 2 March 2016, **Berta Isabel Cáceres Flores**, a Lenca Indigenous defender and winner of the 2015 Goldman Environmental Prize, was killed. Investigations into the killing are ongoing, but they were initiated without taking into account the possibility that the killing could have been linked to her human rights work; she was the **General Coordinator of the Council of Popular and Indigenous Organizations of Honduras (Coordinadora General del Consejo Cívico de Organizaciones Populares e Indígenas de Honduras, COPINH)**. The lack of investigation into the possibility that she may have been attacked for her work compromised the right to an effective and thorough investigation.

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<sup>44</sup> Inter-American Court of Human Rights Case of *Kawas Fernández vs Honduras*, Judgment of 3 April 2009 (Merits, Reparations and Costs) Order no.14. Available at: [http://www.corteidh.or.cr/docs/casos/articulos/seriec\\_196\\_ing.pdf](http://www.corteidh.or.cr/docs/casos/articulos/seriec_196_ing.pdf).

<sup>45</sup> Inter-American Court of Human Rights Case of *Kawas Fernández vs Honduras*, Monitoring Compliance with Judgment, Order of the Inter-American Court of Human Rights of 27 February 2012. Available at: <http://www.corteidh.or.cr/index.php/en/compliance-with-judgment>.

<sup>46</sup> Meeting with the National Commissioner for Human Rights, 7 March 2016.

Initially there was speculation that the killing might have occurred during a robbery,<sup>47</sup> and a few hours after the crime, a former partner of the defender who was also a member of COPINH was detained, suggesting that the Public Prosecutor's Office was pursuing the hypothesis that the killing was the result of a 'crime of passion'. In the following days, Berta Cáceres' colleagues in COPINH were repeatedly questioned.<sup>48</sup> On 7 March, a few days after the killing, the Attorney General's Office told Amnesty International that all lines of investigation were being considered, including looking into her personal life and background.<sup>49</sup> At the end of March, the Public Prosecutor's Office issued a statement indicating that the possibility that the killing was connected with her work as a human rights defender was also being considered as part of the investigation.<sup>50</sup>

At the time of writing five people were being held on suspicion of involvement in the killing of the human rights defender. However, Berta Cáceres' family has repeatedly highlighted the difficulties they have faced in getting access to files and in participating appropriately in the investigation proceedings. In addition, her relatives and COPINH have requested that a committee of independent experts be created, under the auspices of the IACHR, and included appropriately in the investigation.



↑ ⓘ Azunción Martínez, COPINH's Administrative Minutes Coordinator in the Utopía Community Centre, La Esperanza, Intibucá, Honduras, 12 March 2016. ©Amnesty International / Anaïs Taracena

<sup>47</sup> *La Prensa*, "'La mataron por su lucha': madre de Berta Cáceres". Available, 3 March 2016 at: <http://www.laprensa.hn/sucesos/935886-410/la-mataron-por-su-lucha-madre-de-berta-c%C3%A1ceres> (in Spanish only).

<sup>48</sup> Amnesty International, *Honduras: Defender killed, others harassed*. Available at: <https://www.amnesty.org/es/documents/amr37/3615/2016/en/>.

<sup>49</sup> Meeting with the Attorney General, 7 March 2016.

<sup>50</sup> The original communication is no longer available at [https://www.mp.hn/index.php?option=com\\_content&view=article&id=2157:2016-03-31-22-33-40&catid=1:latest-news](https://www.mp.hn/index.php?option=com_content&view=article&id=2157:2016-03-31-22-33-40&catid=1:latest-news). However, the same information is available at: <http://www.pasosdeanimalgrande.com/index.php/es/denuncias/item/1299-ministerio-publico-secuestro-armas-y-documentos-de-empresa-des-a-casi-dos-semanas-despues-del-crimen-de-bertha-caceres/1299-ministerio-publico-secuestro-armas-y-documentos-de-empresa-des-a-casi-dos-semanas-despues-del-crimen-de-bertha-caceres> (in Spanish only).



**NATIONAL COUNCIL OF POPULAR AND INDIGENOUS ORGANIZATIONS OF HONDURAS  
(EL CONSEJO CÍVICO DE ORGANIZACIONES POPULARES E INDÍGENAS DE HONDURAS, COPINH)**



**Main rights defended:**

Indigenous Peoples' rights; rights to territory; to free, prior and informed consent; to water; and to a healthy environment.



*COPINH's offices in La Esperanza, Intibucá, Honduras, 14 March 2016.  
@Amnesty International/ Anaís Taracena*

COPINH was founded in 1993 in the Department of Intibucá. It defends human rights in the context of projects to explore for and exploit natural resources. One of the projects where it is seeking to ensure rights is the Agua Zarca hydroelectric project on the Gualcarque River, implemented by the company Desarrollos Energéticos S.A. (DESA). COPINH is currently working in the Departments of Intibucá, La Paz, Cortés, Comayagua and Lempira.<sup>51</sup>

Between April and November 2013, and in October, 2015, members of COPINH staged protests on the highway that leads to the Gualcarque River at a place known as El Roble. On 15 July 2013, Tomás García Domínguez, a member of the COPINH, was killed and his son, Allan, was injured.<sup>52</sup> In December 2015, an army officer was found guilty of the murder of Tomás García and acquitted of the charge of attempted murder of his son.<sup>53</sup>

Berta Cáceres, COPINH's General Coordinator, had been a beneficiary of precautionary measures ordered by the IACHR since 29 June 2009.<sup>54</sup> On 2 March 2016, in the early hours of the morning, she was killed in her home in the town of La Esperanza, Department of Intibucá. Previously, during 2014 and 2015, Berta

<sup>51</sup> Inter-American Commission of Human Rights. PM 112-16 - Members of COPINH, Berta Cáceres' relatives and other, Honduras, 5 March 2016.

<sup>52</sup> Inter-American Commission of Human Rights. PM 112-16 - Members of COPINH, Berta Cáceres' relatives and other, Honduras, 5 March 2016.

<sup>53</sup> *Telesur*, "Tribunal hondureño condenó a militar por asesinar a un indígena", 11 December 2015. Available at: <http://www.telesurtv.net/news/Tribunal-hondureno-condeno-a-militar-por-asesinar-a-un-indigena-20151211-0027.html>; *La Prensa*. "Condenan a militar por homicidio de un líder indígena Lenca", 11 December 2015. Available at: <http://www.laprensa.hn/sucesos/910188-410/condenan-a-militar-por-homicidio-de-un-l%C3%ADder-ind%C3%A9gena-lenca> (both in Spanish only).

<sup>54</sup> Inter-American Commission on Human Rights PM 196-09 - Amplification of Precautionary Measures, Honduras.

Cáceres had received calls threatening her with disappearance or abduction, text messages which told her that she would be abducted and threats against her daughters and son. On 6 November 2015, as Berta was driving the COPINH vehicle on the way to the community of La Tejera, she was shot at three times at the turn-off to El Roble; none of the bullets hit the vehicle.<sup>55</sup>

On 7 November 2015, Tomás Gomez Membreño, another member of COPINH, was travelling with an international convoy when he was stopped by a group of around 20 private individuals for 20 minutes on the road leading to the community of Río Blanco. On 30 November 2015, several members of COPINH were travelling in buses towards the municipality of San Francisco de Ojuera in the Department of Santa Barbara to take part in a peaceful protest. When they arrived at their destination, several people armed with machetes were waiting for them and started throwing stones.<sup>56</sup>

On 16 February 2016, Berta Cáceres and other members of the COPINH were followed by armed men as they were returning from a visit to Río Blanco. On February 20, as they were taking part in a peaceful march to the DESA headquarters, private individuals stopped the buses in which they were travelling.<sup>57</sup>

Attacks against the organization and its members have continued after the killing of Berta Cáceres. On 9 March 2016, two vehicles without licence plates and carrying four armed men in civilian clothing arrived at the offices of San Francisco de Lempira Community Radio. A member of staff at the radio station took photos. However, one of the armed men grabbed his phone and deleted the photos. On a previous occasion, two vehicles, also carrying unidentified armed men in civilian clothing, appeared outside the family home of Aureliano Molina, a COPINH member. Between 3 and 12 March, after the killing of Berta Cáceres, her family and various members of COPINH were harassed and intimidated. Two community centres – the Centro Utopía and the Casa de Sanación – were under surveillance by people in civilian clothing, even in the early hours of the morning.<sup>58</sup>

On 15 March, Nelson García, a member of the COPINH, was killed as he was going into his house for lunch in the Department of Intibucá. He had been organizing the community against an eviction scheduled for that day.<sup>59</sup> On 15 April, as they were heading to the Gualcarque River in the context of a mobilization around the International Meeting of Indigenous Peoples, armed men attacked members of the COPINH and other national and international organizations. The police, who witnessed the scene, did nothing to prevent the attacks. Eventually, after the international participants persuaded them to take action, the police escorted members of COPINH and the other organizations out of the area.<sup>60</sup>

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<sup>55</sup> *Systematic threats against Berta Cáceres between 2013 and 2016*, document provided by the Honduran Human Rights Defenders Network (Red de Defensoras de Derechos Humanos de Honduras).

<sup>56</sup> Inter-American Commission of Human Rights. PM 112-16 - Members of COPINH, Berta Cáceres' relatives and other, Honduras, 5 March 2016.

<sup>57</sup> *Systematic threats against Berta Cáceres between 2013 and 2016*, document provided by the Honduran Human Rights Defenders Network (Red de Defensoras de Derechos Humanos de Honduras).

<sup>58</sup> Amnesty International, *Honduras: Defender killed, others harassed*. Available at: <https://www.amnesty.org/es/documents/amr37/3615/2016/en/>.

<sup>59</sup> Amnesty International, *Honduras: Defender killed, others harassed*. Available at: <https://www.amnesty.org/es/documents/amr37/3615/2016/en/>.

<sup>60</sup> Amnesty International, *Honduras: Further information: New attacks against human rights defenders*. Available at: <https://www.amnesty.org/es/documents/amr37/3776/2016/en/>.



## AT THE MERCY OF VIOLENCE...

Amnesty International's research confirmed that the vast majority of those responsible for attacks against human rights defenders working on issues related to land, territory and the environment in Honduras are not brought to justice. Impunity has helped perpetuate violence against defenders: the failure to identify, bring to trial and punish those responsible sends a message that there are no consequences for those who attack defenders.

Women defenders working on territorial and environmental rights and on access to land continue to experience particular forms of attack and types of consequences for their human rights work. Their workload is doubled when their husbands are detained. The burden of seeking justice for their partners as well as defending their territory is added to the responsibility for looking after their children which they traditionally assume. Several women defenders have reported being attacked while pregnant. They required additional medical care as a result of these attacks, for which they were specifically targeted, which had repercussions on the pregnancy. They face psychological consequences and several women said that they had miscarried as a result.

Children have also experienced particular consequences as a result of the violence. Several defenders have reported that their children have been the targets of death threats and have been followed by unidentified individuals on their way to school. One of the consequences of the social stigma against defenders and the legal proceedings against them is that their children have been bullied at school. Several children of defenders have had to leave Honduras because of threats and attacks.

### INDEPENDENT LENCA INDIGENOUS MOVEMENT OF LA PAZ (MOVIMIENTO INDÍGENA LENCA INDEPENDIENTE DE LA PAZ, MILPAH)



↑ Felipe Benítez, Coordinator of MILPAH, and other members of the movement gathered in Santa Elena, La Paz, Honduras, 10 March 2016.  
@Amnesty International / Anaïs Taracena

***"We can still raise our voices. We have no weapons, we have no money, we have no power, but we do have a voice and we are using it. And that has enabled us to make real progress."***

Martin Gomez, MILPAH Deputy General Coordinator

The MILPAH movement was created in 2009. It is organized into a National Coordinating Committee, an Indigenous Council of Elders and teams working in different areas. MILPAH is currently active in 12 municipalities in the Departments of La Paz and Comayagua.

In 2012, in the town of Santa Elena, Department of La Paz, members of MILPAH staged a two-month sit-down protest on the road from Santa Elena to the site of the planned hydroelectric installation of Los Encinos. With the support of the Honduran Centre for the Promotion of Community Development (Centro Hondureño de Promoción para el Desarrollo Comunitario, CEHPRODEC), they have challenged the status of the consultation that was alleged to have happened in a meeting on 6 September 2015 in a local church. On 10 July 2016, the Indigenous community in the municipality were consulted about whether they agreed with the construction of the Los Encinos hydroelectric plant or not. The majority voted "no" to the hydroelectric plant.<sup>61</sup>

On 22 October 2015, in the early hours of the morning, the military, police and armed civilians came to the house of Rosalio Vásquez, President of the Indigenous Council of San Isidro Labrador and a member of MILPAH. They were looking for him in connection with a complaint against him for land usurpation. When they did not find the defender at home, they beat his wife, Ana Mirian, who was 24 weeks pregnant, and their children.<sup>62</sup> That same day another member of MILPAH, Felicita Maria López, who was also pregnant, was attacked. Her home was raided in the search for her husband, a member of MILPAH.<sup>63</sup> Both women defenders required medical treatment following the raids.

Their children stopped attending school in December 2015 because of threats against them. In 2016 they returned to school, but they are always accompanied on the way to school.<sup>64</sup>

Ana Mirian Romero has continued to receive threats. In January 2016, her house was set alight. Before that, in September 2014, belongings and homes in the community of Santiago Apóstol, whose members are also part of MILPAH, were the target of an arson attack.<sup>65</sup>

Several members of MILPAH have lodged complaints with the Attorney General that they were detained, handcuffed and beaten by police. Several of the defenders interviewed by Amnesty International reported that they had to sign in at the courthouse every eight or 15 days as an alternative to detention. Complying with this condition in the court in Santa Elena means they have to walk up to three hours there and three hours back.<sup>66</sup>

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<sup>61</sup> Information provided by MILPAH and corroborated by the Honduran Centre for the Promotion of Community Development (Centro Hondureño de Promoción para el Desarrollo Comunitario, CEHPRODEC).

<sup>62</sup> Inter-American Commission on Human Rights Resolution 46/2015, Precautionary Measures No. 589/15 - Ana Mirian Romero and Others, Honduras, 24 November 2015. Available at: <http://www.oas.org/es/cidh/decisiones/pdf/2015/MC589-15-Es.pdf> (in Spanish only - summary of the case in English under 2015 tab at <http://www.oas.org/en/iachr/decisions/precautionary.asp>)

<sup>63</sup> MILPAH register of security incidents.

<sup>64</sup> Interviews with human rights defenders from Santa Elena, Department of La Paz, 10 March 2016.

<sup>65</sup> Inter-American Commission on Human Rights Resolution 46/2015, Precautionary Measures No. 589/15 - Ana Mirian Romero and Others, Honduras, 24 November 2015.

<sup>66</sup> MILPAH register of security incidents.

MILPAH has also been active in demonstrations against the existing La Aurora hydroelectric plant in the municipality of San José, Department of La Paz, which is already in operation.<sup>67</sup>

MILPAH members filed two complaints before the Anti-Corruption Prosecutor in relation to possible irregularities in the contract awarding process for the development of the two aforementioned hydroelectric projects.<sup>68</sup>

***"They want to divide up collective ownership. They tell people that communal ownership only holds them back because it isn't proof of home ownership and so they can't get a loan."***

Donald Hernández, CEHPRODEC

MILPAH members are also demanding that rights be respected in the context of another project, the land registry review. According to several MILPAH members, in many of their dealings with the authorities, before officials will deal with the specific issue, they are asked whether they have allowed their land to be measured. In the community consultation held MILPAH on 10 July 2016, the majority voted "no" to the land registry review project.<sup>69</sup>

In Honduras, many defenders working on rights related to the land, territory and the environment have been granted precautionary measures by the Inter-American Commission on Human Rights. All these measures call on Honduras to take appropriate steps to protect the life and physical integrity of defenders and to investigate thoroughly the attacks and security incidents which led to the decision to grant precautionary measures. However, the state has failed to fulfil its obligation to implement effective protection measures.

Several organizations and social movements interviewed by Amnesty International said that in some cases they choose not to report incidents because they know that investigations will stall and will not lead to those responsible being punished. Some organizations reported that the Public Prosecutor's Office would not accept their complaints. However, they continue to report the most serious incidents. Some other movements report all security incidents, not because they have confidence in the justice system, but because they consider it good practice to register with the authorities that these attacks are taking place.

It is important to stress that at the last meeting with state authorities in connection with the precautionary measures granted to Berta Cáceres on 21 October 2015, the IACHR drew the attention of the delegation to the risks faced by Berta Cáceres and shortcomings in the implementation of protection measures in her favour. The IACHR also asked why there had been no progress in carrying out an effective investigation aimed at removing the risk factors that perpetuated the continuing violence and harassment against her.<sup>70</sup>

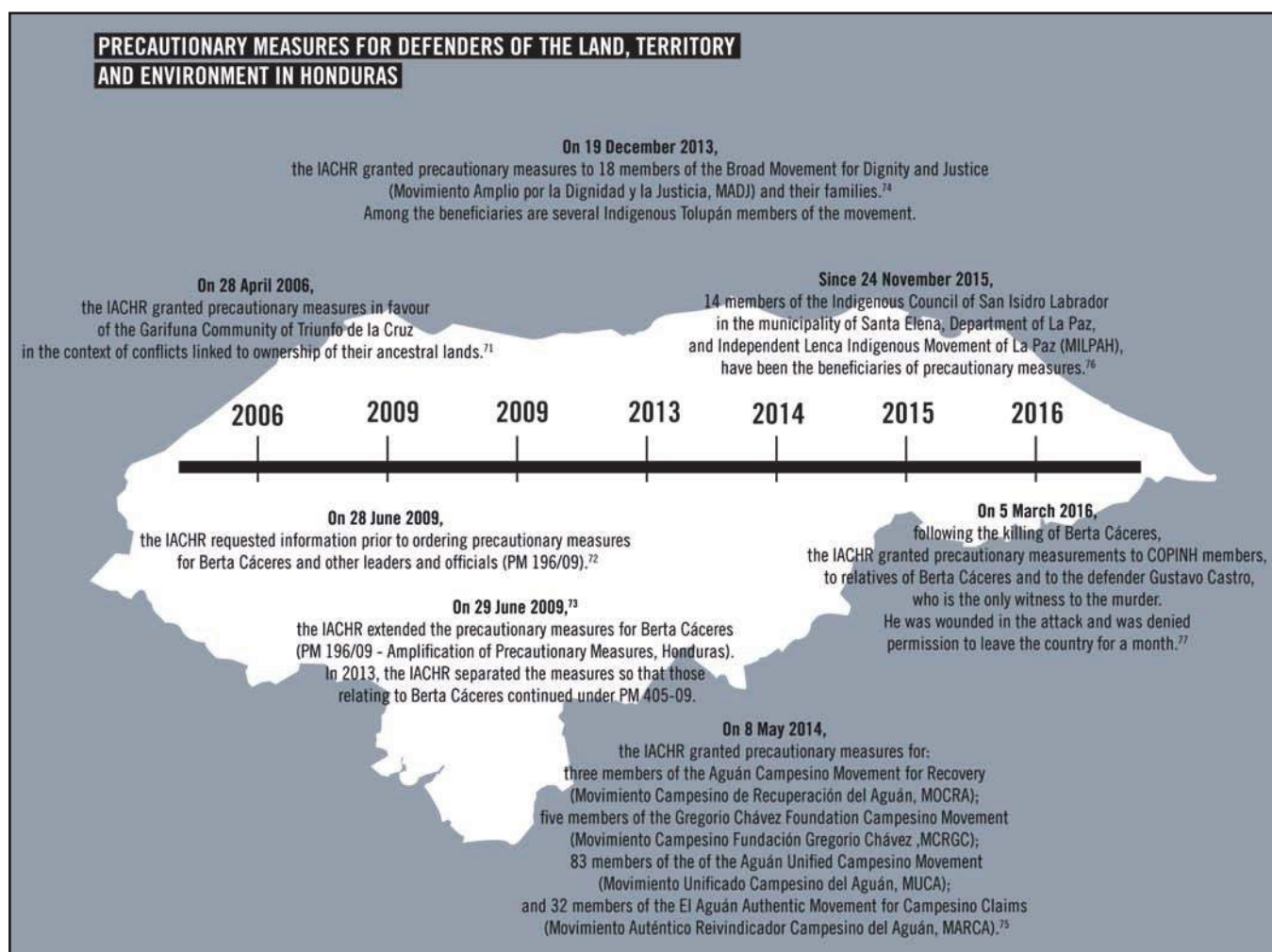
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<sup>67</sup> Interviews with human rights defenders from San José, Department of La Paz, 11 March 2016.

<sup>68</sup> Complaints to the Attorney General for Anti-corruption filed on 28 February 2014. Minutes of the meeting of the Mayor's Office, Municipality of Santa Elena, 18 October 2013; and Municipal Corporation of San José, Constancia, 26 September 2010.

<sup>69</sup> Information provided by human rights defenders in interviews held in Santa Elena on 10 March 2016, in San José and Santa María on 11 March 2016 and in Aguanqueterique on 12 March 2016.

<sup>70</sup> Inter-American Commission on Human Rights Precautionary measures. 112-16, Members of COPINH, Berta Cáceres' relatives and other, Honduras, 5 March 2016.



<sup>71</sup> Inter-American Commission on Human Rights "Comunidad Garifuna Triunfo de la Cruz", 28 April 2006. Available at: <http://www.cidh.org/medidas/2006.eng.htm>.

<sup>72</sup> Inter-American Commission on Human Rights FOR PM 196-09, Honduran Minister of Foreign Affairs, Patricia Rodas, and request for information on other individuals.

<sup>73</sup> Inter-American Commission on Human Rights PM 196-09, Amplification of Precautionary Measures, Honduras.

<sup>74</sup> Inter-American Commission on Human Rights, Resolution 12/2013, Precautionary Measure No. 416-13, 18 members of Movimiento Amplio por la Dignidad y la Justicia and their families, Honduras. Available at: [http://www.oas.org/en/iachr/decisions/pdf/Resolution12-13\(MC-416-13\).pdf](http://www.oas.org/en/iachr/decisions/pdf/Resolution12-13(MC-416-13).pdf).

<sup>75</sup> Inter-American Commission on Human Rights, Resolution 11/2014, P.M. 50/14 - Campesino Leaders of Bajo Aguán, Honduras, 8 May 2014. Available at: <https://www.oas.org/es/cidh/decisiones/pdf/2014/MC50-14-ES.pdf> (in Spanish only).

<sup>76</sup> Inter-American Commission on Human Rights Resolution, 46/2015. Precautionary Measures No. 589/15, - Ana Mirian Romero and Others, Honduras, 24 November 2015. Available at: <http://www.oas.org/es/cidh/decisiones/pdf/2015/MC589-15-Es.pdf> (in Spanish only).

<sup>77</sup> Inter-American Commission on Human Rights, Precautionary Measures No. 112-16, Members of COPINH, Berta Cáceres' relatives and others, Honduras, 5 March 2016, para. 9.

#### INDIGENOUS TOLUPÁN COMMUNITY OF SAN FRANCISCO LOCOMAPA



↑  Tolupán Indigenous Peoples from San Francisco de Locomapa, El Progreso, Yoro, Honduras, 15 March 2016.  
@Amnesty International / Anaïs Taracena

The Tolupán Indigenous Peoples have ancestral titles to land dating from 1864.<sup>78</sup> In order to claim their right to free, prior and informed consent regarding exploration and exploitation of natural resources, the Indigenous Tolupán community of San Francisco de Locomapa created a Preventive Council in 1990.

On 16 March 2010, the Public Prosecutor's Office filed an indictment against eight Tolupáns on charges of Obstructing the Implementation of Management or Operational Plans Approved by the National Institute of Forest Conservation and Development, Protected Areas and Wildlife, to the detriment of the owner of the logging company VELOMATO. Non-custodial measures were imposed that consisted of requiring them to sign in before a court every 15 days. Five years later, on 2 March 2015, the Court of Appeals of San Pedro Sula dismissed the case.<sup>79</sup>

Three Tolupáns - María Enriqueta Matute, Ricardo Soto Fúnez and Armando Fúnez Medina - were killed on 25 August 2013. On 19 December of the same year, the IACHR granted precautionary measures to several members of the Broad Movement for Dignity and Justice (MADJ), including Tolupáns, to protect their life and physical integrity.<sup>80</sup>

<sup>78</sup> National Agrarian Institute (Instituto Nacional Agrario, INA) response to Amnesty International, 14 April 2015.

<sup>79</sup> San Pedro Sula Criminal Court of Appeal, decree of 2 March 2015, file 83-14 Cr NCCP - RMH2.

<sup>80</sup> Inter-American Commission on Human Rights, Resolution 12/2013, Precautionary Measure No. 416-13, 18 members of Movimiento Amplio por la Dignidad y la Justicia and their families. Honduras. Available at: [http://www.oas.org/en/iachr/decisions/pdf/Resolution12-13\(MC-416-13\).pdf](http://www.oas.org/en/iachr/decisions/pdf/Resolution12-13(MC-416-13).pdf).



Luis de Reyes Marcía, the husband of one of the beneficiaries of the precautionary measures, was killed on 4 April 2015. His family had returned to the area in February 2014 after having left for several months following death threats. On 21 February 2016, the Tolupán defender Santos Matute, who was the beneficiary of precautionary measures, was killed.<sup>81</sup>

In the face of this level of violence and in order to push the state to implement the precautionary measures, several Indigenous people went on hunger strike at the end of June and during July 2015.

#### THE CAMPESINO COMMUNITIES OF BAJO AGUÁN



**Main rights defended:**  
the rights to life, to physical integrity;  
to food and to adequate housing. In  
some instances, the right to property.

↑  Campesino group from the El Aguán Authentic Movement for Campesino Claims (MARCA), Trujillo, Colón, 2011.  
©Radio Progreso

Attacks and threats against and campesinos of Bajo Aguán, the Department of Colón, intensified in 2009. The campesinos are working on issues of access to land in an area that is increasingly militarized and surrounded by miles of African palm plantations. Campesino communities have reported that there is a clandestine cemetery in the community of Panamá where they believe members of the movement have been buried.<sup>82</sup> They have also been the victims of evictions in which excessive force was used.<sup>83</sup> There are numerous investigations and legal proceedings against campesinos accused of land usurpation. Antonio Trejo Cabrera, a lawyer working with one of the campesino movements in the area, was shot dead in September 2012.<sup>84</sup>

<sup>81</sup> Inter-American Commission on Human Rights, "IACHR Condemns Killing of Members of the Tolupán Indigenous Peoples in Honduras", 7 March 2016. Available at: [http://www.oas.org/en/iachr/media\\_center/PReleases/2016/028.asp](http://www.oas.org/en/iachr/media_center/PReleases/2016/028.asp).

<sup>82</sup> Inter-American Commission on Human Rights, *Situation of Human Rights in Honduras*, (OEA/Ser.L/V/II.) Doc. 42/15 31 December 2015, paras 160-163.

<sup>83</sup> Inter-American Commission on Human Rights, *Situation of Human Rights in Honduras*, (OEA/Ser.L/V/II.) Doc. 42/15 31 December 2015, paras 1641-65.

<sup>84</sup> *El Heraldo*, "Policía, hermética en el caso del abogado Trejo", 7 April 2014. Available at: <http://www.elheraldo.hn/sucesos/620409-219/policia-hermetica-en-caso-del-abogado-trejo>; WOLA, "Asesinato de Antonio Trejo Cabrera, abogado que defendía los derechos agrarios en el Bajo Aguán", 25 September 2012. Available at: <https://www.wola.org/es/2012/09/asesinato-de-antonio-trejo-cabrera-abogado-que-defendia-los-derechos-agrarios-en-el-bajo-aguan/> (both in Spanish only).

Between 2010 and 2016, around 700 campesinos from the region were the subjects of legal proceedings. In the past year they have been the victims of six attacks, three kidnappings, 16 cases of permanent surveillance, five cases of infiltration of the movement and eight cases of harassment.<sup>85</sup>

Amnesty International is concerned that the Honduran authorities have approached the implementation of precautionary measures largely from a policing perspective. The main protective measures that have been offered to beneficiaries of precautionary measures are providing the phone number of a police commissioner and conducting police patrols at regular intervals. Other more structural measures that would help to create an environment favourable to the defence of human rights- for example impartial, thorough and prompt investigations into attacks on defenders or the implementation of campaigns aimed at acknowledging the legitimacy of their work- are not considered. At the same time, measures have been offered which Amnesty International believes are not appropriate for protecting defenders and preventing attacks on them. For example, the authorities have suggested providing defenders with identification documents to distinguish them as beneficiaries of precautionary measures.

**“Are the very police who beat us, shot at our children, destroyed our homes and robbed us going to be the ones to protect us?”**

Jose Luis Espinoza Meza, CEHPRODEC General Coordinator.<sup>86</sup>

Beneficiaries of precautionary measures have told Amnesty International that they do not trust the police to ensure their protection. In several cases this lack of trust is because defenders have reported that police forces or agents have been among the perpetrators of the attacks. A widely expressed complaint from defenders is that even when police liaison officers assigned to them as a point of contact carry out their role effectively, the police officers responsible for implementing protection do not appear when they are needed. In instances where a police presence at certain events has been agreed, it is hampered by a lack of vehicles or because defenders have to bear the cost of feeding the officers. Some beneficiaries reported that the police officers assigned to provide protection were only present during the months when the state is due to submit its report to the IACHR on the implementation of the measures ordered.

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<sup>85</sup> Committee of Relatives of the Disappeared in Honduras (Comité de Familiares de Detenidos Desaparecidos en Honduras, COFADEH), “The human rights situation in Bajo Aguán”, IACHR hearing, 5 April 2016.


<sup>86</sup> Referring to the views expressed by Lenca women MILPAH members that CEHPRODEC is supporting regarding the implementation of precautionary measures.

Defenders believe that the implementation of precautionary measures should also aim to address the root causes of the violence against them. Among the proposals they have put forward are:

- The formation of a group of people trusted by the defenders, separate from the police, who would be responsible for implementing protection measures.
- Moving defenders, with their agreement, to a different address.
- Public recognition by high-ranking state officials that the work of human rights organizations and their members is legitimate.

#### GARIFUNA COMMUNITIES OF TRIUNFO DE LA CRUZ AND BARRA VIEJA



↑  Triunfo de la Cruz community, Atlántida, Honduras, 16 March 2016. @Amnesty International / Anaïs Taracena

***“Just because the issue of development has been raised does not mean we have to simply disappear.”***

Alfredo López, OFRANEH member and leader of the Triunfo de la Cruz community

The Garifuna communities of Triunfo de la Cruz and Barra Vieja are part of the Black Fraternal Organization of Honduras (Organización Fraternal Negra Hondureña, OFRANEH). In 2010, in Triunfo de la Cruz, the radio station Faluma Bimetu (Sweet Coconut) was burned down by unidentified individuals after community representatives spoke out against the coup.<sup>87</sup> The defender Alfredo Lopez, a member of this community, was unjustly detained for six years. He was finally acquitted and released and is now

<sup>87</sup> Reporters Without Borders “Community radio stations still fighting to survive” 13 April 2011. Available at: <https://rsf.org/en/news/community-radio-stations-still-fighting-survive>.

at liberty.<sup>88</sup> Community representatives told Amnesty International that social conflict has decreased following a judgment of the Inter-American Court of Human Rights which stated that Honduras had violated the right to property of the Garifuna collective by failing to guarantee the right to prior consultation about the tourist complexes “Marbella” and “Playa Escondida” and about the decree that established Punta Izopo as a protected area.<sup>89</sup> However, the representatives stated that their phones continue to be tapped, there are times when they are placed under surveillance and they have to return home early because of safety concerns.

The Garifuna community of Barra Vieja consists of around 157 Garifuna families in 42 blocks. According to human rights defenders interviewed Barra Vieja or Cocalito was established in 1885. The port company that is disputing the title to the lands of Barra Vieja was founded in 1965. Although the community believes that their property is ancestral, they are currently seeking recognition of a community title to the land from the National Agrarian Institute.

#### PICO BONITO NATIONAL PARK FOUNDATION (FUNDACIÓN DEL PARQUE NACIONAL PICO BONITO, FUPNAPIB)



↑ ⓘ Suani Martínez from the Pico Bonito Natural Park Foundation (FUPNAPIB), La Ceiba, Atlántida, Honduras, 17 March 2016.  
@Amnesty International / Anaís Taracena

Pico Bonito National Park was created in 1987. The zone comprises a buffer zone of 53,814 hectares and a central area of 52,836 hectares where no human intervention is permitted. It is an area that produces high volumes of water. Two river basins – those of the Cuyamel and Cangrejal Rivers – lie inside the park. A total of 107 communities live in the area: 41 inside the buffer zone and 66 just outside it.

FUPNAPIB has opposed the granting of a concession to build a hydroelectric plant on the Cuyamel River. FUPNAPIB filed a complaint against the licence for the Cuyamel II Hydroelectric Project with the Ministry of Natural Resources and Environment in March 2010 on the grounds of the effect the project could have on the provision of drinking water to five communities and the micro-basin of the Cuyamel River, which it is a protected area.<sup>90</sup>

<sup>88</sup> Inter-American Court of Human Rights, Case of *López Álvarez vs Honduras*, Judgment of 1 February 2006 (Merits, Reparations and Costs), paras 54.15 – 54.49.

<sup>89</sup> Inter-American Court of Human Rights, Case of the *Community Garifuna Triunfo de la Cruz & its members vs Honduras*, Merits, Reparations and Costs, Judgment of 8 October 2015, para. 182.

<sup>90</sup> Complaint lodged on 24 March 2010 with the Ministry of Energy and Natural Resources.



The fourth infantry battalion was deployed in the park's buffer zone despite the fact that according to the General Law on the Environment there should be no human settlements or military bases in water supply source areas.<sup>91</sup> FUPNAPIB has also reported that military forces prevented them from entering the micro-basin, even though they are responsible for managing the park.

**“My children say I should keep quiet, that I must stop denouncing what’s happening and get out, but I will keep on fighting. God will protect me.”**

Tolupán defender granted precautionary measures.

The adoption of the Law to Protect Human Rights Defenders, Journalists, Social Commentators and Justice Officials (Protection Law) on 15 May 2015 was a positive step in ensuring the protection of human rights defenders. However, there are still many challenges to overcome in order to ensure effective implementation.

The Protection Law creates a National System for the Protection of Human Rights Defenders, Journalists, Social Commentators and Justice Officials (Protection System). The Secretary of State in the Ministry of Human Rights, Justice, the Interior and Decentralization has overall control of the System, which is composed of the National Council for the Protection of Human Rights Defenders, Journalists, Social Commentators and Justice Officials (the National Council for Protection), the Protection System General Directorate, the Protection Mechanism Technical Committee and the Human Rights Department of the Secretary of State in the Ministry of Security.

The Protection Council is the only body which allows for the participation of people from civil society and representatives of the professional bodies of justice officials and journalists. This body, however, has limited powers to consider and advise the Protection System. Of the 14 seats on this body, only two are civil society representatives and they must be accredited by the National Human Rights Commission. The Protection Mechanism Technical Committee, which carries out the expert risk analysis and decides what protection measures should be adopted, is made up solely of state institutions.

The Secretary of State in the Ministry of Human Rights, Justice, the Interior and Decentralization told Amnesty International that they were working on the design of differentiated protection protocols. Amnesty International highlighted the importance of adopting protection measures that go beyond a purely policing approach, taking into account community or collective protection needs and structural aspects that address the causes of violence and the need to implement a preventive vision. The situation is most worrying in relation to defenders whose work is linked to the land, territory and environment and who require protection measures that are effective in remote areas and that adopt a collective approach.<sup>92</sup>

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<sup>91</sup> General Law on the Environment, Decree No. 104-93, Article 33: “The establishment of human settlements, military bases, industrial facilities or facilities of any kind is prohibited in areas affecting sources of the water supply for communities or irrigation systems for agricultural plantations intended for human consumption, whose waste even when treated pose potential risks of pollution. Municipalities are responsible for the correct application of this law.” [unofficial translation]

<sup>92</sup> Meeting with the Minister for Human Rights, Justice, the Interior and Decentralization; the Minister for Foreign Affairs; and the Department of Human Rights of the Ministry for Security, March 7, 2016.



By March 2016, the Mechanism had granted protection measures to six human rights defenders and four journalists.<sup>93</sup> This figure is extremely small given the daily violence that defenders face and the fact that the Protection System is also responsible for compliance with the precautionary and provisional measures ordered by the Inter-American System. According to figures from the General Directorate of the National Protection System, between July 2015 and June 2016, 38 applications had been received; nine related to measures ordered by the Inter-American System that had not been transferred to the Protection System because the relevant protocols did not exist. Of these applications, the Protection System is responsible for 25, 13 of which relate to defenders and one to an environmental rights group.<sup>94</sup>

The publication of the regulations and protocols for this law was pending at the time of writing. However, Amnesty International received information from civil society organizations that the authorities have not put in place appropriate mechanisms to ensure wide participation, including those who work in rural areas or communities. Broad and diverse participation and the adoption of these documents in consultation with civil society will strengthen protection mechanisms.



↑  Ana Miriam Romero, member of MILPAH, Santa Elena, La Paz, Honduras, 9 March 2016.  
@Amnesty International / Anaís Taracena

<sup>93</sup> Meeting with the Minister for Human Rights, Justice, the Interior and Decentralization; the Minister for Foreign Affairs; and the Department of Human Rights of the Ministry for Security, March 7, 2016.

<sup>94</sup> Information provided by Honduras to civil society organizations and shared by CEJIL.

## AND WITHOUT JUSTICE

**“We are criminalized and killed... Sometimes we feel sad because we just don’t know what to do.”**

Bajo Aguán campesino leader.

Amnesty International’s research confirmed the lack of progress in investigations into killings, physical attacks, threats and harassment targeting defenders of territory and the environment and those working on land issues. This has allowed those responsible to evade justice.

There are numerous judicial proceedings against human rights defenders who work to protect and promote the rights to territory, the environment and those linked to access to land in Honduras. The representative of the National Confederation of Farmworkers (Central Nacional de Trabajadores del Campo) told Amnesty International that there are about 800 people, including Indigenous people affiliated to campesino organizations, subject to judicial proceedings in the Department of La Paz alone. The Committee of Relatives of Disappeared in Honduras (Comité de Familiares de Detenidos Desaparecidos en Honduras, COFADEH) estimates that about 3,000 campesinos have been criminalized countrywide, 700 of them in Bajo Aguán.

In the municipality of Santa Elena, several MILPAH members have complained to the Public Prosecutor’s Office that they have been arbitrarily detained for hours or days, sometimes without a judicial warrant, as well as being subjected to beatings and other ill-treatment by police. Similarly, MILPAH reported that at least 30 people were subject to judicial proceedings, some of them accused of the crime of land usurpation. Approximately 15 people who are being prosecuted have had non-custodial restrictions imposed on them requiring them to sign in before a judge. Some have to sign in every eight days; others every 15 or 30 days.

Legal proceedings against members of social movements and human rights organizations impose a huge burden on defenders, their families and the organizations to which they belong. This is particularly acute when the individual is a community or rural leader because of the very limited financial resources available. Most organizations and community and rural movements do not have members who are lawyers. This means they have to approach other human rights organizations that provide legal advice, but there are not enough of these to cover the large number of defenders facing criminal charges in Honduras.

The bail conditions imposed also have a direct impact on the work of defending human rights. Having to go to sign a register in court involves incurring transport costs or, in those cases where the journey can be made on foot, walking for hours to get to there. These defenders work in areas of entrenched poverty where the main source of income for families is agriculture. These long journeys make huge demands on the families’ meagre resources and also mean the loss of one or several days’ work. The economic situation and food security of the household are seriously compromised when the person is required to sign in every eight days.

Several of those on whom these non-custodial measures have been imposed are warned not to approach human rights organizations or the “ringleaders” of organizations and to avoid meetings of social movements. Such orders are extremely problematic for the defence of human rights, given that organizations and movements that demand rights are carrying out legitimate activities that should not be stigmatized or criminalized by the state. Alternative bail conditions that, whether conveyed in writing or verbally, order an individual to not make contact with human rights organizations is a violation of the rights to defend human rights, to freedom of association and to freedom of expression.

Human rights defenders interviewed by Amnesty International have also highlighted a pattern of illegal searches and the excessive and unnecessary use of force. According to statements collected by the organization, police searches of defenders' homes are usually carried out in the early hours of the morning and accompanied by insults and violence against members of the household, including children.

It is of serious concern that several communities reported that they have not received the humanitarian and social aid provided by the state when facing problems such as drought solely because they are part of a group of Indigenous defenders. Denying someone food and health care because they are exercising their right to freedom of association is a violation of the right to defend human rights.



↑ ⓘ Carlos Castillo and José Armando Guzmán, leaders of Barra Vieja community, Atlántida, Honduras, 16 March 2016.  
@Amnesty International / Anaís Taracena

## 3. GUATEMALA: THE NEW “ENEMY WITHIN”

Human rights defenders working on issues related to land, territory and the environment in Guatemala face a vicious circle of social stigma and criminalization through the justice system. The stigmatization and the criminalization are mutually reinforcing.

### COMMUNITIES INTERVIEWED IN GUATEMALA

**Indigenous Mayan Q'anjob'al and mestizo communities in the municipalities of Santa Cruz Barillas, Santa Eulalia and San Mateo Ixtatán.**

These communities are demanding their territorial rights in context of the construction of the Santa Cruz, San Luis, and Cambalam and Pojom I and II hydroelectric projects, respectively.

**Mayan Indigenous communities in the municipalities of Nebaj and San Juan Cotzal.**

They are seeking protection of their territory in the context of installation of hydroelectric projects.

**Indigenous Mayan Mam communities in the municipality of San Miguel Ixtahuacán.**

The communities are campaigning for respect of their territory and the environment in the context of the Marlin Mine.

**Mayan Indigenous communities and campesinos.**

These communities are demanding their territorial rights in the context of hydroelectric dams in the area and are seeking reparations for alleged environmental damage to La Pasión River that they believe is caused by African palm plantations.

**Mayan Indigenous and campesino communities in the Tigre National Park.**

The communities are demanding respect for their rights regarding access to land.

**Mayan Indigenous community in Monte Olivo.**

The community is campaigning for respect of their territorial rights in the context of the Santa Rita hydroelectric project.

**Mayan Indigenous campesino communities in the Polochic Valley.**

The communities are seeking access to lands and demanding their rights to food and health.

**Mayan Indigenous community.**

The community is demanding justice for attacks on the community in the context of the installation of the Fénix Mine.

**Indigenous Mayan and mestizo communities in the municipalities of San Pedro Ayampuc, San José del Golfo and San José Nacahuil.**

The communities are demanding their rights in the context of the El Tambor Mine and high-voltage energy generators.

**Mestizo communities of San Rafael Las Flores.**

The communities are demanding their right to a healthy environment in the context of the El Escobal Mine.







↑ ⓘ Daniel Pascual, from the Committee for Campesino Unity (CUC) participating in the march in support of the right to water, Guatemala City, Guatemala, 22 April 2016. @Amnesty International / Anaïs Taracena

On 27 August 2013, the Guatemalan Human Rights Ombudsperson (Procurador de Derechos Humanos, PDH) the national human rights institution, issued a resolution on hate speech directed against human rights defenders. The resolution was a response to several complaints filed with the PDH about statements by the President of the Foundation against Terrorism.<sup>95</sup> The PDH recommended that the President of that organization “refrain from making accusations that seek to criminalize the work of human rights defenders in Guatemala”.<sup>96</sup> The PDH found that defenders’ rights to dignity, to integrity, to equality to freedom of action and of association had been violated.

Three years after the resolution, actions designed to discredit them are a constant fact of life for human rights defenders in Guatemala, as are judicial complaints against them. For example, at the same time as derogatory statements were being made against the defender Daniel Pascual, national leader of the **Committee for Campesino Unity (Comité de Unidad Campesina, CUC)**, legal proceedings were initiated against him. In September 2014, in what became known as the Pajoques Massacre, several members of a family were killed in the context of social conflict surrounding the building of a cement plant. The next month, the following comment on the massacre appeared: “We knew from the moment the crime was committed who was responsible: it was the same people who hide behind the title of ‘human rights defenders’ -the Committee for Campesino Unity to be precise, which is led by an ex-guerrilla, Daniel Pascual, and receives overseas funding.”<sup>97</sup>

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<sup>95</sup> A civil society organization.

<sup>96</sup> Judicial File No. 01028-2013-00065 before the Twelfth Criminal Court for Drug Trafficking and Environmental Crimes.

<sup>97</sup> Antón Turnisov. “What do the terrorists want?” Part II, 9 October 2014, Blog Nullius in Verba. Available at: <https://www.facebook.com/FundacionContraElTerrorismoGuatemala/posts/291910924333477>.



The statements against the defender sought to blame him for what happened despite the fact that he was one of a group of defenders who called for a thorough investigation to identify those responsible for the killings. On 7 October 2014, the civil society organization Liga Pro Patria accused Daniel Pascual of terrorism, incitement to commit a crime, coercion and violation of the constitution in relation to statements he had made on 26 October 2012 during discussions about legislation on rural development, namely: "then don't start crying when we block the road", referring to protests that would be triggered if the legislation was not approved.

At the time of writing, a case against Daniel Pascual on charges of slander, libel and defamation based on a complaint lodged by the President of the Foundation against Terrorism, remained open.<sup>98</sup> The lawsuit is based on public statements made by the defender on 25 January 2013 about threats against him. In his statements, Daniel Pascual referred to attacks on other leaders in different regions of the country related to human rights work in the context of conflicts over the exploitation of natural resources. He also mentioned ongoing claims made by private individuals, among them the Foundation against Terrorism, seeking to discredit the CUC.

The complaint is being dealt with under the ordinary Criminal Code. However, as the charges relate to Daniel Pascual's right to freedom of expression, the case should be dealt with under the Constitutional Law on the Expression of Thought. This constitutes a violation of the right to freedom of expression and to the due process. On 7 June 2016 the Constitutional Court granted an interim injunction that temporarily suspends the proceedings against Daniel Pascual.

## THE STIGMA ATTACHED TO DEFENDING HUMAN RIGHTS

Human rights defenders have been called "professional troublemakers", "anti-everything", "monopolizers of social and campesino struggles", "bandits", "professional thugs who call themselves community leaders; constant violators and monopolizers of human rights" and "a useless fratricidal rabble".<sup>99</sup> Their organizations have been dubbed "left wing NGOs formerly terrorist organizations" and "NGO spongers living off human rights".<sup>100</sup> Others allege that "defending human rights has become a business in this Central American country, but a business exclusive to terrorist ex-guerrillas".<sup>101</sup> This kind of language is constantly used to stigmatize leaders of communities and of human rights organizations.

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<sup>98</sup> Judicial File No. 01028-2013-00065 before the Twelfth Criminal Court for Drug Trafficking and Environmental Crimes.

<sup>99</sup> Blog Mirador. "Chusma homicida", 29 September 2014. *Prensa Libre*, Available at: <http://miradorprensa.blogspot.mx/2014/09/chusma-homicida.html> (in Spanish only).

<sup>100</sup> Raul Minondo Ayau, 9 March 2016, Comments section: "¡Ánimo Ejército!". Available at: <http://elperiodico.com.gt/2016/03/09/opinion/comentarios-animo-ejercito-32/> (in Spanish only).

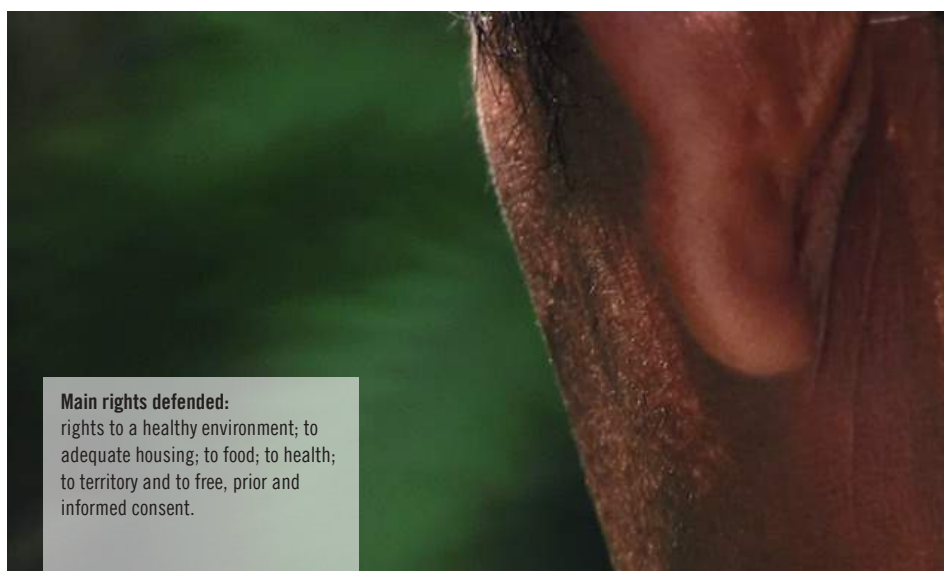
<sup>101</sup> Antón Turnisov. "What do the terrorists want?" Part II, 9 October 2014, Blog Nullius in Verba. Available at: <https://www.facebook.com/FundacionContraElTerrorismoGuatemala/posts/291910924333477>.


It is not always necessary to make public statements littered with epithets to create stigma; sometimes all that is needed to discredit defenders is rumour. In some movements opposing projects to explore and exploit natural resources rumours have circulated between communities that defenders have been paid to stop opposing the projects. This type of rumour, combined with other factors, has led to divisions between movements and, in some cases, the exclusion and ostracism of movement leaders.

In addition, authorities in Guatemala have contributed to the stigmatization of defenders. Sometimes campesino communities demanding access to lands have been accused of working with drug traffickers.<sup>102</sup> In August 2011, the then Minister of the Interior said, in relation to the eviction of campesinos in the community of Nueva Esperanza in the Sierra de Lacandón National Park, that the group of people evicted was supported by drug traffickers.<sup>103</sup>

Such accusations resulted in communities being isolated for many years. In the case of the campesino communities of Laguna del Tigre National Park, which is next to the Sierra Lacandón National Park, not only society in general but also many human rights organizations avoided supporting them in their legitimate activities in defence of human rights because of such smears. With hard work, these communities have managed to overcome the stigma.

#### COMMUNITIES IN THE TIGRE NATIONAL PARK



↑  Human rights defender from El Tigre Lake, Guatemala City, Guatemala, 14 March 2016.  
@Amnesty International / Anaïs Taracena

<sup>102</sup> *El Faro*. "Ser un nadie en tierra de narcos", 3 November 2011. Available at: <http://www.salanegra.elfaro.net/es/201110/cronicas/6451/Ser-un-nadie-en-tierra-de-narcos.htm> (in Spanish only).

<sup>103</sup> *Prensa Libre*, "Entidades ambientales de Petén continuarán con el rescate del lago", 26 August 2011. Available at: <http://www.prensalibre.com/peten/Entidades-ambientales-Peten-continuaran-rescate-0-542945947> (in Spanish only).

Campesinos living in areas that are currently part of the Tigre National Park in the Department of El Petén came to the area in the 1970s, or are the descendants of those who did so. According to the campesinos, they moved there as part of a state-promoted relocation programme. The Natural Parks of Tigre and Sierra del Lacandón were created between 1989 and 1990.<sup>104</sup> The campesinos argue that they only discovered that they were living in a national park after the end of armed conflict in 1996. Since then, several farmers have been accused of usurpation or land invasions.

Since 1985, well before the area was declared a natural park, oil extraction had begun at the Xan wells, located in the Laguna del Tigre Park. The Perenco company acquired the wells in 2001, after the creation of the parks, and continues to exploit the oil wells to the present day.<sup>105</sup>

In September 2010, Perenco made donations to the state for the establishment of a "Jungle Infantry Battalion", known as the "Green Battalion", to protect the National Park.<sup>106</sup> Campesinos have submitted reports to local officials that they are being prevented from taking farming tools into the area by officers at checkpoints controlled by the Green Battalion.

Campesinos fear that they will be evicted. In the neighbouring Sierra de Lacandon Natural Park, also in El Petén, evictions have involved up to 400 National Civil Police officers and 100 or more military officers.<sup>107</sup>

Stigmatization and other attacks have a particular impact on women defenders because of traditional gender roles. This stigma intersects with racial discrimination against defenders of Indigenous or Afro-descendent origin. Defender Lolita Chávez is a member of the **Kiché Peoples Council (Consejo de Pueblos Kiché, CPK)** and has worked as a spokeswoman for the organization for several years. She told Amnesty International that for years she was called "confrontational" and "rowdy".<sup>108</sup> These descriptions reflect prevailing discriminatory views of women and Indigenous people as incapable of leading and as people whose actions are governed by impulse rather than by a wish to exercise their rights. Some women defenders told Amnesty International that, in response to the risk they face defending human rights, their partners have given them an ultimatum: choose between either continuing to promote human rights or continuing the personal relationship.

Statements labelling human rights defenders "terrorists", "opponents" and "enemies of the state" create stigma and an environment hostile to the defence of human rights and encourage attacks against them. Amnesty International is concerned at the way in which attacks and assaults escalate or increase in intensity following statements aimed at generating stigma.

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<sup>104</sup> Created by Decree 4-89 and 5-90.

<sup>105</sup> See Perenco website: <http://www.perenco.com/guatemala>.

<sup>106</sup> Guatemalan Ministry of Finance, government decrees 259-2010 and 260-2010, 13 September 2010.

<sup>107</sup> Human Rights Ombudsperson, Department of El Petén. Report on the eviction of 4 March 2010, report of 8 August 2007 and Memorandum of 21 May 2008.

<sup>108</sup> A difficult person who causes problems.



↓ ⓘ Lolita Chávez, member of the Kiché Peoples Council (Consejo de Pueblos Kiché, CPK), Chinique, Guatemala, 9 April 2016.  
©Amnesty International / Anaïs Taracena

In the case of **La Puya Peaceful Resistance**, rumours circulated that one of the most high-profile women leaders had received money from the mine, in an attempt to tarnish her reputation. This led first to her isolation within the movement and later to her decision to withdraw from it. However, even though she was no longer part of the movement, she still continued to be attacked and received threats against her young children which referred to her role as a defender. In early 2016, death threats against the defender and her children coincided with discussions in the Guatemalan High Court of the case brought by the community challenging the licence of the mine on grounds of lack of consultation. The defender took urgent measures to protect herself and her children. She told Amnesty International that as a woman defender the situation is doubly difficult because she feared for her children's safety: "My husband upped and left because of the threats, but I will not abandon my children." Despite the difficulties and attacks, she continues to defend human rights, although in different ways: she now works mainly to defend women's rights.

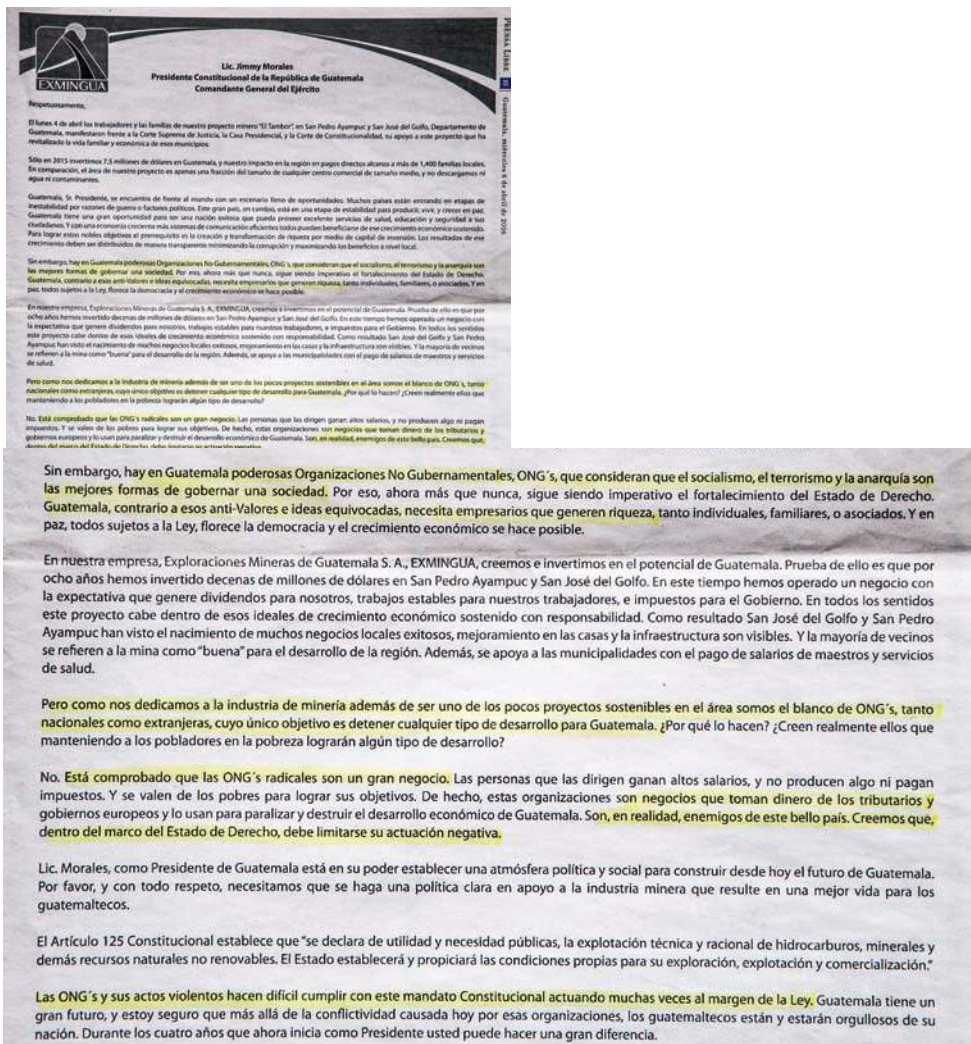
Threats against the defender coincided with the publication in the newspaper *Prensa Libre* of a paid advertisement on 6 April 2016 in which the President of Exploraciones Mineras de Guatemala S.A. (EXMINGUA) addressed the President of Guatemala. This referred to the demonstrations by workers several days earlier in support of the El Tambor mine in San José del Golfo and San Pedro Ayampuc, as well as the benefits that the mine would have brought to the community. The company representative said:

"In Guatemala there are powerful non-governmental organizations, NGOs, who consider socialism, terrorism and anarchy to be the best ways to govern a society... Guatemala, contrary to these anti-values and mistaken ideas, needs entrepreneurs who generate wealth... But because we work in the mining industry and are one of the few sustainable projects in



the area, we are targeted by the NGOs, both domestic and foreign, whose sole purpose is to stop any development in Guatemala. ... It is well known that radical NGOs are big business. ... They are, in reality, the enemies of this beautiful country. We believe that within the framework of the rule of law, their negative actions should be restricted... The NGOs and their violent actions make it difficult to fulfil this constitutional requirement by often acting outside the law."

↓  Paid advertisement published on 6 April 2016 in Prensa Libre by the President of Exploraciones Mineras de Guatemala S.A. (EXMINGUA) @Amnesty International / Sergio Ortiz



**Lic. Jimmy Morales**  
Presidente Constitucional de la República de Guatemala  
Comandante General del Ejército

**Respetuosamente,**

El lunes 4 de abril los trabajadores y las familias de nuestro proyecto minero "El Tambor", en San Pedro Ayampuc y San José del Golfo, Departamento de Guatemala, manifestaron frente a la Corte Suprema de Justicia, la Casa Presidencial, y la Corte de Constitucionalidad, su apoyo a este proyecto que ha revitalizado la vida familiar y económica de esos municipios.

Sólo en 2013 invertimos 7.5 millones de dólares en Guatemala, y nuestro impacto en la región en pagos directos alcanza a más de 1,400 familias locales. En comparación, el área de nuestro proyecto es apenas una fracción del tamaño de cualquier centro comercial de tamaño medio, y no descargamos ni agua ni contaminantes.

Guatemala, Sr. Presidente, se encuentra del frente al mundo con un inmenso feroz de oportunidades. Muchos países están entrando en etapas de transición por razones de guerra o hechos políticos. En ese país, en cambio, está en una etapa de estabilidad para producir, vivir y crecer en paz. Guatemala tiene una gran oportunidad para ser una nación sólida que pueda proveer excelentes servicios de salud, educación y seguridad a sus ciudadanos. El futuro económico concreto más exitoso de comunicación efectiva todos pueden beneficiarse de ese crecimiento económico sostenido. Para lograr estos nobles objetivos el presupuesto en la creación y transformación de riqueza por medio de capital de inversión. Los resultados de ese crecimiento deben ser distribuidos de manera transparente mejorando la corrupción y maximizando los beneficios a nivel local.

Sin embargo, hay en Guatemala poderosas Organizaciones No Gubernamentales, ONG's, que consideran que el socialismo, el terrorismo y la anarquía son las mejores formas de gobernar una sociedad. Por eso, ahora más que nunca, sigue siendo imperativo el fortalecimiento del Estado de Derecho. Guatemala, contrario a esos anti-Valores e ideas equivocadas, necesita empresarios que generen riqueza, tanto individuales, familiares, o asociados. Y en paz, todos sujetos a la Ley, florece la democracia y el crecimiento económico se hace posible.

En nuestra empresa, Exploraciones Mineras de Guatemala S.A., EXMINGUA, creemos e invertimos en el potencial de Guatemala. Prueba de ello es que por ocho años hemos invertido decenas de millones de dólares en San Pedro Ayampuc y San José del Golfo. En este tiempo hemos operado un negocio con la expectativa que genere dividendos para nosotros, trabajos estables para nuestros trabajadores, e impuestos para el Gobierno. En todos los sentidos este proyecto cabe dentro de esos ideales de crecimiento económico sostenido con responsabilidad. Como resultado San José del Golfo y San Pedro Ayampuc han visto el nacimiento de muchos negocios locales exitosos, mejoramiento en las casas y la infraestructura son visibles. Y la mayoría de vecinos se refieren a la mina como "buena" para el desarrollo de la región. Además, se apoya a las municipalidades con el pago de salarios de maestros y servicios de salud.

Pero como nos dedicamos a la industria de minería además de ser uno de los pocos proyectos sostenibles en el área somos el blanco de ONG's, tanto nacionales como extranjeras, cuyo único objetivo es detener cualquier tipo de desarrollo para Guatemala. ¿Por qué lo hacen? ¿Creen realmente ellos que manteniendo a los pobladores en la pobreza lograrán algún tipo de desarrollo?

No. Está comprobado que las ONG's radicales son un gran negocio. Las personas que las dirigen ganan altos salarios, y no producen algo ni pagan impuestos. Y se valen de los pobres para lograr sus objetivos. De hecho, estas organizaciones son negocios que toman dinero de los tributarios y gobiernos europeos y lo usan para paralizar y destruir el desarrollo económico de Guatemala. Son, en realidad, enemigos de este bello país. Creemos que, dentro del marco del Estado de Derecho, debe limitarse su actuación negativa.

Lic. Morales, como Presidente de Guatemala está en su poder establecer una atmósfera política y social para construir desde hoy el futuro de Guatemala. Por favor, y con todo respeto, necesitamos que se haga una política clara en apoyo a la industria minera que resulte en una mejor vida para los guatemaltecos.

El Artículo 125 Constitucional establece que "se declara de utilidad y necesidad públicas, la explotación técnica y racional de hidrocarburos, minerales y demás recursos naturales no renovables. El Estado establecerá y propiciará las condiciones propias para su exploración, explotación y comercialización."

Las ONG's y sus actos violentos hacen difícil cumplir con este mandato Constitucional actuando muchas veces al margen de la Ley. Guatemala tiene un gran futuro, y estoy seguro que más allá de la conflictividad causada hoy por esas organizaciones, los guatemaltecos están y estarán orgullosos de su nación. Durante los cuatro años que ahora inicia como Presidente usted puede hacer una gran diferencia.



### PEACEFUL RESISTANCE IN LA PUYA, LA LAGUNA AND SAN JOSÉ NACAUIIL



↑ ⓘ La Puya Peaceful Resistance, San Pedro Ayampuc, Guatemala, Guatemala, 15 April 2016.  
@Amnesty International / Anaïs Taracena

La Puya Peaceful Resistance has campaigned since July 2011 to oppose the mining project Progreso VII Derivadas, known as the El Tambor Mine, which is located in the municipalities of San Pedro Ayampuc and San José del Golfo, Department of Guatemala. The gold mining project belongs to Exploraciones Mineras de Guatemala S.A. (EXMINGUA), a subsidiary of the US company Kappes, Cassidy and Associates. EXMINGUA was granted an operating licence in November 2011.<sup>109</sup>

In November 2015, the Supreme Court suspended the operating licence granted by the Ministry of Energy and Mines for the El Tambor Mine pending a final decision on an appeal filed by the community against the process by which the licence was granted.<sup>110</sup>

In February 2016, in a separate legal case, the Supreme Court temporarily suspended the operating licence for the mine in a judgment concerning the failure to respect the right to prior consultation. The Ministry of Energy and Mines stated that the licence was already granted so could not be suspended.<sup>111</sup> As a result, from March 2016 onwards the community held sit-ins at the headquarters of the Ministry of Energy and Mines calling for the interim relief granted by the Court to be enforced. At the end of June 2016, the Supreme Court issued its decision.<sup>112</sup>

In addition to La Puya, there have been other campaigns of resistance to the exploitation of natural resources in San Pedro Ayampuc. La Laguna Peaceful Resistance was formed to claim rights in the context of the construction of a high-voltage power station. And in the community of San José Nacahuil, the Kaqchikel Mayan community is seeking respect for their rights in the context of a project to build energy towers for extractive projects.

<sup>109</sup> Amnesty International, *Mining in Guatemala: Rights at risk*, (Index: 34/002/2014), pp. 17 and 18.

<sup>110</sup> Supreme Court of Justice, 11 November 2015, Amparo 1592-2014.

<sup>111</sup> *Prensa Libre*, "Proyecto minero sigue vigente pese a conflicto comunitario", 1 March 2016. Available at: <http://www.prensalibre.com/economia/mem-no-suspendera-proyecto-minero-en-la-puya> (in Spanish only).

<sup>112</sup> *Prensa Libre*, "CSJ suspende en definitiva mina en La Puya", 29 June 2016. Available at: <http://www.prensalibre.com/guatemala/justicia/csj-suspende-en-definitiva-mina-en-la-puya> (in Spanish only).

The authorities have an obligation not to endanger vulnerable groups, such as campesino communities defending their rights, or to violate the human rights of others, such as defenders of the land, territory and environment.<sup>113</sup> They are also required to put an end to the climate of stigma that increases the risks faced by human rights defenders.

It is crucial that the authorities refrain from making statements intended to disparage or discredit defenders and their organizations. They should, on the contrary, as part of a policy aimed at protecting human rights defenders, publicly recognize the legitimate work carried out to further human rights. In developing public policy on defenders, the state must take into account the criteria set out by the Inter-American Court of Human Rights in the case *Human Rights Defender vs Guatemala*.<sup>114</sup>

Companies must also fulfil their responsibility to respect human rights. To this end, and in line with international standards on business and human rights, they should act with due diligence to ensure that their actions do not lead to violations of human rights.<sup>115</sup> This includes refraining from public activities or making statements that could affect the legitimate work of defenders or put them in danger.

## FORCED TO PROVE THEIR INNOCENCE

Statements aimed at creating stigma or discrediting human rights defenders also undermine the presumption of innocence and the right to due process when defenders are suspected of or prosecuted for alleged crimes which are attributed to them in public statements by private individuals or state officials. Criminalization through the justice system is aimed at breaking up movements and organizations, wearing down the defenders and removing them from the public arena.

On 30 April 2014, the Eighth Criminal Court for Drug Trafficking and Environmental Crimes convicted three members of **La Puya Peaceful Resistance** of coercion, threats and illegal detention. The defendants were accused of allegedly detaining, threatening and assaulting workers at the Derivadas Progreso VII Mine, known as El Tambor, on 3 May 2012. Following this, other arrest warrants were issued against other members of the organization.<sup>116</sup>

According to the judgment, which Amnesty International has seen, the evidence on which the convictions were based consisted of statements by the complainants and by three witnesses, the latter based on hearsay – the witnesses were told what had happened by workers but were not themselves present during the alleged events. The expert reports referred to injuries sustained by workers, photographic documentation of the mine and the scene of the alleged offence, and the existence of La Puya Peaceful Resistance.

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<sup>113</sup> See also, Inter-American Court of Human Rights, Case of *Apitz Barbera et al (First Court of Administrative Disputes) vs Venezuela*, Judgment of 5 August 2008, (preliminary objection, merits, reparations and costs), para. 131.

<sup>114</sup> Inter-American Court of Human Rights, *Human Rights Defender et al vs Guatemala*, Judgment of 28 August 2014 (preliminary objections, merits, reparations and costs).

<sup>115</sup> Guiding Principles on Business and Human Rights: Implementing of the United Nations 'Protect, Respect and Remedy' Framework. Available at: [http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR\\_EN.pdf](http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf).

<sup>116</sup> Case No. 01079-2012-00214.

Amnesty International believes the evidence presented by the prosecution does not serve as proof that the accused defenders committed a crime. However, despite the lack of evidence, the defenders were convicted and the case is currently pending appeal.

#### CAMPESINO DEVELOPMENT COMMITTEE (COMITÉ DE DESARROLLO CAMPESINO, CODECA)



**Main rights defended:**  
labour rights of agricultural workers  
and the right to food.

↑  Protest organized by CODECA, Guatemala City, Guatemala, 26 July 2016. ©CODECA

Among CODECA's aims are: facilitating the resumption of farming by families, access to land, the labour rights of agricultural workers and the nationalization of energy. It works in 20 departments in Guatemala and 15 micro-regions.

In April 2013, CODECA presented research on the working conditions of agricultural labourers.<sup>117</sup> The investigation found that agricultural labourers working on farms faced multiple violations and abuses of their rights.

On 6 March 2014 the then Minister of the Interior asked CODECA to stop defrauding people by selling them stolen electricity.<sup>118</sup> This statement contributed to casting CODECA as criminals.

On 26 June 2014, two members of the national leadership of CODECA and another member of the organization were detained in the Department of Huehuetenango by members of the Community Development Council (Consejo Comunitario de Desarrollo, COCODE).<sup>119</sup> According to their statements, they

<sup>117</sup> CODECA, *Working conditions of agricultural labourers in Guatemala*, April 2013.

<sup>118</sup> Emisoras Unidas, "El Estado pierde Q250 millones al año por robo de electricidad", 6 March 2014. Available at: <https://emisorasunidas.com/noticias/nacionales/estado-pierde-q250-millones-ano-robo-electricidad/> (in Spanish only).

<sup>119</sup> Communities participate in the management of matters of public interest through Community Development Councils (Consejos Comunitarios de Desarrollo, COCODEs) which are made up of a Community Assembly and a Coordinating Body. They are part of a System of Development Councils which includes the National Council for Urban and Rural Development as well as Regional, Departmental and Municipal Development Councils.

were on their way to talk about resuming farming with families in the region. However, according to the complaint filed against them, they were detained in a meeting where they were telling people how to steal electricity.<sup>120</sup>

On 27 April 2016, the UN Working Group on Arbitrary Detention found that the arrests were arbitrary and that the defenders were entitled to compensation.<sup>121</sup>

The Public Prosecutor's Office presented as evidence an investigation undertaken into CODECA's activities dating from 30 July 2014, which did not address the actions which were the basis of the charges against the three defenders. These types of investigations are based on unidentified informants who claim that they do not wish to be named for security reasons. Such testimonies were the basis of the case brought by the Public Prosecutor's Office. The company, Empresa Distribuidora de Electricidad de Occidente S.A. (ENERGUATE), which is owned by ACTIS, acted as joint plaintiff and civil actor.

On 16 March 2016, the Criminal Court for Drug Trafficking and Environmental Crimes in Huehuetenango acquitted the three defenders of activities against the internal security of the nation but convicted them of attempted fraud. The judge imposed suspended sentences and the defenders were released.

Amnesty International's research found that the misuse of the criminal justice system in Guatemala by opening baseless judicial proceedings is a way of intimidating and wearing down human rights defenders. In several instances, being part of a social movement or a member of a human rights organization working for rights related to the land and territory and the environment has been seen as proof of criminal responsibility. Far from proving defenders' responsibility on the facts of the case, the authorities assume that membership of a group or participation in a demonstration automatically makes defenders guilty of the offences of which they are accused. Holding organizers or participants in a demonstration responsible for the illegal actions of others or for the maintenance of public order during protests is contrary to international human rights standards.<sup>122</sup>

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<sup>120</sup> Huehuetenango Criminal Court for Drug Trafficking and Environmental Crimes, Judgment of 16 March 2016, File No. 13008-2014-00443.

<sup>121</sup> Human Rights Council – Working Group on Arbitrary Detention, Opinion No. 19/2016 concerning Mr Mauro Vay Gonon et al. (Guatemala), (A/HRC/WGAD/2016), 2 June 2016. Available at: [http://www.ohchr.org/Documents/Issues/Detention/Opinions/Session75/Opinion\\_2016\\_19\\_Guatemala.pdf](http://www.ohchr.org/Documents/Issues/Detention/Opinions/Session75/Opinion_2016_19_Guatemala.pdf) (in Spanish only).

<sup>122</sup> Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai, (A/HRC/20/27), 21 May 2012, para. 31. Available at: [http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session20/A-HRC-20-27\\_en.pdf](http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session20/A-HRC-20-27_en.pdf).



## DEFENDERS IN SANTA CRUZ BARILLAS AND SANTA EULALIA



↑  Nuevo Amanecer (New Dawn) Resistance, Poza Verde, Santa Cruz Barillas, Huehuetenango, Guatemala, 4 July 2016.  
@Amnesty International/ Anaïs Taracena

A large number of defenders of human rights in Santa Eulalia and Santa Cruz Barillas are members of the Maya Q'anjob'al Indigenous People. They oppose the installation of the San Luis and Santa Cruz hydroelectric plants, respectively. Other defenders are demanding their rights in the context of the Cambalam and Pojom I and II hydroelectric plants in San Mateo Ixtatán.

On 1 May 2012, Andrés Francisco Miguel, defender of the right to water in Santa Cruz Barillas, was killed. On the same day, two other human rights defenders, Pablo Antonio Pablo and Esteban Bernabé Gaspar, were wounded. The trial for the murder of the defender is scheduled to begin on 30 August 2016.

People in Santa Eulalia have been organizing to defend human rights since 2006. In 2013, defender Daniel Pedro Mateo, known as Daniel Maya, was abducted and killed. In January 2015, another defender, Pascual Basilio, who participated in the demonstration in front of the Centre for the Administration of Justice (CAJ), was killed and defender Armando Pascual was wounded in the leg. Another defender was beaten after being arrested following a demonstration in support of three leaders from Santa Cruz Barillas who had been charged with kidnapping; the proceedings initiated entailed their immediate arrest without the possibility of bail during the trial.

On 6 July 2016, the oral hearings were held in the public trial of Rigoberto Juárez Mateo, Coordinator of the Plurinational Government of North Huehuetenango; three Indigenous Q'anjob'al men, Arturo Pablo, Francisco Juan Pedro and Domingo Baltazar – the first two from Santa Cruz Barillas and the third from Santa Eulalia; and Sotero Adalberto Villatoro Hernández, Bernardo Ermitaño López and Mynor López, community leaders in Santa Cruz Barillas.

The Attorney General accused the seven human rights defenders of offences including illegal detention, coercion, making threats, incitement to commit a crime and obstructing justice. The offences were allegedly committed in the context of three public demonstrations: one in Santa Cruz Barillas on 22 April 2013, and two against the CAJ in Santa Eulalia, on 23 January 2014 and 19/20 January 2015. Investigations into the three demonstrations were gathered for the public and oral hearings.



Workers at the Hidro Santa Cruz company, CAJ officials, as well as the former mayor of Santa Eulalia filed complaints against the defenders. The Public Prosecutor's Office based its accusations on the role of community leaders, automatically considering them to be the organizers of the demonstrations and, in addition, responsible for any damage caused.<sup>123</sup>

On 22 July 2016, the High-Risk Court A in Guatemala City acquitted the seven defenders of illegal detention, threats and incitement to commit a crime. By that time, they had spent more than a year in pre-trial detention.

The judgment that released them included an analysis of the legitimacy of Indigenous authorities and their role as mediators and spokespeople. The presiding judge was critical of the Public Prosecutor's Office and stated emphatically that judges must not be used as instruments for the criminalization of human rights defenders.

Two of the judges in the case found the defender Ermitaño López Reyes guilty of obstructing justice in connection with the demonstration on 23 January 2014 and convicted Rigoberto Juárez of coercion of CAJ officials during the demonstration of 19/20 January 2015. Lawyers for the human rights defenders have said that this part of the judgment will be appealed.<sup>124</sup>

Between eight and 20 arrest warrants against other human rights defenders were issued in relation to the demonstrations of 23 January 2014 and 19/20 January 2015.

This is not the only criminal case against human rights defenders. Domingo Baltazar and Rigoberto Juárez are under investigation in relation to a demonstration that took place on 9 December 2013 in Santa Eulalia. The hearings in this case are not due to start until 2017.

Lengthy, unfounded criminal investigations against defenders coupled with the use of preventive detention as a general rule rather than an exception in cases involving defenders have a harmful effect on their personal integrity and on their families and communities. Defenders remain awaiting trial years after they are detained. This causes immense strain on them and deprives them of their right to freedom. Their absence has negative consequences not only for the stability of their families but also for the defence of human rights.

Defenders interviewed by Amnesty International described having an arrest warrant issued against them as equivalent to "psychological imprisonment". Several people interviewed only found out that they had an arrest warrant issued against them when another defender was detained. They can go for months and even years without knowing if a warrant will be served or not, or if one or more warrants remain active. Lawyers consulted by Amnesty International reported that in Guatemala they are frequently unable to access information about how

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<sup>123</sup> Amnesty International "Guatemala: siete defensores de derechos humanos bajo juicio por reivindicar los derechos indígenas en el territorio q'anjob'al", 13 July 2016 (Index: AMR 34/4438/2016). Available at: <https://www.amnesty.org/es/documents/amr34/4438/2016/en/> ("Guatemala: Seven human rights defenders face trial for defending the rights of Indigenous Peoples in Q'anjob'al territory" - in Spanish only).

<sup>124</sup> Amnesty International "Guatemala: liberación de 7 defensores demuestra el mal uso del sistema de justicia" (AMR 34/4555/2016), 26 July 2016. Available at: <https://www.amnesty.org/es/documents/amr34/4555/2016/en/> ("Guatemala: Release of 7 human rights defenders proof of misuse of justice system" - in Spanish only).

many arrest warrants have been issued against a defender, which hinders their right to a comprehensive defence. Issuing multiple arrest warrants against several members of the same movement also has a chilling effect on the right of association as it discourages others from joining or continuing human rights activities for fear of being apprehended as well. It also weakens and fractures movements as they lose members, either because they have been detained or because they have to divert energies to their own defence that would otherwise be used to promote human rights.

In the case of Santa Cruz Barillas and Santa Eulalia, the criminalization of human rights defenders who acted as traditional authorities has boosted the renewal of the social movements. Young human rights defenders have increasingly taken a more proactive role as spokespersons for the movements, as well as in the pursuit of justice for their leaders. Despite the hardships involved in the criminal trial of a number of leaders, some communities have been strengthened by the experience.

While criminal cases against defenders of the land, territory and environment may progress through the courts, in cases of threats and attacks against defenders, in contrast, impunity remains the general rule. In the case of alleged attacks on defenders, the authorities have an obligation to consider as part of the investigation whether the attack was in retaliation for their work promoting human rights.



↑ ⓘ Pablo Antonio Pablo, father of the criminalized human rights defender Arturo Pablo, shows his arm wound and his hat with a bullet hole from 2012, Poza Verde, Santa Cruz Barillas, Huehuetenango, Guatemala, 4 July 2016.  
©Amnesty International/ Anaïs Taracena

## RESISTANCE TO THE MARLIN MINE



↑  Mayan Mam human rights defenders of the right to territory, Huehuetenango, Huehuetenango, Guatemala, 7 April 2016.  
@Amnesty International / Anaïs Taracena

Exploration activities connected to the Marlin mine in the municipality of San Miguel Ixtahuacán began in 1996. The mine is currently in operation and is owned by Montana Exploradora de Guatemala S.A., a subsidiary of the mining company Goldcorp of Canada.

On 7 July 2010, in the village of San José Nueva Esperanza, two men shot at Diodora Hernández. She lost the sight in her right eye as a result of the attack and her hearing was affected. Diodora has refused to sell her land.<sup>125</sup> She filed a complaint with the Public Prosecutor's Office, but to date those responsible for the attack have not been identified. In early 2016, Diodora – accompanied by international supporters – went to the Public Prosecutor's Office in San Miguel Ixtahuacán. There she was referred to the offices in San Marcos, where, in turn, she was referred to Guatemala City. The response from the authorities was that the file was still open, but there had been no progress.


On 20 May 2010, the IACHR ordered precautionary measures for 18 communities.<sup>126</sup> To begin with, the measures included suspending the mining exploitation of the Marlin I project and other related activities, as well implementing measures to prevent contamination. The IACHR also requested that other necessary measures be taken to guarantee the life and physical integrity of members of the community. On 7 December 2011, the IACHR modified the precautionary measures and requested that the state take the necessary precautions to ensure that members of the 18 communities had access to drinking water that was suitable for human consumption, domestic use and safe for irrigation.

<sup>125</sup> Amnesty International, *Mining in Guatemala: Rights at risk*, (Index: 34/002/2014), pp. 10-12.

<sup>126</sup> PM 260-07 – Mayan Communities (Sipakepense and Mam) in the municipalities of Sipacapa and San Miguel Ixtahuacán in the Departamento of San Marcos, Guatemala.

#### COMMITTEE FOR THE DEFENCE OF LIFE AND PEACE



↑  Representatives of the Committee for the Defence of Life and Peace during the march in support of the right to water, Guatemala City, Guatemala, 22 April 2016. @Amnesty International / Anaís Taracena

On 2 May 2013, following a series of violent incidents over the operations of Minera San Rafael, a subsidiary of Canadian and American Tahoe Resources Inc., the government declared a state of emergency in San Rafael Las Flores and the surrounding areas. In 2013, members of the Committee filed a petition (amparo) against the licence granted to the mining company on the grounds that the community's opposition had not been heard. They are taking the petition forward with the support of the Guatemalan Centre for Legal, Environmental and Social Action (Centro de Acción Legal, Ambiental y Social de Guatemala, CALAS).

After the state of emergency was declared, very few people wanted to continue on the Committee. On 27 April 2013, six members of the community, including young people, who were protesting against the mine were injured by rubber bullets fired by the company's security guards.<sup>127</sup> This led to criminal proceedings which resulted in the indictment and detention of the company's head of security at the time of the incident.

On 17 March 2013, four Xinca leaders were abducted after participating as observers in a consultation on mining organized by the community in the village of El Volcancito. In the early hours of 18 March, one of them was found dead; the others survived.<sup>128</sup> On 5 April 2015, Telésforo Odilio Pivaral González, a member of the Committee, was killed.

<sup>127</sup> Amnesty International, *Mining in Guatemala: Rights at risk*, (Index: 34/002/2014), pp. 12.

<sup>128</sup> Amnesty International, *Fear for safety of indigenous leaders of Guatemala*, (Index: AMR 34/003/2013), 19 March 2013. Available at: <https://www.amnesty.org/es/documents/amr34/003/2013/en/>.



## COMMISSION FOR THE DEFENCE OF LIFE AND NATURE - LA PASIÓN RIVER



**Main rights defended:**  
right to health; to food and to a  
healthy environment.



Marco Antonio Mateo, member of the Commission for the Defence of Life and Nature of La Pasión River, Cobán, Alta Verapaz, Guatemala, 12 April 2016. @Amnesty International / Anais Taracena

Over the years communities near the La Pasión River have started to worry about the possible adverse impact of the cultivation of African palm on the river water and fish. The Commission for the Defence of Life and Nature was organized to protect the river. On 23 June 2015, the Commission held its first protest in Guatemala City. Protesters complained about the possible contamination of the river before the Court for Environmental Crimes.<sup>129</sup> They pursued the case with the support of the Guatemalan Centre for Legal, Environmental and Social Action (Centro de Acción Legal, Ambiental y Social de Guatemala, CALAS). The case is ongoing.

On 18 September 2015, Rigoberto Lima was killed in the town of Sayakche. He had been one of the first people to raise concerns about the possible contamination of the river.<sup>130</sup> On 4 March 2016, the defender Marco Antonio Mateo, a member of the Commission, received a phone call telling him about plans to kill him. On 7 March, he submitted a complaint to the Attorney General's Office. At the time of writing no progress had been made in the case.

<sup>129</sup> *Prensa Libre*, "Ven escaso avance en caso La Pasión", 30 October 2015. Available at: <http://www.prensalibre.com/ven-escaso-avance-en-caso-la-pasion> (in Spanish only).

<sup>130</sup> *Prensa Comunitaria*, "Conflicto REPSA: Asesinan al Profesor Rigoberto Lima Choc en Sayaxché", 18 September 2015. Available at: <https://comunitariapress.wordpress.com/2015/09/18/conflicto-repsa-asesinan-al-profesor-rigoberto-lima-choc-en-sayaxche/> (in Spanish only).



## RESISTANCE TO FÉNIX MINE



**Main rights defended:**  
Indigenous Peoples' rights; rights to consultation; to territory; to a healthy environment and to justice.

↑  Angélica Choc, seeking justice for the murder of her husband Adolfo Ich Chamán, defender and victim of homicide in 2009. Cobán, Alta Verapaz, Guatemala, 12 April 2016. ©Amnesty International/ Anaís Taracena

The Fénix Mine in El Estor is located in Q'eqchi Maya territory in the Department of Izabal. The licence for the nickel mine was granted in 1965 to Exploraciones y Explotaciones Mineras Izabal S.A. In 1971, the Guatemalan state took ownership of 30% of the company. In 1980 the mine ceased production, but it started working again in 2004 under a new operating licence. That year, the company was acquired by the Canadian company Skye Resources, which at the time was called Compañía Guatemalteca de Níquel (CGN).<sup>131</sup> In 2008, Skye Resources<sup>132</sup> was acquired by another Canadian company, Hudbay Minerals, which in 2011 was acquired by the Solway Investment Group Limited, which, through its subsidiary Compañía Procesadora de Níquel de Izabal, S.A., (PRONICO), is in charge of operating the mine.<sup>133</sup>

On 27 September 2009, Adolfo Ich Chamán, a well-known community leader, was killed. Almost seven years later, the trial of a high-ranking member of the security company is still ongoing. Currently, there are weekly hearings lasting four days in Puerto Barrios. This means that Angélica Choc, Adolfo Ich Chamán's widow, and her lawyers must travel every week to that municipality, resulting in loss of money and time. In February 2016, the Court hearing the case decided to continue sessions behind closed doors, and as a result international and national civil society organizations can no longer observe proceedings.

<sup>131</sup> Amnesty International, *Mining in Guatemala: Rights at risk*, (Index: 34/002/2014), pp. 18–20.


<sup>132</sup> HudBay Minerals Inc., "Annual Information Form, March 2009", 30 March 2009; and HudBay Minerals Inc. and Skye Resources Inc., "HudBay Minerals and Skye Resources Announce Proposed Business Combination", 23 June 2008. Available at <http://www.hudbayminerals.com/English/Media-Centre/News-Releases/News-Release-Details/2008/Hudbay-Minerals-and-Skye-Resources-Announce-Proposed-Business-Combination/default.aspx>.

<sup>133</sup> Information available on the web page of La Compañía Guatemalteca de Níquel: <http://www.cgn.com.gt/>.

## CAMPESINO COMMUNITIES OF THE POLOCHIC VALLEY



**Main rights defended:**  
rights to food and to health.

↑  *Q'eqchi campesino from the Polochic Valley, showing a citation issued by the Public Prosecutor's Office, Cobán, Alta Verapaz, Guatemala, 13 April 2016. ©Amnesty International / Anaïs Taracena*

More than 700 Q'eqchi Maya families are demanding access to land in the Valley of Polochic, Department of Alta Verapaz. In 2011, they were the victims of a series of mass evictions. The evicted families were left without a place to live or grow crops and without the resources to feed their children. Given the seriousness of the situation, the IACHR ordered precautionary measures for 14 communities in the municipality of Panzós, Alta Verapaz.<sup>134</sup> The IACHR ordered Guatemala to take measures to guarantee the life and physical integrity of the families and humanitarian assistance, including food and shelter.

Following discussions with the state, the authorities undertook to provide the families with somewhere else to live. In 2013 some families were given land, but the vast majority are still living without access to land. This situation led to around 500 families returning to the farms from which they were previously evicted and to other farms.

The families were due to be evicted in January 2016, but the eviction order was suspended following the resumption of discussions with the state authorities. In June 2016, the state promised to acquire a number of farms on which the families could be resettled. On 14 July 2016, a farm for 82 families was scheduled to be handed over.

Investigations into threats and attacks against defenders often take five years or more and some do not make significant progress even after this period of time. The failure to identify those responsible for the attacks and threats against defenders sends the message that those who attack defenders can do so secure in the knowledge that they will not face any consequences.

Criminal investigation bodies have an obligation to help create an environment favourable to the defence of human rights. Ending impunity for attacks on human rights defenders is one of the first steps needed to fulfil this requirement. The lack of investigations leading to the prosecution and punishment of those responsible for these attacks is a violation of the rights of defenders and their families to access to justice, truth and reparation.

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<sup>134</sup> PM 121/11-14 – Indigenous Q'eqchi communities in the municipality of Panzós, Guatemala.

## 6. RECOMMENDATIONS AND CONCLUSIONS

Defenders of human rights working on issues related to access to land and territorial and environmental rights in Honduras and Guatemala continue to carry out their activities in an extremely hostile environment and face serious risks because of their work. The lack of state recognition at the highest level of the legitimacy of their work remains a challenge in Honduras and Guatemala. Entrenched impunity for attacks and threats against defenders sends a message that such acts will not be punished, thereby exacerbating the situation. Creating a favourable climate in which defenders can carry out their activities without fear of reprisals is one of the commitments that states have made.

In Honduras, defenders working on issues linked to the environment, territory and land are victims of violence. They have been the targets of threats, disproportionate use of force during evictions and raids, arson attacks and killings. A significant number of these defenders are beneficiaries of precautionary measures ordered by the Inter-American Commission on Human Rights (IACHR), but nevertheless they continue to be attacked and even killed. The state has failed to implement the necessary protection measures to ensure their safety. Honduras only recently passed the Law to Protect Human Rights Defenders, Journalists, Social Commentators and Justice Officials and implementation of the law still poses many challenges. The state also faces challenges in facilitating participation by rural and community defenders and ensuring that their particular needs, given the context in which they operate, are taken into account.

In Guatemala, the hostile environment faced by defenders working on rights related to land, territory and the environment is also a concern. This group of defenders has been the target of defamatory statements, including by state officials, seeking to discredit their work and to cast them as enemies of the state. The stigma generated by these statements intensifies the risks they face even further, encouraging attacks against them. At the same time, the justice system is being misused to criminalize defenders. Criminal investigations against defenders are often based on negative assumptions about what it means to be a community or Indigenous leader and misguided preconceptions about demonstrations that automatically equate leadership with responsibility for any criminal act that occurs during the protest. The justice system in Guatemala must guarantee the presumption of innocence and due process and stop using criminal proceedings to discourage, intimidate, harass and disrupt social mobilization.

## AMNESTY INTERNATIONAL URGES THE AUTHORITIES OF HONDURAS AND GUATEMALA TO:

### **Regarding protection for defenders working in the defence of rights to territory and the environment, and those related to the access to land:**

- Recognize, publicly and at the highest levels of both local and national authorities, the legitimate work of human rights defenders addressing issues related to land, territory and the environment.
- Implement a public awareness campaign throughout the country about the work of defenders and ensure it is widely disseminated.
- Refrain from using language that stigmatizes, abuses, disparages or discriminates against human rights defenders, including characterizing them as: “terrorists”, “enemies”, “opponents”, “drug dealers” or “criminals”.
- Promote and widely disseminate the United Nations Declaration on Human Rights Defenders.
- Ensure comprehensive protection for human rights defenders working to defend rights related to land, territory and the environment.
- Strengthen the technical and financial mechanisms established for the protection of human rights defenders.
- Establish participatory processes within civil society that include defenders working in rural areas or in community-based settings when adopting laws and mechanisms for the protection of human rights defenders.
- Incorporate preventive and collective approaches in strategies for the protection of human rights defenders.
- Create spaces for dialogue to analyse proposed protection measures put forward by defenders working to defend rights related to land, territory and the environment.
- Ensure that protection measures are adopted in consultation with those affected.
- Initiate prompt, thorough and impartial investigations into attacks, threats and assaults against defenders working to defend rights related to land, territory and the environment and bring those responsible to justice.
- Develop and implement public policies to protect defenders that are in line with the criteria set out by the Inter-American Court of Human Rights in its judgments in the cases of Luna López vs Honduras, 10 October 2012, and of Human Rights Defender et al vs Guatemala, 28 August 2014.



- Establish a database containing information on attacks against human rights defenders broken down by age, gender identity, sexual orientation, area where they were working and ethnicity. Conduct ongoing analyses of patterns of attacks on defenders that allow appropriate measures to be taken to mitigate the risks.
- Strengthen national human rights institutions and provide them with the necessary human and financial resources to carry out their duties effectively.

**Regarding Indigenous and Afro-descendant communities:**

- Recognize the human rights of Indigenous Peoples and Afro-descendants, including the right to territory, as well as their economic, social and cultural rights including the right to a healthy environment, and ensure their rights are protected and respected when planning and implementing projects to explore and exploit natural resources.
- Ensure in a comprehensive manner the rights of Indigenous and Afro-descendant communities, in particular the right to free, prior, and informed consent by the government bodies responsible for evaluating and approving licences for the exploitation of natural resources.
- Strengthen the land registry in such a way as to respect and protect Indigenous and Afro-descendant territories and to avoid legal uncertainty that allows overlapping titles at the expense of Indigenous or Afro-descendant collective ownership.
- Initiate prompt, thorough and impartial investigations into those involved in activities aimed at or that facilitate the division or splitting up of Indigenous or Afro-descendant collective territories.
- Refrain from imposing, without the prior, free and informed consent of communities, regulations based on the concept of private property in Indigenous and Afro-descendant territories where communities wish to maintain collective titles to their lands.
- When carrying out evictions, adhere strictly to international standards as set out in Article 11 of the International Covenant on Economic, Social and Cultural Rights and General comment No. 7 of the Committee monitoring the Convention, and ensure that forced evictions are prohibited in all circumstances.
- Ensure that the use of force during peaceful demonstrations, raids and evictions conforms to the relevant international standards, in particular the UN Basic Principles on the Use of Force and Firearms.

**Regarding access to justice:**

- Refrain from misusing the justice system to intimidate, harass and discredit defenders of the land, territory and environment.
- Issue directives or guidelines that make clear to the criminal investigation authorities who is a human rights defender and what their work entails.

- Provide ongoing and continuous training for public officials, in particular to those responsible for the prosecution and administration of justice, on the international framework on the right to defend human rights.
- Impose sanctions on state officials who misuse the justice system to criminalize human rights defenders.

**Other measures:**

- Adopt measures to reform the police forces and to strengthen their capacity to act in accordance with international human rights standards.
- Carry out timely, independent, and impartial investigations into reports of human rights violations and crimes under international law committed during the 2009 coup in Honduras and the internal armed conflict in Guatemala and ensure the rights to truth, justice and reparation for the victims.

**AMNESTY INTERNATIONAL ALSO URGES NATIONAL HUMAN RIGHTS INSTITUTIONS AND THE OMBUDSPERSON IN BOTH COUNTRIES TO:**

- Systematically identify best practices in the response of state officials to activities to defend human rights.
- Monitor and recommend the pursuit of criminal investigations arising from reports of attacks against human rights defenders.
- Include proposals for strategies for the protection and recognition of defenders working to defend rights related to land, territory and the environment in discussions between networks of human rights institutions and Ombudspersons.

**AMNESTY INTERNATIONAL MAKES THE FOLLOWING RECOMMENDATIONS TO INTERNATIONAL HUMAN RIGHTS BODIES AND THE INTERNATIONAL COMMUNITY:**

- Those countries involved in security cooperation agreements with Honduras or Guatemala should ensure constant monitoring of the police, military and judicial investigation bodies for whom they provide or fund training.
- Diplomatic representatives of the European Union and its member states in Guatemala and Honduras should ensure that the European Union Guidelines on Human Rights Defenders are implemented. This recommendation also applies to representatives of non-member states which have similar guidelines in relation to human rights defenders.
- The international human rights bodies present in Guatemala and Honduras should include the topic of territory, land and environmental rights defenders in their work.
- The international and regional human rights systems should continue to make repeated public statements about the legitimacy of the work of human rights defenders.

## FINALLY, AMNESTY INTERNATIONAL URGES COMPANIES OPERATING IN GUATEMALA AND HONDURAS AND THEIR REPRESENTATIVES TO:

- Ensure due diligence, as set out in the UN Guiding Principles on Business and Human Rights, so that the human rights of individuals and communities are respected in the context of activities and projects related to the exploitation of natural resources.
- Collaborate with the state authorities in the investigation of the attacks against human rights defenders because of their work in the context of projects for the exploitation of natural resources.
- Refrain from making statements aimed at discrediting or denigrating human rights defenders working on issues related to land, territory and the environment.

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# **‘WE ARE DEFENDING THE LAND WITH OUR BLOOD’**

## **DEFENDERS OF THE LAND, TERRITORY AND ENVIRONMENT IN HONDURAS AND GUATEMALA**

**Human rights defenders focusing on access to land and territorial and environmental rights in Honduras and Guatemala are working in extremely hostile settings.**

**Statements that vilify them, coupled with the misuse of the justice system to criminalize the defence of human rights, are violating their human rights and encouraging threats, attacks and assaults against them.**

**Entrenched impunity for attacks and threats against defenders sends a message that such acts will not be punished, exacerbating the situation.**

**States have an obligation to take appropriate measures to ensure an environment favourable to the defence of human rights.**