

# DEFENDING RIGHTS IN TIMES OF COVID

A regional review of the conditions for defending human rights  
and freedom of expression in Mexico and Central America



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## MEXICO AND CENTRAL AMERICA 2020




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In July and August 2020, a group of national and international organisations<sup>1</sup> involved in the defence of human rights and freedom of expression in Mexico and Central America convened 26 Human Rights Defenders (HRDs), from the region, to discuss and review how the pandemic was impacting them, their work, and their organisations. The “Defending Rights in Times of COVID” series featured the following five conversations:

-  [Women HRDs and the right to defend human rights](#)
-  [Freedom of expression and access to information during a pandemic](#)
-  [The struggle for memory, truth, and access to justice](#)
-  [Defending the environment and territory in Meso-America](#)
-  [Workers’ rights and trade-unionism](#)

These conversations highlighted a diverse mosaic of struggles, stories, challenges, complexities and strategies. However, the **unanimous consensus** from the forums was that **the conditions to defend human rights in Mexico and Central America, as well as the living conditions of HRDs, have worsened** since the onset of COVID-19. The obstacles that existed prior to the pandemic have become more pronounced and attacks against particular groups and spaces defending rights have increased. Furthermore, **new groups have come under attack** and new strategies have been employed by states to impede the work of HRDs and journalists.

We detail below some of the general conclusions:

-  Defending human rights has never been more urgent
-  The conditions for defending rights have deteriorated
-  Demands

# DEFENDING HUMAN RIGHTS HAS NEVER BEEN MORE URGENT

Under the pretext of the health emergency, states in the region have adopted **measures that limit certain human rights**, either directly or indirectly. In this regard, public scrutiny and the defence of rights is imperative to guarantee that these restrictions are legitimate and align with the principles of legality, adequacy, necessity, proportionality,<sup>2</sup> and temporality.<sup>3</sup> During the aforementioned conversations, we found that some states in the region had adopted health emergency measures that do not comply with these principles; but instead take advantage of the health crisis to advance an authoritarian rationale and measures that contravene particular human rights guarantees.

Firstly, there has been an **entrenchment of the punitive and militarised model and paradigm that underpins public security**. In countries such as El Salvador,<sup>4</sup> Honduras<sup>5</sup> and Guatemala<sup>6</sup> and in some regions of Mexico<sup>7</sup>, strict confinement measures were adopted, similar to “curfews” or “states of emergency”, which in some cases have been enforced by state armed forces<sup>8</sup> that have not been adequately trained in the protection and control of civilians,<sup>9</sup> and whose role in public security may pose a risk to upholding human rights norms.<sup>10</sup> This led to a notable increase in reports of excessive use of force, arbitrary detention and deaths occurring while in state custody, placing women in a particular situation of risk.<sup>11</sup> For example, in Mexico an agreement was adopted that allows the armed forces to perform public security duties for what remains of the current administration.<sup>12</sup>

**Freedom of expression and access to information has also been increasingly restricted since the onset of the pandemic.** Restrictions on movement have meant that protest actions were suspended and some gatherings were repressed. In Mexico reforms were adopted that facilitate online censorship,<sup>13</sup> and similar to El Salvador, Freedom of Information requests were postponed at various levels and time-periods.<sup>14</sup> Nicaragua received international attention because of its obscure approach to the health crisis, failing to provide reliable figures on confirmed cases of the virus.<sup>15</sup> Various governments in the region were found to have encouraged misinformation in public discussions.<sup>16</sup>

With regard to justice, **perpetrators of grave human rights violations** in Guatemala<sup>17</sup> and Honduras **have cited the pandemic** in attempting to access alternative measures to imprisonment, without considering the established international standards with regard to the right to justice for victims of grave human rights violations.<sup>18</sup> Disappearances in Mexico have continued,<sup>19</sup> and the cases of those

who died from COVID-19 have been added to the forensic identification system's already existing backlog.<sup>20</sup> Furthermore, owing to austerity or "efficiency" entities that are fundamental to the protection and promotion of human rights have suffered funding cuts or been restructured in Costa Rica<sup>21</sup>, Mexico<sup>22</sup> and Guatemala<sup>23</sup>. In the case of the latter, the pandemic has meant that attacks against judicial independence and institutional protection of human rights have increased, within a context of omission and encouragement from the Presidency.<sup>24</sup>

**Extractive projects have enjoyed preferential treatment during the pandemic.** The health emergency has not stopped mining concessions in Honduras<sup>25</sup> or the illegal logging of indigenous land in Panama.<sup>26</sup> In Mexico, mega projects are considered "essential activities" and key to economic recovery.<sup>27</sup> Indigenous peoples, deeply affected by these initiatives and the historic abandonment by the state, have not been contemplated in pandemic containment strategies and the measures adopted do not necessarily respond to the region's intercultural needs. They have not been guaranteed health cover, and their territorial and medicinal autonomy has been overlooked by states in their response to the pandemic.<sup>28</sup>

Finally, **the health crisis and the consequential economic depression has been used by businesses and governments to erode many advances made in labour rights**, and state support for those most affected by job loss has not been forthcoming. In Costa Rica, an old debate on a 12-hour working day was revived,<sup>29</sup> and in Panama a reform was adopted to regulate the suspension of contracts since the beginning of the pandemic, which is considered extremely regressive.<sup>30</sup> Honduras,<sup>31</sup> Guatemala,<sup>32</sup> México,<sup>33</sup> and El Salvador<sup>34</sup> have been criticised for social protection policies that are insufficient, poorly designed and selectively implemented.

# THE CONDITIONS FOR DEFENDING RIGHTS HAVE DETERIORATED

Although defending human rights has never been more urgent, **states in the region still do not recognise the importance of the work carried out by HRDs and journalists.** During the pandemic, various countries have registered a general increase in attacks against HRDs, such as smear incidents and stigmatisation, administrative reprisals, intimidation, arbitrary detention, and criminalization.<sup>35</sup> We should also mention that according to the organisations who participated in the discussions, **at least 25 HRDs have been killed in the region since the beginning of 2020.**<sup>36</sup>

**The restrictions placed on movement severely limit the defence of human rights and journalism.** Social distancing represents a barrier in closely accompanying groups whose rights have been violated.<sup>37</sup> Journalists face barriers with regard to reporting from the field, particularly in El Salvador.<sup>38</sup> Similarly, families of the disappeared as well as others involved in carrying out searches have faced obstacles in their defence activities.<sup>39</sup>

Another element that was reiterated in each of the conversations was the **economic precarity** that has affected practically all areas relevant to the defence of human rights. As well as the economic depression, women HRDs suffer the effects of a patriarchal and disproportionate distribution of care work.<sup>40</sup> Autonomous journalists and community radios have also experienced greater economic pressure that threatens the sustainability of, and their ability to, carry out of their work, above all as a consequence of state abandonment and insecure health care.<sup>41</sup>

Families involved in searches for the disappeared recognised that their defence activities are sustained by an informal economy, which leaves them vulnerable and exposed to economic fluctuations and without adequate social protection.<sup>42</sup> Indigenous communities defending their territories are in a similar situation and have had to rely on solidarity networks to guarantee their survival.<sup>43</sup> Finally, the large scale suspension of contracts has left thousands of workers and trade unionists in a critical situation across the region.<sup>44</sup>

**Women HRDs carry out their work within a context of increased violence against women.** In Guatemala,<sup>45</sup> Costa Rica,<sup>46</sup> El Salvador,<sup>47</sup> and Mexico<sup>48</sup> the level of violence perpetrated against women in private settings has increased since the beginning of the pandemic, and states have thus far failed to adopt effective measures to address this problem.

Women HRDs defending a woman's right to a life free of violence, sexual diversity, and reproductive rights, have also denounced an increase in attacks and cyber violence in reprisal for their work,<sup>49</sup> at a time when anti-rights actors have taken advantage of the situation to push for more restrictive measures in various areas in the region.<sup>50</sup>

**Attacks on the press have increased significantly since the health emergency began.** The exclusion of independent press from official reports has been denounced in El Salvador,<sup>51</sup> Nicaragua,<sup>52</sup> and Guatemala,<sup>53</sup> while in Panama judicial harassment has increased.<sup>54</sup> In Mexico<sup>55</sup> and El Salvador,<sup>56</sup> journalists have been intimidated and suffered digital harassment apparently in retaliation for their coverage.

**The medical profession has also come under attack since the onset of COVID-19.** In Nicaragua at least twelve medical professionals were fired and harassed in response to their criticism of official health policy.<sup>57</sup>

On the other hand, **organised groups of victims of grave human rights violations have denounced that their judicial processes have been delayed** and that people continue to die as they await justice.<sup>58</sup> Victims also noted that physical and technological gaps in accessing judicial entities have made their defence work even more difficult.<sup>59</sup> In general, judicial remedies have been ineffective in protecting and guaranteeing human rights in places like Mexico, where they have been disregarded or postponed because of the onset of the pandemic, to the detriment of various populations, including migrants, workers and indigenous communities.<sup>60</sup>

With regard to **indigenous peoples, their defence of land, territory and the environment has been affected since the onset of the pandemic.**<sup>61</sup> Within this context, territorial invasions, and armed and lethal attacks against communities defending their territories have continued in Honduras,<sup>62</sup> Mexico<sup>63</sup>, Nicaragua<sup>64</sup>, Costa Rica<sup>65</sup> and Guatemala<sup>66</sup> In addition, although in the midst of a pandemic and the onset of a health crisis within penitentiary centres in México,<sup>67</sup> Guatemala,<sup>68</sup> and Honduras,<sup>69</sup> land rights defenders continue to be illegally deprived of their freedom.

With regard to the defence of labour rights, **in general, states have been incapable of guaranteeing a safe work environment.** Businesses that form part of the global supply chain, such as the agricultural sector,<sup>70</sup> and factories,<sup>71</sup> have been severely hit by outbreaks of the virus. Although so too have other sectors such as the precarious situation of men and women involved in sex work.<sup>72</sup> In this regard, defenders of workers' rights have focused on responding to humanitarian emergencies. Those who have visibilised the regression of work guarantees have faced public stigmatisation and have been excluded from the labour market in retaliation for their union demands.<sup>73</sup>



# DEMANDS

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In light of this situation, the organisations that promoted the “Defending Rights in Times of COVID-19” series propose the urgent implementation of the following recommendations:

## States:

- Collectively design and implement a collaborative work plan to strengthen national HRD protection mechanisms and integral public policies on protection, that include a gender perspective and intersectional approach. Guarantee the participation of all levels of government, public institutions, civil society organisations and regional and international human rights bodies in these processes;
- Refrain from committing acts of verbal stigmatisation and judicial intimidation against HRDs and journalists and condemn such incidents;
- Make pronouncements and communications campaigns that seek to impact at a national, regional and local level, in support of HRDs and journalists, emphasising the importance of their work with regard to the protection of rights and access to information, within the context of COVID-19;
- Refrain from discriminating against HRDs because of the nature of their work with regard to accessing social benefits in the context of the economic crisis generated by the COVID-19 pandemic;
- Conduct thorough, expeditious, and impartial investigations in to crimes against the freedom of expression and the defence of human rights;
- Release from prison those HRDs who have been criminalised and detained because of their work in the defence of human rights or freedom of expression.

### **International bodies for the protection of human rights:**

- Improve coordination between the United Nations and the Inter-American system to guarantee broader and better protection of HRDs and journalists within this challenging environment, and encourage an integrated response from states with regard to various groups and spaces involved in the defence of human rights;
- Issue a public statement on the situation of HRDs and journalists in Mexico and Central American in the context of the pandemic, including recommendations for authorities at various levels;
- Provide technical assistance to states with a view to implementing international standards, recommendations, guidelines and formulated opinions in relation to the situation of HRDs and journalists to develop actions that mitigate the risks brought about by the health measures and the post-COVID recovery;
- Request that governments in the region carry out an assessment of the situation for defending human rights and freedom of expression, with a view to designing and implementing public programmes and policies that generate a safe and enabling environment for exercising these rights, that address recovery measures post COVID-19, with the participation of HRDs, journalists and civil society organisations.

### **European Union and the diplomatic corps in the region:**

- Monitor the situation of HRDs in the region and issue public statements at a local level, as well as in multilateral forums, such as the United Nations Human Rights Council, against reprisals, acts of aggression, smear campaigns and killings perpetrated against HRDs;
- Formulate strategies and action plans to assist governments in the region in the implementation of public policies and measures with regard to the protection of HRDs;
- Strengthen political, technical and economic cooperation to lessen the affects of the COVID-19 crisis and its short, medium and long-term affects, in particular with regard to the protection of women, HRDs, journalists, LGBTI+, indigenous peoples, and children and adolescents, who are facing an upsurge in violence within the context of the pandemic;

- Promote funding projects and programmes for civil society organisations, HRDs, and journalists who face restrictions and obstacles within the context of the pandemic, to obtain available economic resources so that they can continue their work;
- Refrain from participating in and financing investment projects and initiatives that damage the environment and those who defend it;
- Within the scope of your remit, support the temporary suspension of mega projects within the context of the health emergency, as well as ensure the swift and appropriate publication and dissemination of environmental impact assessments and information related to large-scale investment projects in which the European Union its member states are involved.

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