

STOP

THE KILLINGS

THIS REPORT, PRODUCED BY THE HRD MEMORIAL, IS AN ANALYSIS OF THE ROOT CAUSES OF THE KILLING OF HUMAN RIGHTS DEFENDERS IN BRAZIL, COLOMBIA, GUATEMALA, HONDURAS, MEXICO AND THE PHILIPPINES. IT IS BASED PRIMARILY ON ORIGINAL RESEARCH BY: Comitê Brasileiro de Defensores e Defensoras de Direitos Humanos, Brazil; Programa Somos Defensores, Colombia; UDEFEGUA, Guatemala; ACI-Participa, Honduras; Comité Cerezo, Mexico; IDefend, Karapatan and PAHRA, the Philippines.



HRD
memorial
CELEBRATING THOSE WHO WERE KILLED
DEFENDING HUMAN RIGHTS

STOP THE KILLINGS

EDITED BY FRONT LINE DEFENDERS

THIS REPORT HAS BEEN PRODUCED AS PART OF THE HRD MEMORIAL. THIS IS A UNIQUE PROJECT, DEVELOPED BY AN INTERNATIONAL COALITION OF NATIONAL AND INTERNATIONAL HUMAN RIGHTS ORGANISATIONS, TO COMMEMORATE ALL THE HUMAN RIGHTS DEFENDERS (HRDS) WHO HAVE BEEN KILLED SINCE THE UNITED NATIONS DECLARATION ON HUMAN RIGHTS DEFENDERS CAME INTO EFFECT IN 1998.

Currently, the HRD Memorial Network includes: ACI-Participa, ACCUDEH, Amnesty International, Article 19 (representing the Brazilian Committee of Human Rights Defenders), AWID, CALAS, CIVICUS, Comité Cerezo Mexico, Defend the Defenders, ESCR-Net, FIDH, Asian Forum for Human Rights and Development (FORUM-ASIA), Front Line Defenders, Global Witness, Human Rights Defenders' Alert – India, ILGA, KARAPATAN, Iniciativa Mesoamericana de Mujeres Defensoras de Derechos Humanos (IM-Defensoras), OMCT, PBI, Protection International, RMP-NMR, Somos Defensores, UDEFEGUA, Urgent Action Fund.

The HRD Memorial Project Network is open to any organisation which shares the goal of the project – to end the killing of HRDs. If your organisation would like to join the HRD Memorial Project Network, email HRDmemorial@frontlinedefenders.org.

Front Line Defenders would like to thank all the organisations, both named and unnamed, whose research has provided the basis for this report.

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FOREWORD

ALMOST TWENTY YEARS AGO, THE UNITED NATIONS GENERAL ASSEMBLY ADOPTED BY CONSENSUS the Declaration on human rights defenders. All governments made the strong commitment to prioritise the security and protection of HRDs, recognising the right of all individuals and organisations to peacefully defend human rights. Yet, the world seems less and less safe for those who stand up for human dignity.

Over the past four years, travelling to document the situation of human rights defenders (HRDs), I have seen how attacks against lawyers, indigenous peoples, journalists, social movement leaders, whistle-blowers and community volunteers are on the rise everywhere in the world. Attacks against those who promote sexual and reproductive rights in countries where fundamentalist religious groups have more weight in decision-making than ordinary citizens. Attacks against those who defend their water or land from mega-scale projects. Attacks against those who search for their disappeared loved ones. Attacks against those who fight against corruption or impunity. Every day we hear of another killing and each one of these killings is a tragedy. A tragedy for the family of the victim, for their communities and for all of us, as these deaths mean our peace, security and freedom are at risk.

This is not random violence. I have become convinced that the incidents in question are not isolated acts but concerted attacks against those who try to embody the ideal of the Universal Declaration of Human Rights, in a world free from fear and want. I am deeply concerned at the lack of visibility and recognition of defenders' work. There is often a disconnect between public opinion and the active community of HRDs. When I meet with defenders from many countries, they often tell me they are depicted in their own countries as traitors, defenders of criminals or against development. Politicians, business actors or mass media spread these images. This lack of understanding of the role of defenders is exploited by some states to pit entire sectors of the population against one another and to undermine the situation of people who are working to protect human rights and freedoms.

THIS IS NOT RANDOM VIOLENCE. I HAVE BECOME CONVINCED THAT THE INCIDENTS IN QUESTION ARE NOT ISOLATED ACTS BUT CONCERTED ATTACKS AGAINST THOSE WHO TRY TO EMBODY THE IDEAL OF THE UNIVERSAL DECLARATION OF HUMAN RIGHTS

I am concerned by the lack of response to observations that have been made repeatedly, since the establishment of the mandate of the UN Special Rapporteur on the situation of human rights defenders. The reports of my predecessors, Hina Jilani and Margaret Sekaggya, referred to the lack of strong and ambitious political action aimed at bringing a lasting end to attacks against defenders.

Those who attack and kill HRDs do so in the belief that after an initial flurry of anger these people will soon be forgotten. It is essential that we never allow this to happen. This is why the HRD Memorial, developed by Front Line Defenders, in partnership with a coalition of

national and international organisations, is such an important initiative, celebrating the courage and commitment of those who gave their lives to defend the rights of others. It is their example that should inspire us to greater efforts in defence of human rights. We must be bolder and more creative in order to face up to threats that weigh heavily on civil society as a whole and on every individual fighting for fundamental rights and freedoms.

I particularly welcome the focus in this report on the specific risks faced by women and LGBTI defenders. Discrimination and attacks against them are increasing at an alarming rate, partly as a result of the rise of religious fundamentalism around the world. It is essential that protective measures should take into account the specific risks faced by such groups. This entails not only giving them an active role in developing measures and mechanisms intended to protect them, but also tackling the root causes that lead to such discrimination and violence.

I have also been struck by the alarming reports, issued by many organisations, of the risks faced by persons committed to preserving natural resources and protecting the right to land. I cannot insist strongly enough on the importance of HRDs in fighting for our planet and our rights in the face of powerful private interests. However, I am pleased to note that many businesses are increasingly aware of the impact of their activities on human rights. Businesses, especially those working in the extractive and wood industries or with hydroelectric mega projects, are often mentioned in cases of violence perpetrated against HRDs. It is crucial to engage them in a frank and constructive dialogue with a view to helping them establish mechanisms to prevent the development of tragic situations in the field. Various options are being explored to improve defenders' participation in development projects and in the setting up of mechanisms for redress and remedies in case of violations.

I am inspired on a daily basis by the courage and commitment of HRDs who risk their lives to defend the rights of others. It is by drawing from the strength of conviction, innovation and tenacity of defenders that collectively we can best support and protect them. The hopes raised by that Declaration remain alive. The same is true of the legitimate aspirations of millions of people: to live in a society that is freer, more just, more egalitarian, and where every person is able to enjoy their human rights. Those who are fighting for this to become a reality should be recognised as the heroes of our time. All too often, HRDs have sacrificed their lives and their families' safety so that we may have access to



decent housing, good-quality education, or simply to be able to vote or to express ourselves without fear. These brave women and men continue to be vilified, threatened and attacked throughout the world. Every day, every week, there are insidious attempts to destroy years of hard work aimed at better protecting defenders.

When HRDs are attacked, it is ultimately democracy itself that comes under threat. Today, recognising the tragic and seemingly hopeless situations facing so many defenders is no longer the issue. Indeed, time and again, their plight has been reported, condemned and communicated by many. This dire situation does not allow us the luxury of sitting back and waiting. Let there be no doubt. It is our moral responsibility to embody the ideals of the Universal Declaration of Human Rights and it is urgent to take action. In each of the six countries highlighted in this report, the key issue is the lack of political will to insist on the protection of HRDs as a key element of government policy. Governments must recognise the vital role played by HRDs in building more just and equal societies. It is not enough to sign up to international human rights agreements and introduce progressive sounding legislation. Those commitments must be honoured and governments must provide the political support and the financial resources, both to protect HRDs at risk and to investigate attacks against them.

Michel Forst
*United Nations Special Rapporteur
on the situation of human rights defenders*

WHEN HUMAN RIGHTS DEFENDERS ARE ATTACKED, IT IS ULTIMATELY DEMOCRACY THAT COMES UNDER THREAT

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I HAVE REPORTED ON THE IMPACT OF THESE KILLINGS, AND THE ‘CRIMINALISATION’ THAT OFTEN PRECEDES THEM, THROUGHOUT MY TRAVELS ON BEHALF OF THE UN, TO HONDURAS, BRAZIL, MEXICO AND MANY OTHER COUNTRIES. I HAVE SEEN THE SCARS LEFT BY BULLETS AND THE GRAVES OF MURDERED LEADERS. THE KILLINGS MAKE NEWS, BUT HIDDEN BEHIND THESE HEADLINES IS SOMETHING EVEN MORE INSIDIOUS: THE SILENCING OF ENTIRE COMMUNITIES

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VICTORIA TAULI-CORPUZ,
UN SPECIAL RAPporteur
ON THE RIGHTS OF INDIGENOUS PEOPLES

INTRODUCTION

IN THE 20 YEARS SINCE THE UNITED NATIONS DECLARATION ON HUMAN RIGHTS DEFENDERS¹ WAS ADOPTED, there has been an exponential growth in the number of people working at local and national levels to defend and promote human rights. This is partly a consequence of political and economic trends that have opened some space (often contested) for freedom of expression and association. Greater access to education and changes in communications technology that makes it more difficult to control information have also been factors. There can be no doubt the positive example of what those engaged in the struggle for human rights have achieved has encouraged others, even if it has also provoked a backlash from those in power. And there is increased recognition of the vital role played by human rights defenders (HRDs) in protecting the rights of their communities and peoples, challenging oppression and gaining public recognition and respect.

United Nations Sustainable Development Goal 16 recognises the importance of the work of HRDs to: “promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels”.² The backlash against HRDs has included restrictive legislation, efforts to block funding, the prosecution of fabricated charges and sophisticated defamation campaigns. However, the use of lethal violence to silence those who defend the rights of the most vulnerable has become widespread, and is endemic in a number of countries. In its 2017 Annual Report,³ Front Line Defenders reported the killing of 312 HRDs in 27 countries; the true figure is certainly higher. Two-thirds of those killed were working on the environment, land rights and indigenous peoples’ rights, often in remote rural areas.⁴ The weak response of both national governments and the international community gives little hope that the scale of killings will change in the short term. Since Front Line Defenders started producing an annual global list of HRDs killed in 2014, the organisation has reported 821 HRDs killed up to December 2017, targeted because of their peaceful human rights work. 79% of this total number of HRDs killed came from six countries: Brazil, Colombia, Guatemala, Honduras, Mexico and the Philippines. The vast majority of these cases have never been properly investigated, and few of the perpetrators or intellectual authors of the killings, have been brought to justice.

An analysis of the work done by those killed is instructive: of those killed in 2017, 67% were engaged in the defence of land, environmental and indigenous peoples’ rights and nearly always in the context of mega projects linked to extractive industries and big business. In many countries, governments and security forces were, at best, unresponsive to threats and attacks faced by HRDs and, at worst, state security forces carried out the killings. For the most part, international investors and parent companies, whose funding and support initiated and enabled such projects, still do not regard local community leaders and HRDs as key actors to consult when planning projects. This lack of consultation increases the risk of confrontation further down the line and denies companies early warning signals when conflict in local areas does emerge. In 84% of the 2017 killings, for which Front Line Defenders has the necessary information, the defender had previously received a threat, highlighting the fact that if preventive action were taken by police, or if other key stakeholders, including investors, publicly addressed the need for HRD protection at an early stage, attacks against HRDs could be dramatically reduced.

This report focuses on the situation in just six countries: Brazil, Colombia, Guatemala, Honduras, Mexico and the Philippines because, between them, they accounted for 85% of the killings of HRDs in 2017. The same pattern has been replicated in Front Line Defenders Annual Reports for 2014⁵, 2015⁶ and 2016.⁷ While governments seek to justify their actions by reference to the war on terror and the activities of drug traffickers or organised crime, there are a number of very clear systemic state failures which generate the climate of impunity for these killings:

- ❖ state failure to recognise the legitimacy and importance of the work of HRDs;
- ❖ smear campaigns against HRDs by the state and/or its agents;
- ❖ economic policies which prioritise the ruthless exploitation of natural resources over the protection of the environment and the land rights of peasant communities and indigenous peoples;
- ❖ lack of effective systems to document and investigate attacks on HRDs and provide protection;
- ❖ collusion by the state and/or its agents in the killing of HRDs.

However, we must also recognise that a reliance on the statistics alone does not tell the full story. The lower number of women human rights defenders (WHRDs) documented as killed does not reflect the level of violence to which WHRDs are subjected and the true numbers are almost certainly higher. Women defenders are routinely the target of smear campaigns which undermine their positions as leaders in their

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community or as wives and mothers. They may be the target of violence in the home, from their families and communities, and even within the human rights movement. It is also notable that when WHRDs are killed, the level of cruelty and brutality involved is often significantly higher, including sexual violence, as highlighted in a recent report on Colombia.⁸ Similarly the lack of accurate data on the killing of right to information (RTI) and Dalit activists⁹ in India and LGBTI activists in the Americas makes it difficult to get a true picture of the level of violence to which these groups are subjected. It is not always easy to identify whether defenders of LGBTI rights are killed because of their activism or because of their identity or both. In 2016, Spanish daily *El País* reported that in 2015 119 members of the LGBTI community were killed in Colombia.¹⁰ In Brazil 343 members of the LGBTI community were killed in 2016¹¹ and an additional 445 were killed in 2017.¹² In Mexico, 202 members of the LGBTI community were killed in a three year period from 2014-2016.¹³ Transgender Europe's Trans Murder Monitoring Project¹⁴ reported that at least 1,700 transgender and gender-expansive (an umbrella term used for individuals that broaden their own culture's commonly held definitions of gender), people have been killed since 2008 in Central and South America. It cited 2,343 reported killings of trans and gender-diverse people in 69 countries worldwide between 2008 and 2016. The absence of properly segmented data makes it impossible to identify how many of these killings involved HRDs targeted because of their peaceful human rights activism, but this is a challenge that we need to address going forward.

Many of those governments who ostensibly support democracy and human rights have also provided direct financial and security assistance to some of the most oppressive regimes in the world. In all of the countries featured in this report there has been extensive funding, training and the provision of weaponry, surveillance equipment and technical support to the police, intelligence and military forces heavily implicated in the killing of HRDs. Corrupt dictators and populist authoritarians have been emboldened to attack not just HRDs but the very idea of universal human rights. This partly reflects changing economic and power dynamics, including the rise of China as an international power, and also the perceived weakness and hypocrisy of western governments. This has been facilitated by the spread of right wing nationalism and religious extremism and further exacerbated by the systematic use of torture and indiscriminate killings by western powers in the so-called 'war on terror' as well as the agreements struck by the EU with brutally repressive governments such as those in Turkey and Egypt, in a supposed effort to reduce the number of refugees reaching Europe. This is a crucial political moment. We need a more consistent and credible political response

from governments active in the defence of democracy and human rights. There must be a renewed and reinvigorated political priority to protect human rights defenders and independent civil society. This requires more high profile political leadership, a consistent strategy that integrates a serious priority for the protection of HRDs across a number of policy areas, and sustained practical support to those under attack on the front line.

In its Annual Report for 2017/18 which covered 159 countries and territories, Amnesty International accused governments across the globe of "shamelessly backsliding on human rights, cracking down on dissent, and instituting measures that ensured the further persecution of marginalised groups".¹⁵ An estimated 3,500 HRDs have been killed because of their peaceful work defending the rights of others since the UN General Assembly adopted the Declaration on Human Rights Defenders by consensus in 1998. In the vast majority of cases no one has been convicted or even charged. In recent years we have seen an increase both in the number of killings and in the number of countries in which they take place. Many killings are not even formally documented. It is this track record of impunity which normalises the killing of HRDs. However complex the situation may seem, it is the single issue of the absence of political will that prevents governments from taking meaningful action to protect HRDs at risk.



Andrew Anderson
Executive Director
Front Line Defenders

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BRAZIL



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WE LIVE IN A SITUATION OF SYSTEMIC AND RECURRENT VIOLENCE. THE IMPUNITY FOR HUMAN RIGHTS VIOLATIONS ENSURES THE EFFECTIVENESS OF REPRESSION AND INCREASES THE NUMBER OF PEOPLE AND GROUPS THREATENED AND MURDERED

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URGENT ACTION GROUP OF THE HUMAN RIGHTS COUNCIL OF BRAZIL

IN RECENT YEARS THERE HAS BEEN A RESURGENCE OF VIOLENCE AGAINST HUMAN RIGHTS AND HUMAN RIGHTS DEFENDERS (HRDs) in Brazil and a reduction in the protection of human rights by the state. Police use excessive force, particularly during protests. Young people and black men, especially those living in favelas and other marginalised communities, and those who defend their rights, are disproportionately targeted with violence by law enforcement officials. HRDs, especially those defending land and environmental rights, or the rights of indigenous and Quilombola (Afro-descendant) peoples face increased threats and attacks. Violence against women and girls is widespread, yet the specific risks faced by women human rights defenders (WHRDs) is largely ignored, both by civil society and the government. Human rights violations and discrimination against refugees, asylum seekers and migrants has intensified, creating a climate of hostility to the work of HRDs.¹⁷ Given the increasing levels of violence against defenders and the systematic dismantling of the state systems of protection¹⁸ for human rights, it is now more necessary than ever to strengthen the struggles of social movements, activists, indigenous peoples and communities to achieve the protection of their human rights by prioritising the implementation of an effective strategy to protect HRDs.

The situation of HRDs in Brazil is closely connected to the political and economic crisis in the country. The economy has suffered a huge recession, with real income per capita down 9% between 2013 and 2016; growth is structurally too slow; the fiscal position is unsustainable; and a corruption scandal¹⁹ has engulfed the political elite and leading businessmen. According to projections based on World Bank data, Brazil will be the weakest economy in the region through 2019.²⁰ At the same time, the Supreme Court has authorised investigations into one-third of current cabinet members, one-third of senators, and one-third of state governors, as well as the president, leaders of Congress and of the main political parties.²¹ Following the impeachment of President Dilma Rouseff, the political and economic elites are even more determined to advance with projects based on the extraction and exploitation of the natural and human resources of Brazil, as a solution to their economic woes. The government and its allies in Congress, see any attempt to protect the environment, the rights of indigenous peoples or peasant communities as a threat to their economic interests. However, in a surprise move, the Brazilian government has officially announced that it would call an end to its previous mega-dam building policy, including the construction of several large dams in the Amazon region. This would potentially remove a major threat to the livelihood of indigenous peoples in the region.²² The political crisis, besides creating instability, has contributed to the intensification of expressions of hatred towards, and attacks on, HRDs. Despite the fact that considerable efforts have been made in recent years to fully document the attacks, there is still under-reporting due to the complexity of the situation, including; the size of the country and the difficulty in accessing accurate information from remote areas.

THIS SITUATION IS EXACERBATED BY THE FACT THAT THOSE IN POWER ARE FOCUSED ON PROTECTING THEIR OWN SELF- INTEREST, THE INTERESTS OF LARGE LANDOWNERS, AND TRANSNATIONAL CORPORATIONS, AND REINFORCED BY THE INFLUENCE OF THE MILITARY AND AND PERSISTENT SOCIAL, ETHNIC, RACIAL AND GENDER INEQUALITIES

In 2016, the Dom Tomás Balduino Documentation Centre – CPT²³ (set up by the Comissão Pastoral da Terra/Pastoral Land Commission to collect and analyse information on human rights violations in rural areas) documented the largest number of conflicts in rural areas in the previous 32 years. 1,079 conflicts were recorded, an average of 2.9 incidents per day. Additionally, murders of activists in rural areas increased by 22% compared to 2015 and represented the highest number of cases since 2003.²⁴ The report, *Vidas em Luta: Criminalização e Violência contra Defensoras e Defensores de Direitos Humanos no Brasil*²⁵ published in 2016 by the *Comitê Brasileiro de Defensoras e Defensores de Direitos Humanos*²⁶ (CBDDH) and based on data from Dom Tomás Balduino Documentation Centre – CPT, documented the killing of 66 HRDs in 2016. In its Annual Report for 2017, published in January 2018, Front Line Defenders reported the killing of 65 HRDs in Brazil.²⁷ The revised figures for 2017, published in April 2018, by Dom Tomás Balduino Documentation Centre – CPT show this dramatic increase continuing with 70 killings recorded, a 15% increase over 2016.²⁸ The big change in 2017 is the increase in the number of massacres.²⁹ Of the 70 killings recorded in 2017, 28 or 40%, were during a massacre.³⁰

This situation is exacerbated by the fact that those in power are focused on protecting their own self-interest, the interests of large landowners, and transnational corporations, and reinforced by the influence of the military and and persistent social, ethnic, racial and gender inequalities. As long as there is no move to address the systemic causes of injustice there will continue to be daily attacks on HRDs and the general abuse of human rights. Although most of the killings in the country are related to the defence of land and indigenous peoples' rights, violence against HRDs has gone far beyond these sectors and includes violations in urban areas, such as against HRDs working in the *favelas* of Rio de Janeiro or LGBTI activists in Curitiba. The Brazilian economic model is largely based on the development of mega projects such as dams and hydroelectric schemes which impact hugely on the lives of the indigenous peoples. The decision to end the development of hydro-electric dam projects in the Amazon basin is a welcome development. These projects should be developed under the supervision of appropriate state

bodies. However, the current lack of supervision results in planning and financial irregularities due to a failure to measure the social and environmental impact of these projects. This “development at any cost” model³¹ premised on the ruthless exploitation of the natural resources of the country, is inherently discriminatory in that it prioritises short-term economic gains for the few over access to rights for the majority of the Brazilian population.

ATTACKS ON RURAL WORKERS

Big landowners hold about 45% of Brazil’s countryside,³² while small farmers own just 2.3 percent of the land. This concentration of resources in the hands of a wealthy few derives from the country’s history of slavery and the mass killings of indigenous peoples. The result today is chronic tension between those who have land and those who do not.³³ This has created a situation of worsening and sadly predictable violence that is affecting the lives of those who defend human rights in Brazil.³⁴ Families living on land that is being resettled under the agrarian reform programme live under the threat of constant attack, ranging from death threats, torture, being held in captivity, houses being set on fire, fences being cut down, poisoning through the aerial spraying of pesticides and shooting at houses and vehicles. According to a 2017 Global Witness report,³⁵ 46 land and environmental rights defenders were killed in Brazil in 2017.³⁶ In the majority of these cases there has not been a proper investigation, and perpetrators have not been brought to justice.

The Brazil Human Rights Defenders Committee³⁷ considers that an early warning system to identify serious conflicts as they develop is of extreme importance and would enable the government to intervene pre-emptively to prevent the worsening of human rights violations, such as the increase in the number of multiple killings. While the state has overall responsibility for the protection of HRDs, in many cases police or members of the security forces are implicated in the killings. The state has a clear responsibility to protect HRDs but also to take effective action against perpetrators within the police and security forces. According to data from the Dom Tomás Balduino Documentation Centre – CPT, in 2015 there were 50 deaths, 144 people were threatened and there were 59 attempted killings in rural areas. The states of Rondônia, Pará and Maranhão accounted for 90% of these cases. In 2016, the north and northeast regions were the most dangerous for HRDs, accounting for the majority of killings with 56 murders.³⁸ Since 2017, the pattern of killings has shifted from individual killings to brutal attacks on communities, distinguished by extreme cruelty.³⁹ In May 2017, ten land rights defenders were shot dead by police in Pau D’arco. Six weeks later, a witness to the killings, who had gone into hiding, was also murdered.

WHILE A NUMBER OF LAWS PROTECTING THE RIGHTS OF INDIGENOUS PEOPLES CAME INTO EFFECT FOLLOWING THE INTRODUCTION OF THE 1988 CONSTITUTION, THE FACT REMAINS THAT AFTER MORE THAN 25 YEARS, THERE IS STILL MUCH TO BE DONE TO IMPLEMENT THESE RIGHTS

INDIGENOUS PEOPLES AND QUILOMBOLA

Indigenous peoples and traditional communities are routinely marginalised in Brazilian society. Their lands and territories are usurped by land grabbers, farmers, and by the state itself. While a number of laws protecting the rights of indigenous peoples came into effect following the introduction of the 1988 Constitution, the fact remains that after more than 25 years, there is still much to be done to implement

MARIA TRINDADE DA SILVA COSTA



Maria Trindade da Silva Costa was a Quilombola (afro descendant) leader in the Santana do Baixo Jambuçu community in Moju, Pará state. On 23 June 2017 Maria Trindade set off on her bicycle to visit friends in the area. Her body was found the next day. She had been badly beaten and there were signs of sexual assault. According to family members Dona Trindade as she was known, was popular in the area and known for her work as a community leader and a respected defender of Quilombola rights. She was also an active member of a local church. The

brutality and sexual nature of the attack highlighted once again the double impact of racism and gender discrimination faced by black women in Brazil and especially the vulnerability of women like Dona Trindade who campaign for Quilombola rights.

FLAVIO GABRIEL PACIFICO DOS SANTOS



On 19 September 2017, Quilombola (afro descendant) leader, 38 year old Flavio Gabriel Pacifico dos Santos, known to everyone as ‘Binho do Quilombo’, was shot at least 10 times and killed in the city of Simões Filho. Binho do Quilombo was the son of the former Secretary for the Promotion of Racial Equality in the municipality, Maria Bernadete Pacifico. He had just dropped his son off at school and was driving to the funeral of a friend when a white car pulled up and two men opened fire. Binho do Quilombo was a respected defender of Quilombola rights in the

Pitanga de Palmares area. He had also stood as a candidate in the council elections of 2012 and 2016.

these rights, especially with regard to access to and recovery of land. “The judicial uncertainty generated by the lack of territorial recognition exacerbates these conflicts and the situation of vulnerability that these communities suffer when dealing with actors with an economic interest in those territories”.⁴⁰ Even the limited progress achieved to date is under threat from government proposals to reduce the amount of indigenous peoples’ land and to undermine the work of FUNAI⁴¹ and INCRA⁴² (the bodies responsible for protecting the rights of indigenous peoples) to demarcate and grant titles to indigenous peoples’ land. In May 2017, the final report of the Parliamentary Committee of Inquiry (CPI) investigating FUNAI and INCRA was approved. This report worryingly demanded the indictment of 67 people, including indigenous peoples’ leaders and anthropologists. This criminalisation and dismantling of the work of INCRA and FUNAI is a particular area of concern as this serves the interests of the landowning “ruralist” group⁴³ in the National Congress, which wants access to large tracts of land belonging to indigenous peoples. This group views the work of FUNAI and INCRA, and the process of agrarian reform, as a threat to its economic interests.

The CPI report⁴⁴ alleged that FUNAI and INCRA were involved in corruption and were unnecessarily confrontational, but omitted any reference to the increase in land conflicts in recent years, and the increased incidence of murders of indigenous leaders, Quilombolas and those campaigning for the redistribution of land. Since 2015 there has been a consistent increase in violence against members of Quilombola communities. According to Brazilian civil society organisations, 14 members of Quilombola communities were killed in 2017. The violence against indigenous peoples in the state of Maranhão, which is home to the Gamela people, is typical of the crisis across the country. There are currently some 376 communities in the state of Maranhão that are experiencing rural violence and conflict. In 2016 alone, 196 incidents of violence against rural communities were reported. Maranhão was the state with the highest number of murdered indigenous people in 2016. In 2016 the *Conselho Indigenista Missionário* (the Indigenous Missionary Council – CIMI) denounced various paramilitary attacks organised by ranchers targeting leaders of the Guarani – Kaiowá people in Mato Grosso do Sul. One attack resulted in the death of Clodiodi Aquileu.⁴⁵ Film footage showed several armed men setting fire to dwellings in a brutal episode which, in addition to killing one indigenous person, left another six wounded, including a child. The Guarani-Kaiowá ethnic group is made up of approximately 60,000 people living in more than 50 communities. Although the case of Mato Grosso do Sul is particularly dire, there is a clear pattern of abuse and violence against indigenous HRDs across Brazil.

In Bahia, the Tupinambá indigenous people also suffer all kinds of prejudice and physical and cultural violence. Death threats are constant and their leaders are persecuted, attacked and imprisoned. The failure of the state to acknowledge or address the issue of attacks on Quilombola and indigenous peoples and their leaders indicates that there is a real risk of these indigenous peoples being marginalised in order for their lands to be appropriated and to facilitate the exploitation of the natural resources available there. This fact of virtual total impunity means that indigenous peoples’ rights defenders and community leaders can be picked off systematically as a way of terrorising the whole community. The indigenous peoples of Brazil, and their leaders, are more at risk now than at any time in their recent history.⁴⁶

THE VIOLENCE AGAINST AND CRIMINALISATION OF HRDS THAT OCCURS IN CITIES PARTICULARLY AFFECTS THOSE WORKING FOR THE RIGHT TO HOUSING, DEFENDING THE RIGHTS OF THE LGBTI COMMUNITY, SEX WORKERS, BLACK YOUTH, COMMUNITY LEADERS, COMMUNITY WORKERS IN THE FAVELAS AND STUDENTS

JANE JULIA DE ALMEIDA



On 24 May 2017, ten rural workers were killed in the municipality of Pau d’Arco, in Pará state during a combined operation by the military and civil police. The action took place at the Santa Lúcia ranch, which had once again been occupied by landless people. The families are fighting for the land to be redistributed under the agrarian reform programme. Among the dead was Jane Júlia de Almeida, leader of the camp and the only woman murdered that day. Jane Júlia de Almeida had suggested that the group stay where they were. She believed the police would not come looking

for them in the rain, but she was wrong. According to a witness: “As the group stood under a tarpaulin waiting for the rain to stop the police arrived shooting as they ran and shouting that everyone was going to die. I ran away but she sat there. I do not know if they killed her sitting down, I just remember they were saying: get up to die old bastard, old slut, bitch. Then they smiled and shot her.”

MARINALVA MANOEL



Marinalva Manoel lived in Ñu Verá, a community of 28 Guarani Kaiowá families who are struggling to get the 1,500 acres of land they live and work on recognised as belonging to an indigenous people. Even though the legal process is at an advanced stage they are under a lot of pressure from local ranchers who dispute their claim, and also from developers, who want the land for housing, because it is close to the city. Marinalva was a member of the *Grande Conselho Guarani-Kaiowáda Aty Guassu* of the Guarani Kaiowá. Two weeks before she was killed, Marinalva had gone to Brasília

as part of a delegation of leaders representing indigenous peoples. They had camped out in front of the Supreme Court to protest at a proposal to overturn the decision to grant the land to the Guarani Kaiowá. Marinalva had spoken many times of the recent upsurge in threats from local ranchers, or people employed by them. On the morning of 1 November 2014, Marinalva’s body was found on the side of the road with multiple stab wounds.

VIOLENCE IN URBAN SETTINGS

The violence against and criminalisation of HRDs that occurs in cities particularly affects those working for the right to housing, defending the rights of the LGBTI community, sex workers, black youth, community leaders, community workers in the *favelas* and students. Brazilian cities are experiencing a wave of brutal violence including state violence, particularly by the police; attacks by extremist groups and by militia groups funded by large companies; and indiscriminate violence resulting from inter-gang territorial disputes. In this environment, the murders of women or activists working with the street and prison populations are all lumped together as “urban violence” or are included in the statistics for the “war on drugs”. Many people have also been injured and even killed during forced evictions. In May 2017, for example, during a forced eviction in the Belo Horizonte *favela*, a 14-year-old urban activist was shot in the mouth at a distance of less than 1.5 meters.

In Rio de Janeiro, *favela* activists and slum dwellers who struggle against institutional violence have been systematically intimidated and threatened by military and civil police officers.⁴⁷ Reports of human rights abuses include illegal telephone tapping, targeted kidnappings, breaking into households, sexual harassment, rape and shots being fired at HRDs. Between January and July 2017, 642 people were killed as a result of police operations in Rio de Janeiro. According to Brazilian NGO Justiça Global, by the end of 2017 there had been 1,124 police killings making it the most lethal year ever.⁴⁸ The majority of these deaths were summary executions of black youths in what the police claimed were self-defence shootings. And 2018 shows no sign of getting any better. Eleven days after the killing of Rio councillor and human rights defender, Marielle Franco, at least 8 people were killed in what is alleged to have been a revenge attack by police after an officer was killed.⁴⁹ The impunity surrounding cases of killings by the police fuels the cycle of police violence in Rio de Janeiro. It sends a message that the authorities tolerate illegal behaviour by the police and police officers who are involved in extrajudicial killings know that they will never be held accountable.

WOMEN HUMAN RIGHTS DEFENDERS

In analysing the issues of violence and criminalisation, it is important to consider questions of gender, race, sexual orientation and gender identity in terms of how we identify the various categories of perpetrators and the way in which individual struggles are criminalised. The fact that the vast majority of HRDs killed in Brazil are men is a reflection of the way in which women are marginalised both in society and within the

human rights movement. It is clear that women often experience violence within their families and within their close circle of interaction, which prevents them from continuing their human rights work. There are also reports of difficulties experienced by women’s organisations within social movements as a result of gender-based violence. There are various reasons to explain why it is so difficult for women to occupy these political spaces within social movements, including the gendered division of labour which creates a triple burden for women. They suffer violence both inside and outside the home when they advocate publicly for their rights. Racism and sexual violence against black women makes them even more vulnerable. It is still the case

FRANCISCA’S LIFE WAS TAKEN BECAUSE SHE WAS A HUMAN RIGHTS DEFENDER AND HER BODY WAS VIOLATED TO SHOW THAT SHE, AS A WOMAN AND A BLACK WOMAN, SHOULD NOT DARE TO OCCUPY THAT LEADERSHIP SPACE

that most of these issues are not even addressed in discussions and the literature about the work of HRDs. This invisibility means that most of the attacks on women HRDs are either not recorded or the violence is attributed to other causes, such as domestic violence. The death of WHRD Francisca Chagas da Silva, a Quilombola from the community of Joaquim Maria in Maranhão and a leader of the Union of Workers and Rural Workers of Miranda do Norte, illustrates the specific ways in which women are attacked. Francisca’s body was found in a puddle of mud, naked and showed signs of rape, strangulation, and stabbing. According to the Brazil Human Rights Defenders Committee, “Francisca’s life was taken because she was a human rights defender and her body was violated to show that she, as a woman and a black woman, should not dare to occupy that leadership space.”⁵⁰

LGBTI KILLINGS

Killings of LGBTI people in Brazil are at an all time high. According to reports by Grupo Gay da Bahia,⁵¹ 343 members of the LGBTI community were killed in Brazil in 2016⁵² and a further 445 were killed in 2017.⁵³ According to some reports,⁵⁴ one LGBTI person is killed in Brazil every 28 hours with transgender people suffering higher rates of violence.⁵⁵ There are constant threats on social media networks against LGBTI leaders and events. In 2015, for example, an event called *Dezembrada* was held in Curitiba with the aim of creating a right wing Nationalist Front with an overtly anti gay agenda.⁵⁶ Events like this show how groups, bent on committing crimes against LGBTI people, are becoming stronger and getting better organised. Since 2005, LGBTI human rights defenders have been suffering threats and persecution in Curitiba. This situation escalated following the delivery of a dossier to police authorities containing serious complaints against skinheads, resulting in a group of neo-Nazis being arrested. The following year, LGBTI defenders Igo Martini and Márcio Marins were physically attacked by three men⁵⁷, because of their involvement in the case.

Right: Marinete da Silva holds a portrait of her daughter, murdered Brazilian HRD, Marielle Franco.



HRDs AND THE LAW

Rather than taking action to uphold human rights and protect HRDs, the state has worked to undermine the existing protection mechanisms, criminalise social protest and smear HRDs. Even the state's official programme for the protection of HRDs (*Programa de Proteção às Defensoras e Defensores de Direitos Humanos*) has been rendered largely ineffective by the absence of political support, the lack of a legal framework and the withholding of financial resources. Established in 2005, the Protection Programme was established in nine Brazilian states: Minas Gerais, Espírito Santo, Rio de Janeiro, Pernambuco, Ceará, Bahia, Rio Grande do Sul, Maranhão and Pará. By June 2017, it continued to exist only in the states of Minas Gerais, Maranhão, Pernambuco and Ceará. Protection policies should and could play an important role in the protection of HRDs, but states need to implement properly thought out and resourced policies that prevent human rights abuses and guarantee rights.

According to the Urgent Action Group of the National Human Rights Council "We live in a situation of systemic and recurrent violence. The impunity for human rights violations ensures the effectiveness of repression and increases the number of people and groups threatened and murdered".⁵⁸ The criminal justice system has intensified its repression of HRDs through the use of legislation such as the Law on Criminal Organisations⁵⁹ and the National Security Law.⁶⁰ New anti-terror legislation⁶¹ is increasingly being used to target social movements such as MST⁶² – the landless workers' movement. In 2016 there were 64 prosecutions of organisations that were campaigning against mega development projects.⁶³ Human rights defenders are regularly slandered, including by politicians, businesspeople and religious leaders, as 'bad' or 'morally corrupt' people who 'deserve' whatever happens to them. This type of discourse, mostly visible in online platforms, increases the space for violent attacks to take place.

WHAT NEEDS TO HAPPEN

The key issue linking all these individual struggles is the fact that the Brazilian government has turned a blind eye to a deepening human rights crisis of its own making. What is apparent today is that Brazil's ongoing political, ethical and financial crisis is being used as an excuse to trample on well-established human rights. The number of killings and attacks on HRDs is an indicator of the lack of political will on the part of the government to live up to its national and international obligations. The so-called 'reforms' introduced by President Temer have had a devastating effect on the protection of human rights in Brazil. The Ministry for Human Rights no longer exists as a separate entity. The Ministry for Women, Racial Equality and Human Rights was subsumed within the Ministry of Justice, under the authority of a Secretary of State, while the National Programme for the Protection of Human Rights Defenders lacks resources to provide adequate protection to HRDs at risk. Yet the primary responsibility for the protection of HRDs still lies with the Brazilian state – a situation that will have to be urgently resolved or the killings will continue unabated.

RECOMMENDATIONS TO THE GOVERNMENT OF BRAZIL

The government of Brazil should:

- ❖ Take immediate action to ensure the full and effective implementation of the National Programme for the Protection of Human Rights Defenders;
- ❖ Create a clear legal framework with adequate financial resources to ensure effective implementation of the Programme;
- ❖ Provide for effective documentation and investigation of attacks on HRDs;
- ❖ Develop a methodology to address the specific risks faced by HRDs defending the rights of indigenous peoples, women and LGBTI people;
- ❖ Coordinate and integrate the activities of all sectors of the justice and public security systems involved in the protection of HRDs;⁶⁴
- ❖ Prioritise specific strategies to overcome the serious structural challenges facing the country's most vulnerable communities;
- ❖ Reverse the policy of undermining public bodies such as FUNAI and INCRA, which have primary responsibility for the protection of indigenous rights and for land reform;
- ❖ Ensure that Funai and INCRA have both the political support and financial resources to carry out their work.

COLOMBIA



“

DESPITE THE APPARENT GOOD NEWS, WHEN WE COMPARE THESE SLIGHT ADVANCES WITH THE ACCUMULATED NUMBER OF KILLINGS WE CAN SEE THAT IMPUNITY CONTINUES TO PREVAIL

”

PROGRAMA SOMOS DEFENSORES

IN 2018 THE COLOMBIAN GOVERNMENT FACES MANY OBSTACLES TO ACHIEVING THE IMPLEMENTATION OF THE PEACE AGREEMENTS, the creation of true peace and the protection of human rights, including: breaches of the peace agreements by the Colombian state itself; refusal by the traditional political class to engage in any process of political reform; aggressive extraction of natural resources in spite of local opposition and the impact on climate change; corruption in the country's political and economic elites; and a culture of hate exacerbated by extreme right wing segments of the population, all of which are leading the country to a state of social polarisation from which it will be difficult to return.

The practical embodiment of the commitment to building lasting peace by ending violence and empowering communities means protecting activists who actually do that work. According to Programa Somos Defensores,⁶⁵ "If local communities continue to see requests for protection denied, while HRDs are threatened, attacked, and murdered with impunity, they will come to understand that active participation in the peace process implies fatal risks to their lives and their families. And when local communities are too afraid to participate in peace building, the deal has failed. Protection for human rights defenders (HRDs) is of paramount importance for the success of the peace process."⁶⁶

In 2017, the armed conflict and its endless list of victims ceased to be daily news. The signing of the peace agreements with the FARC⁶⁷ (Revolutionary Armed Forces of Colombia), and the beginning of negotiations with the ELN⁶⁸ (National Liberation Army), resulted in a substantial decrease in political killings. However, in the midst of this positive trend, another phenomenon has emerged: the incremental increase in the killing of social leaders and HRDs.⁶⁹ During 2017, Programa Somos Defensores carried out a review of various reports published on the situation of HRDs in Colombia.⁷⁰ All the reports emphasised the critical level of risk faced by HRDs in the country and also highlighted the key role played in that violence by economic actors who have an interest in gaining control over territory and see the work of community leaders and HRDs as a potential challenge to their own political and financial interests. In recent years, there has been a large number of diagnoses, initiatives, analyses and risk warnings both from civil society and the Human Rights Ombudsman's Office, (Defensoría del Pueblo) and many official statements recognising the efforts made by the national government to address the targeting of HRDs. Nonetheless, the killing of these defenders of peace, democracy and human rights continues with almost total impunity.

While the pattern of violence and killings documented in 2016 continued into 2017, the drop in the general level of violence brought about by the peace process seemed to offer cautious grounds for optimism. However, with regard to the situation of HRDs, the implementation of the peace agreements with the FARC has been a bittersweet experience. While it is very important to recognise that the silence of the guns brought with it the lowest rate of killings among the general population in the last 30 years,⁷¹ the number of killings of HRDs increased dramatically. According to figures from Programa Somos Defensores,⁷² there has been a general increase in killings of HRDs since the beginning of the peace process: 2013 – 78 cases, 2014 – 55 cases, 2015 – 63 cases, 2016 – 80 cases, and in 2017, this figure rose to 121 cases.⁷³ The situation in 2018 has not improved and is getting even worse, with 46 HRDs killed in the first three months of the year.⁷⁴ As has been repeatedly documented, attacks against social leaders and HRDs have been a historical reality in the context of socio-political violence for more than 10 years. The failure of the state to respond adequately to this crisis is of particular concern. An analysis of the data for 2017 shows that 70% of the killings of social leaders and HRDs are still at the preliminary inquiry stage; in other words, no progress has been made.⁷⁵ In 11% of these cases a prosecution is in progress, while in 10% of cases there has been a conviction. In 4% of cases an arrest warrant has been issued, and in only 5% of the cases has the sentence of the court been carried out.⁷⁶ This situation remains a major challenge not only for the office of the Prosecutor General, but also for the judiciary. If there is no joint effort to address the issue, the rate of impunity will remain the same or even increase.

ACCORDING TO FIGURES FROM PROGRAMA SOMOS DEFENSORES, THERE HAS BEEN A GENERAL INCREASE IN KILLINGS OF HRDS SINCE THE BEGINNING OF THE PEACE PROCESS

GENDER-BASED ATTACKS

With regard to gender-based attacks, of the 560 defenders attacked in 2017, 74% were men and 26% were women. This has been the pattern since 2016, though with a slight decrease recently in the number of WHRDs attacked. However these figures do not reflect the stigmatisation that WHRDs experience or the extreme nature of the violence against them. Attacks on WHRDs consistently show higher levels of violence, including sexual violence.

LEADERS MOST AFFECTED

Many of the HRDs killed are active at a purely local level and do not have a national profile.⁷⁷ Most of the HRDs killed were working in defence of the right to land or to protect the territory of indigenous peoples. At particular risk are members of ethnic minorities, peasant communities, indigenous peoples, people of African descent or members of local community action boards in rural areas. These murders are committed in places where the presence of the state is limited and people cannot fully exercise their human rights.⁷⁸ In terms of the official response, state

officials need to take into account the impact of a killing not just on the immediate family of the HRD, but also on the broader community as a whole.⁷⁹ As a result of killings, and the general climate of violence, communities are displaced, families are broken up and lose their means of earning their livelihood.⁸⁰ The departments with the highest number of killings of HRDs are Cauca, Antioquia, Valle del Cauca, Nariño, Córdoba, Bogotá, Putumayo, Norte de Santander, Risaralda, Bolívar, Chocó, Meta, Huila and Arauca.

90% of these territories have been historically affected by the armed conflict. Despite the peace process, abuses such as the targeted killing of members of Afro-Colombian communities and indigenous peoples, collective forced displacements, confinement of communities to certain areas, forced recruitment of children into paramilitary groups, sexual violence and the use of anti-personnel mines persist in these areas.⁸¹

ALLEGED PERPETRATORS

Most reports emphasise the difficulties in identifying those responsible for the killings. However, the studies and organisations consulted identify the presence of paramilitary groups, including drug dealers or people close to them, such as the *Autodefensas Campesinas de Colombia* [Colombian Peasant Self-Defence Forces], as the main source of violence against defenders.⁸² The Human Rights Ombudsman, Carlos Alfonso Negret Mosquera, recently pointed out that “one of the main causes of this phenomenon is the attempt by illegal armed groups to occupy the territory from which the FARC have withdrawn”.⁸³ At the same time, several cases of collusion between state officials and paramilitary groups have been documented in different parts of the country such as Norte de Santander or Antioquia. In the cases documented between 2009-2016, where state forces were allegedly responsible for the death of community leaders, there is a consistent pattern in the circumstances of the killings:⁸⁴ “HRDs are killed more frequently in the mornings or late at night, in rural areas, inside or in the vicinity of their homes or when travelling. And finally, the murder of these activists is carried out in most cases with the use of firearms”.⁸⁵

REASONS FOR THE KILLINGS

Most killings of HRDs are related to disputes over land and territory, the emergence of new political groupings, mining interests or the exploitation of other natural resources and drug trafficking. In most cases, the reason for these killings has been the fact that the HRD was working on issues such as denouncing or opposing illegal economic activity and criminality; claiming their own or collective rights; and supporting policies derived from the implementation of the agreements such as the programme to replace the cultivation of coca with other crops. Of the 105 killings of HRDs documented by the United Nations between January and early December 2017, 59% were allegedly perpetrated by hired killers, which highlights the need not just to bring the shooter to justice but also to bring the intellectual authors of the killings to justice as well.⁸⁶ Meanwhile, the Colombian government continues to claim that these killings are isolated incidents, denying the pattern of systematic paramilitary activity.⁸⁷ Failure by the government to acknowledge and address this situation endangers the Peace Agreement itself.

HRDS ARE KILLED MORE FREQUENTLY IN THE MORNINGS OR LATE AT NIGHT, IN RURAL AREAS, INSIDE OR IN THE VICINITY OF THEIR HOMES OR WHEN TRAVELLING. AND FINALLY, IN MOST CASES WITH THE USE OF FIREARMS

JOSÉ YIMER CARTAGENA ÚSUGA



The body of José Yimer Cartagena Úsuga was found at noon on 11 January 2017, in a paddock near the hospital in the municipality of Carepa, in Antioquia Urabá. He had been stabbed multiple times and the body showed signs of torture. José Yimer had worked, for more than seven years, as a peasant leader in the south of Córdoba state, where, in the 1990s, the FARC and the AUC had carried out massacres, kidnappings and the forced displacement of communities. Since 2012, he had worked with the “Marcha Patriótica” movement and then, joined the

“Asociación Campesina para el Desarrollo del Alto Sinú” (Asodecas), of which he was vice president. Yimer worked with the farmers, encouraging them to enter programmes to promote substitution of illicit crops, but also lobbied the government to prevent the implementation of a policy of forced eradication.

BERNARDO CUERO



On 07 June, 2017, Bernardo Cuero was at home watching a football match in Malambo, when two armed men walked in and shot him dead in front of his partner and other family members. Bernardo Cuero was the “Fiscal”, (lead investigator), of the National Association of Displaced Afro-Colombians (AFRODES), and legal representative of the Association of Displaced Persons in Malambo, (ADEVIM). Bernardo took part in the 149th session of the Inter American Commission on Human Rights in 2013, during which he reported on the risks Afro-Colombian HRDs faced

from paramilitary groups. Bernardo had been himself a victim of forced displacement in 2000, when he had to leave Tumaco in the province of Nariño because of threats by paramilitary groups. Prior to his killing, he had been the frequent target of threats and assassination attempts. On 19 March 2018, Bernardo’s sons Silvio Duban and Javier Bernardo were shot dead in their business because of their campaign to get justice for their father.

STATE ACTION, INSTITUTIONAL FAILURE AND LACK OF A FULLY INTEGRATED STATE RESPONSE

According to President Santos, his government firmly believes in protecting HRDs and community leaders. He has publicly declared that “we will not allow the repetition of tragedies such as that which occurred with the Patriotic Union (UP) in the 1980s and 1990s...⁸⁸ We will not allow violent people, intolerant people, and criminals to get away with it.”⁸⁹ However, the level of violence experienced by civil society organisations and HRDs in general, as well as the specific dangers faced by members of peasant and ethnic minority communities and women’s movements, shows the extent of the state’s failure to protect human rights in Colombia.⁹⁰

Over the last nine years, the investigation of crimes against HRDs has been an isolated function within the Prosecutor General’s office and managed, or not, at the discretion of the rotating Prosecutor General. There has been a complete failure to develop a properly resourced and integrated policy by that office. The efforts to resolve outstanding cases made by the *Mesa Nacional de Garantías* (National round table on guarantees) and supported by the OHCHR (Office of the High Commissioner for Human Rights) have resulted in progress in only 13% of the investigations initiated in the last 8 years. It is time to establish a new policy within this entity that would meet all internal guidelines and regulations, allowing for comprehensive action on attacks against HRDs. A single coordinated policy, administered by the Office of the Prosecutor General would establish an integrated, comprehensive and quantifiable response to the surge in killings. However, one of the problems for the Office of the Prosecutor General is that trials are scattered around the country. Obviously the solution is not to centralise these in Bogotá. The ideal solution would be for these trials to be carried out in the corresponding region and for the regional offices of the Prosecutor General to have the technical, conceptual and material resources to deal with these investigations in an effective and impartial way.

Another challenge is to eliminate corruption and pressure by illegal armed groups and other local power players that might prevent investigations from being carried out. This will only be possible through strict monitoring of these cases from Bogotá. In tandem with this, the judiciary as a whole must focus on attacks against HRDs, since these are attacks against elements central to the building of democracy and peace. Institutions such as the Ministry of Justice, the high courts and the various judges across the country have shown a marked indifference to the issue of crimes against HRDs, and the impact of their lack of engagement is keenly felt. These institutions should initiate discussions on this issue with all the relevant government departments including those monitoring bodies that already have detailed knowledge of the issues, such as the Human Rights Ombudsman and the Office of the Attorney General, to coordinate an overarching strategy.

In 2017, the Office of the Prosecutor General made more progress than ever before in investigations into crimes against HRDs, and, for the first time in the country’s recent history, the institution demonstrated the political will to prioritise cases of killings that occurred since 2016. However, it is worth highlighting that these so called “historic advances” resulting from the implementation of its “Strategy of Investigation and Judicialisation of Killings Against Human Rights Defenders”⁹¹ showed that there had been progress in only 30% of the previous year’s cases.

ANOTHER CHALLENGE IS TO ELIMINATE CORRUPTION AND PRESSURE BY ILLEGAL ARMED GROUPS AND OTHER LOCAL POWER PLAYERS THAT MIGHT PREVENT INVESTIGATIONS FROM BEING CARRIED OUT

JUANA BAUTISTA ALMAZO URIANA (EPIAYÚ)



On Sunday, 24 September 2017, Juana Bautista Almazo Uriana left her farm in a community of the indigenous Wayuu people in Camino Verde, to do some business in the centre of the village of Uribia, about 15 minutes away. When she didn’t return at lunchtime or even by evening her family alerted the police and began a search for her, including appealing for help on various social media networks. On 26 September her body was found, in an advanced state of decomposition, close to the village of El Pájaro, by a group of men who were heading to work. Juana

Bautista was a teacher and community leader who had spoken out strongly to defend the rights of the Wayuu people.

GONZALO ANTONIO MARTÍNEZ GUISAO



Community and peasant leader Gonzalo Antonio Martínez Guisao, was traveling by minibus, with his wife in the city of Carepa, department of Antioquia, when the minibus was intercepted by heavily armed gunmen, who claimed to be members of the paramilitary AGC, (Autodefensas Gaitanistas de Colombia). Gonzalo was taken off the bus and his body was found the next day. He had been shot four times and his body showed signs of torture. Gonzalo Antonio was President of the Community Action Board of the village of Pechinde. He was also a member of the

Asociación Campesina para el Desarrollo del Alto Sinú (Asodecas). His relatives reported that they, and other families in the area, feel very threatened because of the paramilitary activity.

IMPUNITY STRIKES BACK.

The *STOP WARS, Páren la Guerra contra los Defensores* report,⁹² produced by Programa Somos Defensores, flagged the fact that the rate of impunity for killings of HRDs in Colombia in 2013 was 95%. In the 458 killings of HRDs that took place between 2009 and 2016, there is an 87% impunity rate. The limited progress achieved in recent investigations is not keeping pace with the increase in killings of HRDs in recent years. The majority of cases remain at the preliminary inquiry stage, even eight years after the killings, thus effectively ensuring that there can be no further investigation, since it is virtually impossible to collect evidence from a crime scene or to interview witnesses after such a long gap. There is still a lack of structural analysis of this violence to identify possible patterns among these crimes. It is imperative that the government initiate a thorough system of investigations to ensure that there are more than 28 convictions out of more than 450 cases of killings in eight years. Despite what seems like good news, in terms of the limited progress made in more recent cases when we compare these advances with historical data, it is clear that impunity continues to prevail in the vast majority of cases.

THE ROLE OF THE MINISTER OF THE INTERIOR

The Colombian Minister of the Interior is the key government minister in relation to human rights, with specific responsibility for fast-tracking the legal framework supporting the Peace Agreements through Congress, including the provisions for the protection of human rights and the work of HRDs. Despite this, it is clear that the Minister has failed to deliver on his obligation to take action on the issue of attacks on HRDs as set out in decree 1066 of 2015.⁹³ In 2017, the Minister of the Interior received the Ombudsman's 010-17 Risk Report which provided a detailed warning of the danger faced by more than 300 social organisations in 265 of the country's municipalities.⁹⁴ This document should have been analysed and evaluated with a view to taking the necessary urgent action. However this was done only four months after the Risk Report was received by the Ministry of the Interior, and in the meantime, dozens of community leaders and HRDs had been killed. As indicated by the Ombudsman in an official communiqué,⁹⁵ the Minister did not make correct use of this important preventative resource that might have saved the lives of many social leaders. The salient point is that it is the exclusive remit of the Minister of the Interior to decide whether or not to issue an early warning and send the appropriate instructions to the competent authorities – something that was simply not done in this case.

ANOTHER ELEMENT RESULTING FROM THE END OF CONFLICT WITH THE FARC WHICH INFLUENCES THE INCREASE IN MURDERS TO A GREAT EXTENT IS THE STATE'S ABSENCE AND THE VOID IN LOCAL DEMOCRACY IN AREAS WHICH WERE CONTROLLED BY THE FARC

PEACE PROCESS AND THE WAY FORWARD

The slow and difficult implementation of the Peace Agreement has encouraged the increase in the killings of leaders, as evidenced by the fact that many victims have been active in campaigning in favour of implementing one or more of the agreement's five central points (Rural Development; Guarantees for Political Participation; End of Violence; Drug Trafficking; Victims' Rights). Another element resulting from the end of conflict with the FARC which influences the increase in murders to a great extent is the state's absence and the void in local democracy in areas which were controlled by the FARC. These areas

have not been effectively taken over by the civil authorities and the state's presence has been limited to the presence of the state security forces. These areas are currently under dispute by groups of paramilitary ancestry; other guerrillas; drug traffickers; FARC dissidents who did not enter into the reintegration process or who entered and left the process; and organised crime groups.⁹⁶

One of the required changes identified in the Peace Agreement is that justice should become more effective, specifically in relation to the dismantling of paramilitary activity and the prevention and investigation of attacks against social leaders and HRDs. The creation in 2017 of a Special Investigations Unit (*Unidad Especial de Investigación*) within the Office of the Prosecutor General raised hopes that finally there would be an effective state mechanism to investigate the killings of HRDs.⁹⁷ Pending its establishment, it remains to be seen whether all these changes will come to pass or whether, as in the case of the state protection mechanism for HRDs,⁹⁸ its ultimate local application will remain minimal and weak.⁹⁹ In this context, the role of judges and the courts in the administration of justice is highly important in cases of crimes against HRDs. Even if new initiatives by the Prosecutor General have produced results, the fact remains that if the justice system has not been sensitised to understand the legitimacy and importance of the work of HRDs in the construction of peace and democracy, progress will be minimal and these cases will not be given the priority demanded by the larger political context.



Campaign poster from Colombia. The main text reads: "We defend the reserve area of the valley of the Cimitarra River." It highlights ongoing environmental issues in the region.

INDIVIDUAL PROTECTION VS COLLECTIVE PROTECTION

Over the last eight years the Constitutional Court has repeatedly urged the national government to implement a programme of collective protection which would, through the use of a collective risk evaluation matrix, manage the risks of forced displacement and at the same time deal with other aspects of the internal armed conflict.¹⁰⁰ Additionally, in 2017, the third section of the Council of State called on the President of the Republic to protect social leaders and their organisations given the alarming number of attacks and killings. The human rights community has been calling on the government to implement a collective protection strategy for many years, not only because it is already an existing obligation under the protection programmes currently in force, but because individual, physical and armed protection is no longer sustainable on a financial, operational or political level. As time goes on the number of killings keeps increasing; now is the time to build an effective collective protection system.¹⁰¹

SPECIAL INVESTIGATION UNIT

According to the provisions of point 3.4 of the Peace Agreement, the Special Investigation Unit is to design strategies and policies related to the investigation of killings, acts or behaviour targeting HRDs, social movements, political movements, the implementation of agreements and the building of peace; the identification of criminal structures and their support networks coming under their competence and the analysis of political and social contexts that allow for the establishment of common patterns of aggression.¹⁰² This unit must be completely open to ongoing dialogue with organisations that also document violence against HRDs in order to encourage joint work in the interest of removing impunity from a certain percentage of the more than 3,000 cases of violence documented over the last four years. This is likewise an opportunity for HRDs, in that a single and fluid channel of communications must be established so that this office is made aware of all reports of violence against HRDs. It is imperative to enable this unit to overcome impunity by providing precise and accurate information.

COMPREHENSIVE SECURITY PROGRAMME

One of the great opportunities that may play a leading role in the search for wider protection for HRDs, their organisations and communities is the newly established *Programa Integral de Seguridad y Protección para comunidades y organizaciones, líderes, lideresas, dirigentes, representantes y activistas de organizaciones sociales, populares, étnicas, de mujeres, de género y defensoras de derechos humanos en los territorios* (Comprehensive Security and Protection Programme for communities and organisations, leaders, directors, representatives and activists of social, popular, ethnic, women's, and gender equality organisations and human rights defenders in the national territory).¹⁰³ While it is too early to speak of a platform that has not yet been formalised, it is true that in terms of the implementation of the Peace Agreement this will be the framework programme that will coordinate a large part of the efforts through which the Colombian state protects HRDs, organisations and communities in a comprehensive manner.

HOWEVER, IN SPITE OF THE BROAD INSTITUTIONAL FRAMEWORK DEDICATED TO THE PROTECTION OF HRDs IN COLOMBIA, THE INSTITUTIONAL RESPONSE CONTINUES TO BE WEAK

TIME TO TAKE PREVENTIVE ACTION

Various national governments have made significant efforts to generate a regulatory framework, adapt institutions and gather resources to address the situation of risk HRDs confront. However, in spite of the broad institutional framework dedicated to the protection of HRDs in Colombia, the institutional response continues to be weak for the following reasons: lack of recognition of the legitimacy and importance of the work of HRDs, including their key role in the implementation of the peace process; lack of resources to address the structural causes that place them at risk; lack of implementation at the local level of national guidelines and plans; lack of a fully integrated and adequately resourced protection programme which would coordinate the activities of all the relevant bodies to ensure maximum protection for HRDs. In addition such a strategy should consider the different needs of various groups, taking into account issues such as age, ethnicity, gender and socio economic level.

RECOMMENDATIONS TO THE GOVERNMENT OF COLOMBIA

The government of Colombia has received many warnings about and is fully aware of the dangers faced by HRDs across the country. It is time to start developing and implementing real prevention plans that have clear political leadership at both the national and local levels. It is an injustice that more defenders are killed when there are ways to prevent them from being killed. The government of Colombia should:

- ❖ Develop an overarching policy within the Public Prosecutor's Office that brings together all the internal guidelines and regulations to ensure that there is a properly integrated programme of action to protect HRDs;
- ❖ Carry out an integrated situational analysis to identify and prosecute the perpetrators of attacks;
- ❖ Ensure that the Ministry of the Interior, the Office of the Attorney General, the national police, the National Protection Unit and regional and local authorities meet, in a coordinated manner, to implement the political and technical commitments, agreed with HRDs, with respect to prevention, protection and investigation;
- ❖ Ensure that the judicial branch as a whole focuses on violence against HRDs, since this violence is an attack on efforts to build democracy and peace;
- ❖ Begin discussions within these institutions as a matter of urgency, in partnership with those state bodies that have already made some progress such as the offices of the Human Rights Ombudsman and the Attorney General;
- ❖ Take effective action to combat the culture of stigmatisation and the smear campaigns against HRDs which are often the precursor to an attack;
- ❖ Design and implement, with public participation, the strategic, institutional, budgetary and operational changes to guarantee citizen security, especially in rural areas, in accordance with international standards and the Constitution.

GUATEMALA

“

WHEN THE STATE INSTITUTIONS THAT ARE SUPPOSED TO MAKE A DEMOCRACY WORK - NAMELY, THE SECURITY FORCES, THE COURTS, THE ATTORNEY GENERAL'S OFFICE, CONGRESS AND THE EXECUTIVE BRANCH - ARE INFLUENCED BY ILLEGAL GROUPS, THIS IS WHEN YOU CAN SAY THAT A STATE HAS BEEN 'CO-OPTED' BY ORGANISED CRIME

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INSIGHT CRIME
- INVESTIGATION AND ANALYSIS OF ORGANISED CRIME

IN GUATEMALA, AN INSTITUTIONAL CRISIS¹⁰⁴ IN THE STATE HAS INTENSIFIED IN RECENT YEARS, which has brought the country to a political and social crossroads. Debates have begun between those who favour transition from old, violent and corrupt structures entrenched in state institutions and those sectors that seek to return to a clientelist model of privilege for a small but powerful economic elite. This crisis has provoked a series of conflicts that have generated violence against the population and more specifically against those who defend fundamental rights and freedoms. In many instances, the absence of a strong state presence across vast territories has meant that organised criminal gangs, particularly those involved in drug activity and the trafficking of persons, have established themselves and taken control of communities in large areas of the country, especially near the borders. They have close connections with the police and the army which means that they are effectively above the law.¹⁰⁵ According to the International Commission Against Impunity in Guatemala (CICIG) “these groups pose a grave menace to the rule of law and threaten to undermine the progress arduously achieved by the country in the democratisation process. The state faces a serious challenge in its work to ensure the rule of law and protect fundamental human rights, such as its citizens’ right to life and physical integrity”.¹⁰⁶

The 36 years of civil war had a devastating impact on Guatemala, characterised by mass displacement and gross human rights violations especially against indigenous peoples, women and children. For many Mayan communities, torture, targeted killings, disappearances and displacement were a daily experience.¹⁰⁷ Since the signing of the Peace Agreements in 1996, there has been a certain amount of social and political progress, but most Guatemalans are still deprived of the full range of basic human rights. Many peace accord commitments remain unfulfilled and there are still enormous problems of poverty, an absence of social and political participation, and economic opportunity. An analysis of the human rights situation in Guatemala published by the Inter-American Commission on Human Rights in December 2017, details how the Guatemalan government has systematically failed to address the numerous human rights issues facing the country: “more than twenty years after the signing of the Peace Agreements, various problems that generated the internal armed conflict still exist: an economy that is based on the concentration of economic power in the hands of few, a weak state structure with few resources for tax collection, and high levels of corruption. Structural problems such as racial discrimination, social inequality, a profound level of poverty and exclusion, and a lack of access to justice, constitute obstacles to the full respect of human rights in Guatemala”.¹⁰⁸ Sectors of the population that have historically been marginalised, such as women, LGBTI people, young children and adolescents, indigenous peoples and communities, and Afro-Guatemalans, among others, face specific obstacles that limit their effective access to justice.¹⁰⁹

THE 36 YEARS OF CIVIL WAR HAD A DEVASTATING IMPACT ON GUATEMALA, CHARACTERISED BY MASS DISPLACEMENT AND GROSS HUMAN RIGHTS VIOLATIONS ESPECIALLY AGAINST INDIGENOUS PEOPLES, WOMEN AND CHILDREN

Previous advances towards consolidating a criminal justice system and promoting the rule of law have faced major obstacles. A number of key cases bringing perpetrators of major human rights abuses to justice continue to be stalled.¹¹⁰ These include the Blanco Lapola Case, involving a former national police director charged in 2012 with ordering the execution of suspected criminals. Five years later, the case has yet to go to trial. In the “Corrupt Military Officers Case”, eight former defence ministry officials were charged in 2009 with embezzling more than US\$70 million from the government. Eight years later, the case has yet to go to trial.¹¹¹ These are among the best documented cases, pursued under international pressure and with clear evidence of criminal behaviour, yet they remain stalled in the system because of official inaction.¹¹² These cases are emblematic of the challenges facing HRDs in trying to secure justice in Guatemala. Of particular concern to HRDs is the trial of General Ríos Montt. Former dictator Ríos Montt was charged in 2012 with genocide for the mass slaughter of Mayan communities in the early 1980s. He was tried and convicted in 2013, but the Constitutional Court nullified the verdict and ordered a new trial. After a delay of more than two years, a judge ruled in 2015 that Ríos Montt’s deteriorating mental health had rendered him unfit for a regular trial, and ordered that he instead be subject to special proceedings that did not allow for a guilty verdict. After two years of delay, these proceedings began in October 2017. He died in April 2018 while being tried in absentia.¹¹³

CORRUPTION AND CRIMES COMMITTED IN THE PAST

The high level of impunity enjoyed by the perpetrators of human rights abuses significantly increases the risks currently posed to HRDs. Few attacks against HRDs are investigated and fewer still result in sentences. This lethal combination of entrenched violence, state indifference to attacks against HRDs and the lack of investigations into complaints, creates a situation in which HRDs are killed with impunity. Despite a recent drop in the general level of impunity for homicides in Guatemala, the figure still remains unacceptably high. Between 1996 and 2006, Guatemala suffered from an overall impunity rate of 95% for all homicides. Since the formation of the UN-backed International Commission against Impunity in Guatemala (CICIG)¹¹⁴ this rate has fallen to 72%.¹¹⁵

Although Guatemala has made some advances in cases regarding human rights and corruption, mainly due to the collaboration between the *Ministerio Público* and the CICIG during 2017,¹¹⁶ the work of the CICIG has provoked a strong negative reaction among civil servants. The fact that more than 300 persons have been detained in cases of corruption and more than 20 military personnel have been implicated in cases of grave human rights violations and are facing justice, has resulted in many witnesses, relatives, joint complainants, co-plaintiffs (*querellantes adhesivos*), and the lawyers who represent them, becoming the targets of violence and acts of aggression orchestrated by groups operating from within the prisons. There are additional problems with the intimidation of judges and public prosecutors, and corruption within the justice system.¹¹⁷ This situation has been exacerbated by the ready availability of guns, the activities of organised crime and the way in which criminal gangs have been able to permeate the political structures and institutions of the state.¹¹⁸ According to Insight Crime,¹¹⁹ a research body specialising in the study of the role of organised crime in Central and South America, “When the state institutions that are supposed to make a democracy work – namely, the security forces, the courts, the attorney general’s office, congress and the executive branch – are influenced by illegal groups, this is when you can say that a state has been “co-opted” by organised crime”.¹²⁰

As a result of the combination of all these elements, cases of harassment and threats against HRDs have been on the rise since Otto Pérez Molina became President in January 2012, and continue with the current administration under President Jimmy Morales. HRDs in Guatemala are subjected to death threats, physical attacks, acts of harassment, surveillance, stigmatisation, judicial harassment, arbitrary detention, enforced disappearance and killings. Many of the violations are carried out by clandestine security structures and illegal groups. This systemic use of direct violence against HRDs is compounded by the unfair use of criminal proceedings in order to prevent HRDs from carrying out their legitimate human rights activities. Many criminal proceedings are launched by the authorities on the basis of complaints by private companies related to the mining sector and the construction of dams, spuriously accusing HRDs of crimes such as acts of terrorism, usurpation of land or kidnappings. As part of the criminalisation process, campaigns of defamation and stigmatisation have been carried out by both state and non-state actors, particularly transnational companies and right-wing media publications. State authorities continue to publish statements and press releases in which they make unsubstantiated charges against HRDs.¹²¹

INCREASE IN HATE SPEECH AND THE IMPACT ON HRDs

THE INCREASE IN THE USE OF HATE SPEECH AND THE PREVALENCE OF SMEAR CAMPAIGNS ARE OFTEN THE PRECURSOR TO A DIRECT ATTACK ON A HRD

The increase in the use of hate speech and the prevalence of smear campaigns are often the precursor to a direct attack on a HRD. Hate speech has the effect of putting a question mark over the credibility of HRDs and identifies them as targets. It also means that when an attack does take place, the killing can be explained away as being linked to these other issues. In 2013, the Human Rights Ombudsman condemned the use of hate speech and requested that the public prosecutor’s office investigate Ricardo Méndez Ruiz, director of the Foundation against Terror¹²² for “hate speech that attempted to degrade, intimidate and promote prejudice” against HRDs.¹²³ Despite this, hate messages continue to circulate in social media and in the press inciting violence against HRDs. In 2017, a series of paid advertisements appeared in leading Guatemalan newspapers, as

SULMA ALEGRIA ROBLES



Sulma Alegria Robles (also known as Evelyn) was a transgender woman and LGBTI rights defender. She was a member of OASIS (*Organización de Apoyo a una Sexualidad Integral frente al SIDA*). Her lifeless body was found on Friday, 18 November 2016, with signs of torture and extreme physical violence. Sulma had been granted precautionary measures by the Inter American Commission on Human Rights in 2006, along with the Executive Director of OASIS, Jorge López Sologaitoa. On 17 December 2005, Sulma was a key witness to the killing of OASIS Communications

Assistant, Paulina Marrot, by four members of the National Civilian Police. As a key witness, it is believed that the attackers wanted to silence her. OASIS had requested police protection for Sulma and the Human Rights Ombudsman’s office had also reportedly requested protection from the Interior Ministry. However no protection was provided. Several other transgender sex workers witnessed the shooting, but are too scared to give evidence, fearing police reprisals.

EUGENIO LÓPEZ Y LÓPEZ



On 23 June 2017, HRD Eugenio López y López was shot dead while participating in a protest of former workers of the San Gregorio Piedra Parada estate, in Coatepeque, Quetzaltenango. Eugenio was a member of San Gregorio Piedra Parada estate former workers’ movement which was created in 2008. The estate had never paid social security for its 260 workers. The movement has struggled to get justice for the workers who spent more than 30 years working on the estate. On 23 June, a group of approximately 25 former estate workers and their relatives gathered on the road to

Pacayá village, to protest peacefully for their rights. An unidentified man came from the estate with part of his face covered and fired four shots at the protesters. Eugenio López y López was killed on the spot, while Israel Méndez Vásquez and Berta López Escobar were severely injured. Human rights defenders and organisations in Guatemala believe that the attacker was a member of the private security of the estate.

part of a renewed smear campaign against members of the Centre for Environmental, Social and Legal Action (*Centro de Acción Legal, Ambiental y Social de Guatemala, CALAS*) calling them “opponents” and “manipulators” who “have polluted the minds [of the community] with its lies”,¹²⁴ after the organisation challenged the license of the San Rafael Mining Company in San Rafael Las Flores. It is important to note that CALAS has been repeatedly targeted with raids and violence, including fatal and near fatal attacks over the years and such statements intensify the risk for CALAS members. In 2008, Yuri Melini,¹²⁵ Director of CALAS, survived an attempt on his life in which he was gravely injured. In 2015, a gunman opened fire on the offices of CALAS.¹²⁶ On 12 November 2016, CALAS staff member Jeremy Abraham Barrios Lima was shot dead in Guatemala City.¹²⁷ Hate speech is also often used by state officials, as in the case of the President of the Supreme Court of Justice, who was disciplined¹²⁸ for sharing a defamatory Whatsapp message about HRD Helen Mack, in connection with a case dealing with historic human rights abuses that was then before the courts.¹²⁹

THE EXTRACTIVE DEVELOPMENT MODEL AND ITS IMPACT ON HRDs

The current development model in Latin America promotes and prioritises economic growth above other dimensions of development, notably environmental sustainability, equity, social justice and respect for human rights. As a result of this approach, and because of endemic corruption, companies have increasingly exerted pressure on states to open up territory to natural resource extraction, mega projects and agribusiness. This has put pressure on what are often fragile environments and vulnerable people.¹³⁰ In the case of Guatemala, this development model has been characterised by the granting of extensive extractive mining concessions and licenses; the misappropriation and use of rivers to plant monocultures (in particular African palm and sugar cane) and the generation of energy through large scale hydroelectric energy projects, the final product of which is destined for an international market.

This model does not comply with the minimum guarantees outlined under international human rights standards, in particular, the right of Indigenous peoples to free, prior and informed consent. This has provoked acts of aggression and violence across the country, in which HRDs have been killed. In January 2017, 72-year-old Sebastián Alonzo was shot dead when unidentified gunmen opened fire on a peaceful demonstration against a proposed major hydroelectric scheme.¹³¹ On 26 June 2017, Eugenio López was one of a group of former workers from the San Gregorio Piedra Parada ranch, that was protesting opposite the entrance to the ranch to demand their social security payments.

A masked gunman approached the group of protesters and their families and opened fire, killing Eugenio instantly.¹³² There have also been numerous instances of criminalisation of HRDs, such as the case of Professor Abelino Chub Caal.¹³³ On 6 June 2017, the judge of the Criminal Court of First Instance of Puerto Barrios ruled that Abelino should remain in detention even though both the defence and the prosecution had agreed that no evidence had been found against the HRD to justify the charges of aggravated land grabbing and arson. Abelino works with 29 communities in Sierra Santa Cruz, Izabal, whose land, environmental and cultural rights are threatened by mining interests, particularly the

WHEN THEY THREATENED ME THEY USED TO SAY THAT THEY WOULD KILL ME, BUT THAT BEFOREHAND THEY WOULD RAPE ME. THEY DIDN'T SAY THIS TO MY MALE COLLEAGUES. THESE THREATS ARE SPECIFICALLY AIMED AT INDIGENOUS WOMEN

JEREMY ABRAHAM BARRIOS LIMA



At around 5pm on 12 November 2016, HRD Jeremy Abraham Barrios Lima was shot dead in Guatemala City. None of his personal belongings had been taken. Jeremy worked as Assistant to the General Director of the Center for Environmental and Social Legal Action of Guatemala - CALAS (*Centro de Acción Legal Ambiental y Social de Guatemala*). CALAS has been active in denouncing abuses committed by mining companies in the region and works to protect environmental rights. Jeremy was in charge of administration and the management of sensitive information

related to several legal cases CALAS was taking against powerful mining companies, as well as the preliminary hearing in a case against the government. CALAS has been the target of an extended smear campaign in right-wing media, has been repeatedly targeted with raids and violence and in 2008, Yuri Melini, Director of CALAS, survived an attempt on his life in which he was gravely injured. In 2015, a gunman opened fire on the offices of CALAS. No one has ever been brought to justice for these attacks.

BRENDA MARLENI ESTRADA TAMBITO



On 19 June 2016, HRD Brenda Marleni Estrada Tambito was shot 5 times and killed as she drove through Guatemala City. Brenda was driving through Zone 1 when a vehicle drove up beside her. The occupants of the vehicle then opened fire. Brenda was hit by 5 bullets and died at the scene of the attack. Brenda was a member of the Coalition of Workers' Unions of Guatemala (*Unión Sindical de Trabajadores de Guatemala - UNSITRAGUA*) and the Sub-Coordinator of the Legal Aid Commission within the union. UNSITRAGUA brings together workers'

unions from the manufacturing, services and agricultural industries as well as self-employed workers and independent farmers. Brenda was also the daughter of lawyer Jorge Estrada, a long time member of UNSITRAGUA and an advocate for labour rights. He is currently involved in investigating and assessing labour rights in several banana plantations across Izabal department.

operations of the *Compañía Guatemalteca de Níquel (CGN)*, and ranchers. When Ronal David Barillas Díaz,¹³⁴ from the Xinka people, was killed in January 2018, the Observatory for the Protection of Human Rights Defenders noted “these acts are taking place within the context of an alarming intensification of the gravity and intensity of acts of aggression against human rights defenders in Guatemala, particularly over the last two years”.¹³⁵

RACISM AND VIOLENCE AGAINST WOMEN HRDs

Violations are aggravated when gender discrimination intersects with racial and ethnic discrimination. Lolita Chávez,¹³⁶ an indigenous WHRD explained, “when they threatened me they used to say that they would kill me, but that beforehand they would rape me. They didn’t say this to my male colleagues. These threats are specifically aimed at indigenous women. Furthermore, there is a very pronounced form of racism against us. They refer to us as rebellious Indian women who have nothing to do and are considered less human”.¹³⁷ These attacks occur within a more generalised context of stigmatisation and undermining of WHRDs’ work, especially through social media. This was evident in the case of Idivina Hernández,¹³⁸ who was harassed on social media in relation to her work on the Molina Theissen case, in which five retired soldiers were being prosecuted for their involvement in the forced disappearance of Marco Antonio Molina Theissen and the illegal detention, torture and rape of his sister, Emma Guadalupe, 37 years ago.¹³⁹

KILLING OF HUMAN RIGHTS DEFENDERS

The combined effect of the failure to address the problems of the past, defamation campaigns against HRDs, the absence of protection for HRDs and the failure to adequately investigate attacks against them, has created a situation in which HRDs are killed with impunity. In its Annual Reports for the years 2014¹⁴⁰ 2015¹⁴¹ 2016¹⁴² and 2017¹⁴³, Front Line Defenders reported that a combined total of 45 HRDs were killed in Guatemala. In 2017 UDEFEGUA also documented the deaths of 41 young women following a fire in the Virgen del Hogar state run home for minors. The girls were protesting against physical and sexual abuse in the centre which the authorities had failed to address despite numerous complaints. This would bring to 86 the number of deaths directly attributable to the state’s failure to confront glaring abuses of human rights and the risks facing HRDs. The victims include journalists, indigenous peoples, trade unionists, defenders of transitional justice mechanisms, and those who defend

land, territory and natural resources. During 2017, UDEFEGUA registered 483 acts of aggression against HRDs, of which 131 were against those who defend the environment, nature, natural resources and water, an increase in comparison with the 37 acts of aggression perpetrated against this same group of defenders throughout 2016. On 30 June 2017, a group of Special Rapporteurs of the United Nations and the Inter-American Commission on Human Rights condemned the attacks and killings of environmental defenders in Guatemala and stressed that these defenders face “the greatest danger on a global scale due to their activities in defence of territory and the

THE COMBINED EFFECT OF THE FAILURE TO ADDRESS THE PROBLEMS OF THE PAST, DEFAMATION CAMPAIGNS AGAINST HRDs, THE ABSENCE OF PROTECTION FOR HRDs AND THE FAILURE TO ADEQUATELY INVESTIGATE ATTACKS AGAINST THEM, HAS CREATED A SITUATION IN WHICH HRDs ARE KILLED WITH IMPUNITY

environment, facing the challenges that originate from large-scale development projects that threaten their right to a healthy environment.”¹⁴⁴

RESPONSE BY THE STATE

In 2004, after calls from national and international civil society groups, the government created the Coordinating Unit for the Protection of Human Rights Defenders, Legal Administrators and Officers, Journalists, and Media Commentators (*Unidad Coordinadora de Protección para Defensores de Derechos Humanos, Administradores y Operadores de Justicia, Periodistas y Comunicadores Sociales*) with the aim of articulating the state’s response to requests for protection of HRDs in situations of risk.¹⁴⁵ In 2008, this unit was complemented by the Office for the Analysis of Attacks against Human Rights Defenders (*Instancia de Análisis de Ataques Contra Defensores de Derechos Humanos en Guatemala*), to establish and analyse patterns of attacks on HRDs. However, according to a 2017 report by Amnesty International “Despite the regulatory framework established in Guatemala to create bodies in charge of the protection of HRDs, among other subjects of protection, and aimed at analysing patterns of attacks against defenders in order to take structural measures to tackle the causes of such attacks, there is no systematic or coordinated approach from the authorities to the protection of HRDs. In addition to impunity, among the major challenges faced by the authorities in providing effective protection are the need to: adopt effective measures to counteract the misuse of the justice system against defenders, and to end the pattern of stigmatisation of their work”.¹⁴⁶ The Protection Division of Persons and Security within the Civilian National Police Force does not sufficiently document or follow up on cases to evaluate continued risks and to determine the effectiveness of security measures. Furthermore, risk analysis processes do not always adequately take into account the culture and gender of HRDs, or the general social and political context in which they work.¹⁴⁷ The government of Guatemala has made an elaborate show of responding to international pressure to address the endemic violence against HRDs. The reality is that to date it has failed to deliver effective protection for HRDs.

RECOMMENDATIONS TO THE GOVERNMENT OF GUATEMALA

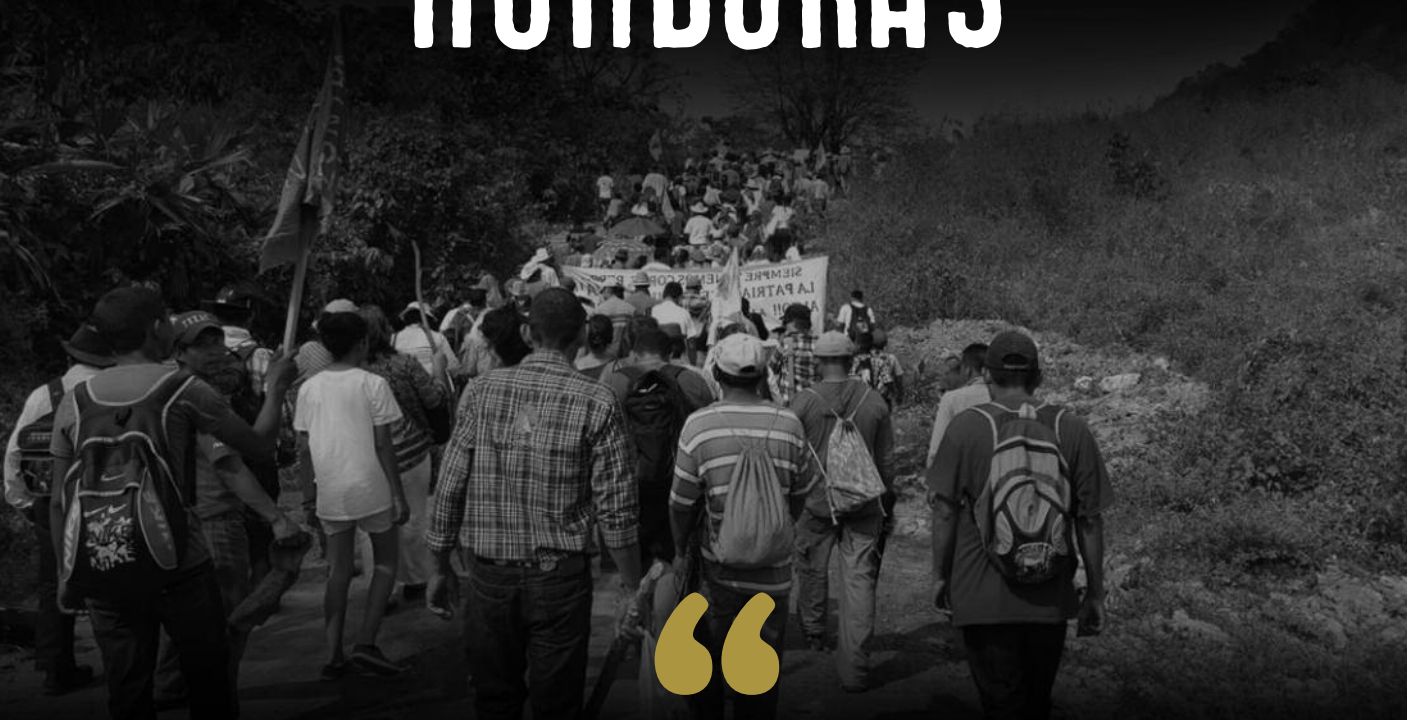
The government of Guatemala should:

- ❖ Recognise the key role of HRDs in the construction of a more just and equal society in Guatemala;
- ❖ Take all necessary steps as a matter of urgency, to complete the process of public consultation for the development of the “Public Policy for the Protection of Human Rights Defenders”;
- ❖ Once this process of broad and participative consultation is completed the policy should be approved and implemented without delay;
- ❖ Provide all the necessary political and financial support to the “Unidad Coordinadora de Protección para Defensores de Derechos Humanos, Administradores y Operadores de Justicia, Periodistas y Comunicadores Sociales” to enable it to carry out its mandate to protect HRDs at risk;
- ❖ Address the main structural causes that underpin the risks faced by HRDs, including the lack of adequate investigations and the high rate of impunity for attacks against them, as well as the reform of the legislative framework in matters related to land and territory;
- ❖ Implement the General Instruction to investigate crimes committed against HRDs;
- ❖ Take action to strengthen the actions of the prosecutor’s office that deals with the issue;
- ❖ Comply with the United Nations Guiding Principles on Business and Human Rights, which would be an important impetus for the Guatemalan state to carry out its National Plan of Action on the matter, in order to reduce the violence perpetrated by private enterprises against HRDs;
- ❖ Issue clear instructions to the General Prosecutor of the Republic on the minimum elements required prior to initiating investigations for tax fraud, hearings or the issuing of arrest warrants, to ensure equality before the law for all citizens of the country to prevent abuse of the legal system to harass HRDs.



Indigenous women of Guatemala on a protest march as part of International Women’s Day

HONDURAS



“

THE ALREADY FRAGILE HUMAN RIGHTS SITUATION IN HONDURAS IS LIKELY TO DETERIORATE FURTHER UNLESS THERE IS TRUE ACCOUNTABILITY FOR HUMAN RIGHTS VIOLATIONS, AND REFORMS ARE UNDERTAKEN TO ADDRESS THE DEEP POLITICAL AND SOCIAL POLARISATION IN THE COUNTRY

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**UN HIGH COMMISSIONER FOR HUMAN RIGHTS,
ZEID RA'AD AL-HUSSEIN**

HUMAN RIGHTS DEFENDERS (HRDS) IN HONDURAS SUFFER EXTRAJUDICIAL EXECUTIONS, enforced disappearances, torture and ill-treatment as well as judicial harassment, threats and stigmatisation. Journalists, lawyers, prosecutors, those defending the rights of the LGBTI community, indigenous and Afro-Honduran communities, and those working on environmental and land rights issues are particularly at risk.¹⁴⁸ LGBTI defenders in Honduras are doubly discriminated against. They are discriminated against, firstly, because they are HRDs and secondly, because they defend LGBTI rights.¹⁴⁹ Journalists continue to face risks when they report on human rights violations. Constant threats, harassment and killings of journalists have led many to self-censor. Since the 2009 military coup, the number of killings, threats and acts of intimidation against *campesinos* and environmental rights defenders has increased. The perpetrators of violations against defenders of environmental, land and indigenous peoples' rights are often influential landowners or logging companies.¹⁵⁰

In 2017, the Truth and Reconciliation Commission, established in line with the Tegucigalpa/San José Agreement,¹⁵¹ concluded that the causes of the coup d'état in 2009 were rooted in the profound inequalities in Honduran society, as well as the dysfunctional nature of the state. The Commission formulated 84 recommendations to address institutional weaknesses and set out a roadmap towards national reconciliation.¹⁵² Many of these recommendations have not yet been implemented but continue to be relevant, in particular with regard to strengthening democracy, constitutional reform, accountability for human rights violations and reforming the electoral system.¹⁵³ The Commission Follow-up Unit was dissolved by the government after the presentation of its report in 2013.

Violent crime is rampant in Honduras. Efforts to reform the institutions responsible for providing public security have made little progress. Marred by corruption and abuse, the judiciary and police remain largely ineffective. Impunity for crime and human rights abuses is the norm.¹⁵⁴ According to its Annual Report for 2016, the Honduran National Human Rights Commission (*Comisionado Nacional de Derechos Humanos CONADEH*)¹⁵⁵, stated that "despite institutional advances in Honduras, there is an obvious contradiction between the rights set out in the Constitution of the Republic, which upholds, as its highest priority, the progressive well-being of the people, and the reality faced by the majority of Hondurans who live in conditions of extreme deprivation as a result of poverty and social exclusion."¹⁵⁶

There are many causes of the violence in the country but drug trafficking and criminal activity by *Maras* (gangs) fuelled by poverty, lack of opportunities and unemployment play a particular role. Both the drug lords and the *Mara* leaders are able to exploit this situation, which facilitates the forced recruitment of gang members to carry out their criminal activity. However drug trafficking and gang activity are not the only factors contributing to violence and attacks on HRDs, in Honduras. Political and economic power in Honduras is controlled and manipulated by an entrenched elite, with close links to the army and the security services, who block reform initiatives to protect their own interests, and are often behind targeted attacks against HRDs who oppose their projects.

THERE ARE MANY CAUSES OF THE VIOLENCE IN THE COUNTRY BUT DRUG TRAFFICKING AND CRIMINAL ACTIVITY BY MARAS (GANGS) FUELLED BY POVERTY, LACK OF OPPORTUNITIES AND UNEMPLOYMENT PLAY A PARTICULAR ROLE

In February 2018, the Attorney General of Honduras and Asociación para una Sociedad más Justa (ASJ) launched a legal challenge against a recent legislative reform denounced by critics as an "impunity pact," "highlighting rising tensions between anti-corruption advocates and entrenched elites".¹⁵⁷ The reform in question, passed by Congress on 18 January 2018, if implemented, would have blocked investigations into allegations of corruption for periods of up to three years.¹⁵⁸ According to the Carnegie Endowment for Democracy "It is no longer possible to think of corruption as just the iniquitous doings of individuals, be they street-level bribe payers, government officials, or business executives. In five dozen or so countries, of which Honduras is emblematic, corruption is the operating system of sophisticated networks that link together public and private sectors and out-and-out criminals – including killers – whose main objective is maximising returns for network members. Corruption is built into the functioning of such countries' institutions".¹⁵⁹ On 15 February 2018, the head of the Organisation of American States' anti-corruption mission in Honduras announced that he would resign over a lack of support from the authorities.¹⁶⁰ It is this combination of institutional corruption, at the highest levels, and organised crime, which creates the situation in which HRDs can be killed with impunity.

As a result of consistent failure by the government to address these issues, over the last eight years Honduras has experienced its highest levels of violence in recent history. According to a 2017 report by the World Economic Forum, Honduras ranked ninth in the list of the 20 most dangerous countries in the world.¹⁶¹ Although the average homicide rate decreased from 86 violent deaths per 100,000 inhabitants (2011 – 2012) to 59 violent deaths per 100,000 (2016), this is more than nine times higher than the global average of 6.4 violent deaths per 100,000 inhabitants.¹⁶² In many ways the state itself is the root cause of insecurity given the failure of the criminal justice system to bring perpetrators to justice and the excessive use of force by the police, military police and army, who often operate in collusion with organised criminal gangs.¹⁶³

EXCESSIVE USE OF FORCE DURING PEACEFUL PROTESTS

A huge cause for concern is the excessive and unnecessary use of force by the security forces during peaceful protests.¹⁶⁴ The response by the state to social protest has been to blame HRDs for the unrest and to threaten the suspension of the legal status of those who are accused of “promoting the destabilisation of the country.” According to José Ángel Herrera, Regional Director of the Ministry of the Interior, “a large portion of the problems stemming from the political crisis are being fuelled by organisations, in this case some international NGOs”.¹⁶⁵ The state’s ‘iron fist’ approach may be observed in the conduct of members of the Honduran security forces, particularly the military police, and their excessive use of force – including lethal force – to control and disperse the protests that took place following the controversial presidential elections of November 2017.¹⁶⁶

According to a report by the UN OHCHR, at least 22 civilians and one police officer were killed during the protests, including two women and two children who died as a result of shots fired by the security forces.¹⁶⁷ Although some of the protesters carried out violent acts, the report states that “an analysis of the types of injuries suffered by the victims indicates that the security forces intentionally used lethal force, going beyond dissuasive action or self defence tactics, for example, when protesters were fleeing”. This was evident in the case of seven victims who died from gunshot wounds to the head.

Furthermore, within the context of these protests, the UN OHCHR documented “acts of violence, intimidation and threats against HRDs, both individually and collectively. The UN OHCHR also documented violations of the right to privacy and property, for example, by HRDs becoming the target of surveillance, being followed, photographed or their computers being stolen. All of this is happening in the context of constant stigmatisation of their work which creates a situation of high risk for HRDs.”¹⁶⁸ On 20 February 2018, the body of Luis Fernando Ayala was found in the municipality of Concepción Sur in the Department of Santa Barbara. His body, which showed multiple signs of torture, was mutilated and his hands had been cut off.¹⁶⁹ Luis Fernando was a 16-year-old environmental activist who had been campaigning against mining projects in the area. Previously, Luis Fernando, along with other young people, had been harassed by the Military Police for participating in the peaceful protests to denounce the irregularities in the November 2017 elections. According to the Observatory¹⁷⁰ “these acts are part of a systematic campaign of public, verbal and physical attacks against HRDs and journalists in Honduras which has been exacerbated in the current context of social and political crisis in the country”.¹⁷¹

HONDURAS HAS CONTINUED TO BE ONE OF THE MOST DANGEROUS COUNTRIES IN THE AMERICAS GENERALLY FOR HRDs, ESPECIALLY THOSE WHO WORK FOR THE PROTECTION OF RIGHTS TO LAND AND TERRITORY, OR THE PROTECTION OF THE ENVIRONMENT

TARGETED KILLINGS OF HRDs

Further evidence suggests that the army and police responded to protests by targeting the perceived leaders of the movement. On 22 January 2018, HRD Ramón Fiallos was killed when police opened fire during a street protest held against the election results in the municipality of Arizona, Atlántida Department. Ramón Fiallos¹⁷² was the Community Coordinator of El Retiro MADJ¹⁷³ (*Movimiento Amplio que lucha contra la corrupción y para el bien manejo de los recursos naturales del país* – a broad-based movement against corruption

JOSÉ DE LOS SANTOS SEVILLA



On the morning of Friday, 17 February, 2017, José de los Santos Sevilla, leader of the Tolupe indigenous people, was shot dead at his home in the community of La Ceiba in Montaña de la Flor, Francisco Morazán, in central Honduras. José de los Santos Sevilla, a teacher and community leader, was at home when five heavily armed men broke into his home and shot him several times. José died instantly. For almost a decade, the Tolupe indigenous peoples of northern Honduras have been threatened, criminalised and killed for

operations that have plundered their resources without consulting the communities.

SHERLYN MONTOYA



On 4 April 2017, LGBTI rights defender and transgender woman, Sherlyn Montoya, was found dead in the surroundings of Tegucigalpa, her body showing signs of torture. Sherlyn Montoya was a member of *Asociación LGBT Arcóris* (LGBT Rainbow Association), an organisation which works on equality and justice for the lesbian, gay, bisexual, transgender and intersex (LGBTI) community in Honduras. The human rights defender was also a member of the *Grupo de Mujeres Transexuales – Muñecas de Arcóris* (Transsexual Women’s Group – Rainbow’s Dolls), which is part of Arcóris

and is dedicated to the discussion and advocacy of issues concerning transgender women.

which also campaigns for sustainable management of the country's natural resources) and was known for his leadership and work on environmental and social rights. On 23 January 2018, Geovanny Díaz Cárcamo¹⁷⁴ was found dead in an isolated part of Pajuiles, in the Tela Atlántida municipality. Geovanny was an active HRD and was also a member of the MADJ. He was taken from his home by soldiers at approximately 4am, without an arrest warrant, and was found dead later the same day.

Quite apart from the violence linked to repression of the protests against alleged election fraud, Honduras has continued to be one of the most dangerous countries in the Americas generally for HRDs, especially those who work for the protection of the rights to land and territory, or the protection of the environment.¹⁷⁵ HRDs working on these issues are seen as anti-development and an obstacle to the exploitation of the economic resources of the country. They are targets of defamatory campaigns, orchestrated both by state and non-state actors to discredit their work. They are frequently intimidated, threatened and attacked. In June 2017, members of the Honduran Civic Council of Peoples and Indigenous Organisations (*Consejo Cívico de Organizaciones Populares e Indígenas de Honduras – COPINH*) were the target of an armed attack when they were driving back from a meeting. COPINH is an indigenous Lenca organisation representing 200 Lenca communities in the western Honduran states of Intibuca, Lempira, La Paz, and Santa Barbara. It has defended communities and their natural resources from logging, dams, mining projects, and other mega projects that would destroy their way of life and the environment. There have been continuing attacks, threats and intimidation against COPINH members and supporters, which have intensified following the murder of Berta Cáceres¹⁷⁶ on 3 March 2016.

On 15 March 2016, Berta's colleague Nelson García was also shot dead and on 14 October 2016, there was an attempt on the lives of COPINH leaders Alexander García and Tomás Gómez Membreño, in two separate incidents.¹⁷⁷ Local NGOs have confirmed that legal attempts to secure redress for attacks and killings have been delayed or blocked as a way of harassing HRDs and forcing them to abandon their struggle. The majority of attacks registered against HRDs remain unresolved, as a result of the multiple obstacles faced during the investigation process and trial proceedings. Although the National System for the Protection of Human Rights Defenders, Journalists, Social Communicators and Justice Officials¹⁷⁸ contributed to some advances in the protection of HRDs, efforts to implement a properly organised and funded protection system for HRDs have made little progress.

In annual reports for 2014¹⁷⁹, 2015¹⁸⁰, 2016¹⁸¹ and 2017¹⁸², Front Line Defenders¹⁸³ documented a total of 64 HRDs who had been killed in this four year period: 17 in 2014, 7 in 2015, 33 in 2016, and 7 in 2017. In contrast to the figure for 2016, the number of HRDs killed in 2017 was significantly lower; however, this does not mean that there has been an increase in the level of recognition of the state's obligation to defend human rights, but rather that there has been a change in the strategies used to obstruct the work of HRDs. Recently, tactics such as criminalisation, defamation and stigmatisation of HRDs, have been used to restrict and impede HRDs from doing their work.

The Inter-American Commission on Human Rights (IACHR) has frequently urged the government to protect persons who are the target of intimidation or death threats as a result of their work in defence of the environment.¹⁸⁴ In its 2015 report regarding

ATTACKS ON JOURNALISTS ARE CRIMES AGAINST SOCIETY AS A WHOLE... WITHOUT REPORTERS TO DOCUMENT ABUSES, ALERT THE PUBLIC, AND DENOUNCE INJUSTICE, HUMAN RIGHTS VIOLATORS ARE EMPOWERED TO CONTINUE THREATENING AND KILLING ANYONE THEY PLEASE

SILVINO ZAPATA MARTÍNEZ



At twelve-thirty on the night of Saturday, 14 October, 2017, Silvino Zapata Martínez was murdered in Masca, Department of Cortés, on the Honduran Atlantic coast. Silvino was leaving his restaurant when two gunmen shot him repeatedly, leaving him for dead. Seriously wounded, Silvino was taken to the hospital in Cuyamel, but died minutes after being admitted. 73 year old Silvino, was a respected leader of the Garífuna (afro-descendant) community and chair of his community's Council of Elders. He had campaigned for years to protect the environment and the rivers of his region,

especially the Masca River, where unscrupulous businessmen, with government support, intend to build a hydroelectric dam, without considering the environmental damage involved. Silvino and the community succeeded in getting the project stopped temporarily on the basis that the company had failed to carry out the required consultation to secure the Free and Informed Prior Consent of the community.

BERTA CÁCERES



Berta Cáceres was a Lenca indigenous woman who worked for more than 20 years to defend the territory and rights of the Lenca people. In 1993 she co-founded *Consejo Cívico de Organizaciones Indígenas Populares – COPINH* (Civic Council of Popular Indigenous Organisations), which led campaigns against mega projects. She had successfully challenged illegal loggers, plantation owners, multinational corporations, and dam projects that would cut off food and water supplies to indigenous communities. She received threats of death, rape, and physical attack.

On 3 March 2016, she was shot dead by gunmen who broke into her home in the city of La Esperanza in the early hours of the morning. Nine people have so far been charged with her murder including David Castillo Mejía, the executive president of the company building the dam against which Berta had campaigned. He is the fourth accused to have close links to the Honduran military.

human rights in Honduras, the IACHR describes scores of cases of attacks, threats and harassment against HRDs. The Commission concluded that “the lack of a judicial response has provoked an adverse climate for their work”, highlighting that impunity has direct and grave repercussions for the work of HRDs.¹⁸⁵

The case of Berta Cáceres encapsulates the many problems that HRDs face in Honduras. Berta Cáceres, General Coordinator of COPINH, was killed in March 2016 by armed men who broke in to her home in La Esperanza, Intibuca Department. Berta Cáceres was an internationally-recognised leader of a campaign against the environmental and health impacts of the building of the Agua Zarca dam on the Gualcarque River. Berta had reported 33 death threats to the authorities and the Inter-American Commission had called on the government to intervene to protect her. Police did not investigate any of the threats against her prior to her assassination. In May 2017, the authorities detained five men for their alleged participation in Berta’s killing, including an army major and the official responsible for social and environmental affairs of the company contracted to build the Agua Zarca dam. The prosecutor maintained that the killing formed part of a conspiracy by the company. In September 2017, a sixth person was detained and in March 2018, Honduran authorities arrested Robert David Castillo,¹⁸⁶ executive president of Desarrollos Energéticos Ltd (DESA), as the alleged intellectual author of the killing of Berta.¹⁸⁷ However the investigation has been marked by numerous irregularities. According to local media, the case file, which contained evidence against various suspects, was stolen from the judge’s vehicle on 29 September 2017. Although the Supreme Court of Justice announced that it had copies of the case file, the manner in which the government handled the incident was heavily criticised.¹⁸⁸ The International Advisory Group, in its report¹⁸⁹ into the killing of Berta, concluded that senior business executives and Honduran officials had coordinated her murder, underscoring the extent of criminal collusion between the state and private enterprise in the Central American nation.”¹⁹⁰

VIOLENCE AGAINST WOMEN

According to the National Human Rights Commission,¹⁹¹ the violent deaths of women are of concern, particularly because of the cruelty and levels of violence used in each case. The lack of preventative or investigative strategies contributes to the prevalence of impunity in these cases. It is estimated that between 2006 and 2016, approximately 4,787 women died in violent circumstances in Honduras. According to the Honduran Autonomous National University’s Observatory (UNAH),¹⁹² 468 women were killed in 2016 and 389 in 2017. The majority of these crimes had

one common denominator, the cruelty and viciousness with which they were perpetrated. The risk posed to women human rights defenders (WHRDs) is two-fold: they are the target of persecution for their human rights work on a political level but also within their communities and even their own families. In a three-month period from June to August 2017, IM-Defensoras¹⁹³ published fourteen urgent action alerts regarding attacks suffered by WHRDs, their organisations and their communities. Discrimination and gender-based violence create additional risks for women activists who undertake an ever greater and more visible role within different social movements at the forefront of the struggle to defend land and territory. Between 2012 and 2016, IM-Defensoras

documented 1,128 attacks on and 13 killings of WHRDs in Honduras.¹⁹⁴

LGBTI DEFENDERS ARE MORE VULNERABLE TO SUFFERING ACTS OF VIOLENCE BECAUSE OF A COMBINATION OF FACTORS RELATED TO THE PERCEPTION OF THEIR SEXUAL ORIENTATION AND GENDER IDENTITY, THEIR ROLE AS HRDs AND THE RIGHTS WHICH THEY ARE DEFENDING

JOURNALISTS

Between 2001 and August 2017, the National Commission for Human Rights (CONADEH) recorded the violent death of 70 media professionals. In only 6 of these cases was a perpetrator convicted, meaning that 91% of cases remain unresolved.¹⁹⁵ The journalists most at risk are those investigating government corruption, human rights violations by military police and state security forces or organised crime. According to UNESCO Director-General Irina Bokova, “attacks on journalists are crimes against society as a whole... Without reporters to document abuses, alert the public and denounce injustice, human rights violators are empowered to continue threatening and killing anyone they please”.¹⁹⁶

LGBTI DEFENDERS

According to the Cattrachas Centre for the Monitoring of Media¹⁹⁷ (a lesbian feminist organisation), between 2009 and 2017, 277 LGBTI people were killed in Honduras, including 34 killings in 2017.¹⁹⁸ Given the level of violence in the country and the climate of impunity for these crimes, being a defender of LGBTI rights in Honduras is exceptionally dangerous. In August 2017, the Inter-American Commission for Human Rights (IACHR) urged Honduras to adopt specific measures to properly and effectively address the pattern of violence against LGBTI defenders.¹⁹⁹ The Commission has continued to follow up on numerous cases of violence perpetrated against LGBTI defenders in Honduras, such as the killing of Paola Barraza,²⁰⁰ a transgender HRD and member of the Board of Directors of the Arcoiris LGBTI Association, and the killing of LGBTI defender, René Martínez,²⁰¹ who was the president of the Sampedrana Gay Community,²⁰² an LGBTI advocacy group based in San Pedro Sula, that works throughout the north of Honduras. The Commission observed that LGBTI defenders are more vulnerable to suffering acts of violence because of a combination of factors related to the perception of their sexual orientation and gender identity, their role as HRDs and the rights which they are

defending.²⁰³ Arcoiris²⁰⁴ is an organisation that provides support to LGBTI persons who are victims of violence. It also works on awareness-raising initiatives, promotes HIV prevention programmes and lobbies the Honduran government to promote LGBTI rights in the country. Between June 2015 and January 2016, six of its members were killed and a number of others were victims of physical attacks, intimidation and threats. On 4 April 2017, Sherlyn Montoya, a transgender defender and member of Arcoiris, was found dead on the outskirts of Tegucigalpa and her body showed signs of torture.²⁰⁵



Left: Offering organised by members of COPINH to commemorate Berta Cáceres.

RECOMMENDATIONS TO THE GOVERNMENT OF HONDURAS

According to the United Nations High Commissioner for Human Rights, Zeid Ra'ad Al Hussein, the situation in Honduras, which was already fragile and suffering from high levels of violence and insecurity, will probably deteriorate further if those responsible are not held to account for these violations.²⁰⁶ The government of Honduras should:

- ❖ Make strong public statements recognising the legitimate role of human rights defenders and commit to guaranteeing their protection;
- ❖ Take effective action to enable the government to meet its international obligation to protect all HRDs, their families, colleagues and communities against threats and reprisals;
- ❖ Ensure that adequate protection measures are implemented which respond to the specific risks, context, identity and requests of each individual;
- ❖ Provide the staff, resources, leadership and political backing necessary to ensure the effective implementation of the HRD protection law and its operational regulations;
- ❖ Give the resources and political backing required by the judiciary to prosecute the material and intellectual authors of attacks on HRDs;
- ❖ Strengthen access to justice for indigenous and rural communities, taking into account geographical, linguistic and cultural barriers;
- ❖ Provide more resources for the Special Prosecutor's office for indigenous rights (*Fiscalía de Etnias*);
- ❖ Set out how it intends to implement all recent UN recommendations pertaining to the protection of HRDs, land rights and indigenous peoples' rights, community consultation and consent and business and human rights.

MEXICO

A large crowd of people is gathered at night, many holding up posters with faces of missing individuals. The posters are held up in front of the crowd, creating a wall of faces. The scene is illuminated by streetlights, and the overall atmosphere is one of a public demonstration or protest.

“

OF PARTICULAR CONCERN ARE THE REPORTS OF DISAPPEARANCES, EXTRAJUDICIAL EXECUTIONS AND TORTURE, AS WELL AS THE SITUATION OF INSECURITY FOR WOMEN, CHILDREN, MIGRANTS, HUMAN RIGHTS DEFENDERS, AND JOURNALISTS, WHO ARE VICTIMS OF MURDER, DISAPPEARANCE, KIDNAPPING, TORTURE, HARASSMENT, AND THREATS

”

**INTER AMERICAN COMMISSION ON
HUMAN RIGHTS OF INDIGENOUS PEOPLES**

RECENT MEXICAN LEADERS HAVE EXPOUNDED ON THE NEED FOR ECONOMIC GROWTH AND OPPORTUNITY for the country's 121 million people. They have sought economic progress through a comprehensive free trade pact with the United States and Canada, oil exploration, the privatisation of state enterprises, and reforms in such areas as education, energy, telecommunications, mining and justice, which have prompted large scale protests. But the hoped-for image of a reform-minded, dynamic country on the cusp of prosperity has been "overwhelmed by shocking scenes of a land awash in violence and injustice: surveys suggest that citizens report only less than ten percent of crimes to the authorities. The real degree of unpunished crime in Mexico is staggering".²⁰⁷

While the reforms introduced during the term of President Calderón gave some cause for hope, what we have seen in practice during the term of his successor, President Peña Nieto, is the progressive criminalisation of social protest and attacks on human rights defenders (HRDs). The Inter American Commission on Human Rights (IACHR) has acknowledged the significant reforms introduced in Mexico in 2011, including the reform of the constitution and the recent approval of protocols to investigate cases of torture and enforced disappearance. Notwithstanding this progress, the implementation of this programme of reform has run up against institutional deficiencies and obstacles. "The IACHR has confirmed a deep gulf between the legislative and judicial framework and the daily reality millions of people face in accessing justice. Time and again the IACHR heard from victims throughout the country that the administration of justice is a "simulation."²⁰⁸

Despite these much vaunted reforms, the situation for HRDs remained dire in Mexico in 2017 as they continued to be subject to violence by state and non-state actors. Vulnerable groups include journalists, as well as LGBTI, religious, environmental, indigenous, migrant, and women's rights defenders. HRDs and journalists in Mexico are subject to intimidation, legal harassment, arbitrary detention, death threats, acts of physical aggression, enforced disappearances and killings as a result of their activities in defence of human rights and the exercise of freedom of expression and journalism. Disappearances are endemic in Mexico, often happening with collusion from the state. HRDs working in the defence of indigenous peoples' territory are particularly vulnerable. They are criminalised, imprisoned, defamed, and often killed. Journalists working on any of these issues, or issues related to the drug trade and the government's complicity in this, also run the risk of losing their lives. During a visit to Mexico in January 2017, the UN Special Rapporteur on the situation of human rights defenders, Michel Forst, stated that HRDs "continue to be criminalised for their work, receive threats via the internet and social media, including attempts to defame their identity and role, and frequently experience arbitrary arrests and abuse of force by law enforcement during peaceful protests".²⁰⁹

The government of Mexico's current socio-economic strategy is based on three elements: the imposition of a neo-liberal economic model, the limitation of workers' rights and the criminalisation of dissent.²¹⁰ The need to maximise revenue from the legal market, to increase the benefit to the state from the illegal market, and in the process to limit workers' rights, salaries and rest hours, are at the heart of the government's economic strategy. When combined with the privatisation of basic goods and services, such as food, water and electricity, that are indispensable for a decent standard of living, these policies not only deprive the population of their natural and territorial resources, but turn these services into commercial products that only those with money can access. In relation to human rights, the government's clear goal is to label those who oppose the government's neo-liberal agenda as "enemies of development".²¹¹

**THE SITUATION FOR HRDS
REMAINED DIRE IN
MEXICO IN 2017 AS THEY
CONTINUED TO BE SUBJECT
TO VIOLENCE BY STATE
AND NON-STATE ACTORS**

KILLINGS OF HRDs

All of these elements create a context in which attacks on and killings of HRDs are routine crimes for which there is no accountability. From June 2016 to May 2017, there were 1,442 attacks on HRDs in Mexico, which translates into 4 attacks per day.²¹² In the states of Chiapas and Oaxaca alone, two HRDs are attacked on a daily basis. In the period 2013-2018 there were 144 killings of HRDs, 31 in Oaxaca alone. In 2017, 48 HRDs were killed;²¹³ 58% fell into 4 main categories: HRDs defending freedom of expression and journalism (10); HRDs defending the rights of indigenous peoples (6); HRDs defending territorial/land rights (6); HRDs defending the right to a decent standard of living (6). The states which accounted for the highest number of killings of HRDs were Guerrero (8), Jalisco (6), Oaxaca (6), Michoacán (6). It is worth noting that killings of HRDs took place in 16 of the 32 states, including Mexico City. In its 2018 Annual Report, covering the period January -December 2017, Front Line Defenders reported the killing of 32 HRDs in Mexico.²¹⁴ An element in these killings is the overlap between the criminal and the political. A case in point is the shooting dead of journalist Miroslava Breach by a hired gunman working for one of the drug trafficking gangs and where the real motivation for the killing was her journalistic activities which threatened to expose political links to the drug trade.²¹⁵

ATTACKS ON INDIGENOUS PEOPLES

Serious human rights violations against indigenous peoples and communities in Mexico occur in three main areas: violence in the context of megaprojects on ancestral lands and territories authorised without the due process to ensure free, prior and informed consultation and consent;

in the context of title claims affecting their land; or the lack of due process in criminal cases against HRDs.²¹⁶ Indigenous peoples have repeatedly denounced the granting of state concessions to private companies in violation of their right to prior consultation. As a result of the struggle for their lands there have been repeated attempts to criminalise the work of defenders of indigenous peoples' rights, who are seen as obstacles to the economic development of the country. During her November 2017 visit to Mexico, the UN Special Rapporteur on Indigenous Peoples Rights, Victoria Tauli-Corpuz, referred to "a serious pattern of exclusion and discrimination, which in turn reflects a lack of access to justice, among other human rights violations".²¹⁷ In both 2016 and 2017, 37% of the HRDs killed were indigenous activists.²¹⁸ In the midst of this wave of violence, the massacres of Tlatlaya, and Ayotzinapa are the tip of an iceberg of violence, arbitrary arrests and violent attacks, including killings of HRDs. In the Tlatlaya case it is alleged that high-ranking army officers gave written orders encouraging soldiers to kill 22 young people, alleged members of organised criminal groups,²¹⁹ while in the Ayotzinapa case, 43 young men who had been studying at a teacher training college in the rural town of Ayotzinapa and had commandeered buses²²⁰ in hopes of reaching a demonstration, were intercepted by local police and never seen again.²²¹

ATTACKS ON WOMEN HUMAN RIGHTS DEFENDERS

According to IM Defensoras, "Mexico is the most violent country for women human rights defenders (WHRDs) in Mesoamerica."²²² From 2013 to 2016, that is to say, during the term of Enrique Peña Nieto, a total of 1,360 attacks against WHRDs occurred, an average of one a day." In the same period at least 22 WHRDs were killed.²²³ Women have been singled out for killing in some locations. In Ciudad Juárez, Chihuahua, hundreds, and possibly thousands, of women have disappeared and been murdered since 1993. Many of the women's bodies have later been found in the desert, often having been murdered in very brutal ways. Most were poor and working in factories or the informal economy; some were raped or mutilated, and more still remain missing. According to one source, there are reasons to believe that there were 4,306 femicides in Mexico between 2006 and 2012,²²⁴ and the National Network of Human Rights Defenders in Mexico (*Red Nacional de Defensoras de Derechos Humanos en México, RNDDHM*), identified 615 attacks on women HRDs from the beginning of 2012 through 2014, including 36 killings. In the research for its 2016 report, the IACHR noted, "Regarding the situation of WHRDs in Mexico, the IACHR has issued a number of precautionary measures aimed at protecting the life and personal integrity of women HRDs who have been attacked, threatened and harassed as a direct consequence of their work. Under this scenario, the IACHR has received concerning information regarding the lack of timely implementation of

effective security measures that allow the prevention of irreparable incidents that may compromise the life and integrity of human rights defenders and their families. In this sense, throughout 2015, the Inter-American Commission granted two precautionary measures in favour of three women human rights defenders who were allegedly in a situation of defenselessness".

BETWEEN 1995 AND 2014 THERE WERE AT LEAST 1,218 MURDERS IN MEXICO MOTIVATED BY PREJUDICE AGAINST INDIVIDUALS BECAUSE OF THEIR REAL OR PERCEIVED SEXUAL ORIENTATION AND/OR GENDER IDENTITY

ATTACKS ON MEMBERS OF LGBTI COMMUNITY

BERNARDO RANFERI HERNÁNDEZ ACEVEDO



On October 14th, 2017 the body of Bernardo Ranferi Hernández Acevedo was found in the burning wreck of his car near Nejapa, Chilapa de Álvarez in Guerrero state, half a kilometer away from a military checkpoint. The political leader was killed on the Chilapa-Ahuacoutzingo highway, in the downtown area of Guerrero, a region that is particularly troubled by the struggle between criminal groups that want to control the traffic and cultivation of the poppy. Police were notified of a car on fire on the highway and on arrival found the car on fire with the bodies of Bernardo, his wife, his mother-in-law and his

driver inside. 64-year old Ranferi was a respected HRD who had survived the so called Guerra Sucia (Dirty War) of the 1970s. He was a trenchant critic of Rubén Figueroa, former governor of Guerrero, whom he had accused of being responsible of the killing of 17 farmers in Aguas Blancas in 1995. As a result more than 35 detention orders were issued against him and in 1997 he went into exile in France for 4 years. When he returned to Mexico in 2001 he dedicated himself to organising peasant and indigenous communities to demand their rights.

MEZTLI OMIXOCHITL SARABIA REYNA



On 29 June 2017, human rights defender (HRD) Meztlí Omixochitl Sarabia Reyna was killed in the office of her organisation in Puebla, Mexico. Meztlí Omixochitl Sarabia Reyna was a labour rights defender, member of the Unión Popular de Vendedores Ambulantes 28 de Octubre – UPVA (Popular Union of Street Vendors October 28) and daughter of HRD Ruben Sarabia 'Simitrio', co-founder of the UPVA. UPVA is an organisation which defends the rights of street vendors and labour rights, and organises protests on these issues. The organisation has faced repression since its

founding including attacks, death threats, stigmatisation and judicial harassment. Meztlí had also been campaigning for justice for her father, Rubén Sarabia Sánchez and brothers, Xihuel Sarabia Reyna and Atl Rubén Sarabia Reyna, who have been political prisoners for several years. Government investigations are trying to present this as a killing based on a personal dispute even though the gunman announced his intention to kill her, the night before the shooting.

On 20 April 2017, the body of LGBTI rights activist and freelance reporter, Juan José Roldán was found in a town east of Mexico City showing signs of torture.²²⁵ For the previous 5 years Juan José had been campaigning for better HIV testing in Mexico. On 20 May 2017, Jennifer López, better known as Campanita, was murdered in Ometepec, Guerrero state. Campanita was a local transgender activist who was actively involved in the defence of the human rights of LGBTI people. Between 1995 and 2014 there were at least 1,218 murders in Mexico motivated by prejudice against individuals because of their real or perceived sexual orientation and/or gender identity, according to the report by the Citizens Commission Against Homophobic Hate Crimes (CCCOH). The report indicates that the largest number of such murders involved men (976), followed by transgender community members with 226 cases reported, and women (16). It also indicated that over 80% of the records show that the victims suffered various forms of aggression before being killed. The Commission notes that there have been some improvements in Mexico City in terms of discrimination against LGBTI persons, but as stated by one civil society representative, “Mexico City is not Mexico,” in reference to the deep-rooted stereotypes and prejudices that persist in many parts of the country. According to the Transgender Law Centre “rates of violence against transgender women are higher than ever. Ironically violence against the LGBTI community has actually increased since the recognition of same-sex marriage throughout Mexico because of a backlash against these progressive changes in the law”.²²⁶

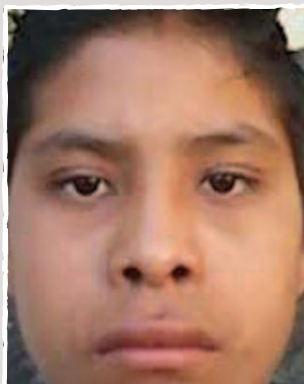
RELENTLESS VIOLENCE AND THE CLIMATE OF IMPUNITY

HRDs in Mexico are regularly subjected to legal harassment and arbitrary detention. During President Felipe Calderón’s 2006-2012 six year term of office, there were 999 recorded cases of arbitrary detention of HRDs. In the first four years of President Enrique Peña Nieto’s term, from December 2012 to May 2017, there were 2,449 recorded cases of arbitrary detention. The difference is even more stark when we look at the figures for extrajudicial executions (EJEs). During the entire Calderón administration, there were 67 documented cases of EJEs of HRDs. Since President Peña Nieto came to power in 2012, there have been 142 EJEs of HRDs. In one year alone, from June 2016 to May 2017, the number of documented extrajudicial executions of HRDs was 57. In other words, in that one year, there were only 10 fewer EJEs of HRDs than in the entire 6 year term of office of President Calderón.

The nature of the attacks on HRDs shows a very clear pattern. In 2014, the most common form of harassment was threats. In 2015, the most common form of attack was legal harassment, while in the 2016-2017 period the largest increase was in the number of EJEs. Enforced disappearance is also an increasingly common form of human rights violation in Mexico. In that same 2016-2017 period 11 HRDs were disappeared: five were victims of extrajudicial killing, three were subsequently released and three remain unaccounted for.²²⁷ When these two categories of attacks are combined it is clear that the trend is increasingly towards direct violent attacks on HRDs. The recent apparent drop in the number of enforced disappearances is not thought to be representative of any resolute policy change for increased protection of HRDs, but a knee-jerk reaction to the political fall-out and international pressure resulting from the 2014 Ayotzinapa case.

RATHER THAN TAKE ACTION TO DEAL WITH HUMAN RIGHTS VIOLATIONS, SENIOR GOVERNMENT OFFICIALS HAVE CONSISTENTLY DENIED AND MINIMISED THE SCALE AND NATURE OF KILLINGS, TORTURE, AND DISAPPEARANCES

HUMBERTO MORALES SÁNTIZ



On 28th February, HRD Humberto Morales Sántiz was brutally killed by a group of assailants in Carrizal district, Chiapas. Humberto was a 13-year old secondary school student, full of hope and ambition to continue his studies. He was targeted because he and his family were active campaigners for the land rights of the community. Around 2pm, on 28th February 2017, the young boy was collecting wood in the mountain. He was approached by a group of armed persons who shot him in the head. When he did not return after several hours his family became concerned

and organised a search, which led to the discovery of his body. The local authorities never carried out any ballistic, forensic anthropology or criminology examinations, even after the body was exhumed in mid 2017. Paramilitary group Los Petules, who have been identified as the perpetrators, have not been summoned to give evidence; this group has been constantly harassing organised communities. Several public and legal complaints have been made by the social group OCEZ-FNLS, an organisation that organises and defends

peasants that are fighting for their land and a dignified way of living. Humberto’s family lives in one of their organised communities, therefore his execution signifies a collective threat to human right defenders working on the issue of land rights.

JUAN JOSE ROLDAN AVILA



Juan José Roldán Ávila, a freelance journalist and HRD who defended LGBTI rights, was beaten to death and burned with acid in Calpulalpan, Tlaxcala. His body was found on a dirt road in the San Rafael neighborhood showing signs of torture. Acid had been poured on various parts of his body. Juan José Roldán worked as a reporter for a local television station in Calpulalpan until 2011, was a campaigner against animal abuse and was currently part of the organising committee of the 2017 fair in the city. The previous 24

February he had complained on Facebook that he had been receiving threats. Juan José was the fifth journalist killed in a period of two months.

The killings of HRDs take place with almost total impunity because the political and economic structures of the state have been infiltrated to such an extent by narco traffickers and other criminal elements that the state is both unable and unwilling to take effective action in defence of human rights. In August 2016, the government reported that the whereabouts of more than 27,000 people who had gone missing since 2006 remained unknown.²²⁸ Prosecutors and police routinely fail to take basic investigative steps to identify those responsible for enforced disappearances, often telling the missing people's families to investigate on their own.²²⁹ Authorities have failed to identify remains of bodies or body parts found in various locations, including in clandestine graves throughout the country.²³⁰

There is substantial evidence to indicate that the Mexican government initiated a policy of using indiscriminate and extrajudicial force as part of the government's security strategy to counter organised crime. It is this state sanctioned violence that underpins the climate of impunity in which HRDs can be killed without any significant risk for the perpetrators. The conclusion is that the federal government pursued an implicit policy that involved the indiscriminate and extrajudicial use of public force against any civilian perceived as being connected with "organised crime," while ensuring near complete impunity for those federal officials who carried out such violence. HRDs are often arrested or targeted on the basis of spurious allegations of participation in terrorist or criminal activities.²³¹

The government of Mexico has used the fight against the drug trade and organised crime as an excuse to justify its failure to deal with the wave of violence against HRDs.²³² Mexico has relied heavily on the military to fight drug-related violence and organised crime, leading to widespread human rights violations by military personnel. Given the general climate of impunity for human rights violations already prevailing in Mexico, the recent introduction of the Law on Internal Security (*Ley de Seguridad Interior*), which will extend the role of the military in normal policing operations, is of particular concern. Between 2006 and 2016, Mexico's National Human Rights Commission received almost 10,000 complaints of abuses of human rights committed by the military—including more than 2,000 during the current administration. It found in more than 100 cases that military personnel had committed serious human rights violations, although the vast majority of these cases were never fully investigated.²³³ Impunity remains the norm for these abuses.²³⁴ In its 2016 report on the situation of human rights in Mexico, the IACHR stated that "of particular concern are the reports of disappearances, extrajudicial executions and torture, as well as the situation of insecurity for women, children, migrants, human rights defenders, and journalists, who are victims of murder, disappearance, kidnapping, torture, harassment, and threats".²³⁵ The IACHR report also stated that, "The current crisis of gross violations of human rights in Mexico is in part a consequence of the impunity that has persisted since the 'Dirty War',²³⁶ and has fostered their repetition heretofore".²³⁷

THE MEXICAN GOVERNMENT SENDS THE MESSAGE THAT IT IS OK TO ATTACK HRDs AND JOURNALISTS... ESSENTIALLY MAKING THE GOVERNMENT AN ABETTOR TO THE CRIMES

STATE RESPONSE

In 2012, civil society pressure prompted the government to create a Protection Mechanism for Human Rights Defenders and Journalists. However, the Mechanism continues to have an inadequate number of staff, as a result of which protection measures are often not implemented. In some cases, it was reported that the same police unit identified as the aggressor was the authority assigned to provide protection.²³⁸ As of mid-2016, it had offered protection to 333 people since its inception, but has also been criticised by rights groups as slow and suffering from insufficient government commitment. In its April 2018 analysis of the Protection Mechanism, Espacio OSC, (a network of 22 civil society organisations) highlighted the fact that, of the 58 recommendations made to the government to strengthen the Mechanism, only 2 had been fully implemented, 42 had been partially implemented and in 14 instances there had been no progress at all.²³⁹

On multiple occasions in early 2016, government officials or their allies verbally attacked prominent HRDs, baselessly describing them as members of a "mafia" group reaping financial gains from criticism of the government.²⁴⁰ State officials often use coded language to refer to the work of HRDs, using terms such as "obstruction of public roadways" or "attacks on national wealth." Rather than take action to deal with human rights violations, senior government officials have consistently denied and minimised the scale and nature of killings, torture, and disappearances and have made sweeping, unfounded assertions that victims of these crimes are themselves criminals. Senior officials have engaged in attacks on United Nations and Inter-American Commission on Human Rights officials, civil society organisations and others who highlight atrocities.²⁴¹

A 2017 report documented the use by the Mexican government of anti-terrorist (Pegasus) software to monitor the activities of journalists, anti-corruption activists and HRDs denouncing enforced disappearances and sexual abuses.²⁴² This surveillance targeted the mobile phones of HRDs, journalists and anti-corruption activists. The spyware sent text messages containing infectious links that allowed Pegasus to access any information stored in the device as well as to undetectably activate the microphone and the camera. The immediate response of President Peña Nieto was to deny any possible government involvement and to call for the prosecution of those who had made false accusations against the government.

Right: Protest over Javier Valdez killing



The state has particularly targeted those HRDs whose protests may impact on the economy, and in particular those groups or individuals whose work exposes the fact that those who stand to gain from these human rights violations are often state agents implicated in human rights abuses, who have links to organised crime or who stand to benefit from the privatisation of natural resources.²⁴³ As a result there are many cases of open attacks by state agents on HRDs opposed to major projects organised by big business. In those cases where human rights violations have been incontrovertibly carried out by state agents, the official response is always the same:

- ❖ deny the facts;
- ❖ twist the facts to claim that it was the HRD who initiated the violence;
- ❖ accuse unknown third parties; and
- ❖ claim it was an isolated incident by a “rogue element” if the perpetrator is incontrovertibly a state agent, and is not a reflection of state policy.

It is notable that these supposed “rogue elements” who were “out of control” and “acting unofficially” always behave in the same way, attacking people whose human rights activities are seen to be threatening the interests of the state and its corporate allies.

In Mexico, federal and local mechanisms for the protection of defenders and journalists already exist, including the Mechanism to Protect Human Rights Defenders and Journalists. The public prosecutor’s offices throughout the country, including the Federal Attorney General’s Office, are obliged to investigate crimes against journalists and HRDs. However, recent cases demonstrate that such mechanisms have not been effective in preventing attacks against journalists and HRDs or in meeting their protection needs. Impunity for these cases and previous attacks and crimes perpetuates and worsens the cycle of violence and abuse: when there are no serious investigations or consequences for crimes against journalists and defenders, the Mexican government sends the message that it is ok to attack HRDs and journalists – essentially making the government an abettor to the crimes.²⁴⁴

At the end of his first visit to Mexico in January 2017, UN Special Rapporteur on the situation of HRDs, Michel Forst, stated, “*Impunity has become the cause and effect of the general insecurity of human rights defenders in Mexico...The best way to ensure the safety of HRDs is by bringing those who attempt to harm them to justice.*”²⁴⁵ In particular, he urged the government of Mexico to strengthen the Protection Mechanism for defenders at risk,

including people working in national human rights institutions. He added “Despite the fact that the National Mechanism’s existence has contributed to preventing certain violations against human rights defenders, it has not been sufficient as a public policy tool in transforming the environment in which human rights defenders operate. Its nature, to date, has been more reactive, rather than preventive. Its focus has been on delivering piecemeal security measures, rather than adopting a more holistic approach to protection. It has not sufficiently looked into the root causes at the source of the risk. This not only undermines the effectiveness of its protection measures, but also exposes the National Mechanism to straining its capacity due to a large number of cases which continue unresolved”²⁴⁶

IMPUNITY HAS BECOME THE CAUSE AND EFFECT OF THE GENERAL INSECURITY OF HUMAN RIGHTS DEFENDERS IN MEXICO

The United Nations and civil society organisations have repeatedly called on the Mexican government to provide more resources to the Mechanism to Protect Human Rights Defenders and Journalists, to implement risk analyses, expand preventative measures in more states, and improve protection measures, including from a gender perspective. There is also a need for the Mechanism to strengthen coordination between the federal and state-level attorney generals’ offices to improve the investigation of crimes.²⁴⁷ However federal prosecutors have avoided prosecuting state and non-state actors for atrocities. Prosecutorial obstruction has taken various forms: reclassifying atrocities as lesser offences, stalling investigations in bureaucratic confusion, discouraging victims from filing complaints, and tampering with or fabricating evidence. This has been possible, in large part, because forensic and witness protection services are not independent, but located within the prosecutor’s office itself. When pressed on criminal accountability for atrocities, the Calderón and Peña Nieto governments have demonstrated a pattern of launching initiatives and reforms with great fanfare, only to starve them of resources and political support. Various special mechanisms and plans have failed to locate the disappeared and provide victims of crime with support, representation, and reparation.²⁴⁸ “Mexico has ample resources and human capital to effectively prevent, prosecute, and punish atrocities—most of all those carried out by its own forces. The question is whether Mexico has the political will to do so.”²⁴⁹

RECOMMENDATIONS TO THE GOVERNMENT OF MEXICO

To demonstrate political will and inspire genuine hope for an end to Mexico's ongoing crisis of atrocities and impunity, bold steps are needed. The Mexican state should:

- ❖ Implement the numerous human rights recommendations made by various UN Rapporteurs and officials as well as the Inter-American Commission on Human Rights in recent years;
- ❖ Implement the specific recommendations made by UN Special Rapporteur on the situation of human rights defenders, Michel Forst, following his first visit to Mexico in January 2017;²⁵⁰
- ❖ Ensure thorough investigations of all threats to HRDs;
- ❖ Ensure the prosecution of perpetrators and intellectual authors of attacks on HRDs;
- ❖ Provide all the necessary political support and financial resources needed to provide an effective system of protection for HRDs at risk;
- ❖ Create a properly resourced investigative body, which is empowered to independently investigate and document severe human rights violations and recommend the start of legal investigations against the perpetrators;
- ❖ Provide technical assistance to the offices of the Attorney General and the State Prosecutor to enable them to carry out comprehensive investigations;
- ❖ Produce public reports on and proposals for the reform of the justice system and the rule of law in Mexico;
- ❖ Report on progress on criminal justice in cases of disappearances, torture, and killings;
- ❖ Ensure legal clarity in the process of legal reform by classifying EJE's as "a homicide in which state agents or civilians participate with the state's acquiescence";
- ❖ Address the full range of human rights of the victims including: the right to justice, memory, truth and full compensation for abuses suffered, as well as state measures to ensure that the abuse is not repeated.



Protest over the killing of prominent crime journalist, Javier Valdez.

THE PHILIPPINES



“

IN LUMPING ITS CRITICS TOGETHER WITH CRIMINALS, THE GOVERNMENT SEEKS TO MAKE US ALL GUILTY BY ASSOCIATION AND, THUS, THE NEXT TARGETS OF THE VIGILANTES AND ROGUE POLICE OFFICERS WHO HAVE LED PRESIDENT RODRIGO DUTERTE'S BLOODY WAR AGAINST DRUGS. NOW, HE HAS STARTED A NEW WAR... WITH NEW TARGETS

”

VICTORIA TAULI-CORPUZ,
UN SPECIAL RAPPORTEUR ON THE RIGHTS
OF INDIGENOUS PEOPLES

THE CLIMATE OF IMPUNITY THAT PREVAILS IN THE PHILIPPINES, combined with the administration's encouragement of extrajudicial killings of alleged drug users, as well as the increasingly hard line taken by the army towards the National Democratic Front of the Philippines, has resulted in the serious deterioration in the situation for human rights defenders (HRDs) in the country.²⁵¹

Since the election of President Rodrigo Duterte in May 2016, HRDs have faced a spate of killings and violence. Judicial harassment and criminalisation of HRDs remains common, with politicians and private actors such as mining companies, using the criminal justice system to silence those who oppose their interests. HRDs have been accused of violent crimes or of being members of the New People's Army, the armed wing of the Communist Party. HRDs have also reported instances of close monitoring and surveillance by security officials.²⁵² In some ways this is the same pattern of human rights abuse seen during the presidencies of Presidents Arroyo and Aquino, but what distinguishes the government of President Duterte from previous regimes is the explicit and undisguised nature of his direct attack on the rule of law, independent media and state institutions designed to protect human rights. This anti-human rights agenda has increasingly been targeted at HRDs. In December 2017, the In Defense of Human Rights and Dignity Movement (iDEFEND) and the Philippine Alliance of Human Rights Advocates (PAHRA) condemned "in the strongest terms – the continuing attack against HRDs in the Philippines which is now compounded by the Duterte administration's anti-human rights policies and actions, that are creating a more hostile environment for human rights work"²⁵³

This has led to "a chilling effect on the country's opposition in the wake of attacks against prominent figures who have criticised Duterte's policies, including the arrest of key government critic Senator Leila de Lima,²⁵⁴ the removal from office of the Chief Justice of the Supreme Court and threats against its Ombudsman".²⁵⁵ Attacks on the National Commission on Human Rights also intensified, as lawmakers accused it of "siding with suspected criminals" in the anti-drugs campaign, and caused uproar by approving an annual budget for the Commission of just US\$20, before the decision was overturned in the Senate.²⁵⁶ As a result, the World Justice Project's 2018 Rule of Law Index ranked the Philippines 88 out of 113 countries, as the country saw "the most significant drop in terms of constraints on government powers, fundamental rights, order and security, and criminal justice".²⁵⁷

SMEAR CAMPAIGNS AND JUDICIAL HARASSMENT OF HRDs

This overt hostility to the work of HRDs is feeding an increasing pattern of harassment and intimidation of HRDs, including smear campaigns by state officials. Smear campaigns are used to undermine the credibility of HRDs and help to identify them as potential targets. Very often a smear campaign is the precursor to a direct attack. These smear campaigns have been reinforced by the President's own threats to kill HRDs because of their criticism of his shoot to kill policy in the 'war on drugs': "The human rights (defenders) said I ordered the killings. I told them, 'OK let's stop. We'll let them (drug users) multiply so that when it's harvest time more people will die. I will include you because you are the reason why their numbers swell.'" This level of threat has increased to such an extent that during the March 2018 session of the UN Human Rights Council, Elecer Carlos, speaking on behalf of PAHRA and iDefend, called on the UN to suspend the Philippines' membership of the Human Rights Council and to initiate an independent investigation.²⁵⁸ This call was supported by Amnesty International, ARTICLE 19, Asian Forum for Human Rights and Development (FORUM-ASIA), FIDH – International Federation for Human Rights, Franciscans International, International Service for Human Rights (ISHR), and World Organisation Against Torture (OMCT). President Duterte has also "encouraged the shooting of women in the genitals, bragged about killing his enemies and called journalists legitimate targets for assassination".²⁵⁹ Similarly, on 28 March 2018, Cebu City Mayor Tomas Osmeña said in an interview, "what I see is that criminals are not afraid any more because they have human rights and the victims have no human rights. So what happened? There will be more victims. The Human Rights Commission is a big part of this."²⁶⁰ The combined effect of hate speech by officials, presidential endorsement of the use of lethal force against the civilian population and an ineffective legal system has entrenched a climate of impunity for human rights violations and contributes to the creation of an environment in which the killing of HRDs is normalised.

Apart from undermining the credibility of HRDs, smear campaigns are also used to justify legal proceedings against them by helping to give credibility to false accusations. HRDs who challenge the policies of President Duterte are arrested and jailed using trumped-up charges. According to the Rural Missionaries of the Philippines²⁶¹ "Dissent in the country today carries a heavy price as the government systematises it as a terror act. The method: plant firearms and explosives and brutally force activists to admit they are members of the New People's Army (NPA) which is easily enforced by the state forces – the military and the police. It is an old tactic made worse as Mindanao has been placed under Martial Law until December 31, 2018".²⁶² Staff members of the Rural Missionaries of the Philippines have themselves been targeted because of their support for HRDs. In March 2018, Godfrey Palahang, one of the organisation's human rights field workers was arrested and charged with possessing live ammunition.²⁶³ Godfrey was the second field worker to be arrested on charges of being linked to the Communist Party of the Philippines-led New People's Army.²⁶⁴ Additionally, under the Human Security Act of 2007, the Court of Appeals can authorise government agents "to track

WHAT DISTINGUISHES THE GOVERNMENT OF PRESIDENT DUTERTE FROM PREVIOUS REGIMES IS THE EXPLICIT AND UNDISGUISED NATURE OF HIS DIRECT ATTACK ON THE RULE OF LAW, INDEPENDENT MEDIA AND STATE INSTITUTIONS DESIGNED TO PROTECT HUMAN RIGHTS

down, tap, listen to, intercept, and record communications, messages, conversations, discussions, or spoken or written words of any person suspected of the crime of terrorism or the crime of conspiracy to commit terrorism.”²⁶⁵ This vaguely worded legislation gives the government almost limitless powers to target and harass HRDs.

Of particular concern are recent statements by government officials, in which they attempted to connect human rights organisations with the drug trade. On 26 March 2018, Secretary of Foreign Affairs Alan Cayetano stated that human rights organisations “were being used by drug lords”, “unwittingly.”²⁶⁶ The following day, Presidential spokesperson Harry Roque went further, insinuating that human rights groups may be part of “destabilisation plots” mounted by drug lords against the government. On 28 March 2018, a spokesperson from the Philippine Drug Enforcement Agency (PDEA) stated that the agency, together with the Philippine National Police (PNP), was “probing” links between drug syndicates and human rights groups.²⁶⁷ According to Amnesty International “The allegations are the latest dangerous attempt by the government to target human rights defenders and delegitimise their work, instead of ensuring accountability for widespread and systematic human rights violations in the ‘war on drugs’. The Philippine government must end its campaign of harassment and intimidation of human rights defenders and retract its latest statements, which place the safety of those who criticise the government, in peril”.²⁶⁸

ATTACKS ON THE MEDIA

In its 2017 Annual Report, the International Federation of Journalists listed the Philippines as the second most dangerous country in the world for journalists, after Iraq.²⁶⁹ In its Annual Report for 2017, the Committee for the Protection of Journalists reported the killing of four journalists in the Philippines. Hostile rhetoric towards members of the media by President Duterte has further exacerbated an already perilous situation for journalists.²⁷⁰ For example, just weeks after his election the President asserted that “corrupt” reporters “are not exempted from assassination.”²⁷¹ Journalists who investigated the administration’s role in extrajudicial killings carried out as part of its war on drugs frequently faced harassment and death threats. According to the Philippine Centre for Investigative Journalism²⁷² “these murders, death threats, slay attempts, libel, online harassment, website attacks, revoked registration or denied franchise renewal, verbal abuse and police surveillance of journalists and media agencies from June 30, 2016 to May 1, 2018 — have made the practice of journalism an even more dangerous endeavour under Duterte.”²⁷³

In a move designed to address journalists’ longstanding concerns about their safety, President Duterte in October 2017, issued an order creating the Presidential Task Force on Violations of the Right to Life, Liberty, and Security of the Members of the Media, which was empowered to investigate crimes against journalists. However, no major investigations had been initiated by year’s end.²⁷⁴ As a result, the harassment and intimidation of independent media continued. On 15 January 2018, the Philippines’ Securities and Exchange Commission ruled that online news group Rappler had violated laws barring foreign ownership and control of local media, and moved to revoke its registration. The ruling was based on accusations that Rappler had received funds from the Omidyar Network, a fund created by eBay founder and entrepreneur Pierre Omidyar to promote open societies. Maria Ressa, Rappler’s founder and editor, has

IN ITS 2017 ANNUAL REPORT, THE INTERNATIONAL FEDERATION OF JOURNALISTS LISTED THE PHILIPPINES AS THE SECOND MOST DANGEROUS COUNTRY IN THE WORLD FOR JOURNALISTS

ELISA BADAYOS & ELEUTERIO MOISES



Elisa Badayos, regional coordinator of the human rights group Karapatan, was killed on the 28th November 2017 in Bayawan City, Negros Oriental when two

unidentified gunmen opened fire on her and two colleagues, Eleuterio Moises and Carmen Matarlo. Eleuterio was also killed and Carmen was seriously injured. Elisa and her colleagues were returning from interviewing farmers who had been harassed by the security guards of a land claimant involved in a land dispute. The fact-finding mission was investigating reported cases of killings, harassment and other human rights violations in several towns in Negros Oriental. There is evidence suggesting the possible involvement of police officers and other state agents in the case.

FATHER MARCELITO ‘TITO’ PAEZ



On 4 December 2017, Father Marcelito ‘Tito’ Paez, coordinator of the Rural Missionaries of Philippines in Central Luzon, was shot dead in Nueva Ecija. In 1980, he had been the leader of the Central Luzon Alliance for a Sovereign Philippines (CLASP), and campaigned for the removal of US military bases in the Philippines. He was also an anti-nuclear activist. The 72-year-old retired priest was targeted as he was driving home after facilitating the release of political prisoner Rommel Tucaoy in Cabanatuan City. In his 32 years of service in the Diocese of San

Jose City, Father Marcelito had always stood up for the human rights of the oppressed, especially in Central Luzon.

challenged what she and others at Rappler see as “a politicised decision aimed at stifling critical coverage of President Rodrigo Duterte’s government and policies, including a lethal ‘war on drugs’ campaign that has resulted in thousands of deaths”.²⁷⁵ In the absence of any formal structure to investigate attacks on HRDs the standard state response is to deny any involvement by state agents, vilify the victims or, if there is sufficient public pressure, promise an investigation which never comes to fruition.

EXTRAJUDICIAL EXECUTIONS AND ATTACKS ON HRDs

According to Human Rights Watch, since President Duterte assumed office, an estimated 12,000 extrajudicial killings have been linked to his anti-drugs campaign,²⁷⁶ while the government shields the perpetrators among the police from all forms of accountability. President Duterte has repeatedly stated that he would pardon any police officers facing charges because of obeying his orders.²⁷⁷ According to Amnesty International “the result is an even more dangerous country – where the authorities violate the rule of law instead of upholding it, where armed groups become emboldened and where the most vulnerable people suffer.”²⁷⁸

In its May 2017 report to the Human Rights Council (HRC), the Office of the High Commissioner for Human Rights (OHCHR), “expressed concern at the continued perpetration of extrajudicial killings and enforced disappearances. It was particularly concerned at the proliferation of private armies and vigilante groups that were partly responsible for those crimes, as well as at the large number of illegal firearms”.²⁷⁹ Extrajudicial executions remain the gravest threat facing HRDs in the Philippines where HRDs have long been targeted: 474 HRDs were killed during the Arroyo presidency (2001-2010), and 139 during the Aquino presidency (2010-2016).²⁸⁰ This is continuing into the present. In its Annual Report covering the period January-December 2017, Front Line Defenders reported the killing of 60 HRDs in the Philippines, making it the country with the highest number of killings of HRDs outside of the Americas.²⁸¹ This was almost double the 31 killings of HRDs reported by Front Line Defenders in its 2016 Annual Report.²⁸² In two separate letters submitted to Agnes Callamard, UN Special Rapporteur on extrajudicial killings, and Michel Forst, UN Special Rapporteur on the situation of human rights defenders, Philippine human rights organisation Karapatan²⁸³ called for the investigation of 25 emblematic cases of summary killings of HRDs, committed “as part of the government’s intensifying counter-insurgency programme”.²⁸⁴ The programme arbitrarily tags individuals, groups and movements as “enemies of the state” and makes no distinction between armed and unarmed civilians. Meanwhile women HRDs (WHRDs) are at increased risk. According to the Association of Women HRDs in the Philippines (Tanggol Bayi), at least 17 WHRDs have been killed between the inauguration of President Duterte in June 2016 and November 2017.²⁸⁵ President Duterte’s speech to the AFP, in which he appeared to condone rape by soldiers during counter-insurgency operations²⁸⁶ has increased concern for the security of WHRDs. In its December 2017 statement condemning attacks on HRDs, the Philippine Alliance of Human Rights Advocates (PAHRA) stated, “We therefore hold the Duterte government accountable for the systematic violence against human rights defenders who are carrying out peaceful and legitimate work to make meaningful changes in the

IN ITS ANNUAL REPORT COVERING THE PERIOD JANUARY- DECEMBER 2017, FRONT LINE DEFENDERS REPORTED THE KILLING OF 60 HRDs IN THE PHILIPPINES, MAKING IT THE COUNTRY WITH THE HIGHEST NUMBER OF KILLINGS OF HRDs OUTSIDE OF THE AMERICAS

GLORIA CAPITAN



On 1 July 2016, human rights defender Gloria Capitan was shot dead by two unidentified men in Lucanin village, Mariveles municipality, Bataan province. Since the start of her work opposing a coal mining and storage project in 2015, Gloria Capitan had faced intimidation and threats from representatives of the companies owning the coal facilities. Gloria Capitan was one of the leaders of the Coal-Free Bataan Movement and the President of United Citizens of Lucanin Association (*Samahan ng Nagkakaisang Mamamayan ng Lucanin*), a community-based

organisation that has been peacefully opposing the operation and expansion of coal plants and open storage facilities in the Mariveles neighbourhood which have had harmful consequences for the local population. As a part of her human rights work, Gloria Capitan organised campaigns, filed complaints with the court, collected signatures for petitions and initiated other public actions, calling for a permanent closure of the coal project.

JIMMY SAYPAN



On 8 October, 2016, Jimmy Saypan, Secretary General of the Compostela Farmers Association (CFA), travelled to Montevista for the send-off of the “Lakbayan ng Pambansang Minoraya”, a campaign caravan of national minorities taking their protest to Metro Manila. On the morning of 10 October Jimmy was travelling home on his motor bike when he was chased and shot three times by a gunman, allegedly from the 66th Infantry Battalion-Philippine Army (IBPA). He died the next day in the Davao Regional Hospital. Since 2012 Jimmy Saypan had been a vocal anti-mining advocate who had campaigned for the discontinuation of mining exploration in the area. He had also campaigned for the withdrawal of the army from Compostela on the basis that the military presence had merely resulted in a string of human rights violations and caused fear in the community.

country. President Duterte should be reminded that the Philippine Government has a legal obligation to respect human rights of all and to exert efforts to protect all human rights defenders at all times without exemption.”²⁸⁷

ATTACKS ON ENVIRONMENTAL RIGHTS DEFENDERS

The Philippines has an estimated \$840 billion worth of untapped mineral resources, according to the Mines and Geosciences Bureau of the Philippines which is responsible for giving permits to mining companies to do exploration of mining areas and to commence operations.²⁸⁸ A high proportion of this wealth is on land belonging to indigenous peoples, thus creating the basis for conflict between local communities and mining companies. Today the Philippines is one of the deadliest places in the world to defend the right to a healthy environment. In its 2017 report, *Defenders of the Earth*, Global Witness reported 28 killings of environmental activists in 2016.²⁸⁹ In its 2018 report, *Guardians of the Forest*, Global Witness reported the killing of 41 environmental activists in the Philippines.²⁹⁰ Most of these killings were linked to struggles against mining and other extractive industries.²⁹¹ Teresita Navacilla,²⁹² a HRD concerned about the impact of the King-king mining project in Southern Mindanao, the second largest gold and copper mine in the Philippines, was targeted for her campaigning and died of gunshot wounds in January 2016. In July 2016 Gloria Capitán,²⁹³ a leading environmental defender, was shot dead in her home town of Mariveles. She was opposing the use of coal storage facilities and the expansion of a coal-fired plant amid concerns about the potential negative impacts on the health and livelihoods of the local community. To date, no one has been held accountable for her death. Nenita Andes Condez, an indigenous Subanen leader from Mindanao, advocates for her people in the face of complaints of human rights violations and ecological damage caused by Canadian mining companies. In 2017 she put her life at risk to visit Canada as part of a delegation of Philippine leaders seeking accountability from Canadian companies and government officials. Nenita says she lives under constant threat of assassination and is currently unable to return to her village.²⁹⁴ Following the shooting dead of human rights lawyer and environmental rights defender Mia Mascariñas-Green,²⁹⁵ PAHRA issued a statement highlighting the dangers faced by environmental rights defenders: “The killing of Atty. Mia and many environmental rights defenders like Gerry Ortega,²⁹⁶ Armin Marin,²⁹⁷ Fr. Fausto Tentorio²⁹⁸ among others, indicates a grim warning for environmental rights defenders where odds are stacked against them. Impunity reigns in the majority of cases of attacks and violence against environmental rights defenders”.²⁹⁹

ATTACKS ON INDIGENOUS PEOPLES

According to the United Nations Special Rapporteur on the rights of indigenous peoples, Victoria Tauli-Corpuz, “the ongoing militarisation of Mindanao is having a massive and potentially irreversible impact on the human rights of some of the island’s indigenous Lumad communities. Thousands of Lumads have already been forcibly displaced by the conflict and have seen their houses and livelihoods destroyed. ... We fear the situation could deteriorate further if the extension of martial law until the end of 2018 results in even greater militarisation”.³⁰⁰ During an Indigenous Peoples’ Summit in Davao City on 1 February 2018, the President stated that Lumads should leave their ancestral domains as he would broker investors,

particularly in palm oil or mining, to invest in these lands: “We’ll start now, and tomorrow I will give something to you. Prepare yourselves for relocation” came his cryptic warning. Lumad leaders are concerned that the harassment their communities experience is due to this plan.³⁰¹ In the past two decades, nearly 500,000 hectares in Mindanao have been swamped with large-scale mining, agribusiness and energy projects. Now the move is towards the ancestral lands of indigenous peoples, which are rich in natural resources, offering developers the potential for large profits.

A further element of risk is that the military are deployed as paid security to protect these projects and it is therefore in their interests to see them proceed.³⁰² In March 2018, the United Nations Permanent Forum on Indigenous Issues expressed “its grave concerns about the Philippine government’s accusations against indigenous human rights defenders as being terrorist group affiliates”.³⁰³ This was prompted by a petition filed by the State Prosecutor of the Department of Justice, seeking to include several indigenous HRDs on a list of more than 600 individuals identified as “terrorist and outlawed organisations and/or group of persons” under the National Security Act of 2007.³⁰⁴ The list of alleged terrorists includes nationally- and internationally-renowned indigenous leaders and HRDs from the Cordillera and Mindanao regions. Among them are Victoria Tauli-Corpuz, UN Special Rapporteur on the rights of indigenous peoples, and Jeanette Ribaya Cawiding, Regional Coordinator in the Cordillera region of the Alliance of Concerned Teachers (ACT). In an op-ed published in the *Financial Times* in May 2018, Victoria Tauli-Corpuz stated, “In lumping its critics together with criminals, the government seeks to make us all guilty by association and, thus, the next targets of the vigilantes and rogue police officers who have led President Rodrigo Duterte’s bloody war against drugs. Now, he has started a new war — with new targets.”³⁰⁵

In one incident in December 2017, eight Lumad people were killed in what was initially presented as an armed confrontation with the army, but according to an independent investigation conducted by the Philippine church and human rights groups, was in fact a mass killing. The main target of the attack was Victor Danyan, killed because he was vocal in his community’s claim to a contested piece of land. It appears that Victor was deliberately targeted to silence dissent in the area.³⁰⁶ Victor was chairman of Tamasco, a tribal group formed in 2006 to reclaim 1,700-hectares of ancestral land that was planted with coffee. The organisation was also protesting against coal mining operations on their ancestral

IN THE PAST TWO DECADES, NEARLY 500,000 HECTARES IN MINDANAO HAVE BEEN SWAMPED WITH LARGE-SCALE MINING, AGRIBUSINESS AND ENERGY PROJECTS

land. Army claims of having been the target of an armed attack have been discredited by the evidence collected by Dr. Benito Molino, a forensic expert who said “at least 300 empty and live shells from M14 and M16 rifles were recovered from various sites where soldiers apparently fired their weapons”.³⁰⁷ He concluded that “there was no clash – all the shooting came from the army”.³⁰⁸

NEW PATTERNS OF OPPRESSION

The southern Philippines has a long history of conflict, with armed groups including Islamist separatists, communists, clan militias and criminal groups active in the Mindanao region.³⁰⁹ According to the United Nations, the declaration of martial law in Mindanao on 23 May 2017, following clashes between government forces and Islamist militants in Marawi City, has merely aggravated an already worsening human rights situation.³¹⁰ In addition, at least 25 paramilitary groups with direct links to the military have been responsible for rights violations against Lumads and other rural communities.

Between July 2016 and December 2017, Philippine human rights organisation Karapatan³¹¹ documented 126 victims of political killings, mostly in the Southern Mindanao Region (SMR) and 235 attempted killings. In December 2017, following the violence in Marawi City, and the ongoing security situation in Mindanao, the National Human Rights Commission called on the government “to investigate allegations of looting by the military, unlawful/arbitrary arrests, military presence in IDP camps, cases of profiling, military harassment, enforced disappearance, torture, and extrajudicial killings”.³¹² The Commission also urged the government to “hold to account both state and non-state actors responsible for the atrocities committed against the local residents”.

IMPUNITY: DENIAL OF JUSTICE

To date the government of the Philippines has consistently failed to address either human rights violations from the past, or to confront the ongoing harassment and killing of HRDs, quite apart from its failure to address the issue of those killed in the context of the war on drugs. In July 2007, the Philippine Supreme Court attempted to take a more active role in defending the human rights of citizens. Following a two day summit, the ‘Writ of Amparo’,³¹³ which was described by former Chief Justice Reynato Puno as “the greatest legal weapon to protect the constitutional rights of our people,” took effect.³¹⁴ In August 2007, former Chief Justice Puno also issued a writ of Habeas Data.

The Writ of Amparo was intended to prevent military officers in judicial proceedings from avoiding accountability for human rights abuses by simply denying any knowledge of the case, in petitions on disappearances or extrajudicial executions, an option which is legally permitted in Habeas Corpus proceedings.³¹⁵ The Writ of Habeas Data, is a remedy available to any person whose right to privacy in life, liberty or security is violated or threatened by an unlawful act of any official or employee, or of a private individual or entity engaged in the gathering, collecting or storing of data or information. The Writ of Habeas Data functions as an independent remedy as well as a complement to the writs of Habeas Corpus and Amparo—both of which are aimed at protecting the right to life, liberty and security, especially of victims of politically motivated crimes. Under the Writ of Habeas Data, a person can compel the release of information, or to update, rectify, suppress or destroy database information or files in the control of the respondents in a petition. These legal measures were introduced in response to an alarming increase in the number of forced disappearances and extrajudicial executions, including the murders of HRDs, left-wing activists and journalists during the Arroyo administration.³¹⁶ They were specifically intended to address the limitations of the Writ of Habeas Corpus. However, even though these writs were promulgated by the Supreme Court, they have remained ineffective to date because the armed forces consistently deny any involvement in the killing of HRDs and the Supreme Court cannot enforce them because of a lack of cooperation from the state. According to the August 2017 report of the Global Impunity Index, the Philippines has the highest general rate of impunity for crime in the world with a score of 75.6% of the 69 countries studied.³¹⁷ The experience of HRDs is in line with that statistic, though the absence of a centralised state agency to collect data on attacks on HRDs means that the reports produced by civil society organisations are the only reliable source.

According to Global Witness, of the 67 murders of environmental rights defenders investigated and documented by them in the Philippines between 2002 and 2013, only two perpetrators have been imprisoned for their crimes. In August 2017, Karapatan reported that 40 of the organisation’s human rights workers have been killed by state security forces since 2001,³¹⁸ but to date no one has been brought to justice for any of these killings.³¹⁹ Government response is to obfuscate and deny as borne out by Human Rights Watch’s statement on killings in the context of the war on drugs: “The government has frustrated efforts by media and other independent observers to maintain a verifiable and transparent tally of such deaths by issuing contradictory data.”³²⁰ Meanwhile, the National Human Rights Commission of the Philippines has expressed its concern at the denial of due process: “All humans have the right to due process in court of law. Regardless of their circumstances, summary executions are not justice, and any assertion that their deaths are deserved is a sign of a failing justice system.”³²¹ As distinct from the situation in countries such as Brazil, Colombia and Mexico, where the state has recognised its obligation to protect HRDs and set up formal (though largely ineffective) systems to protect them, in the Philippines there is still no formal mechanism for the protection of HRDs.

Justice remains elusive for victims of historic rights abuses by the AFP and paramilitary groups during the Arroyo and Aquino regimes. Perpetrators of the Lianga massacre, as well as state security forces responsible for EJs of peasants and indigenous people, remain free from arrest and prosecution, even when there is an outstanding arrest warrant. While some human rights violations under the Aquino administration

are being pursued in the courts, prosecutions such as the recent filing of criminal charges against military officials involved in the 2011 killing of Father Fausto Tentorio are a rare occurrence.³²² Father Tentorio was a staunch anti-mining advocate who defended the rights of the Lumad peoples. Before he was killed, he had received several death threats.³²³ Meanwhile the long list of HRDs killed because of their peaceful activism continues to grow.

The April 2018 decision of the Supreme Court, ordering the Philippine National Police (PNP) to submit data on the administration's campaign against illegal drugs³²⁴ is a welcome step towards ensuring accountability, but what is needed is for the government to retract its support for the practice of EJE's, recognise the legitimate work of HRDs and introduce a comprehensive reform of the legal system. However, even the limited reforms introduced by the government to protect human rights such as the Anti-enforced Disappearance Law of 2012, the Anti-torture Act of 2009 and the Republic Act no.10368 (also known as the Victims Reparation and Recognition Act) of 2013, have not been effectively implemented and, have in effect, been largely ignored.³²⁵ Since 2015 the National Human Rights Commission has been working to develop a system to document violations against HRDs but, to date, has been unable to find a way to make this work in practice. The root cause of this inaction is the government's explicit hostility to the work of HRDs.

STATE RESPONSE

In March 2018, President Duterte announced his intention to withdraw from the International Criminal Court (ICC) in response to the ICC's announcement of its intention to initiate a preliminary investigation into killings in the context of the war on drugs.³²⁶ In response, the National Human Rights Commission issued a statement "calling on the government, especially the security sector, the prosecutors, and the judges to ensure that the rule of law still prevails and justice is dispensed with haste. Transparency, fairness, and due process must be paramount in the investigation and prosecution of cases. This will be for the benefit of the state as it will show the international community that the Philippine justice system can be depended on and is working. Thus, there will be no reason for the ICC to step in." ³²⁷

In March 2018, the High Commissioner for Human Rights presented his Annual Report to the Human Rights Council. In relation to the Philippines he stated, "I deplore President Duterte's statement last week to elite police units that they should not cooperate "when it comes to human rights, or whoever rapporteur it is" and the continued vilification of this Council's Special Rapporteur on extrajudicial killings by the authorities. The government has a duty to uphold human rights and to engage with persons appointed by this Council. I am concerned by deepening repression and increasing threats to individuals and groups with independent or dissenting views, including opposition Senators, current and former public officials, the Commission on Human Rights, human rights defenders and journalists. Several cases for impeachment or dismissal have been launched against members of the Supreme Court, the Office of the Ombudsman and other institutions representing democratic safeguards. Senator de Lima has now been arbitrarily detained for over a year, without clear charges. This authoritarian approach to governance threatens to irreparably damage 30 years of commendable efforts by the Philippines to strengthen the rule of law and respect for the human rights of the people". This pattern is reinforced by the constant stigmatisation of HRDs and direct threats by the President to attack HRDs, whom he has identified as "enemies of the state".³²⁸

JUSTICE REMAINS ELUSIVE FOR VICTIMS OF HISTORIC RIGHTS ABUSES BY THE AFP AND PARAMILITARY GROUPS DURING THE ARROYO AND AQUINO REGIMES

On 21 February 2018, Senator Leila de Lima, presented a Bill in the Senate³²⁹ to ensure the protection of HRDs. The Bill would establish a human rights court and set jail terms of 12 to 20 years for perpetrators of violence against HRDs.³³⁰ However the Bill has not progressed and Senator de Lima is currently in detention on politically-motivated charges. According to the United States' Country Reports on Human Rights Practices for 2017, there has been little progress in implementing and enforcing reforms aimed at improving investigations and prosecutions of suspected human rights violations. Potential witnesses often were unable to obtain protection through the witness protection programme managed by the Department of Justice due to inadequate funding or procedural delays, or failure to step forward because of doubts about the program's effectiveness.³³¹ The vast majority of perpetrators appear to enjoy impunity due to the weakness of the judiciary and law enforcement agencies. Allegations of security service involvement in killings are a feature of many cases".³³² The government's response to the international community's concerns with regard to key human rights issues is as outrageous as President Duterte's violent rhetoric. Among the recommendations rejected by the government during its third Universal Periodic Review at the UN in September 2017,³³³ were 18 relating to the issue of enforced disappearances and all 13 regarding the protection of HRDs and journalists. Instead of taking note and acting on the reported violations, the Duterte government has resorted to personal attacks and verbal insults. President Duterte threatened to slap Agnes Callamard, the UN Special Rapporteur on Extrajudicial Killings, if he met her.³³⁴ The message the government is sending to HRDs is that they cannot expect any protection from the authorities, and in fact can be 'legitimate targets'.

RECOMMENDATIONS TO THE GOVERNMENT OF THE PHILIPPINES

The government of the Philippines should take immediate action to end the stigmatisation of and attacks on human rights defenders in recognition of their vital role in creating more just and equal societies. The government should also completely review its policies in relation to the war on drugs and the counter-insurgency programme to end the indiscriminate violence against HRDs and civil society. In particular the government of the Philippines should:

- ❖ recognise that human rights defenders have a legitimate role to play in ensuring peace, justice and democracy;
- ❖ ensure prompt and exhaustive investigations into threats to and attacks on HRDs;
- ❖ bring both the intellectual authors and the perpetrators of attacks on HRDs to justice;
- ❖ provide effective protection to HRDs at risk.

RECOMMENDATIONS TO THE HUMAN RIGHTS COMMISSION OF THE PHILIPPINES

Additionally, in the absence of a formal programme of protection for HRDs, the Philippine Commission on Human Rights (PCHR)³³⁵ should implement its 2015 resolution on the monitoring and investigation of cases of human rights violations against HRDs.

In addition the PCHR should take action to ensure fast and thorough investigations by its regional offices into complaints filed by HRDs and their relatives.





Footnotes

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STOP THE KILLINGS

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