

**CAFOD**

Catholic Agency for  
Overseas Development



**PROTECTING  
OUR COMMON  
HOME:**

Land and environmental  
human rights defenders  
in Latin America



Co-funded by  
the European Union

**REPORT AUTHOR:** CAFOD

## **ACKNOWLEDGEMENTS**

This report is dedicated to human rights defenders and organisations who have been speaking out and taking action to protect human dignity, basic rights and our common home. Many have died as a result of the pandemic and attacks, working on the frontline to support communities affected by COVID-19. We remember and honour their legacy.

This report was made possible through the dedicated work and contributions of people from both within and outside CAFOD. It draws on research, evidence and analysis of CAFOD partner organisations and human rights defenders working across Latin America, including Cinep/PPP-Centro de Investigación y Educación Popular/ Programa por la Paz, CALDH-Centro Para la Acción Legal en Derechos Humanos, SIEMBRA-Centro Sociojurídico para la Defensa Territorial, Corporación De Apoyo A Comunidades Populares CODACOP, ABColombia, Comissão Pastoral da Terra Marabá Xinguara (CPT-MA/XI), Justiça nos Trilhos, Derechos Humanos Sin Fronteras (DHSF), Red Muqui, Fundación EcuMénica para el Desarrollo y la Paz-FEDEPAZ, ERIC-Radio Progreso and others.

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Date of publication: 6 July 2021

All website links in the report were last accessed on 30 June 2021

**Cover photo:** Indigenous women in La Guajira, Colombia, play a vital role in defending their land, livelihoods and water sources from large-scale mining

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# ACRONYMS

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- CNDH** ..... National Human Rights Council in Brazil
- CNGS** ..... Comisión Nacional de Garantías de Seguridad  
(National Commission for Security Guarantees, Colombia)
- CPT** ..... Comissão Pastoral da Terra (Pastoral Land Commission, Brazil)
- CSO** ..... Civil society organisation
- EU** ..... European Union
- FIDH** ..... International Federation for Human Rights
- FPIC** ..... Free Prior and Informed Consent
- FUNAI** ..... Fundação Nacional do Índio (National Indigenous Protection Agency, Brazil)
- HRDs** ..... Human rights defenders
- IACHR** ..... Inter-American Commission on Human Rights
- IBAMA** ..... Instituto Brasileiro do Meio Ambiente e dos Recursos Naturais Renováveis  
(Brazilian Institute of Environment and Renewable Natural Resources)
- INCRA** ..... Instituto Nacional de Colonização e Reforma Agrária  
(National Institute for Colonisation and Agrarian Reform, Brazil)
- NGO** ..... Non-governmental organisation
- OAB** ..... Ordem dos Advogados do Brasil (Brazilian Bar Association)
- OECD** ..... Organization for Economic Co-operation and Development
- OEFA** ..... Organismo de Evaluación y Fiscalización Ambiental  
(Agency for Environmental Assessment and Enforcement, Peru)
- PNDDH** ..... Programa Nacional de Proteção aos Defensores dos Direitos Humanos  
(National Programme for Protection of Human Rights Defenders, Brazil)
- TIPNIS** ..... Territorio Indígena y Parque Nacional Isiboro-Sécure  
(Isiboro-Sécure Indigenous Territory and National Park, Bolivia)
- UN** ..... United Nations
- UNFCCC** ..... United Nations Framework Convention on Climate Change



Victoria Quispesivana Corrales, environmental defender from Chumbivilcas, Peru.

# 1. EXECUTIVE SUMMARY

Our world is enduring an interrelated social and environmental crisis: the impacts of coronavirus, and the climate and biodiversity crisis. Protecting environmental and human rights defenders is essential if we are to address the interconnected cry of the earth and the cry of the poor.

This report is based on research from 2019 to 2021 on the current trends of human rights abuses faced by land and environmental human rights defenders (HRDs) across six countries in Latin America – Bolivia, Brazil, Colombia, Guatemala, Honduras and Peru.

It details the **challenges and dangers** faced by HRDs in each country, highlighting where these are linked to corporate behaviour and to the impacts of the coronavirus pandemic.

It also shares learning on the **different strategies and approaches** being used by HRDs to push for change.

Finally, it **recommends** ways that states, businesses and investors can support the work of HRDs.

## THE UNCOMFORTABLE REALITY

Human rights defenders help to keep governments and businesses in check, ensure that models of development put people ahead of profit, and protect our planet. Yet, for their work, they face criminalisation, harassment and violence – even death.

Our report finds that states as well as businesses act with disregard for human rights and the environment. The COVID-19 pandemic has exacerbated the deep inequalities across the region and has led to increased threats to and attacks on land and environmental HRDs and their communities. Much of this is intrinsically linked to access to and control over land and territories. Against a backdrop of limited state presence, huge power asymmetries between companies, states and local communities, and widespread impunity, HRDs often have nowhere to turn to for protection.

This report highlights six key issues facing land and environmental HRDs across the six countries and case studies included in the research. These issues are not isolated, but form a pattern of abuse across the region: often affecting already under-represented groups – indigenous, Afro-descendant and *campesino* (small-scale farmer) communities, and women – the most.

1. Threats and attacks against HRDs are intrinsically linked to unequal control over and access to land and natural resources.

2. HRDs operate in a hostile environment in which civic space is restricted, with limited spaces for communities to contribute to decisions that affect them.
3. States are failing to protect HRDs from harm, against a backdrop of limited state presence, widespread corruption and impunity.
4. Stigmatisation and criminalisation are used by states as well as businesses to target HRDs; in contrast, perpetrators enjoy widespread impunity.
5. The COVID-19 pandemic has increased the risks faced by HRDs defending their rights and the environment. This includes the risks from corporate activity, as states prioritise extractive industries for economic recovery.
6. Corporate activity, underpinned by state economic models that strongly favour the expansion of large agribusinesses, mining and big infrastructure projects, is a key driver of attacks on these HRDs.

## STRATEGIES FOR CHANGE

And yet, all is not bleak. Despite the dangers they face, HRDs and organisations are using innovative strategies to resist harmful corporate and state activity, and to generate change in the countries in which they work. The report highlights some of these strategies:

1. **Amplifying of local voice, agency and leadership** to act, organise, communicate and document human rights abuses and environmental harm (for example through participatory water monitoring in Espinar, Peru).
2. **Collective mobilisation and coalition building for advocacy**, including social protest, for instance in Guatemala through annual marches for land restitution, and providing evidence of the situation of HRDs (such as reports on rural violence and land conflicts in Brazil).
3. **Use of legal and administrative mechanisms and self-protection strategies**, such as civil society accompaniment, emergency funds and strategic litigation, as used in the case of Guapinol HRDs in Honduras. Other important strategies include legal recognition of self-determination (used by the Qhara Qhara people in Bolivia to protect their territory, natural resources and the environment) and public consultations (used in Tolima, Colombia, to defend and protect territories, livelihoods and water from mining).
4. **International advocacy**, with UK, EU and other governments, as well as with corporate

investors, building on local and national advocacy and coalitions with human rights and social justice networks.

5. **Using international human rights mechanisms and instruments**, such as the UN Special Procedures, the Inter-American Human Rights System, and reporting mechanisms of the Organisation for Economic Co-operation and Development (OECD).

## RECOMMENDATIONS

Securing an enabling environment where HRDs can operate freely and safely is an important element of an open and well-functioning society and economy, and helps to promote equality, respect of human rights for all and the protection of the environment – care for our common home. This is the responsibility of us all – governments, businesses and investors, international organisations, and citizens.

CAFOD is calling for action to protect HRDs from the attacks they face, and to tackle the drivers of this abuse – powerful political and economic forces profiting from their land, water and forests, and models of development that lead to environmental destruction, climate change and human rights abuses. These recommendations are detailed in full in the report's concluding chapter:

### UK GOVERNMENT:

- Introduce a new law to make companies prevent negative impacts on human rights and the environment and hold them accountable if they fail to do so.
- Effectively implement the 2019 Guidelines on Human Rights Defenders.
- Recognise the collective rights of communities and their defenders.

### EU AND MEMBER STATES:

- Introduce strong legislation on environmental and human rights due diligence.
- Effectively implement the EU Guidelines on Human Rights Defenders.

### LATIN AMERICAN STATES:

- Put an end to the criminalisation and stigmatisation of defenders, ensuring a safe and enabling environment and recognising the positive contribution HRDs make to society.

- Protect the independence of the judiciary and national public human rights institutions.
- Implement robust, preventive and integrated protection mechanisms.
- Guarantee meaningful consultation, participation and free, prior and informed consent – ensuring this extends to all communities, not just indigenous peoples.
- Strengthen binding democratic participation mechanisms that recognise the rights of *campesino* and rural communities
- Sign, ratify and implement the Escazú Agreement.
- Combat impunity via prompt and effective investigation, prosecution and sanction for those responsible for ordering, financing and carrying out harassment, attacks and killings of HRDs.

#### **ALL GOVERNMENTS:**

- Support the UN Binding Treaty on Business and Human Rights.
- Support and drive the incorporation of indigenous peoples, land and environmental defenders into climate change mitigation and adaptation strategies as part of the implementation of the UNFCCC and Paris Agreement commitments to reduce greenhouse gases and limiting global temperature rise to 1.5°C.

#### **BUSINESSES AND INVESTORS:**

- Respect the principle of free, prior and informed consent of indigenous and other communities affected by their supply chains, operations and investments.
- Demonstrate commitment to HRDs through adherence to the UN Guiding Principles on Business and Human Rights and the OECD Guidelines on Multinational Enterprises.
- Withhold approval for investment where impact assessments reveal serious human rights and environmental risks and threats to civic freedoms and defenders.
- Refrain from stigmatising and criminalising defenders, and instead stand publicly with land and environmental HRDs when they are attacked.

# MAP OF COUNTRIES AND CASE STUDIES FEATURED



# KEY FACTS

In 2020, **209 million people (33.7% of the population)** in Latin America lived in poverty, an increase of 22 million on the previous year. Of these, 78 million (12.5% of the population) were living in extreme poverty, 8 million more than in 2019.

Source: ECLAC, *Social Panorama of Latin America 2020*.

**264 HRDs were killed** in Latin America in 2020, with over 40% working on land, indigenous peoples and environmental rights.

Source: *Front Line Defenders, Global Analysis 2020*.

Latin America saw the **highest number of attacks against HRDs working on business-related** human rights issues globally, recording **194 of the 604 cases** registered in 2020, with most attacks associated with the agribusiness and mining sectors.

Source: *Business & Human Rights Resource Centre, In the Line of Fire, 2021*.

Colombia remains the country with the **highest number of HRDs killed in the world. 177 out of 331** killings registered by Front Line Defenders in 2020 occurred in Colombia (amounting to the killing of a HRD in Colombia every 2.5 days). 1,000 social leaders and HRDs have been killed since the signing of the Peace Accord in November 2016 up to August 2020, according to Indepaz.

In the Peruvian Amazon, at least **seven indigenous leaders and environmental defenders** were assassinated in the year to March 2021.<sup>1</sup>

In Bolivia, **6.4 million hectares of forest** were destroyed by wildfires and by fires lit following the enactment of a Supreme Decree authorising the clearing of land for agricultural activities and private and communal lands in 2019.

In Brazil, **11,088 square km of protected areas and indigenous lands** in the Amazon rainforest were lost in 2020 – equivalent to the size of Jamaica and the highest amount lost in the last 12 years.

The Cerrejón mining project in Colombia uses **24 million litres of water a day**. Around **40% of the region's water sources** have been lost as a result of the mining activity.

Source: *Revista Noche y Niebla No. 61, Cinep/PPP*.

**More than 10 Colombian legal resolutions** to protect communities' right to life, livelihoods, water, safe environment and to uphold a previous consultation have still not fully implemented by Colombian state and company responsible for the Cerrejón mining operations.

*Revista Noche y Niebla No. 61, Cinep/PPP*.

In Brazil, at least **1,985 people have been killed** in rural conflicts around land and water in the last 35 years. **92% of these killings remain unsolved**. 2020 registered the highest number of land conflicts since 1985, 25 per cent more than in 2019 and 57 per cent more than in 2018. Territorial invasions increased by 103 per cent in 2020, compared with 2019, with 71 per cent of those affected being indigenous peoples.

In Guatemala, **313 HRDs were detained, arrested or faced legal charges** for their work in 2020.

Source: *Udegegua, 2020*.

In Honduras, **eight water defenders have spent more than 21 months unjustly jailed** for defending the rivers in the Carlos Escaleras national park against a mining project of Inversiones Los Pinares.

In Peru, social leaders from Espinar province, in Cusco region, who were declared innocent in December 2020 after facing **criminal charges for over eight years**, have seen the sentence appealed.

In Espinar, Peru, the actions by the police during protests against mining project Antapaccay owned by Glencore in 2020 left **three people with gunshot wounds**, six people injured with pellets and others injured. 20 people were also injured by the police in the conflict of Livitaca, Chumbivilcas.

<sup>1</sup> [www.caaap.org.pe/2021/Documentos/Comunicado-de-los-Obispos-de-la-Amazonia-Peruana-18-de-marzo-de-2021.pdf](http://www.caaap.org.pe/2021/Documentos/Comunicado-de-los-Obispos-de-la-Amazonia-Peruana-18-de-marzo-de-2021.pdf)



Guapinol river, Honduras

## 2. INTRODUCTION:

### Defending human rights, land and the environment in Latin America



We are faced not with two separate crises, one environmental and the other social, but rather with one complex crisis which is both social and environmental.”

**Pope Francis (2015) *Laudato Si'***

**Our world is enduring interconnected social and environmental crises:** the impacts of coronavirus, and the climate and biodiversity crisis. Responding to these ongoing crises demands an “integrated approach to combating poverty, restoring dignity to the excluded, and at the same time protecting nature”.<sup>1</sup> Addressing the interconnected cry of the earth and the cry of the poor means protecting land and environmental human rights defenders (HRDs) who, all around the world, help to protect communities and our common home from what could be irreversible damage.

**Land and environmental human rights defenders** are ordinary people who, individually or together with others, act peacefully to protect their homes, communities, livelihoods, lives and the health of our planet from human rights and environmental impacts

of industries and business operations. Referred to as ‘defenders’ in this report, they might be community members and social leaders, faith leaders, indigenous peoples’ representatives, *campesinos* (small-scale farmers), members of ethnic or Afro-descendant communities, environmental activists, members of civil society and human rights organisations, social movements, journalists, lawyers or trade unionists, among others.



The territory, the land and mother earth are really what give us life. They give us food, water, air – everything we need to live. For me, defending territories means defending life.”

**Juana, land and environmental human rights defender, Honduras**

**These defenders protect the world’s land, defend water and safeguard rivers and rainforests.** By protecting the planet’s natural resources, they help to decrease the chances of zoonotic diseases such as coronavirus (COVID-19) being transmitted between

<sup>1</sup> Pope Francis (2015) *Laudato Si'* – on *Care for our common home*, paragraph 139.

species. They are at the forefront of the defence against climate change, and also shine a light on gross human rights abuses committed by private interests. They keep governments in check and play a crucial role in promoting sustainable and regenerative models for economic development that put the environment and communities' rights at the centre, ahead of profit. Yet, all around the world, defenders face criminalisation, harassment and violence – including killings – driven by powerful political and economic interests seeking to profit from their land and its resources; their plight has been worsened by the health and economic impacts of the coronavirus pandemic.

## ATTACKS ON THE RISE – WORSENER BY INEQUALITY AND CORONAVIRUS

**Attacks against human rights defenders in Latin America who stand up to protect their fundamental rights and defend their land, territory and the environment have increased every year since 2015.**<sup>2</sup>

In 2020, Front Line Defenders recorded 264 killings of HRDs in the Americas region alone, 40 per cent of which were linked to issues around land, indigenous rights and the environment.<sup>3</sup> According to the UN Special Rapporteur on the situation of human rights defenders, Mary Lawlor, “Latin America is consistently the region with the most recorded killings, with environmental defenders the most targeted”.<sup>4</sup>

**To better understand the challenges that HRDs face, we must look at the environment in which they operate, which is permeated with social, economic and political structures that sustain deep inequalities.** Latin America remains the most unequal region in the world, with the richest ten per cent capturing 22 times more of the national income than the bottom ten per cent, and where only one per cent of farms and estates control more than half of the region's productive land.<sup>5</sup> The economic growth of the last decade experienced in many countries in the region had not trickled down to the most disadvantaged groups even before the pandemic, which has led to a sharp increase in poverty and has exacerbated inequality. Income is not the only determinant of inequality; sex, race and ethnicity are also strong determinants of access to healthcare, education, work and access to the legal system.<sup>6</sup>



Claudelice standing by the 'Majestade', a giant tree she used to visit with her brother and sister-in-law before they were ambushed and shot dead in a targeted assassination.



I believe that I am the target because I bother those people who are using violence to silence those who want to defend the forest and those defenders who've been killed... Defending human rights and defending the environment is to defend dignity. It's fundamentally important for us in the Amazon, because in the last few years our struggle to defend to the forest has been attacked and criminalised.”

**Interview with Claudelice, human rights defender, February 2020**

**Indigenous, Afro-descendant and *campesino* communities in rural areas – and among those, women – are particularly vulnerable.**<sup>7</sup> The pandemic has exacerbated their vulnerability, perpetuating their historical discrimination and the conditions of poverty, exclusion and marginalisation they face based on gender, race, class and age. The ancestral lands and territories they have called home for centuries are often located in resource-rich areas, which are much sought after by powerful political and economic actors. Those who speak out against negative impacts on their lives, assets and livelihoods are at risk of forced

<sup>2</sup> [www.business-humanrights.org/en/from-us/briefings/line-fire-increased-legal-protection-needed-attacks-against-business-human-rights-defenders-mount-2020/](https://www.business-humanrights.org/en/from-us/briefings/line-fire-increased-legal-protection-needed-attacks-against-business-human-rights-defenders-mount-2020/)

<sup>3</sup> [www.frontlinedefenders.org/sites/default/files/fl\\_d\\_global\\_analysis\\_2020.pdf](https://www.frontlinedefenders.org/sites/default/files/fl_d_global_analysis_2020.pdf)

<sup>4</sup> [www.reliefweb.int/sites/reliefweb.int/files/resources/A\\_HRC\\_46\\_35\\_E.pdf](https://www.reliefweb.int/sites/reliefweb.int/files/resources/A_HRC_46_35_E.pdf)

<sup>5</sup> [www-cdn.oxfam.org/s3fs-public/file\\_attachments/bp-land-power-inequality-latin-america-301116-en.pdf](https://www-cdn.oxfam.org/s3fs-public/file_attachments/bp-land-power-inequality-latin-america-301116-en.pdf)

<sup>6</sup> IADB, 'The Inequality Crisis', 2020. <http://dx.doi.org/10.18235/0002629>

<sup>7</sup> [www.oas.org/en/iachr/reports/pdfs/extractiveindustries2016.pdf](https://www.oas.org/en/iachr/reports/pdfs/extractiveindustries2016.pdf)

displacement and attacks. Women HRDs are often the main targets: in 2020, almost 20 per cent of such attacks and threats in business contexts were against women.<sup>8</sup> Women's income is already about half that of men, and severe food insecurity is higher among women; the gaps are reportedly growing<sup>9</sup> and violence against women is endemic. The attacks they face often have a double purpose: to deter them from defending their communities, and to cement societal norms and traditions that assign them a lower role in society.

**The COVID-19 pandemic has hit Latin America severely, with Brazil, Peru, Mexico and Colombia among the top ten countries recording the highest COVID-19 deaths globally.**<sup>10</sup>

The effects have been severely felt among women, the poor and other disadvantaged groups, exposing and exacerbating the vast inequalities across the region. These include enormous disparities in access to healthcare facilities, treatment and medications, as well to information and communication technologies which are key for access to education, protection and public consultations. Weak institutions in many countries have compounded the situation, with some governments reluctant to implement isolation policies to contain the virus, while others failed to provide adequate protection measures for marginalised communities. In addition to health impacts, the economic impacts of the pandemic have also hit the poorest and most vulnerable the hardest. The means by which some governments implemented lockdown measures severely impacted informal workers and those in overcrowded housing and led to increased domestic and gender-based violence. Lockdowns, curfews and states of emergency have hindered HRDs' ability to do their work and monitor human rights abuses. To ensure observation of lockdown measures, more legal and *de facto* power has been given to police and military authorities, creating a climate of repression against social protest.<sup>11</sup>

**The Business and Human Rights Resource Centre recorded 604 attacks against defenders working on business-related human rights issues in 2020, with the highest number – 194 – in Latin America. COVID-19 was a factor in at least 80 of these attacks, for example when these defenders called for stronger safety measures or protested against businesses allegedly not observing pandemic regulations.**<sup>12</sup>



Businesses also have responsibilities to protect human rights defenders, and many defenders are killed after protesting negative human rights impacts of business ventures. In too many cases, businesses are also shirking their responsibilities to prevent attacks on defenders or are even perpetrators of such attacks... Human rights defenders working on some issues appear to be particularly vulnerable to attack. They include environmental human rights defenders, those protesting land grabs or those defending the rights of people, including indigenous peoples, by objecting to governments that are imposing business projects on communities without free, prior and informed consent..."

**Mary Lawlor, UN Special Rapporteur on the situation of human rights defenders**

## **CORPORATIONS OPERATE WITH IMPUNITY**

**Conversely, across the six countries explored in this report, states have, for the most part, allowed agribusinesses, mining and big infrastructure projects to continue operating during the pandemic.**

As the chapters on Brazil, Peru and Colombia evidence, governments and companies have used the pandemic and its economic impacts to weaken social and environmental standards and encourage extractive projects to kickstart the economy, resulting in violations of communities' and defenders' rights.<sup>13</sup> Businesses have pushed for Latin America based companies linked to their supply chains to resume production, with a lack of regard for human rights and the environment. Illegal economic actors, including

<sup>8</sup> [www.business-humanrights.org/en/from-us/briefings/line-fire-increased-legal-protection-needed-attacks-against-business-human-rights-defenders-mount-2020/](http://www.business-humanrights.org/en/from-us/briefings/line-fire-increased-legal-protection-needed-attacks-against-business-human-rights-defenders-mount-2020/)

<sup>9</sup> <http://hdr.undp.org/en/content/human-development-report-2020,p66>

<sup>10</sup> <https://coronavirus.jhu.edu/data/mortality>

<sup>11</sup> [www.amnesty.org/download/Documents/POL1032022021ENGLISH.PDF](http://www.amnesty.org/download/Documents/POL1032022021ENGLISH.PDF)

<sup>12</sup> [www.business-humanrights.org/en/from-us/briefings/line-fire-increased-legal-protection-needed-attacks-against-business-human-rights-defenders-mount-2020/](http://www.business-humanrights.org/en/from-us/briefings/line-fire-increased-legal-protection-needed-attacks-against-business-human-rights-defenders-mount-2020/)

<sup>13</sup> [https://media.business-humanrights.org/media/documents/HRD\\_2020\\_Snapshot\\_EN\\_v9.pdf](https://media.business-humanrights.org/media/documents/HRD_2020_Snapshot_EN_v9.pdf)

illegal loggers and those linked to mining activities, have also been able to operate freely, increasing the risk of forced evictions, threats and attacks against those who stand up for their territories and the environment. In many countries across the region, states have exempted extractive industries from restrictions imposed due to the pandemic and tried to relax environmental regulations, while extreme measures were imposed on other more vulnerable productive sectors.<sup>14</sup> Many extractive projects continued to operate, risking spreading the virus to remote indigenous, Afro-descendant, *campesino* and landless communities.

**International businesses cause, contribute to, and/or are linked to the attacks on human rights defenders, land grabs (where land is seized from communities)<sup>15</sup> and environmental destruction in the countries mentioned in this report.**

In some cases, multinational companies are involved at arm's length through a subsidiary company, promising investment in infrastructure, employment and social services in return for access to natural resources. In reality, these activities often enrich political and economic elites, while communities face the damaging repercussions of these activities on their land, water and forests, deepening inequalities with impunity. Many renewable energy developments – such as hydro-power, mining for metals required for electric batteries, and solar and oil parks – carry similar risks for communities and the environment. These developments are governed by powerful multinational companies rather than rooted in community management and decision-making. In cases where there is no direct or tangible link to specific multinational companies, these businesses are often involved in driving the demand for raw materials and commodities that underpins environmental and human rights violations: resources extracted from Latin America are part of a supply chain of commodities that often end up as products on the shelves of UK and European markets. These supply chains rely on so-called sacrifice zones in the global south where the negative impacts and costs are borne. Financial organisations are also implicated through investments that facilitate these activities.

**Control over and access to land and natural resources** are key drivers of attacks and threats against HRDs and of related environmental damage. As Pope Francis writes, “Business is a noble vocation, provided that those engaged in it see themselves challenged by a greater meaning in life.”<sup>16</sup> As recognised by the UN

Guiding Principles on Business and Human Rights, and by the OECD Guidelines for Multinational Enterprises, businesses have a responsibility to respect human rights and the environment and ensure an enabling environment for the protection of HRDs.<sup>17</sup> Hiding behind lengthy and complex global supply chains however, companies in the UK and other rich countries benefit from the forced displacement of communities and the extraction of resources from contested land while pushing the environmental and social costs of business down their supply chains – as the Colombia chapter case study on the Cerrejón coal mine will demonstrate.

**Human rights defenders face huge obstacles in protecting their water, land and forests from corporate activity and in seeking full reparation in the face of corporate abuse.** These include legal and financial barriers that impede access to justice in home as well as host states, huge disparities in the resources available to companies compared to those available to rightsholders, and a variety of techniques used by corporations to evade accountability.<sup>18</sup> The cases in this report demonstrate companies' continued failure to assume their responsibilities to protect human and environmental rights and to address any adverse impacts on human rights and the environment that may occur as a result of their activities. The cases also highlight state collusion with private economic interests, most often evident in the use of police and security forces to protect companies' interests.



Injured protestors during social protest in Espinar, Peru

<sup>14</sup> [www.cepal.org/en/insights/part-played-natural-resources-addressing-covid-19-pandemic-latin-america-and-caribbean](http://www.cepal.org/en/insights/part-played-natural-resources-addressing-covid-19-pandemic-latin-america-and-caribbean)

<sup>15</sup> “Land grabbing” refers to land deals that happen without the free, prior and informed consent of communities, often resulting in communities being forced from their homes and violations of human rights, often for economic or military purposes (as per the International Land Coalition 2011 Tirana Declaration).

<sup>16</sup> Pope Francis (2013) *Evangelii Gaudium*, paragraph 203 [www.vatican.va/content/francesco/en/apost\\_exhortations/documents/papa-francesco\\_esortazione-ap\\_20131124\\_evangelii-gaudium.html](http://www.vatican.va/content/francesco/en/apost_exhortations/documents/papa-francesco_esortazione-ap_20131124_evangelii-gaudium.html)

<sup>17</sup> See [www.ohchr.org/documents/publications/guidingprinciplesbusinesshr\\_en.pdf](http://www.ohchr.org/documents/publications/guidingprinciplesbusinesshr_en.pdf) and Guidelines for multinational enterprises - OECD

<sup>18</sup> [www.cidse.org/2020/10/13/cidse-contribution-to-the-6th-session-of-the-un-binding-treaty/](http://www.cidse.org/2020/10/13/cidse-contribution-to-the-6th-session-of-the-un-binding-treaty/)

## **STATE INACTION: WEAK RULE OF LAW, LACK OF STATE PRESENCE AND INEFFECTIVE PROTECTION FOR HRDS**

**In the push for economic growth, states are providing an environment in which companies can operate freely and with impunity.** HRDs often work against a backdrop of political upheaval, short-term vision, electoral crisis, weak state institutions and corruption. This has enabled the conditions for impunity for human rights violations to prevail across the region. Perpetrators – including those linked to business interests – remain free, and justice for victims is conspicuously absent. This fuels further human rights abuses and erodes the credibility of state institutions. Impunity and lack of accountability thrive where corporate interests influence local media, public officials and agencies responsible for environmental oversight and justice, manipulating communities to accept ‘development’ proposals. Cronyism and a ‘revolving door’ between corporate and public-sector employees in industries such as mining also undermine public interest.

**Although some governments across Latin America have taken positive steps to introduce legislation and procedural protocols that offer a degree of protection measures to HRDs at risk, this protection is often limited and short-lived.** There is evidence that some countries are rolling back human rights protections, for example by undermining key institutions and social policies that provide protection for human rights, indigenous peoples or land rights (Brazil) or by weakening the independence of justice and human rights bodies (Guatemala).<sup>19</sup> Moreover, many states have not implemented the precautionary measures called for by the Inter-American Court of Human Rights. Where national mechanisms to protect HRDs do exist, implementation continues to be challenging, and actions are inadequate and unable to respond flexibly and comprehensively to the needs of endangered defenders.<sup>20</sup> Protection measures can only be effective if states have the political will, assign appropriate resources for them to be implemented properly, and develop holistic policies that tackle the root causes of the hostile environment for defenders’ work.

**Across the region there is also evidence of deliberate, persistent and increasing restriction of civil society space** – most notably, a lack of guarantees to exercise the right to peaceful protest and the right

to freedom of expression and association. Arbitrary arrests and detentions linked to the enforcement of COVID-19 restrictions in state-run centres with poor conditions have increased risks of contracting the virus.<sup>21</sup> In a context of weak public institutions and restrictions to civil society space, citizens continue to use social protests to voice their dissent, challenge government policies or demand basic services. In Bolivia, Colombia, Honduras and Peru, these protests have frequently resulted in the disproportionate use of force by the police, arrests or pressing of spurious criminal charges. Criminalisation is one of the most dominant attacks state and business interests employ to silence HRDs and to preserve their own political and economic interests. As the cases from Peru and Honduras will demonstrate, legal processes are protracted for years, and the prosecution reopens cases and presents unsubstantiated evidence time and time again.

**Smear campaigns to silence civil society organisations and defenders** are also widely reported. In many countries, local and national media often portray them as criminals, vandals or delinquents or as being against development. High-ranking officials, including the heads of government in Brazil, Bolivia, Guatemala<sup>22</sup> and Colombia,<sup>23</sup> have made extensive public remarks against defenders, creating an environment conducive to threats and attacks against them. In 2020, Brazil’s President Bolsonaro blamed indigenous and mixed-heritage communities, the media and non-governmental organisations (NGOs) for the 2019 and 2020 Amazon fires and the spread of COVID-19.<sup>24</sup>

## **THE RIGHT TO HAVE A SAY – AND BE HEARD**

**Human rights defenders help communities to be involved in decision-making processes about issues that directly impact their lives – but the right of communities to be meaningfully consulted is far from respected by both governments and businesses.** The right to ‘free, prior and informed consent’ (FPIC)<sup>25</sup> has been recognised in the jurisprudence of international human rights bodies, including the Inter-American Court of Human Rights,<sup>26</sup> and by the United Nations (UN). This jurisprudence is a manifestation of indigenous peoples’ right “to self-determine their political, social, economic and

<sup>19</sup> [www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=27063&LangID=E](http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=27063&LangID=E)

<sup>20</sup> [www.amnesty-international.be/sites/default/files/bijlagen/report-hrds-and-covid.pdf](http://www.amnesty-international.be/sites/default/files/bijlagen/report-hrds-and-covid.pdf)

<sup>21</sup> [www.amnesty.org/en/countries/americas/report-americas/](http://www.amnesty.org/en/countries/americas/report-americas/)

<sup>22</sup> [www.hrw.org/world-report/2021/country-chapters/guatemala](http://www.hrw.org/world-report/2021/country-chapters/guatemala)

<sup>23</sup> [www.nytimes.com/2021/05/12/world/americas/colombia-protests-police-brutality.html](http://www.nytimes.com/2021/05/12/world/americas/colombia-protests-police-brutality.html)

<sup>24</sup> [www.bbc.co.uk/news/av/world-latin-america-49429541](http://www.bbc.co.uk/news/av/world-latin-america-49429541)

<sup>25</sup> See for instance: [www.ohchr.org/Documents/Issues/ipeoples/freepriorandinformedsent.pdf](http://www.ohchr.org/Documents/Issues/ipeoples/freepriorandinformedsent.pdf)

<sup>26</sup> [www.corteidh.or.cr/docs/casos/articulos/seriec\\_245\\_ing.pdf](http://www.corteidh.or.cr/docs/casos/articulos/seriec_245_ing.pdf)

cultural priorities". This includes three essential components: the right to be consulted; the right to participate; and the right to their lands, territories and resources.<sup>27</sup> ILO Convention 169 also guarantees meaningful consultation processes to ensure the protection and respect of indigenous communities' rights. In recent years, the right to be consulted has gained recognition as a best practice principle in projects that relate to natural resource extraction, even when these projects affect non-indigenous communities; accordingly, the right to FPIC should in practice be extended to all impacted rural communities, not just indigenous peoples.

**And yet, the cases in this report highlight how states and companies continue to fail local communities** by not providing clear, transparent and meaningful information about economic projects that affect their lives, local environment, territories and collective identities. Co-optation, bribery and the provision of inaccessible or incomplete information about likely impacts are common-place practices. States are also reluctant to recognise the validity of consultations, or the binding nature of decisions reached – disregarding communities' right to say 'no' to extractive activity on their land. CSOs have pointed out that, for governments, consultations are often only a 'box-ticking' exercise that completes a formal requisite and that, regardless of the outcome, a project under consultation will go ahead.<sup>28</sup> When this happens, communities are left with no other recourse than to take to the streets demanding to be heard, often leading to confrontations with armed security forces, injuries and even deaths.

## **THIS REPORT: CONTEXT, METHODOLOGY AND PURPOSE**

**The cases presented in this report are not isolated but highlight a pattern of abuse across the region.** State as well as non-state actors act with disregard for human rights and the environment to advance their short-term political and economic interests. Many of the threats and attacks against defenders are intrinsically linked to their fight for their land and territories, against a backdrop of a lack of state presence and often high levels of corruption. This leaves defenders nowhere to turn to for protection, in a hostile environment where widespread impunity exists. An enabling environment where HRDs can operate freely and safely is essential to promote equality, respect of human rights for all and the protection of the environment.

**This report is based on 20 months' research on the current trends of human rights abuses faced by land, territory and environmental defenders across six countries in Latin America.** It has been produced in the context of the project "Defending Land, Territory and the Environment: Promoting the work of human rights defenders in Latin America," co-funded by the European Union. In this report, we explain the dangers faced by HRDs in each country, particularly highlighting where these are linked to corporate behaviour and to the impacts of the coronavirus pandemic. We also share learning on the different strategies and approaches HRDs use to push for change. Inputs and case studies were collected through two regional exchanges with land and environmental HRDs and organisations working with CAFOD in six countries, in November 2019 and June 2021. Testimonies, presentations and cases were complemented by secondary research, reports and analysis from partner and other human rights organisations. Building on this evidence, this report provides recommendations that highlight the responsibilities of states, international bodies, businesses and investors to protect human rights and environmental defenders in Latin America.



A learning and sharing exchange with HRDs and NGOs across Latin America

**CAFOD has a history of supporting and amplifying the voices of those around the world who are defending our common home in the face of corporate abuses and state inaction.** We are called to stand in solidarity with our global sisters and brothers and to call for new rules that protect them. In the words of Pope Francis; "Indigenous communities must be protected from companies, particularly multinational companies, that 'operate in less developed countries in ways they could never do at home'... through the destructive extraction of fossil fuels, minerals, timber and agroindustrial products... We need to strengthen national and international legislation to regulate the activities of extractive companies and ensure access to justice for those affected."<sup>29</sup>

<sup>27</sup> [www.undocs.org/A/HRC/39/62](http://www.undocs.org/A/HRC/39/62)

<sup>28</sup> [www.ohchr.org/Documents/Issues/Business/UNGPsBHRnext10/inputs/oxfam.pdf](http://www.ohchr.org/Documents/Issues/Business/UNGPsBHRnext10/inputs/oxfam.pdf)

<sup>29</sup> Pope Francis, 'Message for the World Day of Prayer for the Care of Creation', 1 September 2020, [www.vatican.va/content/francesco/en/messages/pont-messages/2020/documents/papa-francesco\\_20200901\\_messaggio-giornata-cura-creato.html](http://www.vatican.va/content/francesco/en/messages/pont-messages/2020/documents/papa-francesco_20200901_messaggio-giornata-cura-creato.html)



Cover of Cinep/PPP publication *Noche y Niebla* No61 documenting socio-environmental impunity

### 3. COLOMBIA

In Colombia, human rights defenders (HRDs) are being killed as they seek to uphold the environmental, human and spiritual rights of their communities and the rights of nature from the devastating impact of national and international extractives companies. The Colombian government is proving unable or unwilling to protect them from violence. Their situation is exacerbated by the effects of the COVID-19 pandemic and the ongoing armed conflict.

In November 2016, the Colombian state and the FARC guerrilla group signed a Peace Accord that seeks to address many of the conflict's underlying issues, as well as important governance issues. The Accord contains provisions to address inequality, and gender and cultural rights. Its implementation has faced many challenges; various provisions are suffering from a particularly slow implementation, including: those relating to gender; the ethnic chapter, which benefits

indigenous and Afro-Colombian communities;<sup>1</sup> and rural reform, which is key to the protection of communities. The signing of the Peace Accord brought immediate benefits in the disarmament of more than 13,000 FARC combatants in its first year and a dramatic drop in the general homicide rate. However, targeted attacks and killings of HRDs never abated, continuing an upward trend since 2016. While there are different records on the numbers of HRDs killed every year (in 2020, recorded killings of HRDs ranged from 133<sup>2</sup> to 177<sup>3</sup>), there is no disputing that more HRDs are killed in Colombia year on year than anywhere else in the world. From the signing of the Peace Accord up to August 2020, 1,000 social leaders and HRDs have been killed, in addition to demobilised former combatants. Killings continue unabated: in the first semester of 2021, 83 HRDs and social leaders were killed.<sup>4</sup> There is impunity for most of these killings and, increasingly, the perpetrators and authors of these killings remain unknown.

The pandemic has exacerbated the violence that communities in rural areas of Colombia are experiencing, with forced displacement and confinement, increased social control by diverse armed actors, sexual violence, disappearances, and planting

<sup>1</sup> Although Indigenous and Afro-descendant people are only 4.4 per cent and 9.3 per cent of the Colombian population, they have been disproportionately affected by the armed conflict (18.4 per cent of victims of the armed conflict belong to an indigenous or other ethnic group). A report in 2020 found that by August 2020 more than 1,000 HRDs had been killed since the signing of the Peace Accord in 2016. Of these, 37 per cent played a leading role in indigenous communities and more than ten per cent were community leaders in Afro-Colombian communities. Overall, more than 54 per cent were members of the National Indigenous Organisation of Colombia. [www.indepaz.org.co/1-000-lideres-y-defensores-de-ddhh/](http://www.indepaz.org.co/1-000-lideres-y-defensores-de-ddhh/) For the implementation of the Peace Accords see <https://peaceaccords.nd.edu/barometer/colombia-reports>

<sup>2</sup> [www.undocs.org/A/HRC/46/76](http://www.undocs.org/A/HRC/46/76)

<sup>3</sup> [www.frontlinedefenders.org/sites/default/files/flid\\_global\\_analysis\\_2020.pdf](http://www.frontlinedefenders.org/sites/default/files/flid_global_analysis_2020.pdf)

<sup>4</sup> For killings up to August 2020, see: [www.indepaz.org.co/1-000-lideres-y-defensores-de-ddhh/](http://www.indepaz.org.co/1-000-lideres-y-defensores-de-ddhh/) and for the figure in 2021, see: [www.indepaz.org.co/lideres-sociales-y-defensores-de-derechos-humanos-asesinados-en-2021/](http://www.indepaz.org.co/lideres-sociales-y-defensores-de-derechos-humanos-asesinados-en-2021/)

of landmines. In addition, according to the Office of the United Nations High Commissioner for Human Rights (OHCHR), 76 massacres were verified in 2020, with more still pending confirmation.<sup>5</sup> According to the Special Jurisdiction for Peace (Jurisdicción Especial para la Paz, JEP), 2021 has seen the most violent start to any year since the Peace Accord was signed.

The lack of state presence capable of providing protection for vulnerable populations,<sup>6</sup> combined with the pandemic and the lockdown measures, created conditions for illegal armed groups to strengthen their military capacity and social control, including curfews, lockdowns and even killing those suspected of having the virus.<sup>7</sup> Women have been particularly affected by the spikes in violence, especially in terms of gender-based violence including femicides.<sup>8</sup> They are also affected disproportionately by loss of employment and increased child-care and family responsibilities.<sup>9</sup>

Although Colombia has a system for protecting HRDs through the National Protection Unit at the Ministry of the Interior, an Early Warnings System at the Human Rights Ombudsman's Office, and the National and Regional Roundtables on Guarantees for HRDs, in which civil society organisations (CSOs) participate, none of these mechanisms is fully effective in protecting the lives of HRDs. They usually lack a preventative and comprehensive approach. Instead, many HRDs resort to developing self-protection strategies with their communities.<sup>10</sup> The Peace Accord established a National Commission for Security Guarantees (CNGS) to develop a comprehensive policy for dismantling paramilitary and other criminal groups and behaviours that threaten HRDs and communities. This was intended to address structural issues, but after almost five years it has yet to operate effectively.<sup>11</sup>

While HRDs became more vulnerable during the pandemic due to increased risks linked to, for example, lockdown measures, the extractives industries were able to continue operating. The extractive industries' sector remains supported and protected by the government and, as it is central to the government's current national development plan, it constitutes one of the main drivers for economic recovery, including fracking and renewable industries.<sup>12</sup> The pandemic has also seen attempts to relax environmental and prior consultation regulations to benefit foreign investment

and to facilitate mining concessions, as well as more legal and de facto power given to police and military to implement lockdowns. This has created a climate of repression in a context of social crisis.



Mónica López Pushaina, water defender and leader of the La Gran Parada community, Colombia.



When there is a ruling, or judicial order, that benefits the communities, or a sanction against the [mining] company, that's when the threats start. They send us messages, the phone calls start... Raising awareness about this situation has led to threats, being singled out, to intimidation and to persecution."

**Mónica López Pushaina**

<sup>5</sup> <https://undocs.org/A/HRC/46/76> p.3. At the UN Security Council session in May 2021, it was noted that the UN Mission had verified ten massacres between 28 December 2020 and 26 March 2021 with another 12 still being verified: <https://colombia.unmissions.org/en/press-release-un-secretary-generals-quarterly-report-security-council-un-verification-mission>

<sup>6</sup> [www.undocs.org/A/HRC/46/76](https://undocs.org/A/HRC/46/76)

<sup>7</sup> [www.hrw.org/news/2020/07/15/colombia-armed-groups-brutal-covid-19-measures](https://www.hrw.org/news/2020/07/15/colombia-armed-groups-brutal-covid-19-measures)

<sup>8</sup> Calls to helplines responding to gender-based violence increased by over 100 per cent. See: [www.sismamujer.org/wp-content/uploads/2020/11/27-11-2020-Derechos-de-las-Mujeres-y-COVID-19\\_-Sisma-Mujer.pdf](https://www.sismamujer.org/wp-content/uploads/2020/11/27-11-2020-Derechos-de-las-Mujeres-y-COVID-19_-Sisma-Mujer.pdf)

<sup>9</sup> [www.uniandes.edu.co/es/noticias/economia-y-negocios/empleo-femenino-el-mas-golpeado-durante-la-pandemia](https://www.uniandes.edu.co/es/noticias/economia-y-negocios/empleo-femenino-el-mas-golpeado-durante-la-pandemia)

<sup>10</sup> Such is the case of the Afro-Colombian Community Council COCOLATU, who are seeking land restitution. They have armed bodyguards among other protection mechanisms provided by the Ministry of the Interior. In spite of this Edis Manuel Care, one of the community leaders of COCOLATU, was killed in August 2020. For more information see [www.cinep.org.co/Home2/component/k2/821-reclamar-sus-tierras-sigue-costando-la-vida-a-lideres-de-choco.html](https://www.cinep.org.co/Home2/component/k2/821-reclamar-sus-tierras-sigue-costando-la-vida-a-lideres-de-choco.html)

<sup>11</sup> [www.abcolombia.org.uk/wp-content/uploads/2021/03/Policy-Brief-UN-Security-Council-2021\\_v3-002.pdf](https://www.abcolombia.org.uk/wp-content/uploads/2021/03/Policy-Brief-UN-Security-Council-2021_v3-002.pdf)

<sup>12</sup> [www.portafolio.co/economia/oro-crudo-fracking-carbon-y-energias-renovables-apuestas-para-recuperar-la-en-2021-547804](https://www.portafolio.co/economia/oro-crudo-fracking-carbon-y-energias-renovables-apuestas-para-recuperar-la-en-2021-547804)

## SOCIO-ENVIRONMENTAL IMPUNITY IN THE CERREJÓN CASE

The case of the Cerrejón mine in La Guajira, jointly owned by multinational companies BHP, Anglo American and Glencore,<sup>13</sup> illustrates communities' struggle to defend their human, cultural and spiritual rights and the environment. The case also highlights the difficulties which communities and human rights defenders affected by corporate activity face when making claims for redress and justice.

The Cerrejón open-pit coal mine – one of the largest in Latin America – has been operating for decades, severely affecting Wayúu indigenous, Afro-descendant and *campesino* communities, who have limited access to clean water and consequently live in an unsafe environment. Participatory research has suggested that livelihoods have been destroyed as the mine was installed in the most productive and least arid zone – the one with the largest water sources, where agriculture was taking place. According to Cinep/PPP, more than 20 communities have been forcibly displaced, and more than 17 river streams have been either redirected or polluted. The intrinsic connection between their territories and their cultural identity is at risk. The Wayúu women, who have a deep connection to their land and water sources, pass on their knowledge through generations. They have profoundly suffered from the repercussions of the mining operations. Women have lost the places where they met and performed their traditional cultural and spiritual practices. Social and environmental impacts of this kind may amount to ecocide and ethnocide,<sup>14</sup> with irreparable effects on entire ecosystems and richly biodiverse regions on which communities depend, and which sustain their culture, spirituality, livelihoods and food security.<sup>15</sup>

In this semi-arid area, the lack of water, exacerbated by mining operations and the changes in climate, is of particular concern and poses an existential threat to the Wayúu people. The mine uses 24 million litres of water a day. Around 40 per cent of water courses have been registered as lost. The *Arroyo Bruno* (Bruno Stream), one of the most important water sources, has been diverted from its natural course so that the company can mine the coal that lies underneath.<sup>16</sup> As a result, communities that use this water source took legal action before the Colombian Constitutional Court, which ruled in their favour and ordered the creation of an 'inter-institutional roundtable' with clear



The *Arroyo Bruno* upstream, and in an area where it has been diverted from its natural course.

input from the communities affected. Human rights groups have documented that these rulings have so far not been fully complied with.<sup>17</sup>

Communities have made use of judicial avenues to pursue remedial actions, but none has resulted in concrete measures being taken. More than ten court rulings and resolutions from Colombian courts and other authorities have raised the negative impacts of the companies' operations on human rights, including the right to health, water, food, a healthy environment and participation. To date, however, the Colombian authorities have inadequately implemented these court resolutions and companies have failed to fully comply with them.<sup>18</sup> Community leaders who defend their territory and water against the impacts of extractive operations are threatened or face other attacks.

In 2020, it was reported that some of these companies were looking to withdraw their investment in the Cerrejón mine.<sup>19</sup> This brings a further risk that the court rulings will never be adhered to, and that communities will be left without any access to comprehensive and effective remedies and full reparation. Companies should be held liable for the harm they cause, contribute to or profit from – even if ownership is subsequently transferred.

<sup>13</sup> As of June 2021, Glencore plc have agreed to acquire their joint-venture partners' stakes in Cerrejón, Anglo American and BHP, with the transaction expected to complete in 2022: [www.glencore.com/media-and-insights/news/glencore-agrees-to-acquire-jv-partners-shares-in-the-cerrejon-mine-and-strengthens-climate-commitments](http://www.glencore.com/media-and-insights/news/glencore-agrees-to-acquire-jv-partners-shares-in-the-cerrejon-mine-and-strengthens-climate-commitments)

<sup>14</sup> Ecocide is the destruction of the natural environment by deliberate or negligent human action. Ethnocide is the systematic and deliberate destruction of the culture of an ethnic group.

<sup>15</sup> See participatory research published by Cinep/PPP: [www.cinep.org.co/Home2/component/k2/836-mineria-de-carbon-y-des-arroyo.html](http://www.cinep.org.co/Home2/component/k2/836-mineria-de-carbon-y-des-arroyo.html) p. 60 onwards

<sup>16</sup> Ruling SU 698/17. For more information, see: <https://londonminingnetwork.org/2019/07/saving-the-river-the-struggle-for-colombias-arroyo-bruno/>

<sup>17</sup> [www.abcolombia.org.uk/abcolombia-policy-briefing-for-the-un-security-council/](http://www.abcolombia.org.uk/abcolombia-policy-briefing-for-the-un-security-council/), <https://undocs.org/A/HRC/46/76>, p.13

<sup>18</sup> [www.cidse.org/wp-content/uploads/2020/10/CIDSE-submission-6th-session-OEIGWG\\_Final.pdf](http://www.cidse.org/wp-content/uploads/2020/10/CIDSE-submission-6th-session-OEIGWG_Final.pdf)

<sup>19</sup> [www.theguardian.com/business/2020/aug/18/bhp-commits-to-selling-its-thermal-coal-mines-within-two-years](http://www.theguardian.com/business/2020/aug/18/bhp-commits-to-selling-its-thermal-coal-mines-within-two-years) See footnote 13 above.

In January 2021, a group of international and national NGOs, including CAFOD's partner Centro de Investigación y Educación Popular/Programa por la Paz (Cinep/PPP), filed three simultaneous complaints to the Organisation for Economic Co-operation and Development's (OECD) National Contact Points in Ireland, the UK and Switzerland, raising the company's failure to comply with OECD Guidelines on Business and Human Rights.<sup>20</sup>

## CAJAMARCA CASE: CAMPESINO COMMUNITIES DEMAND THEIR RIGHT TO PARTICIPATE

Mining giant AngloGold Ashanti has put forward plans for the La Colosa gold mine project in the municipality of Cajamarca, Tolima department, which would be the largest gold mine in Latin America. It is believed that its operations would have substantial negative environmental repercussions, particularly on water sources and the area's unique wetlands habitat (*páramo*).

In March 2017, the first binding public consultation by citizen initiative (*consulta popular*) in Colombia was held to decide either for or against the mining project. The public consultation started as a citizen initiative in a small rural community against a large multinational. Its success was hailed as a victory of democracy for the community, with an overwhelming 97.9 per cent of the votes against the mine. Other communities followed Cajamarca and initiated their own public consultations. Since then, in what appeared to be the result of the government, media and business pressure, the Constitutional Court reversed a decision that was published in 2016<sup>21</sup> that had allowed binding public consultations by citizen initiative. In 2018, the court issued three further rulings precluding mining activities from being forced to undergo public consultations.<sup>22</sup> These decisions have allowed the government and companies to attempt to minimise the legality and binding nature of the consultations, including those that had already taken place and that had been endorsed by multiple administrative and judicial authorities, including the one in Cajamarca, Tolima.

As a result these developments, CSOs are working continuously to ensure that the legality of the popular consultation held in Cajamarca is reaffirmed. As part of this strategy, CAFOD partner Centro Socio-Jurídico para la Defensa Territorial Siembra and other organisations and networks have requested a hearing before the Inter-American Commission (IACHR) to raise the need for effective mechanisms of citizen participation in mining-related issues.



I think that the main challenge we have faced during these years of struggle has been the stigmatisation. The first thing is that they say that we are unemployed, they call us guerrillas, there are the threats, there's also safety, the intimidation of many leaders who are dying on a daily basis across the country.”

**Elizabeth Muñoz, member of the environmental and farming committee of the municipality of Cajamarca**

In 2017, more than 68 per cent of the territory of Cajamarca was subject to mining concessions.<sup>23</sup> To date, three concessions still exist covering approximately 30 per cent of the territory, and five requests for mining concessions are under evaluation.<sup>24</sup> This represents a blatant disregard of the legally binding public consultation and a huge challenge for local farming communities whose way of life continues to be fundamentally threatened.

Repeated threats against environmental defenders who oppose the La Colosa mine have been documented with authorities showing very little interest in providing effective protection or carrying out investigations into death threats and other attacks.<sup>25</sup>

<sup>20</sup> [www.abcolombia.org.uk/cerrejon-accused-before-oecd/](http://www.abcolombia.org.uk/cerrejon-accused-before-oecd/)

<sup>21</sup> In 2016, there was also a ruling by the Constitutional Court (C-389 of 2016) that highlighted the urgent need for a real, representative, free, informed and effective participation body, prior to the granting of mining titles, given the lack of any protection of constitutional principles relating to participation in the regulations associated with mining.

<sup>22</sup> Since 2018, the Constitutional Court has issued a series of rulings, including the unification ruling SU-095 of 2018, ruling C-053 of 2019 and ruling T-342 of 2019. These rulings include regressive judicial measures that prevent local authorities from prohibiting the exploitation of non-renewable natural resources in their territory. See also: [www.larepublica.co/especiales/minas-y-energia-marzo-2019/comunidades-votaron-en-10-consultas-populares-mineras-desde-el-2013-2842036](http://www.larepublica.co/especiales/minas-y-energia-marzo-2019/comunidades-votaron-en-10-consultas-populares-mineras-desde-el-2013-2842036)

<sup>23</sup> Before the consultation, the Colombian government designated La Colosa as a mining project of national and strategic interest. It is estimated that between 2007 and 2008, 86 per cent of the whole territory of Cajamarca had already been awarded for mining concessions. There had been no consultation before the concessions were granted. See also: Tierra Digna (2015) 'Seguridad y derechos humanos ¿para quién?'

<sup>24</sup> Information collected by the Centro Sociojurídico para la Defensa Territorial SIEMBRA and the Comité Ambiental y Campesino de Cajamarca y Anaime through public access to information mechanisms.

<sup>25</sup> [www.frontlinedefenders.org/en/case/renewed-threats-against-environmental-rights-defenders-tolima](http://www.frontlinedefenders.org/en/case/renewed-threats-against-environmental-rights-defenders-tolima) and <https://news.mongabay.com/2020/10/years-after-defeating-a-giant-gold-mine-activists-in-colombia-still-fear-for-their-lives/>



Open-cast mine in Espinar, Peru

## 4. PERU

In Peru, human rights defenders (HRDs) defending their land, territory and the environment from extractivist corporate activity that violates their fundamental rights are increasingly under threat from the use of the legal system to criminalise them and from violent police forces working in collusion with business interests. The pandemic has increased the challenges HRDs and communities face, impacting lives, livelihoods and health, in a context of pressures from illegal economies especially in the Amazon region, and weakening social control and regulations in the extractive sector to stimulate the economy.

Peru has witnessed increasing political instability in recent years amid a series of corruption scandals, the loss of legitimacy of public institutions and a high turnover of government officials in high-ranking positions, including the presidency. In November 2020, after widespread protests, Congress elected Francisco Sagasti as President of Peru, the fourth since 2016. National elections in 2021 have shown the deep polarisation of Peruvian society, the discrediting of

and lack of trust towards the political class, and low satisfaction with the current economic model.<sup>1</sup>

Despite the government's efforts to protect HRDs through the adoption of a protection protocol, the creation of a register for HRDs at risk, and the creation of an intersectoral mechanism for the protection of HRDs, their situation is deteriorating. Indigenous and *campesino* communities who defend their lands, territories, health and the environment, and who highlight ongoing human rights violations resulting from the extractive industry's activities, face stigmatisation, criminalisation, threats, violence and attacks. Defenders often have limited access to state institutions for protection and, when available, it is often embroiled in corruption, preventing these protection measures from materialising.

Peru has been severely affected by the COVID-19 pandemic, with the highest per capita death rate in the world as of June 2021. Marginalised urban and rural communities have been most affected due to socio-economic vulnerabilities, lack of access to health clinics and hospitals, and insufficient medical equipment and medicines. Civil society organisations also report that the move online during the pandemic has disadvantaged many communities, preventing them from participating in decision-making, legal and consultative processes.<sup>2</sup> The pandemic has also enabled illegal activities in the Peruvian Amazon to continue operating freely, aggravated by reduced

<sup>1</sup> A national survey by the Instituto de Estudios Peruano-IEP in April 2021 showed that 58 per cent of Peruvians wanted changes to the economic model, and 33 per cent thought the existing model should change completely.

<sup>2</sup> <https://derechosinfronteras.pe/tia-maria-jueces-deciden-no-seguir-audiencias-de-manera-virtual-debido-a-brecha-digital/>

state and environmental protections. With limited state ability to reach and operate in remote areas of the country, indigenous HRDs find themselves increasingly under threat from the growth of informal and criminal networks linked to land grabbing, illegal logging and drug trafficking. Since the start of 2020, seven indigenous leaders have been killed.

Indigenous communities continue to face challenges to their land and the protection of their local environment against large-scale extractive projects, with hydrocarbons being the main resource exploited in the Amazon. A lack of allocated budget and bureaucratic barriers impede the process of titling and demarcation of indigenous territories that would guarantee community rights.

The Peruvian government has prioritised the extractive sector for Peru's economic recovery from the pandemic. Environmental legislation and oversight have been relaxed in the hope of increasing prospects for new projects and speeding up negotiations. OEFA, the environmental oversight body, has seen a substantial reduction in its budget and its ability to conduct its oversight role.<sup>3</sup>

In Peru, there is a pervasive trend of using the penal justice system to criminalise HRDs. Since 2002, at least 960 people have been subjected to criminal investigation; 538 of these cases involved criminalisation relating to social protests. Criminal investigations and proceedings are often initiated by the public prosecutor's office, in many cases due to complaints by businesses. This suggests that these private actors put considerable pressure on the prosecutor's office to initiate criminal proceedings.<sup>4</sup> State prosecutor's offices also tend to appeal acquittals, leading to prolonged legal battles that force defenders to spend time and money on these processes, and take them away from their work defending fundamental rights.

In 2020, Peru's Constitutional Court recognised the right to protest as a basic human right on its own merit, and stressed that the state should use the legal system as a last resort, prioritising instead the use of mechanisms to encourage dialogue.<sup>5</sup> The Peruvian government, however, continues to deal with social protest by deploying police and military forces that use excessive force, often resulting in killings and many injuries. Between January 2019 and August 2020 there were 2,974 registered acts of protest, which resulted in 242 cases of injury and eight deaths due to police violence.<sup>6</sup> In addition, the Peruvian government often

declares states of emergency when social protests occur, restricting rights such as freedom of expression and right to assemble.



Victoria Quispesivana Corrales, environmental defender from Chumbivilcas, Peru



I have been criminalised for nine years of my life, limiting me from exercising my rights. [I have suffered from] psychological abuse, low self-esteem, harassment, unemployment, a lack of financial resources, personal stress, discrediting of my family, failure in higher education for my children; I have not been able to travel nor express my opinion freely; [I have suffered] humiliation, discrimination as a woman.”

#### **Victoria Quispesivana Corrales**

The role of the police during social protests has been repeatedly called into question because of existing ties between the extractive sector and the police, by which the latter provide private security to mining companies through bilateral agreements. Twenty-nine such agreements are currently in force;<sup>7</sup> these agreements have had the effect of privatising public security and placing the security of companies above that of the local population.

<sup>3</sup> See: [www.perusupportgroup.org.uk/2020/06/mining-reactivation-must-not-sacrifice-the-institutional-framework-for-managing-extractives/](http://www.perusupportgroup.org.uk/2020/06/mining-reactivation-must-not-sacrifice-the-institutional-framework-for-managing-extractives/), and [www.perusupportgroup.org.uk/2020/05/dar-criticises-implications-of-moves-to-boost-investment/](http://www.perusupportgroup.org.uk/2020/05/dar-criticises-implications-of-moves-to-boost-investment/)

<sup>4</sup> [www.undocs.org/A/HRC/46/35/ADD.2](https://undocs.org/A/HRC/46/35/ADD.2), p.6

<sup>5</sup> [www.muqui.org/noticias/el-tribunal-constitucional-reconoce-el-derecho-a-la-protesta-social-hay-mas-de-800-juicios-contra-defensores-de-derechos-humanos/](https://www.muqui.org/noticias/el-tribunal-constitucional-reconoce-el-derecho-a-la-protesta-social-hay-mas-de-800-juicios-contra-defensores-de-derechos-humanos/)

<sup>6</sup> <https://undocs.org/A/HRC/46/35/ADD.2>, p.8

<sup>7</sup> <https://undocs.org/A/HRC/46/35/ADD.2>, p.9

## ESPINAR CASE

The case of the Tintaya-Antapaccay-Coroccohuayco mine, owned by Glencore, in the province of Espinar, Cusco department, illustrates many of the issues highlighted above. These include the social and environmental impacts of mining operations and the decades of failure to provide remedy and reparations to affected communities despite their repeated demands.<sup>8</sup>

In May 2012, community members held protests against the Tintaya mine, voicing their concerns about the environmental contamination alleged to have been caused by the mine's activities, which at the time had been operating for 32 years. They also demanded the renegotiation of the Framework Agreement that had been reached with the company years earlier, which was meant to guarantee that communities would receive a share of the mine's profits.

Protests were confronted by the national police, resulting in the deaths of three protesters and dozens of injured. Confrontations intensified and a state of emergency was declared in the province. The police arrested many protesters, including the then mayor of Espinar, Oscar Mollohuanca. He and two others were charged with endangering public safety, obstruction of public services and disturbing the peace. In 2017, they were acquitted, only for the prosecution to appeal, and in May 2018 the court in Ica overturned the acquittal and ordered the trial to commence once again. Criminal proceedings continued and, in December 2020, after a battle of more than eight years, they were finally acquitted and cleared of all charges. However, the public prosecutor has appealed the sentence and the case has gone to the court of appeal. To date, there has been no justice for those who were injured and those who died during the 2012 protests.<sup>9</sup>



Oscar Mollohuanca, HRD, sharing his testimony at a meeting with the then UN Special Rapporteur for the situation of human rights defenders, Michel Forst



In Espinar, they criminalised me for defending my brothers' rights. People have died from cancer caused by heavy metals generated by mining companies. In 2012, when we protested, three people were killed and no sentence has been pronounced. The case has been archived.”

### Oscar Mollohuanca

This case clearly demonstrates how state prosecutors use the justice system, through drawn-out court cases, to deprive leaders of their ability to denounce environmental contamination and defend their rights, criminalising their lawful activity and demands for social and environmental accountability.



Melchora Surco, defender from Espinar



The mining company started to tell us we were anti-mining because we were reporting the contamination. The water was being polluted, our eyes were stinging, our skin was burning, our animals were giving birth to dead animals and we didn't know what was going on. They came to take blood and urine samples and told us that these contained heavy metals.”

### Melchora Surco

<sup>8</sup> As documented and reported by Red Sombra Glencore shadow report, Peru: <http://tdh-latinoamerica.de/wp-content/uploads/2017/06/Informe-Sombra-de-las-Operaciones-de-Glencore-en-Latinoam%C3%A9rica.pdf>

<sup>9</sup> [www.muqui.org/noticias/muqui-informa/defensores-de-espinar-fueron-absueltos-despues-de-8-anos/](http://www.muqui.org/noticias/muqui-informa/defensores-de-espinar-fueron-absueltos-despues-de-8-anos/)

<sup>10</sup> [www.derechosinfronteras.pe/espinar-sentencia-que-ordena-al-minsa-a-atender-personas-con-metales-toxicos-es-un-precedente-social-y-juridico/](http://www.derechosinfronteras.pe/espinar-sentencia-que-ordena-al-minsa-a-atender-personas-con-metales-toxicos-es-un-precedente-social-y-juridico/)

The case also shows how civil society campaigning, nationally and internationally, can also bring about positive change. As a result of communities' pressure, the Ministry of Health undertook clinical studies involving more than 1,600 people from 2010 to 2019 that proved high concentrations of toxic metals in their blood. In December 2020, a court in Espinar recognised that there had been a violation of the local communities' right to life, health and physical wellbeing arising from the contamination of water and soil. The ruling mentioned severe negligence on the part of various ministries and state entities, including the Ministry of the Environment and the Ministry of Health. The court ordered the Ministry of Health to draw up and implement an emergency public health strategy within 90 days.<sup>10</sup> To date, the Ministry has not yet consulted the affected population to develop a comprehensive healthcare plan.

## TÍA MARÍA CASE

The Tía María mining project is in the province of Islay, in Arequipa. It is owned by the Mexican company Southern, which carried out exploration activities until 2010, when the process for an Environmental Impact Assessment (EIA) began. The communities of Islay have repeatedly voiced their fears about the impact the mining activities will have on their water sources, particularly in a province where the main source of income has traditionally been agriculture.

In 2009, a popular consultation took place, and 97 per cent of the people voted against the project. The EIA submitted by the company was found to be fraught with errors, including a lack of basic information that meant the assessment was declared inadmissible in 2011. Three years later, the company presented an updated version, which campaigners argued still lacked essential information. Nonetheless, the updated EIA was approved in 2014.<sup>11</sup>

Consequently, *campesino* communities gathered to protest from March to May 2015. Protesters were confronted with excessive use of force by the national police, which resulted in the deaths of two protesters and one police officer, as well as dozens of injuries.

Several prosecutions followed, with the prosecutor's office identifying the leaders of the protests. The Frente Amplio de Defensa del Valle de Tambo was identified as a 'criminal organisation' and 16 leaders were prosecuted, two of them charged with 'illicit association to commit a crime'. Three of those accused died before trial proceedings started in October 2020. In January 2021, the Collegiate Courts in Arequipa absolved 11 defenders of all charges. However, it condemned three of the leaders to seven to 18 years in prison charged as "non-executive co-authors" of the disturbances, disrupting public services and riots, even if there was no substantiated evidence identifying either of them as committing any of the crimes they were charged with.<sup>12</sup> The sentence has been appealed by their legal representatives, with an appeal hearing scheduled for July 2021.<sup>13</sup>

The recent ruling against the leaders is a further manifestation of the misuse of the justice system to harass HRDs and hamper their work in protecting the environment and local livelihoods. Instead, the local *campesino* communities in Islay remain fearful that attempts to reopen the approval process to start mining exploration will continue, despite widespread social opposition and claims of inadequacies found in the company's environmental impact assessment.<sup>14</sup>

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<sup>11</sup> [www.convoca.pe/agenda-propia/conflicto-en-tia-maria-se-otorgo-licencia-minera-southern-pese-dos-observaciones](http://www.convoca.pe/agenda-propia/conflicto-en-tia-maria-se-otorgo-licencia-minera-southern-pese-dos-observaciones)

<sup>12</sup> [www.muqui.org/noticias/criminalizacion-de-la-protesta-juzgado-de-arequipa-condena-a-3-dirigentes-de-valle-de-tambo-y-absuelve-a-11/](http://www.muqui.org/noticias/criminalizacion-de-la-protesta-juzgado-de-arequipa-condena-a-3-dirigentes-de-valle-de-tambo-y-absuelve-a-11/) The decision also disregarded Sentence 0009-2018/PI/TC of the Constitutional Court recognising the right to social protest to protect a fundamental right can result in limiting other fundamental rights or services.

<sup>13</sup> [www.omct.org/es/recursos/llamamientos-urgentes/per%C3%BA-condena-del-defensor-del-valle-del-tambo-jes%C3%BAs-mariano-reynoso-cornejo](http://www.omct.org/es/recursos/llamamientos-urgentes/per%C3%BA-condena-del-defensor-del-valle-del-tambo-jes%C3%BAs-mariano-reynoso-cornejo)

<sup>14</sup> <https://perusupportgroup.org.uk/2019/11/tia-maria-and-other-conflictive-mining-projects-in-southern-peru/> and <https://perusupportgroup.org.uk/2019/11/tia-maria-green-light-or-amber/>



The approval of the Jatun Ayllu Yura autonomy statute

## 5. BOLIVIA

Bolivia has experienced a political, social and human rights crisis since the October 2019 elections, which were marred by allegations of fraud.<sup>1</sup> The resulting mass protests against the electoral results forced the resignation of Evo Morales weeks later. An interim government was formed, charged with a mandate to manage and administer a transition period and to call new presidential elections.

During this period, human rights violations were denounced due to the excessive force of police and military personnel in response to protests from different sectors. HRDs protesting about the election results were attacked and targeted in their homes.<sup>2</sup> According to publicly available information from the Ombudsman's office, during the period of civil unrest between 24 October and 21 November 2019, 35 people died and 833 were wounded.<sup>3</sup> After controversial delays due to the pandemic, new national elections in October 2020 and local government elections in March 2021 were held peacefully. Investigations into allegations of human rights violations are ongoing by both national authorities and international bodies.

For over a decade, Bolivian governments have prioritised the implementation of policies and economic projects that are linked to extractive industries, including oil and mineral extraction, industrial agriculture and major infrastructure projects. These projects are often given precedence over the preservation of natural areas and the protection of indigenous territories. HRDs and non-governmental organisations (NGOs) that speak out and document negative repercussions of these projects on their local communities have often been confronted publicly by high-level officials who accuse them of acting against the government and the country's interest or of representing the interest of foreign agents. Women HRDs have increasingly taken a bigger role in defending the environment against extractive projects. Because of this, they have been increasingly targeted.<sup>4</sup>

In 2019, forest fires in the Chiquitanía, Chaco and Amazon region of Bolivia caused an environmental and human rights crisis of unprecedented proportions. According to documentary evidence received by the International Tribunal for the Rights of Nature, 6.4 million hectares were destroyed by wildfires and by fires lit following the enactment of Supreme Decree No. 3973, which authorised "the clearing of land for agricultural activities on private and communal land".<sup>5</sup>

<sup>1</sup> [www.oas.org/es/sap/deco/informe-bolivia-2019/](http://www.oas.org/es/sap/deco/informe-bolivia-2019/) and [www.iglesiaviva.net/2021/06/15/entrega-del-informe-memoria-de-los-hechos-del-proceso-de-pacificacion-en-bolivia-octubre-2019-enero-2020/](http://www.iglesiaviva.net/2021/06/15/entrega-del-informe-memoria-de-los-hechos-del-proceso-de-pacificacion-en-bolivia-octubre-2019-enero-2020/)

<sup>2</sup> [www.amnesty.org.uk/urgent-actions/defenders-lives-risk](http://www.amnesty.org.uk/urgent-actions/defenders-lives-risk) and [www.amnesty.org/en/latest/news/2019/10/bolivia-autoridades-deben-respetar-derecho-protesta-pacifica/](http://www.amnesty.org/en/latest/news/2019/10/bolivia-autoridades-deben-respetar-derecho-protesta-pacifica/)  
<sup>3</sup> [www.amnesty.org/en/countries/americas/bolivia/report-bolivia/](http://www.amnesty.org/en/countries/americas/bolivia/report-bolivia/)

<sup>4</sup> [www.cedib.org/wp-content/uploads/2017/12/Cronologia-Ataques-a-ONGs-Actualizac-04-01.pdf](http://www.cedib.org/wp-content/uploads/2017/12/Cronologia-Ataques-a-ONGs-Actualizac-04-01.pdf)

<sup>5</sup> [www.bolivia.infoleyes.com/norma/7098/decreto-supremo-3973](http://www.bolivia.infoleyes.com/norma/7098/decreto-supremo-3973)



In June 2020, the Inter-American Commission on Human Rights (IACHR) declared the admissibility of the case put forward by 64 indigenous communities because of the human rights violations around the construction of the TIPNIS highway. The commission based its ruling on several “decisions and legislative actions that the government has made without the prior and informed consent of the indigenous people”. The events of the past years, the Commission argued, constitute a pattern of systematic and aggressive violations of the rights of indigenous people in Bolivia.<sup>16</sup>

## QHARA QHARA NATION

The indigenous Qhara Qhara nation, located in the Potosí and Chuquisaca departments, has been fighting for more than two decades for the legal recognition of their collective rights to their ancestral territory, against a backdrop of government initiatives that have favoured individual above collective rights.<sup>17</sup>

The Qhara Qhara have argued that state norms and policies contravene their right to self-determination, self-governance and the right to free, prior and informed consent.

In November 2020, and after years of legal and social struggle, the Jatun Ayllu Yara was the first region of the Qhara Qhara nation to achieve indigenous autonomous status. This was approved by an internal consultation based on their own norms and procedures.<sup>18</sup> But their success has not come easily. Accusations and legal proceedings against Qhara Qhara authorities and former leaders battling against the individual titling of ancestral lands saw them criminalised and attacked for their efforts to protect collective territory. In a submission to state legal authorities, the Qhara Qhara nation authorities have called on the state to take steps to protect *ayllu*<sup>19</sup> community leaders from violence and threats from local third-party groups with economic interests in the region.<sup>20</sup>

In February 2019, Qhara Qhara women and men marched more than 700 km from Sucre to La Paz to demand their rights according to the Bolivian constitution and to demand respect for indigenous

autonomy, ancestral territory and traditional indigenous justice systems. They sought direct dialogue with the state and its national-level bodies such as the government and Congress to protect their collective lands and territory that are being forcibly fragmented.<sup>21</sup> Qhara Qhara leaders and former authorities denounced racial discrimination and stigmatisation on the part of the state and government ministers seeking to discredit the indigenous leaders and former authorities and portray them as being manipulated and paid by NGOs.<sup>22</sup> Despite requests from Qhara Qhara authorities to pause individual land-titling processes while the conflict remained unresolved, representatives from the state National Institute of Agrarian Reform (INRA), supported by police, entered Qhara Qhara nation communities in the Quila Quila Marka region while the leaders and many community members were marching to La Paz.<sup>23</sup>

In March 2020, the Qhara Qhara nation leaders, former authorities and representatives of the Indigenous Justice Tribunal presented their case at the 175th Inter-American Commission on Human Rights (IACHR) public hearing in Haiti. The IACHR acknowledged the violations of the human rights of indigenous peoples and expressed concerns over the discrimination they have faced from the Bolivian state over the last two decades.<sup>24</sup> The case taken to the IACHR was one of a number of legal battles fought by the Qhara Qhara to achieve their recognition, including the modification of the Autonomy Law. This law had stipulated that self-determination can only be granted by means of a double referendum. The Qhara Qhara argued, however, that this law contradicted their cultural norms and procedures, thereby violating their rights. The Qhara Qhara won the modification of the Autonomy Law and consequently approved the statute of indigenous autonomy of the Jatun Ayllu Yura in November 2020, following their traditional processes.

The recent legal success of the Qhara Qhara nation may well create more favourable conditions for other indigenous groups that are seeking to protect their collective rights.<sup>25</sup> Nevertheless, as the fight to protect their indigenous rights continues, so do the threats and repression faced by the communities, leaders and former authorities of the Qhara Qhara nation.

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<sup>16</sup> [www.earthrights.org/media/cidh-violaciones-derechos-pueblos-indigenas-tipnis-bolivia/](http://www.earthrights.org/media/cidh-violaciones-derechos-pueblos-indigenas-tipnis-bolivia/)

<sup>17</sup> [www.cedib.org/post\\_presentaciones/infografia-por-que-marcha-la-nacion-qhara-qhara/](http://www.cedib.org/post_presentaciones/infografia-por-que-marcha-la-nacion-qhara-qhara/)

<sup>18</sup> [www.redunitas.org/jatun-ayllu-yura-aprueba-su-estatuto-y-se-convierte-en-la-primera-autonomia-indigena-de-potosi](http://www.redunitas.org/jatun-ayllu-yura-aprueba-su-estatuto-y-se-convierte-en-la-primera-autonomia-indigena-de-potosi)

<sup>19</sup> An *ayllu* is a community-level organisation, forming part of the Andean indigenous local government model. The community member authorities appointed by rotation in an *ayllu* are called to govern some or all areas of community life, encompassing political, economic, socio-cultural decisions, the annual division of community lands for agriculture, and the administration of indigenous justice, among other areas.

<sup>20</sup> [www.porlatierra.org/docs/4eeff2d4c8b16c206547e5d496626c90.pdf](http://www.porlatierra.org/docs/4eeff2d4c8b16c206547e5d496626c90.pdf)

<sup>21</sup> [www.ipsnews.net/2019/04/indigenous-nation-battles-land-justice-bolivia/](http://www.ipsnews.net/2019/04/indigenous-nation-battles-land-justice-bolivia/)

<sup>22</sup> [www.lostiempos.com/actualidad/pais/20190320/indigenas-qhara-qhara-responden-al-gobierno-nosotros-no-dependemos-ninguna](http://www.lostiempos.com/actualidad/pais/20190320/indigenas-qhara-qhara-responden-al-gobierno-nosotros-no-dependemos-ninguna) and [www.la-razon.com/nacional/2019/03/18/marcha-de-la-nacion-qhara-qhara-llega-a-la-paz-gobierno-denuncia-que-ong-buscan-apropiarse-de-tierras](http://www.la-razon.com/nacional/2019/03/18/marcha-de-la-nacion-qhara-qhara-llega-a-la-paz-gobierno-denuncia-que-ong-buscan-apropiarse-de-tierras)

<sup>23</sup> [www.paginasiete.bo/nacional/2019/2/28/qhara-qhara-inra-ingresa-la-zona-la-marcha-continua-210536.html](http://www.paginasiete.bo/nacional/2019/2/28/qhara-qhara-inra-ingresa-la-zona-la-marcha-continua-210536.html)

<sup>24</sup> [www.oas.org/en/iachr/media\\_center/PReleases/2020/056A.pdf](http://www.oas.org/en/iachr/media_center/PReleases/2020/056A.pdf)

<sup>25</sup> <http://sumandovoces.redunitas.org/archivos/1131>

## 6. BRAZIL

Fire in Pará Amazon region, 2020

In Brazil, human rights defenders (HRDs) have experienced a worrying increase in threats, attacks and criminalisation in retaliation for defending the land and territory of indigenous, traditional and poor rural communities from land grabbing, illegal mining and deforestation, which have increased during the pandemic. These risks have also been exacerbated by a hostile government agenda with President Bolsonaro intent on reversing environmental and social protections, poor implementation of existing policies, and a justice system increasingly vulnerable to interference.

COVID-19 has had devastating effects in Brazil and on HRDs. The dismantling of social policies and an ineffective government response have contributed to one of the highest number of deaths and infections in Latin America and globally, deepening socio-economic inequalities. Indigenous peoples, traditional communities, Afro-descendant and *quilombola* communities, women and *favela* dwellers have been

the most affected, including social leaders and HRDs.<sup>1</sup> 2020 registered the highest number of land conflicts since 1985, 25 per cent more than in 2019 and 57 per cent more than in 2018. Territorial invasions increased by 103 per cent in 2020, compared with 2019, with 71 per cent of those affected being indigenous peoples.<sup>2</sup>

Since 2016, Brazil's human rights and environmental protections have been increasingly weakened by legislative changes and poor implementation of existing laws. Powers, budget and staff have been cut from the Brazilian environmental protection agency (IBAMA), land reform agency (INCRA) and indigenous protection agency (FUNAI). Legislative proposals to allow mining in indigenous territories, to undermine regulation of commercial logging, and to reduce the rigour of environmental impact assessment and licensing of mega-projects are being considered. In May 2020, the government transferred responsibility for environmental enforcement in the Amazon from IBAMA to the armed forces, despite their lack of skills and experience.<sup>3</sup>

Deforestation, on the decline since 2003, is rising again. In the 12 months to August 2020, Amazon deforestation increased by 34 per cent.<sup>4</sup> 2019 and 2020 have seen the worst Amazon fires in a decade, with 5,550 km<sup>2</sup> lost in 2019. Most fires are man-made and started for land clearance, particularly for large-scale beef, maize and soya cultivation, and land speculation.

<sup>1</sup> [www.fidh.org/IMG/pdf/rapport-bresil2021ang.pdf](http://www.fidh.org/IMG/pdf/rapport-bresil2021ang.pdf)

<sup>2</sup> *Conflitos no Campo Brasil 2020*, CPT: [www.cptnacional.org.br/publicacoes-2/destaque/5664-conflitos-no-campo-brasil-2020](http://www.cptnacional.org.br/publicacoes-2/destaque/5664-conflitos-no-campo-brasil-2020)

<sup>3</sup> [www.hrw.org/world-report/2021/country-chapters/brazil](http://www.hrw.org/world-report/2021/country-chapters/brazil)

<sup>4</sup> INPE satellite data: [www.obt.inpe.br/OBT/assuntos/programas/amazonia/prodes](http://www.obt.inpe.br/OBT/assuntos/programas/amazonia/prodes)

Changes to – and weak implementation of – land and environmental legislation is leaving indigenous, traditional and landless communities in extreme social and physical vulnerability and further fomenting land conflicts. In January 2019, President Bolsonaro suspended all processes relating to resettlement of landless people, leaving 15,692 families who were awaiting land titling in limbo and at risk of eviction. Previously, land conflicts could be resolved through compulsory purchase by INCRA and compensation payments to landowners. With this option no longer available, landowners instead seek judicial and illegal eviction.<sup>5</sup> In the south-east of Pará alone, 2,000 families living in 12 communities are now facing eviction.<sup>6</sup>

Fraudulent land titling and illegal acquisition of public lands is common in the Amazon. Proposed national law PL510/22 would provide an amnesty and increase to 2,400 hectares the limit for titling, incentivising large-scale illegal grabbing of public lands and deforestation.<sup>7</sup>

Local leaders and environmental defenders experience sustained threats, attacks and criminalisation in retaliation for defending land and territory. According to the Church's Pastoral Land Commission (CPT), 1,938 people were killed in land- and water-related conflicts between 1985 and 2018. In 92 per cent of cases, no one was charged, reflecting the widespread impunity for violence towards HRDs.<sup>8</sup>

While Brazil has a national human rights protection programme (PNDDH), its effectiveness is limited due to a lack of coordination at different levels of government, insufficient funding, lack of political will, and the absence of a legislative framework to guide investigation and prosecution of violations against HRDs. It focuses mainly on physical protection mechanisms for individuals, often requiring relocation for the defender, thereby undermining collective and legal protection strategies.<sup>9</sup> Meanwhile, the Human Rights Ministry and crucial institutional spaces for monitoring public policies were abolished by presidential decree in 2019, while gun laws have been relaxed. In February 2021, a review of the PNDDH was announced that excluded civil society participation.<sup>10</sup>

## THE PAU D'ARCO MASSACRE

This case highlights the brutal violence, harassment and criminalisation suffered by HRDs, the slowness and unresponsiveness of the Brazilian judicial system and failures in protection mechanisms. It shows the



One-year memorial: remembering the victims of the Pau D'Arco massacre

prevailing impunity and legitimisation of violence towards those who order and carry out killings of HRDs.

On 24 May 2017, nine men and one woman, the leader of an encampment of landless rural farmers, were shot dead by civil and military police in the worst massacre of rural workers in Brazil in 20 years. The killings took place in the Pau D'Arco municipality, Pará state, Amazonia, during a police operation at Santa Lúcia farm, the site of an ongoing land dispute between landless farmers and the property's purported owners. The victims bore signs of beatings and torture.

Four civil police and 13 military police officers were accused of homicide, torture, criminal association and interfering with the scene of a crime. In April 2018, 16 of the 17 accused were charged and released on bail, allowed to return to work and bear arms, while awaiting trial by jury. While the defence claims that a shoot-out took place, the federal police autopsy showed that two victims were shot at close range, two in the back, and six had bullets in the chest in a manner unlikely to have occurred in a forest shoot-out. Following a federal and civil police inquiry, no one has been identified or charged with ordering the killings, reinforcing a sense of impunity.

Throughout the case, survivors, bereaved, lawyers and public institutions defending them have been subject to state neglect, intimidation, threats and criminalisation. Forty days after the massacre, a leader of the reoccupation of Santa Lúcia, Rosenildo Pereira, who had also participated in the reconstruction of the crime, was killed. Rosenildo had moved to another municipality following threats and the appearance of

<sup>5</sup> <https://oglobo.globo.com/brasil/governo-para-289-processos-de-reforma-agraria-24154395>

<sup>6</sup> [www.independent.co.uk/voices/climate-change-time-now-brazil-land-rights-rainforest-theresa-may-a8975601.html](http://www.independent.co.uk/voices/climate-change-time-now-brazil-land-rights-rainforest-theresa-may-a8975601.html)

<sup>7</sup> In one study of a mega-farm carried out by CPT in the south-east of Pará state, at least 30 per cent of the sampled area of land disputed with landless workers that was claimed by the landowner was found to be public land. A major study in 2006 showed that in Pará alone there were 30 million hectares of illegally held public land: [www.researchgate.net/publication/260075134\\_Grilagem\\_de\\_terras\\_publicas\\_Amazonia\\_brasileira](http://www.researchgate.net/publication/260075134_Grilagem_de_terras_publicas_Amazonia_brasileira)

<sup>8</sup> [www.ultimosegundo.ig.com.br/brasil/2019-06-12/desde-1985-92-das-mortes-no-campo-por-disputa-de-terra-seguem-sem-solucao.html](http://www.ultimosegundo.ig.com.br/brasil/2019-06-12/desde-1985-92-das-mortes-no-campo-por-disputa-de-terra-seguem-sem-solucao.html)

<sup>9</sup> UN Human Rights Council, Report of the 45th session (2020) (A/HRC/45/12/Add.2)

<sup>10</sup> [www.camara.leg.br/noticias/728581-revisao-do-programa-nacional-de-direitos-humanos-divide-deputados/](http://www.camara.leg.br/noticias/728581-revisao-do-programa-nacional-de-direitos-humanos-divide-deputados/)

his name on a hit list. To date, no one has been named as a suspect or arrested for his killing.

Two lawyers accompanying the case have also suffered intimidation. Lawyer José Vargas Sobrinho Junior received threats, had his home broken into, and suffered a bombing attempt at his office. In January 2021, he was arrested in connection with a murder, following an investigation that the Brazilian Bar Association (OAB) characterised as having multiple flaws and lacking in evidence.<sup>11</sup>



Fernando dos Santos, Pau D'Arco survivor, subsequently assassinated

On 26 January 2021, Fernando dos Santos, another Pau D'Arco survivor and key witness in the criminal case, was shot dead on his own plot of land. Fernando had previously returned to Santa Lúcia in the hope of obtaining collective land title with the other families. He had become a spokesperson for the victims, despite constant threats and intimidation. 18 days before he was assassinated, in an interview with *Repórter Brasil*, Fernando spoke about the threats he was facing: "I was warned to be very careful because they had been overheard saying that that they would find a way to get rid of me, because if there is no witness, then there can be no trial."<sup>12</sup>

Santa Lúcia is a degraded and unproductive rural property of more than 5,000 hectares whose supposed owners have not established the veracity of their claim. The land-title claim, which the occupying 200 landless families had first lodged in 2013, was near successful completion until President Bolsonaro suspended the National Agrarian Reform Programme and all administrative processes of expropriation and compulsory purchases for resettlement of landless people in 2019. In February 2020, INCRA archived the Compulsory Purchase Process, apparently without acknowledging the massacre and without meeting with or informing the landless families of the decision

taken. In response, the owners applied to the court for the execution of an eviction order which was upheld by the Agrarian Court.

Before the massacre, the families had suffered three judicial evictions, destruction of houses and crops. Today, they continue to live under the shadow of a fourth judicial eviction order, as well as ongoing intimidation and risk of violence. They are still waiting for justice.

## PIQUIÁ DE BAIXO

Prioritising economic expansion without full consideration of social and environmental impacts can have lasting and irreversible negative impacts on local communities and ecosystems. Communities whose health and livelihoods are affected by pollution are often unable to access justice and remediation measures (where they exist) and receive no reparations.

Piquiá de Baixo community, Maranhão, is located 434 km along a train line transporting iron ore from the Vale-owned Carajás mine to São Luís port almost 900 km away, overshadowed by five pig-iron processing plants. Residents have long highlighted the environmental and social impacts of iron-ore transportation and processing, including what they claim are violations of the right to health and adequate housing. There is a well-documented presence of widespread respiratory and skin problems among community members.<sup>13</sup> Residents have demanded comprehensive reparations for damage caused by the activity, including mitigation plans and compensation.<sup>14</sup>

In 2012 the community was granted a resettlement agreement; land was identified for relocation and construction began. However, cuts to the federal housing programme that would fund the work have stalled it. Now families are demanding that the mining company, Vale, accepts responsibility for what they say are the adverse environmental impacts of the Carajás complex and that it contributes financially to complete the resettlement process.

Following public pressure and dialogue with the Maranhão government, which began in November 2020 and was supported by the public prosecutor, in May 2021 the state government committed public funds to build a primary school, creche, marketplace, basic health centre and a community square. An additional commitment was made by the municipal government of Açailândia to ensure the operation and maintenance of these new services and infrastructure – an important step forward.<sup>15</sup>

<sup>11</sup> 2021 Civil Society submission to the Office of the United Nations High Commissioner for Human Rights for Brazil on the Pau D'Arco massacre

<sup>12</sup> [www.youtube.com/watch?v=-CfDUFmBxs&t=3s](https://www.youtube.com/watch?v=-CfDUFmBxs&t=3s)

<sup>13</sup> See FIDH (2012): [report\\_brazil\\_2012\\_english.pdf](#) (fidh.org) and FIDH (2019) [brasil734anglaisweb2019.pdf](#) (fidh.org)

<sup>14</sup> The case was brought to the attention of UN mechanisms and was also brought to Brazil's Interior Ministry and the Public Ombudsman's Office. See Brazil: UN expert presents alarming findings following visit, calling for remedy and relocation for Piquiá (fidh.org) and FIDH (2019) [www.fidh.org/en/region/americas/brazil/brazil-piquia-community-fights-against-mining-industry-s-human-rights](https://www.fidh.org/en/region/americas/brazil/brazil-piquia-community-fights-against-mining-industry-s-human-rights)

<sup>15</sup> [www.mpma.mp.br/index.php/lista-de-noticias-gerais/17933-acailandia-mpma-governo-do-estado-e-municipio-firmam-tac-para-obras-em-reassentamento-de-piquia-de-baixo](https://www.mpma.mp.br/index.php/lista-de-noticias-gerais/17933-acailandia-mpma-governo-do-estado-e-municipio-firmam-tac-para-obras-em-reassentamento-de-piquia-de-baixo)



Survivors of conflict: gathering of women defenders

## 7. GUATEMALA

Land and environmental human rights defenders (HRDs) in Guatemala have played a crucial role in the country's democratic transition, but they carry out their work under conditions that put them at constant risk. These include a lack of security of land tenure and conflicts over natural resources, criminalisation and corruption, as well as impunity, lack of access to justice, weak institutions and structural discrimination, including against indigenous peoples and women.

This is especially evident in rural parts of the country, where there is a weak and corrupt justice system and no strong state presence.<sup>1</sup> In May 2021, Guatemala's Constitutional Court overturned an earlier ruling that had stopped controversial legislation targeting NGOs. This legislation will limit their operation in Guatemala, mainly through financial restrictions and obstacles to the freedom of association.

Moreover, Guatemala has long promoted an economic development model that strongly favours the expansion of extractive industries, including in territories that belong to indigenous people. The result

is a hostile environment that constrains the ability of HRDs to work without fear of reprisal.<sup>2</sup>

During the pandemic, the extractive industry has enjoyed preferential treatment, as it has been identified by the government as an essential driver for economic recovery. In contrast, indigenous people have not been effectively integrated into any pandemic-containment strategies. Much like elsewhere in the region, the government's measures to prevent the spread of the virus have failed to integrate indigenous peoples' visions on how to prevent and mitigate infection. For instance, territorial and medicinal autonomy have been overlooked.

The confinement measures taken by the government in response to the onset of the pandemic sparked outbreaks of direct violence against communities and generated a permanent distressed environment. This increased the vulnerability of local journalists, social leaders and HRDs. During 2020, the Guatemalan Human Rights Defenders Unit (UDEFEQUA) registered 1,004 attacks against HRDs.<sup>3</sup> This exceeded the number for 2014, which had been considered the most violent year for defending human rights in Guatemala, when 820 acts of violence were registered. This, according to UDEFEQUA, may be the result of regressive democratic policies that have weakened the institutions that protect human rights work.<sup>4</sup>

<sup>1</sup> [www.fidh.org/en/region/americas/guatemala/guatemala-constitutional-court-ruling-restricts-freedom-of](http://www.fidh.org/en/region/americas/guatemala/guatemala-constitutional-court-ruling-restricts-freedom-of)

<sup>2</sup> [www.oacnudh.org.gt/images/CONTENIDOS/ARTICULOS/PUBLICACIONES/Informe\\_personas\\_defensoras.pdf](http://www.oacnudh.org.gt/images/CONTENIDOS/ARTICULOS/PUBLICACIONES/Informe_personas_defensoras.pdf)

<sup>3</sup> [www.omct.org/site-resources/files/Guatemala\\_UnaDeudaSinSaldar.pdf](http://www.omct.org/site-resources/files/Guatemala_UnaDeudaSinSaldar.pdf)

<sup>4</sup> [www.udefegua.org/informes/un-a%C3%B1o-de-la-toma-de-posesi%C3%B3n-del-ejecutivo-de-giammattei-se-mantiene-en-alza-la-violencia](http://www.udefegua.org/informes/un-a%C3%B1o-de-la-toma-de-posesi%C3%B3n-del-ejecutivo-de-giammattei-se-mantiene-en-alza-la-violencia)

As women participate more actively in their communities to defend their rights, they are also increasingly targeted. They are faced with censure and stigmatisation for adopting social roles that have long been perceived to be male roles. According to CAFOD partner CALDH-Centro Para la Acción Legal en Derechos Humanos, the racist and sexist prejudices against indigenous women portray them in the media as people without autonomy.<sup>5</sup> Women defenders are also increasingly criminalised in the midst of the pandemic.<sup>6</sup> HRDs, leaders, and community organisations are frequently labelled as “delinquents” or “opponents of development”, only to subsequently become targets of attacks and death threats and be subjected to criminal proceedings, which are used to prevent the defence of human rights. In 2020, 313 cases of criminalisation were recorded, most of which relate to people defending their land and territory.<sup>7</sup> Criminal proceedings can last an extremely long time, forcing defenders to be away from their communities, unable to carry out their day-to-day work. These proceedings are often initiated by private companies involved in the mining sector or in the construction of dams.

Despite the state’s commitment to develop a comprehensive and intersectional policy for the protection of defenders, very little progress has been made. Although a draft policy has been produced with civil society participation, human rights organisations have noted with concern the introduction of regressive initiatives, including the announcement to close the Presidential Commission for the Coordination of the Executive Policy on Human Rights (COPREDEH), the institution responsible for monitoring the state’s compliance with its international obligations. In addition, other spaces where dialogue was effective in the past, such as the Organisation for the Analysis of Attacks Against Human Rights Defenders, are no longer functioning.<sup>8</sup>

The cases outlined here relate to conflicts over land and the environment. The first shows a community’s longstanding efforts to be legally recognised as the rightful owners of their ancestral territories. The second highlights how communities that defend the environment and their livelihoods are faced with the constant threat of prosecution after they resort to their right to protest.

## CHICOYOGÜITO

“No tenemos territorio, pero existimos” – We have no territory but we exist – is a motto used by members of the indigenous Maya Q’eqchi community of Chicoyogüito, in the municipality of Cobán, Alta Verapaz, as they continue their fight to reclaim their territory. In 1968, during the internal armed conflict, Guatemalan armed forces forcibly evicted the entire community. Taking only what they could carry, the community were forced to relocate across the country. After the armed forces took control of the territory, the land was converted into a base for military operations and to date continues to be controlled by the Ministry of Defence.



Olivia Sierra, Mayan community leader, Alta Verapaz



When the armed forces arrived, they began to shoot, and people were beaten. People began to flee, and some fell into the river. Siblings were separated. Over 200 families were evicted.”<sup>9</sup>

### Olivia Sierra

Decades later, the families of Chicoyogüito reunited to campaign for their return to their territory. These are the children and grandchildren of those who were forced to leave their homes. The connection to

<sup>5</sup> CALDH (2020) *Monitoreo y análisis del discurso del odio en medios de comunicación contra defensores, defensoras y organizaciones de derechos humanos*

<sup>6</sup> [www.frontlinedefenders.org/es/statement-report/growing-concerns-regarding-situation-women-human-rights-defenders-northeast](http://www.frontlinedefenders.org/es/statement-report/growing-concerns-regarding-situation-women-human-rights-defenders-northeast)

<sup>7</sup> [www.omct.org/site-resources/files/Guatemala\\_UnaDeudaSinSaldar.pdf](http://www.omct.org/site-resources/files/Guatemala_UnaDeudaSinSaldar.pdf)

<sup>8</sup> [www.frontlinedefenders.org/en/statement-report/public-policy-protection-human-rights-defenders-guatemala](http://www.frontlinedefenders.org/en/statement-report/public-policy-protection-human-rights-defenders-guatemala)

<sup>9</sup> [www.cafod.org.uk/News/International-news/Defending-land-in-Guatemala](http://www.cafod.org.uk/News/International-news/Defending-land-in-Guatemala)

ancestral lands runs deep. Women like community leader Olivia are determined to return. “After 40 years, the community of Chicoyogüito started to get together again. We are the children and grandchildren of Chicoyogüito,” Olivia says. “We must do it for our parents, our grandparents, our Mother Earth.”<sup>10</sup>

Every year since 2012, the families gather in Cobán and march for eight days to Guatemala City to highlight their struggle and demand justice for past human rights violations, including reparation for the loss of their territory, and to be granted legal recognition of their collective land title and be allowed to return home. They are hoping to prove that “the community of Chicoyogüito exists and that its people have rights”,<sup>11</sup> and to document their historical memory that will show the human rights impact of past abuses against vulnerable communities.<sup>12</sup>

## **LAKE IZABAL – EL ESTOR**

This case involves an artisanal fishing community, of Mayan Q’eqchi origin, demanding reparations and remedial action because of the contamination of Lake Izabal, which they claim is the result of the activities of the Guatemalan Nickel Company (formerly known as CGN, now as PRONICO) that operates the Fenix mine. PRONICO is a subsidiary of private international mining and metals group Solway Investment Group GmbH, headquartered in Switzerland. The local community have argued that the company is responsible for polluting the waters of the lake, which is the main source of income for the fishing community.

Concerns arose after people living near Lake Izabal saw that one day its water had turned red. They believed that this was the result of a leak of chemical waste from the mining operations of the Fenix mine, located on the shores of the lake. People’s fear of the effects of the contamination was increased by what was seen as a lack of proper prior consultation and transparency over the operations.

In May 2017, during a two-day protest, members of the community gathered outside the CGN installations to express their concerns over the effects of water pollution on their livelihoods, and to demand that the Guatemalan authorities carry out investigations and examinations of chemical waste. Protesters were dispersed by police forces and criminal proceedings against community leaders were initiated. Mayan Q’eqchi journalist Carlos Ernesto Choc has received death threats over the phone and has been criminally prosecuted. He believes that this was because of his work investigating the contamination of Lake Izabal, accompanying the fishing communities, and covering the protests. He was accused of threats, instigation, damage to property and illicit association.<sup>13</sup>

This case exemplifies how state authorities prioritise the rights of large companies over those of communities and use the criminal justice system as an instrument to harass community leaders, who are identified and labelled as instigators. Criminal proceedings usually follow, with charges that are in most cases unsubstantiated, only for the leaders to be subjected to a long judicial process. This affects their financial resources and physical and mental health, therefore weakening their ability to defend their environment.

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<sup>10</sup> *ibid*

<sup>11</sup> *Ibid*

<sup>12</sup> The community is working with the legal and psychosocial support of the Centre for Human Rights Legal Action (CALDH), as part of a three-year Regional Human Rights Defenders project in Latin America, co-funded by the EU.

<sup>13</sup> [www.business-humanrights.org/en/latest-news/carlos-ernesto-choc-chub-prensa-comunitaria-3/](https://www.business-humanrights.org/en/latest-news/carlos-ernesto-choc-chub-prensa-comunitaria-3/) <https://www.prensacomunitaria.org/tag/carlos-ernesto-choc/>

# FREEDOM FOR THE PROTECTORS OF GUAPINOL RIVER!



## 8. HONDURAS

Freedom for Guapinol  
river defenders

Honduras remains one of the most dangerous countries in Latin America for human rights defenders (HRDs), who face alarming levels of violence and threats to community land and livelihoods, driven by economic liberalisation policies and the collusion of the state and private companies.<sup>1</sup>

Honduras has one of the highest murder rates in the world, as well as alarming rates of femicide, with widespread impunity. Although these rates have decreased in the last few years, the persistently high levels of violence make human rights work exceedingly difficult. The Special Commission for Police Reform, created in 2016 to tackle endemic corruption in the police force, has made some progress in identifying and dismissing police officers for misconduct.<sup>2</sup> However, this progress has been undermined by the involvement of the armed forces in carrying out police functions and maintaining public order.<sup>3</sup>

Defenders continue to face threats, stigmatisation, harassment and judicial prosecution, all of which have a disproportionate effect on women HRDs, who often do not have enough resources to pay for legal defence or to be able to travel to judicial or police stations.<sup>4</sup> Between January 2015 and October 2018 at least 43 defenders were killed, with six of those murders being committed since 2017.<sup>5</sup>

Most defenders are unable to work in a safe environment, despite some steps towards establishing formal protection protocols with the adoption of a national mechanism in 2015. A comprehensive public policy for HRDs, backed by political will and an adequate budget, is still pending.<sup>6</sup> There is also little understanding of the specific challenges and needs of women HRDs, and how to address these.

To make things worse, recent governments have aggressively pushed for economic liberalisation policies that favour private economic interests. This has amplified the vulnerability of disadvantaged groups, such as women living in poverty, and brought greater threats to local communities' lands and territories. In August 2018, the government renewed a ministerial agreement that ensures that the content

<sup>1</sup> Report of the UN Special Rapporteur on Human Rights Defenders, Visit to Honduras, January 2019, [www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23081&LangID=E](https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23081&LangID=E)

<sup>2</sup> [www.hrw.org/world-report/2021/country-chapters/honduras#](https://www.hrw.org/world-report/2021/country-chapters/honduras#)

<sup>3</sup> Report of the UN Special Rapporteur on Human Rights Defenders. Visit to Honduras, January 2019, [https://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/40/60/Add.2](https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/40/60/Add.2)

<sup>4</sup> Report of the Working Group on the issue of discrimination against women in law and in practice, June-July 2019 visit, <https://undocs.org/pdf?symbol=en/A/HRC/41/33/Add.1>

<sup>5</sup> Report of the UN Special Rapporteur on Human Rights Defenders. Visit to Honduras, January 2019, [https://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/40/60/Add.2](https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/40/60/Add.2), p.9

<sup>6</sup> Ibid.

of environmental permits granted to companies and extractive industries will remain confidential for five years. Indigenous people are placed in a vulnerable situation by this agreement, combined with a lack of legal enforcement of their rights to free, prior and informed consent.



Father Ismael Moreno Coto, S.J. (Father Melo) speaking at a Mass in memory of five *campesinos* who were massacred by the military in 1991 for fighting peacefully for their land. They are considered to be 'martyrs of the soil'.



Our economic model has been built on the privatisation of public services where human rights have been lost, and the rights of nature are disrespected.”

**Father Ismael Moreno Coto, S.J.,  
ERIC-Radio Progreso**

The country's deep inequalities have been made more evident with the global pandemic. “The privatisation process means that those who are sick have limited access to medicine and hospital treatment, and medical equipment in hospital is getting worse,” remarked Father Melo in an interview with CAFOD.

## GUAPINOL CASE

Community leaders defending the rivers of Guapinol and San Pedro, in the municipality of Tocoa, Colón department, have been the target of ongoing attacks, stigmatisation and threats, including judicial prosecution. These are believed to be linked to

their activities in defence of their rivers and local environment, against the construction of a highway intended to provide access to a mining site for iron-ore extraction. The river provides clean water for drinking, washing and bathing for approximately 15,000 people, and is the sole source of drinking water for both the villagers of Guapinol and communities in the surrounding areas. It is claimed that large-scale farming and industrial mining activities are already devastating the local environment and communities' livelihoods. Now, local communities are concerned that the contamination of local rivers is caused by the sediments left over from the construction of the highway, which end up in the rivers.

The concession for iron-ore extraction was granted to the Honduran company Los Pinares – which according to some press reports is linked to the largest steel producer in the United States, the Nucor Corporation – in 2014. The mining site was located inside the Carlos Escaleras National Park, which was declared a protected area in 2012 because of its rich biodiversity. However, in 2013 the government passed legislation to change the demarcation of the boundaries of the national park, paving the way for the concession to be granted in that area a year later. The people of Guapinol claimed there were serious irregularities in the authorisation of the concession, as well as lack of information about potential environmental impacts or mitigating strategies and meaningful prior consultation, with the company installed in their communities and starting operations.<sup>7</sup>

In June 2018, the residents of Guapinol and other communities from the Tocoa region began an 88-day camp protest along the highway, demanding an end to the concession. In October the camp, named 'For Water and Life', was forcibly dismantled after an eviction order had been granted by the state authorities and the company. A series of judicial prosecutions against Guapinol leaders followed.

The authorities accused 18 leaders of charges including illegal encroachment and illicit association, which allowed them to be kept under preventive detention. This was the first time that the charge of illicit association was used against environmental defenders.<sup>8</sup> The communities appealed the charges and a judge ruled in their favour, definitively dismissing the case for lack of substantiated evidence – a ruling that was firmly upheld in November 2019 following an unsuccessful appeal by the company. A second set of legal proceedings against Guapinol leaders began in August 2019, with eight leaders placed in preventive detention, including seven of the 31 leaders who had been charged in February of the same year. All face charges of illicit association and remain in prison awaiting trial.

<sup>7</sup> [www.iwmf.org/reporting/the-hidden-connection-between-a-u-s-steel-company-and-the-controversial-los-pinares-mine-in-honduras/](http://www.iwmf.org/reporting/the-hidden-connection-between-a-u-s-steel-company-and-the-controversial-los-pinares-mine-in-honduras/)

<sup>8</sup> [www.guapinolresiste.org/](http://www.guapinolresiste.org/)

Many irregularities in the judicial process have been reported. In March 2020, for instance, a court's decision denying the defence's appeal to release the community leaders appeared to be based on information from a different case file. The court also rejected the appeal to drop the charges due to baseless accusations – without basing its decision on concrete evidence to the contrary. At the time of writing, the detainees continue to be denied bail.<sup>9</sup>



Juana Esperanza Esquivel Urbina,  
land and environmental human  
rights defender, Honduras



I have reached the extreme of telling my daughters not to say who their mother is. It is hard but I am protecting them.”

**Juana Esperanza Esquivel Urbina**

Cases against community leaders have been allowed to proceed despite a perceived lack of evidence, with prosecutors using appeals to reopen cases that had been considered closed. Some of the leaders whose charges were dropped in November 2019 now live under constant threat of being deprived of their freedom, due to a successful appeal to reopen accusations against them in August 2020, filed by the company and the prosecutor.<sup>10</sup>

On 9 February 2021, the UN Working Group on Arbitrary Detentions issued an urgent action calling on the authorities to immediately release eight imprisoned Guapinol defenders. A month later, they stressed the urgency of the situation due to prison conditions, made worse during the pandemic, and declared the state's responsibility to guarantee their wellbeing and physical integrity.<sup>11</sup>

After more than three years, Guapinol leaders continue to be criminalised despite a lack of substantiated evidence. This reflects a pattern whereby business interests collude with state authorities to protect private economic interests. The Guapinol case is not unique, as the justice system is used regularly as a tool to criminalise dissenting voices that go against the economic extractivist model, while companies' activities continue to negatively affect the environment of local communities and their common home.

<sup>9</sup> [www.omct.org/es/recursos/llamamientos-urgentes/nueva-criminalizaci%C3%B3n-contra-los-defensores-de-guapinol](http://www.omct.org/es/recursos/llamamientos-urgentes/nueva-criminalizaci%C3%B3n-contra-los-defensores-de-guapinol) and [www.trocaire.org/news/one-year-on-and-honduran-environmental-defenders-still-in-jail-without-trial/](http://www.trocaire.org/news/one-year-on-and-honduran-environmental-defenders-still-in-jail-without-trial/)

<sup>10</sup> [www.amnesty.org/download/Documents/AMR3729342020SPANISH.pdf](http://www.amnesty.org/download/Documents/AMR3729342020SPANISH.pdf)

<sup>11</sup> [www.guapinolresiste.org/post/urgent-action-immediately-release-guapinol-defenders-in-high-risk](http://www.guapinolresiste.org/post/urgent-action-immediately-release-guapinol-defenders-in-high-risk)



Cajamarca is the agricultural pantry producing Arracacha (Andean parsnip). Stand of the Association of Arracacha Producers (*Asociación de Productores de Semillas Andinas/ASPROSAN*) during the Alternatives Fair in Cajamarca, Tolima.

## 9. KEY FINDINGS

In this report we have identified some of the most common patterns of threats and attacks against human and environmental human rights defenders, specifically those fighting to preserve their land, territories and water. *Campesinos*, Afro-descendant and indigenous people and, among them, women, experience a disproportionate impact. Our findings show that threats to the lives and livelihoods of these defenders are not isolated incidents: they are systemic in the region, with structural patterns of abuse by corporate and state actors. However, our research also shows that many defenders have employed a variety of brave and innovative methods to defend their land, territory and the environment, and to seek full reparation for the harm they have suffered.

### MAIN ISSUES AND TRENDS

1. **Unequal control over and access to land and natural resources are harming human rights, including the right to a healthy environment, as well as the environment itself. Human rights and the environment are interdependent.**

Communities such as those of the Mayan women and families of Chicoyogüto in Guatemala, the Wayúu women in La Guajira, Colombia, or the Qhara Qhara nation in Bolivia have a deep connection to their territory and ancestral lands, which they help to protect for future generations. For indigenous peoples, Afro-descendant and *campesino* communities, land, rivers, mountains and territories and nature have rights. Prioritising the expansion of mining and agribusiness to boost economic recovery often ignores affected communities' voices and comes at the cost of rights to life, health, water, livelihoods, and to a safe, clean, healthy and sustainable environment – as well as harming the environment itself. The cases show the integrality of rights: economic, social, cultural and environmental rights abuses also impact on the right to life, physical integrity and security. Without a safe environment, other rights cannot be guaranteed. Ignoring these rights and the protection of the environment can lead to ecocide and ethnocide, with irreparable effects on entire ecosystems and richly biodiverse regions on which communities depend and that sustain their cultures, spirituality, livelihoods and food security.

Fair access to and control over land and natural resources is a recurrent theme across all case studies presented in this report. For instance, the La Colosa gold mine project in the municipality of Cajamarca, Colombia, risks destroying the area's water sources, unique wetland ecosystem and the livelihoods of thousands of *campesinos* who subsist off the land. Not only does this put their food sovereignty and the right to food at risk, an entire region known as the *Despensa Agrícola*, the agricultural larder of Colombia, risks losing its productivity. The construction of a highway through the TIPNIS indigenous reserve in the Bolivian Amazonia sparked a social conflict that has lasted ten years. In Brazil, communities in Piquiá de Baixo are facing the social and environmental repercussions of iron-ore processing and transportation activities of the vast Carajás mine. In Peru, the Antapaccay and Tía María mining projects have been marked by socio-environmental conflicts. Affected indigenous and *campesino* communities claim a lack of consultation and human rights violations. They also report the criminalisation of social protest when they speak out against negative impacts of the mining projects, which include risks to health, livelihoods and the contamination of water sources and the environment. A failure to implement and the weakening of land and environmental law are root causes of human rights violations, as seen in Brazil.



View of Piquiá de Baixo showing how close the houses are to the steel works

## 2. Civic space is increasingly restricted, with lack of effective community participation in the decisions that affect them.

An open civil society, where human rights defenders can live and work safely, ensures that human rights are respected and that governments are held accountable. However, there is worrying evidence that some of the countries covered seem to be going in reverse – that is, civic space is being restricted, with limited spaces for genuine public participation and the prevalence of a hostile, often deadly, environment in which HRDs are

forced to operate. This is in stark contrast to the open spaces in which the extractive industries continue to operate. Countries documented in this report have, in the last ten years, introduced decrees and laws with provisions to restrict the work of civil society organisations (Bolivia, Guatemala). In the context of the pandemic and economic recession, states have undermined citizen environmental monitoring and prior consultation processes to fast-track projects. Excessive and disproportionate force is used, affecting the legitimate right to social protest (Colombia, Peru). Those who speak out are often threatened, attacked or killed. These barriers to democratic participation, where community participation is limited and restricted, are leading to societies that are less and less democratic and inclusive, replicating historical patterns of exclusion.

Communities' rights to free, prior and informed consent are repeatedly disregarded. Frequently, community consultations on economic projects do not follow FPIC principles or are undermined by co-optation, bribery or inaccessible and incomplete information about likely impacts, with access to information and participation limited even further by digital exclusion. In Cajamarca, Colombia, mining concessions remain in the territory despite the outcomes of a popular consultation. In Bolivia, a government consultation on the construction of a highway through the Isiboro-Sécure Indigenous Territory and National Park (TIPNIS) was criticised for a lack of authentic and effective indigenous community representation. Lack of meaningful consultation is an underlying cause of social conflict and protest, often resulting in protesters facing legal harassment, as demonstrated by the case of the Guapinol defenders in Honduras, or the case of mining in Espinar and Islay, in Peru.

## 3. States are failing to protect human rights defenders from harm.

While some states have taken positive steps towards creating formal protection mechanisms for defenders, our evidence shows that these have failed to prevent human rights abuses or provide an effective avenue for HRDs and their communities to seek redress. In Brazil and Colombia, HRD protection programmes are not effectively responding to the diversity of HRDs (such as gender, ethnicity, sexual orientation and territorial approach, among others), have failed to be implemented properly and/or lack sufficient funding. Most of these protection programmes are reactive, becoming effective only when harm has already happened instead of preventing harm. They are only temporary measures and often lack coordination with measures addressing the causes of the harm. Guatemala has recently regressed on policies to protect HRDs. Peru's recently approved intersectoral protection mechanism is an important milestone, yet

there is still work to be done to tackle indiscriminate use of force by state and police forces during social conflicts, or the use of the justice system to press charges against those seeking justice and reparation for environmental harm.

States' ability to protect HRDs has also been hampered by electoral crises, fragile institutions, the lack of an independent judiciary and state institutions, and ongoing conflict, such as in Colombia. Weak governance, including corruption, also contributes to the perpetuation of impunity for corporate activity, explored further below.

States have proved not only unable, but also unwilling, to protect HRDs. In Brazil, communities face a government agenda intent on dismantling the protections that safeguard them as well as the water, land and forests they protect and depend on. In this context, international protections are necessary to safeguard HRDs from attack, as explained in the recommendations to this report.

#### **4. Lack of recognition, stigmatisation and criminalisation is being used systematically to undermine HRDs. In contrast, impunity for perpetrators is widespread.**

Criminalisation is a systematic strategy used by states as well as businesses to silence HRDs when their work is not considered to be in line with economic or social priorities, including in response to socio-environmental and land conflicts against extractive projects, large agribusiness and infrastructure projects. In Honduras and Guatemala, the legal system is commonly misused to protect state and private sector interests from those who are first identified as leaders of social protests. In Guatemala, smear campaigns and hate speech against defenders by mainstream media have also been used to delegitimise their work; racist and sexist views are expressed particularly against women, indigenous people and rural land defenders.<sup>1</sup> After more than three years, Guapinol leaders in Honduras continue to be criminalised despite a lack of substantiated evidence and the intervention of the UN Working Group on Arbitrary Detentions.

Similarly, the use of the justice system to harass HRDs is a common practice in Peru, with more than 960 cases of criminalised defenders recorded over the last ten years.<sup>2</sup> Processes can be protracted for years, with the prosecution repeatedly reopening cases and presenting unsubstantiated evidence. This strategy is used to intimidate and silence defenders and the communities and organisations they are part of. Criminalised defenders face ostracism and

stigmatisation by authorities and media, excluding them from public and community life.

Defenders face attacks on multiple fronts: in Brazil and Colombia, criminalisation of HRDs occurs in a landscape of systematic failure of protection mechanisms, harassment and violence against those defending their land and environment – combined with impunity for perpetrators of abuse. While the survivors and bereaved of the Pau D'Arco massacre (and the lawyers and public institutions defending them) in Brazil have been subject to intimidation, killings and criminalisation, no one has actually been identified or charged with responsibility for the killings.

#### **5. The COVID-19 pandemic has increased the risks for HRDs – making them more vulnerable, hindering their ability to work, and increasing risks from corporate activity.**

The pandemic has had a disproportionate impact on indigenous, Afro-descendant and *campesino* communities, as well as on women, who face increased vulnerability, poverty and hunger, a deepening of pre-existing inequalities, a lack of state presence and environmental protections, and the advance of illegal economic or armed groups on their territories. In the context of the pandemic, social leaders and HRDs have seen an increase in attacks, acts of violence, and risks to life, health, and personal integrity.<sup>3</sup>

The confinement measures taken by governments such as Guatemala's have failed to prioritise the needs of indigenous communities and led to further violence against them, while in Peru, the pandemic has restricted the state's ability to protect indigenous communities from illegal activities, including logging and land grabbing, and limited the participation of local communities in environmental monitoring of mining companies' impacts on water sources. During the pandemic, in countries such as Colombia and Peru, police and military forces have used excessive force when dealing with social protest, including protests against extractive companies that continued operations. Protesters have also demanded that their basic rights be guaranteed. This situation has made the work of defenders even more difficult and dangerous.<sup>4</sup>

States across the region have used the COVID-19 pandemic as a reason to lower social and environmental standards and prioritise mega-businesses to kickstart the economy. This includes Brazil, Colombia, Peru, Guatemala and Honduras, where the extractive sector often continued operating or tended to be given preferential treatment over environmental and social regulations. Businesses

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<sup>1</sup> CALDH (2020) *Monitoreo y análisis del discurso del odio en medios de comunicación contra defensores, defensoras y organizaciones de derechos humanos*

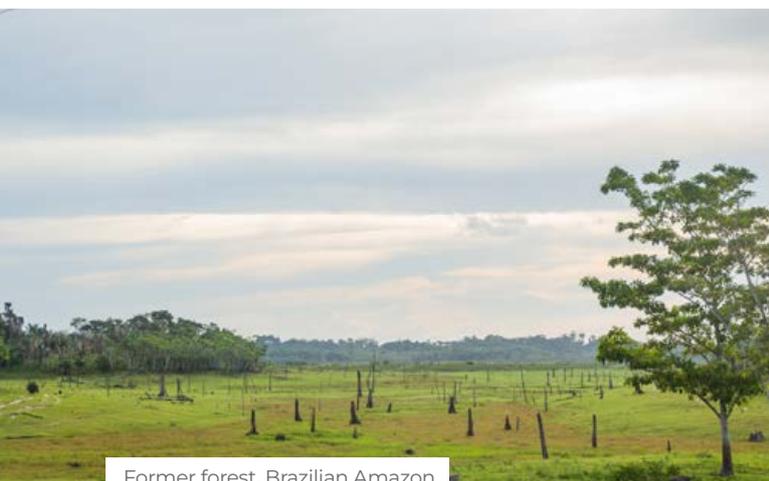
<sup>2</sup> [www.undocs.org/A/HRC/46/35/Add.2](http://www.undocs.org/A/HRC/46/35/Add.2)

<sup>3</sup> [www.frontlinedefenders.org/sites/default/files/flid\\_globa\\_analysis\\_2020.pdf](http://www.frontlinedefenders.org/sites/default/files/flid_globa_analysis_2020.pdf); [www.oas.org/es/cidh/prensa/comunicados/2020/124.asp](http://www.oas.org/es/cidh/prensa/comunicados/2020/124.asp)

<sup>4</sup> [www.hrw.org/news/2020/11/18/latin-america-its-time-end-police-abuse](http://www.hrw.org/news/2020/11/18/latin-america-its-time-end-police-abuse)

have pushed for Latin America-based companies tied to their supply chains to resume extraction, with profit margins for agribusiness and gold and copper mining increasing during the pandemic, despite risks of spreading the virus to remote and indigenous areas with poor health facilities and vulnerable populations.

## 6. Corporate activity and the economic models that underpin it are driving attacks on HRDs.



Former forest, Brazilian Amazon

As we have mentioned, unequal distribution of land and access to natural resources is one of the main drivers of attacks on HRDs. This is underpinned, in many cases, by an economic development model that strongly favours the expansion of extractive industries and agribusiness, creating ‘sacrifice zones’ within territories that belong to indigenous, ethnic and *campesino* communities. This model is aggravated by international demand for natural resources and agricultural products. International companies flouting deforestation or human rights due diligence, and people who consume their products, are complicit in driving demand for soy, cattle, timber and other commodities in Brazil – thereby worsening land conflict and connivance between local landowners and politicians, local militias, security forces and judiciary, even where they are not directly involved in abuse.

In other cases, multinational companies and their subsidiaries are directly present in the region. In Colombia, the case of the Cerrejón mine – jointly owned by international companies BHP, Anglo American and Glencore (based in Australia, the UK and UK/Switzerland respectively)<sup>5</sup> – illustrates communities’ struggles to defend their human, environmental and cultural rights, and the massive barriers they face to accessing justice. This is similarly demonstrated by the case of social leaders in Peru voicing concerns over the activities of the Tintaya-Antapaccay-Coroccohuayco mine, owned by Glencore.

Where international influence is not immediately present, companies identified as national are often in receipt of investments and support from multinational corporations.<sup>6</sup> Communities in Guatemala and Honduras have been the target of ongoing attacks, stigmatisation and threats, including judicial prosecution, for defending precious water sources against mining companies linked to huge multinationals headquartered in the US and Switzerland.

States facilitate company impunity by weakening environmental and human rights protections and agencies (for example, in Brazil) and providing the state security forces as private security to mining companies (for example, in Colombia and Peru), while citizens lack protection.

In this context, the international community must take rapid and effective steps to hold transnational corporations to account for human rights abuses and environmental harm.

## STRATEGIES AND APPROACHES USED BY HRDs

But all is not bleak. Latin America has a vibrant civil society that has worked tirelessly for decades to achieve justice and equality. Despite the dangers they face, defenders are using innovative strategies to resist harmful corporate and state activity, and to generate change in the countries where they work.

### 1. Amplifying local voice, agency and leadership

Local leaders and communities recognising their inherent power, and accessing information, knowledge and capacity to organise, defend human rights and influence development outcomes, is at the heart of systemic change in support of people and the environment.

- **Community assemblies and collective decision-making to strengthen dialogue with local government:** Following pressure and dialogue by the Piquiá de Baixo community with the Maranhão government in Brazil, the state and municipal governments agreed to allocate public funding for the construction and maintenance of public services and infrastructure. This is an important step towards guaranteeing human rights for this community impacted for decades by the Carajás mining complex.
- **Community documentation of systematic human rights violations and the impacts of business activities:** In Espinar province, Peru, communities have joined forces to carry out participatory water-

<sup>5</sup> As of June 2021, Glencore plc have agreed to acquire their joint-venture partners’ stakes in Cerrejón, Anglo American and BHP, with the transaction expected to complete in 2022.

<sup>6</sup> Violated Collective Rights (arccgis.com)

monitoring studies to assess the extent of toxic-metal contamination and demand recognition and reparation for affected communities. As a result of this evidence, in December 2020 a court in Espinar recognised that there had been a violation of the local communities' human rights arising from the contamination of water and soil, and ordered the government to draw up and implement an emergency public health strategy.

- **Amplifying knowledge and use of human rights mechanisms and strategies:** In Guatemala, CAFOD partner CALDH is supporting social leaders and human rights defenders, women, indigenous leaders, journalists, to learn about human rights and protection strategies, including communication strategies and exchanging learning with other defenders and rural communities.



Women participating in workshops on recovering historical memory

## 2. Collective mobilisation and coalition building to advocate for change

Social movements and organisations across the continent have for decades recognised: the importance of building coalitions and alliances to strengthen influence over decision-makers, share strategies and engage with private and public stakeholders; and the importance of collective mobilisation to voice their demands to bring about social change and reclaim their rights.

- **Building coalitions, networks and alliances for advocacy:** In Tolima department, Colombia, for example, a range of diverse stakeholders (including local and national government, *campesinos*, local

communities, journalists, youth and women's groups, and academics) work cohesively to resist a mining company's plans to build a huge mine in their communities, through roundtable meetings, outreach at local, regional and national level, and an annual 'carnival march' (see below).

- **Social protests and direct actions to defend territories:** In Guatemala, every year since 2012, the families of the community of Chicoyogüito gather in Cobán and march for eight days to Guatemala City to demand justice for past human rights violations and to be granted legal recognition of their collective land title. Similarly, in Colombia, for more than a decade, diverse communities and stakeholders have come together for an annual 'carnival march' in Ibagué, Tolima, which has in the past drawn together more than 130,000 people. This march has become a point of reference for those defending the territories and their water sources from extractivism.



Here in Cajamarca we celebrate life. That is why we organise our march as a carnival, a party. We don't want to be martyrs; we want to celebrate life! This carnival march has made the issue visible in the media. The process inspired six other popular consultations in other parts of the country, and 40 more in process, which the government has stopped."

**Robinson Mejía, human rights defender, Colombia**



Carnival march with *carrao* parade. The parade and competition promote *campesino* culture in Cajamarca: different villages register to compete in the *carrao*, a typical cart that transports people and food between the villages. It is decorated with agricultural products produced by Cajamarca *campesinos*.

- **Reports and investigations on the situation of HRDs:** CAFOD partners have published reports documenting the human rights and environmental impacts of company operations, including on land and rural conflicts in Brazil, or in Peru on repression of social protest during the pandemic in Espinar or as part of the Red Sombra Latin America shadow report to the *Glencore Sustainability Report*.<sup>7</sup>

### 3. Use of legal and administrative mechanisms, and self-protection strategies

Civil society organisations across the region also use national laws, regional and international human rights frameworks, alongside other protection strategies, to highlight and report issues of concern and exert pressure on their own governments to achieve change.

- **Civil society accompaniment:** In Brazil, CAFOD church partner CPT have accompanied legal cases of threatened, criminalised and murdered HRDs for several decades, seeking justice for bereaved families. They also participate in formal policy monitoring spaces to try to improve state protection mechanisms and are involved in initiatives to improve HRDs' management of their physical and digital security risks. They have accompanied community advocacy and media actions to ensure that violations against HRDs are brought to public attention and not forgotten during the long battle for justice.
- **Strategic litigation:** In Honduras, strategic litigation and international advocacy have been used to seek justice and reparations in the emblematic case of the eight defenders of the Guapinol and San Pedro rivers who have been deprived of their liberty in a penal process marked by irregularities, lack of legal backing and arbitrary pre-trial detention.
- **Legal recognition of self-determination:** In Bolivia, the Qhara Qhara nation gained its self-determination, following a long legal battle for their collective rights and an internal consultation process based on their own norms and procedures. This recognition of ancestral territorial rights and of the self-determination of indigenous communities will provide jurisprudence, ensure a greater say in the protection of their natural resources, territory and the environment, and set an example for other indigenous communities to follow.
- **Public consultations:** In Colombia, communities from Cajamarca, Tolima department, united their efforts to defend their territories and access to clean water from the impacts of a mining company. Citizens led a public consultation that overwhelmingly said 'no' to the La Colosa mining concession and managed to halt mining activities in the region. This use of the *consulta popular*

mechanism has inspired other communities to follow in Cajamarca's footsteps, although Colombian courts, pressured by government and business, have moved to prevent this mechanism from being used. CAFOD partner Siembra is now using legal mechanisms to uphold the implementation of the result of the public consultation, and recently filed complaints against three mining concession contracts.

- Other strategies used in the cases in this report are individual and collective **self-protection mechanisms** to prevent and reduce risk, including digital security, increase protection planning and wellbeing, developing **protocols for monitoring** and protecting territories and social leaders, and **emergency protection funds**.

### 4. International advocacy and engagement

In parallel with national strategies, HRDs have sought to raise concerns and increase protection by advocating to international governments and engaging in collective action and networks to denounce abuses and press for change.



Davi and Dario from the Hutukara Yanomami Association visit the UK to raise awareness of the threats indigenous peoples face.



The UK is the international centre of the mining industry and the second largest importer of gold from Brazil. We call on you to ensure that no gold, other minerals or agricultural products from our lands comes to the UK. Please stand in solidarity with us.”

**Letter from Instituto Raoni and Hutukara Yanomami Association to Prime Minister Boris Johnson, 3 February 2020.**

<sup>7</sup> [www.multiwatch.ch/content/uploads/2007/01/Informe-Sombra-de-las-Operaciones-de-Glencore-en-Latinoamerica.pdf](http://www.multiwatch.ch/content/uploads/2007/01/Informe-Sombra-de-las-Operaciones-de-Glencore-en-Latinoamerica.pdf)

■ **UK advocacy and corporate engagement:**

Supported by CAFOD and in partnership with local civil society organisations, defenders have: contributed to the UK Support for Human Rights Defenders; submitted evidence to consultations on legislation to regulate global supply chains, including to the UK Department for the Environment, Food and Rural Affairs (DEFRA) consultation on the introduction of due diligence on forest risk commodities; and contributed to the EU Commission consultation on the Sustainable Corporate Governance initiative. CAFOD partners supporting HRDs have also participated directly in UK company AGMs and are part of a global campaign against unethical and unsustainable investment, led by the Churches and Mining Network in Latin America.

■ **Advocacy to the EU and other international governments:**

In coalition with other human rights NGOs, CAFOD partner CPT submitted evidence on the Pau D'Arco massacre to the National Human Rights Council (CNDH), the UN High Commissioner for Human Rights and the EU Delegation, calling for Brazilian authorities to investigate the case.<sup>8</sup> In April 2021, two threatened and criminalised HRDs, accompanied by CPT, participated in a public hearing with representatives from the European Parliament Delegation for Cooperation with Brazil to speak about the situation of HRDs in the region and the links to supply chains in the EU.<sup>9</sup>

■ **Collective advocacy with international networks:**

CAFOD partners have also engaged in international advocacy with the UN, EU and member states in partnership with CIDSE, an international coalition of Catholic social justice organisations. This led to a global pronouncement of 230 Catholic bishops on the need for corporate regulation and the subsequent presentation of the emblematic Cerrejón mine case at the 6th session of the UN intergovernmental working group at which the second draft of the Binding Treaty on Business and Human Rights was discussed.<sup>10</sup>

## 5. International human rights mechanisms and instruments

Defenders have also been engaging with international human rights mechanisms and instruments, including the UN Special Procedures mechanism and the Inter-American Human Rights System. These spaces provide an international platform to give visibility to human rights abuses committed by states and companies against HRDs across the region. HRDs, NGOs and local

communities are making use of these mechanisms and instruments to raise awareness of their situation and seek justice – some with great success.

■ **UN human rights special rapporteurs and procedures:**

In March 2021, a network of CAFOD partners and water and environmental defenders across Latin America held an international learning exchange on the role of women defenders, protection strategies in the context of criminalisation and extractivism, advocating and raising international visibility with the EU and with UN Special Rapporteur on the situation of human rights defenders, Mary Lawlor.

■ **Inter-American Human Rights System:** In June 2020, the Inter-American Court of Human Rights – an autonomous organisation whose mission is to promote and protect human rights in the American hemisphere – declared the admissibility of the case put forward by 64 indigenous communities from Bolivia, because of the human rights violations around the construction of the TIPNIS highway. At regional level, REPAM, the Catholic Church Pan-Amazon Network that promotes the rights and dignity of people living in nine countries in the Amazon, has organised regional thematic hearings at the Inter-American Commission on Human Rights to denounce human rights abuses linked to extractive industries and territorial rights of indigenous people and, in 2020, a regional forum on indigenous rights during the pandemic.

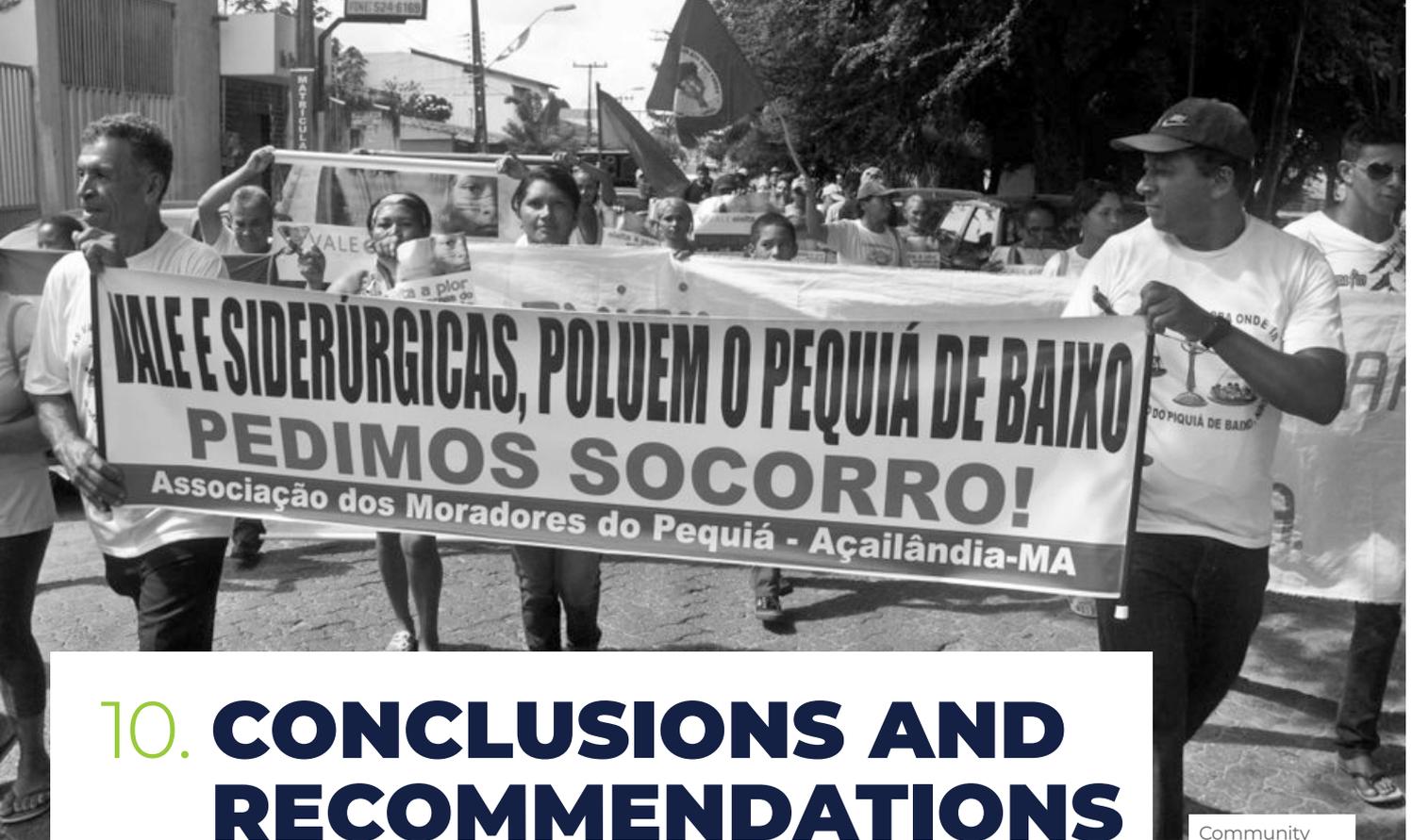
■ **OECD Guidelines on Multinational Enterprises:**

In Colombia, CAFOD partner Cinep/PPP and a group of national and international NGOs filed three simultaneous complaints to the OECD National Contact Points (NCPs) in Ireland, the UK and Switzerland, raising failures to comply with the OECD Guidelines on Business and Human Rights by the Cerrejón mining project. While the NCPs cannot impose sanctions themselves, they can recommend government action to prevent abuse.

<sup>8</sup> [www.cptnacional.org.br/publicacoes/noticias/conflitos-no-campo/5529-chefe-da-onu-direitos-humanos-na-america-do-sul-cobra-do-governo-brasileiro-investigacao-do-assassinato-de-fernando-dos-santos](http://www.cptnacional.org.br/publicacoes/noticias/conflitos-no-campo/5529-chefe-da-onu-direitos-humanos-na-america-do-sul-cobra-do-governo-brasileiro-investigacao-do-assassinato-de-fernando-dos-santos)

<sup>9</sup> [https://multimedia.europarl.europa.eu/en/delegation-for-relations-with-federative-republic-of-brazil\\_20210415-1345-SPECIAL-DELEGATIONS-1\\_vd](https://multimedia.europarl.europa.eu/en/delegation-for-relations-with-federative-republic-of-brazil_20210415-1345-SPECIAL-DELEGATIONS-1_vd)

<sup>10</sup> [www.cidse.org/2020/10/13/cidse-contribution-to-the-6th-session-of-the-un-binding-treaty/](http://www.cidse.org/2020/10/13/cidse-contribution-to-the-6th-session-of-the-un-binding-treaty/)



Community mobilisation in Piquiá de Baixo

## 10. CONCLUSIONS AND RECOMMENDATIONS



...we feel a strong call to promote a different globalization, one characterized by solidarity, justice, and respect for human rights, making Latin America and the Caribbean not only the continent of hope but the continent of love'

**Final document of the 5th General Conference of the Episcopate of Latin America and the Caribbean (64), 13-31 May 2007<sup>1</sup>**

Land and environmental human rights defenders are an essential part of democratic societies: they belong to, and speak on behalf of, the most disadvantaged sectors of society – including those who are historically disadvantaged on grounds of race, gender and other factors – and they hold governments and corporate actors to account, ensuring transparency and accountability in decision-making. They are essential actors for sustainable development, working tirelessly to ensure that groups and communities facing marginalisation have equal access to social and health services, and to guarantee their right to a dignified life and standard of living, including food security and clean water.

In addition, they safeguard our common home, protecting biodiversity, traditional knowledge, cultural heritage and ecosystems – all essential components of human life on earth. They seek to keep greenhouse gases in check for all of us and fight against environmental degradation contributing to climate change. Their lives are deeply interconnected with the communities and family members whom they protect, and their wellbeing and cultures deeply depend on the land and its rich natural resources.

But these courageous women and men are increasingly being attacked, threatened and killed. Across the region, they operate in an environment permeated with social, economic and political structures that sustain deep inequalities – in particular, the unequal distribution of land and unfair access to common natural goods. Structural patterns of abuse include: a lack of recognition; stigmatisation and criminalisation by states as well as businesses; ineffective formal protection mechanisms for HRDs and lack of implementation where these do exist; and a lack of effective space in which they can meaningfully participate in decisions that affect them.

The COVID-19 pandemic has exacerbated the deep inequality and increased the risks of intimidation, attacks and killings that human rights defenders face across Latin America. With the pandemic wreaking havoc on economies

<sup>1</sup> [www.celam.org/aparecida/Ingles.pdf](http://www.celam.org/aparecida/Ingles.pdf)

across the region, the prospect of economic development is driving a landscape in which companies – and other actors connected to their supply chains – can operate freely and with impunity. It has also exposed the burden of risk carried by HRDs and their communities from global supply chains, further underscoring the importance of tackling harmful business behaviour.

A just response to, and recovery from, the COVID-19 pandemic must address the power imbalance between companies and the communities affected by their operations. In the words of Pope Francis, “Economy should be the art of achieving a fitting management of our common home, which is the world as a whole.”<sup>2</sup> Urgent action is required to protect the lives of courageous women and men working to protect our common home and human rights. This action needs to be taken not only by governments across Latin America, but also by other states, international bodies, businesses and investors to help prevent and stop abuses in the supply chains of multinational companies.

We urge the following.

#### UK GOVERNMENT:

- **Introduce a new law to make companies prevent negative impacts on human rights and the environment and hold them accountable if they fail to do so.** This law must cover all industries and sectors and be based on the highest international human rights and environmental standards. The law should require commercial organisations to conduct human rights and environmental due diligence – identify, prevent, mitigate and account for risks to HRDs – across their global operations, subsidiaries and value chains. It must include liability for human rights and environmental harms and enable access to justice for victims of corporate abuse.
- **Effectively implement the 2019 Guidelines on Human Rights Defenders** by equipping and training representatives to carry out the Guidelines’ commitments across the Latin America region. This must include better protection for HRDs (including support for those who are negatively impacted by business activities), long-term flexible funding, and rapid response mechanisms. Constructive monitoring of the systematic implementation of the guidelines, with the involvement of civil society, can contribute to share best practices and lessons learnt.
- **Recognise the collective rights of communities and their defenders.** The UK must reverse its statement at the UN General Assembly in 2020 that

it does “not accept the concept of collective human rights in international law”,<sup>3</sup> and must ensure that future corporate accountability laws recognise the need to protect collective rights – as individual defenders are part of groups, organisations and communities who share their risks.

#### EU AND MEMBER STATES:

- **Introduce strong legislation on environmental and human rights due diligence** (due to be tabled by the EU Commission in autumn 2021) based on the highest international standards. This must include strong provisions on liability and access to remedy for victims of human rights abuse by business, as well as protection of environmental and human rights defenders.
- **Effectively implement the EU Guidelines on Human Rights Defenders** to promote and encourage respect for the right to defend human rights, support defenders at risk, and influence other countries to carry out their human rights obligations.

#### LATIN AMERICAN STATES:

- **Ensure a safe and enabling environment for defenders to defend rights, recognise the positive contribution made by HRDs to society, and put an end to the criminalisation and stigmatisation of defenders** for their work, especially those participating in social protests.
- **Respect and protect the role and independence of the judiciary and national human rights public institutions,**<sup>4</sup> including effective state presence in all territories, strong social and environmental safeguards (that can prevent land and natural resource conflicts), and judicial independence not subject to improper influences; and combat corruption.
- **Implement robust, preventive and integrated protection mechanisms to safeguard human rights defenders against any violence, threat or pressure,** including by companies, armed groups and other actors with economic and/or political interests. Involve a diverse range of defenders in the development, choice, implementation and evaluation of holistic protection mechanisms, recognising that some defenders are at higher risk than others due to factors such as their sex, gender, race and ethnicity.
- **Guarantee the right to meaningful consultation, participation and free, prior and informed consent,** in accordance with the UN Declaration

<sup>2</sup> Pope Francis (2013) *Evangelii Gaudium*, p.206

<sup>3</sup> United Nations – Third Committee, 14th meeting – General Assembly, 75th session (19 November 2020): <https://media.un.org/en/asset/k1/k1lyp8nmpw>

<sup>4</sup> These include *defensorías del pueblo*, *procuraduría de derechos humanos*, and ombudsmen offices.

on Indigenous Peoples Rights and ILO Convention 169 – ensuring this is extended to other *campesino* and traditional rural communities, not just indigenous peoples.

- **Strengthen and foster binding and effective democratic participation mechanisms that recognise the rights of *campesino* and rural communities** to actively take part in decisions that affect them, as outlined in the UN Declaration on the Rights of Peasants and Other People Working in Rural Areas.
- **Sign, ratify and implement the Escazú Agreement** (on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean) and other national and international norms that protect HRDs. For those countries that have ratified the agreement through their national procedures, create effective public policies in coherence with this instrument.
- **Combat impunity by ensuring independent, prompt and effective investigation, prosecution and sanctions** for those responsible for ordering, financing and carrying out harassment, attacks and killings of HRDs – including by law enforcement officials.

#### **ALL GOVERNMENTS:**

- **Support the UN Binding Treaty on Business and Human Rights** and champion the protection of human rights defenders by engaging constructively in the Treaty process.
- **Support and drive the incorporation of indigenous peoples, land and environmental defenders into climate change mitigation and adaptation strategies** as part of the implementation of the UNFCCC and Paris Agreement commitments to reduce greenhouse gases and limiting global temperature rise to 1.5°C.

#### **BUSINESSES AND INVESTORS:**

- **Respect the principle of free, prior and informed consent of indigenous and other communities affected by their supply chains, operations and investments** – including recognising communities' right to say 'no' to activity on their lands.
- **Demonstrate commitment to HRDs through adherence to the UN Guiding Principles on Business and Human Rights and the OECD Guidelines on Multinational Enterprises**, including the implementation of due diligence processes and strengthening of grievance mechanisms, and making these and other specific HRD policies and processes public.
- **Withhold approval for investment where impact assessments reveal serious human rights and environmental risks and threats to civic freedoms and defenders.**
- **Refrain from stigmatising and criminalising defenders, and instead stand publicly with land and environmental HRDs when they are attacked.**

# GLOSSARY

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TERM	DEFINITION
<b>Campesino</b>	Peasants, small- and medium-size farmers, rural landless people and rural workers who cultivate and have a sense of belonging to the land.
<b>Criminalisation of human rights defenders</b>	The misuse of the criminal and legal system by state and non-state actors with the aim of paralysing, discrediting, sabotaging or preventing the legitimate exercise of their right to defend human rights. This includes illegal and arbitrary detentions, pretrial detention, unreasonably lengthy criminal proceedings, false allegations, misuse of counter-terrorism laws.
<b>Escazú Agreement</b>	The Escazú Agreement entered into force on 22 April 2021. It is the first legally binding instrument in the world to include provisions on environmental human rights defenders (EHRDs), and the first environmental agreement adopted in Latin America and the Caribbean. It covers Access to Information, Public Participation and Justice in Environmental Matters.
<b>Extractivism</b>	An economic model of development involving large-scale exploitation of natural resources and natural commons for global markets, such as gas, oil, mining and hydroelectric dams. It also can be used to describe exploitative agro-business, tourism or other illicit economic activities.
<b>Favela</b>	An informal settlement, slum or poor neighbourhood typically located in an urban area, characterised by a lack of land titles and basic services in Brazil
<b>Free, Prior and Informed Consent</b>	A right that pertains to indigenous peoples as recognised in the United Nations Declaration on the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and ILO Convention 169, and which has been extended to other traditional communities by some countries. It allows them to give or withhold consent to a project that may affect them or their territories and withdraw it at any stage. This right is exercised through meaningful consultation and in a manner consistent with their own customs, values, and norms. This consent and meaningful consultation should also apply to <i>campesinos</i> and other rural communities, who have a special connection to their land and resources.
<b>Human rights defenders (HRDs)</b>	Individuals or groups who peacefully stand up and speak out to protect their fundamental rights and freedoms and those of their communities.
<b>Land and environmental human rights defenders</b>	Refers to human rights defenders who peacefully protect their homes, communities, livelihoods, and the health of our planet from the adverse human rights and environmental impacts of industries and business operations, such as mining, agribusiness, oil and gas.
<b>Quilombola communities</b>	Refers to rural Afro-descendant communities in Brazil, comprised of the descendants of freed or escaped slaves, who have traditionally occupied lands known as quilombos. These Afro-descendant communities were recognised as having distinct rights to culture and to collective property by the 1988 Brazilian Constitution, especially Article 68.



Catholic Agency for  
Overseas Development

This report has been produced by CAFOD as part of the project “Defending Land, Territory and the Environment: Promoting the work of human rights defenders in Latin America,” implemented by CAFOD, CALDH and Cinep/PPP, and co-funded by the European Union.



DEFENDIENDO LA  
TIERRA, EL TERRITORIO  
Y EL MEDIO AMBIENTE:  
PROMOVRIENDO EL  
TRABAJO DE DEFENSORAS  
Y DEFENSORES EN  
AMÉRICA LATINA



This publication has been produced with the financial assistance of the European Union. The contents of this publication are the sole responsibility of CAFOD and the project and can under no circumstances be taken as reflecting the position of the European Union.

The Catholic Agency for Overseas Development (CAFOD) is the official aid agency of the Catholic Church in England and Wales and part of Caritas International.

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