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“Essential actors of our time”: Human rights defenders in the Americas

1. Introduction

The persecution of government critics, opposition politicians, journalists, human rights defenders, trade unionists, academics and students is as much a characteristic of the history of Latin America and the Caribbean as it is of the present. The end of several protracted conflicts, transitions to democratic forms of government and new economic development models have not always produced expected dividends in the exercise of fundamental freedoms.

Impressive improvements have been achieved, but the exercise of fundamental freedoms is still fragile in many countries. In others, past practices designed to silence critics, while no longer recognized as official state policy, frequently guide and shape the behaviour and actions of officials at different levels of the state apparatus. In a few cases, notably Colombia and Cuba, serious regressions are becoming an issue of worldwide concern.

Against this backdrop, representatives from civil society working for the promotion, protection and defence of human rights have emerged as crucial actors in the struggle to ensure that governments account for their actions and strive to uphold the principles of the rule of law. Across the Americas, human rights defenders have fought, often against the odds, to establish fairer, more equitable societies. In so doing they have enhanced human dignity and helped alleviate the hardships of many of the most impoverished, marginalised and deprived sectors of the population.

As men and women human rights defenders in North America, Latin America and the Caribbean have campaigned to compel governments to deal with gross inequalities in the distribution of wealth, access to basic health facilities, education, water and food. They have fought to protect the environment and defend economic, social and cultural rights. They have sought justice for crimes against humanity, and for violations committed by state agents including extrajudicial killings, “disappearances” and torture. They have insisted on democratic and judicial reform and exposed government corruption.

There exists a long tradition of repression of the brave individuals who defend human rights in Latin America and the Caribbean. No amount of words or statistics can adequately reflect the dangers defenders have faced on account of their endeavours. Activists have been killed, tortured, “disappeared”, subject to arbitrary arrest, death threats, harassment, defamation and

restrictions on their freedom of expression, association and movement. Sometimes their children and other relatives have been targeted.

The United Nations (UN), the Organizations of American States (OAS)¹, the European Union (EU), international, regional and national governmental and non-governmental human rights organizations have long deplored the grave insecurity facing members of civil society conducting activities to strengthen respect for human rights. Despite this and despite some positive developments examined in this report, governments have in the main been unwilling or unable to take the allegations of attacks and intimidation against human rights defenders seriously and deliver measures and reforms which could prevent and reverse the pattern of violations against them.

Meanwhile, the persecution of human rights defenders continues, in some instances reaching emergency proportions. Since August 2002, at least 15 human rights defenders rights and scores of trade unionist have been killed in Colombia. In Guatemala, one of the 18 human rights defenders killed between 2000 and 2003 had his tongue and ears removed. In Honduras several environmentalists and one human rights lawyer were killed between 2001 and 2003. In many countries, excessive and indiscriminate use of force during demonstrations has resulted in scores of killings, injuries, detentions and reports of torture against those exercising their right to peaceful assembly.

The large number of killings and acts of violence and intimidation against human rights defenders are frequently carried out by members of state security forces, paramilitary groups, "death squads" or armed groups. In many instances, attacks are commissioned or perpetrated by local political bosses and landowners who respond to quasi-official power structures based on systems of political favours. Cases of deliberate and arbitrary killings by armed opposition groups have also been documented.

Paradoxically, security policies and legislation intended to improve safety for society at large have frequently aggravated hostility towards those carrying out human rights activities. Refusal by human rights defenders to lend blanket approval to security measures they esteem breach both domestic and international human rights legal standards has provoked statements by senior government officials accusing them of being unpatriotic, defenders of delinquents or linked to subversive or terrorist groups.

The past two years have witnessed a global drive to push forward national security measures in the context of the "war on terrorism". This international climate has threatened human

¹ All countries in the Americas region are members of the OAS, with the exception of Cuba.

rights protection in the Americas in a number of significant ways, including the security of human rights defenders. In the USA and several countries in Latin America and the Caribbean new security measures have been misused to restrict and hamper the work of human rights defenders and sometimes to target defenders themselves.

Accusations against human rights defenders have sometimes been actively promoted in selective sectors of the media, usually government owned media, in an attempt to detract public attention from or discredit the serious concerns raised by defenders. Sadly, the overall impact of such publicity, whether intentional or not, has been to spawn a false perception that respect for human rights is contrary to security interests.

In a few countries, dangers faced by human rights defenders have been compounded by the transfer of power, either through the introduction of exceptions to the rule of law or through special legislation, from civilian institutions to the executive or members of the armed forces. Such steps have weakened the power of civilian mechanisms of control, primarily the judiciary, to intervene on behalf of defenders to ensure respect for their rights in instances of arbitrary actions by state agents.

Barring a few notable exceptions, for instance Cuba, there are few legal restrictions on the activities of civil associations in the Americas. The law is, however, increasingly subverted in order to harass human rights workers. Cases of spurious criminal charges filed against human rights activists, including journalists, and complaints of defamation² or other forms of *desacato* offences have risen dramatically over the last two years. Surveillance, raids on the premises of non-governmental organizations and theft of important information have become commonplace and widespread.

As human rights defenders across North America, Latin America and the Caribbean consolidate efforts and form new alliances to address complex human rights problems related to free trade agreements, the activities of private sector companies and global economic policies, they are increasingly at risk of human rights violations by state agents or individuals who perceive their criticism and proposals as a threat to economic interests. Growing global

² The term defamation refers to the category of laws designed to protect reputations. These laws are also called slander, libel, insult and *desacato* laws. However, some of these laws, in particular those that codify defamation as a criminal offence, are sometimes misused to restrict freedom of expression. Defamation laws serve a legitimate purpose, protecting reputations by providing redress against certain types of malicious statements. However, the use of such laws to silence government critics, including human rights defenders, in order to assist those accused of human rights violations to escape prosecution, is unacceptable. Defamation laws can also be used to restrict freedom of expression and limit the free flow of information and ideas, including information that might clarify the involvement of state agents in human rights violations.

inequities, extreme poverty and pervasive discrimination are issues that cause widespread unrest and concern international financial agencies, governments, civil society at large as well as human rights defenders and social activists.

Women human rights defenders across the region make unique and important contributions to improving respect for human rights, women’s rights and women’s participation in public life. Women organize to challenge discrimination and abuse in the work place, to end rape, unregulated abortion, domestic violence, poor education and lack of access to basic health facilities. They are at the core of the human rights movement seeking justice for relatives who have been killed, “disappeared” tortured by members of the security forces. They too suffer attacks.

Lack of official commitment to tackle difficulties faced by human rights defenders is most obvious during judicial proceedings and investigations. Investigations into offences committed against human rights defenders are frequently veiled in secrecy, inconsistencies and irregularities as the perpetrators seek to cover up their crimes and pervert the course of justice. Most frequently, allegations are not taken seriously and no judicial investigation is initiated. Progress on a small number of cases is due in the main to pressure from the international community.

In the context of persistent human rights violations against human rights defenders, the first section of this report outlines the international framework for the protection of human rights defenders and their work and highlights some developments since the adoption of the UN Declaration on Human Rights Defenders in 1998.³ Attention is paid to state and second government responsibility in respect of defenders.

The second section of this report examines recent cases of attacks and intimidation of human rights activists from the USA to Argentina. The case studies are not an exhaustive account of the difficulties and dangers facing human rights defenders, rather they illustrate how current political and economic trends in the Americas region have aggravated and compounded insecurity for many defenders. Within the confines of this report priority has been given to cases of human rights defenders from civil society, although Amnesty International has also

³ On 9 December 1998, on the eve of the 50th anniversary of the Universal Declaration of Human Rights, the UN General Assembly adopted the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms. The Declaration has become commonly known as the Declaration on Human Rights Defenders.

documented many cases of human rights violations against state agents working for the promotion and protection of human rights.

Finally, five years on since the adoption by the UN General Assembly of the Declaration on Human Rights Defenders, a set of principles issued to ensure states guarantee the rights of those defending human rights, Amnesty International challenges governments in the Americas to convert human rights rhetoric into real commitments by establishing protection of human rights defenders as a priority on both national and regional human rights agendas.

Human rights defenders, who are they? What do they do?

The UN Declaration on Human Rights Defenders describes defenders as all those individuals, groups and organs of society that promote and protect universally recognized human rights and fundamental freedoms. In other words, human rights defenders are all those men and women who act on their own or collectively to contribute to the effective elimination of all violations of the fundamental rights and freedoms of peoples and individuals. This work includes, but is not exclusive to, the search for truth and justice and strengthening the rule of law, the strengthening of democratic governance and accountability, the struggle for gender, racial and sexual equality, the protection of economic, social and cultural rights and the rights of indigenous peoples, the struggle against environmental degradation, hunger, disease and poverty, the struggle for a fair standard of living, education and medical attention, the struggle to end war and arms proliferation and to provide urgent assistance to victims of conflict or natural disasters. Defenders work in various spheres of society and their work is inspired and guided by internationally recognised human rights standards.

International, regional and national human rights governmental and non-governmental organizations have affirmed and adhered to this broad and inclusive definition of human rights defenders with the aim of ensuring the concept takes into account all forms of human rights activities carried out by different types and groups of people around the world.

Equally, the concept of human rights defenders is defined by a person's action in respect of human rights rather than their professional title, i.e. the crucial issue is what a person does for the protection of the rights of other people, not who they are. Promoting, protecting and defending human rights can take varied forms.

Human rights work is both humanitarian and political in nature in the measure that human rights defenders raise individual cases of human rights violations, seek redress and reform with the intention of compelling governments to improve respect for fundamental freedoms.

To this end, human rights defenders monitor and report on government policy and practice to uphold the principles of the rule of law and human rights standards protected in domestic and international legislation. By exposing breaches in the obligations states have decided to adhere to and uphold, or contradictions between official rhetoric and reality, human rights defenders comment on the exercise of political power.

By exercising freedom of expression, movement and association human rights defenders provide a gauge, set standards and encourage respect for these principles in society at large. The degree of engagement of a government with the community of human rights defenders is a measure of its commitment and understanding of human rights and its willingness to make improvements in human rights protection.

Conversely, the degree of difficulties and attacks faced by human rights defenders often reflects the pervasiveness of human rights violations at large. The key behind attacks on human rights defenders is the need of the perpetrators of human rights violations to cover up their crimes in order to escape prosecution. Without human rights defenders, most victims of human rights abuses are easily coerced or intimidated into desisting from their complaints. For this reason, respecting the work of human rights defenders should be an important component of any efforts designed to tackle impunity and improve access to justice.

Governments or state agents that criticise, denigrate or attempt to obstruct or curtail the right of civil society to scrutinize and monitor official activities in relation to respect of human rights standards only expose their lack of commitment to upholding these standards. Indeed, harassment and attacks against human rights defenders and failure to investigate such crimes should be subject to extra scrutiny, since such attacks are usually intended to deflect blame and detract attention from original reports of human rights violations, to hamper investigations and redress or to silence perceived government critics.

Becoming a human rights defender or social activist should not imply forfeiting individual rights to hold independent political opinions and to affiliate to political parties. Members of government who attempt to justify attacks against human rights defenders by associating their activities with political leanings, make the admission that not only are human rights defenders at risk on account of their work, but that members of political opposition parties are also unable to enjoy fundamental freedoms.

In a region afflicted with past political dictatorships and authoritarian regimes, the human rights movement has been instrumental in promoting new forms of political participation by all sectors of society and has supported democratic reform and transparent electoral procedures. Human rights defenders exercise their right to hold political views across the full

spectrum, but such views should never be used to detract attention from the universality and neutrality of the human rights principles they defend.

Government officials frequently attempt to discredit human rights work by alleging human rights activists working in specialised areas lack impartiality. Defenders working on torture may be accused of only making allegations against members of the security forces, of being defenders of criminals or not empathizing with victims of crime and the killing of policemen during the course of duty. Human rights lawyers litigating cases of crimes against humanity may be criticised for not working on cases of arbitrary killings by armed opposition groups, and so forth.

Concern for the victims of crime is at the heart of all human rights work. When crimes are committed by state agents, those entrusted with upholding and guaranteeing the rule of law, then the unique role and expertise of human rights defenders become especially more important.

According to the Secretary-General of the UN, "Human rights defenders are at the core of the human rights movement the world over "They form the base that regional and international human rights organizations and mechanisms, including those within the United Nations, build upon in the promotion and protection of human rights." The Assistant Secretary General of the OAS defined them as "essential actors of our time". Defenders are the voice of the voiceless, crucial instruments for safeguarding the rights of victims and society at large.

International protection of human rights defenders

The right to defend human rights is universally recognised. Governments the world over have signed international declarations, resolutions and statements which extol and encourage such activities as crucial in the struggle to improve human dignity, alleviate poverty and discrimination and ensure the strengthening of societies based on democratic principles and the rule of law.

On 9 December 1998, on the eve of the 50th anniversary of the Universal Declaration of Human Rights, the UN General Assembly adopted the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms. The Declaration has become commonly known as the Declaration on Human Rights Defenders.

The adoption of the UN Declaration on Human Rights Defenders at such a significant moment reflected the level of priority and importance afforded to the role of human rights defenders in advancing the promotion and protection of human rights, and their role as watchdogs, whistleblowers and critics of official policy and practice on human rights. In short, governments agreed that the work of human rights activists is a vital safeguard against officials who abuse power, against governments who try to conceal abuses from the public domain, against governments who show disregard for the rule of law or against governments who fail to protect individuals from abuses by non-state actors.

Governments also agreed that efforts by human rights defenders in regard of monitoring, scrutiny and making proposals for improvement are not only compatible with state obligations to comply with domestic and international human rights law and standards, but greatly contribute to and further this end.

As well as providing recognition for the work of human rights defenders, by adopting the UN Declaration on Human Rights Defenders states agreed to ensure defenders are free and able to carry out their human rights activities without interference, obstacles or fear of retaliation. The Declaration is a set of safeguards designed to guarantee the rights of defenders and ensure their proper protection. States agreed on these safeguards because they understood human rights defenders often put themselves at great personnel risk in daring to criticise or challenge the power of the state.

To this end, the UN Declaration on Human Rights Defenders sets out the rights of human rights defenders, identifying specific freedoms and activities which are fundamental to their work, including the right to know, seek, obtain and receive information about human rights and fundamental freedoms, the right to participate in peaceful activities against violations of human rights and the right to criticize and complain about the non-compliance of governments with human rights standards, and to make proposals for improvement. By referring to the right to act collectively the Declaration pays special attention to freedom of association and the right to act in collaboration with others for the protection of human rights. The Declaration requires that states address these rights and freedoms to ensure human rights defenders may carry out their work freely, without interference or fear of threats, retaliation or discrimination. The text of the Declaration is given in Appendix I to this report.

The Declaration on Human Rights Defenders is a set of principles based on legal standards enshrined in international human rights law, adopted by every member of the United Nations through their participation in the UN General Assembly. To encourage its implementation, the 1999 session of the UN Commission on Human Rights called on all states to give effect to the Declaration and to report on their efforts. The Commission urged all UN human rights bodies and mechanisms to take the provisions of the Declaration into account in their work. In

addition, the UN Secretary-General appointed a Special Representative on Human Rights Defenders with a mandate to monitor, document and intervene on behalf of human rights defenders under threat.

The governments of the Americas recognized the importance of individuals, groups and non-governmental organizations who promote human rights in June 1999 when a resolution entitled "Human Rights Defenders in the Americas", was adopted by the General Assembly of the OAS. In the resolution, governments stated their intention to implement the UN Declaration on Human Rights Defenders. In particular, they agreed to "recognize and support the work carried out by Human Rights Defenders and their valuable contribution to the promotion, observance, and protection of fundamental rights and freedoms in the Americas." The resolution called on member states to provide "Human Rights Defenders with the necessary guarantees and facilities to continue freely carrying out their work of promoting and protecting human rights" as well as to adopt "the necessary steps to guarantee their life, liberty, and integrity".

In June 2000, the OAS General Assembly adopted another resolution regarding human rights defenders, reiterating its support for their valuable work and urging "member states to intensify their efforts to adopt the necessary measures..., to guarantee the life, personal well-being, freedom of expression of human rights defenders, in accordance with internationally accepted principles and standards."⁴ In 2001, the Unit for the Protection of Human Rights Defenders was established by the Inter-American Commission on Human Rights.

The responsibility of governments to protect human rights defenders

A strong human rights movement is an asset to society at large. Efforts by civil society to promote, protect and defend human rights contribute, rather than run counter, to state obligations to guarantee the fulfilment of human rights for the benefit of all sectors of society. States may not always agree with views and criticisms voiced by human rights defenders. But disagreement, even controversy, cannot be invoked as a validation to perpetrate, instigate or turn a blind eye on attacks and intimidation against defenders.

As the cases in this report illustrate, governments have been reluctant to recognise the value of human rights expertise present in different spheres of civil society. Instead of engaging

⁴ AG/RES.1711 (XXX-O/00)

such skills for the purpose of building comprehensive plans to tackle serious human rights problems, successive governments have, in too many instances, taken action to suppress human rights activities.

Officials working with a brief to protect human rights in state institutions, for example human rights ombudsman's offices, often face similar difficulties and dangers. In addition to being denied the necessary resources and autonomy to conduct their activities properly, those who fail to defend government interests or dare to probe official practice on human rights are frequently the victims of physical attacks and intimidation.

Under the UN Declaration on Human Rights Defenders civil society has the right and the obligation to act autonomously to protect human rights. Governments frequently dispute this autonomy misinterpreting, sometimes purposefully, their duty to uphold national and international human rights standards as an authorization to control all public activity in relation to human rights. Equally, states use this pretext to co-opt or subjugate civil society initiatives on behalf of human rights or to discredit human rights defenders who refuse to participate in official human rights activities they perceive may compromise their autonomy or may be contrived to further political agendas.

Legally, under international human rights treaties, governments are accountable for attacks, harassment, including the misuse of the judicial system, and threats against human rights defenders carried out by law enforcement officials and other agents of the state. In accordance with these treaties the government has a duty to guarantee respect for human rights by taking effective action to ensure state agents act within the rule of law, to prevent abuses, to investigate and bring those implicated in human rights violations to justice and to award reparation to their victims. This duty implies an obligation to impart justice by ensuring diligence in the criminal prosecution of offenders and the removal of any obstacles that might obstruct the workings of justice.

As members of the UN and the OAS, governments in the Americas are a party to – that is, have voluntarily undertaken a legal commitment to uphold the provisions of – numerous international and regional human rights treaties. The supremacy of international treaties over all domestic law is a clear international legal principle.⁵

⁵ The supremacy of international and regional human rights treaties over ordinary law is established in several Constitutions in Latin America, for example, El Salvador, Honduras, Guatemala, Argentina, Colombia and Venezuela, among others.

State responsibility for human rights violations includes not only violations of human rights committed directly by state agents but also, in certain circumstances, abuses by other individuals. The government has obligations to take action against individuals who hamper or threaten the work of human rights defenders, whether or not the state ordered, connived or acquiesced in such abuses. If the state fails to act with due diligence to prevent, investigate and punish abuses, including harassment of human rights defenders, it is responsible under international human rights law. The responsibility of states to take action to prevent and punish human rights abuses by other individuals is established in the core human rights treaties. The International Covenant on Civil and Political Rights and the American Convention on Human Rights require state parties to "ensure" the rights of these Covenants; an obligation which the UN Human Rights Committee and the Inter-American Court of Human Rights respectively have indicated extends to protection against acts inflicted by people acting in their private capacity.

Positive developments and the role of second governments

Any assessment of protection of human rights defenders should consider different understandings of the word protection. According to UN Secretary General, Kofi Annan: "Protection is a complex and multi-layered process, involving a diversity of entities and approaches."⁶ The International Committee of the Red Cross has described protection as: "The concept of protection encompasses all activities aimed at ensuring full respect for the rights of the individual in accordance with the letter and the spirit of the relevant bodies of law, i.e. human rights law, international humanitarian law and refugee law."⁷

In short, protection is a combination of strategies and activities that cut across all aspects of public life. Concerted international pressure and S.O.S appeals on behalf of human rights defenders in immediate danger have resulted in a few governments in Latin America promising action to protect human rights defenders. To date, the majority of these initiatives have been limited in scope or have not yet become operational. They do, however, offer hope.

In **Guatemala**, steps to protect human rights defenders have focused on combating weaknesses in the administration of justice and impunity. A government appointed attorney in 2002 to investigate attacks against human rights defenders has made some progress in identifying those responsible for such attacks. Also in 2002, negotiations began to establish a *Comisión para la Investigación de Cuerpos Ilegales y Aparatos Clandestinos de Seguridad*

⁶ Report of the UN Secretary General to the Security Council on the protection of civilians in armed conflict UNdoc.S/2001/331, 30 March 2001

⁷ International Committee of the Red Cross, *Strengthening Protection in War*, Geneva, ICRC, 2001

(CICIACS), Commission to Investigate Illegal Armed Groups and Clandestine Security Apparatus, aimed at investigating those who perpetrate attacks against human rights defenders, members of the judiciary and others. Despite widespread support both in Guatemala and abroad, at the time of writing the Commission was still not established.

In 2003 in **Brazil**, the *Coordenação Nacional de Proteção aos Defensores de Direitos Humanos*, National Coordination for the Protection of Human Rights Defenders, made up of government officials and representatives from civil society, was established. The National Coordination will facilitate the creation of commissions in those states where insecurity of human rights defenders is greatest, i.e. in Espírito Santo, São Paulo, Tocantins, Pernambuco, Paraíba and Pará. At the time of writing the commissions were in the process of being established. Other new proposals include a campaign to raise awareness of work carried out by human rights defenders and drafting of federal law to regulate the creation, responsibilities and faculties of a Federal Program for the Protection of Human Rights Defenders.

While efforts to improve protection for **Mexican** human rights defenders lack a clear institutional framework, some positive steps by the federal government could pave the way for improvement. These have included protection measures for a number of human rights defenders at risk, but such protection has rarely been extended to defenders at state level where they face most danger. For its part, the *Comisión de Derechos Humanos del Distrito Federal de la Ciudad de México (CDHDF)*, Human Rights Ombudsman's Office for the federal district of Mexico City, has been instrumental in raising the profile of those who carry out work to promote human rights.

In **Colombia**, efforts by the Ministry of the Interior to administer several programs established for the purpose of protecting human rights defenders, trade unionists and journalists have been only partially beneficial, largely on account of operational, administrative and bureaucratic problems. In 2003, the UN High Commissioner for Human Rights recommended the Colombian Government ensure the program "operates effectively, providing it with sufficient funds and with clear and uniform parameters for assessing risk". The High Commissioner also emphasized the need for the Government to "always opt for mechanisms that act preventively against risk factors"⁸. Official efforts by the Colombian Government to protect human rights defenders and trade unionists have been heavily criticised for failing to provide durable solutions on security or to tackle the real causes of the problems. Activists have questioned the viability of items such as bullet-proof jackets when so many human rights defenders and trade unionists continue to be killed, including some under the protection of the programs of the Ministry of the Interior.

⁸ UN Doc E/CN.4/2003/13, para156.

In Colombia, no noteworthy progress has been made on numerous other proposals requested by human rights defenders and trade unionists which imply greater collaboration and political will from all levels of the state apparatus, in particular the Colombian military.

Foreign governments with diplomatic missions, humanitarian and development projects in the Americas have been instrumental in helping to improve safety for human rights defenders. Some of the most significant support includes assisting at human rights conferences, visiting vulnerable human rights defenders in isolated areas, acting as intermediaries between governments and the human rights community and making strong public statements condemning attacks and intimidation of human rights defenders.

As part of its foreign policy the previous government of Paraguay was instrumental in drafting and promoting a series of resolutions for the protection of human rights defenders adopted by the General Assembly of the OAS. The government of Mexico has actively supported the creation and functioning of the Unit for the Protection of Human Rights Defenders in the Inter-American Commission on Human Rights.

These are important initiatives. However, the difficulties and dangers faced by defenders in Latin America and the Caribbean are so serious, concerted efforts are now required at regional and international level. Foreign governments should ensure that the principles of the UN Declaration on Human Rights Defenders guide and inspire a wide spectrum of bilateral and multilateral activities undertaken as part of foreign policy. The rights and freedoms underpinned in the UN Declaration on Human Rights Defenders are relevant to all forms of activities in the humanitarian and development fields, in education, in mass communications, in trade and issues of justice, security and training of members of the security forces.⁹

In her third report of January 2003 to the UN Secretary General the UN Special Representative on Human Rights Defenders, Ms Hina Jilani, affirmed the need for greater international efforts to protect human rights defenders in Latin America and the Caribbean because of the systemic¹⁰ nature of the violations defenders face in this region. She stated that

⁹ For further recommendations see: Amnesty International Memorandum to the European Union and EU Member States: Addressing dangers and difficulties faced by human rights defenders in Latin America and Caribbean States (AI Index: AMR 01/005/2003).

¹⁰ The Special Representative describes "systemic" violations as those which may be "local in its character, [but] in many cases it is obvious that the violation would not have occurred or been met with impunity without the tacit acceptance of the national-level authorities, implicating the State as a whole." Para 27, UN doc. E/CN.4/2003/104.

some countries that require particular attention are Guatemala, Colombia, Mexico, Brazil, Honduras, Ecuador, Argentina, Bolivia, Haiti and Dominican Republic¹¹.

¹¹ Ibid.

2. Dangers and difficulties faced by human rights defenders in the Americas region

In Latin America and the Caribbean the task of challenging states, including powerful political, military and economic elites, in regard of human rights obligations continues to be a dangerous one: Amnesty International has documented more killings of both men and women human rights defenders in this region than in any other region of the world.

Ongoing reports of killings, torture, "disappearance", arbitrary detention, spurious criminal charges, threats and surveillance show that today defenders in Latin America and the Caribbean enjoy no more, and in some cases less, protection than they have in the past.

Many human rights defenders have become so acclimatized to widespread threats and intimidation, state inaction on their behalf and hostility from different sectors of society that they have ceased to report many of the attacks against them; scores of others have been forced to flee their homes, sometimes their country.

The gravity of the risks faced by human rights defenders in Latin America and Caribbean States has been extensively and widely documented by Amnesty International¹² and other inter-governmental and non-governmental human rights organizations.

Attacks and intimidation of human rights defenders in Latin America and the Caribbean documented in this report suggest that the tendency to silence or quash those who challenge government compliance in respect of human rights standards not only remains unchanged, but is exacerbated when defenders dare to criticise new trends in international security and global economic policies, for example, issues such as access to markets and conditions set down by international financial agencies. Recent reports of intimidation of defenders and those exercising their right to peaceful assembly have also been received from Canada and the USA.

¹² For more information on the situation of human rights defenders in Latin America and the Caribbean see Amnesty International reports: Brazil: Human rights defenders – protecting human rights for everyone (AI Index: AMR 19/08/98); More Protection, Less Persecution: Human rights defenders in Latin America (AI Index: AMR 01/02/99); Colombia: The protection of human rights defenders- one step forwards, three steps back (AMR 23/22/00); Mexico: Daring to raise their voices (AI Index: AMR 41/040/2001); Guatemala: Guatemala's Lethal Legacy: Past impunity and renewed human rights violations (AI Index: AMR 34/001/2002); Bolivia: The need to protect human rights defenders (AI Index: AMR 18/04/2002).

When a government fails to condemn, prevent or remedy violations against human rights defenders it sends a message that such violations are tolerated. Defenders become vulnerable to attack not only by state agents who have gone unpunished, but by others who act on their behalf or copy their example.

In such a hostile environment, the lack of affirmative, decisive and comprehensive measures by governments to protect human rights defenders so they can carry out their work, directly contributes to and hastens a worsening of their security situation.

The war of words -hostility towards defenders mounts

Governments often fail to take reports of human rights violations seriously. The situation is no different in the case of attacks and intimidation against human rights defenders. To avoid conducting proper investigations, or reduce the loss of political esteem associated with such allegations, some government officials resort to launching verbal attacks against those bringing incidents of abuse into the public domain. The most common forms of stigmatization are to link defenders to the identity of the victims they defend or to insinuate that reports of abuses are politically motivated.

Ill-founded or vague defamatory statements by those in positions of authority denigrating human rights work create a climate of official and public hostility towards issues of human rights. In such an environment attacks against human rights defenders can be seen as not merely justified, but even desirable.

When verbal attacks on human rights defenders and their work are made by state officials during press conferences or public forums Amnesty International finds it difficult to believe that such statements constitute isolated incidents or the personal views of individual officials as they are sometimes portrayed. This belief is supported by the fact that such statements are rarely, if ever, publicly retracted. Rather the organization is convinced that such accusations often reflect deep-rooted hostility towards human rights defenders, because of their appeals for greater state accountability for human rights crimes, and are intended as veiled threats to coerce defenders into desisting from their activities.

Defenders are exposed to grave dangers in the course of their efforts to uncover excesses and abuses of power. Derogatory and defamatory remarks by government officials against defenders effectively increase that risk. Sectors of the media that support or promote such allegations can be equally implicated.

Amnesty International wrote to the **Jamaican** government three times during the period 2000 to 2003 regarding repeated statements by top government and public officials portraying human rights workers as "enemies of the police force" and insinuating defenders are in league with criminal gangs. In July 2002, the organization requested the Minister for National Security to clarify whether it was official government policy to regard human rights groups as sanctioning criminality, following comments by the Head of the Crime Management Unit that "criminals have infiltrated civil rights groups." Amnesty International received no reply.

Senior officials in **Guatemala** have also been quoted in the press denigrating human rights. In September 2001, the then Minister of the Interior of the Guatemalan government, Byron Barrientos, stated to the press "we have information that there are groups that are interested in destabilizing and provoking chaos and anarchy." Two days later, the vice president of Congress stated that "The Minister of the Interior and the Director of the National Civil Police have informed us that the people who are intending to destabilize the country through confrontation belong to groups which claim to defend human rights".

During her visit to Guatemala in May 2002, Hina Jilani, UN Special Representative on Human Rights Defenders expressed her concern at attempts to delegitimize human rights work: "I am very concerned at the attempts to discredit human rights defenders and to underestimate the dangers that they are exposed to." Immediately following the Special Representative's visit, President Alfonso Portillo was quoted in the press as stating that her vision was "very subjective" and that "Here in Guatemala no-one knows the absolute truth. Whoever says that they do is a liar". Shortly after her visit a resolution tabled by one deputy seeking a declaration by Congress regarding the need to protect human rights defenders was rejected. Defenders continue to experience persistent threats and intimidation.

So far, attempts to halt defamatory statements that place the safety of human rights defenders at risk have proved unsuccessful. In **Colombia**, government instructions have been issued on three separate occasions ordering officials, including members of the security forces, to abstain from questioning the legitimacy of the work of human rights organizations, from formulating false accusations or behaving in a way which might denigrate or encourage hostility towards human rights defenders. Nevertheless, senior government officials, including the president, have frequently made or supported public statements alleging that human rights work is linked to subversive or terrorist activities. During the administration of President Uribe such statements have also proliferated.

On 10 July 2002, the Colombian Minister of the Interior and Justice, one month before taking office but after having publicly accepted his new post, launched a book by a group of retired generals and admirals called "*Esquilando al lobo*" in which they affirmed that non-

governmental human rights organizations are engaged in a judicial war organized by the guerrillas, cooperating with them in promoting investigations against members of the security forces. The book also claimed that human rights work at the international and regional levels, for example with the UN, the OAS, the EU, the USA and Amnesty International is part of a plan to hamper or harass the national institutions and further "seditious ends".¹³

Similar sentiments were echoed by President Uribe on 8 September 2003 during a public ceremony in Bogotá to inaugurate the new Commander-in-Chief of the Armed Forces. In his address he stated that some government critics were "...politicians in the service of terrorism, who cowardly move behind the human rights banner, trying to regain for terrorism in Colombia spaces recovered by the security forces and the population....Every time a security policy to combat terrorism is launched in Colombia, when the terrorists begin to feel weakened, they immediately send their spokespersons to talk about human rights."¹⁴ By making generalised accusations alleging direct links between human rights work and terrorist activities the Colombian President exposed the whole human rights community to attacks by paramilitaries, who in alliance with the security forces, carry out killings of people they label as enemy sympathisers. Since President Uribe took office in August 2002 at least 15 human rights defenders have been killed, mainly by paramilitaries.

In the absence of clear official instructions regarding the importance of respect for human rights and those who carry out human rights work, some government authorities feel at liberty to even incite the killing of human rights defenders. In early May 2003 the mayor of Salamá, Olancho, in **Honduras** reportedly stated on four occasions that the environmental problem in Olancho would only be resolved by ordering the killing of **Father Tamayo**. Father Tamayo and other defenders have been repeatedly threatened on account of their campaign against deforestation and unregulated logging: three environmentalists have so far been killed in relation to this campaign and others have had to flee the region.

In **Mexico**, the use of public smear campaigns, especially at the state and municipal level to undermine the credibility of human rights work, to harass or take revenge against members of human rights organizations is alarmingly widespread.

In May 2001, **José Rentería**, then coordinator of "*Ñu'u Ji Kandii*" (meaning "Land of the Sun" in Mixteco) Human Rights Centre, an organization working with indigenous communities on social and economic rights in Oaxaca state, Mexico, filed a complaint regarding a public statement that was reportedly handed out to journalists by authorities

¹³ Esquilando al Lobo, Cuerpo de Generales y Almirantes en Retiro de las Fuerzas Militares, 2002, p232

¹⁴ Presidential Speech published by El Tiempo, 9 September 2003.

attached to the Ministry of the Interior of Oaxaca state entitled: "José Rentería, history of an agitator steeped in obscure interests". José Rentería had previously been publicly accused of attempting to establish illegal armed groups, he had also been threatened in relation to work on indigenous rights and the right to self-determination. Despite repeated efforts to compel the authorities to investigate the threats against him the case was archived. Many human rights defenders and social activists in the state of Oaxaca have experienced similar unsubstantiated accusations.

Security measures fail to improve safety for defenders

Security, public and national, has been a priority for governments in the Americas for decades. First, in the context of the widespread social unrest which gave rise to many illegal armed revolutionary groups, and, more recently as states grapple with combating spiralling levels of crime, corruption and accompanying lawlessness.

Amnesty International does not challenge the right of governments to act against criminal and political violence by armed groups and individuals. On the contrary, the organization calls on governments to protect people in accordance with the law and international human rights standards. However, high levels of crime or abuses by illegal armed groups are not a licence for governments to ignore their obligations.

Criminals responsible for high homicide rates in cities, guerrilla groups that take hostages and gangs that hold children to ransom must be brought to justice in accordance with the law and human rights standards. However, so too must military generals responsible for massacres of civilians, paramilitary leaders who perpetrate killings and "disappearances" and police chiefs who fail to prevent torture, all in the name of national or public security. By denying justice, compromising judicial principles or promoting a partial administration of justice, many governments have both undermined their international human rights obligations and contributed to and perpetuated the cycle of insecurity, violence and violations.

Human rights defenders have long been concerned about the way in which governments interpret and implement their security agenda at the national and international levels. Security measures have often harmed the innocent as well as the guilty. On the pretext of national security tens of thousands of men, women and children, usually from the poorest sectors of society, across Latin America were extra-judicially executed during the 1970s, 1980s and 1990s by state forces. The so-called struggle against communism became a cover to justify tens of thousands of "disappearances" of those perceived as subversive and a threat to the dominant political class. More recently, in the fight against organized crime political leaders have frequently exploited public fears and prejudices. Official and unofficial operations

against organized crime sometimes mask the killing of people deemed socially undesirable, such as street children or the poor and uneducated with no recourse to state protection. Placing trust in those responsible for ensuring security is further complicated by frequent reports of acquiescence between some state security forces and organized crime and illegal paramilitary groups.

Further cause for caution is the trend to bolster the powers and resources of the armed forces at the expense of strengthening civilian institutions. Despite formally democratic governments in almost all countries of Latin America and the Caribbean, military institutions –responsible for widespread and systematic human rights violations during military or civilian dictatorships during the 1970s and 1980s-- have been reluctant to reshape their mission within a democratic institutional framework. Governments frequently respond to growing crime problems by involving the military in public security tasks, rather than strengthening the effectiveness of police forces, stunting the development of the latter and delaying the withdrawal of the armed forces from public security tasks.

Human rights defenders are at the raw end of the security dilemma. On the one hand, they witness and deal with the impact --trying to seek medical and legal assistance and support relatives of victims-- of grave abuses and injustices committed by state security agents. On the other hand, their questioning of policies which justify the violation of individual rights as unavoidable in the battle to establish safe societies attracts scorn or even slander. In extreme circumstances, appeals to adhere to human rights standards in the formulation of policy on security and calls for those responsible for violations to be held accountable are seized upon as an opportunity to label defenders enemies of the state or a threat to national security.

In the context of public security in **Brazil**, human rights defenders, including journalists, denouncing organized crime, corruption and impunity have frequently been threatened and killed. Some public figures and elements within the media have made repeated efforts to undermine the work of defenders by dismissing them as “defenders of criminals”.

However, the case of Espírito Santo state in Brazil illustrates the way in which human rights defenders compelled inert or unwilling federal authorities to take responsibility and action against organized crime and corruption within all branches of state power. In Espírito Santo, several federal investigations had previously implicated the police organization *Scuderie Detetive le Cocq (SDLC)* in extrajudicial executions, killings of human rights defenders, corruption and organized crime. The SDLC reportedly had links to powerful economic and political groups, including members of the state executive, legislative and judicial. In April 2002, a lawyer was killed just before he was due to reveal evidence on political corruption in the state to the police. His death, coupled with widespread threats against numerous other human rights activists, lead the human rights community to call on the federal government to

intervene in the state. Although the Human Rights Council of the Ministry of Justice recommended intervention by the federal government, the request was stalled when the federal Attorney General withdrew his support. The Minister of Justice resigned.

Following calls from both the national and international human rights community the Brazilian government eventually set up a "special mission", comprising federal public prosecutors and federal police to investigate in Espírito Santo. The work of the special mission resulted in a number of important arrests. Nonetheless, threats continued against defenders; in one incident an incendiary device was detonated in the offices of the Bar Association in June 2002.

Under the pretext of protecting national independence and security in **Cuba**, many activists and government critics have recently been prosecuted and given long jail sentences for exercising fundamental freedoms. In the biggest crackdown in recent decades some 75 journalists, members of human rights groups, political activists and others across the country were arrested in targeted swoops in March 2003. **Marcelo López Bañobre**, a human rights defender, was one of them. He was sentenced in April to 15 years in prison for, among other activities, "sending information to international organisations like Amnesty International". The government claimed the 75 people detained were foreign agents whose activities endangered Cuban sovereignty. They were given hasty and unfair trials, and, sentenced to prison terms of up to 28 years.¹⁵

The past two years have witnessed a global drive to push forward national security measures in the context of the "war on terrorism". This international climate has threatened human rights protection in the Americas in a number of significant ways, including the security of human rights defenders. In the USA and several countries in Latin America and the Caribbean new security measures have been misused to restrict and hamper the work of human rights defenders and sometimes to target defenders themselves. Some governments have used the pretext of the fight against terrorism to obstruct, control and carry out surveillance operations against those working on human rights. In so doing they have undermined and corroded the right to defend human rights and the exercise of fundamental freedoms.

One case that has been documented by Amnesty International is that of **U.S. citizen Lynne Stewart**. Lynne Stewart, a well-known criminal defence lawyer in her 60s, was charged by US authorities in April 2002 with providing "material support" to a "foreign terrorist organization" (FTO) – a charge which carries up to 40 years in prison. The charges related to her contact with her client, Sheik Omar Abdul Rahman, who was convicted in 1995 in

¹⁵ See, *Cuba: 'Essential measures?' Human rights crackdown in the name of security* (AI Index: AMR 25/017/2003) and *Cuba: Ongoing repercussions of the crackdown* (AI Index: AMR 25/035/2003)

connection with the 1993 World Trade Center bombing and alleged plots to blow up other US landmarks. Stewart was his court-appointed attorney and continued to represent him after his trial.

The charges against Stewart were brought under a once little-used section of a 1996 anti-terrorism law which makes it a crime to provide “material support” to any group designated a FTO. The statute contains a very broad definition of “material support” and has been increasingly used since September 11th 2001 to charge people the government claims have links to “terrorism”. This is the first time the statute has been used to charge an attorney. The case has caused consternation among civil rights lawyers, who say that the terrorism charges against Stewart were a travesty and could serve to discourage attorneys from representing unpopular and outspoken clients. Ms Stewart was released on bail pending trial. In September 2003 a federal judge dismissed the “material support” charges against her as unconstitutionally vague. However, Ms. Stewart remains charged with violating prison security rules for which she could be sentenced to a prison term and lose her licence to practice law.

Over the last two years Amnesty International documented a rise in the number of raids and break-ins of the premises of human rights organizations or their homes. Large numbers of reports were received of such incidents in **Guatemala** and **Colombia**, and a worrying number of cases reported in **Ecuador**, **Panama**, and **Mexico**. During such raids crucial human rights information which identified witnesses and personnel details were seized. In virtually all cases, valuable items were left untouched, but computer data was copied and files removed. Investigations into the theft of human rights information are virtually non-existent, members of the police force frequently failing to even visit the scene of the crime.

Case examples of raids and theft of human rights information

- On 19 October 2001, the house of Guatemalan defender Matilde Leonor González Izas of the *Centro de Estudios para el Avance de las Ciencias Sociales (AVANSCO)* was broken into. Her computer containing research on ways the Guatemalan military maintains power in rural areas was stolen. On 20 March 2002, the premises of the organization were also broken into.
- On 6 September 2003, in the early hours of the morning, unknown individuals broke into the office of the Guatemalan organization *Familiares de Detenidos y Desaparecidos de Guatemala (FAMDEGUA)* and worked on the computer hard drives for at least two hours copying human rights information.
- On 11 December 2002, in Bogotá Colombia, the office of the development organisation *Terre*

des Hommes-Italie, a project financed by the European Union and established to address the needs of young people affected by the conflict, was raided by state agents allegedly looking for arms, but who also copied information from computers.

- On 23 August 2002, the office of *Fundación Regional de Asesoría en Derechos Humanos (INREDH)*, a well known human rights organization in Ecuador was broken into. Confidential information from manual archives and computers was accessed and tampered with. A security box was also broken into and money stolen. However, the intruders left other valuable objects which were at hand.

In the context of the "war on terrorism", **Colombia** stands out as the most critical case illustrating that purported measures to combat illegal armed groups are being misused to persecute, kill and silence human rights activists.

Security policies pursued by the administration of Colombian President Alvaro Uribe have already heightened the human rights and humanitarian crises in this country. Human rights defenders and social activists continue to be killed, "disappeared", detained, threatened and harassed. In addition, defenders in Colombia have recently experienced a wave of arbitrary detentions¹⁶ --during which some defenders have been tortured-- and an increase in the number of criminal proceedings initiated against them.

In some instances, detentions and raids can be linked to new powers afforded to the Colombian military under the State of Internal Commotion declared on 11 August 2002¹⁷. In yet other cases, such abuses can be linked to the activities of a government created network of

¹⁶ The detention, with or without an authorized arrest warrant, of members of human rights organizations or social activists can be considered arbitrary when such measures are intended to prevent human rights defenders from carrying out their legitimate work or are used as a form of punishment. Harassment of this type by the state contradicts guidelines laid down by the UN Working Group on Arbitrary Detention.

¹⁷ The government of President Uribe declared a State of Internal Commotion on 11 August 2002 and issued Decree 2002 – which established a number of special security areas, Rehabilitation and Consolidation Zones – on 9 September 2002. A State of Internal Commotion gives significant powers to the authorities, including the right to restrict freedom of movement and residence, prevent radio and television from transmitting "sensitive" information, restrict meetings and demonstrations, intercept communications subject to judicial authorisation, and carry out preventive detentions. On 25 November 2002, the Constitutional Court declared that parts of Decree 2002 were unconstitutional, notably those granting judicial police powers to the military. On 29 April 2003, the Court ruled against the renewal of the state of emergency and all related decrees. The government's repeated failure to obtain approval from the Court to implement emergency measures has led it to seek to reform the constitution to legalise several security measures, including those granting judicial police powers to the armed forces.

paid civilian informants which requires civilians to compile and pass on intelligence information on illegal armed groups to the security forces.¹⁸

A current proposal before Congress to reform the 1991 Colombian Constitution to restore, *inter alia*, judicial police powers to the armed forces could yet further worsen the level of persecution of human rights defenders by making it easier to control and carry out surveillance of their activities and allowing the military to initiate investigations against them based on little, if any, evidence.

On 11 December 2002, **Juan Carlos Celis González**, leader of the Social Movement for Peace in Colombia who specialises on working on the rights of women and children was arbitrarily detained and tortured by members of the national police, accompanied by civilians, who raided his home without a search warrant and without the presence of the appropriate judicial authorities. Juan Celis was beaten and subjected to electric shocks to force him to confess responsibility for crimes of terrorism. The case was reported in the media by the police as evidence of success in the struggle to combat terrorism and Juan Celis was presented as "the brains behind the wave of terrorism".¹⁹ Juan Celis currently remains detained. In the event of his eventual release –regardless of whether the investigation against him prospers-- he would be at serious risk of being killed by paramilitaries forces as a result of the publicity connected to his case.

On 12 November 2002, **María del Socorro Mosquera** and **Mery del Socorro Naranjo**, members of the *Asociación de Mujeres de Las Independencias* (AMI), Women's Association of Las Independencias and **Teresa Yarce**, a leader of the district Junta de Acción Comunal de Las Independencias III, were detained arbitrarily in the Comuna XIII district of Medellín. According to information received, the detention was carried out by the security forces operating with hooded informants. Four days before their detention, Mery del Socorro Naranjo and Teresa Yarce had denounced cases of human rights violation, including killings, by paramilitaries in areas under army control. The women were accused of being guerrillas. The three women were subsequently released on 21 November. On 24 November members of the army went to the house of Socorro Mosquera. She was not at home at the time and the soldiers reportedly asked her son to tell his mother they did not want to see her in the area any more. They also claimed to have found enough weapons in her house to secure a 20-year sentence against her.

¹⁸ Information compiled by military intelligence has been closely linked to the killing and harassment of Colombian human rights defenders. For this reason the United Nations High Commissioner for Human Rights recently urged the Colombian Procurator General to verify each quarter the accuracy and objectiveness of the data contained in military intelligence records concerning human rights defenders, and to publish the results of his enquiries. UN Doc. E/CN.4/2003/13, Para 161.

¹⁹ "Hay que sacar a las Farc de Bogotá", *El Tiempo*, 12 de diciembre de 2002, pág. 1-8 y 1-10

Criminal proceedings were initiated against **Julio Avella García**, a member of the *Asociación Nacional de Ayuda Solidaria (Andas)*, National Association of Solidarity Support, when he was detained by police in Bucaramanga, Colombia, on 6 December 2002. Julio Avella was accused of rebellion and imprisoned until May 2003 when the case was dropped because of lack of evidence. Similarly, human rights defender **Alfredo Porras Rueda** was detained on 31 December 2002 by members of the military from the V Brigade in Bucaramanga. He spent four months imprisoned accused of organizing the financial affairs of guerrilla groups and other crimes such as homicide and kidnapping. He was also released without charge on the grounds that the case lacked merit. Both cases were prepared on the basis of information contained in military intelligence files and the testimonies of people allegedly collaborating with the intelligence services.

In September 2003, criminal charges were filed against five members of the Colombian non-governmental organization *Comisión Intereclesial de Justicia y Paz*, Inter-ecclesiastical Justice and Peace Commission. The Office of the Attorney General initiated judicial investigations into allegations of corruption, drug-smuggling, homicide and formation of illegal armed groups. These proceedings are the latest in a string of threats and harassment against members of Justice and Peace and come on the heels of a Constitutional Court decision to allow the organization to participate in judicial proceedings into over 200 human rights violations committed by paramilitaries operating in conjunction with the XVII Brigade of the Colombian Army between 1997 and 1998.

Human rights defenders working on the impact of globalization and economic, social and cultural rights

Growing global inequities and the failure of governments to significantly reduce the number of people living in extreme poverty in many countries in the Americas are the defining human rights issues of our times. Widening disparities in the distribution of wealth, pervasive discrimination and poverty give rise to widespread social unrest. These issues concern international financial agencies, governments, civil society at large and human rights defenders and social activists.

Poverty, economic and environmental degradation, access to basic services such as water and electricity, education and health facilities as well as fair and proper legal remedies are issues of legitimate and grave concern to many human rights and social organizations across the Americas. Defending the rights of marginalized communities, whose rights may be put at risk or may be violated as a result of the activities of multinational business or the impact of global trade agreements, is increasingly important in the global context.

However, in a climate in which governments are denied resources and access to international markets unless they carry out programmes devised by international financial agencies or donor countries, and in an environment in which liberalisation in flows of international capital, goods and services are commonly promoted as the appropriate way to improving wealth and prosperity, those who criticise or actively oppose such policies are often the victims of human rights violations by the state.

As states have deregulated their economies and privatized functions traditionally performed by the state to non-state actors, including private sector companies (trans-national, multinational or domestic), the impact of corporate actors on respect for human rights has come to the fore. Even though states have the primary responsibility to promote and protect human rights, trans-national corporations and other business enterprises, as organs of society, are also responsible for promoting and securing the human rights set forth in the Universal Declaration of Human Rights. For too long corporations operating globally have wittingly or unwittingly, been party to human rights violations.

Private sector actors, including trans-national and national corporations, are increasingly being called to account for alleged violations of political, civil, economic, social and cultural rights of local, often poor and marginalized populations. Many governments have been either unable or unwilling to redress the conflict of interest that arises in such situations and the violations that are committed. In a number of instances, states seem to perceive that the protection of foreign private sector interests is in their national interest or fundamental to national security, even when some activities of these corporations threaten the rights and livelihood of local peoples.

Within the confines of this report only a partial illustration can be made of the dangers and difficulties faced by human rights defenders working on globalization, economic, social and cultural rights and their inter-relation with political and civil rights. Priority has been given to illustrating trends in the region, leaving aside many serious and compelling cases.

Human rights activists in North America, Latin America and the Caribbean are increasingly forming regional and international alliances to assess the impact on human rights of proposed free trade zones and sub-regional economic plans. **Guatemalan** human rights defender **Norma Maldonado** works with an umbrella group *Mesa Global de Guatemala*, which includes a rural indigenous women's rights group *Mamá Maquín*, concerned with the effects on local communities of the proposed Free Trade Area of the Americas and the *Plan Puebla*

*Panama (PPP)*²⁰. Following a meeting which brought together activists from Mexico and Guatemala in June 2003 in the region of Ixcán, openly observed by personnel from a local military base, Norma Maldonado and other attendees were intimidated and received death threats. One month later, on 24 July, the home of Norma Maldonado was raided. The intruders dragged those present, including a member of *Mamá Maquín*, to the building's ground floor. The men searched files and computer documents taking two computers with data on the groups' activities and a camera with footage of the Ixcán meeting environmental justice advocates working on *Plan Puebla Panama*.

Indigenous leaders are frequently targeted on account of their attempts to protect the rights of their communities in the face of activities by private sector companies, for example oil exploration and extraction companies. In **Ecuador**, **Franco Viteri** and **José Gualinga**, leaders of the Sarayacu community, in the province of Pastaza, were threatened on several occasions in February 2003. The threats were believed to be linked to their opposition to the activities of the *Compañía General de Combustibles* (CGC), General Fuel Company, an Argentine oil company which has been granted a concession to extract oil in the region. The threats followed a "state of alert" declared by the Sarayacu Community in November 2002 to mobilise against the incursion of the CGC in their territory. The CGC reportedly convinced other surrounding communities to surrender part of their land by offering them financial and other benefits, such as employment and schools. The Sarayacu community has not accepted any financial deal arguing that oil extraction in their territory will damage their environment and way of life. They have proposed alternative ways of sustainable development in their territory in which they believe their culture will not suffer.

Trade unionists are often at the forefront of campaigns to ensure global and national economic policies protect the rights of poorer or more marginalized sectors of society. They also lead initiatives to defend workers' rights in the context of privatization and to protect workers, including women, against exploitation and ill-treatment in the workplace.

²⁰ Plan Puebla Panama is a macro economic project promoted by the Mexican Government and the Inter-American Development Bank. It has been described as a "vast infrastructure project," which seeks to accelerate integration, including of transportation, exploitation of natural resources, modernization of transport and development. It includes all seven countries in Central America and 9 southern Mexican States. Opponents of the Plan claim it aims to meet the transit needs of global commerce rather improve life for local inhabitants. They point out that inhabitants of the region have not been consulted about the plan and are further concerned that it will result in more assembly factories, greater poverty, displacement as well as environmental damage.

The conflict in **Colombia** often provides a cover for human rights violations committed to further or protect economic interests. Paramilitary leader, Carlos Castaño, in an interview published in the Colombian magazine *Semana*, 12 June 2001 stated: "Trade unionists, for example, prevent people from working. It is for that reason that we kill them". Between 1 January and 31 July 2003, 44 Colombian trade unionists were killed, at least one "disappeared", and 15 attempted killings were reported.²¹ The vast majority of human rights abuses against trade unionists were attributed to the security forces and paramilitary allies, although guerrilla forces were also held responsible for many abuses. Trade unionists particularly targeted are public sector unions, trade union confederations and unions representing workers in strategic sectors of the economy including oil, mining and energy. 70% of trade unionists killed in 2002 belonged to the health, education and public worker sectors. They appear to be targeted both for their criticism of privatisation plans, and for their refusal to allow public services, such as hospitals and schools, to be commandeered or controlled by the parties to the conflict.

The *Central Unitaria de Trabajadores de Colombia*, (CUT), Colombian Trade Union Congress, estimates 172 affiliated trade unionists were extrajudicially executed in Colombia during 2002, 164 received death threats, 26 were victims of kidnapping, 132 were arbitrarily detained and around 80 sought asylum abroad. In July 2002 the Human Rights Ombusman estimated that over the previous three years there had been a total of 30 killings of health care workers belonging to *Asociación Nacional de Trabajadores y Empleados de Hospitales, Clínicas, Consultorios y Entidades dedicadas a procurar la Salud de la Comunidad* (ANTHOC). At the time of writing, 35 members of ANTHOC faced criminal proceedings on crimes of rebellion reportedly after treating patients who were suspected guerrilla members.

Demonstrators and the exercise of the right of peaceful assembly

Efforts by the security forces to maintain order and to protect members of the public during demonstrations are essential and legitimate. However, in Canada, the USA and several countries in Latin America and the Caribbean, Amnesty International has documented several instances of excessive and disproportionate force during demonstrations, sometimes resulting in killings, torture and injuries. Evidence collected by the organization suggests that excessive force by government security forces is sometimes applied to deliberately prevent or deter people from exercising their right to peaceful assembly or to persecute perceived government critics, human rights defenders and social activists.

²¹ El Embrujo Autoritario, Primer año de gobierno de Álvaro Uribe Vélez, by the Plataforma Colombiana de Derechos Humanos, Democracia y Desarrollo, Bogotá, Sept 2003, p151

Following accusations of fraud, in May 2003 the powerful *Banco Intercontinental* collapsed in the **Dominican Republic**, with costs to the government reportedly reaching US\$ 2.2 billion. The authorities entered into urgent negotiations with the International Monetary Fund for emergency credits to help it through the crisis. In street protests across the country, Dominicans demonstrated against the proposed IMF accord and against price hikes of fuel and basic necessities, increases in transport costs and electricity blackouts. Through the next several months, clashes between demonstrators and police were regularly met with tear gas and alleged excessive use of force by police officers. At least 13 demonstrators and passersby were killed by gunfire during the disturbances, and many more wounded. During police operations on 6 August 2003, police raided the Santo Domingo office of the *Central Nacional de Transportistas Unificados* (CNTU), National Union of Unified Transport Workers, where a pre-protest meeting was underway, and opened fire against those inside; at least three trade union organisers were injured.

In **Argentina**, the deterioration of the economic situation as the government tried to satisfy international lending agency conditions provoked widespread social unrest and massive and repeated demonstrations around the country as public confidence in state institutions declined throughout 2000 through to 2002. New social groups including labour organizations, associations of the unemployed and neighbourhood groups emerged to protest against hunger and poverty, lack of access to essential health facilities, corruption and state mismanagement of economic policies. Hundreds of demonstrators were arrested for short periods around the country, scores were injured, some were tortured and at least forty demonstrators were killed. Lawyers defending detained demonstrators noted a tendency in police records to document individuals' political and social affiliations.

Dario Santillán was shot in June 2002 in the province of Buenos Aires by provincial police inside the Avellaneda railway station, while he was trying to help **Maximiliano Kosteki** who had been shot a few minutes earlier. Both men died from their injuries. An investigation was initiated, two police officers were arrested and several suspended from active duty, after photographs clearly showing police involvement were published nationwide. The photographer, **Sergio Kowalewsky** and his family were subject to death threats. **Claudio Pandolfi**, the lawyer acting on behalf of the families of the victims, also received death threats.

In **Paraguay**, demonstrators marching against government corruption, a proposed anti-terrorist law and privatization of the state telecommunications company were the victims of human rights violations. Between May and June 2002, 200 people including children were detained during marches in San Patricio, department of Misiones. On 4 June, local farmer **Calixto Cabral** was reportedly shot dead by police during a demonstration in the capital Asunción. The government subsequently withdrew its privatization plans. In September 2002 Amnesty International called for investigations into the reported excessive use of force by the

police against demonstrators in Asunción on 17 September in which 116 people were injured. The organization expressed concern at the short-term detention of 250 people, the majority members of opposition political parties, raising suspicion that some of these detentions may have been politically-motivated. Some of the detained were allegedly tortured.

In another example, a march organized by **Haitian** women's organisations on 10 March 2003 in Port-au-Prince, to celebrate international women's day, was forcibly broken up by officers of the Police. Participants were harassed and threatened by pro-government counter-demonstrators in the presence of officers. The counter-demonstrators also threatened journalists who were attempting to cover the events.

Recent experiences have shown that controversies over projects related to the supply and delivery of water have resulted in human rights violations, increasing charges for access to water drastically and using excessive force against peaceful protestors. In the case of water privatization in Cochabamba, **Bolivia**, the city's water system was sold to the subsidiary of a foreign service provider, a consortium led by Bechtel, Inc., a US company. Price increases of 35 per cent lead to mass demonstrations in January and February 2000 in the region of Cochabamba. The security forces, including members of the army, indiscriminately fired tear gas, rubber bullets and pellets into the crowds. 14-year-old **Wanderley Siñani Cardoso** was doused with tear gas and sustained a fractured coccyx as a result of a beating by members of the security forces. A few days later he collapsed at school and was taken to hospital where it was confirmed that he had suffered a brain haemorrhage. During demonstrations in April 2002, also in Cochabamba, scores of people were injured and four died, including a minor. 17-year-old **Hugo Daza** was shot dead at the time that an army officer in civilian clothing was seen firing into the crowd. Investigations were transferred to the military courts. Journalists who filmed and transmitted images of the killing received threats.

In the **USA**, there were allegations of police brutality and excessive force used against demonstrators protesting the (US) bombing of Iraq in several US cities in March and April 2003. In Oakland, California, police reportedly fired non-lethal weapons, including bean bags, wooden bullets and sting ball grenades, at demonstrators blocking a port entry, causing injuries to at least 21 people. Amnesty International called on the authorities to hold a full inquiry into the incident, expressing concern that police opened fire without giving demonstrators a chance to disperse and that they fired projectiles directly at people at close range. Amnesty International pointed out that the weapons used were particularly dangerous when fired at close range and cited concerns by experts that sting grenades – which explode on impact, releasing small pellets which penetrate the skin – are both indiscriminate and pose serious risk of eye and other injury. No inquiry has yet been held.

In Quebec City, **Canada**, police used excessive force against demonstrators during the Summit of the Americas in April 2001. Eyewitnesses observed the use of tear gas against protesters who were not involved in violent behaviour or posing any threat to property or the police. Tear gas was fired directly at individuals and into private property for no apparent reason. Plastic bullets were used in situations where the safety of police officers and the integrity of the Summit were not threatened. Police used an electro-shock device on a peaceful demonstrator who had refused police instructions to move. Some of those detained were reportedly denied prompt legal representation and were held in overcrowded cells for prolonged periods.

Environmentalists and the logging industry

Environmental degradation and climate change has been the subject of many international agreements and treaties.²² In the Americas one major concern of human rights groups and social activists has been to show how environmental damage often adversely impacts the lives of poor, marginalised communities, often leading to human rights violations. On 10 June 2003, the OAS General Assembly resolved for the third consecutive year to continue work on the relationship between the state of the environment and the effective realization of the rights guaranteed in the American Convention on Human Rights. Resolution 1926/03, entitled, Human Rights and Environment in the Americas, called on member States to work towards sustainable development, and reminds States of the international commitments they have undertaken on issues such as climate change, environmental protection, and managing natural disasters, as well as obligations stemming from a variety of international treaties focusing on the human-environmental relationship.

In the course of their struggle to demonstrate the link between environmental decline and violations of people's economic, social and cultural rights, many environmental activists in the Americas have been killed and threatened. One case in point is the struggle to stop unregulated logging. Illegal logging can have devastating consequences at the local level. Farm production levels may be lowered by depleted soil quality as a result of logging; the size of land plots maybe reduced by encroaching logging companies; or, communities may face unprecedented levels of violence. Governments frequently turn a blind eye failing to either take action against the logging companies or to address the violations that occur as a result of their activities.

In the region of Olancho, **Honduras**, where illegal logging and the construction of dams is reported to be causing grave environmental damage, three environmental activists have been

²² The framework for these discussions is provided by the United Nation's Framework Convention on Climate Change.

killed. Several others have narrowly escaped attempts on their lives and many have suffered death threats. None of these cases has been satisfactorily investigated. **Carlos Luna** was killed on 18 May 1998, **Carlos Roberto Flores** on 30 June 2001 and **Carlos Arturo Reyes** on 18 July 2003. Carlos Roberto Flores was reportedly killed by security guards hired by Energisa, the company responsible for building the dam in the area. Carlos Arturo Reyes, and several who have been threatened since, appeared on a list allegedly drawn up by sawmill owners in Olancho. The list appeared following a 2,500-strong march in June 2003 by environmental and religious groups from Olancho to the capital, Tegucigalpa. On the 200-kilometre, seven-day "*Marcha por la Vida*" ("March for Life"), demonstrators called for a moratorium on further logging in central Honduras until a "forest audit" is conducted and plans developed for sustainable use of forest resources. They have alleged that indiscriminate logging has dried up water sources and worsened poverty in the region.

Several environmentalists in **Mexico** have been imprisoned on spurious, often politically motivated, charges on account of their campaigns to protect communities against the effects of unregulated logging. In Mexico, the misuse of the judicial system to punish or harm critics is common. The weakness of the judiciary, particularly at state level, where the prosecution services are not adequately supervised by the judiciary or independent of the executive, leaves defenders exposed to fabricated charges designed to deter them from their activities.

Environmentalists **Rodolfo Montiel** and **Teodoro Cabrera**, members of the *Organización de Campesinos Ecologistas de la Sierra de Petatlán y Coyuca de Catalán*, Peasant Environmentalist Organization of the Mountains of Petatlán and Coyuca and Catalán, were finally released from prison in 2001 following a two-year global campaign on their behalf. The two had been charged with drugs and firearms related offences on account of their campaign against logging operations in the state of Guerrero. No investigation was completed into allegations of torture while in detention or into the misuse of the judicial system.

Isidro Baldenegro López, a *Tarahumara* indigenous leader, and **Hermenegildo Rivas Carrillo**, from the community of Coloradas de la Virgen in the municipality of Guadalupe y Calvo, Chihuahua State were arbitrarily detained by members of the state judicial police on 29 March 2003. The two men were charged with illegal possession of weapons. Isidro Baldenegro was also charged with possession of marijuana. Eyewitness accounts directly contradict the police version of events and indicate the evidence was fabricated. They remain in prison in Chihuahua awaiting sentence. Amnesty International believes that the charges against the two men are politically motivated, and linked to the longstanding struggle by the *Tarahumara* indigenous community of Coloradas de la Virgen to protect their rights and stop the unregulated logging of forest lands. Isidro Baldenegro in particular appears to have been singled out because of his leading role in this campaign as well as his activities as a member of the Chihuahua-based environmental group, *Fuerza Ambiental*.

In 2001 in the state of Pará, **Brazil**, the environmental organization Greenpeace discovered that mahogany from one of the last reserves in the country was being illegally cut and sold. As a result of a report published by Greenpeace, the federal authorities launched a massive operation in which unprecedented amounts of illegal mahogany were confiscated. Shortly after the publication of the Greenpeace report, **Paulo Adário**, Greenpeace Coordinator, received a number of threats. Federal protection was made available but no investigation was carried out into the threats. In November 2001, a logger told a Greenpeace staff member in Pará that a price had been placed on Adário's head. Other Greenpeace staff have been told that as soon as the logging industry is out of the media spotlight, there will be a "reckoning".

Social activists and community leaders defending land rights

Latin America and the Caribbean are characterised by some of the most extreme concentrations of land in the hands of a few in the world. Unequal distribution of wealth and resources is widely considered one of the key factors driving widespread social unrest that spawned various armed conflicts in the region during the last half of the 1900s and continues to provoke ongoing violent disputes.

Over the decades Amnesty International has repeatedly raised its concerns regarding the high number of human rights violations, including massacres, committed against smallholder farmers or landless communities by members of the security forces and private security guards or vigilantes working on behalf of large land owners or quasi-official local political representatives.

The right to property is not the sole issue at stake in disputes over land tenure. Many rural communities involved in campaigns to recover lands they consider rightfully theirs or to have access or rights to unused tracts of land, do so in order to defend their right to independently determine their economic growth, to defend their right to self-determination and to defend cultural rights associated with land. For many rural communities access to land is also viewed as protection against other forms of violations that may arise as a result of being forced to migrate to the impoverished fringes of violent cities or to seek work in far-off plantations or assembly factories or sweatshops.

Community representatives and social activists leading land initiatives are frequently viewed as opposing market-oriented economic policies that the State may be seeking to pursue. In confronting and challenging the intentions of extremely powerful political and economic elites they expose themselves to grave dangers. Their vulnerability is heightened by the absence of state institutions or under-funded state institutions in rural areas and weak or submissive judiciaries that frequently err in favour of political and economic interests.

In **Brazil**, social activists are sometimes imprisoned on spurious charges to prevent them conducting campaigns to secure access to land. In the Pontal do Paranapanema region of São Paulo state, a national leader of the *Movimento sem Terra (MST)*, Landless Movement, **José Rainha Junior**, was sentenced to 2 years and 8 months' imprisonment for illegal possession of arms in July 2003, charges which he denied. The National Secretary for Human Rights was reported to have described the sentence as "absurd". According to reports a judge in the region issued 11 arrest warrants against 40 MST activists during the period September 2002 to September 2003. Eight of the warrants were later overturned.

The Brazilian state of Pará is afflicted by endemic violence, corruption and impunity. Slave labour is common and much of the violence in the region stems from conflicts over land ownership. According to the Catholic Church *Comissão Pastoral de Terra (CPT)*, Pastoral Land Commission, 31 landless farmers were killed between January and September 2003 in Pará. **Brother Henri Burin des Rozières** and members of the CPT have tirelessly campaigned against impunity for the hundreds of killings of rural activists perpetrated by state security forces, landowners or those working under their orders. Following the conviction in May 2003 of a Pará landowner and former mayor found responsible for ordering the 1985 killing of trade union leader, **João Canuto de Oliveira**, CPT members experienced a new wave of threats and intimidation. Brother Henri Burin des Rozières in particular was subject to a defamation campaign in the local press and theft of valuable information from CPT office premises.

Indigenous peoples in Brazil are frequently targeted on account of their struggle to secure land entitlements afforded them under Brazil's demarcation legislation.²³ This trend has increased during 2003. **Marcos Luidson de Araújo**, leader of the Xucuru indigenous people in the municipality of Pesqueira in the state of Pernambuco, and his mother **Zenilda Maria de Araújo** received numerous death threats over the last three years. Although the Inter-American Commission called on the Brazilian authorities in October 2002 to protect the family, state level authorities refused to cooperate with the request. Then, on 7 February 2003, Marcos Luidson de Araújo was the victim of an attempted killing; in the attack two companions were killed. The family believes the attack was planned by local landowners. Although an area of 27,000 hectares in Pesqueira was demarcated in favour of the Xucuru in 1992 this has been disputed by landowners ever since. The struggle for full recognition of their land entitlement has long been marked by bloodshed. Marcos Luidson de Araújo's father,

²³ Indigenous peoples derive their identity from their relationship to land; their cultural rights and cultural survival are directly linked to land. In Brazil, their right to land they have traditionally occupied is upheld by the 1988 Constitution, which proclaims: "The social organization, custom, languages, beliefs and traditions of Indians are recognised. As are their original rights to the lands they traditionally occupy. The nation must demarcate and protect these lands and ensure the respect of Indian property".

Francisco de Assis Araújo, a previous leader of the Xucuru, was killed by gunmen on 20 May 1998. A landowner accused of the murder allegedly committed suicide in custody in 2001. On 23 April 2001 another Xucuru leader, **Francisco de Assis Santana**, was shot dead in Pesqueira.

As part of the 1996 UN-brokered Peace Accords which brought to an end **Guatemala's** 36 years of internal armed conflict an Accord on Socio-Economic Issues and the Agrarian Situation was reached. This Accord stipulated that the government was to "develop an integrated strategy in rural areas that will facilitate the access of peasant farmers to the land and other productive resources, offer judicial redress and promote the resolution of conflicts". In addition the government was to create social funds to buy land for landless farmers. The Accords also stipulated that within three months of signing the Accords, the government would set up a national land registry which would serve to measure land, clarify land ownership, and demarcate property lines. Other critical provisions included establishing incentives for the sale of uncultivated productive lands including enforcing realistic property taxes, adjudicating national lands to farming communities, repossessing illegally adjudicated national lands, creating a system for titling of legitimate claims and access to credit for land purchases.

The **Guatemalan** Government's failure to deliver on these commitments has resulted in widespread unrest in rural areas and continued violent disputes over land tenure. In the period 2000 to 2003 Amnesty International has documented the killing of at least ten land activists.²⁴

On 28 June 2002, **René Augusto Pérez Hernández** of the *Asociación de Desarrollo Integral de Creek Zarco*, the Association for the Development of Creek Zarco, in municipality of Morales, Izabal department, was shot dead while walking home from the local store. René Pérez had represented the Association in conflict negotiations with two local cattle ranchers, both notorious for their intimidation of landless farmers. In a meeting in September 2001,

²⁴ In a report covering 1 May 2002 to 15 July 2003, The United Nations Verification Mission in Guatemala stated that: "The absence of a national land registry system continues to be a serious obstacle to rural development and the resolution of land conflicts. Action taken in this area has been erratic, and donors...expressed increasing frustration. ...Other important legislative items, such as the law on agrarian and environmental jurisdiction, remained pending. Nor had there been progress on laws regarding idle lands and territorial taxes. ...The Presidential Office for Legal Assistance and Dispute Settlement in Land Matters, which played an important role in helping to resolve peacefully some of the country's nearly 2,000 registered land disputes, was not assigned funds in the 2003 budget... The budget allocated to the Land Trust Fund was again below the amount prescribed in the executive decree that created the fund in 1998 as a key mechanism of the peace agreements. The fund has relied largely on multilateral loans and foreign aid, and has made only modest progress in securing land for needy populations. Still pending are the creation of a guarantee fund to help mobilize private resources for land credit and the recovery of vast tracts of land." MINUGUA Ref: A/58/267, Para 56 - 59

facilitated by the *Mesa de Diálogo de Izabal*, the local institution responsible for land conflict resolution, one of the cattle ranchers had threatened to kill René Pérez, as documented in the official minutes of the meeting. Before dying in hospital René Pérez was able to identify his killers as one of the cattle ranchers. The Izabal District Attorney's Office has not investigated the killing despite substantial evidence. Less than two weeks after the killing, men armed with machetes ambushed **Raúl Humberto Ramírez**, a member of the board of directors of the same association.

On 27 September 2001, **Eugenio García** a member of the Guatemalan *Asociación de la Comunidad de los Cerritos*, Cerritos Community Association, also in Izabal, was killed as he walked to his corn field. At the time, the Association was urging the government to grant its members the right to occupy and use state land. Eugenio García was reportedly ambushed by security personnel under the orders of two plantation administrators and three policemen. In June 2003, one private guard was sentenced to 15 years' imprisonment; however, the two police officers arrested in relation to the case were cleared of any wrong-doing. The police officers had been accused of "*incumplimiento de deberes*", i.e. for their failure to arrest the person who assassinated Eugenio García and *not* for their alleged complicity in the killing.

3. Women human rights defenders

All over the Americas, despite many hurdles, women human rights defenders are working ceaselessly for the protection and defense of human rights. Women make a special contribution to human rights, raising important issues that would not be broached without their efforts. In so doing women human rights defenders have enriched and advanced protection of human rights in a totally unique way.

Some women contribute to promoting respect for human rights in the context of ongoing human rights issues, for example they work in organizations dedicated to improving poverty and development, on administration of justice or tackling violations in armed conflict. They may work on issues such as indigenous rights, environmental degradation or small arms control. Other women are involved in organizations dedicated specifically to promoting women's rights, for example by promoting gender equality in legislation and political affairs or by campaigning against domestic violence and rape or by defending other rights that are central to women's integrity, identity and autonomy, such as sexual and reproductive rights.

In the context of their work women human rights defenders across the Americas are the victims of killings, disappearances, arbitrary detentions, threats and harassment. However, women also sometimes face risks that are specific to their gender because they may be defying cultural, religious or social norms about the role of women in a particular country or society. Furthermore, the hostility, harassment and repression women defenders face may take gender-specific forms, which could range from verbal abuse directed exclusively at women to sexual harassment and rape, which could result in pregnancy and sexually transmitted diseases, including HIV/AIDS.

As women's rights are frequently not recognized as human rights, they are not prioritized by governments or by other social movements. This affects the credibility and legitimacy of women human rights defenders who advocate for women-specific concerns. The vulnerability of women defenders is increased by the isolation of women-specific issues from the concerns of other movements. Women human rights defenders often experience discrimination and stigmatization on account of their work. Women who dare to challenge social conventions can be subject to derogatory or sinister public accusations aimed at discrediting their character. They may be called man haters, prostitutes, un-marriageable types, provocateurs or troublemakers.

For instances, **Maria das Graças Nascimento Nacort**, founder and president of the **Brazilian** Association of Mothers and Relatives of Victims of Violence in Espírito Santo state,

was reportedly threatened and taunted by police officers in a squad car on 8 March 2002 as she was preparing with members of her organization to march on International Women's Day. Reportedly the police said, "We have to kill this disgrace of a woman because this she-devil won't shut up". A succession of threats has been made against Maria das Graças since forming her organization in 2000.

In another case, this time in **St. Lucia**, one human rights lawyer was threatened in October 2002 with rape and execution by a member of the public on account of her work to expose police brutality during public security operations. She claimed that this attack was inspired by a campaign led by one sector of the media to denigrate human rights workers as "defenders of criminals".

Iduvina Hernández, director of the *Asociación para el Estudio y la Promoción de la Seguridad en Democracia* (SEDEM), Association for the Study and Promotion of Security in a Democracy in **Guatemala** received a series of anonymous threatening phone calls in early 2003. On 2 February 2003, Iduvina Hernández received some ten phone calls in which the caller hung up. On 8 February she received another call from the same number, in which the caller threatened her safety and said "Mirá vos, cuánto nos pagas por irte a chimar?" "Look you, how much would you pay us to fuck you."

Women defending a range of rights linked to sexuality are frequently targeted on account of the controversial nature of such rights. In this respect the Special Representative of the UN Secretary-General on Human Rights Defenders, stated: "Of special importance will be women's human rights groups and those who are active on issues of sexuality especially sexual orientation and reproductive rights. These groups are often very vulnerable to prejudice, to marginalization and to public repudiation, not only by State forces but other social actors."²⁵ For example, Amnesty International has received reports of threats and attacks against those working to defend the rights of lesbians in both **Ecuador** and **Guatemala**.

Colombian women belonging to the *Asociación Nacional de Mujeres Campesinas, Negras e Indígenas de Colombia* (ANMUCIC), National Association of Peasant, Black and Indigenous Women of Colombia, appear to be the victims of a systematic campaign to quash the organization's efforts to promote the participation of marginalised women in political and peace initiatives. **Marleny Rincón** and **Ana Julia Arias de Rodríguez**, members of ANMUCIC, and **Marta Cecilia Hernández**, leader of ANMUCIC Zulia, department of North Santander, were killed, allegedly by paramilitary forces, on 21 July 2000, 19 August

²⁵ Report of the Special Representative of the UN Secretary-General on human rights defenders to the Commission on Human Rights, January 2001, UN Doc. E/CN.4/2001/94, para 89, part V.

2000 and 26 January 2001, respectively. Marleny Rincón, president of the association in the department of Meta, as well as Julia Arias de Rodríguez, treasurer of ANMUCIC and political activists, had been accused of being members of the guerrilla. Marta Cecilia Hernández's murder was allegedly due to her refusal to withdraw her candidature for the municipal elections. On 21 July 2003, **Nora Cecilia Velásquez**, leader of ANMUCIC in Cundinamarca department, was allegedly abducted by armed-backed paramilitaries. She was held for three days before being released. While being held, she was reportedly physically and psychologically tortured by the paramilitaries. On 1 August 2003, **Blanca Nubia Díaz**, an ANMUCIC activist from La Guajira Department was reportedly abducted and held for two hours by army-backed paramilitaries in Bogotá. She was also interrogated about the leaders of ANMUCIC, and was shown a death list containing the names of ANMUCIC leaders. Simultaneously, **Leonora Castaño** the national president of ANMUCIC was the target of a campaign of threatening telephone calls on her mobile telephone and on her home telephone.

Women human rights defenders are especially vulnerable in rural areas where power is concentrated in the hands of a few and marginalized groups, including indigenous people and afro-descendents, frequently suffer discrimination. **Griselda Tirado Evangelio**, a Mexican lawyer and indigenous activist was murdered on 6 August 2003. Griselda Tirado Evangelio was a member of the *Organización Independiente Totonaca* (OIT), Totonaca Independent Organization, defending the rights of indigenous communities in Puebla's Sierra Norte region. Although the authorities initiated an investigation into Griselda's killing, the *Ministerio Público* allegedly failed to carry out a full inspection of the crime scene with due speed, losing the opportunity to gather vital evidence. Griselda defended many cases in her community, including cases of rape of indigenous women, corruption and disputes over land tenure.

Through their campaigns to clarify the fate of the "disappeared" and seek justice for relatives who have been "extra-judicially executed" by members of the security forces, women across Latin America and the Caribbean have played a critical role in the struggle to improve access to justice and strengthen the rule of law. Their struggle continues. So too do the attacks and intimidation against them. On 2 March 2003 several intruders broke into the house of **Guatemalan** columnist **Marielos Monzón** who writes for the Guatemalan newspaper *Prensa Libre*. The intruders searched her belongings but only stole radio parts from the family's car, in an apparent attempt to make it appear a common robbery. Prior to the break in she had received several telephone calls in which the caller hung up. On 7 June 2002 a clandestine organisation with apparent links to the army high command faxed a death threat to several Guatemalan human rights organisations, describing human rights activists and journalists, including Marielos Monzón, as *enemigos de la patria* (enemies of the state), and saying they would soon be killed. Marielos Monzón had written articles about the fate of Guatemala's "disappeared" and about the adoption of "disappeared" children.

4. Conclusions

Over the last decade human rights activists in Canada, the USA and Latin America and the Caribbean have emerged as crucial actors in civil society. Lack of public trust in official institutions, fledgling or corrupt political and judicial institutions, weak mechanisms of control and accountability, are some of the factors which have pushed human rights defenders to the fore in the struggle to ensure states respect basic human rights and fundamental freedoms.

At the international and regional level, many governments in the Americas have played a decisive role in supporting the principles of the UN Declaration on Human Rights Defenders and designing regional instruments for its implementation. However, evidence presented in this report indicates that efforts to improve respect for human rights and those who carry out human rights work at the national level have yet to be addressed in a comprehensive or effective manner.

Attacks and intimidation of those who criticize official policy and practice in respect of human rights is a serious problem which has repeatedly gone unchecked, resulting in emergency situations for human rights defenders in some countries.

Security policies and measures to strengthening the role of the security forces in issues of security have provided governments with new powers to combat illegal and criminal groups for the benefit of the safety of the public at large. However, these same powers have too frequently been invoked to discredit or suppress human rights representatives in civil society.

Ironically, at times when human rights monitoring is most crucial, those most committed to ending crises of security and to strengthening the rule of law have been isolated, stigmatized and subject to the violation of their fundamental rights and freedoms.

Trade and investment policies can potentially have an enormous impact in helping to alleviate poverty, discrimination and improve human dignity. However, this will only be the case if those seeking to ground economic policies in human rights principles are allowed the freedom and afforded the space to advocate their proposals and criticisms.

Criticism of governments cannot be deemed a threat to states. Criticism of trade policies and private sector companies cannot be deemed a threat to national economic interests.

Attacks on human rights defenders and those exercising their right to peaceful assembly reflect hostility towards civil society's role under democratic forms of government and its role as independent observer and critic of government policy on human rights.

Meeting criticism and social discontent with violence and repression of human rights defenders, social activists and others can only exacerbate social disquiet, possibly spiralling into more serious scenarios. The growing tendency to meet criticism with repression undermines respect for human rights, corrodes the exercise of fundamental freedoms, weakens accountability and contributes to worsening impunity.

Failure to deal with the past has meant that past policies designed to silence and persecute political opponents have, in many instances, been recycled into the present, producing a climate in which anyone, especially those from poor or marginalised sectors, who expresses views that run counter to the dominant class, regardless of political affiliation, may be the victim of human rights violations. In too many instances, those suspected of attacks and intimidation of human right defenders and social activists are linked to the security forces and have a past record of human rights violations.

So far, limited official efforts to protect human rights defenders have concentrated on immediate protection and not on creating the environment in which defenders can carry out their work without obstacles or fear of retaliation. Some governments have embarked on a dangerous game of double speak involving actions and accusations that directly contradict their legal commitments on human rights.

The failure of some governments to remove political or legal obstacles they claim impede the implementation of requests for protection of individuals, including human rights defenders, made by the Inter-American Commission on Human Rights is just one clear example of the contradiction between rhetoric and practice.

Amnesty International understands the many difficulties and challenges faced in administering justice in Latin America and the Caribbean. However, in many instances these difficulties are presented as excuses.

Repeated failure to guarantee defenders with adequate access to judicial remedies, to conduct even the most preliminary investigation, to appear at the scene of the crime, to following basic procedures, in the view of the organization, represent another layer of harassment and lack of official willingness to take defender's allegations seriously.

While structural problems and the lack of resources may be a constraint in pursuing improvements, in reality it is the absence of political will on the part of Governments that allows the violations against human rights defenders to continue, and the impunity with which these violations are perpetrated to prevail.

Some foreign governments' efforts on behalf of human rights defenders have provided valuable, sometimes crucial, support to defenders in danger. However, the moral authority of the international community to assist and intervene is sometimes undermined when governments fail to distribute their criticism evenly, only raising concerns or taking action when it appears politically expedient to do so.

5. Recommendations

1. On the fifth anniversary of the UN Declaration on Human Rights Defenders, Amnesty International invites all governments in the Americas to present a plan for the implementation of the principles of the Declaration.

Such a plan should consider recommendations by local and national human rights organizations, previous recommendations by Amnesty International, recommendations by the UN Special Representative on Human Rights Defenders, and resolutions and recommendations by the OAS and the Inter-American system of Human Rights.

Such a plan should include multi-disciplinary proposals at the political, legal and practical levels which aim to improve the environment in which human rights defenders can operate as well as ensure their immediate protection. The plan should be made operational by allocation of appropriate human and financial resources.

2. Amnesty International invites governments in the Americas to remove all political or legal obstacles that may prevent or hamper the proper implementation of precautionary measures and recommendations from the Inter-American Commission on Human Rights for the protection of individuals, including human rights defenders.

3. Amnesty International invites all governments with political, economic and humanitarian operations in the Americas to present foreign policy plans which address the implementation of the principles of the UN Declaration on Human Rights Defenders.

Appendix I

Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms

The General Assembly,

Reaffirming the importance of the observance of the purposes and principles of the Charter of the United Nations for the promotion and protection of all human rights and fundamental freedoms for all persons in all countries of the world,

Reaffirming also the importance of the Universal Declaration of Human Rights and the International Covenants on Human Rights as basic elements of international efforts to promote universal respect for and observance of human rights and fundamental freedoms and the importance of other human rights instruments adopted within the United Nations system, as well as those at the regional level,

Stressing that all members of the international community shall fulfil, jointly and separately, their solemn obligation to promote and encourage respect for human rights and fundamental freedoms for all without distinction of any kind, including distinctions based on race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, and reaffirming the particular importance of achieving international cooperation to fulfil this obligation according to the Charter,

Acknowledging the important role of international cooperation for, and the valuable work of individuals, groups and associations in contributing to, the effective elimination of all violations of human rights and fundamental freedoms of peoples and individuals, including in relation to mass, flagrant or systematic violations such as those resulting from apartheid, all forms of racial discrimination, colonialism, foreign domination or occupation, aggression or threats to national sovereignty, national unity or territorial integrity and from the refusal to recognize the right of peoples to self-determination and the right of every people to exercise full sovereignty over its wealth and natural resources,

Recognizing the relationship between international peace and security and the enjoyment of human rights and fundamental freedoms, and mindful that the absence of international peace and security does not excuse non-compliance,

Reiterating that all human rights and fundamental freedoms are universal, indivisible, interdependent and interrelated and should be promoted and implemented in a fair and equitable manner, without prejudice to the implementation of each of those rights and freedoms,

Stressing that the prime responsibility and duty to promote and protect human rights and fundamental freedoms lie with the State,

Recognizing the right and the responsibility of individuals, groups and associations to promote respect for and foster knowledge of human rights and fundamental freedoms at the national and international levels,

Declares:

Article 1

Everyone has the right, individually and in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels.

Article 2

1. Each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms, *inter alia*, by adopting such steps as may be necessary to create all conditions necessary in the social, economic, political and other fields, as well as the legal guarantees required to ensure that all persons under its jurisdiction, individually and in association with others, are able to enjoy all those rights and freedoms in practice.

2. Each State shall adopt such legislative, administrative and other steps as may be necessary to ensure that the rights and freedoms referred to in the present Declaration are effectively guaranteed.

Article 3

Domestic law consistent with the Charter of the United Nations and other international obligations of the State in the field of human rights and fundamental freedoms is the juridical framework within which human rights and fundamental freedoms should be implemented and enjoyed and within which all activities referred to in the present Declaration for the promotion, protection and effective realization of those rights and freedoms should be conducted.

Article 4

Nothing in the present Declaration shall be construed as impairing or contradicting the purposes and principles of the Charter of the United Nations or as restricting or derogating from the provisions of the Universal Declaration of Human Rights, the International Covenants on Human Rights and other international instruments and commitments applicable in this field.

Article 5

For the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right, individually and in association with others, at the national and international levels:

- (a) To meet or assemble peacefully;
- (b) To form, join and participate in non-governmental organizations, associations or groups;
- (c) To communicate with non-governmental or intergovernmental organizations.

Article 6

Everyone has the right, individually and in association with others:

- (a) To know, seek, obtain, receive and hold information about all human rights and fundamental freedoms, including having access to information as to how those rights and freedoms are given effect in domestic legislative, judicial or administrative systems;
- (b) As provided for in human rights and other applicable international instruments, freely to publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms;
- (c) To study, discuss, form and hold opinions on the observance, both in law and in practice, of all human rights and fundamental freedoms and, through these and other appropriate means, to draw public attention to those matters.

Article 7

Everyone has the right, individually and in association with others, to develop and discuss new human rights ideas and principles and to advocate their acceptance.

Article 8

1. Everyone has the right, individually and in association with others, to have effective access, on a non-discriminatory basis, to participation in the government of his or her country and in the conduct of public affairs.
2. This includes, *inter alia*, the right, individually and in association with others, to submit to governmental bodies and agencies and organizations concerned with public affairs criticism and proposals for improving their functioning and to draw attention to any aspect of their work that may hinder or impede the promotion, protection and realization of human rights and fundamental freedoms.

Article 9

1. In the exercise of human rights and fundamental freedoms, including the promotion and protection of human rights as referred to in the present Declaration, everyone has the right, individually and in association with others, to benefit from an effective remedy and to be protected in the event of the violation of those rights.

2. To this end, everyone whose rights or freedoms are allegedly violated has the right, either in person or through legally authorized representation, to complain to and have that complaint promptly reviewed in a public hearing before an independent, impartial and competent judicial or other authority established by law and to obtain from such an authority a decision, in accordance with law, providing redress, including any compensation due, where there has been a violation of that person's rights or freedoms, as well as enforcement of the eventual decision and award, all without undue delay.

3. To the same end, everyone has the right, individually and in association with others, *inter alia*:

(a) To complain about the policies and actions of individual officials and governmental bodies with regard to violations of human rights and fundamental freedoms, by petition or other appropriate means, to competent domestic judicial, administrative or legislative authorities or any other competent authority provided for by the legal system of the State, which should render their decision on the complaint without undue delay;

(b) To attend public hearings, proceedings and trials so as to form an opinion on their compliance with national law and applicable international obligations and commitments;

(c) To offer and provide professionally qualified legal assistance or other relevant advice and assistance in defending human rights and fundamental freedoms.

4. To the same end, and in accordance with applicable international instruments and procedures, everyone has the right, individually and in association with others, to unhindered access to and communication with international bodies with general or special competence to receive and consider communications on matters of human rights and fundamental freedoms.

5. The State shall conduct a prompt and impartial investigation or ensure that an inquiry takes place whenever there is reasonable ground to believe that a violation of human rights and fundamental freedoms has occurred in any territory under its jurisdiction.

Article 10

No one shall participate, by act or by failure to act where required, in violating human rights and fundamental freedoms and no one shall be subjected to punishment or adverse action of any kind for refusing to do so.

Article 11

Everyone has the right, individually and in association with others, to the lawful exercise of his or her occupation or profession. Everyone who, as a result of his or her profession, can affect the human dignity, human rights and fundamental freedoms of others should respect those rights and freedoms and comply with relevant national and international standards of occupational and professional conduct or ethics.

Article 12

1. Everyone has the right, individually and in association with others, to participate in peaceful activities against violations of human rights and fundamental freedoms.
2. The State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, *de facto* or *de jure* adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the present Declaration.
3. In this connection, everyone is entitled, individually and in association with others, to be protected effectively under national law in reacting against or opposing, through peaceful means, activities and acts, including those by omission, attributable to States that result in violations of human rights and fundamental freedoms, as well as acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms.

Article 13

Everyone has the right, individually and in association with others, to solicit, receive and utilize resources for the express purpose of promoting and protecting human rights and fundamental freedoms through peaceful means, in accordance with article 3 of the present Declaration.

Article 14

1. The State has the responsibility to take legislative, judicial, administrative or other appropriate measures to promote the understanding by all persons under its jurisdiction of their civil, political, economic, social and cultural rights.

2. Such measures shall include, *inter alia*:

(a) The publication and widespread availability of national laws and regulations and of applicable basic international human rights instruments;

(b) Full and equal access to international documents in the field of human rights, including the periodic reports by the State to the bodies established by the international human rights treaties to which it is a party, as well as the summary records of discussions and the official reports of these bodies.

3. The State shall ensure and support, where appropriate, the creation and development of further independent national institutions for the promotion and protection of human rights and fundamental freedoms in all territory under its jurisdiction, whether they be ombudsmen, human rights commissions or any other form of national institution.

Article 15

The State has the responsibility to promote and facilitate the teaching of human rights and fundamental freedoms at all levels of education and to ensure that all those responsible for training lawyers, law enforcement officers, the personnel of the armed forces and public officials include appropriate elements of human rights teaching in their training programme.

Article 16

Individuals, non-governmental organizations and relevant institutions have an important role to play in contributing to making the public more aware of questions relating to all human rights and fundamental freedoms through activities such as education, training and research in these areas to strengthen further, *inter alia*, understanding, tolerance, peace and friendly relations among nations and among all racial and religious groups, bearing in mind the various backgrounds of the societies and communities in which they carry out their activities.

Article 17

In the exercise of the rights and freedoms referred to in the present Declaration, everyone, acting individually and in association with others, shall be subject only to such limitations as are in accordance with applicable international obligations and are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others

and of meeting the just requirements of morality, public order and the general welfare in a democratic society.

Article 18

1. Everyone has duties towards and within the community, in which alone the free and full development of his or her personality is possible.
2. Individuals, groups, institutions and non-governmental organizations have an important role to play and a responsibility in safeguarding democracy, promoting human rights and fundamental freedoms and contributing to the promotion and advancement of democratic societies, institutions and processes.
3. Individuals, groups, institutions and non-governmental organizations also have an important role and a responsibility in contributing, as appropriate, to the promotion of the right of everyone to a social and international order in which the rights and freedoms set forth in the Universal Declaration of Human Rights and other human rights instruments can be fully realized.

Article 19

Nothing in the present Declaration shall be interpreted as implying for any individual, group or organ of society or any State the right to engage in any activity or to perform any act aimed at the destruction of the rights and freedoms referred to in the present Declaration.

Article 20

Nothing in the present Declaration shall be interpreted as permitting States to support and promote activities of individuals, groups of individuals, institutions or non-governmental organizations contrary to the provisions of the Charter of the United Nations.