

Comunidad Ancestral Mapuche de Quillemám



Grupo de Trabajo Lesbomujeras Antirracistas Tierra y Territorio



IMPUNITY FOR VIOLENCE

AGAINST WOMEN DEFENDERS OF TERRITORY, COMMON GOODS, AND NATURE IN LATIN AMERICA

Regional Report

IMPUNITY FOR VIOLENCE AGAINST WOMEN DEFENDERS OF TERRITORY, COMMON GOODS, AND NATURE IN LATIN AMERICA

Regional Report



Grupo de Trabajo
Lesbofeministas
Antirracistas
Tierra y Territorio



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*To those who care for and defend the land and territory
in Latin America. We honor your dignified legacy of
love for life and justice.*

The illustration features a tropical scene on the left with tall palm trees and large green leaves. Below them is a blue body of water with white-capped waves. In the foreground, a person's face is shown in profile, looking towards the water. The background includes a white sky with a few birds and distant, low mountains. The overall style is artistic and illustrative.

Index

| | |
|-----------|--|
| <i>8</i> | Introduction |
| <i>10</i> | Women defenders and their struggles: Cases documented in this report |
| <i>18</i> | Vulnerability of women territorial defenders in Latin America |
| <i>24</i> | Effective investigations to end impunity for aggressions against women territorial defenders |
| <i>34</i> | Protection policy and strategies to prevent attacks against women territorial defenders |
| <i>46</i> | The struggle against impunity as a public policy |
| <i>54</i> | Recommendation |



P r e s e n t a t i o n

The following pages reflect the collective work of the **Urgent Action Fund for Latin America and the Caribbean UAF-LAC**¹, together with 14 feminist funds and local, national, regional, and international women's, feminists, and environmentalists organizations and ethnic-communities. These entities are committed to the promotion and defense of human and environmental rights and a comprehensive protection of women activists and communities that resist agro-industry, hydroelectric, extractive, and infrastructure projects in Latin America.

In previous years, we have documented, analyzed, and presented information to key actors on specific attacks against women territorial defenders in different countries of the region, along with the differentiated impacts of such aggressions and patterns of criminalization used to neutralize their powerful struggles². In the face of the alarming continuum of violence against women activists and the confirmation that impunity is the rule for these crimes, we present the following report with the objective of providing key elements to understand this phenomenon and its specific gender-based manifestations, from a feminist perspective.

In order to evidence the situation of vulnerability and impunity experienced by this group of defenders, we have documented the situation of thirteen activists subjected to individual and collective criminal charges, threats, attacks, and other forms of harassment, up to the most extreme form of repression – physical extermination – in the form of feminicide. These cases allow us to evidence the alarming situation of women defenders, the implementation breach for rights related to the defense of human rights, and a lack of recognition by all types of judicial operators regarding the standards that they must observe to fight impunity in attacks against women defenders.

We begin by presenting documented cases according to the type of aggression suffered by the activists, which later will be developed in more depth, to illustrate the principal trends identified. We continue with a description of situations where these defenders are vulnerable, in order to make explicit the scenarios and risks that they face. In the next three chapters, we address elements that, in our opinion, make up a coherent system of international

1. Urgent Action Fund for Latin America and the Caribbean UAF-LAC is a regional feminist fund that contributes to the sustainability and strengthening of activists and their movements by providing agile and strategic support in the face of risky situations and opportunities. It supports women human rights and territorial defenders' resistance, struggles, and demands to transform unjust and unequal systems, placing at the center protection and care. 365 days a year, UAF-LAC provides resources to women defenders and their organizations in an agile and flexible way to respond to situations of risk, criminalization, and attacks against them, or take advantage of windows of opportunity to advance women's rights in Latin America. To do so, it has a secure online system. UAF-LAC makes territorial and environmental defenders' actions visible, documents attacks against them, and promotes their advocacy and protection and care strategies. For more information and to consult our publications, visit our web page: <http://www.urgentactionfund-latinamerica.org/>

2. In 2015, Urgent Action Fund, together with other women's, feminist, environmentalist, and community funds and organizations presented the first Thematic Hearing on Criminalization Patterns and Limitations to the Effective Participation of Women Environmental and Nature Defenders in Latin America for the Inter-American Commission on Human Rights. In 2016, we updated the cases presented in that report. To consult the full publication, see: <http://www.urgentactionfund-latinamerica.org/publicaciones>

standards for the fight against impunity in attacks suffered by defenders. These are standards developed both in universal and regional human rights systems: a) the obligation to investigate an attack; b) protection policy and prevention strategies that must be set in motion and; c) the fight against impunity as a State public policy.

This document is interwoven with concrete references to the documented cases, which illustrate impunity practices deeply rooted in the region's administration of justice and signifies reiterated violations of defenders' rights. Finally, we present recommendations to address this phenomenon.

This report has been prepared through a joint effort with the Association for Women's Rights in Development (AWID)³, JASS Just Associates⁴, the Mesoamerican Women Human Rights Defenders Initiative⁵, the Movement of People Affected by Dams (Movimento dos Atingidos por Barragens- MAB) of Brazil⁶, Civic Council of Popular and Indigenous Organizations of Honduras (Consejo Cívico de Organizaciones Populares e Indígenas de Honduras-COPINH)⁷, the Commission of Relatives of Victims of the Curuguaty Massacre (Comisión de Víctimas de la Masacre de Curuguaty) in Paraguay, Ecuador's Assembly of the People of the South (Asamblea de Pueblos del Sur), the Women's Movement of Santo Tomás (Movimiento de Mujeres de Santo Tomás) in El Salvador, the Living Rivers Movement (Movimiento Ríos Vivos) of Colombia, the Inter-Church Commission for Justice and Peace (Comisión Intereclesial de Justicia y Paz)⁸ of Colombia, the Center for Justice and Human Rights of the Atlantic Coast of Nicaragua⁹, the Fund for Women of the South (Fondo de Mujeres del Sur)¹⁰, the Ancestral Mapuche Community of Quillempám (Comunidad Ancestral Mapuche de Quillempám), and the Anti-Racist Lesbian-Feminist Land and Territory Working Group (Grupo de Trabajo Lesbofeministas Antirracistas Tierra y Territorio), who provided input and the documentation of cases that illustrate patterns of impunity

Urgent Action Fund of Latin America and the Caribbean -UAF-LAC- was responsible for the systematization and analysis of the information, editing and production of the text, and publication of this material.

3. See: <https://www.awid.org/>

4. See: <http://www.justassociates.org/>

5. See: <http://im-defensoras.org/en/>

6. See: <http://www.mabnacional.org.br/>

7. See: <https://www.copinh.org/>

8. See: <http://justiciaypazcolombia.com/>

9. See: <https://cejudhcan.org>

10. See: <http://mujeresdelsur.org>

WOMEN DEFENDERS AND THEIR STRUGGLES:

cases documented in this REPORT

Cases that illustrate individual and collective judicial procedures as a form of criminalization¹¹

We have classified criminalization¹² as the activation of criminal law to neutralize resistance “during, at least, three stages: 1) creating criminal categories to contain social protest; 2) initiating criminal proceedings against those who resist; and 3) effective application of sanctions as an exercise of social disciplining.” In the documented cases, we found a clear pattern of using this method of criminalization to neutralize women defenders’ leadership. With these cases, we seek to demonstrate the partiality of Latin American justice systems, which act quickly and irregularly to criminalize these activists, but do not operate diligently to prevent and sanction attacks against them. Likewise, we seek to highlight the gendered nuances of the violence exercised against activists during their detention and prison terms.

11. The photographs were taken from diverse sources. In the cases of Sonia Sánchez, Isabel Cristina Zuleta, and Luisa Lozano, they were taken from social media. The photo of Karina Monteros was obtained from Taller Ninja Ecuador, the photos of Dolores López and Fani Olmedo from SERPAJ-Paraguay. The photos of Yolanda Oqueli were obtained from <http://wagingonviolence.org>, those of Lottie Cunningham were obtained from <http://elaw.org>, and those of Berta Cáceres from <http://escr-net.org>. Finally, the images of Nilce de Souza were obtained from Processo de Articulação e Diálogo, and those of Macarena Valdés from Radio Villa Francia.

12. Urgent Action Fund. 2015. Patterns of Criminalization and Limitations on the Effective Participation of Women Who Defend Environmental Rights, Territory, and Nature in the Americas. Regional Report, 2015. Available at: http://docs.wixstatic.com/ugd/b81245_33bf16237c2847e2bb300f664356d424.pdf. The 2016 update for this report can be found at: http://docs.wixstatic.com/ugd/b81245_ee41c150c74544bca57298c050633f1f.pdf



SONIA *Sánchez*

Resistance to a housing project in Santo Tomás- El Salvador. She leads the Women's Movement of Santo Tomás (Movimiento de Mujeres de Santo Tomás) to protest clear cutting in the Santo Tomás forest to build a luxury housing project. In 2015, she faced a judicial procedure for alleged coercion, and in 2016 another for defamation and slander, both initiated by the Robles Company, part of the business conglomerate Grupo Poma. The company began these actions to contain Sonia's declarations, where she denounced the company's failure to fulfill environmental requirements – a situation that the company, in fact, was fined for. Although Sonia was acquitted of the charges, she is currently a victim of different acts of harassment, such as forced entry into her home by hooded persons who claimed to be police officers. It is feared that such actions seek to prevent her declarations against a second construction phase for the residential project.



ISABEL CRISTINA *Zuleta*

Resistance to the Hidroituango dam - Colombia. She has promoted organizing women in the Ituango municipality and lodged complaints for stigmatization, gender violence, and human rights violations. She is part of the Living Rivers Movement (Movimiento Ríos Vivos) in Antioquia, opposing the construction of the Hidroituango hydroelectric dam since 2010. This is a project in which Public Companies of Medellín (Empresas Públicas de Medellín) acts as the operator and the Antioquia department's governor's office is the major shareholder. This has left her victim to threats, harassment, forced disappearance attempts, and criminalization. Currently, she is facing at least six judicial procedures, all of them related to her activism.



LUCIA *Aguero*, MARÍA FANI *Olmedo* and DOLORES *López*

The struggle to recover land – Paraguay. They were detained and charged in the context of the events known as the “Curuguaty Massacre” in Paraguay. It occurred on June 15, 2012 when a group of more than 300 “elite” police officers sought to violently evict 20 small-scale farmer families occupying the Marina Kue property, with the aim of recovering their lands taken over by the Campos Morombí company. In this police action, 17 people died (11 small-scale farmers and 6 police officers). The women were sentenced to six years of house arrest (first and second instances), and are currently pursuing the case’s annulment. The trial was plagued by irregularities in terms of evidence collection and assessment, and the judicial operators’ independence. A push for administrative and disciplinary sanctions against the acting defense lawyers should also be highlighted.



LUISA *Lozano* and KARINA *Montero*

Defense of the right to land and the collective rights of indigenous peoples in Ecuador. In the context of indigenous mobilizations against: a dismantling of bilingual intercultural education; the lands law; a high cost of life; and Decree 16 that sought to control and close social organizations, among other vindications, both Kichwa women from the Saraguro people were charged, along with other women, with obstruction of public services. Both were initially sentenced to 4 years in prison, and then with the sentence’s revision, to a \$1,464 US dollar fine and 200 hours of community service (which includes painting and cleaning Communal Police Units), to give a public apology in two mass media outlets, and to take a security course, as well as good behavior as dictated by the control authorities. They were violated and discriminated against for being indigenous women at the moment of their detention.



Cases that illustrate threats, attacks, and other forms of harassment

We have characterized criminalization¹³ as a phenomenon that not only includes criminal charges, but also stigmatization and different forms of harassment directed at neutralizing women defenders' work. Harassment *"involves body language, shouting, attitudes, and different forms of hostility against women defenders in their social milieu; family peace is wounded when the security of loved ones is compromised; affronts activists' safety when it impedes their free circulation and transit (...)."*

13. Urgent Action Fund. Op.cit.



YOLANDA *Oqueli*

Resistance to mining in Guatemala. She is a leader of the Metropolitan Area's Northern Front (Frente Norte del Área Metropolitana - FRENAM), which denounced the expansion and impacts of mining activities in San José del Golfo and San Pedro Ayampuc in Guatemala. She was attacked in July 2012, after participating in a peaceful protest as part of the Peaceful Resistance of La Puya. The next year, unidentified individuals fired shots in front of her house. Since 2014, when the peaceful protests were carried out, she has faced court charges for alleged illegal detention, coercion, and threats. The companies linked to the mining project are Radius Gold Inc., Kappes, Cassidy & Associates, and local affiliates Guatemala Mining Explorations S.A. (Exploraciones Mineras de Guatemala S.A. - EXMINGUA) and Central American Mining Services S.A. (Servicios Mineros de Centro de América S.A.)



LOTTIE *Cunningham y JUANA* *Bilbano*

Defense of indigenous peoples' right to land - Nicaragua. Members of the Center for Justice and Human Rights of the Atlantic Coast of Nicaragua. Due to their defense of indigenous peoples' rights on the Atlantic Coast, particularly before international human rights bodies from the Universal and Inter-American systems, they have received serious death threats since February 2017. The defenders accompany more than one hundred indigenous communities in the Puerto Cabezas, Waspam, and Prinzapolka municipalities which are at high risk and have suffered attacks with firearms, assassinations, injuries, kidnappings, crop burning, and forced displacement.



Femicide

Assassinations of women who defend human rights, territory, and the environment constitute femicide because they respond to a continuum of structural violence against women. These crimes are State responsibility: due to omission, given that they show a lack of diligence and a failure to implement effective measures to prevent, investigate, and punish this violence; and action, when state actors carry out actions or act in collusion with businesses and/or organized crime.

In the context of extractive industries, agro-industry, and infrastructure works, femicide against women territorial defenders takes on other dimensions that must be highlighted: “violence against women in its most infamous expression, femicide, is one of the deterritorialization strategies (...) carried out by global capitalism, which needs those territories to carry out its large-scale investment megaprojects.”¹⁴

Our intention is to highlight the misogynistic character of these crimes, in addition to that of hypotheses and lines of investigation established by authorities.

14. Betty Ruth Lozano (n.d.). “Asesinato de mujeres y acumulación global: el caso del bello puerto del mar mi buenaventura.”



BERTA Cáceres

Resistance to the construction of the Agua Zarca dam - Honduras. Indigenous Lenca woman, assassinated on March 3, 2016 in her home located in El Líbano, municipality La Esperanza, Intibucá, western Honduras. Her assassination occurred within the context of her people and the Civic Council of Popular and Indigenous Organizations of Honduras' (COPINH, acronym in Spanish) resistance to the implementation of the Agua Zarca hydroelectric dam project which has capital from the Dutch Development Bank (FMO), the Finnish Fund for Industrial Cooperation (FINNFUND), and the Central American Bank for Economic Integration. She had previously been criminally charged, harassed, and threatened, which is why she was the beneficiary of precautionary measures granted by the IACHR in 2009. Currently, the investigation of her assassination is suspended in a preliminary hearing, after evidence of multiple irregularities including the loss of the case file and the declaration of evidentiary reserve. The International Advisory Group of Experts (GAIFE, acronym in Spanish) report¹⁵ states that her assassination was going to be investigated as a crime of passion and was due to a conflict of interest within COPINH.



NILCE de Souza

Resistance to the Jirau Hydroelectric Dam - Brazil. Leader of the Movement of People Affected by Dams of Brazil. She was disappeared on January 7, 2016 in Velha Vetum – Paraná, and her body was found five months later in the lake built by the dam with signs of violence. The femicide occurred after resistance to the impacts of the Jirau Hydroelectric Dam of the Energia Sustentável do Brasil (ESBR) Consortium, made up by the companies GDF Suez-Tractebel, Mitsui, Grupo Electrobrás, Electrosul, and Chesf. Nilce led negotiations for her community's relocation and to correct monitoring studies which did not take fisher's reality into account. One of the arrested suspects escaped from prison in April 2016.

15. International Advisory Group of Experts – GAIFE (2017). "Dam Violence: The Plan that Killed Berta Cáceres."



“LA NEGRA” MACARENA *Valdés*

Resistance to the Minicentral Hydroelectric Dam in Chile. Leader of the indigenous Mapuche community of Newen-Tranguil in Chile, assassinated on August 22, 2016. Although the police authorities rushed to present the case as a suicide, her assassination was a femicide carried out in response to her leadership of community resistance to an electrical network installation by the Austrian-Chilean company RP Global Chile Renewable Energies S.A. (RP Global Chile Energías Renovables S.A.). The owner of the land where Macarena and her family lived had received threats from the company to leave the area. Although the authorities rushed to archive the process, due to national pressure and a new expert witness, the case was re-opened. With pressure from the family and support from international organizations – including UAF-LAC – it was possible to carry out a second independent autopsy, which evidenced the crime’s judicial farce: Macarena’s body was arranged to simulate a suicide after her assassination.





VULNERABILITY

of WOMEN territorial defenders in

LATIN AMERICA

“Plunder and injustice, along with the abuse of power, have left enormous scars and grief yet to be resolved in our peoples and communities. We have seen the social fabric of the communities torn and the normative, cultural and historical systems weakened among the indigenous, Afro-descendant peoples and their territories. We have seen municipal and territorial autonomy disappear. We have seen a rise in feminicides, sexual violence, the trafficking of women’s bodies, the fragmentation of families, the forced displacement of populations that must leave behind their homes, their loved ones, their memories. We have seen many of our people live in uncertainty and anxiety, with the daily fear of losing their lives¹⁶.”

16. Declaration of Organizations Participating in the Latin American Gathering of Defenders and Authorities of the Original Peoples and Territories of Latin America. May 30 to June 2017, Mexico City, organized by UAF-LAC and other organizations. Available at: <http://im-defensoras.org/2017/06/declaration-of-organizations-participating-in-the-latin-american-gathering-of-defenders-and-authorities-of-the-original-peoples-and-territories-of-latin-america/>

The risk level, lack of protection, and attacks against those who defend environmental rights around the world is alarming. Global Witness' most recent report¹⁷ reveals more than 200 defenders assassinated in 2016, characterizing this as an expansive phenomenon linked, in particular, to the mining sector. It mainly costs the lives of indigenous people in the context of projects that do not respect the right to consultation or the right to free, prior, and informed consent. According to **Global Witness, 60% of the deaths occurred in Latin America**, with the most concerning cases in Brazil, Honduras, and Colombia.

Front Line Defenders coincides with this regional diagnosis. In their 2016 annual report, they verified that the percentage of defenders assassinated in Latin America is much higher than in any other continent. Within this group, people who defend the land are most affected: *"Judicial harassment, physical attacks, threats, intimidation, and smear campaigns were also used as strategies against them by both state and non-state actors, particularly in the context of development projects"*¹⁸.

By presenting these cases, it has been possible to have first-hand information about the phenomenon, which has facilitated an ever-larger number of general context hearings

on the issue. Organizations, communities, and peoples have denounced a similar pattern: **the imposition of extractive, energy, infrastructure, or agro-forestry projects, preceded by regulatory flexibility for the operators – with a tint of corporate corruption – and a dismantling of legal guarantees for communities, with displays of disproportionate use of force or violence against them – depending on the context – and, a wall of impunity for the aggressions suffered.**

Given the phenomenon's dimension, in February 2017, the IACHR expressed in a press release *"its consternation over the devastating increase in violence against those who oppose extractive or development projects or who defend the right to land and natural resources of indigenous peoples in the region"*¹⁹.

More recently, for World Environment Day, the Commission addressed the matter and made a statement regarding impunity for the crimes committed against defenders. In particular, it referred to the slowness of judicial procedures and the lack of information on advances in investigations: *"In this regard, the IACHR recalls that States have the obligation to combat impunity in instances of assaults against defenders of the land*

17. Global Witness (2017). Defenders of the Earth: Global Killings of Land and Environmental Defenders in 2016. Available at: <https://www.globalwitness.org/en/campaigns/environmental-activists/defenders-earth/>

18. Front Line Defenders. Annual Report on Human Rights Defenders at Risk in 2016. Available at: <https://www.frontlinedefenders.org>

19. Inter-American Commission on Human Rights, "IACHR Condemns Murders of Human Rights Defenders in the Region." February 7, 2017. Available at: http://www.oas.org/en/iachr/media_center/PReleases/2017/011.asp

and environment by conducting a serious, independent and transparent investigation in order to identify the masterminds and actual perpetrators and to ensure adequate reparation²⁰."

Human rights violations that specifically occur in scenarios of social-environmental unrest are derived from various elements, as indicated by Michel Forst:²¹

- a) the imbalance of power between States, companies, and human rights defenders which is reflected in "all decision-making processes, from the upstream phases such as the determination of the advisability of a project to the design of the project, and onward to its implementation;"²²
- b) the environment's commodification and financialization, which does not take "the social or cultural dimensions and the complex interactions of elements within and between ecosystems"²³ into account;
- c) corruption, which manifests in, for example, the exclusion of communities from participation in environmental impact assessments;²⁴
- d) impunity, understood as:

*"...the lack of independent and prompt investigations into attacks perpetrated against environmental human rights defenders, which is often linked to a lack of resources, corruption and collusion between perpetrators. States have nearly always failed to ensure that perpetrators are brought to justice and sanctioned. This has been the case in countries such as Brazil, Guatemala, Honduras and the Philippines, and this situation can perpetuate the climate of impunity, sending the message that environmental human rights defenders cannot trust the justice system to seek remedy for violations."*²⁵

SHowever, impunity involves much more than the absence of

punishment in the criminal arena. As Wilder Tayler points out, impunity means victims do not know the truth about the attacks suffered, do not have access to reparations, and the State does not adopt measures to prevent their repetition²⁶.

Unfortunately, **sufficient disaggregated information is not produced on the number of women defenders of territory, the environment, and nature who are victims of attacks due to their work, however, it is clear that they suffer differentiated impacts and that the community chastising experienced due to attacks is significant and requires greater attention.** Specifically, in the context of social-environmental conflicts, women defenders:

*"... face a number of challenges, including those related to exclusion from participation in the negotiation and decision-making processes; criminalization used as a political strategy to deter resistance and delegitimize their work; smear campaigns against them in the media; and discrimination and violence against them in their families, communities and human rights movements."*²⁷

To achieve an acceptable level of democratic participation, women defenders must enjoy a conducive environment, in the terms formulated by the Special Rapporteur on the situation of human rights defenders²⁸, as a tool to improve protections for those who defend these rights. This environment requires that private agents respect and support their work, and States develop appropriate institutional conditions to promote the defense of human rights, undertake a fight against impunity for violations committed against defenders, establish effective protection mechanisms, and abstain from slowing down their activities before international bodies. Likewise, the conducive environment is expressed through a solid community of human rights defenders. In this framework, a special consideration for risks faced by women defenders is crucial.

20. Inter-American Commission on Human Rights, "IACHR issues call for OAS States to Protect Defenders of the Land and Environment." June 5, 2017. Available at: http://www.oas.org/en/iachr/media_center/PReleases/2017/072.asp

21. Special Rapporteur on the situation of human rights defenders. Report A/71/281 of August 3, 2016

22. Ibid. Par. 41

23. Ibid. Par. 48

24. Ibid. Par. 50

25. Ibid. Par. 50

26. "The Problem of Impunity and its Treatment in the United Nations – Notes for Reflection." IJHR Magazine. Vol. 24. 1996. These elements are captured in principle 1 of the set of principles for the protection and promotion of human rights through the fight against impunity: "Impunity constitutes a failure by States to meet their obligations to investigate violations; to take appropriate measures in respect of the perpetrators, particularly in the area of justice, by ensuring that those suspected of criminal responsibility are prosecuted, tried and duly punished; to provide victims with effective remedies and to ensure that they receive reparation for the injuries suffered; to ensure the inalienable right to know the truth about violations; and to take other necessary steps to prevent a recurrence of violations." E/CN.4/2005/102/Add. 1. February 8, 2005.

27. Special Rapporteur on the situation of human rights defenders. Report A/71/281 of August 3, 2016.

28. In report A/HRC/25/55 of December 23, 2013.

However, women who are immersed in scenarios of environmental unrest due to their defense of territory and nature lack a safe and conducive environment, as they are denied specific legal protections. They face limited institutional structures for their protection, a lack of political will to investigate the diverse attacks they confront, and a massive network of non-state agents (companies, members of private security organizations, the media, and even members of their own communities and organizations) who see defenders as threats to achieve their aim, which is why women defenders face different personal and community impacts.

In her study on the matter, the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people found that in all cases she had the opportunity to study:

All of these impacts result in precarious property rights, safe housing tenure, non-discrimination, a legitimate exercise of participation, and the right to promote and defend rights²⁹.

The bodies of women defenders suffer the effects of pollution, a lack of food or the consumption of unhealthy foods, and they face difficulties to access water: as a consequence, they suffer reproductive illnesses and violence³⁰. They are also victims of domestic and sexual violence; they suffer psychological and emotional torture due to threats or judicial persecution; they restrict their freedom of movement in their own territories or are forced into exile.

The attacks suffered by women who defend nature and territory come from multiple actors. Visible actors are those easily identified, who form part of the State or belong to the business class. Thus, we can identify officials in different instances of public power, members of state security forces and military forces: also, company security guards, the media, and

29. For more in depth information about these impacts, read our previous report "Patterns of Criminalization and Limitations on the Effective Participation of Women Who Defend Environmental Rights, Territory, and Nature in the Americas" 2016 Update. Available at: http://docs.wixstatic.com/ugd/b81245_ee41c150c74544bca57298c050633f1f.pdf

30. Regarding this matter, see our report "Extractivism in Latin America: Impact on women's lives and proposals for the defense of territory." UAF-LAC. 2016. Available at: http://docs.wixstatic.com/ugd/b81245_16670e088d4e4eb694e0b80314de0893.pdf

Some of the PERSONAL and COMMUNITY impacts that WOMEN defenders suffer from

Personales

Hours: Uncertainty and anxiety

Weeks: Feelings of powerlessness and injustice, physical injuries and ruptured family dynamics

Months: Feelings of guilt, social and family isolation, confinement or exile, depression, illness and loss of economic income

Years: Decrease in assets and stagnation of life project

Organizational/ Community

Hours: Fear

Weeks: Worrying about the future and feeling of "being next"

Months: Loss of routine dynamics, lack of focus on agendas and immersion in difficult areas of justice administration and frustration

Years: Difficulties with cohesion and articulation and desertion

the companies' representatives. **On the other side, we have also identified hidden actors, those who exercise a powerful influence over society as a group and in particular over visible actors: drug traffickers, religious groups, company advisers, and gang and paramilitary groups. Finally, there are invisible actors that make up the structure of society: state racism, the neoliberal model, the patriarchal and sexist system, and the colonial inheritance that promotes unequal access to land and resources³¹.**

In her study on the matter, the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people found that in all cases she had the opportunity to study:

"... women suffered some form of attack linked to gender: threats of rape, sexual assault, harassment of different types, and outrages against honor. These attacks prevent women from exercising their activism in an enabling environment for the defense of human and territorial rights, and of nature. Attacks against women in contexts of resource extraction projects or threats that they will come to fruition, expose additional vulnerabilities, since they 'have few opportunities to present these abuses before the courts, and when they do, they experience incomprehension and fierce pressure in their family and community settings."³²

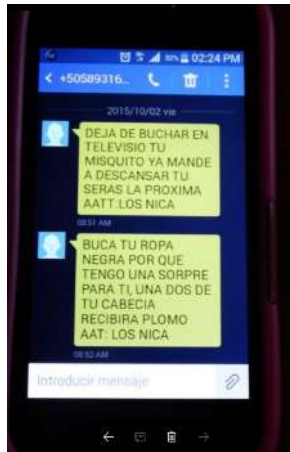
Women defenders are also witnessing the collapse of

democracy, as existing legal guarantees are dismantled and environmental regulations are made more flexible. Likewise, when they highlight this in the public arena, denouncing the state of this situation, their space is limited in terms of participation in decisions that affect territories and nature, and they are criminalized. In an alarming and increasing number of cases, women are also assassinated and the tremendous community and social impact from their physical extermination is used as one of the worst forms of social disciplining, and even more, it is covered up by disgraceful impunity³³.

As Linda Cabrera noted before the Commission³⁴, it is not an exaggeration to state that "the impacts produced by mining policies and large-scale mining extraction industries more and more are mirroring the impacts produced by war (...) on women's lives and bodies." The situation is such, that some organizations use the perspective of war impacts to focus on the effects on women in the context of resource extraction, and thus, they affirm the validity of United Nations Security Council Resolution 1325 to address conflicts of a social-environmental character.³⁵

In war contexts, "sexual violence against women is a habitual, extensive, systematic, and invisible practice,"³⁶ as was confirmed in Colombian Constitutional Court Ruling 092 which examined the differentiated situation for

women victims of forced displacement. In scenarios where the environment is impacted by mining and energy exploitation, infrastructure construction, the imposition of monocultures, etc., it is an extensive, systematic, and invisible practice that violates women in different ways.



One of the telephone threats received by a CEJUDH/CAN member who works with indigenous women victims on the settlers' action.

31. All of these elements were taken from the reflections of the Regional Gathering of Defenders of Land, Territory and Environment on protection strategies held between May 30 and June 1, 2017 in Mexico City by Amnesty International, Front Line Defenders, Urgent Action Fund for Latin America, and JASS- Mesoamerica, among other organizations.

32. Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people. Report on Indigenous Women. A/HRC/4/32. 2007. Par.

33. In research carried out by the Observatory for the Protection of Human Rights Defenders of the FIDH and OMCT about the situation of land rights defenders in the entire world, it was established that "out of the 106 situations affecting 282 land rights defenders and 19 NGOs which were covered by the Observatory from January 2011 to August 2014, more than 95% of them have remained unpunished." Available at: https://www.fidh.org/IMG/pdf/obs_2014-uk-web2.pdf

34. Representative of the Corporación Sisma Mujer, in a report before the IACHR during the hearing "Human Rights Situation of Persons Affected by Extractive Industries in the Americas" during the 144th period of sessions in March 2012.

35. "In agreement with the findings of the present study, in Colombian mining extraction areas, different forms of violence are manifested: structural, direct, and cultural. These forms of violence affect the population in general. However, their impact is different according to determining factors like gender, age, and ethnic-racial condition. It is because of this that Resolution 1325 can contribute in a significant way as a mechanism and roadmap to minimize and overcome these effects in girls and women." See: Gloria Tobón, Mujeres conflictos socio ambientales y resolución 1325 de las Naciones Unidas, 2015. Available in Spanish at: <http://www.rednacionaldemujeres.org/phocadownloadpap/mujeres%20conflictos%20socioambientales%20resolucion%201325.pdf>

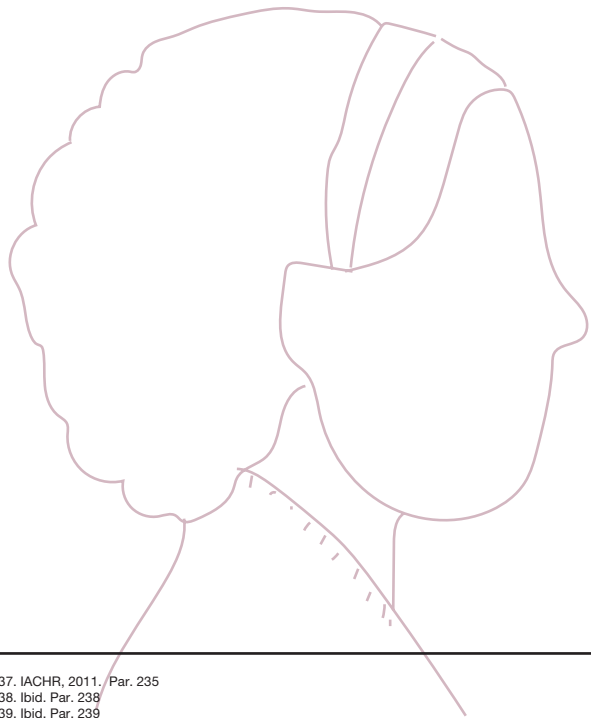
36. Constitutional Court. Ruling 092 of 2008. M.P. Manuel José Cepeda Espinosa.

Urgent efforts are required to achieve a genuine commitment from States to respect and recognize the legitimacy of women defenders' work, adopt effective prevention measures against attacks and to protect the women defenders' integrity, and adopt effective measures to fight against impunity. These efforts also must take into account the responsibility that corresponds to national and transnational companies and project finance organisms, due to their direct or indirect responsibility, action or omission in relation to the attacks that women defenders suffer, or for simply benefitting from them.



EFFECTIVE INVESTIGATION

to end IMPUNITY for aggressions against women territorial defenders



Following the recommendations of the Inter-American Human Rights Commission for the fight against impunity, States must undertake investigations that, as a minimum: a) are exhaustive and independent³⁷, b) respect due process, which implies conducting investigations in a reasonable period (“including the appeals that may be filed³⁸) and avoiding delays³⁹, c) should be oriented towards identifying not only the direct perpetrators, but also the masterminds, as a way to access the right to truth⁴⁰, and d) should be carried out with diligence, in other words, with “all legal means available and oriented toward determining the truth⁴¹.”

In this last point, and specifically in investigations of violence against women, there is also the duty to use

“... all appropriate means of a legal, political, administrative and social nature to provide access to justice, health care and support services that respond to their immediate needs, protect against further harm and continue to address the ongoing consequences of violence for women and girls, including indigenous women and girls, taking into consideration the impact of violence on their families and communities.”⁴²

37. IACHR, 2011, Par. 235

38. Ibid. Par. 238

39. Ibid. Par. 239

40. Ibid. Par. 237

41. Ibid. 2011. Par. 235. In the women’s case, due diligence for the investigation of the attacks was settled in the Latin American Model Protocol for the investigation of gender-related killings of women (femicide/feminicide) written by the Central America Regional Office of the United Nations High Commissioner for Human Rights (OHCHR) with support from the Americas and Caribbean Office of the United Nations Entity for Gender Equality and the Empowerment of Women (UN Women), within the framework of the United Nations Secretary General’s campaign UNITE to End Violence Against Women, which we consider to clearly apply. This protocol is available at: <http://www.unwomen.org/-/media/headquarters/attachments/sections/library/publications/2014/latinamericanprotocolforinvestigationoffemicide.pdf?la=en&vs=558>

42. Resolution 32/19 of the UN Human Rights Council, “Accelerating efforts to eliminate violence against women: preventing and responding to violence against women and girls, including indigenous women and girls.” A/HRC/RES/32/19 of July 19, 2016.



But the investigations cannot be feigned. They must be “assumed by the State as its own legal duty and not as a mere formality preordained to be ineffective or simply a step taken by private interests that depends upon the initiative of the victim or his [her] family or upon their offer of proof.”⁴³

The struggle against impunity requires an administration of justice that addresses the matter with will and sufficient resources. However, just as the Commission has verified, **there is a clear absence of serious investigations in the region, and the slowness to administer justice is unprecedented. This is a phenomenon that contrasts with “the speed with which arrest warrants and other protective measures to the detriment of human rights defenders are issued.”**⁴⁴

Similarly, we have shown in the cases documented that there is a pattern of reticence for States to investigate i) attacks committed against defenders and ii) complaints lodged by defenders, which has often led to or increased attacks. This shows two sides of justice in the region; on one side, defenders’ work is neutralized through criminalization, and on the other, impunity is guaranteed for perpetrators.

The documented cases show this two sidedness. Starting in the north of the continent and heading south, we begin with **Yolanda Oquefí, in Guatemala**. While judicial authorities were prompt to initiate judicial procedures against the defender after she lodged a complaint against EXMINGUA mining workers regarding alleged threats, the investigation for the attack she suffered in 2012, initiated by the Public Ministry, has not produced results. Nor has the investigation of threats received in March 2016; one of the threats said: “*we are going to behead you and your children.*”⁴⁵ Only very recently, the country’s judicial branch suspended the company’s mining extraction license and finally began to issue arrest warrants for the illegal extraction it had been carrying out⁴⁶. This is a typical case where staff contracted by the companies harasses and attacks women defenders, becoming complicit in violations committed against the women defenders⁴⁷. This trend invites not only business and human rights principles to be adopted, but also the application of a “human rights-based approach to large-scale development projects.”⁴⁸

In **El Salvador, Sonia Sánchez** was subject to two judicial procedures in which the *Grupo Roble* requested the severest punishment and a large sum for moral damages. Despite an

43. IACHR, 2011. Par. 235 and 2007. Par. 541 – 24.

44. IACHR, 2015. Par. 174.

45. UDEFEGUA. Exprésate con otro rollo. 2016 Report. Available in Spanish at: <http://udefegua.org/wp-content/uploads/2017/05/Informe-Genaral-2016-FINAL6.pdf>

46. Observatory for the Protection of Human Rights Defenders FIDH, OMCT, and UDEFEGUA. Guatemala: Appeal for an ambitious agenda for the protection of human rights defenders - Conclusions of an international mission. June 2016. Available at: <http://www.omct.org/human-rights-defenders/urgent-interventions/guatemala/2016/06/d23788/>

47. Special Rapporteur on the situation of human rights defenders. Report A/HRC/25/55 of December 23, 2013. Par. 105

48. Ibid. Par. 93.

acquittal, the authorities have not begun any investigations for fear of the plaintiffs. Also, there is no knowledge of any investigations opened against officials who dismantled the forest reserve protections with the aim of benefiting from the construction of a housing megaproject in 2007; of those who allowed this construction in 2015 even though the environmental impact study had expired and the public consultation was not duly implemented; or against members of the Ministry of Environment who gave the project go-ahead with an administrative bond and declarations of ineligibility due to the revolving door between public officials and the economic conglomerate⁴⁹.

In **Honduras, Berta Cáceres'** femicide, is intimately linked to the Agua Zarca hydroelectric project which threatened the Lenca people's cultural survival and sought to dismantle resistance actions from both indigenous people and the Civic Council of Popular and Indigenous Organizations of Honduras – COPINH. However, the most significant terror strategy is linked to the message that women defenders face an absolute lack of protection: **Berta registered 30 complaints in the Public Ministry before dying**.⁵⁰ Regarding this situation, Erika Guevara-Rosas, Americas Director of Amnesty International, correctly stated at the time: "The cowardly killing of Berta is a tragedy that was waiting to happen"⁵¹.

The femicide trial has demonstrated significant irregularities regarding the chain of custody for evidence; mistreatment and intimidation of witnesses, family members, and COPINH members; a failure to address a line of investigation that directly involves the DESA company; hiding of evidence; and the loss of the case file, among others. Far from approaching the crime from a contextualized lens and in relation to the activist's recognized work in opposition to the dam's construction, "State officials in charge of the investigation constructed hypotheses lacking any foundation. They attributed Berta Cáceres' murder to a former

partner, creating the connotation of a crime of passion. They also maintained that the attack arose due to conflicts of interest from within COPINH."⁵²

Furthermore, the preliminary hearing has been suspended on three occasions⁵³. Thanks to international observation, this is the only judicial process that has generated some type of visible judicial action since the femicide of **Jeannete Kawas Fernández**, which, of course, remains in impunity.

In contrast, there is no knowledge of any investigation opened against Cardinal Oscar Andrés Rodríguez who urged his parishioners against organizing with COPINH, despite Berta denouncing this act as discrimination at the Public Ministry⁵⁴



Complaint by COPINH about trial irregularities

49. Described in detail in Mario Beltrán's journalistic research, in his article *Así le permitió el Ministerio de Medio Ambiente a Grupo Roble deforestar en Santo Tomás*. July 2015. Revista El Salvador tres puntos cero. In Spanish at: <http://elsalvadortrespuntoscero.com/asi-le-permitio-el-mam-a-grupo-roble-deforestar-en-santo-tomas/>

50. According to Tomás Gómez of COPINH. In: BBC World. *Qué ha cambiado (y qué no) a un año del asesinato en Honduras de la ambientalista Berta Cáceres*. March 3, 2017.

51. Amnesty International. *Brutal murder of indigenous leader, a tragedy waiting to happen*. March 3, 2016. At: <https://www.amnesty.org/en/latest/news/2016/03/honduras-brutal-murder-of-indigenous-leader-a-tragedy-waiting-to-happen/>

52. International Advisory Group of Experts - GAJPE (2017), "Dam Violence: The Plan that Killed Berta Cáceres."

53. The last time was this past September 27.

54. Telesur. *Honduras: clérigo instó a fieles a no organizarse en el COPINH*. December 3, 2015. In Spanish at: <http://www.telesurtv.net/news/Honduras-clerigo-into-a-fieles-a-no-organizarse-en-el-CopinH--20151203-0036.html>

or against the Intibucá mayors who facilitated the hydroelectric dam's construction and contributed to the military repression of the Lenca people⁵⁵, or against the officials who supported military and paramilitary deployment to contain protests against the project.⁵⁶

In the case of **Nicaragua**, although **CEJUDHCAN** lodged at least 14 complaints with the National Police of Waspmam in November 2015, those complaints were not pursued. In addition, official discourse did not recognize the existence of formal complaints for the assassinations, kidnappings, and disappearances of indigenous people immersed in the tragic dynamic of settlers usurping their territory. **In this context, CEJUDHCAN lodged 49 new complaints in December 2016 which were not received by a police agent, alleging that because of superior orders, he could not "receive complaints related to land conflicts."**⁵⁷

After reporting these human rights violations, the women defenders suffered threats and, due to the authorities' inaction, had to request precautionary measures from the Commission, which were granted in August 2016. Unfortunately, to date, the State of Nicaragua has not opened a dialogue to make effective the resolution. Meanwhile, **Juana Bilbano and Lottie Cunningham** endure threats for reporting human rights violations in those territories.

In **Colombia**, the level of impunity for aggressions against human rights defenders is very concerning. Even though the National Attorney General's Office (Fiscalía General de la Nación) has led some initiatives to combat it, for OHCHR better results are required. This is why they have recommended implementing incentives for the Attorney General's Office to advance in investigations.⁵⁸

Especially unsettling is the reticent culture of public

officials to prosecute cases of sexual violence, that is to say, to guarantee access to justice for victimized women and women defenders. For example, when **Isabel Cristina Zuleta** was captured in 2013 by agents of the Mobile Anti-Disturbance Squadron (ESMAD, acronym in Spanish), her private parts were photographed. When she shared this with the Attorney General's Office leading the case, the prosecutor told her *that was not the important thing*, but rather the attacks that she and other members of the Ríos Vivos Movement were promoting against the company building the Hidroituango dam.

In the case of the Saraguro people of Ecuador, more than one thousand police and army forces – backed by an Executive Decree which established a state of exception due to the Cotopaxi volcano's threat of eruption – repressed indigenous people's peaceful demonstrations⁵⁹ with an excessive and disproportionate use of force, even though the right to resistance is constitutionally recognized (Art. 98). This was the context for the detention and subsequent criminal prosecution of **Luisa Lozano and Karina Monteros.**

"Hearing the screams of a woman that the police were dragging out of a hole near the Pan American Highway, Luisa realized that it was her 6-month pregnant neighbor whose "belly was already showing" and with indignation and courage, went to help her. Luisa narrated that they dragged her out by her shawl, that her hat was lost amidst the violence, that the police were shouting, "grab the women" while she defended herself saying: "don't be so inhuman." Various colleagues were dragged along because they refused to walk; Luisa was kicked to the ground and hit with a stick. Luisa asked for them to please stop, that her daughter was sick and alone at home; she begged and insisted but they immediately took her to the police car. There she found bloodied, beaten people with significant wounds. A colleague

55. Which resulted in the deaths of indigenous people like Tomás García.

56. See, for example, Urgent Action for the Freedom of Berta Cáceres. At JASS: <https://justassociates.org/en/action/call-action-freedom-berta-caceres-honduras>

57. Impunity is constant. Crimes such as the assassination of Berminia Dixon Peralta, a Mayangna indigenous woman, her 11-year old boy, and her husband on November 27, 2016 at the hands of settlers in the Alamikamba community; the forced disappearance of Ana Lampson Castillo's husband and father of their seven children, carried out on December 17, 2015 in the Community of La Esperanza Río Wawa; the assassination of Marina Ramos Seppe's husband and father of their eight children in Waspmam Río Coca in September 2015; the assassination of Magdalena Steven Omier's husband in the Santa Clara community, Wangki Twi Tasba Raya territory in September 2015. All of these events leave women and their children in a vulnerable social and economic situation, made worse by an atmosphere of fear and uneasiness fueled by inaction from the competent authorities.

58. OHCHR, Report A/HRC/34/3/Add.3 of March 14, 2017. Par. 59.

59. A more complete report on the matter can be found in Informe Alternativo al Comité contra la Tortura , conducted by ECUARUNARI and CONAIE, in October 2016. Available in Spanish at: http://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/Ecuador/INT_CAT_CSS_ECU_25635_S.pdf

wanted to escape and would not let them handcuff her; because of this, the police “clubbed her hard.” Luisa said to them, “let her go, don’t harm her,” and the police responded: “if you don’t want to be beaten, sit down” and they put her in their holding area.”⁶⁰

It is worth highlighting that police actions were marked by profoundly racist sentiments and specific gender-based violence. According to the women’s testimony, policemen hurled insults like “lazy Indians, go serve your husbands, dirty women, don’t bother us here, if you keep bothering us and shouting, we are going to rape you all.” They threatened to tie them up by their hair and they hit them in the abdomen and breasts.⁶¹

Investigations were never initiated against these uniformed officers for the excesses committed, not even after the acquittal of various detained individuals. On the contrary, as Human Rights Watch evidenced, their actions were encouraged:

“...In two of his weekly TV shows during August, Correa showed video of isolated clashes as though these clashes pervaded the demonstrations, and congratulated Ecuadorian police and military officers for their “professionalism” during the protests.”⁶²

Later **Luisa** and **Karina**, along with other land tenants, were sentenced without weighing their testimony regarding police brutality⁶³. Instead, they were given a harsher sentence than that established in the Criminal Code: the crime of paralyzing public services is punishable with a one to three-year sentence, however, the judges sentenced them to four⁶⁴. Under review, the ruling was changed to a fine, community service, offering a

public apology to the policemen who detained them, and taking a good behavior course.

That is how police violence not only ends in impunity, but also subjects victims to the humiliation of having to ask the officers for forgiveness for resisting their violence. It is hard to imagine a more mortifying symbolic violence, particularly for these women.

In **Brazil, Nilce de Souza Magalhães was assassinated in 2016**. She tirelessly denounced the impacts of the Jirau (Porto Velho) hydroelectric dam on the lives of fishers and the environment, especially the abuses faced by the displaced community and the greenhouse gases created by decomposing organic material in the reservoir. Nilce was a protagonist in the call for necessary reparations due to damages caused by the company, resulting from its failure to comply with environmental licensing⁶⁵. Her complaints led to the Federal Public Ministry and the State of Rondonia’s revision of social programs to support fishing activities which had not been defined, and an acknowledgement that the area and affected population should be compensated and relocated, in addition to a criminal investigation on:

“...the manipulation of information in reports monitoring fishing activity, with the objective of hiding such impacts. She also denounced the existence of diverse forest areas flooded by the dam’s reservoir, where various native tree species are now dead, including those that are essential for harvesting like chestnut trees, in addition to the presence of illegally buried wood that is polluting the water and creating greenhouse gas emissions.”⁶⁶

60. Testimony documented by the Colectivo investigación y Acción Psicosocial and the Movimiento por la Salud de los Pueblos. Informe psicosocial y de violaciones de derechos humanos: caso Saraguro. In Spanish at: <https://investigacionpsicosocial.files.wordpress.com/2016/06/informe-caso-criminalizacic3b3n-saraguro.pdf>

61. Karina’s testimony, recounted in “Resistir es mi derecho,” and can be watched in Spanish here: <https://www.youtube.com/watch?v=6gkHuwHgW0o>

62. Human Rights Watch. Ecuador: Crackdown on Protesters. Excessive Use of Force, Arbitrary Detentions, Illegal Home Searches. November 10, 2015. At: <https://www.hrw.org/news/2015/11/10/ecuador-crackdown-protesters>

63. The sentence includes “it is not believable that, with asphyxiation she described and more bombs falling near her car, that she would have the opportunity and energy to go complain to police agents about the person who, when she was apprehended, was pregnant, even less when Ms. Karina Monteros Paguay, also charged, was also present at the place of the event, according to her, referring to when she screamed her appeal that they leave Ms. Luz Paqui alone, she did not mention that Ms. Lozano Quizhpe had verbally and physically intervened to defend Ms. Paqui, and what has been analyzed seems to be created, not corroborated.” Trial No: 11313201500435 of Supreme Judges Máximo Muñoz, Mercí Hurtado, and Pablo Narváez.

64. See INREDH. Tribunal de Loja emite sentencia escrita en caso Saraguro. June 12, 2016. In Spanish at: <https://www.inredh.org/index.php/en/boletines/derechos-humanos-ecuador/114-tribunal-de-loja-emite-sentencia-escrita-en-caso-saraguro>. For the judges, in a sentence with notable failures regarding motive, the prosecuted “... had full knowledge of their actions and the infraction’s end result, because their aim was to “impede” access to the public utility company and violently resist its re-establishment. It has been shown accordingly that the prosecuted women acted with will and conscience, thus carrying out their illegal activity, committing an infraction with direct and indirect acts, according to what is classified under paragraph a) of number 1 of Art. 42 of COIP, which puts them in the category of material perpetrators.”

65. For more information, see the documentary Jirau and Santo Antônio: relatos de uma guerra amazônica. In Spanish and Portuguese at: <https://www.youtube.com/watch?v=ZFQ11fr3vs>

66. Movement of People Affected by Dams. Leader of MAB in Rondônia is disappeared. January 12, 2016. In Portuguese at: <http://www.mabnacional.org.br/noticia/lideran-do-mab-em-rond-nia-est-desaparecida> An extensive description of Nilce’s leadership can be found at:

“Relatório da missão realizada em junho/2016 pelo grupo de trabalho sobre defensores de direitos humanos ameaçados no estado de Rondônia, criado no âmbito da comissão permanente de defensores de direitos humanos e enfrentamento à criminalização dos movimentos sociais, do conselho nacional dos direitos humanos”. August 2016. Available in Portuguese at: <http://www.sdh.gov.br/sobre/participacao-social/cndh/relatorios/relatorio-sobre-defensores-de-direitos-humanos-ameaçados-no-estado-de-rondonia>

It is evident that Nilce - or Nicinha, as she was affectionately called - was a determining factor to exercise citizen control over the excesses committed during the construction and filling of the hydroelectric dam. These translate into human rights violations, carried out with the authorities' acquiescence, as they ignored their duty to protect this population's rights. **Nicinha's leadership inspired and supported the fishing community, and although her feminicide was presented as a common crime, what is certain is that, at a minimum, it directly benefitted the business conglomerate responsible for the hydroelectric dam**⁶⁷.

We understand this benefit as a kind of complicity⁶⁸, given that the feminicide occurred during a federal government inspection amidst a major social protest, which included affected families,

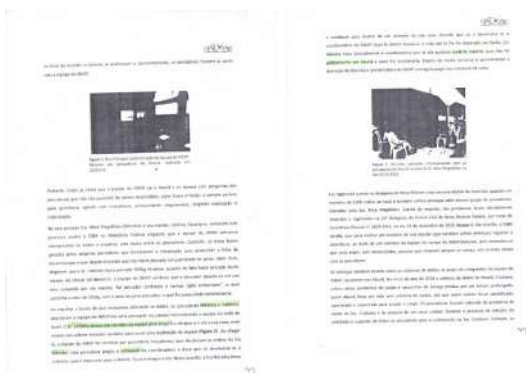


Image of the document: "Programa de monitoramento e apoio a atividade pesqueira. Subprograma de monitoramento da atividade pesqueira. Usina hidrelétrica Jirau. Relato das ocorrências de ameaças. Setembro de 2014. Natúra consultora ambiental y Energia Sustentável"

paralyzing the plant⁶⁹. Furthermore, it should be taken into account that a couple of years ago, the consultant Natúrea had accused and stigmatized Nilce and her community, complaining of alleged threats from her. This took place in the context of its program to monitor fishing activities, which described the community as "aggressive" and Nilce as the leader of "gruesome fishers."

In **Paraguay, Lucía Agüero, Fanny Olmedo, and Dolores López**, together with dozens of small-scale farmers, occupied the Marina Kue property with the dream of accessing land for their families' survival, convinced that it was land designated for Agrarian Reform⁷⁰. However, they did not expect the powerful Campos Morombí company – that never had title over the land – to incite their eviction by filing an 'invasion' complaint, categorized as a crime in the criminal code. The eviction resulted in the death of 11 small-scale farmers and 6 police officers in June 2012, in an event known as the 'Curuguaty Massacre.'

A torturous path awaited these women and other small-scale farmers who survived the massacre. They faced criminal charges of intentional homicide, invasion of another's property, and criminal association, based on the investigative line that if the police fired, they did so in defense. Finally, the women and eight of their colleagues were sentenced to 6 years in prison. Today they are serving their sentence under house arrest, which was achieved through hunger strikes and national and international pressure on the case.

The farmers' testimonies show that there was a disproportionate police presence (more than 300 men to contain 50 small-scale farming families), that during and after the massacre there were extrajudicial executions, torture, and threats, that the police did not provide help to those injured, and that they treated the bodies of the assassinated farmers inhumanely⁷¹.

67. The consortium Energia Sustentável do Brasil (ESBR), responsible for the dam is comprised of the companies: GDF Suez-Tractebel of French capital with 40% of the shares, Mitsui with Japanese origin with 20%, and the Electrobrás group with 40%, Eletrosul and Cheswith with 20% each, according to the Movement of People Affected by Dams. In Spanish at: <https://www.colectivodeabogados.org/IMG/pdf/ni-un-minuto-de-silencio.pdf>

68. Collusion by usufruct: the company is not directly involved but benefits from the violations. UN Global Compact, Ministry of Foreign Affairs of Denmark, UNDP Nordic Representation Office. Implementing the UN Global Compact: A Booklet for Inspiration. June 2005. Available at: https://www.unglobalcompact.org/docs/news_events/8.1/dk_book_e.pdf

69. Movement of People Affected by Dams. March 21, 2017. Judgment of those accused of murdering Nicinha will take place this Thursday. At: <http://www.mabnacional.org.br/en/noticia/judgment-those-accused-murdering-nicinha-will-take-place-thursday>

70. As FIAN International and Via Campesina confirmed, "the main motivation for peasants in demanding and occupying the lands of Marina Kue was the need to feed themselves and preserve their culture. A number of the families that participated in the occupation of Marina Kue previously lived in precarious urban lots. Others inhabited a ten-hectare farm with multiple families, refusing to migrate to the cities because they wanted to work the land and remain in the countryside. Land is not just a productive resource for rural people—it also has important social and cultural value. The testimonies of peasant families make clear that they firmly believed that the lands were allocated for agrarian reform," for the benefit of the peasantry. Report: Land Conflicts and the Criminalization of Peasant Movements in Paraguay: The Case of Marina Kue and the "Curuguaty Massacre." 2014. Available at: http://www.fian.org/fileadmin/media/publications_2015/Land_Conflicts_and_Criminalization_of_Peasant_Movements_.pdf

71. Ibid., p. 6.



Image from the press conference carried out by President Fernando Lugo, on the events in Curuguaty.⁷²

Although no investigation was carried out against the police who participated in these events, an immediate action was the impeachment of President Fernando Lugo, who stepped down one week later⁷³. Likewise, the legal process was plagued with irregularities connected to the chain of custody, the exclusion of fundamental evidence and inconsistencies in evidence assessment⁷⁴, and the intervention of officials with questionable independence. None were investigated: not the judge who granted acquisitive prescription to the Riquelme family, owner of *Campes Morombí* – who in other cases has ordered the eviction of indigenous families to favor landowners⁷⁵, nor the attorney – later Vice Minister of the Interior – who had a relationship with the Riquelme family⁷⁶, nor the convenient assassination of key witnesses in the case.

Nor has there been an investigation of officials involved in the defense lawyers' disciplinary harassment⁷⁷. This case exemplifies how the lawyers who take on these types of cases are exposed to multiple risks: "Their offices are ransacked, their communications are intercepted by the authorities or third parties, and they are sometimes victims of intimidation

campaigns that may even include a withdrawal of their license to practice."⁷⁸

In 2014, the Human Rights Committee of Paraguay's country report dedicated various sections to the State's judicial conduct around the massacre: it expressed concern regarding the homicide of Vida Vega, a case witness; the "lack of impartiality and independence in the investigations of the events," and the case's irregularities and the women's situation:

*"The State party should institute an immediate, independent and impartial investigation into the deaths of 17 people during the police raid in Curuguaty on 15 June 2012, and also into all the related incidents reported by the victims, particularly torture, arbitrary detention, extrajudicial executions and possible violations of due process, including in the case of the young person who was convicted and the two heavily pregnant women held in pretrial detention."*⁷⁹

Three years after this observation, there is no evidence that the State has the will to comply.

The same situation occurred in **Chile**, where the Inter-American Court already ruled on the undeniable influence of stereotypes and prejudices in the application of the law and rulings against the Mapuche indigenous people⁸⁰. Repeated episodes of legal cases against Mapuche leaders Francisca Linconao, Lorenza Cayuhan, Patricia Troncoso, Millaray Huichalaf, and Juana Calfunao, are no more than the application of a guide to neutralize the spiritual and social leadership of women territorial defenders. Even worse, their physical extermination has occurred in contexts that are, at the least, suspicious, like those of Agustina Huenupe, Nicolasa Quintreman, and now, **Macarena Valdés**.

72. Image taken from: <https://www.youtube.com/watch?v=bJpwVyzxDkM>

73. The thesis set forth by some sectors is that there was a takeover of democratic powers by the country's landowners – who have imposed monocultures of genetically modified soybean – specifically the judiciary, which has actively protected the police actions in Marina Kue, found a way to continue and protect itself with President Lugo's impeachment.

74. The La Plataforma de Estudio e Investigación de Conflictos Campesinos presented a very detailed report on the matter "Masacre de Curuguaty" in October 2012. Available in Spanish at: <https://abcmiente.files.wordpress.com/2012/10/informe-curuguaty-peicc.pdf>

75. Magazine Zur, pueblo de voces. Article "¿Todavía no sabes qué pasó en Curuguaty?" Available in Spanish at: <http://zur.org.uy/content/%C2%BFtodav%C3%ADa-no-sab%C3%A9s-qu%C3%A9-pas%C3%B3-en-curuguaty>

76. According to Somos Observadores. Interview with Global Voices. Four Years and an Impeached President Later, Paraguay's Curuguaty Massacre Is Still in the Shadows. June 2, 2016. Available at: <https://globalvoices.org/2016/05/31/four-years-and-an-impeached-president-later-paraguays-curuguaty-massacre-is-still-in-the-shadows/>

77. Serpaj – Paraguay. Presentaron descargos los abogados sumariados del caso Curuguaty. December 2014. In Spanish at: <http://www.serpajpy.org.py/?p=3471>

78. Special Rapporteur on the situation of human rights defenders. Report A/70/217 of July 30, 2015. Par. 75.

79. United Nations Human Rights Committee. Concluding observations on the third periodic report of Paraguay. CCPR/C/PRY/CO/3 of April 29, 2013. Par. 23.

80. Inter-American Court of Human Rights. Case of Norín Catrín et al. (Leaders, members, and activist of the Mapuche indigenous people) v. Chile. Judgment of May 29, 2014.

Together with her family and community, **Macarena** resisted the installation of high voltage power lines by the company RP Global Chile Renewable Energies S.A. (*RP Global Chile Energías Renovables S.A.*), which had already violated community rights by failing to consult them about the installation of a power plant that passed through their territory. On August 1, she participated in a blockade to avoid the power lines' installation. The day before, some men arrived in a car with the company's logo and threatened the property owner where Macarena and her family lived that they must abandon the area, or else *something bad* would happen to them. **On August 22, Macarena was found hung in her house, in a scene that looked like suicide. However, her family and community have always had the profound conviction that it was a femicide related to the community's local resistance and her leadership role in the demonstrations. Today, there is scientific evidence that proves them right.**

During the process of reporting these incidents, there were various episodes which impeded or added obstacles to the path to justice. When the property owner tried to lodge a complaint, the police informed her that she could not do so as she was not a member of Macarena's family. Later, the family's lawyer filed the respective complaint which was temporarily lost. And lastly, the autopsy protocol indicated that "she died of asphyxiation due to hanging without the intervention of third parties." After multiple obstacles and criminal charges, Rubén Collío – Macarena's ex-husband – and the community achieved a second autopsy (paid for by them, not the State) which proved that she was already dead when her body was hung up to simulate a suicide.⁸¹

After the femicide, and with a grief stricken community, **the company was able to install the power lines. Also, the courts were quick to declare that Macarena – post humous– was under investigation for the crime of public disorder**

for her participation in the August 1 demonstration. Today, other women defenders in the community have received death threats and threats that their houses will be burned down.

A pattern is clearly observed in these cases: political and judicial authorities close the ranks in favor of state security forces, and their actions are not publicly questioned, nor the actions of judges and attorneys who systematically refuse to follow lines of investigation that link attacks with the women defenders' actions to resist business activities. In contrast, they produce hypotheses and define lines of investigation sustaining that these are crimes of a private nature, common crime, or "crimes of passion," exempting themselves from recognizing violence against women defenders as bound to the structural injustice and inequality that women face. This reveals that a naturalization of violence against women constitutes an influential factor to perpetuate impunity against women human rights and territorial defenders.

The protection of involved public officials and companies is profoundly damaging to democracy, and it only fuels conditions that generate confrontations and social-environmental unrest.

It is imperative to immediately overcome administrative obstacles related to jurisdiction or scope, courts' different approaches⁸², as well as procedural obstacles such as gathering evidence, assessment of evidence, economic costs to document damages, temporary restrictions to collect evidence, and witness protection⁸³. Investigations require competent, independent, and impartial civil employees⁸⁴, trials in the ordinary, not military justice system⁸⁵, and they must be coordinated with other state entities⁸⁶, which implies adopting differentiated protocols⁸⁷. In short, public officials must be aware of the social role that human rights defenders play⁸⁸, specifically women defenders and defenders of women's rights.

81. The autopsy report affirms: "The histopathologic study of the cervical region's skin confirmed the nonexistence of vital injuries, that is, the presence of signs of hemorrhagic infiltration in the area where the neck was hung is ruled out, and so it can be considered that this implies suspension of the cadaver by the neck, not of a live individual. In this last case, there would have existed some signs of hemorrhagic infiltration in the soft tissues compressed by the rope, which is not evident in this case, making it possible to rule out that the cause of death was asphyxiation by hanging."

82. *Ibidem*. Par. 136

83. *Ibidem*. Par. 139

84. IACHR, 2011. Par. 239

85. *Ibid.* Par. 240

86. IACHR, 2006. Par. 342 - 23

87. IACHR, 2007. Par. 541 - 22

88. IACHR, 2011. Par. 244

“Since the judiciary may itself be responsible for violating defenders’ rights (for example, by unjustified criminalization of defenders), judges should receive training on international standards, including on the right to defend human rights, in order to minimize their complicity in such violations.”⁸⁹

In the case of the murder of women defenders, it is imperative that authorities address femicide’s situational context, to differentiate between interpersonal homicide, homicide related to criminal activities, and sociopolitical homicide⁹⁰. Consequently, the State must:

“Provide police and prosecutors with specific expertise on risk assessment and risk management, establish specialized units focused on violence against women, and encourage courts to gain specific knowledge on femicide and violence against women.”⁹¹

Regarding attacks against environmental struggles, it is important to highlight the recommendation stating that investigations look for a connection between these attacks and the work that defenders carry out⁹² to identify the crime’s underlying interests “and thus to establish lines of investigation and hypothesis about the crimes.”⁹³ In this regard, it is important to take into account the warning from those who defend territories: *“There is a system of collusion [between enterprises, private groups guarding sites, individuals linked to organized crime, etc.] to try and silence defenders’ reports of corruption and human rights violations.”⁹⁴*

Finally, the primary measure to prevent crimes from recurring, is the punishment of the actual perpetrators⁹⁵, (as happened in the case of Nilce and will surely happen in Berta’s case) as well

as the masterminds, who are very close to those who benefit from attacking defenders.

It is urgent to develop an understanding that directly includes those who benefit - in any form - from attacks against territorial defenders, and in particular against women defenders. Additionally, the beneficiaries must immediately respond as accomplices to land grabbing, be commercially punished by closing their projects, and face the competent authorities in the legal system⁹⁶.

89. Special Rapporteur on the situation of human rights defenders. Report A/HRC/31/55 of February 1 2016. Par. 95

90. Dubravka Šimonović, Special Rapporteur on violence against women, its causes and consequences. Report A/71/398 September 23, 2016. Par. 38

91. Dubravka Šimonović, Special Rapporteur on violence against women, its causes and consequences. Report A/71/398 September 23, 2016. Par. 82.

92. Special Rapporteur on the situation of human rights defenders. Report A/HRC/34/52/Add. February 1-20, 2017. Par. 166

93. IACHR, 2011. Par. 236

94. Special Rapporteur on the situation of human rights defenders. Report A/70/217 July 30, 2015. Par. 68.

95. Ibidem

96. The People’s Tribunal - Colombia addressed the issue of the beneficiaries, whose accusers found the transnational corporations responsible for human rights violations as they benefit from these violations: “The accusers pointed out that the modus operandi of the accused companies adheres to four different areas: benefitting from repression as a way to ensure mining;” using the military as part of its own security department; adapting internal legislation to the interests of the transnational company; and freezing territories to forcibly remove people from them.” International human rights bodies must adopt this focus to examine private agents’ responsibility for human rights violations. See: Permanent Peoples’ Tribunal, Colombia chapter. Mining session. November 2016. Available in Spanish at: <http://justiciapazcolombia.com/Tribunal-Permanente-de-los-Pueblos, 1945>



PROTECTION POLICY

and PREVENTION strategies for attacks against women defenders of territory

It is the States' responsibility to prioritize the implementation of “a global protection policy” and “an effective and comprehensive prevention strategy to prevent attacks.”⁹⁷ To achieve this, it is recommended that a safe and conducive environment be created for human rights defenders, understood as a space where their work “is woven together to support society and where institutions and governments promote their safety and their activities’ objectives.”⁹⁸

Protection Policy

The context in which they operate and factors such as ethnicity, economic status, age, and others, “produce different degrees of vulnerability for women. For this reason, it is critical for gender analysis to adopt an intersectionality lens, examining how the combination of such factors has an influence on the rights and security of women defenders.”⁹⁹

In addition to addressing risks from an intersectional perspective, it is necessary to examine them according to the

97. IACHR, 2006. Par. 342-5.

98. Special Rapporteur on the situation of human rights defenders. Report A/HRC/31/55 of February 1, 2016. Par. 77

99. Special Rapporteur on the situation of human rights defenders. Report A/HRC/31/55 of February 1, 2016. Par. 38 and 111..

type of exploitation / extractive, agro-industrial, or infrastructure activity. The risks in the context of oil or mining (where women must co-exist with a new transient male population¹⁰⁰ and they are exposed to pollution), are not the same as those related to infrastructure projects such as roads or buildings, or megastructures such as channels and dams (which increase the risk of forced displacement, loss of land, and a more immediate loss of access to basic subsistence supplies, causing women to lose economic autonomy).

It is impossible to compare the risks of agro-business projects like palm, genetically modified soybean, pineapple, or plantations (where exposure to toxic agrochemicals is permanent and a loss of biodiversity completely transforms traditional ways of life), or the construction of “clean” energy projects like wind parks (where, in addition to unrecognized environmental impacts, the projects have a favorable public opinion and are labeled as sustainable technologies). Also, there are specific risks when the projects are being developed, in operation, or in the process of being closed or abandoned.

In the Latin American region, public officials and the business sector frequently make public statements against women

defenders, which are rarely rectified. As Michel Forst mentions, “the use of laws, policies, speeches, and actions that implicitly or explicitly protect big business, in both legal and illegal ways, at the expense of human rights, [represents] an enormous problem.”¹⁰¹ **The executive branch and business sector’s discourse clearly shows their antagonism directed against women defenders’ work, hence it is urgent to publicly legitimize them, as the first step towards consolidating a protection policy.**

The United Nations General Assembly Resolution 68/181 emphasizes the protection of women defenders and defenders of women’s human rights¹⁰²; States must acknowledge the role of women defenders “*in the promotion and protection of human rights, democracy, the rule of law, and development as an essential element to ensure their protection, including publicly condemning violence and discrimination against women human rights defenders.*” The second step is strengthening solid protection programs. Their implementation should be protected by law and financially sustainable. It must include early warning systems, the mechanisms must be consulted with them¹⁰³, and be adaptable to specific conditions and needs¹⁰⁴.

100. In these scenarios, fear of violence intimidates women and makes them avoid public life. See: Dubravka Šimonović, Special Rapporteur on violence against women, its causes and consequences. Report A/69/368 of the September 1, 2014. Par. 21.

101. Special Rapporteur on the situation of human rights defenders. Report A/HRC/34/52/Add. February 1-20, 2017. Par. 164

102. A/RES/68/181 on January 30, 2014.

103. Special Rapporteur on the situation of human rights defenders. Report A/HRC/25/55 of December 23, 2013. Par. 88. Also Report A/HRC/31/55 of February 1, 2016. Par. 111.

104. *Ibidem*.

Defenders such as **Berta Cáceres** have been very distrustful of protection programs and **there are too many examples where the people who accompany defenders end up carrying out intelligence activities for those who want to attack them.** Protection programs cannot be used in a perverse manner, that is to say, “they cannot serve in some way as palliatives to achieve impunity for the oppressors.”¹⁰⁵

In **Guatemala**, as was confirmed by the IACHR during their most recent visit, the process to develop a protection policy has advanced but has not been formally approved. Nevertheless, and as was mentioned in the press release, it is important that:

“...Special measures of adequate and effective protection that are suitable to deal with the danger the person is facing and able to produce the results for which they were conceived. This program should incorporate a risk analysis model to adequately determine the risk and the protection needs of each defender or group, incorporating a gender perspective, for example, or one geared toward groups that are in an especially vulnerable situation.”¹⁰⁶

Once they are implemented, the programs suffer many failures. In **Honduras**, for example, even after the femicide of Berta, the Law to Protect Human Rights Defenders, Journalists, Social Communicators, and Justice Workers continues “without proper implementation.”¹⁰⁷ The FIDH verified the delay and lack of political will to implement it:¹⁰⁸

“On one hand, in the majority of the 25 cases presented at this time, the Technical Mechanisms Committee (Comité Técnico del Mecanismo) has exclusively requested police escorts, which is to say, an emergency response but not one that

guarantees protection, and which lacks a true risk analysis. Further, the beneficiaries are not clear about the protocols that are being applied to implement these measures.”

In **Colombia**, although there is a National Protection Unit for defenders, it has failed to deter intimidation, threats, and attacks against human rights defenders¹⁰⁹. The Office of the High Commissioner in Colombia recently recommended that protection measures be substantially improved, in particular in rural areas, where the largest number of attacks are committed¹¹⁰. For example, although the National Protection Unit adopted collective and individual measures for the Living Rivers Movement (Movimiento Ríos Vivos), the majority have not been fulfilled. Twenty-four members of the Movement made 37 protection requests, of which only 16 were granted and without full compliance. **Isabel Cristina Zuleta** has two bodyguards due to the gravity of the most recent threats. However, it has been brought to her attention that employees from that entity claim she is economically benefitting from the State’s protection, that the Movement’s risk level is not so high, and that they don’t actually need protection measures.

In **Brazil**, similar to Honduras after the coup d’état, the situation of human rights defenders has become very worrisome, in particular due to an increasing trend of criminalization. Simultaneously, it is worth noting a regressive application of the protection program for defenders, with measures like Decree 8,724 of April 2016¹¹¹ that caused defenders’ to leave the program’s social control mechanism. Thus, in spite of its existence:

“...Deficiencies in the program’s application and lack of resources caused these people to continue being victims of homicides and threats. In June, their effectiveness was further undermined when, due to cutbacks, several agreements between governments

105. Special Rapporteur on the situation of human rights defenders. Report A/57/182 of July 2, 2002. Par. 39.

106. IACHR. IACHR concludes visit on-site to Guatemala. Press release from August 4, 2017. At: http://www.oas.org/en/iachr/media_center/PReleases/2017/114.asp

107. On which the United Nations Human Rights Committee expressed its concern in its report CCPR/C/COL/CO/7 of November 17, 2016. Par. 38.

108. According to the UNHCR “the Office recognizes the efforts of the National Protection Unit to respond to the numerous and varied protection needs throughout Colombia. However, and in spite of many soft protection measures granted in rural areas, the suitability or effectiveness of the protection measures for human rights defenders in rural areas has not been evaluated. Based on the information available, the Office observes that, despite an increase in homicides of these defenders, only 20 percent of the hard protection measures were assigned to rural areas. The office also points out the need to ensure that the National Protection Unit analysts can go to rural areas to interview human rights defenders, according to established procedures. Report A/HRC/8/3/Add.3 of March 14, 2017. Par. 63

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111. Comitê Brasileiro de Defensoras e Defensores de Direitos Humanos (CBDDH). Falta de interesse político deixa Programa de Proteção de Defensoras e Defensores em estado crítico. Available at: <http://comitedd.org.br/ultimas-noticias/falta-de-interesse-politico-pode-levar-programa-de-protacao-de-defensores-a-extincao/>

were suspended at the state and federal levels, impacting the program's application."¹¹²

Brazil does not apply the standard requiring open dialogue spaces with human rights organizations "to hear both their opinions about public policies as well as the problems that afflict them"¹¹³. The protection system is being dismantled at a time of violent outbreaks in rural areas¹¹⁴, which exacerbates violence against other defenders. For example, Iza Cristina Bello and Lurdilane Gomes are victims of constant threats due to their community leadership in Paraná, as they demand the right to reparations for social damages caused by the San Antonio and Jirau hydroelectric dams, specifically the allocation of houses once occupied by the workers. Although the Movement of People Affected by Dams has requested inclusion in the protection program since early 2016, their request has gone unanswered¹¹⁵.

Finally, protecting women defenders must be addressed from a comprehensive perspective, "as a result of multiple dimensions, such as economic security, political security, environmental security, digital security and psycho-social well-being."¹¹⁶ This perspective implies, for example, that protection programs include "the groups, organizations, communities, and relatives who share risks with [the women defenders]"¹¹⁷ and that officials who participate in protection programs receive "specific training on human rights and gender issues"¹¹⁸. Beyond that, it should include an intersectional approach that takes into account the specific risks and multiple kinds of discrimination that women defenders are exposed due to their ethnic background, age, and economic status.



*Lurdilane Gomes da Silva and Iza Cristina Bello*¹¹⁹

112. Amnesty International. Brazil Report 2016/2017 At: <https://www.amnesty.org/es/countries/americas/brazil/report-brazil/>

113. IACHR, 2006. Par. 342 – 4 and 2007. Par. 541 - 7.

114. Comissão Pastoral da Terra. Proteção to testemunhas tem plane redução not country. July 6, 2017 Available in Portuguese at: <https://www.cptnacional.org.br/publicacoes/noticias/conflictos-no-campo/3869-plano-de-protecao-a-testemunhas-tem-reducao-no-pais>

115. Estadão Jornal Digital. O drama das mulheres de Nova Mutum Paraná. July 5, 2017 Available in Portuguese at: <http://brasil.estadao.com.br/noticias/geral,o-drama-das-mulheres-de-nova-mutum-parana,70001877250>

116. Special Rapporteur on the situation of human rights defenders. Report A/HRC/31/55 of February 1, 2016. Par. 44.

117. Ibidem. Page 111

118. Special Rapporteur on the situation of human rights defenders. Report A/HRC/25/55 of December 23, 2013. Par. 88.

119. Image taken from: Journal Nortao. Em Rondônia, mulheres ameaçadas por defender direitos humanos precisam fugir para sobreviver. Julio 15, 2017. At: <http://www.onortao.com.br/noticias/em-rondonia-mulheres-ameaçadas-por-defender-direitos-humanos-precisam-fugir-para-sobreviver,97914.php>



Suspend the Criminalization of Women Defenders as an Effective Protection Measure

The third step to a protection policy is the commitment to refrain from criminalization. Nevertheless, in the cases observed, either ex officio or initiated by the business sector, judicial civil employees facilitate a delegitimization of women defenders' work when they prosecute them. With good reason, during its recent visit to Guatemala the IACHR recommended *"to ensure that authorities or third parties do not manipulate the punitive power of the State and its judicial bodies to harass human rights defenders and justice system operators."*¹²⁰

In cases of individual criminal charges, we have been able to identify a pattern of extreme cruelty against women defenders intended to neutralize their role as leaders, as they are considered potentially dangerous to project development. This is the case for: **Berta Cáceres** in Honduras, charged with land grabbing, coercion, and causing more than 3 million dollars in damages to the hydroelectric company DESA¹²¹; **Yolanda Oqueli** in Guatemala, charged for allegedly threatening mining company EXMINGUA workers; and **Sonia Sanchez** in El Salvador, first charged with coercion and later for libel and slander, due to her complaints about the environmental damages caused by the powerful Grupo Roble's construction

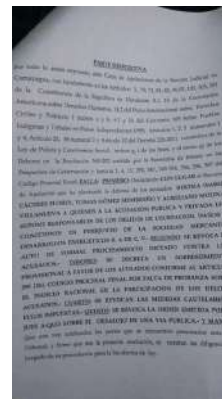
120. IACHR. 2017 Ob cit.

121. Together with their COPINH colleagues, Tomás Gómez and Aureliano Molina. See: Global Witness, Honduras report: the most dangerous place to defend the planet. At: <https://www.globalwitness.org/en/campaigns/environmental-activists/honduras-deadliest-country-world-environmental-activism/>

of a residential project. **All of them were acquitted after dealing with proceedings for several years. Nevertheless, they continue to face persecution and, of course after verifying their innocence, there was no compensation, indemnification, or public apology from the accusers.**

Specifically, it is worth noting the case of **Isabel Cristina Zuleta** who faces several judicial processes in Colombia for opposing the Hidroituango hydroelectric project, including: disturbance of official proceedings aggravated by violence, threats, sedition and robbery, an investigation opened in June 2016; libel and slander, investigation opened in 2015; obstructing roadways and retention of a public vehicle, violating the right to work and damages to third parties, inquiry opened in March 2013.

In these cases, there is an obsession with the concept of women defenders, intended to create an image that they are public enemies against development, who prevent community members' access to work or who distort the "legitimate" interests of the private sector.



File to acquit Berta Cáceres in 2014. Despite the court ruling, she was harassed and later detained.¹²²

122. COPINH. Ayer, 26 de enero, agentes de la DGIC detuvieron temporalmente a la compañera Berta Cáceres. January 27, 2014 Available in Spanish at: <http://copinhonduras.blogspot.com.co/2014/01/ayer-26-de-enero-agentes-de-la-dgic.html>

In this context of permanent stigmatization and obsession to keep women on the margins of social and environmental struggles **Yolanda Oqueli** "... remembers that when she began to participate in the resistance, her colleagues told her "women should be at home, in the kitchen" and that if she insisted on participating in the struggle it was because she "was looking for men." "For her, the most important achievement is that "women have been empowered," despite initial difficulties, they have been able to transform asymmetrical and discriminatory relationships inside the communities, making their partners more sensitive and aware that women's participation in the defense of territory is legitimate, necessary, and deserving of respect."¹²³

Sonia Sanchez's case (El Salvador) is worth highlighting, as she was labeled an enemy of "family values." Indeed, during the 2016 case, the Grupo Roble lawyer accused Sonia's defense counsel of standing up for "killer women who are reported for abortion" and, for that reason, her arguments should not be believed.

Also, when requesting a USD \$25,000 dollar fine for alleged damages caused to the economic group's good name, the company's lawyer told the jury that this money would be given to the foundation "Yes to life", a pro-life group that has contributed to El Salvador being one of the most violent countries in the region regarding women's sexual and reproductive rights¹²⁴. The strategy of the plaintiff's lawyer was clearly oriented to convince the jury of the environmentalist's guilt, using an anti-abortion discourse. **This is a neutralization strategy clearly based on gender, as it is founded on a rejection of rights historically defended by the country and region's women's and feminist movement.**

In cases of collective criminal charges, such as those against **Lucia Agüero, Fanny Olmedo** and **Dolores Lopez** in

Paraguay, or **Luisa Lozano** and **Karina Hunters** in Ecuador, women are stripped of their rights as citizens, including the right to claim their lands or take part in public protests. Exercising their citizenship and participating in collective processes to claim rights, results in their dismissal and activists are labeled delinquents or provocateurs.

In these cases, social control operates to deprive them of their freedom within a context of parsimonious criminal proceedings where, even though evidentiary material is obviously precarious or even nonexistent, and the judicial proceedings lack due independence, the spectacle of criminal prosecution reigns supreme.

In Ecuador, for example, in light of the Public Defender's report on disproportionate sanctions in cases like that of the Saraguro people, the President himself called the Public Defender a "big liar" of the *infantile left*¹²⁵. It was not long before the Minister of Justice and Human Rights urged the Public Defender to prove that judicial independence does not exist in this country¹²⁶. Hence, denial of disproportionate action became State policy.

Moreover, in Paraguay, the case's Prosecutor, Jalil Rachid - later named Minister-, referred to the independent SERPAJ investigation - the setting of Paraguay's Curuguaty massacre, as science fiction, an attempt to destroy his research, a direct attack on the Public Prosecutor's office¹²⁷. Thus, the institution responsible for uncovering the truth, commits to a single line of investigation: the one that denies any military excesses and places the massacre's tragic events on the small-scale farmers. Como lo señala la Resolución 68/181 de la Comisión, los Estados deben asegurarse

The criminalization of women defenders is the clearest contradiction to the obligation to create a protection policy for them. It is urgent to end the use of judicial procedures

123. UAF-LA-LA. Women defending the territory. Experiences of participation in Latin America. December 2015. At: http://www.universal-rights.org/wp-content/uploads/2018/01/Women-defending-UAF_LA.pdf

124. In the report El Salvador: Separated Families, Broken Ties. Amnesty International has widely documented the issue of women imprisoned for obstetric emergencies and the impact it has on their families: "The regulatory framework, in addition to criminalizing all women who chose to have an abortion, creates an atmosphere of suspicion against those who suffer miscarriages or other obstetric emergencies without medical care. As a consequence, women who have undergone obstetric complications, the majority of whom live in poverty, have been processed and accused of abortion or, in the worst of cases, accused of aggravated homicide." November 2015. At: <https://www.amnesty.org/es/documents/amr29/2873/2015/en/>

125. Ecuador inmediato. Presidente de Ecuador califica a Defensor Público como un gran mentiroso. June 28, 2016 Available in Spanish at: http://ecuadorinmediato.com/index.php?module=Noticias&func=news_user_view&id=2818804192&umt=presidente_ecuador_califica_a_defensor_publico_como_un_gran_mentiroso

126. Ministry of Justice, Human Rights and Religion " El Defensor Público debe probar que no hubo independencia judicial en resolución del caso Saraguro." S/F. Available in Spanish at: <http://www.justicia.gob.ec/el-defensor-publico-debe-probar-que-no-hubo-independencia-judicial-en-resolucion-del-caso-saraguro/>

127. Hoy newspaper. March 31, 2015. Available in Spanish at: <http://www.hoy.com.py/nacionales/documental-de-caso-curuguaty-es-ciencia-ficcion-segun-fiscal>

as a method to neutralize their activities and destroy their personal, family, organizational, and community life.

As stated in the Commission's resolution 68/181, States should ensure:

"... That the promotion and protection of human rights are not criminalized or met with limitations in contravention of their obligations and commitments under international human rights law and that women human rights defenders are not prevented from enjoying universal human rights owing to their work."

URGENTE

Presidente de Ecuador califica a Defensor Público como "un gran mentiroso"



2016-06-28 23:30:00
Pública Nacional

Este Después de haber dicho que en el país existe desproporcionalidad de sentencias. Aunque precisó que Ernesto Pizarro, defensor público, tiene total libertad de expresarse su opinión sobre Andrés Bello, Rafael Correa, Presidente de la República, aclaró que no puede mentar ni engañar a la sociedad, sobre el sistema judicial ecuatoriano. Estas declaraciones se hicieron durante un conversatorio con medios de comunicación en Quito.

NOTICIA NACIONAL

MIÉRCOLES 21 DE MARZO DE 2018 | 08:38

Documental de caso Curuguaty es "ciencia ficción", según fiscal

Rafael URD

18 de marzo 15:11

El fiscal Jairo Rachid sostuvo que el video "Desmontando Curuguaty" falta a la objetividad de manera "asquerosa y aleveosa". A su criterio, el material audiovisual pretende destruir la investigación realizada por el Ministerio Público sobre la masacre ocurrida en Campos Monimbó (Candileayú) el 15 de julio de 2012, donde murieron 6 policías y 11 campesinos.

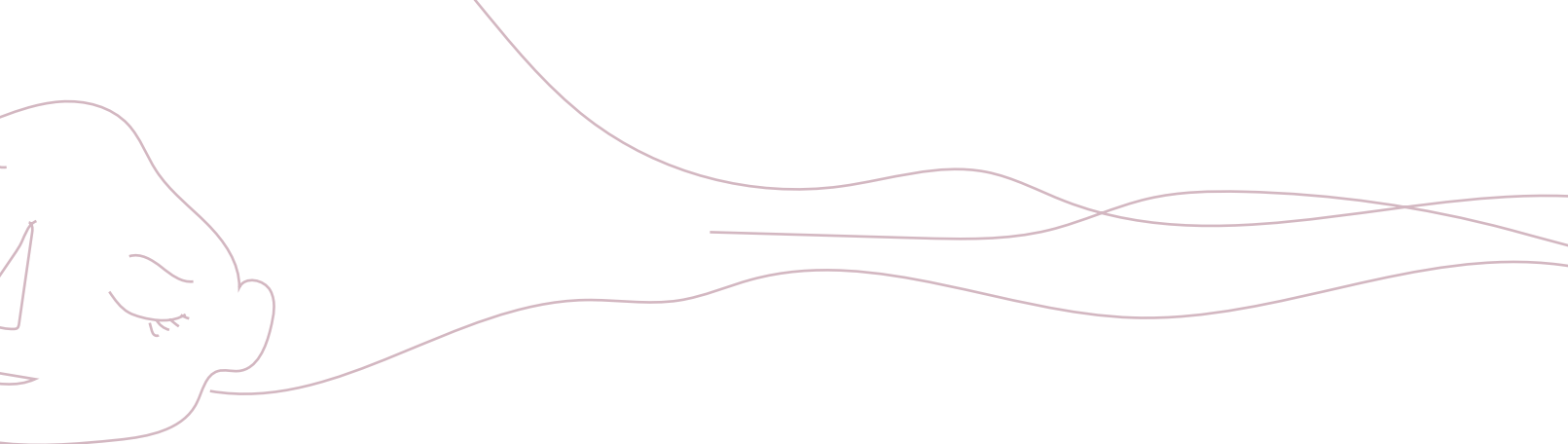


El 15 de julio de 2012 se registró un violento enfrentamiento entre campesinos y policías en Campos Monimbó. Última hora.

VER MÁS FOTOS

El representante de la Fiscalía hizo este martes el documental presentado por El Símbolo Paz y Justicia (Español), que dura poco más de 22 minutos y cuenta sucesos e irregularidades cometidas en la investigación de la matanza, que desembocó en la destitución del entonces presidente de la República, Fernando Luján, vía juicio político.

La judicialización de las defensoras es el elemento que más claramente contradice la obligación de generar una política de protección a las defensoras. Resulta una tarea urgente terminar con la judicialización como método de neutralización de las actividades de las defensoras y destruir su vida personal, familiar, organizativa y comunitaria.



Prevention Strategies


Guarantee women's active involvement in environmental issues to prevent rights violations and the destruction of their territories

In all of the cases studied, participatory democracy is lacking: conflicts were driven by an absence of proper consultation.

The inhabitants of La Puya in Guatemala protested the lack of prior consultation for the project operated by EXMINGUA, in **El Salvador** prior consultation was not carried out with the entirety of the community affected by the residential project in Santo Tomás; in Honduras the company DESA excused itself from carrying out consultation for the project:

"...Since the responsibility to carry out a consultation corresponded to the State, not the company. "The country signed that Convention, but never created legislation. The State is obligated to carry out these consultations, not companies. "But they have distanced themselves from that responsibility and request that we carry out the consultations, without policies on how to do them."¹²⁸

En junio de 2017, ante las presiones internacionales, la In June



2017, due to international pressure, the Hydroelectric Agua Zarca announced the project's suspension and proposed that the communities carry out a consultation on its future, committing to:

"...Accept the communities' decision, hoping that the dialogue is voluntary, transparent, and free of external influences, as well as convened and guided by a well-respected international entity which has the capacity, mandate, and necessary experience for the job. Hydroelectric Agua Zarca would also appreciate the presence of a respected international human rights organization to monitor the situation and ensure that the communities enjoy total freedom of expression."¹²⁹

Nevertheless, as Bertha Zúñiga clearly stated, **“consulting when crimes have already been committed and continue in impunity, can worsen the violence and conflict in the area's communities.”¹³⁰**

In **Nicaragua** the State has not only failed to consult the indigenous communities that **Lottie and Juana of CEJUDHCAN**

accompany to heal their territories, but has gradually eliminated very important environmental safeguards. In August 2017, with the excuse of updating and standardizing procedures, the State emitted Decree 15-2017 that de facto eliminates Environmental Impact Studies and leaves the decisions to the will of the Ministry of the Environment.¹³¹

In **Colombia** no proper consultation or socialization efforts, environmental impact study, nor census to identify those affected by Hidroituango ever took place, and in **Ecuador**, peaceful protests by Saraguro people were motivated, in part, by the lack of consultation on mining projects. In **Brazil**, Nilce was murdered during a consultation process carried out to compensate the affected fishers, a dialogue that the company ignored. As AIDA stated in its report on dams in the region:

““The Brazilian government's actions during the approval of the Madeira Complex, in particular the lack of adequate guarantees for participation and access to information, disregarded people's human rights in the region, such as the right to information and public participation. During the process to evaluate the

129. Communique. Agua Zarca comienza una nueva etapa. Available in Spanish at: <https://hidroelectricaguazarca.hn/assets/documentos/HN%20DESA%20060717.pdf>

130. Contracorriente. La salida que propone DESA es peligrosa. Berta Zúñiga ante anuncio de suspensión de proyecto hidroeléctrico. July 7, 2017 Available in Spanish at: <https://contracorriente.red/2017/07/07/la-salida-que-propone-desa-es-peligrosa-bertha-zuniga-ante-anuncio-de-suspension-de-proyecto-hidroelectrico/>

131. Jaime Incer Baquero has criticized the subject in the press. August 30, 2017 Available in Spanish at: <http://www.laprensa.com.ni/2017/08/30/politica/2288594-daniel-ortega-elimina-los-estudios-impacto-ambiental-medio-decreto>

project, four public hearings took place, during which there were technical explanations, but no opportunity for the participants to express their opinions about the project."¹³²

In **Paraguay** the State preferred to repress dialogue with small-scale farmers reclaiming their lands and it is known that the soybean monoculture's expansion did not include sufficient public participation. Finally, in Chile, the hydroelectric project opposed by Macarena was not even entered into the Environmental Impact Evaluation System, as it generates less than 3 megawatts, in accordance with that country's law.

It is important that communities help shape policies and projects with an environmental impact "in an active, free, and significant way, in evaluation and analysis, design and planning, execution, supervision, and evaluation of development projects."¹³³ **When this is not fulfilled, and women are excluded from consultation, negotiation, or participation, "male domination and control are reinforced, gender discrimination norms are endorsed and systemic inequalities between men and women are maintained,"**¹³⁴ but in addition, gender imbalance during decision-making opens the way to environmental vulnerability:"

*"Disasters related to natural or human-made phenomena, including climate variability and change, are not natural but are a result of decisions made within a social, economic and political context. Gender relations tend to play a major role in the structuring of this context and therefore will have importance in vulnerability and risk construction, and their effects."*¹³⁵

Thus, if women's concerns about conditions for the survival of their communities are not heard, the possibility of environmental liabilities increases, as it is women who experience firsthand the

territorial changes that projects or industries bring, it is women who can best prevent the loss of diversity, freedom, and well-being of their communities:

"Efforts to sensitize society to women's human rights issues and feminist analysis, and their inclusion in Government research and policy, create an ameliorating environment for progressive legal and policy development and implementation, in contrast to a masculinist financial culture of unfettered risk and neoliberal policies."¹³⁶

It is not uncommon that it is women who have insisted on a revision of the legality and legitimacy of regional extractive projects. In Colombia, for example, the women of the indigenous Embera community displayed a courage that still resonates, defending their territory from excavations carried out by the Muriel Mining Corporation on their sacred hill, Kirandarra:

*"Despite their fears, Friday January 9, the families decided to return to Coredocito, because of the concern that "if we do not return, we will lose everything." That same day, divided into groups of women and men, they walked towards a place located two hours from Coredocito, where excavations were taking place. This location, which the communities considered sacred and where the Jaibanas send their souls for spiritual cleansing, is militarized. There, the army held two indigenous women at gunpoint and others were intimidated by masked men. The abuse of authority ceased when dozens of women gathered, breaking the fence. Beside them, the children."*¹³⁷

In this context, the Convention on Biological Diversity reaffirmed "the need for women's full participation in all levels of policy formulation and implementation aimed at conserving biological

132. AIDA, Report Dams in America, Is the cure worse than the disease? 2009. Exec summary in English Available at: http://www.aida-americas.org/sites/default/files/DAMSREPORTExecsum_0.pdf

133. Special Rapporteur on the situation of human rights defenders. Report A/HRC/25/55 of December 23, 2013. Par. 94.

134. Special Rapporteur on violence against women, its causes and consequences. Report A/69/368 of September 1, 2014. Par. 14

135. Aguilar, Lorena. Global Alliance on Gender and Climate Change. Training Manual on Gender and Climate Change. San Jose de Costa Rica, 2009.

136. Working Group on the issue of discrimination against women in legislation and in practice Report A/HRC/35/29 of April 19, 2017. Par. 50.

137. Rainforest Rescue: Colombia, Defenderemos los bosques hasta la muerte si es necesario. January 15 2009 Available in Spanish at: <https://www.salvalaselva.org/noticias/1090/colombia-defenderemos-los-bosques-hasta-la-muerte-si-es-necesario>

diversity” and Agenda 21 called to investigate and highlight women’s ‘knowledge and experience with respect to natural resource management and conservation,¹³⁸⁾ so as to “increase the number of women in positions of decision-making, planning, technical advice, management, and dissemination in the areas of environment and development.”¹³⁹⁾

The Inter-American Commission has also recommended that “States and indigenous communities, through coordinated efforts, promote women’s participation¹⁴⁰⁾ and that environmental impact studies take into account the differentiated impacts on their lives¹⁴¹⁾. In addition some minimum elements have been suggested¹⁴²⁾ that would constitute a real strategy to prevent violations, namely:

- ◆ A requirement to design, implement, and effectively apply an adequate normative framework, including the duty to abstain from “adopting commercial or investment legislation that debilitates, undermines, or denies existing protections and their international human rights obligations in general”¹⁴³⁾ and must specify obligations requested of foreign companies.
- ◆ Duty to prevent, mitigate, and stop negative impacts on human rights “before the activity is authorized or related permits are granted, as well as during the implementation and life cycle of the project,”¹⁴⁴⁾ which includes preventing illegal activities and types of violence against populations in areas affected by extractive activities, exploitation, or development.
- ◆ An obligation to oversight and accountability for extractive activities, holding companies accountable for exploitation and development.¹⁴⁵⁾

- ◆ Duty to ensure active participation mechanisms, such as referendums, plebiscites, and consultations, as well as access to information, a requirement for citizens to participate in environmental issues.

138. Agenda 21. Chapter 24. “Global action for women towards sustainable and equitable development”;

139. Ibidem.

140. Ibidem, Par. 212

141. Ibidem, recommendation 28.

142. IACHR, 2015.

143. IACHR 2015. Par. 74

144. Ibidem, Par. 86.

An illustration on the left side of the page shows the profile of a woman with dark hair, wearing a dark red patterned top. Her hands are shown holding a yellow orchid and a blue flower. The background is white with some faint floral patterns.

THE FIGHT AGAINST IMPUNITY

as public policy

One of the most important impacts of impunity is that it creates a chilling or intimidating effect that is accentuated and worsens defenders' defenselessness and lack of protection¹⁴⁷ and the risk to which they are exposed¹⁴⁸, because the State's inactivity is interpreted as tolerance or approval of the aggressions.¹⁴⁹

In feminicides and attacks committed against women defenders of territory we clearly see the two dimensions of violence: a) the instrumental dimension, which seeks to eliminate the person with a key role that impedes perpetrators from achieving their interests, in this case, expropriate territories and common goods via the destruction (material and/or symbolic) of the women who protect them; and b) the expressive dimension that, as a discursive act, has the objective of sending a message to those who continue to fight for their rights.

As the black Colombian activist Betty Ruth Lozano indicated, referring to feminicides against Afro-Colombian women in Buenaventura: "This violence against women is carried out as a way to chastise other women, their organizations and as a threat to the community in general."¹⁵⁰ In the analyzed cases, these attacks not only seek to impact those who

147. IACHR, Second report on the situation of human rights defenders in the Américas. 2011. Par. 232

148. IACHR, 2011. Par. 237

149. Special Rapporteur on the situation of human rights defenders. Report A/HRC/25/55 of December 23, 2013. Par. 73

150. Betty Ruth Lozano. (S, f.) "Asesinato de mujeres y acumulación global: el caso del bello puerto del mar mi buenaventura."

defend the environment and nature: they also send a specific message to women that reaffirms the misogynist power that perpetrators hold over their bodies and lives, - whether these are public officials, police, military, company workers, members of private security, or members of organized crime.

In addition to sending a terrifying message, the perpetrator also leaves his signature on the crime itself: as Rita Segato mentions, these attacks “are messages sent from a specific author who can only can be identified, located, profiled by means of a rigorous “listening” to these crimes as communicative acts.”¹⁵¹ What do attacks against women defenders tell us? Understanding the motive that led to the rape of a woman helps us find out who is behind these violations.

The most extreme regional case is Honduras. The “social discipline” that followed the feminicide of **Berta Cáceres** is the most notable result of an impunity policy. As Amnesty International so rightly stated **“the armed men who killed her in her house sent a chilling message to many others who are also activists, especially those who do not enjoy the same international attention.”**¹⁵² Despite the fact that

the President of the Republic himself recognized Berta as “a very valuable woman for Honduras,”¹⁵³ and promised decisive action to prevent the feminicide from remaining in impunity¹⁵⁴, it is precisely the impunity in assault cases that maintains the status quo benefitting the country’s businesses.

Meager efforts to stop systematic attacks against those who defend territories and nature and discard the label of the “most dangerous place for environmental activism”¹⁵⁵ are not cost-free. In this country - the only country convicted in the Inter-American system for the murder of a woman environmentalist, Jeannette Kawas Fernández, it is not an exaggeration to assert that after the coup, democratic order was not restored. A year after Bertha Zúñiga’s feminicide, her daughter faced a new assassination attempt¹⁵⁶, in addition to being harassed, for example, being followed by a car with tinted windows and no plates, intrusions and robberies of her relatives, and increased death threats, among others¹⁵⁷. As if it weren’t enough for the attackers to have perpetrated the feminicide, they unleashed an entire hate campaign against her relatives and against Berta’s good name: “obscene marks on the murals dedicated to Berta Cáceres’ memory [...]” as part of a hate speech campaign against our family and the struggle to defend human rights, done just hours

151. Ob. Cit. P-31

152. Amnesty International. Report 2016/17 The human rights situation in the world. P. 13

153. Honduras National Institute of Statistics. “Presidente Hernández: Muerte de Berta Cáceres es un golpe al pueblo hondureño y no quedará impune, caiga quien caiga”. March 3, 2016 Available in Spanish at: http://www.ine.gov.hn/index.php/component/content/featured?main_page=product_info&cPath=489&products_id=6000&uxd=mail&id=featured

154. He stated: “Our commitment is to discover the truth of the matter and place it before justice, no matter who it is; always, whoever falls, no one is above the law, and the Honduran state must send a strong message that this crime will not go unpunished and that we must bring those responsible for these acts to justice and figure out who is responsible for the case.” Ibidem

155. As characterized by Global Witness given the findings that in 2010 more than 120 activists had been killed in this country. At: <https://www.globalwitness.org/en/campaigns/environmental-activists/honduras-deadliest-country-world-environmental-activism/>

156. COPINH. ¡Alerta! Atentan contra Bertha Zúñiga y miembros de la coordinación del COPINH. Available in Spanish at: <https://www.copin.h.org/articulo/alerta-atentan-contra-bertha-zuniga-y-miembros-de/>

157. Rebellion, Berta Cáceres’ family public statement at a press conference. They report the persecution and criminalization of the fight for justice for Berta Cáceres. Julio 28, 2017. Available in Spanish at: <http://www.rebellion.org/noticia.php?id=229615>

after the MACCIH made a public and official announcement that they would be in charge of investigating corruption charges related to the Agua Zarca project.¹⁵⁸

Macarena Valdés' femicide in Chile, also related to a hydroelectric infrastructure project built on indigenous territory, was intended to teach a lesson - once again, to the community to not speak out against development projects in their territories¹⁵⁹, but even more, authorities sent the terrifying message that the attacks against the Mapuche people would not be investigated, when the Public Prosecutor informed the family on March 17 that they would "not continue the investigation" as they had prematurely concluded, due to their bias, that it was a suicide.

The femicide of **Nilce de Souza** in Brazil, took place in a context of sexism and misogyny, particularly exacerbated after President Dilma Rousseff's removal¹⁶⁰. Nilce was neutralized because of her growing complaints about the impacts of occasional flooding, from the Jirau energy plant, on traditional fishing activities and the destruction of the families' houses on the riverbank. It is clear that it was oriented to discourage the community from continuing to file complaints, and includes the perverse goal of showing that even when a confessed assassin exists, the masterminds or beneficiaries of the crime will not be punished¹⁶¹. The crime is still even more heinous, considering that currently the Federal Public Ministry validated Nilce's complaints and is in the process of suspending the Jirau hydroelectric license, due to its impacts on the fishers' community life.¹⁶²

These feminicides cannot be explained solely as a consequence of widespread impunity. As Rita Segato says, in her study on the issue in Juárez, feminicides "can be better understood if we stop thinking of them as a result of impunity and imagine them as producers and reproducers

of impunity."¹⁶³ **It is not only about events that occur without a sufficient institutional response, but rather are driven by State omissions and the message that this inaction sends to the multiplicity of actors who attack women. In sum, this is what Julia Monárrez identifies as naked life, the thinking that women's lives don't deserve to be lived:**

"Naked life contrasts with the existence of a citizenry made up of political subjects with the right to have rights. In this state of emergency, the private vs the public continues. An obligation to grant access to justice vanishes because the State remains inactive regarding women's disappearances and femicide, causing victims to remain in a situation of "more or less" dead, and exacerbated by the ineptitude of the police that don't investigate the crimes. More or less dead is not being able to enjoy human rights (...)"¹⁶⁴

For this reason, the State must undertake a decisive fight against impunity for violations of women human rights defenders' rights as a point of public policy¹⁶⁵. This implies, in addition to the elements covered in the previous sections (investigation, protection, and prevention) that they must publicly recognize their role in creating a democracy and rule of law, abstain from questioning the legitimacy of their work¹⁶⁶ and understand that, as Jina Hilani insisted¹⁶⁷, "criticizing the government cannot be considered threatening the State."

Thus, they must develop a genuine relationship that respects and values human rights defense work. When the State's inaction causes women defenders to report these attacks at international forums, on many occasions the opposite occurs: reprisals against them¹⁶⁸. As a sign of good faith, States must stop any retaliatory actions¹⁶⁹ and should refrain from questioning whether the provisional measures are binding or

158. Rebellion, ob cit.

159. Collio Valdés family's public statement regarding the Public Prosecutor of Panguipulli's intention to not continue investigating Macarena Valdés' death. Available in Spanish at: <https://politicaindigenanews.wordpress.com/2017/03/01/fiscalia-pretende-cerrar-investigacion-de-la-muerte-de-macarena-valdes/>

160. As is stated in the Comitê Brasileiro de Defensoras e Defensores de Direitos (Brazilian Committee of Human Rights Defenders) in its report "VIDAS EM LUTA: Criminalização e violência contra defensoras e defensores de direitos humanos no Brasil." (Lives in struggle: Criminalization against Human Rights Defenders in Brazil. S/F Available in Portuguese at: http://comitedh.org.br/wp-content/uploads/2017/07/terra-de-direitos_dosie_040717_web.pdf

161. Movement of People Affected by Dams. "Suspeito de assassinato de militante foge da cadeia em Rondônia" (Suspected of the murder. Abril 12, 2016. At: <http://www.mabnacional.org.br/noticia/suspeito-assassinato-militante-foge-da-cadeia-em-rondonia>

162. Federal Public Ministry. MPF tenta suspender licença de operação da Hidrelétrica Jirau, em Rondônia. June 8, 2017. Available in Portuguese at: <http://www.mpf.mp.br/ro/sala-de-imprensa/noticias-ro/mpf-tenta-suspender-licenca-de-operacao-da-hidreletrica-jirau-em-rondonia153>.

163. Rita Segato, the writing on the body of the assassinated women of Ciudad Juárez. Territory, sovereignty and second state crimes. Publishing House Tinta Limón. 2006. p.28

164. Julia Monárrez. El destino de la humanidad en tiempos inhumanos. FIAR. The journal of the International Association of Inter-American studies. Vol. 8. No. 2 (September 2015)

165. IACHR, 2006. Par. 342-21 and 2011. Par. 541 – 22

166. IACHR, 2006. Par. 342 14 and 2011. Par. 541 – 16

167. Special Rapporteur on the situation of human rights defenders. Report A/57/182 of July 2, 2002. Par. 93.

168. A/HRC/34/52 of January 23, 2017 Par. 77 and A/70/217 of July 30, 2015, Par. 44. The predecessor expressed concern about "reports of harassment, persecution and reprisals against human rights defenders who seek redress through the judicial system for violations related to companies." Report A/HRC/25/55 of December 23, 2013. Par. 95

169. "(...) Reprisals can take the form of threats, surveillance activity, prohibitions against leaving their lands, arrest warrants on spurious grounds of physical aggressions against defenders and their families. Their objective is not only to act against these people and their family members, but it also makes it difficult to cooperate in the long term as they isolate a country's civil society from the rest of the international community." Special Rapporteur on the situation of human rights defenders. Report A/HRC/25/55 of December 23, 2013. Par. 75

not, and instead, apply them for the time instructed and with the necessary resources. However, **reprisals for filing complaints at the international level are common.**

Isabel Cristina Zuleta's security situation worsened after participating in the IACHR thematic hearing "Displacement due to Development projects in Colombia" during the 153rd session¹⁷⁰. In the meantime, in Nicaragua the US Embassy's public recognition of the historic human rights defender **Vilma Nuñez**,¹⁷¹ caused a disproportionate reaction against her from the Nicaraguan government, describing it as an "act of hostility," that she is "a person whose diatribes, insults, and practices have repeatedly offended the people and government of Nicaragua, with the intention of breaking our harmony and unity."¹⁷² A few weeks later the threats against her and against **Juana Bilbano Webster** and **Lottie Cunningham**, worsened:

March 17. "(...) In our country there is trash, people who dedicate themselves to trash-talking the Front and the government (...) I am so tired of this trash and if I have to defend my blessed Nicaragua from them, I will do it with honor. No to trash! Let's fight against the trash in Nicaragua, especially that created by defenders(...)"

April 27. In the city of Waspam, a man came up to Lottie Cunningham and said to her: "I need to inform you that there is a rumor that they are going to murder you and that an indigenous Miskito person will do it, but we are praying for you."

The IACHR evaluated the situation's gravity and urgency and granted precautionary measures in favor of Lottie Cunningham on June 11, 2017¹⁷³. Nevertheless, it is not the first time that women defenders from CEJUDHCAN are threatened: **Deborah Escobar**, **Esmeralda del Carmen Beltrán**, **Mariela Castillo Hawkins**, and other members of the organization have been

Esto no es una carta de cortesía sino que es una advertencia.
Primero: Te permitimos que compares con las elecciones pare demostramos y lo ganamos ustedes aun pierden.
Segundo: en todos los frentes del Frente no me lo cuéntenle hablanlo falsosaco
Contra del comodato y contra la compañera Rosario
Tercero: Vivir hablando porquería del frente por los medios, déjenos trabajar y dejar
desarrollado siempre se muelen en donde no tienen
Cuerto: ahora difama a la iglesia católica y sus trabajadores no tienen piedad
andari contando hasta en contra del frente
Caución es una CN, G que solo se dedica a ufama, por eso debe cerrar y lo juró que
el gobierno lo va a cerrar
Ya no vamos a permitir más que hablen en contra de del frente, una publicación más
en la prensa, radio o tele ya sabes lo que va a pasar. Y no queremos ver que crucen
en nuestro camino así lo vamos a apuilar.
Si quiere guerra berró guerra, la guerra significa sangre
Espéro que me responda
Adóir chibuta y chepitos mentecatas

Text of the threat against Lottie Cunningham, received February 28, 2017

threatened, with little progress investigating the complaints.

The fight against impunity, as public policy, also requires a recognition that women defenders of indigenous and afro-descendent women's rights, "are habitual victims of racism, mockery, and stigmatization by the majority communities and, in some cases, by public authorities and from within their own communities"¹⁷⁴, which is why States are obliged to:

"Guarantee the security of women human rights defenders, especially, every time they run the risk of being attacked in specific ways because of their gender, and take measures to recognize their important role within the movement to defend human rights."¹⁷⁵

The absence of "a comprehensive and holistic approach to fight and prevent gender-based violence, and [...] the fragmentation among diverse policies and laws related to violence against woman and women's rights,"¹⁷⁶ is the best reason to create specific observatories that track patterns of violence against defenders, including feminicides, and account for the judicial work to detect risk factors that women face and "gaps in the system to respond to that type of violence."¹⁷⁷

170. At: https://www.youtube.com/watch?v=j70U4_m9pb8&feature=youtu.be

171. Recognition, International Courageous Women's Prize, made in the following terms: "During her life, Doctor Nunez has suffered imprisonment, torture, and reprisals; nevertheless, she has remained tenacious and unwavering in her cause to defend others. From her beginnings as a student activist, to her current work as founder and president of the biggest human rights organization in Nicaragua, she continues working tirelessly for the fundamental rights of all Nicaraguans". See: United States Embassy in Nicaragua. Reception for the International Women's Day. March 7, 2017. At: <https://ni.usembassy.gov/international-womens-day-reception/>

172. FIDH. Urgent call. NIC 001 / 0317 / OBS 025.1 of May 28, 2017.

173. Keep in mind that she had received a threat

174. Interamerican Commission on Human Rights Report on the situation of human rights defenders in the Americas. 2006. Par. 231

175. IACHR, 2006. Par. 342 - 7

176. Special Rapporteur on violence against women, its causes and consequences. Report A/HRC/32/42 of April 19, 2016. Par. 80.

177. Special Rapporteur on violence against women, its causes and consequences. Report A/71/398 September 23, 2016. Par. 82.

Dubravka Šimonović, Special Rapporteur on violence against women, its causes and consequences recommends that observatories on femicide be created as a strategy to prevent a normalization of violence against women:

“Given the shortcomings of certain national protection systems, the lack of proper risk assessment and the lack of quantitative and qualitative data, which are major barriers to effective prevention of gender-related killing of women, it would contribute to the prevention of preventable deaths of women. Where the situation in which femicides are committed is highlighted, it can stimulate more work across existing obligations, particularly with regard to addressing social attitudes that accept or normalize violence against women and its most extreme forms resulting in killing. Bringing a name and a face to statistics also highlights the horrendous nature of the crime, the reality of patriarchal violence and the extreme pain and suffering inflicted on women and girls because of their gender.”¹⁷⁸

Šimonović differentiates three levels of State responsibility to eliminate discrimination and violence against women: first, when violence is perpetrated by State agents, their duty to respect rights is critical¹⁷⁹; secondly, when violence is perpetrated by non-state agents, State protection is fundamental and includes due diligence to prevent, investigate, and sanction violence against women¹⁸⁰. The third level is to “empower women and girls by undertaking measures to ensure full development and advancement of all women, in particular in the political, economic, and cultural fields.^{181”} This second level is directly related to those procedural and substantive obligations related to environmental practices, as well as those related to members of groups in vulnerable situations; John Knox, independent expert on human rights obligations, proposed in one of his most important studies that the environment be enjoyed without

risk, and includes an environment which is clean, healthy, and sustainable.¹⁸²

According to the expert, procedural measures are related to the duty “a) to assess environmental impacts and make environmental information public; (b) to facilitate public participation in environmental decision-making, including by protecting the rights of expression and association; and (c) to provide access to remedies for harm.”¹⁸³ In particular, they should respond to the obligations (a) to adopt and implement legal frameworks to protect against environmental harm that may infringe on enjoyment of human rights; and (b) to regulate private actors to protect against such environmental harm.”¹⁸⁴

As far as obligations regarding specific groups, Knox recommends adopting and implementing programs to remedy the impacts of environmental contamination on women and to facilitate their participation in creating environmental policies¹⁸⁵. As for indigenous communities, he recommends carrying out environmental impact studies in their territories, guaranteeing access to benefits and reparations from the projects, and adopting a principle that “extractive activities should not happen within indigenous communities’ territories without their free, previous, and informed consent.”¹⁸⁶

If this principle were fulfilled, the attacks against Berta in Honduras, Lottie and Juana in Nicaragua, Karina and Luisa in Ecuador and Macarena in Chile would not have occurred.

The IACHR also agrees with the need to clarify state obligations regarding extractive activities, exploitation, and development in indigenous and Afro-Colombian communities¹⁸⁷. There are specific obligations such as preserving the special relationship that indigenous and first nations peoples have with their territory¹⁸⁸, in particular when realizing environmental impact studies¹⁸⁹; guaranteeing they have a significant influence during

178. Report A/HRC/32/42 of April 19, 2016. Par. 50

179. The obligation includes the duty to ensure that the laws and policies, programs, and procedures are not discriminatory against women and that there is an efficient legal framework in place to deal with all forms of gender-based violence. Report A/71/398 September 23, 2016. Par. 76.

180. Ibidem. Par. 77.

181. Ibidem. Par. 78

182. Report A/HRC/25/53 of December 30, 2013.

183. Ibidem. Par. 29

184. Ibidem. Par. 46.

185. Ibidem, Par. 70 to 72.

186. Ibidem. Par. 74

187. IACHR 2015.

188. Ibidem, Par. 165.

189. Ibidem. Par. 2013.

the process and in the decisions made during the consultation process¹⁹⁰, design the benefits to improve the communities' living conditions¹⁹¹ and protect them from conflicts with third parties over their land, such as invasion or colonization¹⁹². These obligations must be complemented by specific measures for women. Fundamental objectives were outlined in chapter 24 of Agenda 21:

- Adopt effective measures to increase the proportion of women decision makers, planners, technical advisers, managers, scientists, and technical advisors to design, develop, and implement policies and programs for sustainable development.
- Adopt effective measures to strengthen and invest skills in centers, non-governmental organizations, and women's groups to increase their capacity to promote sustainable development.
- Investigate the impact that environmental degradation, particularly drought, desertification, toxic chemicals, and armed conflict has on women, and;
- Adopt programs to eliminate negative images, stereotypes, attitudes, and prejudices against women by changing socialization patterns, the media, advertising, and formal and non-formal education.

Finally, we consider it an urgent necessity to improve and expand observation, control, and monitoring systems that fulfill the State's obligations towards Women Defenders.

It is important to create specialized units to protect and guarantee the rights of women territorial and environmental defenders¹⁹³ or designate a coordinator inside these institutions to track the situation and meet regularly with them.¹⁹⁴ Along

this line, national human rights institutions are fundamental.

In practice, however, they are very inefficient or ignore defenders' problems. This situation is a clear breach of the Paris Principles¹⁹⁵. This is even more dramatic in relation to the situation of women defenders:

"National human rights institutions can play an important role in ensuring accountability for violations of women's rights in economic and social life. However, there is little evidence of this occurring in practice, and no mechanism to review the gender-responsiveness of these institutions is in place."¹⁹⁶

It is urgent to respect the independence, credibility, and trajectory of national human rights institutions so that they can "orient and advise governments regarding their human rights obligations and guarantee that international human rights norms and principles are incorporated into internal legislation and are integrated as public policies are created¹⁹⁷." Furthermore, a measure recommended to guarantee active participation in these spaces is to "find a balance between men and women in national human rights institutions and within other independent oversight bodies and ensure their capacity to respond to gender issues."¹⁹⁸

Additionally, we must urgently expand the monitoring of lawsuits against women defenders or those who investigate the attacks committed against them, as it is:

"A way of showing concern for the fairness and effectiveness of judicial systems. By observing court proceedings, gathering information on the trial of defenders and analyzing legal practices, trial monitors demonstrate support for defenders and contribute more broadly to the strengthening of judicial systems."¹⁹⁹

190. Ibidem, Par. 179.

191. Ibidem. Par. 222.

192. Ibidem. Par. 235

193. IACHR, 2011. Par. 246 to 248

194. Special Rapporteur on the situation of human rights defenders. Report A/HRC/34/52 January 23, 2017. Par. 87 a).

195. Special Rapporteur on the situation of human rights defenders. Report A/70/217 July 30, 2015. Par. 54.

196. Working Group on the issue of discrimination against women in law and in practice. Report A/HRC/26/39 of April 1, 2014. Par. 22

197. Special Rapporteur on the situation of human rights defenders. Report A/HRC/25/55 of December 23, 2013. Par. 77.

198. Working Group on the issue of discrimination against women in legislation and in practice. Report A/HRC/23/50 of April 19, 2013. Par. 97.

199. Special Rapporteur on the situation of human rights defenders. Report A/HRC/31/55 of February 1, 2016. Par. 69. The predecessor applauded "the European Union initiative to approve the revised guidelines of the European Union on human rights defenders in 2008" (December 23, 2013 report A/HRC/25/55. Par. (97).

In this context, **it is important to have international solidarity and support for existing mechanisms that monitor judicial proceedings carried out against women defenders.** On this point, it is important to reflect on the European Union Guidelines on human rights defenders²⁰⁰. This initiative is being dismantled in the region, which not only reduces the international pressure to respect the rights of women defenders, but also constitutes a serious setback for the concept of States' co-responsibility and extraterritorial responsibility, and that of the head offices of companies that operate in those countries. Unfortunately, this situation is not new, as shown in the 2015 Rapporteur's report on the situation of human rights defenders:

"Those that were familiar with them perceived a lack of training and information among the representatives of the member states of the European Union. They also alluded to a lack of clarity of theselection criteria used by the European Union to support defenders in certain countries, and to the lack of familiarity with European Union procedures on the part of certain embassies, along with the reluctance of some ambassadors to make use of the means at their disposal for protecting defenders, for fear of offending the Government of the country to which they have been posted."²⁰¹

If diplomatic missions are afraid of opposing the countries in which they are guests, what can defenders who are caught in such violent contexts expect? Officials' fear or apathy is unacceptable. It is important to review the profile of those responsible for dialoguing with defenders in these spaces; if they have or have had close ties with the business sector and they favor that sector, defenders have no hope.

200. In 2004, the European Union Council adopted the Guidelines on Human Rights Defenders, which offer guidelines to defend and protect regional women defenders. Also, there is a mechanism to exert external pressure for regional women defenders who find themselves in a vulnerable situation, providing them with a regional political backing. Also, the European Union uses these Directives to bring up cases of women defenders in other countries, in international forums, presenting regional declarations that endorse them and allow human rights to be defended in States where they are being violated. Finally, these Directives support Special Procedures like the United Nations Special Rapporteur for Human Rights Defenders and diverse regional protection mechanisms.

201. Special Rapporteur on the situation of human rights defenders. Report A/70/217 July 30, 2015. Par. 87.





Recommendations

We have offered a general panorama about how impunity operates with specific aggravating factors for women human rights defenders, illustrated by cases of activists from nine countries in Latin America.

- ◆ Our first recommendation is that these elements be included in the analysis and application of international standards for the fight against impunity for attacks against women environmental defenders, especially in reference to effective investigation, prevention, and protection policies, and the fight against this phenomenon as a part of public policy.
- ◆ In particular, we request that Resolution 68/181 of 2013 is taken into account. It is related to the "Promotion of 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: protecting women human rights defenders," adopted by the United Nations General Assembly, and which compiles fundamental elements to build strategies in the fight against impunity for attacks.
- ◆ Como consecuencia de lo anterior, recomendamos As a consequence of the aforementioned, we recommend

that documentation of attacks against this group of women defenders be more in depth, using an intersectional gender approach that takes into account risks and specific impacts. We recommend the creation of observatories, and that they produce thematic reports on this matter, in order to establish very precise obligations a) for States in terms of investigations on attacks, protection policy, strategies to prevent attacks, and the construction of sustainable public policies; b) for companies regarding their duty in due diligence and in reference to elements such as collusion with violence due to a direct relationship to the attacks or benefitting from them.

1. Recommendations for states

Regarding the **investigation** of attacks against women defenders, States should:

a) Carry out exhaustive, diligent, and independent investigations on violations against women defenders that take into account their work as human rights defenders and the socio-environmental conflict that frames their work. Only in this way will it be possible to identify and punish these crimes' masterminds

and actual perpetrators, as well as public and private agents who benefit from them.

b) Investigations must be carried out by ordinary justice, not military justice, and must act in coordination with other state units, which implies an adoption of differentiated protocols.

c) Provide women defenders with access to effective legal resources, guaranteeing them, their families, and their organizations the right to information and participation in the investigation process, and offering material and symbolic reparation measures that are culturally appropriate and agreed upon by women defenders.

d) Process complaints made by women defenders in a quick and timely manner. The complaints must be processed so as to avoid increasing risk, attacks, and deaths of activists or other members of their families and communities.

e) Guarantee that investigations of these attacks are carried out by officials trained to specifically address violence against women, in order to avoid the revictimization of women defenders, and establish lines

of investigation that are free of sexist and misogynistic prejudices and stereotypes.

As a way to prevent violence against women defenders and the persistence of impunity for this violence, States should:

a) Undertake a decisive fight against impunity for violations of women human rights defenders' rights, as a public policy. This implies publicly recognizing their role in building democracy and rule of law, abstaining from questioning the legitimacy of their work and understanding that, as Jina Hilani insisted²⁰², "Criticism of Governments cannot be considered threatening the State."

b) Abstain from attacking, harassing, intimidating, and stigmatizing defenders who oppose extractive projects.

c) Undertake actions and campaigns that promote a recognition of the legitimate work that women carry out;

d) Create effective and permanent programs and measures, protected by the law and with enough resources to be sustainable. These programs must have a prevention approach, including early alert systems, have an intersectional and comprehensive gender approach, and be consulted with women defenders, in order to ensure that their needs, concerns, and traditional protection methods are incorporated. States must guarantee that these mechanisms do not become a source of new attacks.

e) Train public officials on all levels, especially judicial

operators, with an intersectional gender perspective, so that they understand the dimensions of violence against women and women defenders, and femicide, and to process complaints lodged by women defenders in a timely and appropriate manner without judging them using sexist and/or racist precepts.

f) Guarantee the effective participation of women defenders in decision-making that affects their territories, and follow-up on the fulfillment of international standards regarding women's effective participation in environmental matters, whether that is through consultation and free, prior, and informed consent or other citizen participation mechanisms, with special attention to applying the principles of equality and gender non-discrimination in these processes.

g) Immediately suspend extractive, agro-industrial, infrastructure, and hydro-energy projects that began without the consent and approval of the affected communities and that have involved human rights violations, and initiate the corresponding investigations.

2. Recommendations for regional and international human rights protection bodies

202. Special Rapporteur on the situation of human rights defenders. Report A/57/182 of July 2, 2002. Par. 93.

a) Reinforce the granting of precautionary measures to women defenders and insistently call for States to fulfill these in a timely manner, with special attention to countries that unjustifiably withdraw these measures from women defenders, even when risk persists and/or increases.

b) Increase accessible spaces and mechanisms so that women can lay out their concerns, file complaints, and formulate the corresponding petitions.

c) Include in thematic, annual, and country reports chapters focused on addressing impunity, taking into account gender specificities and differentiated aspects for women defenders.

d) Expand an intersectional, gender and comprehensive security approach for documentation, in order to include the specific nature of violence against women defenders and the impacts of impunity, in addition to identifying the multiple types of discrimination and specific attacks suffered by indigenous, Afro-descendent, Raizal, small-scale farmer, young, elderly, trans+, lesbian, and disabled/differently-abled women.

e) Continue press statements and joint statements with the special procedures from the United Nations Human Rights Council, particularly from Rapporteurs on defenders; indigenous peoples; economic, social, and cultural rights; and women.

f) Make a call to attention for States so that they abstain from reprisals against women defenders when

they carry out their work to defend rights, exercise leadership, express inconformity, or file complaints on a national or international level.

3. Recommendations for national and transnational companies

a) Respect the rights of communities and peoples to reject extractive, agro-industry, and infrastructure projects: a) before beginning exploration, exploitation, or the acquisition of a concession or property rights, companies must ensure that States have carried out transparent and appropriate processes of grassroots and/or community consultation; b) at all costs, they must avoid forcing and/or supplant the consent of communities that will be affected by their actions and; c) if they have not fulfilled the prior, companies must withdraw from territories where communities legitimately oppose their activities, without retaliation.

b) Recognize the legitimacy and importance of women's work to defend human rights, territories, and women's rights.

c) Suspend attacks on women defenders and their organizations including physical, psychological, and sexual violence, harassment, stigmatization, and defamation and smear campaigns.

d) Suspend influence upon legislation and State public policies related to extractive industries.

e) Abstain from obstructing justice and from advocating to protect projects and/or cover up violations. Companies should allow for investigations to be carried out independently, providing the necessary information, and especially not attacking or retaliating against women defenders, their families, or communities.

4. Recommendations to social, feminist, women's, environmental, and human rights organizations and movements

a) Develop and strengthen protection strategies and practices in order to respond to risks and attacks in a timely manner, in addition to preventing risks, taking into account the needs and specific demands of women defenders.

b) Strengthen support and solidarity networks that can be activated to prevent and/or respond to attacks.

c) Increase the documentation of violations of women defenders' rights, using methodologies adapted to the context and making visible violence that has been normalized.

d) Build concrete strategies to identify, prevent, and

process violence against women within organizations and social movements, creating safe spaces and mechanisms so that women defenders can denounce violence without being revictimized for their complaints. Autonomous spaces to redress and heal from the violence must be considered.

5. Recommendations to donor and philanthropy bodies

a) Continue and increase timely and flexible financing to strengthen protection strategies and practices for women defenders, their organizations, and communities, whether that is responding to criminalization processes and attacks or working on preventing these, from a feminist, comprehensive, and intersectional approach.

b) Provide timely and flexible resources for complaints and advocacy actions on the situation of women defenders of nature and the environment in Latin America, and to strengthen support networks.





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