

Defenders of Indigenous Rights in Latin America: A Briefing for Funders

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Report by Ricardo Changala, Fund for the Development of Indigenous Peoples of Latin America and the Caribbean



Photo courtesy: FILAC

1. Indigenous Peoples and Violence in Latin America

It is widely acknowledged that the Latin American region is the most violent in the world. With a quarter of all murders worldwide being committed in four countries [1] of the American continent, out of the fifty most violent nations on the planet, forty-three of them are in Latin America. [2]

Despite there being multiple causes of violence, these are primarily linked to the serious structural, social, economic and political problems exhibited throughout the region. Hence, violence does not present itself in the same manner across the whole continent but is mainly concentrated in conflict areas and around controversial subjects. With a total of 826 different indigenous peoples and with an estimated 45 million inhabitants, shy of 10% of the total population of the region, Latin America is the continent with the largest indigenous population on the planet. [3]

Indigenous Peoples are at the receiving end of structural discrimination, marginalization, exclusion and poverty. Generally, they rank among the poorest in these countries. The economic and social changes of the last few decades, as well as the process of globalization, have widened the gaps between them and other social sectors.

This includes the rights of Indigenous Peoples as individuals, given that they continue to be subjected to multiple forms of discrimination – including economic, social and cultural discrimination. Indigenous peoples are also fighting for their collective rights, such as free decision-making, autonomy and political participation as recognized by international laws and human rights mechanisms.

The weakest area for the effective fulfillment of these rights might be connected to the protection of their lands, territories and natural resources which are affected by imposition, many times, without prior consultation, and by a lack of benefits from investment projects of extraction or infrastructure development promoted by the States. [4]

2. Context of the Rights of Indigenous Peoples

Brazil, Colombia, Honduras and México

A recent study showed that 207 environmental activists were murdered in 22 countries in 2017, the highest number since these studies were carried out, where the victims are indigenous leaders, community leaders and defenders of the environment. [5]

Sixty percent of the total number of deaths during the past year happened in Latin America, with Brazil leading with the most murders, where 57 were killed. The report accounts for concrete cases, such as the murder of Hernán Bedoya from Colombia,



who received fourteen gunshots from a paramilitary group in response to his protest against palm oil and banana plantations, which were expanding across his community's territory and destroying their forests.

The National Indigenous Organization of Colombia, ONIC, has categorically denounced and rejected the systematic violation of human rights and the physical and cultural extermination of Indigenous Peoples. According to ONIC, only in 2018, despite signing the final peace agreement, indigenous Peoples have suffered: confinement (9,422), mass/forced displacement (1,047), threats (50), recruitment(20), homicide (21), attacks (19); tortures (3); and 3 deaths due to omission on behalf of the State, within a displaced and relocated population, for a total of 10,599 people affected.

They also report the criminalization of protests in the country, especially when demanding the rights of Indigenous Peoples, a criminalization that has

materialized with the judicialization of social leaders defending the life and the territories of their communities. [6]

The Inter-American Commission on Human Rights (IACHR), a specialized section of the Organization of American States (OAS), has repeatedly condemned the killings of human rights and land defenders and those of indigenous and Afro-descendants in the region. In another statement in 2017, it accounted for, among others, seven murders in Colombia, two in Guatemala, two in Mexico and three in Nicaragua, most of them being indigenous and community leaders.

In the statement, the IACHR expresses its concern about the devastating increase in violence against people opposing to extraction or development projects, or those defending land rights and natural resources of the Indigenous Peoples of the region, which at that time constituted 41% of all murders of defenders in the region. [7]

3. The Case of Guatemala

The current situation in Guatemala is particularly worrying, not only due to the level of violence faced by Indigenous Peoples, but also because of the prevailing corruption. "Structural racism and discrimination still reign in matters of education, health, access to justice and that power is very concentrated both economically as well as politically in Ladino hands," said Victoria Tauli Corpuz, the Special Rapporteur on the Rights of Indigenous Peoples [8].



Photo courtesy: FILAC

Since its independence and rooted in a colonial heritage, both historically and politically, violence in Guatemala is perpetuated by the State against the poor and the Indigenous Peoples to preserve the power structures that are based on the exploitation and exclusion of those from marginalized communities. [9]

The signing of the Peace Agreements (1996), which put an end to the internal armed conflict, set the stage for the construction of a multilingual and pluricultural state, laying the foundations for a more egalitarian and just society. However, the possibility of this new national project has been hindered by an unchanged power structure [10].

A recent official data confirms many of the structural aspects mentioned. According to the Guatemalan government, the census of 2002 showed Indigenous Peoples representing 41% of the population, up to that date.[11] . From the total indigenous population, 95.7% of inhabitants are of Mayan ethnicity, while 4.3% belong to the Xinca and Garifuna ethnic groups. Most of the indigenous populations in the country are in rural areas (65.7% of the total indigenous population).

The Inter-American Commission on Human Rights (IACHR) in its 2017 report [12], observed that the Indigenous Peoples of Guatemala face the highest rates of social exclusion, and that the state of rights in the country may only be consolidated once all historically excluded peoples have equal participation in society and in decision making.

In this same way, the annual report of the Office of the High Commissioner for Human Rights in Guatemala ((OHCHR) [13] stated that the Indigenous Peoples have continued to defend their rights, resorting even to judicial proceedings, and that they face “high levels of discrimination, inequality and exclusion of women and girls, in particular”.

In this context, the demands of Indigenous Peoples are still focused on discrimination and exclusion, as well as the protection of land and territories and natural environment and to ensure there is prior and informed consultation, access to justice and cultural rights. The State has not responded to these demands, a clear example of this being the failed process and the rejection of the constitutional reforms of 2016, which aimed for the constitutional recognition of the rights of Indigenous Peoples.

4. Criminalization of Protest and Murders of Defenders

The claims of Indigenous Peoples and farmers have not only been neglected, but are, in many cases, considered as delinquent actions by the authorities. The Special Rapporteur on the Rights of Indigenous Peoples denounced the criminalization of indigenous leaders, who are “accused legally of stealing or of other fabricated charges, merely for leading protests against hydroelectric projects carried out on their lands or against the expansion of palm oil plantations which pollute their rivers”. [14]

A 2017 IACHR report stated that human rights defenders in Guatemala are constantly at risk due to the retaliation they face from the legal system, which is used against them. It is very common to issue groundless arrest warrants, as well as carry out arbitrary detentions and pre-trial imprisonment with the sole purpose of criminalizing their human rights defense activities. Nearly 106 registered cases in the first six months of 2017 alone exceeded the total numbers in 2016. [15]



Photo courtesy: The Goldman Prize

Some examples are the case of the community leaders in the North of Huehuetenango, who were imprisoned for nearly two years because of their opposition to a hydroelectric project. Such has been the case of Bernardo Caal, community leader in the region of

the Cahabón River, who went into prison in February 2018 for his opposition to a hydroelectric project; he was accused of theft, threats, and of instigating crime [16]. There are dozens of similar cases, in reality.

The Unit for the Protection of Human Rights Defenders in Guatemala (UDEFEGUA by its acronym in Spanish) included 135 attacks against defenders. Out of these, 76 were linked to acts of criminalization, meaning that they were attacked under the belief that “being a defender is a crime.” [17]

It is a grave matter that President Jimmy Morales, at a public speech in May 2018, used the word “criminals” while referring to the members of the Committee for Rural Development movement (CODECA), one of the most important indigenous organizations in the country. [18] Indigenous Peoples and farmers who defend their territories and rights are not only criminalized but murdered as well.

It’s worth noting that seven members of CODECA, whose leaders were referred to as criminals by Jimmy Morales have been murdered in Guatemala. Luis Arturo Marroquín, Florencio Pérez Nájera, Alejandro Hernández, Francisco Munguía, José Can Xol, Mateo Chamán y Ramón Choc were murdered by tactics used during the internal armed conflict period.



Photo courtesy: IFIP

Repression also affects leaders of other organizations, such as the Committee for Farming Unity (Comité de Unidad Campesina) or the Highlands Farming Committee (Comité Campesino del Altiplano). “We, the Indigenous Peoples are discriminated, relegated to living a life of misery and dispossession under a system that has destroyed whole communities and besides that, they repress and murder us,” said Cristina Ardón, Kaqchikel Native, who is the president and legal representative of the Highlands Farming Committee.

She explains that in November 2017 a new agreement was signed by the president of Guatemala, in which the government would engage in the establishment of a high-level roundtable to deal with collective issues, which included solving 52 cases of farming conflicts, which were to be prioritized, guaranteeing the collective human rights, out of a total of 144 cases involving their organization.

The indigenous and farming leaders who signed the agreement with the president have suffered persecution from the state itself, and five of them have been murdered. Cristina explains that “between January and June of the present year, Samuel Chub, Gumersindo Butz Cu, José Can Xol, Mateo Chaman Paau and Ramón Choc Sacrab were murdered by unknown killers through the use of methods corresponding to repressive devices used during the times of the internal war.”

“For years, we have faced displacement, we have organized marches, freed rivers which had been disposed of by landlords, we have managed to regulate the situation of 76 farms improving the lives of thousands of people, the most recent one for 460 families in Patulul, Suchitepéquez and in response to this, we are criminalized, and our people are killed. As an indigenous and farmers population, we are outraged at these. What will happen to the children, the widows, who will protect them and tend to them?” said Cristina.

5. Conclusions and Recommendations

The severe situation faced by human rights defenders and the Indigenous Peoples of the region represents a great challenge for the validity of the rule of law, a setting in which decisive action is required in favor of workers, farmers and Indigenous Peoples, to protect their rights and to improve their current conditions. The work of defenders is essential for the construction of a democratic society and to consolidate the rule of law.

“The main reason for this that there is no political will to protect the rights or to recognize these land and resource ownership rights; most of the people in power are ladinos and have no interest in seeing to these matters,” said Victoria Tauli Corpuz. [19] As recently expressed by IACHR in the case of Colombia, but applicable to all countries: “It is the obligation of the State to dutifully look into incidents of such nature and to sanction the material and intellectual authors.

This should include the development of research lines under the hypothesis that these murders could have been committed in connection to the work of defending human rights.” [20] The Commission calls the State to double its efforts in dealing with this situation of impunity for the crimes committed in the country against defenders of human rights.” It is essential that the national authorities fulfill their obligation of investigating, clarifying the murders and other crimes committed against farmer and indigenous leaders, identifying the material and intellectual authors. Additionally, to diminish the causes of social controversy, all displacement processes intended to expel

from their lands whole communities that have lived there for generations and that in their majority are lacking the official documents to recognize their land rights.

In the same way, authorities should implement in full the United Nations Declaration on the Rights of Indigenous Peoples, as well as Convention 169 of the International Labor Organization, particularly with regard to the right of participation and to Free, Prior and Informed Consent when facing state-sanctioned projects, such as mining and extractive industries and hydroelectric projects. A full implementation of human rights and international standards are necessary to protect communities from hostilities and threats.

6. Recommendations

This reality represents a great opportunity for the international community, including international cooperation entities, to provide their support with the effect of positively changing the severe situation presently experienced.

One of the main problems faced by the Indigenous Peoples and human rights defenders in general is the lack of media visibility of their situation. The mainstreams media does not cover this matter adequately in accordance to its grave importance; in general, the murders or other serious violations are covered as mere police chronicles with no appropriate context or follow-up of the investigations or leads. Even less of an effort is made to explore the social and political contexts which are the root causes of these problems.

Therefore, it would be helpful to build capacities of organizations and communities and raise awareness of the current problems being faced by Indigenous human rights defenders. It would be ideal to support communication plans and systems, which enable prompt alerts in situations of aggression against rights and which might be of great use in impeding them or at the very least in diminishing their effects.

Such strengthening must also include the exchange of experiences of good practices, as well as access to national and international mechanisms for the protection of human rights.

Funders Call to Action

In 2016, International Funders for Indigenous Peoples convened its Latin America Indigenous Funders Conference in Lima, Perú. At this diverse gathering of indigenous defenders, NGOs and funders, a call to action was created with the following recommendations for the philanthropic community:

- To include Indigenous Peoples in the processes of philanthropic decisions in order to guarantee the Free, Prior and Informed Consent throughout all support funds.
- To offer funding to those indigenous communities facing imminent threat against their rights and territories.

- To offer flexible funding to those groups and indigenous movements
- To fund the security and wellbeing of those indigenous communities who defend their collective rights.
- To recognize reciprocity as a key principle of the philanthropic community and that the responsibility to share with others may occur in gratitude and respect.



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Footnotes

- [1] Brasil, Colombia, Mexico y Venezuela
- [2] Instituto Igarape, Venas abiertas: homicidios en América Latina, Brasil, Noviembre 2017, <https://igarape.org.br/venas-abiertas-homicidios-en-america-latina/>
- [3] IWGIA, International Work Group on Indigenous Peoples, The Indigenous World, Denmark 2017, page. 23
- [4] IWGIA, quoted page 31
- [5] Global Witness. At What Cost? Irresponsible business and the murder of land and environmental defenders 2017, UK, 2018
- [6] See press release of 3 de July de 2018 <http://www.onic.org.co/>
- [7] Interview with Vicky Tauli-Corpuz, published May 10, 2018: <https://www.nytimes.com/es/2018/05/10/indigenas-guatemala-onu/>
- [8] UN Commission for Historical Clarification, Memory of Silence, book I, Guatemala, 1999
- [9] United Nations, HRI/CORE/GTM/2012, Basic document presented by the State of Guatemala 9th October 2012, paragraphs 8 and 9.
- [10] In Guatemala the Garifuna community is included in the concept of Indigenous, as such, the term afro-descendants is not use in the country.
- [11] OAS, IACHR, Situation of Human Rights in Guatemala, 31 December 2017 <http://www.oas.org/en/iachr/reports/pdfs/Guatemala2017-en.docx> (TN. Original document, OAS /Ser.L/V/II. Doc. 208/17 in Spanish)
- [12] Annual Report of the United Nations High Commissioner for Human Rights on the Activities of its Office in Guatemala, 2017.
- [13] IACRH condemns the murders of human rights defenders of the region, press release 7 February of 2017, http://www.oas.org/en/iachr/media_center/preleases/2017/011.asp
- [11] Interview to Victoria Tauli Corpuz, Ibídem
- [15] OEA, CIDH, Situación de los derechos humanos en Guatemala, OEA/Ser.L/V/II. Doc. 208/17, 31 diciembre 2017, pág. 93 y ss.
- [16] <http://www.europapress.es/internacional/noticia-prision-provisional-lider-indigena-detenido-guatemala-defensa-medio-ambiente-20180206181633.html>
- [17] <http://udefegua.org/>
- [18] <http://www.soy502.com/articulo/jimmy-ataca-pdh-mp-comunidades-codeca-frente-manifestantes-30612>
- [19] Interview to Victoria Tauli Corpuz, Ibídem
- [20] IACHR urges Colombia to Adopt Urgent Measures to Protect Human Rights Defenders and Social Leaders, Press release 27th March of 2018. http://www.oas.org/en/iachr/media_center/PReleases/2018/065.asp