**Joint Report on the Situation of Human Rights Defenders in the Americas**

**Questionnaire prepared by the Office of the UN High Commissioner for Human Rights and the Inter-American Commission on Human Rights**

May 2019

The Office of the UN High Commissioner for Human Rights (OHCHR) and the Inter-American Commission on Human Rights (IACHR) invite you to share information on the situation of human rights defenders in the Americas. The information gathered through this questionnaire will contribute to the joint OHCHR-IACHR report on the subject, which will be launched late in 2019.

This report will be publicly available on the [website of OHCHR](https://www.ohchr.org/EN/Countries/LACRegion/Pages/CallInputsReportOHCHRInterAmericanCommision.aspx) and on the website of the IACHR.

Your responses will be made public and attributed to you in the report, unless you indicate otherwise. Where possible please limit the response to each question to 500 words.

National Human Rights Institutions, civil society and human rights defenders are invited to send their responses in Word format by e-mail to adesouza@ohchr.org with an address where they can receive a reply to their submissions if necessary. For this purpose, a downloadable version of the questionnaire in English, French and Spanish is available on the OHCHR website.

The deadline for submitting the completed questionnaire is **10 June 2019.**

Please provide your contact details in case we need to contact you regarding this questionnaire. (Note that this is optional).

* Name of the organisation/institution: CIVICUS
* Contact and e-mail: Natalia Gomez, Advocacy and Network engagement officer, Natalia.gomez.pena@civicus.org
* Country or sub-region (indicate the country or sub-region in which you work) Global

* Can we attribute these responses to you or your organization publicly?
* Yes

**Questions:**

* **Situation of human rights defenders:**

**What do you consider to be the contextual factors - positive and/or negative - that have had the greatest impact on the situation of human rights defenders in your country and/or region since 2016?**

Civic space -defined as the respect in policy and practice for the freedoms of association, peaceful assembly and expression-in the Americas region is under threat and attacks against social leaders and human rights defenders have been increasing since 2016. According to the [CIVICUS Monitor](https://monitor.civicus.org/country/list/?country_or_region=region__2&status_category=all&submit=Search), an online portal that tracks conditions for civil society in 196 countries, one country[[1]](#footnote-1) in the Americas region has been categorized as a closed civic space, 5 countries[[2]](#footnote-2) are in the repressed category and 8 countries[[3]](#footnote-3) are in the obstructed category, meaning 54 per cent of people in the Americas live in countries with obstructed, repressed or closed civic space.

CIVICUS’s research on [Civic Space in the Americas](https://www.civicus.org/documents/PeoplePowerUnderAttack.Report.27November.pdf) has found that states in the region most often respond with repression when citizens, journalists or organisations criticise or challenge state officials, policies or institutions. People engaged in defending land rights and the environment against extractive industries and infrastructure projects, human rights activism and monitoring and pushing for basic economic and social needs to be met, also regularly attract repression from both state and non-state actors.

We have also found that there are categories of organisations and activists which are

much more likely to face restrictions than others, especially those groups that are already excluded, such as indigenous peoples, Afro-descendants, women, LGBTI people, migrants and other minority groups.

Since December 2017, the CIVICUS Monitor has [documented](https://www.civicus.org/documents/PeoplePowerUnderAttack.Report.27November.pdf) the killing of HRDs in at least 10 countries in the Americas: Belize, Brazil, Colombia, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Nicaragua and Peru. In 2018, the CIVICUS Monitor reported an increasing level of violence against HRDs, and particularly land rights and environmental defenders, in Colombia and Guatemala, where dozens have been killed in 2018 alone. Also, the CIVICUS Monitor has often reported other civic space restrictions on the region such as the use of excessive force by security forces during peaceful protests, attacks on journalists, the detention of protesters and disruption of protests. Other relatively common violations include the harassment and intimidation of HRDs, journalists and activists, censorship, the detention of HRDs, the introduction or enactment of restrictive legislation and the killing of journalists.

**What are the main causes and/or risk situations that contribute to a situation of violence and vulnerability against human rights defenders?**

CIVICUS and its partner organizations in countries of Latin America have reported some of the risks of violence defenders face in the region.

**Chile[[4]](#footnote-4):** CIVICUS and Fundacion ProAcceso have highlighted that one of the main issues affecting defenders in Chile is the use of the Anti-Terrorism Law by the government in cases related to social protests of the Mapuche community. A characteristic case is the trial against indigenous defender Machi Francisca Linconao and eight Mapuche indigenous people who were charged with the murder of two people in 2013 as a result of a fire during a demonstration. Machi was subjected to criminal proceedings for four years, after which she was acquitted of all charges in 2017. However, the trial was annulled and she was subjected to a new trial. Although Machi was acquitted again in May 2018, the trial demonstrates the government’s lack of commitment to comply with its international commitments and the way in which anti-terrorism legislation is used to criminalise and harass the Mapuche people.

Human rights organisations in the country have contended that the application of the Anti-Terrorism Law within this context "has not achieved more convictions, nor has it ended the violence in the area," which demonstrates that its use "is becoming a tool of discretional and political use."[[5]](#footnote-5)While indigenous communities are the most frequent targets of attacks, other human rights groups, particularly the environmental movement, have also been targeted. For example, in March 2017, leaders of the Movement for the Defense of Water, Land and Environmental Protection (MODATIMA) received death threats through telephone[[6]](#footnote-6). According to reports, this is not an isolated case and on several occasions members of MODATIMA have been subject to harassment and persecution[[7]](#footnote-7).

**El Salvador[[8]](#footnote-8):** CIVICUS and FESPAD have highlighted that the existing legislative framework and institutions in the country do not provide sufficient protections against attacks to HRDs. In September 2018, a CSO coalition Mesa Por el Derecho a Defender Derechos, presented a bill proposal that seeks the recognition and protection of HRDs.[[9]](#footnote-9)

In particular, in El Salvador, defenders of environmental human rights and sexual and reproductive rights, trade unionists and LGBTQI activists are victims of stigmatisation, criminalisation and violence. In the last four years, at least two women HRDs have been murdered. In 2015, Francela Méndez,[[10]](#footnote-10) and in 2016, Angelica Quintanilla Hernández[[11]](#footnote-11) Both cases continue in impunity today. Defenders of women's rights have also reported being subject to constant campaigns of stigmatisation and criminalisation,including through messages on social networks that are clearly intended to discourage them from continuing their work.

In the case of environmental defenders it has been reported that the violence sometimes occurs with the participation of business groups that see their interests affected. An emblematic case is that of defender Margarita Posada, an advocate of the Alliance Against the Privatisation of Water, who was labelled as a terrorist in a press release issued by the National Association of Private Companies.[[12]](#footnote-12)

**Nicaragua[[13]](#footnote-13):** before the crisis arise in Nicaragua in April 2018 the country presented already a very dangerous environment for HRDs, specially for the risk of criminalization due to the use of the criminal code[[14]](#footnote-14) and the AntiTerrorism[[15]](#footnote-15) Law to silence and harass defenders, which intensified since 2018. Among the most frequent accusations were those of terrorism (article 394 et seq.), participation in a criminal group (article 362), obstruction of public services (article 327), obstruction of functions (article 460), interference with authority (article 532), possession or illegal possession of firearms or ammunition (article 401), threat with weapons (article 186), aggravated robbery (article 225), simple kidnapping (article 163), attempted homicide (articles 73 and 74) and murder (article 140).

Additionally, numerous HRDs have been smeared and targeted with stigmatisation

campaigns, surveillance, phone tapping, interference with communications, threats

and physical attacks against them or their family members, intimidation and physical

violations of workers' freedom of association, surveillance by police vehicles, obstacles to their freedom of movement, the seizure of their property, interrogations and illegal detention accompanied with beatings, torture and the denial of legal assistance, and acts of aggression perpetrated by nonstate actors linked to the government.

Also between 2014 and 2018 it was reported that attacks against environmental and land defenders increased, particularly in the context of conflict around the Interoceanic Canal, state inaction regarding its duty to follow up on the titling of indigenous territories in the Caribbean Coast, and the struggles of indigenous communities due to the lack of implementation of free, prior and informed consent requirements in the face of large infrastructure projects and extractive industries concessions such as gold mining.

 **Guatemala:** In Guatemala exercising the right to defend rights is a risk for the life of HRDs. In the 2018 the joint report by ILC, CIVICU and Front Line Defenders “losing one’s life to defend the land” denounced how 2018 was a lethal year for defenders, especially for those defending and protecting their land and the environment. While threats are regularly reported, authorities do not show serious attempts to follow due process to investigate and prosecute the perpetrators of the attacks. Neither do they show a genuine interest in providing the necessary protection to human rights defenders.

A growing risk for HRDs in the country is the use of criminalization to silence defenders’ voices. Under the category of criminalization the report included cases of misuse of criminal law, defamation and the promotion of hate speech against defenders.

**What should be changed in your country or region to contribute to a safe and conducive environment for the defence of human rights?**

States in the region need to advance in the recognition of the role of HRDs and provide the guarantees for them to exercise the right to defend rights:

* Governments should guarantee civil society members, journalists and HRDs a safe and secure environment in which to carry out their work and conduct impartial, thorough and effective investigations into all cases of attacks, harassment and intimidation against them and bring the perpetrators of such offences to justice.
* Governments should ensure that HRDs are able to carry out their legitimate activities without fear or undue hindrance, obstruction or legal and administrative harassment.
* Governments should publicly condemn at the highest level instances of harassment and intimidation of CSOs and activists. Media also has an important role preventing the dissemination of hate speech and providing a space for defenders to share their stories with the public.
* Governments should establish policies for HRDs, and National protection mechanisms to ensure that they can carry out their legitimate activities without fear, undue obstacle or legal or administrative harassment. These mechanisms need to be effectively applied in countries where they have been already created.

**Defenders most at risk:**

**What are the groups or sectors of human rights defenders most at risk? Please explain the distinct nature of the risks and threats faced by women human rights defenders, indigenous peoples, Afro-descendants and other groups.**

CIVICUS has reported that women (WHRDs)[[16]](#footnote-16) and environmental defenders (EHRDs) are two of the groups of HRDs most at risk. The increasingly restricted space for WHRDs presents an urgent threat, not only to women-led organisations, but to all efforts campaigning for women’s rights, gender equality and the rights of all people.

Overall the risks faced by HRDs, WHRDs are at greater risk of being targeted through rape and sexual violence, the targeting of their family members and gender-targeted criminalisation. WHRDs face additional risks that are contingent on several dimensions, including race, class and sexual orientation. For Afro-descendent and indigenous WHRDs working in Latin America, the repression they face is further imbued with racist and sexist discrimination.

In the case of EHRDs[[17]](#footnote-17) we have reported how dangerous it is for activists to raise questions about the governance of natural resources. Environmental defenders are now the number one group of defenders being killed in the world and Latin America the most dangerous region for them. Defenders working to secure community land, expose corruption and environmental degradation, and advocate for transparency and good governance face violence and criminalization every day. A particular risk for this group is the power disbalance they experience when facing large corporate interests. This is even more difficult in small developing states where multinational companies have a huge influence on government policies and decisions. EHRDs also face a particular risk with the hate speech promoted by private and public actors that labels them as anti-development. Finally, most EHRDs develop their work in rural areas, many of them part of indigenous or tribal communities, where access to protection mechanisms is limited.

* **Attacks or restrictions:**

**What are the main types of attacks and restrictions against human rights defenders in the country or region? Do you see any change since 2016? If possible, identify if there is a geographic area that needs to be highlighted in particular.**

CIVICUS and PWYP’s joint report in 2017 [Against all odds: The perils of fighting for natural resource justice](https://www.pwyp.org/wp-content/uploads/2016/11/Against-All-Odds-PWYP-Civicus-Report.pdf) showed trends on the way governments curtail activists working in the defence of the environment. The report showed two types of threats: legal and extra- legal means of repression. Among the legal means of repression the report presented three trends:

New laws that obstruct CSO registration, funding and activities The report showed how in the last years over 60 countries in the world have passed or drafted legislation that narrows the space for CSOs to operate, especially in sensitive fields such as land rights. An example of this trend in the Americas is Guatemala where a reform to the NGO law was presented to Congress since last year. Among the new restrictions the reform proposes it allows for the status of an NGO to be cancelled if its activities are against “public order”

Legal amendments to allow more authoritarian policing of protests Non-violent actions such as marches, occupations and roadblocks are being codified as crimes, with some states allowing security forces to use lethal tactics to control public space. This is the case for example of [Nicaragua](https://elpais.com/internacional/2018/09/29/america/1538186460_718736.html) where in September 2018 the government declared that those who exercise their right to protests will be incurring in a criminal conduct. It is also the case of [Colombia](https://monitor.civicus.org/newsfeed/2016/05/20/peaceful-assembly-colombia/)  where organisers of public gatherings must give notice to the authorities 48 hours in advance, and where a 2011 amendment of the Criminal Code, allowed for the imposition of steep fines and long prison sentences for the unauthorised obstruction of public roads or transportation infrastructure.

The criminalisation of legitimate activism through the judicial system

Common approaches in this trend include detaining activists on fabricated charges for weeks or months and then releasing them as their cases are dismissed for lack of merit. Private companies with interests being affected by the HRD have also used this method, for example in Colombia [Dr. Yesid Blanco](https://www.business-humanrights.org/en/19102018-dr-yesid-blanco) a paediatrician who denounce the presence of mercury in the water in the region and opposed fracking projects was subjected to a campaign of criminalization, persecution and death threats that made him leave the country in December 2019.

Extra-legal means of repression are also widely used. These include:

 Public vilification High-ranking public officials have run smear campaigns to undermine CSOs and activists, who are characterised as anti-national, anti-development, liars and even terrorists. The most recent example is Nicaragua where in the last weeks, members of Alianza civica have been subject to a smear campaign by high officials of the country.

Unwarranted surveillance Both state and non-state actors use surveillance for control and intimidation. Methods include the use of spy software, informants, intercepting information or observation from a distance. An example of this modality was [Mexico](https://monitor.civicus.org/newsfeed/2017/07/05/mexican-government-uses-spyware-target-journalists-and-HRDs/) in 2017 where the government used a spyware named Pegasus to target HRDs, journalists and anti- corruption activists.

Threats and violence Since December 2017, the CIVICUS Monitor has documented the killing of HRDs in at least 10 countries in the Americas, also in 2018, the CIVICUS Monitor reported an increasing level of violence against HRDs, and particularly land rights and environmental defenders, in Colombia and Guatemala, where dozens have been killed in 2018 alone.

* **What are the main advances and strengths concerning the protection and promotion of the work of human rights defenders in your country or in the region? What are the main setbacks and obstacles/challenges?**

A major step for the protection of EHRDs in the region was made last year with the adoption of  [Regional Agreement on Access to Information, Participation and](https://www.cepal.org/en/escazuagreement) Justice in Environmental Matters for Latin America and the Caribbean (known as the Escazú Agreement[[18]](#footnote-18)). The agreement was born as a response to the need for a stronger environmental democracy in the region, and to counter the spiral of violence against environmental defenders.

Escazú was inspired by the Aarhus Convention adopted in Europe in 1998. The Escazú Agreement adopts the Aarhus Convention’s model of three substantial pillars of environmental democracy: the right to access information, the right of participation and the right to access justice in environmental matters.

Furthermore, it adds a significant new pillar on the rights of environmental human rights defenders. The recognition of the role of defenders and the obligation to protect them is included in the general obligations section. It is also the subject of a specific article – article 9 - which creates a protection regime for environmental defenders. Escazú has become the first binding instrument that includes specific commitments for the protection of environmental defenders.

Article 9 of the Escazú Agreement creates a protection regime for environmental defenders articulated at three levels. Parties to the Agreement undertake to: ensure a safe environment for defenders to act, take appropriate and effective measures to recognize and protect their rights, and take measures to prevent, investigate and prosecute attacks against environmental defenders.

Since opening for signature, the Treaty has been signed by 16 States and ratified by one (Guyana in May 2019[[19]](#footnote-19)). Even if the treaty is not yet into force it has already contributed to strengthen protections for environmental defenders in the region. For example, recently Peru approved a new protocol for the protection of human rights defenders which included specific measures to protect environmental defenders.

Thank you for your participation in this questionnaire!

Please attach any documents that might be relevant and useful to the report (e.g., reports, flagship cases). You can send them by e-mail to adesouza@ohchr.org as well as any questions or observations to this questionnaire.

1. Cuba [↑](#footnote-ref-1)
2. Colombia, Mexico, Honduras, Venezuela and Nicaragua [↑](#footnote-ref-2)
3. Brazil, Haiti, Bolivia, Peru, Dominican Republic, Paraguay, Guatemala, El Salvador [↑](#footnote-ref-3)
4. ‘Joint Submission to the UN Universal Periodic Review’, CIVICUS and Fundacion ProAcceso, 2018, <https://civicus.org/documents/JointCIVICUSUPRSubmissonChile.pdf> [↑](#footnote-ref-4)
5. ‘Human Rights Center Annual Report’, University Diego Portales, 2017,

http://www.derechoshumanos.udp.cl/derechoshumanos/images/InformeAnual/2017/5-

ddhh%20pueblos%20indi%CC%81genas.pdf. [↑](#footnote-ref-5)
6. ‘Chile 2017/2018’, Amnesty International Annual report 2017/2018,

https://www.amnesty.org/es/countries/americas/chile/report-chile [↑](#footnote-ref-6)
7. ‘Chile: Amenazas de muerte contra miembros de MODATIMA’, International Federation for Human Rights,

10 April 2017, https://www.fidh.org/es/temas/defensores-de-derechos-humanos/chile-amenazas-de-muertecontra-miembros-de-modatima. [↑](#footnote-ref-7)
8. ‘Joint Submission to the UN Universal Periodic Review’, CIVICUS and FESPAD, 2019, https://civicus.org/documents/JointCIVICUSUPRSubmissionElSalvador(EN).pdf [↑](#footnote-ref-8)
9. ‘Lineamientos Para Una Política Nacional De Protección A Personas Defensoras De Derechos Humanos’, FESPAD, to be published in 2019. [↑](#footnote-ref-9)
10. ‘El Salvador: Killing of transgender human rights defender Francela Méndez’, AWID, 3 June 2015, <https://www.awid.org/get-involved/el-salvador-killing-transgender-human-rights-defender-francela-mendez>. [↑](#footnote-ref-10)
11. ‘El asesinato desapercibido de una defensora de derechos humanos’, Revista Factum, 19 February 2017, <http://revistafactum.com/el-asesinato-desapercibido-de-una-defensora-de-derechos-humanos>. [↑](#footnote-ref-11)
12. ‘ANEP Denuncia Actos de Terrorismo en Contra de Nuestras Oficinas, Con el Fin de Distraer la Atención de la Corrupción y Mal Gobierno del FMLN’, Asociación Nacional de la Empresa Privada (El Salvador), 31 August 2018, <https://twitter.com/ANEPElSalvador/status/1035559333042577408>. [↑](#footnote-ref-12)
13. ‘Joint Submission to the UN Universal Periodic Review’, CIVICUS and Red Local, 2018, <https://www.civicus.org/documents/JointUPRSubmissionNicaragua.eng.pdf> [↑](#footnote-ref-13)
14. Criminal Code, Law No. 641, 2007, http://goo.gl/kBBXAM [↑](#footnote-ref-14)
15. 4 Law Against Money Laundering and the Financing of Terrorism and of the Proliferation of Weapons of Mass Destruction, No. 977, 2018, http://goo.gl/J75Mwq [↑](#footnote-ref-15)
16. “Against all odds: The perils of fighting for natural resource justice”,CIVICUS and Publish What You Pay, 2017. <http://www.civicus.org/documents/WHRD_PolicyBrief.pdf> [↑](#footnote-ref-16)
17. Ibid. [↑](#footnote-ref-17)
18. Regional Agreement on Access to Information, Participation and Justice in Environmental Matters for Latin America and the Caribbean, 2018, https://www.cepal.org/en/escazuagreement [↑](#footnote-ref-18)
19. https://observatoriop10.cepal.org/en/treaties/regional-agreement-access-information-public-participation-and-justice-environmental [↑](#footnote-ref-19)