



# Submission to the OHCHR on the impact of the world drug problem on the enjoyment of the right to defend human rights in Latin America

International Service for Human Rights and Peace Brigades International  
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## 1. About the organisations authors of this report

The [International Service for Human Rights](#) (ISHR) is an independent, non-governmental organisation dedicated to promoting and protecting human rights. For 31 years ISHR has achieved this by supporting human rights defenders (HRDs), strengthening human rights systems, and leading and participating in coalitions for human rights change.

[Peace Brigades International](#) (PBI) is an independent, non-governmental organisation which uses international protective accompaniment to protect, and open spaces for, HRDs at risk. Now in its 33<sup>rd</sup> year, PBI currently has projects on the ground in Colombia, Guatemala, Honduras, Kenya and Mexico, as well as offices around the world.

## 2. About this report

A large percentage of drugs consumed worldwide, and the vast majority of cocaine are produced in or trafficked through Latin America, with a huge presence of organised crime groups dedicated to drugs trafficking throughout the continent. Latin America is also a very dangerous place to defend human rights. In a report this year Frontline Defenders showed it to be the region with the highest number of murders of HRDs, accounting for 101 of the 130 HRDs killed in 2014,<sup>1</sup> whilst PBI receives the majority of its requests for protective accompaniment from Latin American activists.

In January 2014, ISHR interviewed 75 HRDs from 20 countries across the Americas.<sup>2</sup> The information compiled from these ground level activists coincided with information provided by HRDs to PBI in its field projects in Colombia, Guatemala, Honduras and Mexico. This information showed that the presence of organised crime related to drug trafficking and the current strategy used by States to tackle this issue implies increased and specific risks for HRDs.

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<sup>1</sup> <https://www.frontlinedefenders.org/2015-Annual-Report>

<sup>2</sup> Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Cuba, the Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru and Venezuela, Uruguay and the USA. A public report of these consultations will be published later this year.

This report complements that first-hand information with secondary research to demonstrate that changes must be made to drugs policy and HRD protection policy if HRDs are to be protected and if States are to guarantee them their rights as set out in the UN Declaration on HRDs.

The emphasis of this report is on the situation in Mexico, which has been on the front lines of the so-called 'war on drugs' for at least the past nine years. However, the report also includes specific examples from Colombia, El Salvador, Guatemala, Haiti and Honduras, as well as general conclusions taken from ISHR's Latin America consultations.

### **3. The importance of human rights defenders in the context of the first against organised crime**

The UN Declaration on Human Rights Defenders, current and previous UN High Commissioners for Human Rights, the UN Secretary General and numerous UN resolutions and experts have consistently reiterated the crucial role of HRDs in promoting and protecting human rights, exposing violations and seeking justice.

The fact that the UN Human Rights Council Resolution A/HRC/28/L.22 mandated the OHCHR and the Human Rights Council to consult all stakeholders, including civil society, in developing contributions to UNGASS 2016 is recognition of the crucial role HRDs can play in ensuring that the impact of world drugs policies on human rights are positive rather than negative.

In Latin America they have played a fundamental role in exposing abuses by State and non-State actors in the context of the war on drugs and in proposing approaches to drugs, security and crime policies from a human rights perspective.

Nonetheless, HRDs feel that they are rarely formally consulted by States on drugs, crime and security strategies and that their analysis and proposals are rarely taken into account, leading to the development of policies without a human rights perspective and with the capacity to facilitate human rights abuses.

HRDs, affected communities and civil society feel they are not being properly consulted about the human rights impact of the current drugs policy. Their input could mitigate the negative human rights consequences of the policy.

If the UN and its member States are serious about ensuring a human rights approach to the world drugs problem, they must consult human rights defenders at every opportunity and take steps to ensure a safe and enabling environment for their work and for their contribution to this debate. Currently, HRDs working on abuses related to the world drugs problem are some of those facing the highest levels of risk in Latin America.

### **4. The negative impact of the current drugs problem and drugs/security strategy on the security of human rights defenders**

It is clear that, in Latin America, the drugs trade and the current anti-drugs policy and discourse have conspired to produce additional risks for human rights defenders.

#### **a. Risks to human rights defenders from non-State actors**

The increase in powerful, armed non-State actors including organised crime groups (OCG), paramilitary groups and private security firms have left HRDs at risk to more actors in an increasingly complex context. State actors have not been capable of responding to this complexity with adequate HRD protection measures and policies, have sometimes been accused of complicity in the criminal activities of these groups against defenders, and have failed to tackle impunity, exacerbating the climate of risk.

### Indirect risk

As is the case for the population as a whole, HRD face the high rates of crime and violence of the region. The risk of being attacked by armed non-state actors, such as organised crime groups who have developed strategies of violence against society as a mean of pressure towards the authorities. They also face the risk of getting caught in the cross-fire in exchanges between State and non-State armed actors

For example, Central America is now home to some of the world's most dangerous cities, with the highest global homicide rate found in **Honduras**, at 82.1 murders per 100,000 inhabitants. The region has become unsafe for HRDs and journalists that expose the violence; for politicians and security officials that speak out against attempts at corruption by drug trafficking groups.<sup>3</sup>

The influence which organized crime has on society as a whole also has a knock-on effect on how HRDs can operate. In an interview with ISHR in March 2014, woman human rights defender Alejandra Burgos from **El Salvador**, outlined how defenders are compelled to either negotiate with armed drugs gangs or to risk that they become another hostile actor which threatens their life and their work.<sup>4</sup>

### Direct risk

At ISHR's Latin American consultations, participants identified that HRDs exposing collusion between authorities and organized crime, or abuses by security forces charged with fighting drug trafficking, as some of the continent's most vulnerable.

The Inter-American Commission on Human Rights (IACHR) and the UN Special Rapporteur on HRDs have both reported that the number of attacks against HRDs perpetrated by non-state armed groups, such as OCGs, has risen.<sup>5</sup> In some countries, these groups operate in collusion, with the acquiescence, or thanks to the omission of, State agents.

According to analysis by the **Mexican** Civil Society Network 'Red TdT', the work of many of the HRDs killed in recent years 'confronted certain groups of "default power" (businesses, local leaders and organised crime groups) that operate in conjunction with diverse levels of government [...] the work of these defenders was focused on obtaining justice and truth, defending the land, territory and natural resources [...], reporting the actions by organised crime and the complicity of authorities and pointing out corruption and inefficiency of state entities to prevent, investigate and sanction those who violate human rights".<sup>6</sup>

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<sup>3</sup> HRW World Report available at <http://www.hrw.org/world-report/2015/country-chapters/honduras?page=2>

<sup>4</sup> ISHR interview with Alejandra Burgos, Red Salvadoreña de Mujeres Defensoras, March 2014

<sup>5</sup> Margaret Sekaggya, *Report of the Special Rapporteur on the situation of human rights defenders*, A/HRC/66/203, 28/07/2011, para.18c

<sup>6</sup> Red Nacional de Organismos Civiles 'Todos los Derechos para Todas y Todos' (Red TdT), *El Derecho a defender los derechos humanos en México: Informe sobre la Situación de personas Defensoras 2011-2013* [The Right to defend human rights in Mexico: report on the situation of human rights defenders 2011-2013], 2014, p.66

In **Guatemala**, for example, journalists covering corruption and drug trafficking are particularly at risk of threats, attacks, and legal intimidation.<sup>7</sup>

### Collusion between State and non-State actors

At ISHR' Latin American consultations, HRDs alleged that both State and business actors use criminal actors to attack defenders with impunity in States such as **Chile, Colombia, Guatemala, Honduras, Mexico** and **Peru**. This phenomenon has increased in line with levels of organized criminal groups associated with drug trafficking.

In **Mexico**, according to the OHCHR country office, 'It is important to note that a majority of the cases [of attacks against HRDs] point to non-State actors, mainly identified as 'caciques' [local bosses] or criminal groups that see their interests affected by the work of defenders in the region, since they uncover and confront their illegal actions and interests. In some cases [we] have been able to demonstrate the acquiescence of governmental actors... in 23% of the cases, public officials have played a role either through action or omission'.<sup>8</sup>

The OHCHR Mexico office adds, 'on the one hand the municipal authorities do not prevent the organised crime to retaliate against human rights defenders who hamper their activities; on the other hand [...] these same authorities have allegedly requested that organised crime carry out the "dirty work" in order to elude any responsibility'.<sup>9</sup>

Human Rights Watch has shown that Mexican activists continue to suffer harassment and attacks, often in the context of opposition to infrastructure or resource extraction 'mega-projects'. In many cases, there is evidence—including witness testimony or traced cell phones—that State agents are involved in aggressions against human rights defenders.

In **Colombia** in 2013, *Somos Defensores* recorded an increase in assassinations of human rights defenders identifying non-State actors – many with links to drug trafficking criminal groups – as the principal aggressors. They showed how political, business and criminal interests which felt threatened by HRDs, could conspire to ensure attacks against activists by paramilitary and guerrilla groups.<sup>10</sup>

**Honduran** Human rights defenders continue to be subject to violence, threats, and killings. In May 2014, José Guadalupe Ruelas, director of international children's charity, Casa Alianza, which has criticized authorities for failing to protect children from organized crime and drug smuggling activities, was arbitrarily detained and violently beaten by military police. He was released the next day after local human rights organizations intervened on his behalf.<sup>11</sup>

In **Guatemala** in November 2013, President Otto Pérez Molina and Vice President Roxanna Baldetti filed charges against José Rubén Zamora, editor of *El Periodico*, after the newspaper published articles referring to alleged links between the administration and organized crime. In February, a judge barred Zamora from leaving the country pending investigation of the allegations. The

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<sup>7</sup> HRW World Report available at <http://www.hrw.org/world-report/2015/country-chapters/guatemala>

<sup>8</sup> OHCHR-Mexico, *Defender los derechos humanos: entre el compromiso y el riesgo. Informe sobre la situación de las y los defensores de Derechos Humanos en México*, 2010, para.44

<sup>9</sup> OHCHR-Mexico, *Defender los derechos humanos: entre el compromiso y el riesgo. Informe sobre la situación de las y los defensores de Derechos Humanos en México*, 2010, para.44

<sup>10</sup> <http://www.somosdefensores.org/index.php/en/publicaciones/informes-siaddhh/117-informe-siaddhh-2013-d-de-defensa>

<sup>11</sup> <https://hondurasaccompanimentproject.wordpress.com/2014/05/15/beatings-and-arbitrary-detention-of-childrens-rights-defender-mr-jose-guadalupe-ruelas/>

president subsequently dropped the charges; the vice president said she would as well, but at time of writing had not done so.<sup>12</sup>

**Example Case: Ayotzinapa, Mexico 2014**

On the night of the 26 September, municipal police officers of two municipalities of the state of Guerrero in collusion with an OCG, and under the orders of the Mayor of Iguala, arrested and disappeared 43 students of the Normal Rural School of Ayotzinapa. The media, several HRDs and political actors have denounced that the links between the mayor and the local organised crime group were in fact known by State and Federal authorities.

The school which these students represented has a renowned history of human rights activism and social protest. In addition, at the moment of the facts, the Mayor faced an unsolved complaint for the homicide in 2013 of another social leader.

As of April 2015, the whereabouts of 42 of the 43 students have not been proved with adequate scientific evidence. The possible responsibility of state and Federal authorities has not been investigated. The State official version favours one line of investigation which explains that the students were abducted and murdered because some of them belonged to a rival organized crime band. The social activism of the students as a probable line of investigation has not been prioritised. The relatives of the missing and the HRDs who have been accompanying and representing them have suffered threats including defamation, surveillance and disproportionate use of force by police during protests. (See the communiqué published in March 2015 by several international NGOs on this issue: [http://www.pbi-mexico.org/fileadmin/user\\_files/projects/mexico/images/News/150313OpenLetterAyotzi\\_01.pdf](http://www.pbi-mexico.org/fileadmin/user_files/projects/mexico/images/News/150313OpenLetterAyotzi_01.pdf))

### The impact of impunity

Attacks against HRDs, whether apparently by State or non-State actors and whether apparently direct or indirect, are rarely fully investigated or prosecuted, which, according to the IACHR, guarantees the repetition of aggressions and 'sends an intimidating message to society as a whole, putting it in a defenceless situation'.<sup>13</sup>

Successive Human Rights Council resolutions and reports by the UN Special Rapporteur on HRDs have argued that widespread impunity for attacks against HRDs contributes to a climate of insecurity. However, both the IACHR and defenders interviewed by ISHR and PBI suggested that impunity has crossed with other factors such as the militarised security strategy and defamatory public discourses by officials, to criminalise attacked or murdered HRDs.

Often HRDs apparently attacked by OCGs are criminalised and presented by States and the media as suspected of having been involved in organised crime themselves.<sup>14</sup> In the absence of investigations and prosecutions, this allows States to use public discourse rather than judicial oversight to deny their own responsibility and undermine the human rights work which probably put the victim at risk. These unaccountable suggestions of HRD involvement in organised crime, made by officials and the media, in turn contributes to a climate of de-legitimisation of human rights defence and therefore of heightened risk for HRDs.

<sup>12</sup> HRW World Report available at <http://www.hrw.org/world-report/2015/country-chapters/guatemala>

<sup>13</sup> IACHR, Second report on the situation of human rights defenders in the Americas, OEA/Ser.L/V/II.Doc66, December 2011, p.51

<sup>14</sup> IACHR, Second report on the situation of human rights defenders in the Americas, OEA/Ser.L/V/II.Doc66, December 2011, p.13

**Salvadoran** Woman HRD Alejandra Burgos outlined to ISHR how – in a context of organized crime and drugs gang and a militarized strategy to combat them – murders of defenders are often publically reported by authorities as ‘due to involvement in drugs offences’ before an investigation is even carried out.<sup>15</sup>

As the U.S. State Department’s 2013 Human Rights Report on **Mexico** concluded: ‘Despite some arrests for corruption, widespread impunity for human rights abuses by officials remained a problem in both civilian and military jurisdictions.’<sup>16</sup>

#### **b. Risks to human rights defenders from the current anti-drugs strategy**

The militarisation of public security, coupled with the abuse of public discourse and the misuse of legislative changes, represent products of the current anti-drugs policy which have served to threaten the space of HRDs and put them at risk.

#### The increased militarisation of public spaces and public security strategies has meant an increase in physical attacks on HRDs

The militarised approach to public security has in itself led to an increase in attacks against HRDs, whilst those who have denounced other human rights abuses caused by the strategy, have found themselves at an even greater level of risk

Governments across the region have responded to the organised crime problem through ‘tough’ enforcement and militarised security strategies which favour the use of armed forces in public security tasks and which have led to increased abuses and violations by this actor.<sup>17</sup> In parallel, the capacities of the justice, police and penitentiary systems have not been effectively improved and often fail to work from a human rights perspective.<sup>18</sup> Arbitrary detentions, undue processes of law and torture are recurrently used to fabricate evidence and charges in order to present results and figures. Impunity remains extremely high (with rates over the 90% in the four Latin-American countries where PBI is present).<sup>19</sup> By reporting on human rights violations and working to fight impunity, HRDs directly face the causes and consequences of the governmental security strategies and are often attacked, criminalised and defamed by State actors, in particular judicial operators and members of the security forces.

The ‘militarisation of public space’ (the creation of military police or the use of the army to tackle organized crime, the rise of paramilitary, vigilante and private security groups, the increased availability of arms, the proliferation of drug trafficking gangs) has contributed to an increase in violence, which has generated a climate of heightened insecurity for activists.

Decades-old counter-insurgency strategies used by State and non-State actors to target social movements in countries such as **Colombia**, **Guatemala** and **Mexico** have been exacerbated in the context of ‘the war on drugs; leading to high numbers of defenders being killed.

In **Mexico** in early 2013, the administration of President Peña Nieto said that more than 26,000 people had been reported disappeared or missing since 2007, yet the government has made little

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<sup>15</sup> ISHR interview with Alejandra Burgos, Red Salvadoreña de Mujeres Defensoras, March 2014

<sup>16</sup> “Mexico 2013 Human Rights Report,” U.S. Department of State, February 27, 2014, available at <http://www.state.gov/j/drl/rls/hrrpt/2013/wha/220457.htm>

<sup>17</sup> Human Rights Watch, *World Report 2014 - Events 2013*, 2014, p.19

<sup>18</sup> IACHR, *Report on Citizen Security and Human Rights*, OEA/Ser.L/V/II.Doc.57,2009; and , UNDP, *Human Development Report for Latin America 2013-2014: Citizen Security with a Human Face, Evidence and Proposals for Latin America*, 2014

<sup>19</sup> PBI has field projects in Mexico, Guatemala, Honduras and Colombia.

progress in prosecuting widespread killings, enforced disappearances, and torture committed by soldiers and police in the course of efforts to combat organized crime.<sup>20</sup>

Human Rights Watch also noticed, that instead of reducing violence, Mexico's 'war on drugs' has resulted in a dramatic increase in killings, torture, and other appalling abuses by security forces, which only make the climate of lawlessness and fear worse in many parts of the country.<sup>21</sup> The UN Special Rapporteur on extrajudicial, summary or arbitrary executions conducted a fact-finding mission to Mexico in April-May 2013, and stated that extrajudicial executions by security forces were widespread and often occurred without accountability.<sup>22</sup>

As Central America began a more explicit war on drugs in 2006, that year was further marked by a significant upsurge in threats against defenders in **Guatemala**. Indeed, the National Human Rights Movement (MNDH) registered 278 cases of threats or attacks against human rights defenders between January and December 2006, against 224 in 2005.<sup>23</sup>

**Honduras** continues to increase the size of the country's military police force (PMOP), while simultaneously decreasing the number of civilian police officers; HRDs have told ISHR that this leads to a militarised approach when dealing with HRDs.

In **Haiti**, the election of Mr. René Préval as President of the Republic on February 7, 2006 failed to stabilise the country's political situation. On the contrary, insecurity was on the increase, notably in late 2006, with a new wave of assassinations and abductions. Against such a background, defenders denouncing the growing criminality were seriously targeted.<sup>24</sup>

In interviews with ISHR, **Colombian** HRDs who preferred not to be named in this report underlined that a fusion of the anti-drugs strategy with the counter-insurgent strategy has threatened the work of HRDs. On the one hand, State and non-State actors threaten, stigmatise, disappear and displace social leaders and HRDs under the pretence of combatting drugs trafficking. In parallel, those activists who denounce the abuses committed by the State and its security forces in the context of the 'war on drugs' (such as the forced displacements of communities in order to "fumigate") face elevated risks and are often wrongly labelled *guerrillas*.<sup>25</sup>

In Guatemala the 'militarization of public space' (the creation of military police or the use of the army to tackle organized crime, the rise of paramilitary, vigilante and private security groups, the increased availability of arms, the proliferation of drug trafficking gangs) has contributed to an increase in violence, which has generated a climate of heightened insecurity for activists. The government continues to use the military to address public security challenges, despite the latter's long history of human rights abuse. More than 20,000 soldiers are currently deployed throughout the country. In May 2014, the government announced the creation of a new inter-agency task force to provide security against drug trafficking and related crimes throughout Guatemalan territory. The force is known by the acronym FIAAT, and includes military personnel. As Central America began a more explicit war on drugs in 2006, that year was further marked by a significant upsurge in threats against defenders in Guatemala. Indeed, the National Human Rights

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<sup>20</sup> <http://www.hrw.org/world-report/2014/country-chapters/mexico?page=1>

<sup>21</sup> <http://www.hrw.org/news/2011/11/09/mexico-widespread-rights-abuses-war-drugs>

<sup>22</sup> <http://www.hrw.org/world-report/2014/country-chapters/mexico?page=3>

<sup>23</sup> <http://www.omct.org/es/human-rights-defenders/urgent-interventions/guatemala/2007/07/d18743/>

<sup>24</sup> [http://www.cartercenter.org/peace/human\\_rights/defenders/countries/haiti.html](http://www.cartercenter.org/peace/human_rights/defenders/countries/haiti.html)

<sup>25</sup> ISHR interviews with Colombian human rights defenders, January 2015

Movement (MNDH) registered 278 cases of threats or attacks against human rights defenders between January and December 2006, against 224 in 2005.<sup>26</sup>

#### Example Case: **Mexico since 2006**

In Mexico, civil society has underlined that ‘the deployment of the federal police and the military has led to major attacks and threats to journalists as well as human rights defenders’

PBI Mexico documented an increase in threats for HRDs in line with an increasingly militarized anti-drugs strategy, with 292 arbitrary detentions in 2012 and 427 in 2013; 21 extrajudicial executions in 2012 and 20 in 2013 and affirms that ‘in the first 18 months of Calderon’s administration, there were 24 forced disappearances of HRDs and in the first 18 months of Peña Nieto’s administration there

were 29’. (Bulletin ‘Peace in Mexico? Security Strategies and Human Rights’, Peace Brigades International - PBI, 2014.

[http://issuu.com/peacebrigadesinternacional/docs/boletin2014\\_24pag-eng-digital-isuu/1?e=4256013/11069382](http://issuu.com/peacebrigadesinternacional/docs/boletin2014_24pag-eng-digital-isuu/1?e=4256013/11069382) )

The Red TdT support this finding, having reported that, of the 104 cases of aggressions against human rights defenders that were documented between 2011 and 2013, the main group of perpetrators that were identified were members of state security forces. (see footnote 6)

Accudeh reported that between January 2011 and May 2014, cases of aggressions towards human rights defenders have doubled as the war on drugs has intensified. Women human rights defenders have been identified as particularly vulnerable, along with migrant rights defenders, community rights defenders and those who work to fight impunity. (‘Peace in Mexico?’, PBI, 2014)

National Campaign against Forced Disappearance affirms that if you compare the first 18 months of Felipe Calderon’s presidency with Enrique Peña Nieto’s, the forced disappearance of human rights defenders increased by 60%, which means that currently in Mexico, every two weeks a human rights defender is a victim of forced disappearance.

[http://www.comitecerezo.org/IMG/pdf/informe\\_campana\\_nacional\\_2014.pdf](http://www.comitecerezo.org/IMG/pdf/informe_campana_nacional_2014.pdf)

#### Discourse

In consultations with ISHR, HRDs complained that authorities often criticise defenders as being against the State. As documented earlier under ‘impunity’, defenders risk defamation as authorities publically preclude the findings of investigations into attacks against defenders, which are usually never completed.

This is dangerous in a context of generalized stigmatisation of human rights defence such as those which have recently worsened in both **Venezuela**<sup>27</sup> and **Honduras**,<sup>28</sup> where HRDs are accused of representing ‘vested interests’.

Academics have demonstrated how the **Colombian** State has used a doctrine of ‘the enemy within’ to criminalise human rights defence. Terms such as ‘narco-terrorism’, ‘subversives’ have been applied in blanket fashion to anybody deemed as a threat to the State, or elements within it.<sup>29</sup> The use of anti-terrorism laws and discourses are applied to criminalise HRDs in many parts of the world,<sup>30</sup> and in Latin America is often enhanced with references to drug trafficking.

<sup>26</sup> HRW World Report available at <http://www.hrw.org/world-report/2015/country-chapters/guatemala>

<sup>27</sup> <http://www.ishr.ch/news/venezuela-stop-harassing-human-rights-defenders>

<sup>28</sup> <http://www.ishr.ch/news/honduras-end-defamation-human-rights-defenders-guarantee-their-security-and-legislate-their>

<sup>29</sup> See, for example, ‘LOS DEFENSORES DE DERECHOS HUMANOS COMO “ENEMIGO INTERNO” EN LA DOCTRINA MILITAR DE COLOMBIA ENTRE 1997 Y 2011: OBSTÁCULOS PARA EL DERECHO A DEFENDER LOS DERECHOS HUMANOS, Zoraida Hernandez Pedraza, UNSAM, 2014

<sup>30</sup> <http://www.ishr.ch/advanced-search?term=terror>



#### Example Case: **Student protests, Honduras 2015**

In an example of how – in the context of organised crime – social movements and HRDs can be stigmatised, earlier this year the Honduran Minister of Education claimed that local street gangs are directing ongoing student protests.

High school students in Honduran capital Tegucigalpa have been protesting since early March over proposals to extend school hours. Protestors say extended hours are unsafe as they force students to return home from school late at night.

The Minister of Education has previously said that as many as 30,000 gang members are enrolled in Honduras' public schools. As reported extensively by the Associated Press last year, gang control in Honduran schools is a serious problem, with gang members extorting teachers and recruiting students.

The government's claim that gangs are directing student protests, however, is highly questionable. Honduran gangs have shown little interest in gaining political power. It has been argued that the gangs are more likely to see the protests - and the resulting attention from security forces - as a challenge, not an opportunity to gain leverage. The fact that no Honduran gang has released a statement related to the protests speaks to this as well.

Activists have claimed that a more probable scenario is that gangs provide the government with a convenient scapegoat. Instead of engaging in dialogue with students, the Minister has attempted to delegitimise their concerns over traveling after dark in one of the world's most violent countries. He also reportedly approved the firing of school faculty accused of working with protestors.

The Minister's comments have the potential to put the student protesters at risk given the context of Honduras' security situation. At least four students were killed after reportedly participating in the protests, although the investigations have not yet produced results. Depicting student protestors as gang members may incite further violence in an already precarious situation. (<http://www.insightcrime.org/news-briefs/honduras-gangs-behind-student-protests-minister>)

As part of the so-called 'war on drugs', States have passed laws and implemented policies, which have been used to hinder and criminalise HRDs and to close civil society space

At ISHR's consultations in January, defenders reported that national security laws, discourse and practises, notionally created to combat organised crime, have been used to threaten, criminalise, spy upon and restrict defenders.

In **Mexico**, the Front for the Freedom of Expression and Social Protest has documented how during the last two years, laws and regulations enacted in the name of security have tended to restrict freedom of expression and protest, particularly when combined with a climate of abuse of force by police during marches and protests as well as arbitrary detentions of protesters and human rights defenders. The Front has criticized the reform to the Article 29 of the Constitution which makes the procedures to declare a State of Exception more flexible, as well as the Regulatory Law which 'gives an ample margin of discretion to the Executive to justify the establishment of the suspension of the guarantees [...] This allows for political utilisation with the goal of social control and criminalization of social protest'. They also criticized the Telecommunication reform one which allows people to be

localized through their phones and direct access to their data by the Government for security reasons.<sup>31</sup>

In February **Colombia's** Supreme Court convicted two close aides of former president Alvaro Uribe for organising a spying ring that illegally intercepted the communications of journalists, human rights defenders, politicians and members of the judiciary judged to have been critical of Uribe, using wiretaps.<sup>32</sup>

## 5. Challenges in the security and protection of HRDs

For HRDs, and organisations which support and defend HRDs (such as ISHR and PBI), this context implies several challenges:

- The intrinsic characteristics of OCG (illegal, violent, profit-driven) make it difficult to verify the probable collusion between these kind of groups and State actors and to influence/deter this actor, given that – compared with State aggressors – logic and rationality are difficult to calculate, and the chain of command is complex to map.
- The concept of human rights protection is inherently linked to one of State responsibility. Under international human rights law, States are ultimately responsible for protecting citizens from human rights violations. Therefore, legally and conceptually, attacks carried out by criminals are often hard to frame as a human rights issue.
- In consequence – but also due to the history of the region shaped by dictatorial and repressive states – the classic protection strategies and mechanisms of security developed by HRDs in the region usually focus on state actors and are based on the idea that political pressure on State actors can deter attacks.

Therefore more efforts are required to understand the context and the actors. In addition, protection strategies based on deterrence must be completed by efficient strategies of persuasion (advocacy) towards the State in order for it to reinforce the Rule of Law and accept its responsibility in protecting HRDs, even in cases where OCG are involved.

## 6. Recommendations

- All UN and other international and regional bodies working on solutions to the world drugs problem must guarantee a human rights perspective by creating and safeguarding spaces for HRDs to be consulted and to feed in to this work.
- States must consult civil society and HRDs regarding laws and policies designed to tackle crime and problems related to drugs production, trafficking, sales and consumption, as well as how security forces can be adequately prepared to prevent human rights violations.
- Where no investigation has yet been carried out, State officials should refrain from drawing conclusions publically regarding the perpetrators and circumstances of an attack against a HRD.
- State representatives should make strong public statements recognising the important role of HRDs in preventing human rights violations in the context of drugs and security strategies, and reporting and analysing abuses where they do occur.
- States should guarantee that thorough, impartial investigations take place in cases where State agents or private enterprises are accused of committing human rights abuses or colluding with organised crime.

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<sup>31</sup>Front for the Freedom of Expression and Social Protest, *Control del Espacio Público: Informe sobre retrocesos en las Libertades de Expresión y Reunión en el Actual Gobierno* [Control of the Public Space: Report on Setbacks in Freedom of Expression and Assembly in the Current Government], April 2014

<sup>32</sup>Colombian court convicts Alvaro Uribe aides of spying on opponents, The Guardian, 28 February 2015, and <https://www.fidh.org/International-Federation-for-Human-Rights/americas/colombia/colombia-sentencing-of-senior-das-official-and-of-ex-president-uribe#>

- States must guarantee due process in judicial cases against HRDs, allowing trials to be monitored by objective third parties such as international experts.
- Guarantee that security forces and public officials in charge of combatting drug-related crime are fully trained in international human rights obligations and the protection of HRDs.
- States should ensure freedom of information provisions exist in order for HRDs and social movements to know the nature of counter insurgency strategies and military doctrines, as well as to understand the criteria used in the surveillance of activists.
- Develop and enact specific laws and policies to recognise and protect the work of human rights defenders and which give full force and effect to the international Declaration on Human Rights Defenders at the national level.
- Ensure that HRD protection mechanisms and policies analyse the specific protection needs of each HRD and develop protective measures specific to the needs of those HRDs facing threats from armed non-State groups, denouncing security force abuses, or exposing government corruption.
- Refrain from criminalising the legitimate activities of HRDs and repeal all laws and policies which restrict their activities and rights.
- Combat impunity by ensuring the prompt, thorough and impartial investigation of all violations against HRDs, the prosecution of perpetrators, and access to effective remedies for victims.
- Implement campaigns to raise awareness about the important and legitimate work of HRDs, targeting public officials and law enforcement agencies, as well as wider society.
- Provide safe spaces for meaningful civil society participation in the development and implementation of public policies, in particular those related to drugs issues.

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