

IN DEFENSE OF INDIGENOUS HUMAN RIGHTS DEFENDERS. CASE REPORTS 2019



COORDINADORA DE LAS ORGANIZACIONES
INDÍGENAS DE LA CUENCA AMAZÓNICA

Within:



PROGRAMA DE

Defensores y
Defensoras
INDÍGENAS



IN DEFENSE OF INDIGENOUS HUMAN RIGHTS DEFENDERS. CASE REPORTS 2019



Within:



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This is a collective work.

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ACRONYMS AND CONTRACTIONS

ACHR	American Convention on Human Rights (<i>Convención Americana sobre Derechos Humanos "Pacto de San José"</i>)
Aidesepe	Inter-ethnic Association of the Peruvian Forest Development (<i>Asociación Interétnica de Desarrollo de la Selva Peruana</i>)
APA	Amerindian People Association in Guiana (<i>Asociación de Pueblos Amerindios de Guyana</i>)
CCA	Extended Coordination Council of Coica (<i>Consejo de Coordinación Ampliado de la COICA</i>)
CDC	COICA's Board of Directors (<i>Consejo Directivo de la COICA</i>)
Cidob	Confederation of Indigenous people of Bolivia (<i>Confederación de Pueblos Indígenas de Bolivia</i>)
CIMI	Missionary Council for Indigenous people (<i>Conselho Indigenista Missionário</i>) (Brazil)
CNIPN	National Council for the Equality of people and Nationalities (<i>Consejo Nacional para la Igualdad de Pueblos y Nacionalidades</i>) (Ecuador)
Coiab	Coordinator of the Indigenous Organizations of the Brazilian Amazon (<i>Coordenação das Organizações Indígenas da Amazônia Brasileira</i>)
COICA	Coordinator of Indigenous Organizations of the Amazon Basin (<i>Coordinadora de las Organizaciones Indígenas de la Cuenca Amazónica</i>)
Comaru	Machiguenga Council of the Urubamba River (<i>Consejo Machiguenga del Río Urubamba</i>) (Perú)
Conaie	Confederation of Indigenous Nationalities of Ecuador (<i>Confederación de Nacionalidades Indígenas del Ecuador</i>)
Confeniae	Confederation of the Nationalities of the Ecuadorian Amazon (<i>Confederación de las Nacionalidades de la Amazonía Ecuatoriana</i>)
Conpes	National Economic and Social Policy Council (<i>Consejo Nacional de Política Económica y Social</i>) (Colombia)
Corpi-SL	Regional Coordinator of the Indigenous people of San Lorenzo (<i>Coordinadora Regional de Pueblos Indígenas de San Lorenzo</i>) (Peru)
CPI	Parliamentary Commission of Inquiry (<i>Comisión Parlamentaria de Investigación</i>) (Brazil)
Ecuarrunari	Confederation of people of the Kichwa Nationality of Ecuador (<i>Confederación de Pueblos de la Nacionalidad Kichwa del Ecuador</i>)
FARC-EP	Revolutionary Armed Forces of Colombia – People's Army (<i>Fuerzas Armadas Revolucionarias de Colombia – Ejército del Pueblo</i>)
FOAG	Federation of Indigenous Organizations of French Guyana (<i>Fédération Organisations Autochtones Guyane</i>)
Funai	National Indian Foundation (<i>Fundação Nacional do Índio</i>) (Brazil)
IA- Court	Inter-American Court of Human Rights (<i>Corte Interamericana de Derechos Humanos</i>)
IACHR	Inter-American Commission on Human Rights (<i>Comisión Interamericana de Derechos Humanos</i>)
ILO	International Labor Organization (<i>Organización Internacional del Trabajo</i>)
MINJUSDH	Ministry of Justice and Human Rights (<i>Ministerio de Justicia y Derechos Humanos</i>) (Peru)
NGO	Non-Governmental Organizations (<i>Organización No Gubernamental</i>)
OAS	Organization of American States (<i>Organización de los Estados Americanos</i>)

OHCHR	Office of the High Commissioner for Human Rights of the United Nations (<i>Oficina del Alto Comisionado de Naciones Unidas</i>)
OIS	Organisation of Indigenous People in Suriname (<i>Organisatie Van Inheemsen in Suriname</i>)
Opiac	National Organization of the Indigenous people of the Colombian Amazon (<i>Organización Nacional de los Pueblos Indígenas de la Amazonía Colombiana</i>)
ORAU	Aidesepe Regional Organization Ucayali (<i>Organización Regional Aidesepe Ucayali</i>) (Peru)
Orpia	Regional Organization of Indigenous people of the Amazon (<i>Organización Regional de Pueblos Indígenas del Amazonas</i>)
Orpian-P	Regional Organization of Indigenous people of the Northern Amazon of Peru (<i>Organización Regional de Pueblos Indígenas de la Amazonía Norte del Perú</i>)
Orpio	Regional Organization of the Indigenous people of the East (<i>Organización Regional de los Pueblos Indígenas del Oriente</i>) (Peru)
PDDD	Program for the Defense of Indigenous Defenders (<i>Programa de Defensa de Defensores y Defensoras Indígenas de la COICA</i>)
PIACI	Indigenous People in Isolation and Initial Contact (<i>Pueblos Indígenas en situación de Aislamiento o en situación de Contacto Inicial</i>)
PNA	National Action Plans on Business and Human Rights (<i>Plan Nacional de Acción sobre Empresas y Derechos Humanos</i>) (Peru)
PNDH	National Program for Human Rights (<i>Plan Nacional de Derechos Humanos</i>) (Peru)
PNIC	National Infrastructure Plan for Competitiveness (<i>Plan Nacional de Infraestructura para la Competitividad</i>) (Peru)
PNPDDH	National Policy for the Protection of Human Rights Defenders (<i>Política Nacional para la Protección de las Defensoras y Defensores de los Derechos Humanos</i>) (Brazil)
PPDDH	National Program for the Protection of Human Rights Defenders (<i>Programa Nacional de Protección a los Defensores de Derechos Humanos</i>) (Brazil)
RCA	Amazon Cooperation Network (<i>Red de Cooperación Amazónica</i>)
RTKNN	Kugapakori, Nahua and Nanti Territorial Reserve (<i>Reserva Territorial Kugapakori, Nahua y Nanti</i>) (Peru)
SEA	Strategic Environmental Assessment (<i>Evaluación Ambiental Estratégica</i>)
Senace	National Environmental Certification Service for Sustainable Investments (<i>Servicio Nacional de Certificación Ambiental para las Inversiones Sostenibles</i>) (Peru)
Sesai	Special Secretariat for Indigenous Health (<i>Secretaría Especial de Saúde Indígena</i>) (Brazil)
Sisat	Information System and Early Warning (<i>Sistema de Información y Alerta Temprana</i>) (Colombia)
TgP	Peruvian Gas Transportation Company (<i>Transportadora de Gas del Perú</i>)
TIPNIS	Isiboro Sécore National Park and Indigenous Territory (<i>Territorio Indígena Parque Nacional Isiboro Sécore</i>) (Bolivia)
UDHR	Universal Declaration of Human Rights (<i>Declaración Universal de Derechos Humanos</i>)
UN	United Nations (<i>Naciones Unidas</i>)
UNDP	United Nations Development Program (<i>Programa de las Naciones Unidas para el Desarrollo</i>)
UPR	Universal Periodic Review (<i>Evaluación Periódica Universal</i>)



PRESENTATION



The Coordinator of Indigenous Organizations of the Amazon Basin (COICA) is the organization that represents the indigenous people of the nine countries of the Amazon basin for the defense of the rights and territories of the 511 indigenous people and more than 66 people in voluntary isolation and initial contact (PIACI), people that survive in thousands of ancestral communities in the Amazon, with a unique cultural diversity, based on a holistic relationship with their territory.

The Amazon basin is mistakenly considered as the inexhaustible source of natural resources, without valuing its natural and cultural wealth for the entire planet. For this reason, as indigenous people, we have been threatened from different fronts. These include the trend towards more flexible socio-environmental standards to accelerate investments, the increase in socio-environmental conflicts caused by the overlap of extractive activities and infrastructure in indigenous territories, the presence of illegal activities and the persecution of external actors. To this are added weak institutional frameworks for access to information and participation, and judicial or administrative processes against indigenous leaders made without transparency and justified fundamentals.

Given the lack of capacity of the States to protect people, we have taken on the task of protecting and enforcing our human rights before the different political, social and/or judicial instances. Our territory is the most important component for the exercise of our collective and individual rights. The connection with the environment is a necessary condition to maintain our culture, traditional forms of organization, spirituality, health, recreation, knowledge, integrity and life itself. In this sense, defending the territory is defending life.

At the IV Amazon Summit of COICA, it was reported that nearly 400 indigenous leaders were assassinated in the Amazon basin in 2017. International law protects us and reaffirms that our environmental and collective rights are interrelated; that is, they cannot be analyzed without linking the impact they have on each other. In this sense, our permanent resistance and struggle for an effective exercise of our collective rights make us human rights defenders.

For indigenous organizations, the protection of indigenous human rights defenders, who find themselves in a highly vulnerable situation, is essential and cannot be postponed. For this reason, from COICA, we promote the consolidation of the Program for the defense of Indigenous defenders (PDDD) with the aim of developing mechanisms for the immediate and effective care of Amazonian indigenous defenders who are under situations of threat, violence, criminalization and persecution, in a scenario of violation of their rights and their territories. We promote the implementation of this program, with a gender, preventive and collective perspective.

We thank the technical and political focal points of the program for preparing this document, as well as Law, Environment and Natural Resources (DAR), for its systematization. The following pages are the product of the sessions with the focal points, held in Quito in 2019, where updated information was collected on the violations suffered by indigenous defenders in five Amazonian countries: Brazil, Peru, Bolivia, Colombia and Ecuador.

This document responds to one of the objectives of the PDDD: the documentation of cases to make the indigenous problem visible. Likewise, it will serve as lessons learned to improve the handling of future cases. This is for the indigenous defenders who are no longer with us now. In their honor, let's defend the territory!

**Coordinator of Indigenous Organizations of the Amazon Basin
(COICA)**

INTRODUCTION

Globalization is a process that not only involves the generation of technological advances in several aspects of humanity, but also the exponential growth of economies on a world scale through the massive exchange of commercial goods. In this sense, transnational companies transfer their capital and activities to several territories so that they can develop fully and obtain large economic returns, despite the fact that this implies negative impacts on human rights and almost no action on the part of the States.

This is the case of the Amazon basin¹. In addition to having great potential for the exploitation of natural resources (minerals and hydrocarbons) and several species of flora and fauna that are intimately related to the environment they inhabit, it has around indigenous peoples and more than 66 peoples in voluntary isolation and initial contact (PIACI). They have managed to consolidate institutionally through the **Coordinator of Indigenous Organizations of the Amazon Basin (COICA)**².

The strengthening of COICA responds to the new demands and challenges of indigenous people in the face of threats in their territories, such as the strategic policy to unite the extractive borders of the Amazonian countries and expand the exchange of goods and services, according to an integrationist approach. In this sense, the institutional strengthening of indigenous demands and the search for spaces for dialogue is one of COICA'S tasks in the face of the new changes that are taking place in the region.

In parallel, the massive increase of attacks on indigenous people for their work has been a constant. These are related to the complaints they make about the negative consequences of: i) the handing over of territories for the exploitation

1 The Amazon, with 7.4 million km², represents 4,9% of the world continental area and covers extensions of Bolivia, Brazil, Colombia, Ecuador, Guyana, Peru, Suriname and Venezuela. The Amazon River basin is the largest in the world, with an average of 230,000 m³ of water per second, which corresponds to approximately 20% of the water on the world's land surface. In: Economic Commission for Latin America and the Caribbean (ECLAC). Possible and sustainable Amazon. p. 1. Retrieved from: https://www.cepal.org/sites/default/files/news/files/folleto_amazonia_posible_y_sostenible.pdf.

2 Dall'orso, C. *La Amazonía en el futuro de la América del Sur: Identificación de los ejes estratégicos socio ambientales para la cooperación Sur-Sur* (The Amazon in the future of South America: Identification of strategic socio-environmental axes for South-South cooperation), 2016. Retrieved from <http://www.scielo.br/pdf/ccrh/v29nspe3/0103-4979-ccrh-29-spe3-0013.pdf>.

of natural resources, ii) the resurgence of paramilitary movements, iii) oppressive governments, iv) illicit activities, v) interference by companies in their territories, lifestyles and access to natural resources, among others. They are political and/or judicial persecution promoted by some States or companies (intimidation, harassment, assassinations or kidnappings). They receive incomplete or even null answers from the authorities who are obliged to protect them.

International law provides a specific legal framework for the work of human rights defenders (Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms³, the Escazú Agreement, Convention 169 of the International Labor Organization - ILO, UN Declaration on indigenous people, etc.).

Indigenous people resist these attacks against their territories and develop strategies for their collective defense. For this reason, COICA and its roadmap for the strengthening of environmental justice and the defense of indigenous defenders seek to make visible the specific violations suffered by indigenous people in order to achieve concrete protection measures on the part of international actors and the governments themselves. Therefore, this report portrays the context of threats in the Amazon and international protection instruments, cases of violations of indigenous rights in five countries: Brazil, Peru, Bolivia, Colombia and Ecuador in 2019, and protection instruments in these countries, as well as general conclusions and recommendations for the region.

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3 Retrieved from <https://www.ohchr.org/Documents/Issues/Defenders/Declaration/declaration.pdf>.

1. CONTEXT OF THREATS TO HUMAN RIGHTS DEFENDERS

The Amazon basin has a large amount of natural a great biodiversity of species that are in a harmonious relationship with the habitat and develop functions that characterize the sustainability of these territories. In addition, each of the countries that make up the Amazon basin has specific and unique ecosystems in the world.

1. In the case of **Brazil**, the country with the largest presence of Amazonian territories, it is home of 63% of the Amazon basin (4,1 million km²). This country is home to the largest river system on the planet, containing approximately one-fifth of the world's total volume of drinking water. To date, deforestation has caused the loss of 700,000 km², an area equivalent to twice the size of Poland. Likewise, only in the last three decades has disappeared 18% of the Amazon rainforest⁴. As of the new mandate of Jair Bolsonaro, several media have collected information where they assure that the Amazonian indigenous people will be threatened by the measures of the Brazilian Government⁵.
2. In the case of **Bolivia**, the Amazon represents almost half of the country's total area: 19 provinces and 53 municipalities⁶. However, the population density is barely 700,000 inhabitants, around 10% of the national population. The jungle area is relatively small compared to other countries; however, until March 2014 there were 45 mining concessions located along the Beni, Madre de Dios and Orthon rivers⁷, most of them belonging to mining cooperatives. The Bolivian State has had problems trying to control the gold production of these cooperatives, as well as the profit obtained from the illegal trafficking of minerals outside the concessionary parameters

4 Greenpeace, Amazonia, a silent crisis, p. 5.

Retrieved from <http://ibdigital.uib.es/greenstone/collect/cd2/archives/gp0143.dir/gp0143.pdf>.

5 Retrieved from https://elpais.com/elpais/2019/04/11/3500_millones/1554971346_439815.html.

6 *Amazon Cooperation Treaty Organization*. "Pueblos Indígenas de la Amazonía Boliviana", 1997, p.5. Please, click here to download an online version of the report: <http://www.otca-oficial.info/library/details/196>

7 *Ibid*, p. 47.

- and under the radar of the authorities in charge of supervising (and, later, centralize) the sale of gold⁸.
3. In the case of **Peru**, 61% of the national geography is Amazonian territory. It is the ninth tropical forest with the greatest biological diversity in the world and the second in Latin America⁹. In addition, it is the world's third largest producer of copper and silver, and the sixth of gold. In the oil and gas sector, during the last 40 years, there have been 60 cases of spills: 13 of them in 2016 alone, located in the Petroperú North Peruvian Pipeline. The case of the abandonment of Block 192, exploited by Pluspetrol, is outstanding. The company withdrew from the area without remedying the damage caused by the spills, despite having been declared in a state of environmental emergency on several occasions by the Government.
 4. In the case of **Colombia**, the Amazon region represents 42% of the national territory (483,119 km²). The area of the jungle Amazon is equivalent to 80,86% of the region, but the permanence of these natural covers is affected by the defects of constant human activity, which turn them into pasture soils, crops, urban and industrial buildings and mining operations. Currently, the World Wildlife Fund (WWF) points out that mining, illegal hunting, overfishing, urbanization and the expansion of the agricultural frontier constitute the main threats to the Amazon in this country¹⁰.
 5. In the case of **Ecuador**, 47% of the territory is covered by Amazonian provinces that have historically remained isolated by economic and demographic factors, while the highlands and the coast have concentrated most of the results from foreign private investment flows. This region had a low population density, which changed radically since the beginning of economic activities, due to the discovery of oil in the north of the Amazon. In other words, there was a drastic change in the configuration of the area

8 *Corporación Minera de Bolivia* (Bolivian Mining Corporation) (Comibol).

<https://gestion.pe/blog/perspectiva-forestal/2017/03/conociendo-la-realidad-de-la-amazonia-peruana.html/>.

9 *Comité Forestal SIN y Comité de Madera e Industria de la Madera ADEX* (SIN Forestry Committee and ADEX Wood and Wood Industry Committee) (2017). *Conociendo la realidad de la Amazonia peruana* (Knowing the reality of the Peruvian Amazon). Gestión (Lima). Retrieved from <https://gestion.pe/blog/perspectiva-forestal/2017/03/conociendo-la-realidad-de-la-amazonia-peruana.html/>.

10 Retrieved from <https://es.zenit.org/articulos/amazonia-colombiana-el-area-selvatica-constituye-el-808-de-la-region/>.

due to factors associated with migration, colonization and deforestation due to the indiscriminate use of the land¹¹.

Thus, the current context offers a clear opportunity for the territories of the Amazon basin to be objects of policies to promote extractive industries and infrastructure within the framework of regional development. For this reason, it has been considered strategic the construction of large transport and/or connectivity works that can make the massive exchange of goods a reality without fully considering the social and environmental impacts on indigenous people, who denounce bad practices and negative consequences on their territories (environmental pollution, forced displacement, etc.).

The response of the States has been violent and repressive in the face of protests by indigenous people. These attacks are compounded by the difficult access to effective remediation of damage or the inability of judicial mechanisms to understand the intercultural approach. Those factors cause the entrapment of adequate responses from the justice systems, and distrust of the institutions that investigate and punish criminal acts. In this context, human rights defenders play an important role for the protection of their communities and the realization of their collective rights.

In its annual report, Global Witness (2018) identified the stages of criminalization suffered by human rights defenders, to which indigenous defenders are no exception: smear campaigns, criminal charges, arrest warrants, processes with irregularities and, finally, mass criminalization. The main cause is development megaprojects (extractive industries and infrastructure works) that undermine the defense of human rights in the face of economic and political interests¹². Added to this are the impacts of illegal activities, which escape state control and governance mechanisms. At present, there are no experiences of a space or observatory that systematically document acts of violation of the rights of indigenous defenders that respond to the current crisis scenario and that keep the international community constantly alert and pressing.

11 Larrea, Carlos; Larrea, Ana Isabel, and Bravo, Ana Lucía. *Petróleo, sustentabilidad y desarrollo en la Amazonía norte del Ecuador: dilemas para una transición hacia una sociedad post-petrolera* (Oil, sustainability and development in the northern Amazon of Ecuador: dilemmas for a transition to a post-oil society). In: Grace Jaramillo (comp.). *Construyendo puentes entre Ecuador y Colombia* (Building bridges between Ecuador and Colombia). Quito: FLACSO, 2009.

12 *Evaluación y alcance de la industria extractiva y la infraestructura en relación con la deforestación: Amazonia* (Assessment and scope of the extractive industry and infrastructure in relation to deforestation: Amazonia). D. Bebbington, R. Verdum, C. Gamboa, and A. Bebbington. 2019.



Photo: Ricky Levy/IACHR - Flickr

The work of indigenous defenders is closely related to the protection of the territory, because they represent factors for their free development and because they maintain an ancestral interrelation with their lifestyles, customs and cultural traditions¹³. Likewise, they carry out a work characterized by the promotion and protection before local, national and international instances, such as protesting cases of contamination or generating negative consequences against the environment and its basic components. Consequently, indigenous defenders are also considered as defenders of environmental rights, since the special relationship they have with the environment has been identified. Thus, they fulfill a social function in the protection of human rights in general¹⁴.

Latin America has become the region with the highest number of deaths of human rights defenders. According to Global Witness¹⁵, in 2018, 164 defenders

13 Michael Forst, the UN Special Rapporteur on the situation of human rights defenders, notes that «land and environmental rights are interrelated and often inseparable. Consequently, the two broad categories of defenders of environmental rights and defenders of land rights are usually defined under the terms «defenders of environmental and land rights», «defenders of environmental rights» [...]».

14 Rivasplata, F. (2018). *Defensores ambientales: Medidas especiales y la supuesta vulneración a los derechos y libertades inherentes a cualquier ciudadano* (Environmental defenders: Special measures and the alleged violation of the rights and freedoms inherent to any citizen). *Economía Magazine*. 44-45.

15 Retrieved from Global Witness (2019).

Source: <https://www.globalwitness.org/en/campaigns/environmental-activists/enemies-state/>.

of the environment, land and territory were killed, and in 2019, 304 murders were reported¹⁶. However, calculations in the Amazon Summits of the Coordinator of Indigenous Organizations of the Amazon Basin (COICA)¹⁷ show, each year, around 400 deaths of human rights defenders in the Amazon in 2017, with Brazil and Colombia being the countries where the highest cases have been registered.

Therefore, it is essential and urgent to provide support to indigenous people so that they can continue with their important task of defending indigenous territories and rights. In this sense, PDDD has the objective of providing legal, economic, political and communication advice, sponsorship and support. Thus, indigenous people define a route to persist in the defense of their territories.

Photo: Aída Gamboa/DAR



16 Front Line Defenders (2020). Source: https://www.frontlinedefenders.org/sites/default/files/global_analysis_2019_web.pdf.

17 According to the Minutes of the II Congress of Indigenous Amazonian Women of COICA, held in Macapá, Brazil, on June 18, 2018.



2.PROGRAM FOR THE DEFENSE OF INDIGENOUS DEFENDERS AND CONTEXTUALIZATION OF VIOLATIONS OF THEIR COLLECTIVE RIGHTS IN THE AMAZON

COICA, which brings together the 9 national organizations of the 9 Amazonian countries, makes multiple efforts to identify and address the situations of violence faced by their leaders and organizations. In recent years, as part of an assembly agreement between the Board of Directors and the Coordinating Council of COICA (CDC- CCC), the mandate was given to implement a strategy for the protection of indigenous defenders that included three moments:

1. Identification and visibility of different cases of attacks on indigenous leaders, members of the COICA grassroots. Based on this information, it was sought to identify international mechanisms to present and sue the cases for which a more active coordination on human rights was developed with the Inter-American Commission on Human Rights (IACHR) and with the former special rapporteur for human rights of the indigenous people of the United Nations, Victoria Tauli-Corpuz.
2. Use of different training and coordination activities to develop a discussion of the characteristics of the violence that indigenous people face, and from these discussions and incorporating the cultural characteristics of the indigenous people of the different territories, to promote the conceptualization of the indigenous defender.
3. Creation of the PDDD of the Amazon basin, in 2018.

In these stages, and with the support of Law, Environment and Natural Resources (DAR), mechanisms for alerting and protecting defenders were strengthened. This work is based on 3 elements, on the basis of constituting and providing a definition of the indigenous defender:

- a) The collective principle of indigenous rights challenges the individual identification of defenders. For this reason, indigenous organizations, the community or the people themselves are also defenders.
- b) The need to build specific identification, positioning and support mechanisms for female indigenous human rights defenders.
- c) The need to develop legal support strategies and establish preventive indigenous surveillance mechanisms and protection of defenders.



All these efforts have been made in order to face the context of growing threats, therefore, the central element has been the implementation of a regional program for indigenous defenders in the Amazon basin, replicated in other regions and in each grassroot of COICA.

During 2019, the PDDD had an important moment: DAR and other allied organizations, such as REPAM, Land is Life and Artigo 19, came together to strengthen and make their institutional framework official. Likewise, from the CDC and the CCC of COICA, arrangements were made for the architecture of its institutional framework:

- ▣ February 2019. The creation of a PDDD Committee at COICA level was ordered. It is made up of three CDC leaders, as well as three allied organizations.
- ▣ March 2019. It was established that each of the nine national grassroots of COICA have a political focal point (assigning a leader) and a technical focal point.



Photo: COICA/ALDEA

These two provisions have been key in the process of implementation of the PDDD. The Committee of the program was responsible for emergency measures to defend the indigenous defenders. Meanwhile, the political and technical focal points of the national grassroots have developed mechanisms and protocols for the action and incidence of the PDDD. Likewise, during 2019 several actions were carried out, including the following:

2.1. Strengthening of the PDDD: Positioning of the indigenous defender and planning meetings

During 2019, a central element in the process of strengthening the PDDD was internalizing the indigenous defender as a human rights defender threatened by different agents and activities in the Amazon. This was the leaders' first task: to incorporate this message into their speeches to defend their rights and their territories. From that, all the influence strategies and actions have been originated.

The recognition of the indigenous defender as a human rights defender has been carried out based on the systematization and advances in the international arena by the different organizations and instances that position the concept of human rights defender and that specify that those who defend the territory, are mostly indigenous people.

Likewise, in 2019, coordination calls were made between COICA and the allied organizations in order to organize action and communication strategies to follow up on the cases of defenders. In addition, two meetings of technical and political focal points were held where the following results were obtained:

Table No. 1. Instruments and mechanisms developed during 2019

Meeting	Place and date	Participation	Results
I Meeting of focal points	June 3-5 Lima, Peru	<ul style="list-style-type: none"> ◆ COICA: technical representatives ◆ National focal points: Aidesep, Cidob, Coiab, Confeniae, Opiac. ◆ Allied organizations: DAR 	<p>Diagnosis of the situation, definition of mechanisms to develop. It was achieved:</p> <ul style="list-style-type: none"> ◆ To develop inputs for a guide on PDDD for focal points. It contains action and emergency protocols. ◆ To develop a system for case management, through information collection and monitoring files. ◆ To build the architecture of the PDDD.
II Meeting of focal points	November 14 and 15 Quito, Ecuador	<ul style="list-style-type: none"> ◆ COICA: political and technical representatives. ◆ National focal points: Aidesep, Cidob, Coiab, Confeniae, Opiac. ◆ Allied organizations: DAR, REPAM. 	<p>Review of the documents prepared and developed. It was used:</p> <ul style="list-style-type: none"> ◆ PDDD guide for focal points: action protocols, activation mechanisms, spaces and strategies for influence (IACHR, UN, signature and ratification of the Escazú Agreement). ◆ Case management system. ◆ Manual of evidence. <p>Likewise, it was generated:</p> <ul style="list-style-type: none"> ◆ Inputs for the preparation of a report on violation of cases. ◆ PDDD work plan.

Source: I and II Meeting of focal points of the PDDD of COICA.
Elaboration: Mayra Dongo.

2.2. Construction of the indigenous perspective for the defense of rights and problems in the Amazon basin

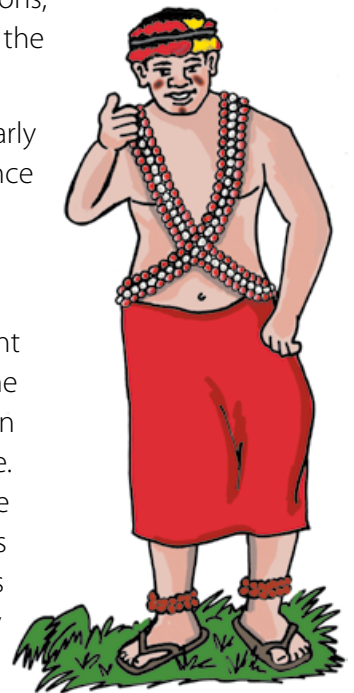
Due to the particularity of the indigenous defenders of the Amazon, the PDDD, in its planning meetings, has identified that indigenous people elaborate from their own perspective what should be included in their defense and protection mechanisms. For this reason, they have stated that all instruments, tools, plans or actions for their defense must consider the following perspectives:

Differential perspective:

- ▣ **Collective** approach. It does not focus only on individuals, but also highlights the collective character of indigenous people. It recognizes indigenous organizations, nations, people and communities as defenders of the territories.
- ▣ **Preventive** approach. It raises the need for early warning mechanisms by strengthening surveillance mechanisms.

Gender perspective:

- ▣ Amazonian indigenous women are at the forefront of the fight to defend their territories and the environment. This exposes them to confrontation with companies and other agents of violence. The program recognizes, in that sense, the differentiated violation. In addition, it considers intragroup differences: the analysis of the roles and conditions of men and women, which is why it raises the need for differentiated mechanisms for the treatment of these cases.



On the other hand, during the Women Meeting of COICA, in Puyo, Ecuador, Tabea Cacique, COICA leader shared information on the problem of women defenders in extractive contexts and the initiative of the COICA PDDD. This space was propitious to carry out a validation on the problems in their territories.

Table No. 2. Problems of the Amazon basin

Country	I. O.	Difficulties
Colombia	Opiac	<ul style="list-style-type: none"> ◆ Assassination of indigenous leaders. ◆ Implementation of the peace agreement with the FARC-EP. ◆ Legal and illegal mining projects (El Nogal Oil Block, among others).
Ecuador	Confeniae	<ul style="list-style-type: none"> ◆ Oil and mining concessions (Condor Mirador Project, among others). ◆ Persecution of indigenous leaders (Tundayme and Nankintz, among others).
Peru	Aidesepe	<ul style="list-style-type: none"> ◆ Forest, mining, infrastructure, and oil concessions (Amazon Waterway, Block 58, among others). ◆ Titles.
Bolivia	Cidob	<ul style="list-style-type: none"> ◆ Forest, mining, infrastructure, oil concessions (Tipnis, among others). ◆ Persecution of indigenous leaders. ◆ Land trafficking, illicit crops.
Venezuela	Orpia	<ul style="list-style-type: none"> ◆ Mining concessions (case of the Orinoco Mining Arc). ◆ Titles.
Brazil	Coiab	<ul style="list-style-type: none"> ◆ Titles. ◆ Increase in infrastructure projects, timber, agricultural and livestock expansion. ◆ Persecution of indigenous leaders.
Guyana	APA	<ul style="list-style-type: none"> ◆ Lack of ratification of ILO Convention 169. ◆ Titles, mining projects (compliance with the Cayenne Agreement).
French Guyana	FOAG	<ul style="list-style-type: none"> ◆ Lack of ratification of ILO Convention 169. ◆ Forestry and mining concessions.
Surinam	OIS	<ul style="list-style-type: none"> ◆ Lack of ratification of ILO Convention 169. ◆ Mining projects.

Source: Declaration of Quito on indigenous people of the Amazon basin in defense of their rights and their territories for a full life and their contribution to face climate change. March 2018.

Validated and updated in February 2019, at the Quito Women's Summit.

Elaboration: Mayra Dongo.

Likewise, in the discussions on indigenous issues, the main agents of violence and violated rights have been identified, given that the violation of the rights of indigenous people has different origins and is expressed in different ways. From COICA the following have been identified:

Table No. 3. Agents of violence for the rights of indigenous people

Agent of threat	Type of activities
Extractive	Mining
	Hydrocarbons (oil and gas)
	Deforestation (timber or agro-industrial cultivation)
Infrastructure	Roads
	Energy Project (hydroelectric)
	Transmission line (communication)
	Hydrocarbon distribution lines
Illegal activities*	Illegal harvesting (timber, hunting, fishing)
	Mining
	Armed groups
	Extraction of wild fauna and flora for commercialization
	Drug trafficking
State	Public politics
	Interference in organic structures (formation and/or recognition of parallel organizations)
	Normative

Source: I Meeting of Focal Points of the PDDD, Lima, June 2019.
Elaboration: Mayra Dongo.

The PDDD contemplates action measures against these agents. But in the case of illegal activities, the mandate is always to go to the ordinary authorities, since the States have mechanisms for their attention. Based on the meetings and knowledge meetings with the leaders of COICA and its grassroots, impacts and rights violated by the agents of violence mentioned were systematized, as well as mitigation measures.

Table No. 4. Affected rights of indigenous people

Impact	Consequence	Rights affected	Mitigation measures
Security	<ul style="list-style-type: none"> Identification, visibility and exposure of indigenous leaders. Exercise of threat, intimidation, etc. 	Right to life	<ul style="list-style-type: none"> Communication and alert. Collective protection strategies. To activate mechanisms for the care and transfer of threatened leaders to indigenous territories with protection.
Displacement of communities and people	<ul style="list-style-type: none"> Abandonment of communities and settlements due to pressure and violence from external agents. 	Self determination Right to territory	<ul style="list-style-type: none"> Territorial security, sanitation of the territories.
Imposition of extractive projects, infrastructure, economic entrepreneurship	<ul style="list-style-type: none"> There is no binding participation or participatory planning processes. Informational spaces are only organized without decision-making capacity on impacts. 	Prior, free and informed consultation. Consent	<ul style="list-style-type: none"> Promotion of prior consent strategies. Permanent evaluation mechanisms on the dialogue and information processes.
Empowerment of informal economies	<ul style="list-style-type: none"> Increase in armed agents, added to the absence of the State, who assume positions of power or legitimize their power based on intimidation and violent actions. They are positioned based on the management of economic capital. 	Right to life Self-determination	<ul style="list-style-type: none"> Territorial control, promotion of economic activities in charge of indigenous people and their communities.
Pollution and impact on health and the environment	<ul style="list-style-type: none"> Failure to respect environmental regulations, oil spills that affect rivers and different livelihoods, mining pollution. 	Right to health Right to a healthy environment	<ul style="list-style-type: none"> To deepen and insist on an environmental management approach with a social and cultural perspective. To include cultural impacts in the identification of elements to mitigate in the development of a project.
Violation of the identity of indigenous people	<ul style="list-style-type: none"> Effects on sacred places, places of spiritual importance. Actions of discrimination against language or cultural practices. Impact and violence against defenders or guardians of culture (healers, shamans, etc.). 	Right to identity Right to non-discrimination	<ul style="list-style-type: none"> Intercultural bilingual education programs and policies. Strategies for recovering the historical memory of indigenous communities, people and organizations.

Impact	Consequence	Rights affected	Mitigation measures
Violence towards women	<ul style="list-style-type: none"> Exclusion of decision spaces. Physical violence within their families and communities. Women assume new roles due to the absence of men in the family and/or community. 	Women rights	<ul style="list-style-type: none"> Discussion about the sense of complementarity, parity and gender roles. Mainstreaming and including mechanisms to favor the participation of women in statutes and directives.
Criminalization of protest and dissent	<ul style="list-style-type: none"> Persecuted leaders, endless judicial processes. Charges that are not adjusted to territorial and cultural contexts are imposed, such as kidnapping. 	Right to indigenous justice Right to protest	<ul style="list-style-type: none"> Construction of a legal support network at the level of the Amazon basin. Mapping and dissemination of cases at the level of the inter-American and universal rights system. Promotion and strengthening of indigenous justice systems.
Social decomposition and impact on organizational relationships	<ul style="list-style-type: none"> Indigenous organizations become destabilized, fractured or generate divisions. In the communities, the income from salaried work, without analyzing the consequences or without having local investment plans with indigenous participation, generates client relationships. 	Right to self-determination and autonomy of indigenous people	<ul style="list-style-type: none"> To further disseminate management and human rights instruments. To update life plans as an instrument of regional scope or by basins. Strategies for permanent organizational strengthening, which includes an indigenous economy approach.

Source: Meetings with the CDC and CCA of COICA, between 2018 and 2019.
Elaboration: Diego Saavedra.

2.3. Influence actions before international actors and bodies

From DAR, virtual meetings were facilitated with the advisers of the rapporteur on freedom of expression and the rapporteur for indigenous people of the IACHR, both to follow up on cases and to strengthen the capacities of the PDDD technical team.

Before the Inter-American Commission on Human Rights

COICA, in alliance with the Due Process of Law Foundation (DPLF), *Conectas Direitos Humanos*, Global Justice Clinic NYU School of Law, International Commission of Jurist (ICJ), International Corporate Accountability Roundtable (ICAR), Citizen Observatory, Project on Organizing Development Education and Research (PODER) and *Justicia Global* (Brazil), presented in May 2019 a proposal for a joint hearing for the 172nd session of the IACHR on the impact of companies on human rights, specifically, on the need to strengthen the mechanisms for remediation of human rights violations caused by companies in Latin America and the Caribbean. It also included the identification of measures that can improve access to effective remedies by the communities affected by the operations of these companies. The hearing presented the cases in which States and companies have not fulfilled their duty to remedy the negative impacts on human rights.

Before the United Nations

In the Universal Periodic Evaluation (UPR), in 2018, COICA reported to the United Nations (UN) five cases of human rights violations by companies with Chinese capital in the Amazon. To do this, it prepared an alternative report to the evaluation of China where it showed the weak mechanisms of transparency on standards and investment policies in socio-environmental matters, the non-existent technical information of an environmental nature and the null mechanisms for participation and consultation. In March 2019, the United Nations recommended to the Chinese State the COICA proposals, such as the application of the principle of extraterritoriality in identifying the responsibilities of companies based in China and that have caused human rights violations.

Infographic No. 1. Cases presented - UPR China

Brazil/Teles Pires and Sao Manoel dams on the Teles Pires River

- ▣ Developed in the Teles Pires River, they affect the living conditions of the Kayabi, Apiaká and Munduruku indigenous people of the Kayabi indigenous land, located downstream.
- ▣ The Teles Pires dam flooded the sacred place Siete Caídas, of extreme cultural and religious importance for the Mundukuru people, because there live the mother of the Pisces, a musician named Karupi, the Karubixexé spirit and the spirits of the ancestors. Likewise, the Sao Manoel hydroelectric will affect the Morro de los Monos, which is the dwelling place of the animal spirits for the Kayabi and Munduruku.
- ▣ All this has meant the violation of the right to identity and to participate in cultural life, which includes the right to choose their identity and to exercise their own cultural practices. The damages were reported in 2014 and 2015 to the UN Human Rights Council, when they were still in the construction stage.



Activity: Dams.

Violation of rights: These projects have not carried out any consultation or consent process. They also threaten the identity of indigenous people.



Activity: Gas exploration and exploitation.

Violation of rights: Prior, free and informed consultation.

Peru/Block 58

- ▣ Block 58 is an oil lot located in the southern jungle of Cusco and is distinguished by the great gas potential of the Ucayali and Madre de Dios basin, whose exploitation would be the realization for the macro project of the Southern Peruvian Gas Pipeline.
- ▣ The company has already reprocessed 2D seismic lines and drilled four exploratory wells in Urubamba, Picha, Taini and Paratori, with which it is on the verge of starting the exploitation phase, despite the fact that there is no prior consultation process of the communities in the area of the block.
- ▣ Indigenous communities involved in the area: Tangoshiari, Carpintero, Kochid, Camisea, Puerto Huallana, Mayapo, Ticumpina, Camana, Timpia, Chirumbia, Cashiarí, Segakiato, Shivankoreni and Poyentimari. In addition, it overlaps the Machiguenga Communal Reserve and the wells referred to in the territories of the Camana, Mayapo, Tangoshiari and Kochid communities, respectively.

Source: 2018 UPR Report: Violations of the rights of indigenous people in the Amazon basin by Chinese investments.
Elaboration: Mayra Dongo.
Images: Internet

Venezuela/case of the Orinoco Mining Arc (AMO Project)-Orpia

- In the framework of the Sino-Venezuelan Joint Financing Fund, the Orinoco Mining Arc National Strategic Development Zone is created for large-scale mining exploration and exploitation.
- The project overlaps with indigenous territories of the Inga, Mapoyo, Eñepá, Kariña, Arawak, Akawako, Baniva, Piarao, Yekuana and Jivi people. It also includes the ancestral territory of two people in initial contact: Eñepá and Jodi or Joti, who were displaced.



Extension: 111 843.70 km².

Activity: minerals extraction (coltan, gold, bauxite, copper, kaolin and dolomite).

Violation of rights: their traditional way of life and participation, consultation and consent.



Extension: 239 415 ha.

Activity: oil exploration and exploitation.

Violation of rights: breach of consultation, participation and consent. Violence against indigenous people by the national army, in protection of the activities carried out by the company.

Colombia/El Nogal Oil Block (BPN)

- The BPN project suffers from irregularities that imply human rights violations. One of the most visible is the inconsistency between certifications of indigenous communities. At first, the company Emerald Energy PLC Colombia requested certification from the Prior Consultation Directorate for the total area and declared the presence of different indigenous communities. But then it declared that there is no ethnic community, because they reduced the polygons initially presented.
- However, the project overlaps with the territories of the Juantama and Cabildo La Pradera indigenous communities, as well as the Witack Kiwe, Gorgonia and Getuchá indigenous reservations.

Ecuador/Condor Mirador-shuar Project

- The Mirador mining project is located in southern Ecuador. In 1999, China ECSA EcuaCorriente S. A. bought the rights to advance the project from the company Corriente Resources. It faced a lot of social opposition due to threats to the indigenous people of the area and, in 2012, it manifested itself publicly in the form of marches, protests and public denunciations.
- The project is related to the murders of the indigenous leaders Bosco Wisum (2009), Fredy Taish (2013) and José Tendetza (2014). So, there is a clear lack of due diligence that could prevent the violation of the right to life of these leaders. Likewise, during 2014, 2015 and 2016 forced evictions were carried out with the complicity of the company and the public forces (National Police and military).



Activity: Mining extraction.

Violation of rights: Forced evictions, without complying with the consultation and prior, free and informed consent. Assassination of indigenous leaders opposed to the project. Lack of due diligence.

Working Group on Business and Human Rights

In this mechanism, COICA participated both in the improvement of the gender perspective of the Guiding Principles of Business and Human Rights, and in the Fourth Consultation on Business and Human Rights, held in September in the city of Santiago, Chile. At this meeting, the PDDD and follow-up of cases were presented. In addition, States were urged to consider the differential and gender approach in the mechanisms for the protection of women human rights defenders. COICA also expressed in this space the relevance of the signing and ratification of the Escazú Agreement as an instrument that protects environmental defenders.

Economic Commission for Latin America and the Caribbean and COP25

Within the framework of COP25 activities, emphasis was placed on the participation of political representatives of the PDDD of COICA and their involvement in the ratification and signing process of the Escazú Agreement in each of its regional grassroots. Likewise, specific events were held, such as «Climate Defenders» and «Escazú Agreement: Empowering people and promoting climate action» (December 10, 2019), which served to analyze

Photo: DAR



the types of restrictions faced by the defenders of climate, environment and territory in Latin America and how the Escazú Agreement is a tool for their protection.

Likewise, on December 12, 2019, the side event «Advancing climate action through Escazú Agreement standards in Latin America and the Caribbean» was held, which aimed to discuss the importance of the Escazú Agreement on access to information, participation and access to justice in environmental matters in Latin America and the Caribbean, for the implementation of the Paris Agreement. With this, it was sought to ensure that policies on climate change consider the protection of indigenous defenders. The event served for COICA to present the work of the PDDD and opportunities for the coming years.

2.4. Activation of emergency protocols

During 2019, two cases of indigenous defenders were accompanied. Here is a brief description of both cases.

Robinson López Descanse

Indigenous of the Inga people, human rights commissioner of the Commission on Human Rights with Indigenous people and Organizations (CDDHHPI) and coordinator of climate change and biodiversity of COICA. From the National Organization of the Indigenous people of the Colombian Amazon (Opiac), he has been a tireless defender of the rights to life, integrity, territory and other human rights of the indigenous people of Colombia. As an authority, he has led processes that have faced the serious risk of physical and cultural extermination of the people and that are part of the construction of peace and the good life of the people.



Photo: Jackeline Borjas/DAR

On January 17, 2019, the paramilitary group calling itself Águilas Negras-Bloque Sur Putumayo issued a statement directly threatening Robinson

López, who also held the position of Human Rights and Peace Coordinator of Opiac, as well as other leaders and indigenous leaders and human rights defenders from the Putumayo department. This statement, unlike the previous ones, threatened the lives of the family of the leaders.

In response to this, COICA held daily meetings to plan and implement a protection strategy through influence and international communication. Virtual meetings were held with the Rapporteurship on the Rights of Indigenous people and Freedom of Expression of the IACHR to make them aware of the facts. Likewise, a request for precautionary measures was prepared for the families of those threatened, in collaboration with DPLF¹⁸.

Adolfo Chávez Beyuma

Indigenous belonging to the Takana people. He was president of the Confederation of Indigenous people of Bolivia (Cidob). He is a tireless indigenous defender who led the VIII, IX and X marches for the land and territory in defense of the plains of Chiquitos or Chiquitania, where more than 150 indigenous Chiquitanos gathered in protest so that the norms that promoted the *chaqueo* and the burning in the east of the country be repealed, as well as the declaration of national disaster due to the forest fire.



Photo: Internet

In 2015, Adolfo Chávez Beyuma, when he was head of Cidob, was unjustly detained to give his statement for three hours in the framework of an accusation for having misappropriated funds related to the execution of resources from the extinct Indigenous Fund (Fondiac)¹⁹. Later, while participating in the Climate Summit (Paris), the Bolivian Prosecutor's Office issued an arrest warrant at the national level. For this reason, Adolfo Chávez

18 At the end of the publication, there were no efficient responses from the Colombian authorities regarding the case of threats against Robinson López Descanse, an indigenous human rights defender, who died on August 21 from COVID-19.

19 Retrieved from https://eldeber.com.bo/34741_detienen-a-adolfo-chavez-por-el-fondo-indigena.

did not return to the country until after 4 years, under the protection of the COICA.

In 2017, the Plurinational Constitutional Court (TCP) declared the protective action filed by Adolfo Chávez in 2015 founded²⁰. The TCP declared that the Third Criminal Chamber of the Santa Cruz Departmental Court of Justice did not facilitate the use of interpreters at the time of taking Adolfo Chávez's statements, which violated his rights to due process and effective judicial protection. However, the decision was not followed by the Chamber.

In 2019, Adolfo Chávez returned to Bolivia to participate in a meeting with the IACHR and alleged political persecution as part of the reprisals against him by the Movement for Socialism (MAS). To date, the Fourth Criminal Sentencing Court of Santa Cruz has begun the oral trial stage against Adolfo Chávez²¹.

20 Retrieved from https://correodelsur.com/politica/20171114_fallo-del-tcp-le-da-la-razon-a-ex-lider-de-la-cidob.html.

21 Retrieved from <https://www.lostiempos.com/actualidad/pais/20190727/tribunal-inicia-juicio-contra-adolfo-chavez-caso-fondo-indigena>.



3. INSTRUMENTS FOR THE DEFENSE OF HUMAN RIGHTS DEFENDERS

3.1. Regional scope

Threats intensify when the context that cross the defenders relates to business, public and private activities, or promotion of extractive industries with high levels of pollution and violation of rights in its Amazonian territories, as it has been seen in the previous chapter.

Thus, the protection of indigenous defenders and their rights to make their work effective is an obligation recognized in several international treaties, conventions and/or instruments that States have signed and must comply with. The Office of the Special Rapporteur on the Rights of Indigenous people has also expressed its concern in its latest report regarding the attacks and criminalization of indigenous defenders (A/HRC/39/17)²².

In view of the years of struggle for the defense of human rights, in general, and indigenous rights, in particular, the international community sought to recognize the important work that defenders have done through the «Declaration on the right and duty of individuals, groups and institutions to promote and protect universally recognized human rights and fundamental freedoms»²³. This as part of a specific legal instrument that they can use to address the transgressions they suffer to their human rights, which is enforceable by the States.

.....
²² Retrieved from <https://undocs.org/es/A/HRC/39/17>.

²³ In 1998, the invaluable work that human rights defenders have done was recognized as part of a commitment parallel to the obligations of States to enforce human rights at any social level. However, due to the large number of attacks, acts of criminalization or political persecution, mainly in the framework of mega development projects in underdeveloped countries, where legal and/or judicial protection is minimal, the United Nations adopted the «Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms» (A/RES/53/144).

Therefore, although a document of international scope adds greater commitment to the States, it is not enough to provide greater guarantees to the work of defenders of indigenous rights. However, they are important regional instruments to the extent that a contribution to that national people may require a legal framework efficient in order to live fully without harassment, retaliation and persecution.

The **ILO Convention 169** (1989), the **OAS Declaration on Indigenous people** (2016), the **UN Declaration on Indigenous people** (2017) and the **OAS Declaration on Indigenous people** (2016) also become the international legal framework for the protection of indigenous human rights defenders in view of the fact that they develop the collective rights of indigenous people. Thus, it is necessary to understand the nature of the rights of indigenous people that these instruments develop to understand and promote specific measures considering the work of indigenous defenders. Two important elements for this are:

Photo: Ricky Levy/IACHR - Flickr



- ▣ The **right to self-determination and development** means that indigenous people decide their priorities, ways of life and/or organization freely and autonomously, in accordance with their convictions and/or customs. In this sense, the work of human rights defenders is legitimized as part of a political structure of representation and free choice by the indigenous people they protect (Article No. 7.1 of the ILO Convention 169, Article No. 21 of the Declaration of the Organization of American States (OAS) and Article No. 3 of the UN Declaration).
- ▣ The **right of access to justice** seeks to enforce the rights of indigenous defenders and remedy the damages generated by the activities they denounce. However, simple access to judicial mechanisms is not enough, but it is also necessary to integrate justice systems with an intercultural approach, typical of indigenous communities and organizations, so that adequate results can be obtained in view of the special condition that they hold (Article No. 12 of the Convention 169 of the ILO and Article No. 22.3 of the Declaration of the OAS).

The indigenous defenders are immersed in several attacks, harassment and/or retaliation by the activity they perform. These end, many times, in penalties and/or restrictive measures of personal freedom or movement towards them by the justice system of each State. However, these types of measures do not integrate the conceptions of justice and forms of dispute resolution from indigenous defenders, in that sense there is no full recognition of the special justice systems in order to avoid imposing restrictive measures of the freedom (article No. 10 of the Convention 169 of the ILO, article No. 22.3 of the Declaration of the OAS and article No. 40 of the UN Declaration).

The **Guiding Principles on Business and Rights Human** of the United Nations (Guiding Principles) stand as a proposal for the international community to address the effects generated by business activities on human rights in extractive contexts as well as for the development and the design of the public policies that the States wish to implement in matters of business and human rights.

The Guiding Principles are divided into three (3) essential pillars:

- i) The duty of States to **protect** human rights with the implementation of public policies, administrative and/or legislative measures that configure responsibilities and sanctions.
- ii) The obligation of companies to **respect** human rights through the implementation of due diligence measures.
- iii) The duty of [States and companies] to promote access to mechanisms of **reparation** and/or **remediation** (judicial, extrajudicial and non-state claims) towards victims of human rights violations²⁴.

The situation of indigenous defenders requires that recent international instruments serve as a parameter for States to integrate their needs and demands. In this sense, the development of a National Action Plan (NAP) on Business and Human Rights²⁵ makes effective the implementation of the Guiding Principles in each national territory where cases of conflicts against indigenous people are seen. In particular, the three (3) pillars play an essential role in ordering the responsibilities of the State and companies in favor of the rights of indigenous people when these are violated by business activities.

First pillar: to protect. The protection of the State for human rights is recognized in several international instruments, such as the Universal Declaration of Human Rights (UDHR) and the American Convention on Human Rights (ACHR). In this sense, the obligation to protect human rights refers to the functions that the State must perform to prevent, investigate, punish, and remedy the negative consequences that human rights violations originate from by business activities. The situation of danger and constant attacks that indigenous defenders of COICA receive is a matter that States must monitor and, above all, implement specific measures so that the work they carry out has sufficient guarantees and can promote and protect their rights effectively.

24 Search made at: https://www.ohchr.org/documents/publications/guidingprinciplesbusinessshr_sp.pdf.

25 The preparation of the NAP on Business and Human Rights is a requirement of the international community to make effective the implementation of the human rights approach on business activities in view of achieving insertion in the Organization for Cooperation and Economic Development (OECD), countries such as Colombia and Chile have prepared this document and are even in the process of updating the operational policies of said plan (2° NAP on Business and Human Rights). However, like any other participatory process in Latin America, it has been absent from a broad and consensual participation between the different social actors (companies, civil society, indigenous people, among others).



Photo: Johana Mendoza/DAR

Second pillar: to respect. Today, the protection of human rights is required to the States and this has been recognized by the Inter-American Court of Human Rights (IA-Court) in several of its pronouncements and/or emblematic cases (Sarayaku vs. Ecuador, Saramaka vs. Suriname, among others). However, the international community has understood that companies are in a better position to assume the costs and impacts that their activities generate on the Amazon territories in the region.

In this sense, the Guiding Principles establish a series of recommendations for companies to improve their prevention and/or remediation systems for the negative impacts that their activities generate. The implementation of due diligence measures that integrate human rights violations, aspects related to the nature of their activities and the ability to adapt to new situations are foreseen²⁶ (Principle 17).

Likewise, the Guiding Principles, when proposing the integration of cases of human rights violations, companies must consult potentially affected groups [and other interested parties] about the main impacts to be produced (Principle 18). In this sense, the «Guide for the interpretation of

26 Pérez, J. (Orpio) and others (2019). *Barómetro Indígena sobre Empresas y Derechos Humanos* (Indigenous Barometer on Business and Human Rights). Law, Environment and Natural Resources (DAR). Lima: Industria Gráfica Libra S. A. C., pp. 45 et seq.

the responsibility of companies to respect human rights»²⁷ (HR/PUC/12/2) establishes that «The objective of due diligence measures is centered on the evaluation, identification and integration of human rights violations and that their scope is governed by the activities and relationships that companies carry out». In other words, it is the victims of said violations who must be integrated into the analysis to implement better prevention and/or reparation measures.

Third pillar: to remedy and/or repair. The duty to repair the damage caused by human rights violations in the framework of the activities of the companies is an obligation of the States. In this sense, it becomes necessary to strengthen the current mechanisms that the State has or the search for new tools that allow this task in an effective and participatory way, in favor of indigenous defenders. These mechanisms are exemplified in the following:

- 1. State judicial mechanisms.** The current situation of the traditional mechanisms of the justice system has identified certain problems that prevent adequate reparation of the damages generated by human rights violations in business contexts. However, the Guiding Principles (Principle 26) require that to adopt new mechanisms or facilitate access to existing ones, vulnerable groups (indigenous defenders) must be integrated, to improve the effectiveness of the justice system.
- 2. Extrajudicial mechanisms.** Judicial reparation for the damages caused by human rights violations is not always a demand on the part of the victims, but other means, just as suitable, are often required to satisfy that request. For this reason, the creation and strengthening of extrajudicial mechanisms serve to facilitate mediation, resolution or treatment, in a cultural way, with the companies themselves (Principle 27).
- 3. Non-state complaint mechanisms.** To improve the reparation of damages generated by the companies, they can adopt internal mechanisms related to the violations observed by indigenous defenders. In addition, they allow a more direct and quick access treatment (Principle 28).

27 Search made at: https://www.ohchr.org/Documents/Publications/HR.PUB.12.2_sp.pdf.

On the other hand, the «Regional Agreement on access to information, public participation and access to justice in environmental matters in Latin America and the Caribbean» (Escazú Agreement), the first treaty in the region that develops related human rights with the environment based on Principle 10 of the Rio Declaration on Environment and Development (1998), becomes another instrument for the protection of environmental rights defenders. This was adopted by 24 countries in March 2018 and, until December 2020, it has been ratified by 12 governments, among which are Guyana, Ecuador and Bolivia (where 3 COICA grassroots are located). This gives them a specific legal framework for the defense of defenders of indigenous rights, as part of a comprehensive and necessary protection in the Amazon.

The Agreement identifies three (3) fundamental rights for those who defend and protect the environment: i) access to environmental information, ii) public participation in environmental matters, and iii) access to justice in environmental matters. In addition, it incorporates several innovative elements, such as a specific chapter related to the work of environmental human rights defenders and the measures that States must implement in order to ensure a safe space for their activities, life, personal integrity and freedom of opinion, within the framework of the prevention, investigation and punishment of attacks, threats or intimidation suffered when reporting human rights violations (Article No. 9). In this sense, the Escazú Agreement will develop the following for the protection of the work of indigenous defenders:

- ▣ ***Access to information and environmental participation.*** Despite the levels of corruption identified in the region by bidding for contracts for the construction of infrastructure or the development of extractive industries, the response mechanisms to this situation were insufficient, as well as access to information and participation in environmental matters. Therefore, the Escazú Agreement, as a regional instrument, develops concepts related to access to information and environmental participation, essential for improving environmental governance and integrating the interests of indigenous people in the construction of public policies in a concerted way.

▣ ***Access to justice in environmental matters.*** The defense of the rights and integrity of indigenous defenders is of utmost importance for proper governance of natural resources. However, they suffer a series of attacks, threats and/or intimidations due to limitations in access to ordinary justice mechanisms in environmental matters. Therefore, the Escazú Agreement would commit the Governments to facilitate access to efficient mechanisms of the environmental judicial system in the event of violations of their rights and to seek effective redress.

The regional instruments identified and developed in the previous paragraphs do nothing more than show the importance of the struggle carried out by indigenous defenders in the framework of the protection of their lands, territories and environment in view of the magnitude of the attacks, the threats and harassment they suffer. In addition, many of them are part of indigenous communities or organizations, so their interaction is closely related.

Photo: IACHR - Flickr



Infographic No. 2. Instruments for the defense of indigenous defenders

ILO Convention 169

Convention 169 of the International Labor Organization.



Guiding Principles

Guiding Principles on Business and Rights Human of the United Nations. The Guiding Principles.

1989

1999

2012



Declaration of Human Rights Defenders

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





UN Declaration on Indigenous people

It emphasizes the rights of indigenous people to preserve and strengthen their institutions, cultures and traditions and to work for their development according to their aspirations and needs.



2016

2017

2018

Declaration on Indigenous people OAS

American Declaration on the Rights of Indigenous people for the recognition, promotion, and protection of the rights of indigenous populations in the hemisphere.

Escazú Agreement

Regional Agreement on Access to Information, Public Participation and Access to Justice in Environmental Matters in Latin America and the Caribbean. First binding instrument for the protection of indigenous defenders.

Elaboration: Annie Morillo.

3.2. National scope

Brazil

The main instrument for the protection and defense of human rights defenders and the work they carry out in Brazil is the National Program for the Protection of Human Rights Defenders (PPDDH), created by the National Council for the Defense of Human Rights (Resolution No. 14/2004) linked to the Special Secretariat for Human rights of the Presidency. The task of the PPDDH, formed by a General Coordinator and a National Coordinator, is to analyze cases of vulnerability of human rights defenders, design protection strategies, among others. However, the program was not implemented in all states in a unison way. In the places where it did so, there were some obstacles and deficiencies that called into question its effectiveness in defending and promoting the rights of human rights defenders²⁸.



In 2007, the National Policy for the Protection of Human Rights Defenders was established (PNPDDH)²⁹, in order to establish guidelines for attendance of persons that promotes, protect or defend human rights and who are at risk or vulnerability. Thus, the PNPDDH raises specific guidelines for care in:

- ▣ Protection of life.
- ▣ Provision of social, medical, psychological and material assistance.
- ▣ Initiatives aimed at overcoming the causes that generate the state of risk or vulnerability.
- ▣ Preservation of identity, image and personal data.

28 Source: https://terradedireitos.org.br/uploads/arquivos/WEB_Terra-de-Direitos_Vidas-em-Luta_100817_web.pdf

29 Presidential Decree No. 6044 of February 12, 2007.

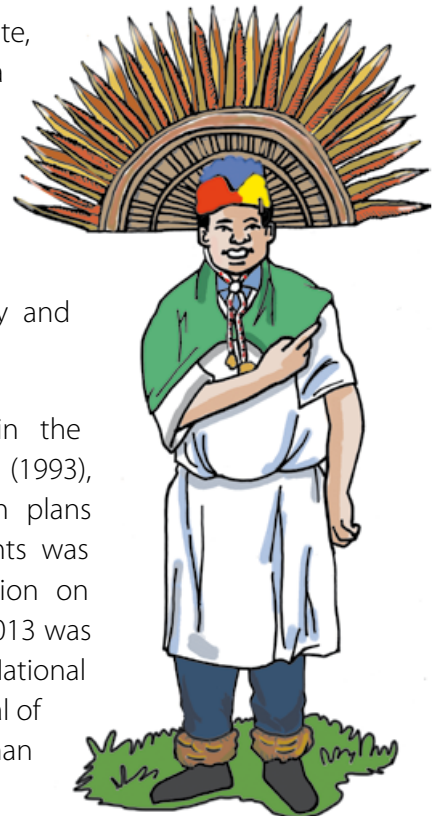
- ▣ Support for the fulfillment of civil and administrative obligations that require personal assistance.
- ▣ Temporary suspension of functional activities.
- ▣ Exceptionally, the transfer of residence or temporary accommodation in a confidential place, compatible with protection.

The policy gained greater weight through its institutionalization in the Ministry of Women, Racial Equality, Youth and Human Rights³⁰. A Deliberative Council was created which excluded the participation of civil society and indigenous people in the national coordination of the program. Subsequently, with the current Government, the binding capacity of the provisions, actions and projects of the PNPDDH, now attached to the Ministry of Women, the Family and Human Rights, was weakened by conditioning the voluntary nature of interstate cooperation.

Bolivia

The political constitution of the Bolivian State, approved in 2009, manages to mark a historic milestone by incorporating general principles of international commitments and agreements on human rights. Thus, it commits the State to the promotion, protection and respect of human rights and to guarantee the well-being, security and protection of people.

Based on the participation of Bolivia in the World Conference on Human Rights (1993), where the elaboration of national action plans for the promotion and protection of rights was recommended, the National Plan of Action on Human Rights Bolivia para *Vivir Bien* 2009-2013 was approved under the responsibility of the National Council for Human Rights. With the approval of the National Plan, the Inter-Institutional Human



30 Presidential Decree No. 8724 of April 27, 2016.

Rights Council and the Inter-ministerial Human Rights Commission were repealed, which since its creation in 2004 was in charge of the preparation, implementation, monitoring and evaluation of the National Promotion Strategy and Protection of Human Rights.

In this sense, the Law for the Protection of Complainants and Witnesses emerged, which defines protected persons as those who carry out or are willing to carry out the following activities, such as:

- a) The written or verbal statement that is made before the competent authority about the alleged commission of a crime.
- b) The lawful disclosure of information or evidence that leads or contributes to the initiation or continuation of an investigation.
- c) Intervention as a witness, expert, technical advisor or other form of direct or indirect participation in administrative headquarters or judicial process.

The law establishes the possibility of granting protection measures, preservation of identity and confidentiality of personal data, psychological care for up to one year, among other measures. Although it is not a differentiated or specific measure for the protection of indigenous defenders, they would also be included within the protected persons.

In this regard, the Public Ministry has included within its organizational structure the creation of a Directorate for the Protection of Victims, Witnesses and Members, which oversees the Unit for the Protection of Victims and Witnesses. In this effort, article 76° of the Code of Criminal Procedures understands as «victims» those directly or indirectly offended by the crime, while it considers as «witnesses» those who have witnessed the criminal act, even if they are not the main victims.

Peru

In Peru, the State has assumed the commitment to protect especially vulnerable groups, through its constitutional text and as part of the State policies contained in the National Agreement. This agreement arose from dialogue and consensus between civil society, political parties and the State, to achieve the sustainable development of the country and the reaffirmation of its democratic governance³¹.

The guidelines contained in the National Human Rights Plan, in its third version (which includes the period 2018-2021)³², incorporate for the first time the need to design and implement policies in favor of special protection groups such as human rights defenders, as well as the need to implement guarantees for their security. The goal in 2021 is to have a mechanism implemented for the protection of their rights, whose coordination, supervision, evaluation and monitoring was entrusted to the Ministry of Justice and Human Rights and Access to Justice (MINJUSDH).



For this reason, in April 2019, MINJUSDH approved the «Protocol to guarantee the protection of human rights defenders»³³, which establishes joint actions, procedures and measures that create an adequate environment and three specific objectives:

1. To promote the recognition of human rights defenders and work to prevent situations of risk in which they may find themselves due to the exercise of their work.

31 (Policy 7) eradication of violence and strengthening of civility and citizen security (policy 28) eradication of violence and strengthening of civility and citizen security.

32 Supreme Decree No. 002-2018-JUS published on February 1, 2018.

33 Ministerial Resolution No. 0159-2019-JUS of April 25, 2019.

2. To coordinate with the competent authorities and institutions to guarantee the comprehensive protection and security of human rights defenders.
3. To promote, through the articulation of actions with the competent authorities and institutions, an adequate and effective investigation, prosecution, punishment and reparation in cases of attacks directed at human rights defenders.

Thus, the protocol includes several instruments, including:

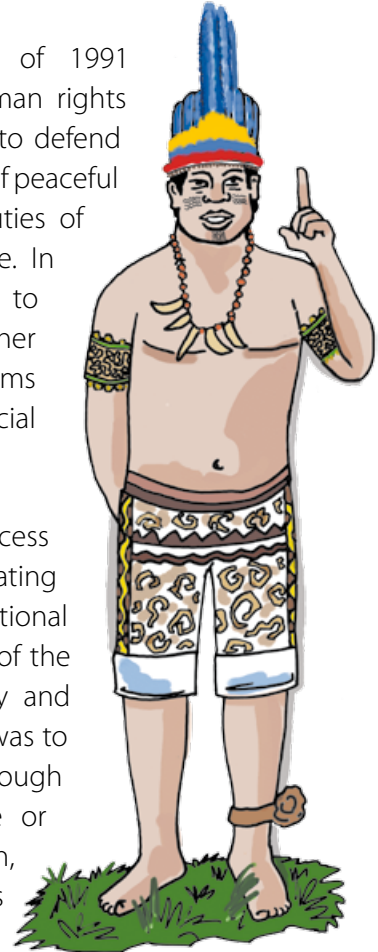
- a) A **Registry of Human Rights Defenders**, in charge of the General Directorate of Human Rights of MINJUSDH, on the situations of risk that human rights defenders experience due to the work they carry out, as well as cases of violation through of an intersectoral, gender, intercultural, economic approach, among others. The normative project is waiting to be approved so it can start to be implemented throughout the country.
- b) An **early warning procedure** for the timely action of the corresponding authorities in the face of attacks or threats directed against human rights defenders. This includes the receipt of the report of the incident or complaint, and the report of the risk situation, in charge of the General Directorate of Human Rights of the MINJUSDH.
- c) **Protection actions and urgent protection actions** to reduce exposure to risk as much as possible, through suitable, effective and temporary measures so that they continue with their work. These are granted by the team of Coordination of the General Directorate of Human Rights when there is an imminent danger to life and/or physical, psychological and/or sexual integrity.

On the other hand, the Office of the Ombudsman, during the meeting on human rights defenders that it organized in September 2019, presented a draft of Guidelines for Ombudsman Action, to register, investigate and follow up on cases of human rights violations, whose victims are defenders. This allowed to improve care for differentially cases, in order to provide guarantees and effective action to protect the rights and work of defenders of human rights.

Colombia

The Colombian Constitutional Charter of 1991 highlights in article 95° the work of human rights defenders framed as the duty of citizens to defend and disseminate human rights as the basis of peaceful coexistence, without prejudice to the duties of the State to protect the rights of people. In the development of regulations, the risk to the work of defenders is due, among other causes, to the diffuse development of norms and instruments, as well as the high social convergence.

As of April 2009, the National Guarantees Process was implemented, with the aim of reinvigorating the process, at that time stagnant, of the National Plan of Action on Human Rights, product of the dialogue between the State, civil society and the international community. Its purpose was to identify the efforts of the State, whether through public policies, legislative, administrative or any other measures, for the a) prevention, b) protection and c) investigation of crimes committed defenders of human rights.



Meanwhile, the Table of Guarantees for Human Rights Defenders, Social and Community Leaders, chaired by the Ministry of the Interior, works in coordination with civil society and with the accompaniment of the international community (Sweden, Spain, United Kingdom), the United Nations Development Program (UNDP), the United Nations (UN) and the Office of the United Nations High Commissioner for Human Rights (OHCHR) and UN Women. Despite not having a binding legal framework, it is an important space for dialogue that allows a dialogue between the actors involved and those interested in the adequate protection of human rights defenders.

In such work, although the State has a ministry related to issues of justice and rights, the work of protecting the rights of environmental defenders is under the leadership of the Ministry of the Interior, which among its organic functions is to «watch over the respect for rights, freedoms and fundamental rights of all the inhabitants of the Colombian territory» (Law No. 1999, 1995, art. 5°). In this way, the Human Rights Directorate Protection Program (2006) was created, which produced a manual in which they identify concepts, uses and procedures applicable to the work of human rights defenders.

The National System of Human Rights and International Humanitarian Law, under the leadership of the Ministry of the Interior, created in 2011, aims to coordinate the norms, policies, entities and instances of the national and territorial order to promote the respect and guarantee of rights human rights, and the application of international humanitarian law. In this effort, the same year, by Decree No. 4065, the National Protection Unit was created, with the aim of articulating, coordinating and executing actions to guarantee the well-being of those people who, at the discretion of the Government, are in a situation of risk due to the exercise of their position

Photo: COICA



or other activities, such as activism for the promotion and protection of rights.

In addition, the same year, the «Program for the prevention and protection of the rights to life, liberty, integrity and security of individuals, groups and communities» was created, under the responsibility of the National Protection Unit of the Ministry of the Interior. This includes the prevention and protection of activists, understood as the person who «actively intervenes in the defense of human rights» as the main strategy, through temporary measures of the Directorate of Protection and Special Services of the National Police, such as a) measures emergency and b) preventive measures.

Colombia has a protection mechanism, considered one of the pioneers in the hemisphere (IACHR, 2017), called the Program for the Protection of Human Rights Defenders, Trade Unionists, Journalists and Social Leaders and created by Law No. 418 of 1997. This has had a series of variations and modifications, especially by virtue of the Final Agreement for the Termination of the Conflict and the Construction of a Stable and Lasting Peace. The program identifies three types of beneficiaries: a) protection of witnesses, victims, defendants and personnel of the Attorney General's Office, victims and witnesses who participate in judicial processes; b) public servants, due to their official position or activity, and c) those who are at risk due to their political, public, social or humanitarian activities and functions.

In 2010, the Colombian Public Ministry created guidelines to guarantee the right of human rights defenders to exercise their work, through Directive No. 012 (2010). This document established the obligation to investigate complaints and reports of threats in a timely manner. But it was repealed by Directive No. 002 (2017), which creates the guidelines for the effective protection of the rights of human rights defenders and their organizations, members of social movements, political movements and leaders and political leaders and organizations and their organizations with a view to broadening the concept of defenders and include all those who participate in the implementation of the Final Agreement for the Termination of the Conflict signed between the National Government and the Revolutionary Armed Forces of Colombia – People's Army (FARC-EP).

The Ombudsman's Office assumes the coordination of the Early Warning Information System (Sisat), created by the National Council for Economic and Social Policy (Conpes, 1999), through Ombudsman Resolution No. 250 (2003). For cross-sectional and multisectoral coordination of situations of risk to the well-being and work of human rights defenders. It is important to point out that, in addition, there is an Intersectoral Commission for Early Alerts (2013), created by Decree No. 2890, which collects the Sisat reports as «inputs» to recommend specific actions to the minister.

One of the most innovative regulatory measures for the protection of the rights and the work of human rights defenders materialized with the creation of the Comprehensive Security and Protection Program for Communities and Organizations in the Territories³⁴. This program regulates its execution within the procedures of the Ministry of the Interior and integrates other tools, such as the Prevention and Alert System for Rapid Reaction³⁵, which define and adopt comprehensive protection measures in the territory through a) comprehensive prevention, security and protection measures; b) community promoters of peace and coexistence, c) protection protocol for rural territories, and d) support for reporting activities, led by a technical committee chaired by the Minister of the Interior and made up of nine other high-ranking State officials and only two delegates from civil society.

Finally, as part of the Agreement on Security Guarantees, established in the Final Agreement for the termination of the conflict signed in 2016, between the Government and the FARC-EP, the need to establish security guarantees and the fight against responsible criminal organizations of homicides and massacres that attack human rights defenders, among others, for the construction of peace, was included. Until January 2018, the General Implementation Balance of the national Government reported the issuance of 6 legislative acts, 6 laws, 36 decree laws and 49 ordinary decrees.

34 Regulated by Decree No. 660 of April 17, 2018.

35 Regulated by Decree No. 2124 of December 18, 2017.

Ecuador

The Ecuadorian Constitution of 2008 is one of the most recent in Latin America that introduces important commitments regarding the duties of the State regarding the rights of the people. It incorporates the international normative instruments that are «most favorable» for the protection of rights, as well as rights of nature, which must be demanded from any public authority. In this sense, it recognizes the importance of the Declaration of Human Rights Defenders (1998), approved through Resolution No. 53/144 of the UN General Assembly.

The Ecuadorian Constitution recognizes as a primary duty of the State the guarantee of enjoyment of rights, such as the right to integrity, a culture of peace and comprehensive security for its inhabitants. It even expressly indicates the duty of the State to repair violations of the rights of individuals due to lack or deficiency in the provision of public services, due to the actions or omissions of its officials, etc. It establishes as the duty and responsibility of citizens, respect for human rights and to fight for their fulfillment, as well as to participate in the political, civic and community life of the country, in an honest and transparent manner.

In this sense, like most of its Latin American counterparts, it includes constitutional guarantees in its substantive text that are suitable for the use, protection and promotion of the work of human rights defenders. One of them is the «protection action», which has the purpose of obtaining direct and effective protection of constitutional rights against the violation of rights by acts or omissions of public authorities, public policies or when it comes from a private person.

Another right is to participate in decision-making, planning and management of public affairs and in the control of State institutions and society by citizens, through representative, direct and community democracy. In addition, the Council for Citizen Participation and Social



Control, as a space for participation and direct incidence of citizens for the fulfillment of their rights and constitutional mandates, is another tool that, although it is not exclusive to environmental defenders, it has powers such as the investigation of complaints about acts or omissions that affect its work, within the framework of the right of participation, the protection of its rights and the mechanisms of inter-institutional collaboration of the highest level.

In this sense, the Organic Law of the Ombudsman's Office (2019) created the Council of Human Rights and Nature Defenders as a mechanism for effective and active participation for the articulation of strategies for the promotion and protection of rights. This Council is competent to:

- i. Formulating proposals that improve the processes of promotion and protection of human and nature rights in the Ombudsman's Office.
- ii. Generating well-founded alerts on situations of violation of human rights and nature.
- iii. Contributing to the identification of human, collective and natural rights violations, patterns of violation and the situation of human rights defenders.

Finally, through Resolution No. 077-DPE-CGAJ-2019, the Ombudsman's Office issued regulations for the promotion and protection of the rights of human rights and nature defenders, which establishes specific promotion and protection actions in application of international standards, in charge of its General Missionary Secretariat, such as a) informal management through calls, e-mails, summons, b) incorporation into the National System for the protection of victims and witnesses, c) on-site visits, d) vigilance of due process in the administrative, judicial or constitutional sphere, e) defense investigation, f) jurisdictional guarantees provided for in the constitution and, if necessary, filing of precautionary measures, g) mandatory compliance measures, h) public actions, i) request for amnesties, and j) international mechanisms for the protection and promotion of rights of human rights defenders and nature.



4. REGIONAL SITUATION OF HUMAN RIGHTS DEFENDERS OF COICA 2019



COICA, being present in the nine countries of the Amazon basin through its grassroots organizations, knows first-hand about the threats faced by both indigenous territories and the leaders who defend them. In this sense, situations of danger, crisis or threat have been publicly denounced in the Amazon, the leaders, the communities and the indigenous people. In this way, first-hand information has been systematized with the COICA grassroots in the several countries.

One of these first examples is the resurgence of paramilitary forces in **Colombia**, which has led to an increase in situations of violence and death threats against social leaders and indigenous leaders, such as the case of Robinson López Descanse, leader of Opiac and COICA. Despite the signing of the Peace Agreement in Colombia, indigenous territories are still threatened by the presence of armed actors outside the law, who persecute, intimidate, threaten and assassinate indigenous leaders in their own territories. Even though the seriousness of the situation, the Colombian State has minimized these facts and have not received strong responses on their part.

In **Ecuador** there are permanent threats that threaten the ways of life of indigenous people and nationalities, such as the bidding of oil blocks and the granting of mining concessions in Amazonian indigenous territories. Additionally, the persecution and criminalization of activists and rights defenders has continued, and important legal actions have been carried out against projects that have violated human and nature rights, such as the San Carlos Panantza mining project or the hydroelectric plant that is being built in the Piatúa river.

In **Peru**, the legal process was reactivated against the former president of Aidesep, Alberto Pizango Chota, and other leaders accused of

being promoters of the «Baguazo», which shows a manipulated, slow, biased justice with serious cases of corruption. Added to this is the permanent threat to indigenous territories due to forest concessions, mining concessions, oil palm monocultures, cocoa, among others, infrastructure, hydroelectric plants, oil blocks, land trafficking and illicit coca crops.

In **Bolivia**, indigenous territories are threatened by projects such as the highway that will cross the Isiboro Sécure National Park and Indigenous Territory (TIPNIS), the Rosita, Bala, Madidi hydroelectric plants and the oil blocks that affect the 22 protected areas. In addition, it has been evidenced that the persecution and division of the indigenous movement in the Oriente, Chaco and Amazon regions by the national government continues, through the criminalization of social protest for the defense of indigenous territories and protected areas. There are cases such as the former president of Cidob, now the leader of COICA, Adolfo Chávez Beyuma, and other indigenous leaders, in which criminal lawsuits have been used as an instrument of revenge and political persecution, in order to repress their resistance and fight. As in other Amazonian countries, indigenous territories in Bolivia are also threatened by forest concessions, mining, oil blocks, monocultures, infrastructure, land trafficking and illicit coca crops.

In **Venezuela**, indigenous territories are threatened by projects of strategic interest, such as the so-called Mining Arc, whose application could directly affect the rights of indigenous people and their way of life. This problem is exacerbated by the lack of progress regarding the demarcation and titling of indigenous lands.

On its part, in **Brazil**, the situation of vulnerability and threat to indigenous people and territories has been seriously exacerbated by the election of Jair Bolsonaro as president, who on several occasions has publicly declared his willingness to violate rights legitimately acquired by indigenous people after decades of struggles. As soon as he assumed the presidency, he transferred the responsibility of identifying, delimiting and homologate the indigenous lands from the National Foundation of the Indian (Funai) to the Ministry of Agriculture, in charge of Tereza Cristina Correa, a landowner who coordinated the bench of rural owners

in Congress to annul the processes of territorial homologation and reduce the size of the indigenous lands already homologated. In addition to the increase in the number of threats, acts of persecution and assassinations of indigenous leaders, indigenous rights and territories are threatened by mining activity and illegal mining carried out by **garimpeiros**, the expansion of the cattle frontier and monocultures, logging, as well as the increase in unconsulted infrastructure projects and the construction of roads and hydroelectric plants.

In **French Guyana**, indigenous territories are threatened by megaprojects such as Montagne d'Or, as well as the impacts caused by the use of explosives and cyanide. This has led indigenous organizations to demand a moratorium on mining, in addition to compliance with the Cayenne Agreement, specifically on the ratification of the ILO Convention 169.

In **Suriname**, despite the fact that a process has been promoted for the national recognition of indigenous people, there are still no mechanisms to guarantee the right to prior, free and informed consultation, as well as the full and effective participation of indigenous people in matters that may affect them culturally or environmentally, as in the case of projects

Photo: Tabea Casique/COICA



that are intended to be carried out in their territories. It should be noted that the Indigenous Organization of Suriname (OIS) has denounced the contamination of rivers with mercury in northeast Suriname.

In Guyana, the government's forestry and mining concessions on or near indigenous lands pose a threat to indigenous people, their traditional ways of life and the environment. This constitutes a violation of the fundamental rights of indigenous people and nationalities due to inadequate or, in some cases, null participation in decision-making processes that affect their territories and rights. The case of Lucille Williams, an elderly woman from Karisparu who was evicted from her home where she lived for more than 70 years, is a serious violation of her right to enjoy the lands of her ancestors, especially when it is alleged that her home was destroyed by miners with the help of police officers. Despite the fact that her home is within titled and demarcated land, it is located in legal mining concessions.

As can be seen, indigenous territories are threatened in all the countries of the Amazon basin, be it by virtue of illegal activities, normative instruments or public policies promulgated by the governments themselves, without the due participation of indigenous people and nationalities, whose rights are violated. Additionally, in Guyana, Suriname and French Guyana there is the aggravation that these countries have not yet ratified the ILO Convention 169.

Next, it has been possible to delve into information in 5 countries of COICA.

4.1. Brazil

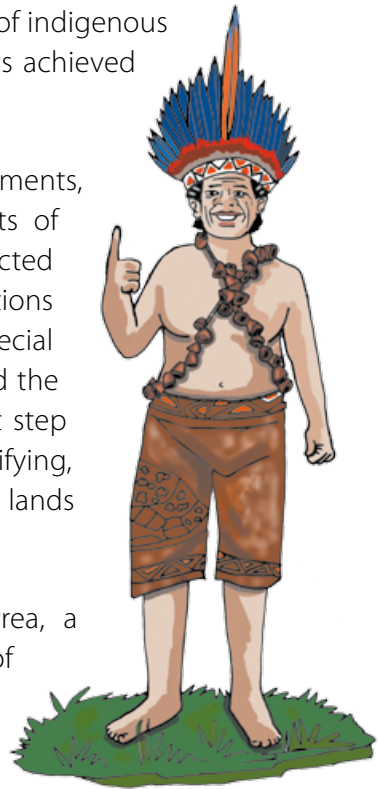
National context

The situation for indigenous people in the Brazilian Amazon has not been simple. There are organized criminal networks for the extraction, processing and commercialization of wood, which have armed personnel to intimidate or murder those who want to defend the forests. The current president, Jair Bolsonaro, has presented a systematic policy that ignores the rights of vulnerable groups, including indigenous people.

This suggests a critical outlook for the work of indigenous defenders and would set back all the efforts achieved so far.

Likewise, the president, through public statements, has had a position that violates the rights of indigenous people and that has been reflected in the limitation of the budget and functions to indigenous institutions such as the Special Secretariat for Indigenous Health (Sesai) and the Foundation National Indian (Funai). His first step was to transfer the responsibility of identifying, delimiting and homologate the indigenous lands of Funai to the Ministry of Agriculture.

That ministry, led by Tereza Cristina Correa, a landowner who coordinated the bench of rural landowners in Congress, seeks to annul the processes of territorial homologation and reduce the size of the indigenous lands already homologated. On the other hand, Sesai was responsible for the health of the indigenous people and the Bolsonaro government wants to assign the functions of this to the municipalities, which lack the conditions to attend to their own current health functions.



After the new president Jair Bolsonaro took power, the number of attacks registered against human rights defenders has increased alarmingly³⁶. These cases are related to government policy and the discourse that it has assumed and has been spreading nationwide. This speech calls for confrontation, such is the case of Mato Grosso do Sul, a state that borders the Amazon and where the Guaraní indigenous people live. During the month of November there were clashes with shootings with indigenous victims of firearms. Although no deaths were recorded, these shootings are common.

36 Retrieved from <https://www.infobae.com/americas/agencias/2020/01/14/hrw-denuncia-aumento-de-agresiones-contra-defensores-de-la-amazonia-en-brasil/>.



Photo: Esio Mendes-Rondonia

The «Report on violence against the indigenous people of Brazil», presented by the Indigenous Missionary Council (CIMI), linked to the Brazilian episcopate, indicates that in the last three decades 1,119 Indians were murdered in Brazil³⁷. In 2018, the State of Roraima (north border with Venezuela and Guyana) was where the most indigenous people died (62), followed by Mato Grosso do Sul (center west border with Paraguay and Bolivia), with 38. Roraima is an area of high risk, due to the conflict between miners and loggers against indigenous people.

After the fires in the Amazon, the biodiversity of the forests has been greatly deteriorated. The defense of these territories has been led by the indigenous population and non-governmental organizations. However, in the case of the latter, the Brazilian Government has identified them as responsible for these fires that would have occurred, in reality, to gain space and change the use of the land. Another aspect is the perception of non-governmental organizations (NGO) that work with indigenous people, since through a series of defamatory articles in the media it is also intended to criminalize those who work on indigenous issues and assume the defense of their

37 Retrieved from http://spanish.xinhuanet.com/2019-09/25/c_138420623.htm.

rights. In addition, a commission of inquiry (CPI-Parliamentary Commission of Inquiry) has been created in the Congress to «monitor» these NGO.

Main impacts

The Coordinator of the Indigenous Organizations of the Brazilian Amazon (Coiab) has shown rejection of the process of destruction of the Amazon, which is part of the Bolsonaro Government plan: exploiting resources through mining, wood extraction and the change in land use for agribusiness, which, according to it, would serve for the development of the region and indigenous territories. However, the vision of development and indigenous life plans are not contemplated and, instead, there are serious effects against its population:

- ▣ **Right to life:** The Brazilian State does not guarantee this right to the indigenous population. Chief Emyra was killed by illegal miners due to the inaction of the Government. In November there was the murder of Paulo Paulino Guajajara by illegal loggers. Paulo Paulino was a guardian of the forest and fought illegal logging. The criminals ambushed him and killed him. At the beginning of December 2019, Firmino Guajajara and Raimundo Guajajara were also assassinated. In addition, other members of the Guajajarano community were attacked.
- ▣ **Security:** Indigenous defenders in Brazil do not have any protection, they are persecuted, criminalized and, as a result of this, they are killed. The Government has a protection policy that includes approximately 600 human rights defenders (indigenous or not), who are part of the national protection program. However, this program lacks resources. If a defender goes to a police station and reports the threats, the Police do not have the financial resources to guarantee the necessary protection. This leaves indigenous defenders, who are the main victims, exposed.
- ▣ **Criminalization of the indigenous movement:** The defenders who lead are at the forefront of the movement. This is the case of several indigenous leaders, such as Sonia Guajajara, Nara Baré and Raoni, who came to denounce Bolsonaro's policy in the United Nations Assembly. This was the first time that an indigenous leader

denounced the president of Brazil and it had repercussions around the world. Bolsonaro's response was that Raoni does not represent the Amazon or indigenous people.

- ▣ **Violation of the rights of indigenous people:** Government policy is aimed at the extraction of natural resources, mainly in the Brazilian Amazon, including mining, wood and the advancement of agribusiness. In mid-2017, the commercial plantation of transgenic sugar cane, which was previously prohibited, was approved and a new bill was presented to allow mining activity on indigenous lands.
- ▣ **Harassment of public servants who support the indigenous movement:** The indigenous brigades that, in the context of the forest fires in the Amazon, provided certain information to the Coiab, refused to give interviews, arguing that there was an order from the ministry and the threat of initiating administrative proceedings against those who do not comply with it. In particular, the threat was directed at the brigade leaders, who are also targets of assassination.

Aggressors

The partial data reported by CIMI in the first nine months of 2019 indicate an alarming increase in cases of possessive invasion, illegal exploitation of natural resources, and several damage to the heritage of indigenous people. These cases occur because the government, private enterprise and citizens themselves do not respect the rights of indigenous people, protocols of prior consultation, human rights and the Constitution.

- ▣ **Illegal:** Illegal miners and loggers are responsible for the threats and killings of human rights defenders. As soon as Bolsonaro's announcement was made to allow mining on indigenous lands, illegal miners proceeded to invade territories violently. In one of these invasions, the confrontation takes place that ends with the murder of the chief Wajãpi, leader and indigenous defender. A similar case occurs with the announcement of the logging permit on indigenous land. A few days after this, the illegal loggers proceeded to invade lands, which triggered clashes with indigenous defenders.
- ▣ **Extractive companies:** They are mainly miners and loggers who cause deaths and murders of indigenous people. Agribusiness does

not, because it has not yet entered the Amazon with force, but is more in the regions of Mato Grosso, known as Cerrado, where there is also indigenous organization and mobilization, called Mobilization of the Indigenous people of the Cerrado. It could be said that the Cerrado is a buffer zone for the advance of deforestation in the Amazon, but the confrontations are mainly with miners and loggers.

- ▣ **Brazilian State:** The policies of restriction of support and protection to the indigenous population deny the rights of indigenous people and incite hatred and violence against their people. This generates an atrocious persecution of human rights defenders. It is worth mentioning the case of Marielle Franco, who had a protection measure and was killed by the Police. The murderer was linked to Bolsonaro, because there are records that he would have visited him on the same day of the crime.

Initiatives

The Coiab promotes the consultation protocols that serve as tools developed by the indigenous organizations themselves and are related to an effective execution of the entire prior consultation process. This serves as an early warning system for Coiab and the Amazon Cooperation Network (RCA), which is an institution that brings together several other entities in the Amazon. Consultation protocols were recently developed for Amapá, Pará and the Río Negro region. The consultation protocol is precisely to define the indigenous position. If the protocol were respected and considered, invasions and murders against indigenous people would decrease. It should be noted that these protocols have been developed based on the ILO Convention 169.

On the other hand, there are already some protection measures, as in the case of Paulo Paulinho, but they are not enough. He had already reported that he was threatened and had a protection measure. For example, the Human Rights Secretariat is contacted and the complaint is made; this is sent to the Regional Police Station, which must appoint a policeman to permanently escort the threatened leader. However, it happens that there is not enough staff for these functions, therefore, only the complaint is registered. Finally, no effective protection is obtained, nor the possibility of refuge.

One measure that would serve is rapid access to resources, for example, to hire personal security: that would be the best way, or to give refuge to the threatened in another geographical region, perhaps another indigenous land. However, it is rare for an indigenous person to leave their homeland. The problem continues to be the Government due to its lack of interest and the current situation in Brazil. The Bolsonaro government does not want to serve leaders or organizations.

The landscape has changed. Some years ago, an analysis of progress and challenges for the indigenous movement could be made. But today it is more about resistance actions. A strong national campaign «*Ni una gota más* (Not a single drop more)» has been launched, which refers to no more indigenous blood being spilled.

4.2. Bolivia

National context

The context that frames the political and social situation in Bolivian territory is related to the increase in social conflicts led by indigenous

Photo: Vincent Vos - Flickr



defenders, who try to safeguard the interests and demands of the indigenous people or community. Government policies, which seek to promote the development of activities in strategic sectors, such as extractive industries (gas, oil, coal, etc.), cattle or sheep farming, agricultural activities and development in general.

This jeopardizes the effectiveness of the collective and individual rights of indigenous people as vulnerable groups. The complaints made by different human rights organizations and indigenous people towards the fraudulent electoral process promoted by Evo Morales were also one of the triggers that generated claims and violent protests around that process³⁸. However, from the same territory, different opinions were raised that indicated the existence of strong international pressure to impose a neoliberal agenda in the Bolivian territory³⁹ (2019).

The constant threats, acts of harassment and judicial persecution against indigenous defenders were the main responses of the central government to stop the mobilizations during the mandate of Evo Morales. On the other hand, during the administration of Jeanine Áñez, it was sought to legitimize the excessive use of the police force through several bills that sought to stop, in any way, social demonstrations. It should be noted that it is during internal conflicts that the highest levels of lack of protection for human rights occur and, even more, in the context of indigenous struggles⁴⁰.

Main impacts

The Main impacts against indigenous defenders are related to the contexts of struggle for the protection of indigenous people, with the help of allies (human rights organizations) that provide better tools to counter the repressive political apparatus of the State. In this sense, the Cidob has documented several cases of violations in certain periods of time, as well as the main victims of those events and the rights violated. They include:

38 Retrieved from <https://www.bbc.com/mundo/noticias-america-latina-50146649>.

39 Retrieved from <https://cedla.org/publicaciones/cedla/control-ciudadano-32-requiem-para-el-proceso-de-cambio/>.

40 Retrieved from <https://www.americaeconomia.com/politica-sociedad/politica/anez-revoca-decreto-que-eximia-las-ffaa-de-responsabilidad-penal-por-sus>.

▣ **Freedom of expression and association** (2006-2011): The attacks were related to the harassment of human rights organizations (NGOs) and indigenous communities that expressed their concern regarding the State's policies for extractive activities and the construction of large infrastructure works in the north of La Paz⁴¹, as well as during the context of the VIII March of Indigenous people in defense of the Indigenous Territory and Isiboro Sécure National Park (TIPNIS). Likewise, 13 cases of damage to NGO were documented: the Center for Research and Promotion of Peasants (Cipca), the League for the Environment (Lidema), the Center for Legal and Social Studies (Cejis) and the Bolivian Forum for the Environment and Development (Fobodame).

▣ **Self-determination for development** (2012-2014): The attacks were related to the expulsion of human rights organizations⁴² (NGO IBIS), destruction of furniture in Cidob offices, among others. 35 cases of damage to NGO and indigenous communities were also documented: Danish NGO IBIS, physical seizure of the Cidob facilities and the National Council of Ayllus and Markas del Qollasuyo (Conamaq).

▣ **Political participation and prior consultation** (2015-2018): The attacks were related to the impediment of free access to decision-making on normative projects and threats against the work of human rights organizations. Likewise, 37 cases of damages against NGO and indigenous communities located at the time of the approval of the supreme decrees that authorized the carrying out of extractive activities without having previously consulted the



41 Retrieved from <https://www.libertaddigital.com/mundo/evo-morales-arremete-contra-las-ongs-convierten-a-los-pobres-en-un-gran-negocio-1276372007/>.

42 Retrieved from <https://www.alainet.org/es/active/80134>.

indigenous people involved were documented (Decreets No. 2298 and No. 2366).

The data collected shows that during the beginning of the government of Evo Morales, violations of the rights of indigenous defenders and human rights organizations were not as recurrent as in later years, since the policies of expanding the agricultural frontier and/or extractive industries, as indicated in the Bolivia Patriotic Agenda 2020-2025, in the sectoral laws that promoted the expansion of clearings from 5 to 20 hectares (Law No. 741) or in the use of ethanol as part of the promotion of agribusiness (Law No. 1098), as well as transgenic seeds that affect the fertility of indigenous territories (Supreme Decree No. 3973-2009).

Aggressors

The main causes of the effects on the rights of indigenous defenders are related to economic, investment and development policies that sought the promotion and development of agricultural and livestock activities, extractive industries and infrastructure works during the last 10 years of the Government of Evo Morales⁴³.

Economic policies at that time were marked by the promotion of incentives for peasant communities to develop agricultural activities through the granting of land, tax facilities and a larger public budget, among others. This indirectly affected the use of neighboring territories by other indigenous people who were looking for ways to survive with small agriculture and the collection of fruits and/or fish. This situation also generated divisions and struggles among the members of indigenous organizations, since bribes and undue payments from the State were denounced within the social structures, in order to favor state economic measures.

Likewise, the Government used nationalist discourses that sought access to natural resources located in indigenous territories, with the intention of making them part of a development model to improve the social, living and health conditions of the members of the indigenous communities concerned. This was highlighted by José Valentín Muiba, during the

43 Retrieved from <https://es.mongabay.com/2018/04/bolivia-indigenas-onu-hidroelectricas/>.



Photo: R. Mondragón/DAR

last meeting of technical focal points of the Program for the defense of Indigenous defenders of COICA (Quito, 2019), since «for the export of gas, the previous agreements between the State were not fulfilled and indigenous people to seek [modalities] to favor and improve access to natural resources». This turned out to be a hoax for the indigenous people.

In search of a common agenda to diversify the portfolio of projects in the national territory and make the economic policies of the State a reality, road infrastructure works were carried out for better communication with the other provinces of the Bolivian State. However, in the design and construction of the highways or interconnection works, factors related to indigenous people were not integrated, such as the overlap towards their

territories, the situation that was the common denominator. When these transgressions were denounced, the indigenous leaders (defenders) of Cidob found responses characterized by reprisals and harassment practices. In the last case, they were subjected to imprisonment in the framework of trials that did not respect the basic principles of due process and the intercultural approach required by the ILO Convention 169, the OAS Declaration on Indigenous people and the UN Declaration on Indigenous people.

In this sense, although the objectives of the economic policies promoted by the central government sought to open a panorama for the free action of the development of several productive sectors in favor of the peasant communities and the citizens in general, they encountered resistance from the people indigenous people who expressed their discomfort through struggles and/or social movements within the country. This was stated again by Jose Valentin Muiba (technician from Cidob) as the «economic policies during the previous government were addressed to delegitimize the indigenous struggle through the division's own grassroots organizations». This created an uncertain outlook against the work of indigenous defenders in Bolivia.

A sample of this occurred during the years 2009 and 2011, due to the constant violations of the rights of indigenous people, such as the failure to carry out prior consultation (a requirement established in the Hydrocarbons Law) to the community of Tacana or the lack of access to judicial mechanisms to repair the damage caused. This caused several allies (NGO and human rights institutions) to be attacked as part of a policy of repression and intimidation against human rights defenders, for being an obstacle to the interests of the government in power.

Finally, today the magnitude of the attacks against indigenous defenders has led to the search for allied forces, without taking an ideological position on the matter. In other words, the defense groups, fighting committees and other groups are in favor of dialogues and the opening of spaces for the exchange of interests with different sectors of Bolivian politics, in order to be better protected.

Initiatives

The main problems faced by indigenous people are related to the lack of a unitary discourse that is capable of mobilizing the great organizational structure of the different regional and national grassroots to face the repressive manifestations of the State. This has been reinforced with the offer of land or monetary contributions to different indigenous leaders, which has generated division and sectarianism within the organizations.

Therefore, the ratification of the Escazú Agreement⁴⁴ carried out by the government offers great possibilities for the work of indigenous defenders, in order to develop safe spaces for their free development. In this sense, once this instrument enters into force, indigenous people could strengthen their leadership and advocacy capacities.

4.3. Peru

National context

Peru is the world's third largest producer of copper and silver, and the sixth largest producer of gold.

In the oil and gas sector, during the last 40 years, 60 cases of spills have been verified, 13 of them occurred in 2016, in the North Peruvian Pipeline of Petroperú. The case of the abandonment of Block 192, exploited by Pluspetrol, is outstanding. The company withdrew from the area without having remedied the damage caused, despite the fact that the government declared the territories of the Pastaza, Tigre, Marañón and Corrientes basins in a state of environmental emergency on several occasions.

In the area of large-scale agriculture, between 2010 and 2014, more than 30,000 hectares of forests were cleared to give rise to oil palm and cocoa

44 The Government of Bolivia ratified the Escazú Agreement in June 2019.

Retrieved from <https://www.la-razon.com/sociedad/2019/06/11/bolivia-ratifica-acuerdo-de-escazu-sobre-temas-ambientales/>

plantations in areas that were inhabited mainly by indigenous people⁴⁵. Many of the environmental impact assessments of agro-industrial projects were approved without prior soil studies in the areas in question⁴⁶.

This lack of evaluation and analysis in the granting of concessions has generated a situation of ignorance on the part of the authorities and the population itself, who are unable to verify the real dimensions of the impacts caused by these activities. This is also reflected in the lack of information on official figures, which has not allowed adequate monitoring and control of concessions on indigenous territories. However, according to the Government, around 50% of the Amazon region where natural resource exploration or exploitation activities are carried out are lands that belong to indigenous people, including reserves for people in isolation or initial contact⁴⁷.

In this context, the situation especially for defenders of indigenous rights has been aggravated. According to the National Human Rights Coordinator, a total of 87 defenders were murdered during the years 2011 and 2016⁴⁸, due to the impacts generated by extractive activities. The People's Ombudsman registered during early 2019 the death of two defenders: Wilbelder Vegas Torres (President of the Front for the Defense of the peasant community of San Sebastián Suyu) and Paul McAuley (British priest in Bethlehem, Loreto). Peru has been classified by Global Witness as one of the most dangerous places for environmental defenders in Latin America, since during the years 2015 and 2017 the deaths of 22 leaders occurred⁴⁹.

45 Ombudsman's Office. «Informe deforestación por cultivos agroindustriales de palma aceitera y cacao. Entre la ilegalidad y la ineficacia del Estado» (Report deforestation due to agroindustrial crops of oil palm and cocoa. Between the illegality and the ineffectiveness of the State) (Report No. 001-2017-DP/AMASPPI.MA, June 2017).

46 Human Rights Council. «Informe del Grupo de Trabajo sobre la cuestión de los derechos humanos y las empresas transnacionales y otras empresas acerca de su misión al Perú» (Report of the Working Group on the issue of human rights and transnational corporations and other companies on its mission to Peru) (May 9, 2018), p. 11.

47 Idem, p.14.

48 National Coordinator of Human Rights. Annual Report 2015-2016 (April 2017).

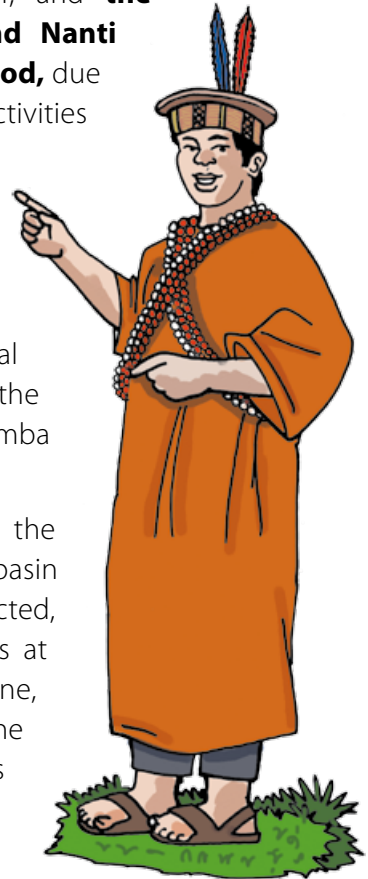
49 Retrieved from <https://www.defensoria.gob.pe/pedimos-al-estado-a-proteger-a-defensores-de-derechos-humanos-en-asuntos-ambientales/>.

Main impacts

The Inter-ethnic Association of the Peruvian Forest Development (Aidesepe) has recorded and documented essential information through five (5) of its regional grassroots (Comaru , Corpi-SL, ORAU , Orpio and Orpian -P) and in the framework of extractive activities (oil spills, etc.) or the construction of road infrastructure works (Amazon Waterway) that have violated several of their collective rights.

▣ Right to intangibility, health and self-determination:

- ◆ Cases of damage to the forest cover have been detected due to the construction of the Malvinas camp, the alteration of air quality due to the leakage of harmful substances, the alteration of surface and underground water, and **the contamination of the Nahua and Nanti populations by mercury in the blood**, due to the hydrocarbon exploitation activities by Pluspetrol (blocks 56 and 88). More than 15,000 affected residents, including adults and children, were registered. It should be noted that the most affected are the residents of the Kugapakori, Nahua and Nanti Territorial Reserve (RTKNN), who belong to the Machiguenga Council of the Urubamba River (Comaru).
- ◆ Cases of contamination effects on the species of the Urubamba river basin (irreparable damage) were detected, due to the spill of natural liquid gas at kilometer 8 + 980 in the Kemariato ravine, a tributary of the Urubamba river, in the rural settlement Túpac Amaru. This was caused by the transportation of the Peruvian Gas Transportation Company (TgP).



- ▣ **Right to free self-determination and access to public environmental information:** Impairments have been identified related to the partial compliance of the consultation agreements made in participatory workshops of the EIA of the Amazon Waterway project and the lack of information that may support the approval by the competent entity (Senace), caused by the construction of river transport infrastructure by Cohidro (Amazon Waterway)⁵⁰. More than 3,500 victims were registered, between 14 and 10 indigenous and non-indigenous communities, respectively, belonging to the Regional Coordinator of the Indigenous people of San Lorenzo (Corpi-SL) and Aidesep Regional Organization Ucayali (ORAU).
- ▣ **Right to health, free self-determination and access to public environmental information:** Impacts related to oil extraction have been identified for more than 40 years. The extraction of hydrocarbons by Petroperú generated irreparable damage in the territories inhabited by indigenous people. More than four (4) indigenous federations were registered, bringing together 20 affected indigenous communities (4 sacred basins), belonging to the Regional Organization of Indigenous people of the Northern Amazon of Peru (Orpian-P).
- ▣ **Right to free self-determination , previous consultation and consent:** It was identified the lack of realization of a new consultation on the project and the involvement of several indigenous territories was demonstrated by the exploitation of hydrocarbons in Block 192, by Pacific Stratus Energy del Perú S.A. Likewise, more than 20 indigenous communities affected were registered in the Pastaza exploitation area, belonging to the Regional Organization of the Indigenous people of the East (Orpio).

It has been verified that the large number of affected are, mainly, indigenous communities and, in other cases, Piaci. The violations can mainly be summarized as follows:

50 To date, the Cohido company has stopped continuing with its activities related to the preparation of the EIA, since it was not feasible to absolve all the observations made by Senace. Retrieved from <https://www.dar.org.pe/noticias/se-paraliza-proyecto-hidrovia-amazonica-por-incumplimiento-a-consulta-previa-y-falta-de-estudios/>.

- ▣ The effects against Comaru are related to a context of the use of natural resources (gas) and that has had an impact on the rights to health and prior consultation. In addition, the Piaci of the RTKNN have seen their rights violated, such as the intangibility of their territories due to the contamination by mercury in the blood that several Nahua and Nanti settlers have presented.
- ▣ The effects against Corpi-SL and ORAU are related to road infrastructure activities, such as the construction of the Amazon Waterway, and the lack of compliance with the prior consultation agreements for that project, as well as the lack of access to the public environmental information on possible impacts.
- ▣ The damages against Orpian-P are related to the impact on indigenous territories for more than 40 years, due to the exploitation of hydrocarbons (oil) and the violation of rights to health, integrity and life.
- ▣ The effects against Orpio are related to the exploitation of hydrocarbons (Block 192) and the failure to carry out a new prior consultation process for the start of activities.

Aggressors

Among the main causes that originated the effects against indigenous people were investment policies and projects carried out without the participation, consultation and consent of indigenous people, which has led to social, environmental and social impacts in the territories.

In this sense, special attention is needed to policies such as the National Plan for Infrastructure for Competitiveness (PNIC), which seek to consolidate and promote the implementation of 52 infrastructure projects by 2025 to close key gaps in the country in the short term, within the framework of improving productivity and long-term competitiveness⁵¹. During the preparation of the PNIC, several shortcomings were found regarding the effective participation of indigenous people and the lack of a strategic environmental assessment (SEA) that integrates cumulative impacts on the territory, even more so if it is considered that the PNIC projects have by area of influence the Amazon⁵².

51 Retrieved from https://www.mef.gob.pe/contenidos/inv_privada/planes/PNIC_2019.pdf.

52 Retrieved from <https://www.dar.org.pe/noticias/pni-eae/>.



Photo: R. Mondragón/DAR

The development of extractive projects requires large infrastructure works (roads, airports, ports, etc.) which also entails the dragging of illegal activities (logging, species trafficking, etc.), which makes them complex to address. Projects such as the Amazon Waterway have raised several questions, including the dredging system, because it would affect different hydrobiological species (fish) and would hinder the main sustenance and survival of the indigenous people adjacent to the Ucayali, Huallaga and Amazon rivers. These problems are even more aggravated for lack of prior consultation with respect to changes in the EIA⁵³ and access to information to changes in final studies.

The work of indigenous defenders is arduous, the case of Edwin Chota calls for reflection on how the State deals with the situation of indigenous defenders and the initiatives that can address them.

53 Retrieved from <https://www.dar.org.pe/noticias/varian-zonas-de-dragado-de-proyecto-hidrovia-amazonica/>.

Initiatives

The State has recognized human rights defenders in the Strategic Guideline No. 3 of the National Human Rights Plan 2018-2021 (PNDH 2018-2021). The development of a Registry of Human Rights Defenders, based on the Protocol to guarantee the protection of human rights defenders⁵⁴, could generate an instrument that allows identifying the main characteristics of indigenous defenders for a comprehensive protection of their efforts.

Likewise, in the Strategic Guideline No. 5 of the PNDH 2018-2021, the implementation of international standards on business and human rights is established as a policy. For this reason, the State assumed the task of preparing a National Action Plan (NAP) on Business and Human Rights that, in addition to proposing certain guidelines for the construction of public policies on business and human rights, establishes the strengthening of the mechanisms judicial, extrajudicial and non-state claims so that the victims can repair the damage caused to their territories, in this case the indigenous people.

Finally, initiatives such as the Escazú Agreement and its ratification in Peru could grant a regional and national legal framework for indigenous defenders to enforce their rights. To date, spaces have been held with the participation of the Congress of the Republic and representatives of different sectors of civil society to promote the ratification of the Escazú Agreement⁵⁵.

4.4. Colombia

National context

The Colombian context is currently one of high risk for the work carried out by human rights defenders, one of the main elements is the political setbacks regarding the process of Final Agreement for the Termination of the Conflict and the Construction of a Stable and Lasting Peace.

54 Retrieved from https://cdn.www.gob.pe/uploads/document/file/310740/RM_159_2019_JUS.pdf.

55 Retrieved from <https://www.dar.org.pe/noticias/congresistas-de-bancada-verde-debaten-sobre-el-acuerdo-de-escazu-en-mesa-multipartidaria/>.

The Colombian government, which took office in August 2018, quickly marked distance with the Peace Agreement with the FARC-EP, which was achieved in Havana, in November 2016, under the impulse of the predecessor in office, Juan Manuel Santos.

The confrontation between the Government and the armed group repositioned itself at the end of the last quarter of 2019, which has meant displacement, armed violence and other actions that have a direct impact on the well-being of the environmental defenders, especially in the rural area due to the weak state presence.

In this regard, the IACHR made a series of recommendations in its report on the human rights situation in Colombia⁵⁶ related to the conflict process and the necessary search for the truth about the facts of the violations of human rights defenders during the conflict stage. In addition, it recommended the implementation of an investigation body or unit to identify criminal organizations that violate the rights of defenders and implement measures against these people, who are often confused with subversive or guerrilla groups.

One of the requests from the Commission to the Colombian State is to develop and implement specific protocols for coordination between fiscal and join investigations of crimes committed against civil society provide with in training on how the aggressions committed are. In this effort, for the consideration of the IACHR, it is essential to sensitize public officials and agents of the role that defenders play to carry out effective investigations (IACHR, 2017).

In Colombia there are serious human rights violations; in view of this situation, even when finding mechanisms for assistance, protection or asylum, many of the people choose not to benefit from them because they do not guarantee the protection of their rights. According to the Amnesty International report (2018)⁵⁷, on the results of the National Protection Unit, attached to the Ministry of the Interior, measures were

56 CIDH, *Verdad, Justicia y Reparación: Cuarto Informe sobre la Situación de los Derechos Humanos en Colombia* (IACHR, Truth, Justice and Reparation: Fourth Report on the Situation of Human Rights in Colombia), OEA/Ser.L/V/II. Doc. 49/13, December 31, 2013.

57 Amnesty International (2018). *Americas: Situation of protection mechanisms for human rights defenders*. Index: AMR01/8912/2018. Retrieved from: <https://www.amnesty.org/download/Documents/AMR0189122018SPANISH.PDF>.

granted to ensure physical security to more than 4,000 people at risk, which includes human rights defenders. During 2017, more than 3,000 requests were received from defenders, which resulted in the granting of 411 protection measures.

Main impacts

The OPIAC identified violations of: i) indigenous people who carry out leadership tasks, ii) indigenous people who carry out political activities, and ii) territorial defenders against the interests of capital and illegal activities. The main damages and the violation of their rights are related to the scenario of social convergence between armed insurgent groups, military actions, criminal groups and interests of investors to develop infrastructure projects or extractive activities on indigenous territories. These are the main attacks:

▣ **Personal attacks, homicides, physical harassment:**

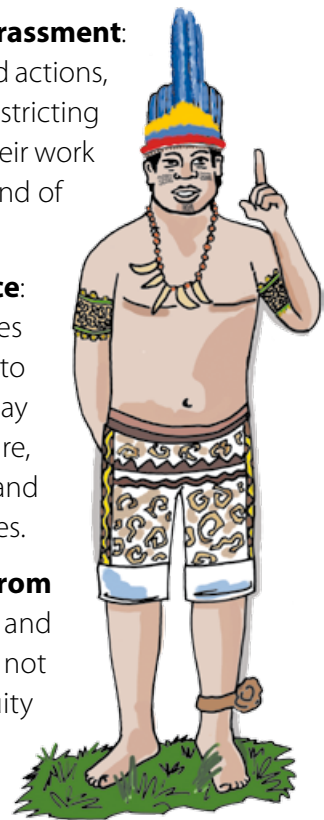
Through systematic, organized and/or isolated actions, with the aim of intimidating, persuading or restricting the willingness and ability to continue with their work for the defense of rights, both of personnel and of the organization.

▣ **Torture, kidnapping, forced disappearance:**

Through the dissemination of wrong messages about the work of human rights defenders to upset public opinion about the role they play in claiming rights. It also includes acts of torture, exposure to ridicule of their objectives and activities, and other forms with racist messages.

▣ **Forced displacement and expulsion from their territories:**

The mechanisms of care and protection for human rights defenders do not include measures to guarantee the continuity of their work or to reduce the threat before displacement or asylum. The expulsion occurs before the danger or risk of violation of rights of loved ones.



- ▣ **Stigmatization, restriction of political participation and the right to association:** They are measures of physical or psychological intimidation to reduce the value of the work carried out by human rights defenders. In addition, measures that limit peaceful, legitimate and democratic protest, as well as participation in the construction of public policies and strategic planning.
- ▣ **Reduction of individual and communication freedom:** Not only as a result of kidnappings, enforced disappearances or arbitrary arrests by law enforcement agencies, but also due to restrictions on participation in the media, through cyber or physical surveillance, with the aim of reducing or limiting the free disclosure of ideas, ridicule or systematically aggravate on social networks, through false accounts created for that purpose.
- ▣ **Access to resources:** Not only those that come from their territories, on which their subsistence depends and the possibilities of generating development activities, but also the economic, logistical and human resources that allow them to strengthen the work they carry out.
- ▣ **Free expression and communication:** Limitations on access to the ideal channels for the exercise of freedom of opinion, but, in addition, when they exercise this right they are victims of legal, administrative or legal accusations, with the aim of silencing their messages.

Aggressors

The main aggressors to the rights of indigenous defenders in Colombia are related to actors in the armed conflict, criminal organizations and investment projects superimposed on indigenous territories. The main aggressors identified by OPIAC are:

1. Members of law enforcement agencies and related groups:

Despite the implementation of regulatory measures, capacity building and greater opportunities for means of verifying the performance of law enforcement agencies, deliberately or not, they also represent a latent danger of violation of rights and attacks against the well-being and work of human rights defenders.

- 2. Armed groups:** The FARC-EP has declared its resumed armed insurgency position again; the guerrilla group Sinaloa, its residual forces or «self-defense» groups that carry out a significant deployment in rural and inaccessible areas of Colombian territory. They usually superimpose their occupation on indigenous territories, which are dragged into conflict situations or attacked.
- 3. Criminal groups and organizations:** There are also groups and organizations dedicated to informal or illegal activities in overlapping areas, adjacent to indigenous territories or areas where indigenous groups use them for subsistence purposes.
- 4. Interest groups from the infrastructure sector and investment in extractive activities:** They promote the development of extractive activities and infrastructure projects prioritized by the Government, which tend to overlap with indigenous territories.

Initiatives

The Colombian Government, under the leadership of the President Iván Duque, signed the Escazú Agreement at the UN in December 2019. From OPIAC, the importance of the ruling of the Supreme Court of Justice is rescued, which recognizes the Amazon as a subject of rights, since it allows them to have better tools for advocacy and defense of collective rights, even against groups and organizations dedicated to criminal activities.

Another measure that strengthens the work as human rights defenders are the provisions of Law No. 1448. Based on it, measures have been taken to provide care, assistance and comprehensive reparation for victims of the internal armed conflict in three aspects: cultural, collective and individual. There are also offices of ethnic and/or indigenous affairs in different ministries serving requests and maintaining collaboration and coordination actions for the participation of indigenous people.

4.5. Ecuador

National context

The Ecuadorian context presents significant challenges, both historical and emerging for indigenous people. The Confederation of Indigenous Nationalities of Ecuador (Conaie), founded in 1986, or the Confederation of people of the Kichwa Nationality of Ecuador, also known as Ecuarunari, have managed to achieve important political changes through mobilization and protest actions in an articulated manner in the country. The Confederation of the Nationalities of the Ecuadorian Amazon (Confeniae) is part of Conaie. And it is these processes that also represent the resistance of the indigenous peoples of the Amazon. In 1997, the indigenous mobilization influenced the term of the Government of Abdalá Bucaram; in 2000, with Jamil Mahuad, due to a series of economic measures that harmed them. In 2005 the same happened with the then President Lucio Gutiérrez⁵⁸.

The national strike of October 9, 2019 was the beginning of an indigenous national mobilization that lasted more than 10 days and caused the retreat of the government to a series of economic measures that began with the elimination of subsidies on fuels since 30 years, through Decree No. 883. This caused a 124% increase in prices and affected almost 1,4 million indigenous people (almost 8% of the total population), due to their situation of economic vulnerability. The result of this mobilization amounted to 1,340 injured during the clashes with the public containment forces and 1,152 detained, according to a report from the Ombudsman's Office.

This motivated several national and international organizations to speak out and demand that the Government of Lenin Moreno stop the violent repressive measures against the mobilization⁵⁹. The output generated crisis, that required an unprecedented as the transfer of the seat of government temporarily, was through direct dialogue between

58 Retrieved from <https://www.france24.com/es/20191014-crisis-indigenas-ecuador-lenin-moreno>.

59 Retrieved from <https://www.dw.com/es/amnist%C3%ADa-internacional-exige-a-ecuador-detener-represi%C3%B3n-de-protestas-ind%C3%ADgenas/a-50787101>.

the CONAIE and the government that ended in the repeal of the Decree No. 883.

There are still remnants of violence that are channeled through expressions of hatred, racism and limitation of the right to free expression and political participation of indigenous defenders. For this reason, the National Council for the Equality of people and Nationalities (CNIPN) of Ecuador urged justice institutions to take immediate criminal actions to avoid impunity for human rights violations and discrimination in the face of violent messages such as «Indian found, Indian prisoner»⁶⁰.

Main impacts

The effects on the rights of human rights defenders in Ecuador are related to actions aimed at weakening the institutional framework, coordination and the work they carry out. Thus, they are reactive measures in the face of protests, or in a systematic manner through intimidation or delegitimization of indigenous institutions. The main effects are:

- ▣ **Delegitimization and weakening of the indigenous cause:** That is fueled by political polarization as a result of the last change of Government and the undertaking of different economic and social policies that affect the poorest population. It also affects indigenous human rights defenders in a way, as they are victims of redress and are excluded from participating in important political spaces.
- ▣ **The prebend and compromise:** Through mechanisms of coercion of the will, used for the purpose of internally confronting indigenous members and weakening their institutional framework to favor economic interests.
- ▣ **Personal attacks against their welfare and dignity:** Due to the growing political discourses of polarization that create confrontations between sectors that are not necessarily different, but that are strategic for the purposes of other economic actors. This has caused great concern, since it puts the existence of indigenous people at risk, due to the lack of effective protection mechanisms.

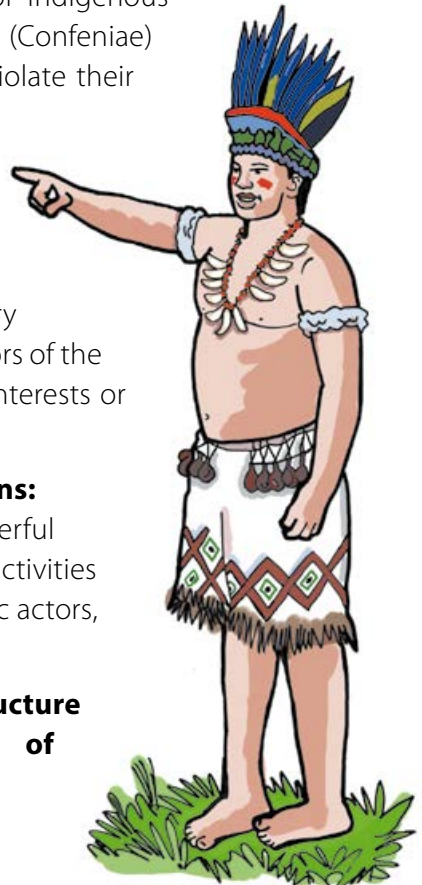
60 Attributed to two journalists from a program broadcast over the internet called La Posta.
Retrieved from <https://www.dw.com/es/ecuador-piden-investigador-expresiones-de-odio-contra-ind%C3%ADgenas/a-51508141>.

- ▣ **Limitation of the right to political participation:** Due to exclusion or discrimination measures by government actors and economic groups usually opposed to the interests of indigenous people.
- ▣ **Physical violence, torture and inhuman treatment:** As a result of the government's repressive measures in the face of protests, movements and demonstrations.
- ▣ **Disappearances:** Which occur not only in the face of protest or mobilization measures, but also in carrying out actions to promote and defend rights.
- ▣ **Persecution:** Either through intelligence operations, through electronic means or even jurisdictional actions in criminal courts.

Aggressors

The members of the Confederation of Indigenous Nationalities of the Ecuadorian Amazon (Confeniae) have identified the main actors who violate their rights:

- a) **Members of the forces of order and related groups of the Government:** Either through the National Police, the military contingency forces, or the allied actors of the Government who share individual interests or groups of interest.
- b) **Criminal groups and organizations:** The appearance of increasingly powerful economic groups engaged in illicit activities that, apart from the formal economic actors, have different characteristics.
- c) **Interest groups in the infrastructure sector and the promotion of**



extractive activities: By overlapping investment projects on indigenous territories and the dispersion of norms that regulate the use and tenure of land.

Initiatives

After the 11 days of protests in which the indigenous mobilization was the epicenter that weakened the position of the central government and the Lenin Moreno regime, the decree that eliminates the fuel subsidy as a measure to solve the conflict could be repealed. However, the country risk indicator rose to 14,818 points, a rebound that it had not seen since 2016. In the midst of this context, the indigenous movement has strengthened and has led to reflection on the need to rethink the distribution of power through decentralization processes, which could be capitalized on by indigenous leaders. On the other hand, the ratification process of the Escazú Agreement in the Legislative has run its course.

Photo: Confeniae



CONCLUSIONS

The advance of violence is found not only in the increase in illegal mechanisms and economies, but also in the weakness of the sanctioning and control frameworks for economic activities in indigenous territories. Specific protection mechanisms are necessary for indigenous defenders, which implies a proposal and implementation of intercultural policies.

COICA implements a Program for the defense of Indigenous defenders that is supported by two perspectives: preventive, which raises the need for early warning mechanisms to strengthen surveillance mechanisms, and ***differential***. The latter highlights the **collective approach**, that is, it not only identifies subjects, but also indigenous organizations, nations, people, communities, as well as defenders of the territories and the **gender approach**, which makes the role of women more visible enabling adequate mechanisms for their protection.

Brazil

This region presents serious risks for indigenous defenders. The situation has been further exacerbated since 2018, with the speeches of the new government of Jair Bolsonaro that, as can be seen, in just 9 months of administration registered an increase in murders, not to mention the last cases of November and December. Thus, the panorama has changed. Some years ago, an analysis of progress and challenges for the indigenous movement could be carried out, but in the current context it is more about resistance actions. A strong national campaign, «*Ni una gota más* (Not a single drop more)», has been launched to stop the murder of indigenous people.

Peru

There is an opportunity to improve the development conditions and lifestyle of indigenous people. However, due to the cases of spills that have attacked the territories of indigenous people for more than 40 years, the lack of prior consultation to carry out new extractive projects or the lack of access



Photo: Annie Morillo/DAR

to relevant environmental information for adequate decision-making, has aggravated the situation of indigenous people and has impaired their work. So, to offer better tools to the work of indigenous defenders, the Registry of Human Rights Defenders has been developed based on the protocol to guarantee the protection of human rights defenders, the National Plan of Action (NPA) on Business and Human Rights, and the ratification of the Escazú Agreement.

Bolivia

State policies to promote extractive activities (gas), agriculture, and livestock have ended up affecting indigenous people's territories; maneuvers such as the payment of large sums of money or tax facilities for peasant communities were even used in order to support the measures. All of this produced a rupture within the indigenous political and social structures and caused the economic and social policies of the State to have a greater impact in view of the model that Evo Morales wanted to implement. However, instruments such as the ratification of the Escazú Agreement could grant greater protection tools to indigenous people.

Colombia

The overlapping of infrastructure projects and extractive activities on indigenous territories, in accordance with national development plans and the interests of economic groups is one of the main threats. In this context, the resumption of the armed conflict between the Government and armed insurgent forces incorporates a situation of risk and additional threat greater than that already faced by indigenous defenders. In this sense, the prioritization of actions and collective efforts towards the search for measures to resume the pacification agreements and to persecute the armed insurgents displaces the discussion on the violation of the rights of defenders.

Ecuador

Despite the indigenous political strengthening, the State still has weaknesses in the protection it must provide. The weakening of the government affects governance and the trust of their decisions, therefore, there is an urgent need to design, develop and implement mechanisms of self-protection of indigenous organizations at national and international level.

Photo: COICA



RECOMMENDATIONS

It is necessary to ensure that both the State and the companies do not take actions to harass, persecute or criminalize indigenous defenders. Rather, both the State and companies must adopt the necessary measures to eradicate impunity for human rights violations against the indigenous population. Therefore, as indigenous people, we demand the following from the States:

- ▣ To act with due diligence to protect indigenous defenders, who are in permanent resistance for their land, territory and environment.
- ▣ Comprehensive policies for adequate and effective protection with a differential approach are required to activate urgent actions or emergency protocols for the protection of the life and integrity of indigenous defenders.
- ▣ To develop specific policies and regulations for the protection of human rights defenders, with specific categories for indigenous people, in order to implement the proper institutional framework to counteract threats.
- ▣ To generate and promote a culture of human rights that highlights the fundamental role of indigenous defenders to guarantee the rule of law.
- ▣ To respect the recognition of the measures and forms of indigenous justice, in order to articulate with the different actors in the use of natural resources.
- ▣ To sign and ratify the Escazú Agreement, in order to generate the proper intersectoral and transversal articulation of public entities for the future implementation of the Agreement in each country.
- ▣ To implement protection protocols that include a national registry of risk situations for indigenous defenders.
- ▣ The use of interpreters in judicial and administrative processes, and specialized environmental prosecutors, so that they serve to safeguard the rights of the populations that intervene in the participation processes: in the granting of rights, in the evaluation of EIA and in the environmental enforcement.

Brazil

To promote a safe environment for indigenous defenders, where state policies empower the free exercise of their rights. That the collective rights of the indigenous population be guaranteed and the immediate cessation of policies and provisions that violate them. It is key that the Brazilian State publicly recognize that the protection of the rights of indigenous people is a priority and that their participation strengthens the rule of law.

Peru

The implementation of international instruments for the protection of indigenous defenders needs to be carried out with the active participation of those affected by policies or investment projects. Therefore, the processes for preparing the NPA on Business and Human Rights must be followed, as well as for the identification of the main human rights defenders in the registry by the MINJUSDH, as well as the ratification of the Escazú Agreement as an important tool for the country.

Bolivia

To oversee and monitor the policies that the Government dictates on the development of indigenous rights so that they do not represent a risk of violation of their rights. Above all, when the new Bolivian administration seeks to encourage policies of ignorance of indigenous people, as well as criminalizing the activities of indigenous defenders. Instruments such as the Escazú Agreement become an opportunity to reinforce their struggle.

Colombia

The rector of government agencies specialized in “pacification” and security control work does not guarantee the rights of defenders, whose attackers are officials or groups related to the public forces. Given this, the armed conflict has been prioritized as a space for political debate and the government’s agenda. Faced with this, participation in internationally visible spaces or the accompaniment of international rights agencies is recommended.

Ecuador

In order to promote effective protection mechanisms for indigenous human rights defenders, the government needs to work in a coordinated manner with the indigenous movement. For this purpose, one of the priority actions is the identification of the main needs and demands of indigenous people, as well as sanctioning messages of hatred and discrimination against them.

Photo: Annie Morillo/DAR



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APPENDIX

APPENDIX INFORMATION COLLECTION SHEET AT THE SECOND FOCUS POINTS MEETING

National context	<ul style="list-style-type: none"> ◆ Brief overview of the situation of indigenous defenders in your country. What is the current state? What happens or has happened so far?
	<ul style="list-style-type: none"> ◆ What are the main concerns and challenges that indigenous defenders have identified when protecting their lands, territories and environment in the context of public and private activities?
	<ul style="list-style-type: none"> ◆ What are the good public (legal, operational, public policy or other) or private practices that have allowed indigenous defenders to carry out their work safely and effectively?
Main impacts	<ul style="list-style-type: none"> ◆ What have been the main impacts? ◆ What were the rights affected? ◆ Who and how many were affected? (preferably to indicate separately: men and women) ◆ Where and when did the impact occur?
Identification of aggressors	<ul style="list-style-type: none"> ◆ Who caused the impact? ◆ Under what activity were the impacts made?
Performances	<ul style="list-style-type: none"> ◆ What were the measures taken to protect indigenous defenders? (State, private or indigenous organization)
Recommendations	<ul style="list-style-type: none"> ◆ What solutions would you propose in this regard? ◆ What recommendations should be included?

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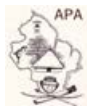
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