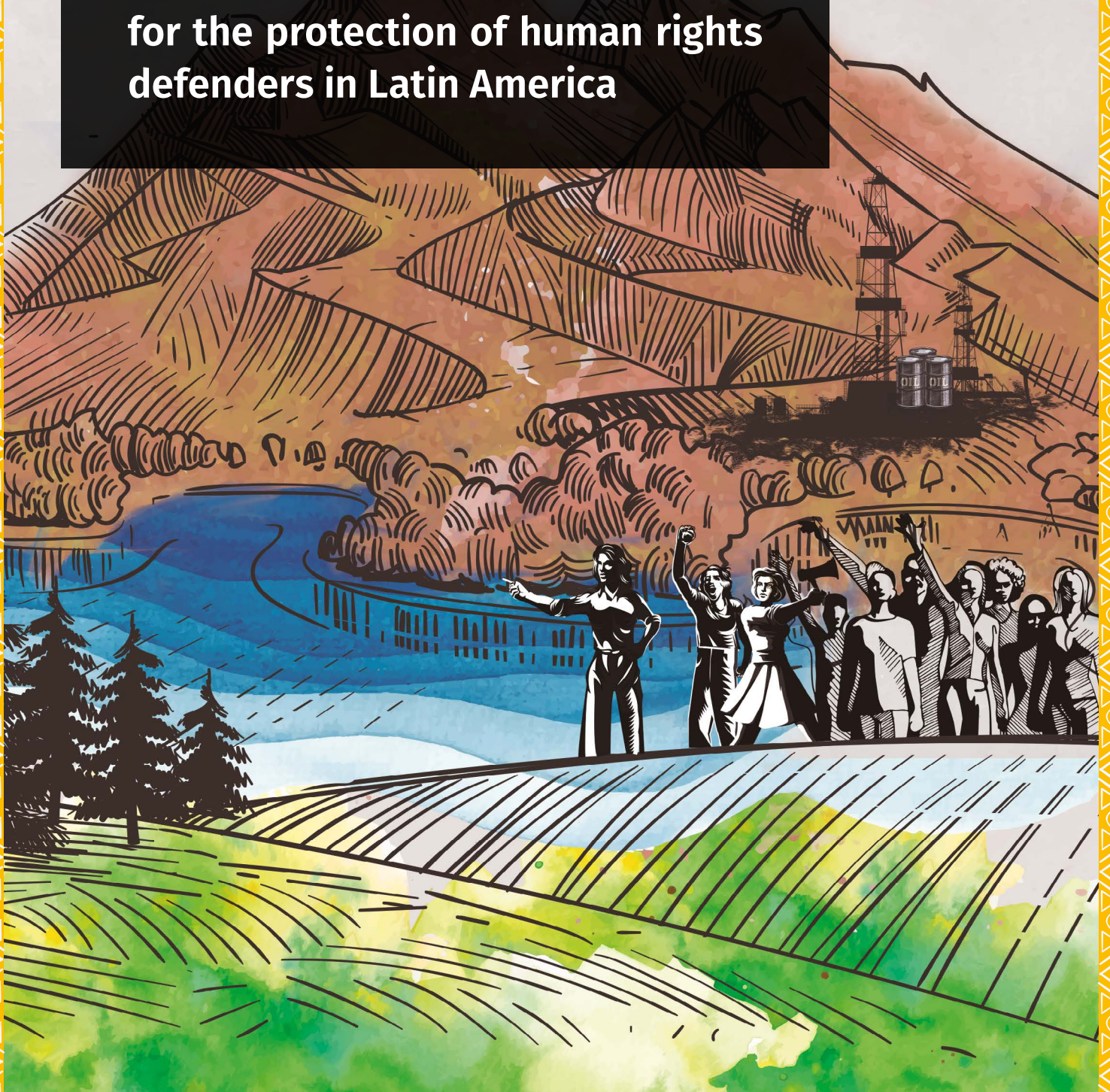




EU-LAT
Advocacy Network
Red de Incidencia

Recommendations to the EU and its Member States for the protection of human rights defenders in Latin America



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The current situation for human rights defenders in Latin America: common patterns and trends in the region

Despite progress made over the last two decades on the international normative framework on Human Rights Defenders (hereafter HRDs), there is a persistent lack of compliance with these norms and the implementation of national policies for protection are superficial or inexistent in the majority of countries. The defence of human rights continues to be a high-risk activity in much of the world and strategies to criminalise, stigmatise and repress HRDs have intensified in many countries.

In concrete terms, the EU-LAT Network would like to emphasise concerns that Latin America is one of the regions with the highest number of attacks against and killings of the last few years. According to [EU Protect defenders](#), in 2018, at least 256 defenders were killed in the Americas.

Although there are specific circumstances in each Latin American country, the EU-LAT Network has identified two regional trends against HRDs and two common violent patterns which exist with greater or lesser intensity throughout the continent:

A. TRENDS AGAINST HRDs:

(1) Reduced and unprotected environment for human rights defence work, lack of recognition for and delegitimation of the work of HRDs.

Space for action to defend rights is reduced by laws that limit this right, aggravated by a discourse that stigmatises and delegitimises organised collectives and groups that carry out actions to defend rights, especially when these actions affect certain economic or political interests. Lack of recognition and delegitimation are the main factors that increase the risk of attacks, such as physical aggression (including murder or attempted murder), threats, intimidation, harassment and other forms of violence.

(2) Criminalisation of HRDs through the use of legal norms that penalise or hinder their work.

This trend occurs almost systematically throughout the region, through the selective use of the legal system to criminalise HRDs. In this criminalization, the main actors are the State (police bodies, legal bodies, legislative body), however other non-state actors with significant powers to influence also contribute, such as companies or media that stigmatise and make complaints about legitimate activities.





B. COMMON VIOLENT PATTERNS AGAINST HRDs:

(1) Threats and attacks against people who defend the right to land, territory and the environment.

In Latin America, the most serious attacks occur in the context of extractive projects that favour economic profits for companies and private actors to the detriment of the interests and rights of small-scale farming, indigenous and afro-descendant communities. It is also important to note that these investments are often accompanied by militarisation of territories and widespread violence.

(2) Specific threats and violence against women defenders.

We have identified a growing tendency in the region to stigmatise, criminalise and attack the work of women defenders, especially those who defend sexual and reproductive rights, and against feminist groups. Generally, this type of violence is tinged with a gender component, which delegitimises the public role of women as defenders, and is shown in the way these attacks are carried out (gender-based violence).

Across these trends and patterns, we have identified a **cross-cutting element that makes the protection of defenders in the countries of the region difficult; namely the corruption of state structures and systematic impunity in the face of attacks and aggression.** The collusion, or even participation, of state authorities in a large proportion of the attacks and violence suffered by defenders is the main reason for the lack of attention and protection for the work of HRDs in most parts of Latin America, and that most attacks go unpunished.

Action strategies to make progress in the protection of HRDs in Latin America: key messages for the EU and its member States

With the aim of offering responses that contribute to the common issues identified above, we propose four “action strategies” – one for each common issue. Each action strategy includes: (i) key messages to incorporate or highlight in the EU and Member States’ political discourse on HRDs in Latin America; and (ii) concrete recommendations to incorporate into external action and in EU and Member States protection programs for HRDs.

This combination of key messages and recommendations are in line with the global roadmap traced by civil society organisations and HRDs in the Paris Summit (October 2018) and its [Action Plan](#), and as such they may be useful for both the Latin American context and for other regions of the world, given that the problem of violence against HRDs is a global issue.



ACTION STRATEGY 1:

GUARANTEE A SECURE ENVIRONMENT BY RECOGNISING AND LEGITIMISING THE WORK OF HUMAN RIGHTS DEFENDERS

PROBLEM

The environment for carrying out activities to defend human rights is becoming more reduced and hostile due to the lack of recognition and legitimisation for the work of HRDS.



KEY MESSAGES TO COUNTERACT THE PROBLEM:

- **The defence of rights is a fundamental element in a democratic system and must be respected, protected and promoted by States.** Limiting the rights of association, assembly, peaceful demonstration and freedom of expression weakens democracy and places the rule of law at risk. The work of HRDs is an indispensable and fundamental part of democracy.
- **States must refrain from hindering the work of HRDs and at the same time ensure adequate and sufficient security conditions to create a safe environment.**
- **States must explicitly recognise the work of HRDs in advancing peace, social justice, equality, dignity, good governance and sustainable development.** Those who defend and promote human rights play a fundamental role in the development of more just and egalitarian societies, and guaranteeing their work is essential to achieve the commitments established in the Sustainable Development Goals
- **Legitimise the work of defenders,** demanding that states eliminate legal and de facto obstacles to their activities and emphasising that they are legitimate according to international standards.

RECOMMENDATIONS TO THE EU AND MEMBER STATES:

01. In line with the Paris Summit Action Plan, promote via the Political Dialogue and Cooperation with the Latin American States, **the adoption of national action plans and/or policies that guarantee a safe and supportive environment for defenders**, in which budgets and concrete measures are established to recognise the right to protect and promote human rights and publicly support the important work of human rights defenders.

02. The EU Delegations and the Member States should **ensure that these policies or programs have the necessary resources and are sufficiently equipped** to fulfill their role effectively. A component on the fight against impunity must be included within protection programs for defenders.

03. **Promote and support, via cooperation funds, the implementation of education programs and awareness-raising campaigns promoted by state actors and civil society** on the right of all people to protect and promote human rights and on the UN Declaration on Human Rights Defenders.

04. **Reformulate the HRD protection programs** offered by the EU and Member States so that they do not focus only on individual risk, but also integrate a broader vision of collective protection, including political measures to recognise and legitimise groups and communities that defend human rights.

05. **Maintain a discourse of zero-tolerance against impunity** in any aggression against HRDs, emphasising the need to adopt concrete measures to ensure that no attack goes unpunished. **Publicly and unequivocally condemn aggression, threats and acts of intimidation** perpetrated against all human rights defenders without discrimination.

06. **Reject and denounce the use of language that stigmatises, insults, disparages or discriminates against defenders**, which includes labelling them as criminals, “foreign agents”, terrorists or extremists, undesirables or morally corrupt persons and threats to security, development or so-called traditional values.

07. As part of the implementation of the EU Guidelines on HRDs, the EU Delegations should **develop strategies together with the Member States to counteract political, social and media-based stigmatisation of HRDs**, taking into account the political and social context of each country.

08. Adopt measures to **raise public awareness about the importance of the work of human rights defenders**, for example, by initiating public campaigns; disseminating information on the UN Declaration on Defenders, via the EU Delegations and Member States, and by establishing and presenting awards.

ACTION STRATEGY 2:
**GUARANTEE A LEGAL
FRAMEWORK THAT RESPECTS
THE FULL EXERCISE OF THE
RIGHT TO DEFEND HUMAN
RIGHTS WITHOUT FEAR OF
FACING REPRISALS AND
CRIMINALISATION**

PROBLEM

Laws are being created to penalise human rights defence activities, and criminal law is being unduly used with the aim of criminalising, hindering and silencing the work of HRDs.

KEY MESSAGES TO COUNTERACT THE PROBLEM:

- The right to defend human rights requires a legal framework in which there are guarantees that there will be no reprisals for the free exercise of certain rights, such as the right to freedom of expression and opinion, the right of assembly and demonstration, the right to form associations and NGOs, the right to collect and disseminate information on human rights violations, or the right to report and protest against policies or actions that violate human rights.
- The selective use of criminal law against certain groups that exercise the right to defend rights violates international human rights standards and can not be justified under the argument of “the application of the rule of law” or “the application of laws”.
- The creation of ambiguous laws and regulations that enable criminalisation, as well as the use of lengthy legal processes, are strategies to intimidate and hinder the work of defending rights. As the IACHR has emphasised, this reality discourages the defence of rights and is detrimental to the full realisation of the rule of law and the development of strong and democratic societies.



RECOMMENDATIONS TO THE EU AND MEMBER STATES:

01.

Insist through the external action policy, that **national legislation on the rights to freedom of association, peaceful assembly and expression must be adjusted to international human rights standards** and must facilitate, rather than hinder, the exercise of these rights.

02.

Insist through the external action policy, that the use of criminal and administrative legislation to dissuade citizens from participating in demonstrations violates international human rights standards.

03.

In line with Resolution 22/6 of the United Nations Human Rights Council, **insist on the modification of criminal or procedural rules that enable or facilitate criminalisation by violating international standards.**

04.

Identify, support and urge governments to implement existing recommendations related to the criminalisation of human rights defenders, such as those issued by: i) the Inter-American Human Rights System; ii) United Nations Special Mechanisms (Committees and Rapporteurs) and iii) the United Nations Human Rights Council under the Universal Periodic Review framework.

05.

In contexts in which there are guarantees of proper use of the legal system, **offer cooperation funds for the training of officials in the security forces and the justice system** so that they have training on human rights, and specifically on the right to defend rights based on international standards.

06.

Include the training of national human rights institutions and legal defence institutes in cooperation programs aimed at strengthening justice systems, designating sufficient resources to monitor the application of justice respecting international human rights standards, in particular respect for the presumption of innocence, the right to a fair trial, due process and the right not to be persecuted for the legitimate exercise of human rights.



ACTION STRATEGY 3:

**REDUCE THREATS AND ATTACKS
AGAINST DEFENDERS OF
LAND, TERRITORY AND THE
ENVIRONMENT**

PROBLEM

Defending the right to land, territory and the environment has become one of the most high-risk activities for defenders and they are often accused of being terrorists or anti-development.

KEY MESSAGES TO COUNTERACT THE PROBLEM:

- **Rural communities have the right to land, to seeds and biodiversity, and to water for agriculture, as explicitly recognised, for the first time, in the United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas.**
- **Defenders of land, territory and the environment promote more appropriate and sustainable development models.**
- **The defence of land, the territory and the environment is one of the great challenges of our time and indigenous and small-scale farming communities that protect the planet's natural assets fundamentally contribute to the political agenda against climate change.**
- **As established under international standards, indigenous and small-scale farming communities have the right to and free, prior, informed and binding consultation and consent. Indeed, the communities and people who defend these rights must participate effectively in high-level political spaces, so that development models consider plural opinions and are built using a human rights approach.**
- **Violence is generally directed against leaders and members of indigenous, small-scale farming and Afro-descendant communities in order to paralyse and dismantle their work defending human rights. At the same time, they are more vulnerable because they have less access to protection mechanisms**



when they are in rural and isolated areas, and due to the lack of a differential approach in protection measures granted. To strengthen their capacities, these measures must incorporate a collective, gender-based approach, be culturally appropriate and consider the socio-political context where the HRDs carry out their work.

RECOMMENDATIONS TO THE EU AND MEMBER STATES:

01.

Adopt all necessary measures to **guarantee free, prior, informed and binding consultation and consent with indigenous peoples** in all economic, trade or investment deliberations and projects of the European Union and / or its member states that may affect the lands, territories or natural assets of indigenous peoples. In this way, guarantee their rights to consultation and consent according to the interpretation of norms of the Inter-American Court of Human Rights, the Inter-American Commission on Human Rights, ILO Convention 169 and the UN guiding principles on peasant communities. Likewise, **recognise consultations carried out by indigenous communities themselves in the exercise of their right to self-determination** included in the UN Declaration on the Rights of Indigenous Peoples.

02.

Urge States to incorporate **measures with a differential approach** in their protection mechanisms, taking into account the intersectional dimensions of violations committed against women defenders, indigenous peoples and rural and isolated communities. Also, **publicise and facilitate access to protection mechanisms** for community and indigenous defenders.

03.

As a preventive measure, we recommend that **diplomatic missions inform the private sector beforehand about the context in which investments are planned, with the effective participation of HRDs** from the potentially affected areas, so that their perspectives are included in the early phases of any economic, trade, investment or cooperation project. Widely disseminate the UN guiding principles among diplomatic personnel and companies from their own countries for the effective implementation of these perspectives.

04.

Include measures in any bilateral and multilateral trade agreement to prevent abuses and violations against HRDs, and implement mechanisms to monitor, investigate and provide accountability. These mechanisms should also address the negative impact of corruption, leading to the creation of concrete prevention measures.

05.

Participate constructively and proactively in debates and support the initiative promoted by the United Nations for the creation of a legally binding international instrument for transnational corporations and other companies in relation to human rights.

06.

Guarantee that all cooperation, trade and investment activities are consistent with human rights obligations and standards, including those related to the right to land included in the UN Declaration on the Rights of Peasants and Other People Working in the Rural Areas and other relevant instruments.

07.

Promote the ratification of the Regional Agreement on Access to Information, Public Participation and Access to Justice in Environmental Matters in Latin America and the Caribbean (also known as the Escazú Agreement), emphasising the effective implementation of the rights to access to information, participation and consultation in decision-making processes that affect the environment, as well as access to justice in environmental matters.

ACTION STRATEGY 4:

GUARANTEE THAT WOMEN DEFENDERS CAN DEFEND HUMAN RIGHTS, INCLUDING WOMEN'S REPRODUCTIVE RIGHTS, WITHOUT FEAR OF SUFFERING STIGMATISATION AND GENDER-BASED VIOLENCE FOR BEING WOMEN

PROBLEM

Women human rights defenders and people who defend the rights of women and gender equality run the risk of experiencing multiple and exacerbated forms of discrimination. This group is exposed to specific risks based on gender and are subjected to violence because they challenge norms and stereotypes that exist in their communities and social contexts.

KEY MESSAGES TO COUNTERACT THE PROBLEM:

- Women defenders face greater risks of harassment, verbal aggression and attacks on their reputation, sexual harassment, sexual violence and rape, and all kinds of threats directed at their children and / or family members.
- Stigmatisation and criminalisation of the defence of women's rights and of feminist movements, defamation and virtual attacks using new technologies, and violence and discrimination faced by women within their own movements, are factors that place women in a situation of particular risk. This also places extra limits on their right to defend rights and has a negative impact on the sustainability of their struggles and movements.
- Violence against women defenders is perpetrated by state and non-state actors such as the media, religious groups and companies that have a significant capacity to influence public opinion and this leads to increased social stigmatisation of women defenders and feminist movements.
- Some of the violence and discrimination against WHRDs occurs in their own environments (in their organisations, communities or families), which not only reduces the ability of women to actively and fully participate in the defence of rights, but also has a negative impact on the sustainability and strength of their communities and organisations.



RECOMMENDATIONS TO THE EU AND MEMBER STATES:

01.

In the EU Guidelines on Human Rights Defenders, **adopt an annex with specific gender recommendations and tools for their implementation**, to serve as a guide to the EEAS, EU Delegations and Member States. These recommendations should be prepared in consultation with civil society and organisations of women human rights defenders.

02.

EU delegations should **guarantee training and capacity-building for women defenders and defenders of women's rights and gender equality** in Latin American countries and disseminate the EU Guidelines, as well as strengthen the exchange of information on good practice and measures adopted, among women defenders and organisations.

03.

Publicly condemn the specific gender-based attacks suffered by women defenders and defenders of women's rights and gender equality and denounce the persistence of impunity for violations of the rights of women defenders.

04.

Promote the ratification of the optional protocol to the Convention on the elimination of all forms of discrimination against women. Implement the UN General Assembly's 2013 resolution on the protection of women human rights defenders, with regards to the requirement to take concrete measures to eliminate gender discrimination.

05.

Monitor compliance with and the implementation of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and international conventions on violence against women and support the Latin American States in their duty to **prevent and eliminate all forms of violence** against women defenders and their duty to **adopt measures to investigate, prosecute and punish acts of violence** against women defenders. Also **guarantee the rights of rural women**, as stipulated in General Recommendation 34 of the CEDAW Committee and the UN Declaration on the Rights of Peasants and Other People Working in Rural Areas.

06.

Urge the governments of Latin America to take timely measures, in accordance with their obligations under international law, **to eliminate gender stereotypes, based on the idea of the inferiority or superiority of either sex**, which is the underlying cause of violence against women, including violence against women human rights defenders.

07.

Integrate a gender perspective in all mechanisms for the analysis of violence against women defenders and for their protection. Women defenders have specific protection needs, not because they suffer greater or fewer attacks, but because they suffer in specific ways or because they experience attacks of a specific nature or in areas that are not visible without a gender perspective.

08.

Offer cooperation funds for legal assistance to women defenders, taking into account the gender-based stigmatisation that many experience when they are criminalised, as well as the specific obstacles they face to reporting the type of specific violence they suffer because they are women defenders, for example sexual violence and defamation linked to gender roles.

The EU-LAT Network is a pluralistic network of European movements and organizations that promote solidarity between the people of Latin America and Europe. The network was founded on October 11, 2017 after two European networks – CIFCA (Copenhagen Initiative for Central America and Mexico) and Grupo Sur – decided to join forces in order to strengthen their advocacy actions to promote participatory European policies, with a gender perspective, that contributes to the comprehensive respect for human rights, democratization and sustainable development in Latin America.



**This document has been prepared by the working group
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