



14 October 2013

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UN Special Rapporteur on the situation of human rights defenders  
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**Re: Request for information on situation of human rights defenders**

Distinguished Special Rapporteur,

Peace Brigades International PBI is an international NGO that has been promoting nonviolence and protecting human rights since 1981, through our international presence we work to open spaces for peace and the protection of human rights. We act on request of local groups working via non-violent means to promote human rights and social change in regions where there is oppression and conflict. We currently have field projects in Colombia, Guatemala, Kenya, Mexico, Honduras and Nepal.

We write in response to your request for civil society input on elements of a safe and enabling environment for the activities of human rights defenders (HRDs), and what States and other actors should do to ensure these components are in place.

PBI has been working to provide protective accompaniment to human rights defenders at risk for more than 30 years. The protective accompaniment provided by PBI cannot be understood without first understanding what we refer to as the concept of *socio-political workspace*. PBI's activities attempt to expand and maintain this workspace by deterring attacks and encouraging and empowering defenders. We believe that this concept, along with PBI's over-30-years of experience applying it in the field, can help provide insights for defining the concept of the "enabling environment" at the international level.

*By socio-political workspace, PBI considers that each human rights defender "perceives a broad array of possible political actions and associates a certain cost/benefit or set of consequences as acceptable, some not acceptable, thereby defining the limits of a distinct political space [...] The notion of 'acceptable' consequences can be fluid over time and will vary greatly among individuals or organizations. For some, the torture or death of a family member might be the most unbearable consequence. For others a threshold might be crossed at the first threats. An organization might be willing to risk the death of a member, but not the annihilation of the whole group. [...] But no one knows where the borders are. People base their decisions on their own perceptions and projections of what consequences they might suffer. These projections*

*might be based on substantial historical or political analysis, on simple prejudices, on an emotional reaction to a past trauma, or on any number of other psychological factors.”<sup>1</sup>*

The makeup of this workspace depends on the capacities and vulnerabilities of the defender, on the specific threat he/she is facing and on his/her perception of the risk. It is also sensitive to changes in the surrounding political context; it is therefore extremely relative and changeable.

Despite this relativity and volatility, PBI has identified some criteria that ensure a wider workspace for HRDs, illustrated with specific examples from the countries in which we work:

- **Human rights defenders are recognized by government institutions and the general public as legitimate and necessary civil society actors; their work is not defamed nor stigmatized, but rather publicly supported through communiques, publicity campaigns, etc.**

Defamation campaigns, stigmatization and slander have serious effects on the legal and legitimate work carried out by human rights organizations. Defamations can come from different sources (state, government, business, etc.), and have the effect of increasing the risk of those defamed, and can result in a progressive closure of their workspace. The effects may include:

- Increased risk to the life and physical integrity of defamed person/organizations. For example, they may become targets for illegal armed groups;
- Reduced advocacy capacity: being publicly defamed, persons/organizations may lose credibility and access to certain spheres of influence;
- Financing problems: some donors may decide to reduce or freeze funding to defamed NGOs until the charges have been cleared up;
- Criminal prosecutions: In our experience, it is common that HRDs who are prosecuted have been the targets of various kinds of attacks including defamation and stigmatization campaigns.

PBI as an organization has itself also been the direct victim of slander, and we have accompanied human rights organizations that have been and continue to suffer this kind of aggression, with all the consequences that this implies.

- *Example from Colombia: Defamation and stigmatization of Inter-Church Commission for Justice and Peace*

The Inter-Church Commission for Justice and Peace (CIJP), a Colombian NGO dedicated to the defence and promotion of human rights, currently focuses much of its work on accompanying communities returning to their lands after having been violently displaced. CIJP also provides legal support to victims of forced displacement (much of which has been historically caused by joint military-paramilitary operations), and

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<sup>1</sup> Liam Mahoney: “Side by Side: Protecting and encouraging threatened activists with unarmed international accompaniment”, New Tactics Project, Center for Victims of Torture, 2004, p.14-15.

representing the victims in national and international instances (such as the Inter-American System).

The campaigns of defamation and stigmatization against CIJP began many years ago and are directly linked to its work accompanying communities attempting to return to land illegally occupied by companies engaged in biofuels production (specifically palm oil) and banana and ranching operations after military and paramilitary operations in the late 1990s in the region of Urabá caused the displacement of thousands of small-scale farming families.<sup>2</sup> After a smear campaign in 2008, CIJP suffered a series of threats, and a member of the organization was kidnapped and threatened. The attacks continue to this day: the organization's leadership and field staff continue to face threats, surveillance, information theft, etc.<sup>3</sup> We note that as the cases on which CIJP works advance – for example a case currently before the Inter-American Court on Human Rights for the responsibility of the Colombian State in the forced displacement of the aforementioned communities – the aggressions against the organization increase.

- *Example from Mexico: Defamations put HRDs at more risk and reduce their workspace*

In Mexico, despite the fact that Enrique Peña Nieto's government has made some speeches acknowledging the work of particular individuals<sup>4</sup> or recognizing the need for a protection mechanism,<sup>5</sup> acts of defamation by public officials are still reported. At the federal level, for example, the Navy in 2011 declared that human rights organizations were a front for organized crime.<sup>6</sup>

More recently, in 2013, the governor of the State of Oaxaca declared that the members of the indigenous community of San Dionisio del Mar who were opposed to the construction of a wind farm in their lands were a “bunch of alcoholic people” opposed to the social benefits of the project.<sup>7</sup> In analysing this stigmatization, one must also take into account the repetitive harassment and attacks against community and indigenous leaders struggling for the right to a free, prior and informed consultation in this community.<sup>8</sup>

Defamation can also come from non-state actors such as the media, companies or unofficial political powers. For example, in 2011 the President of the National Chamber

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2 PBI Colombia: [“Curbaradó and Jiguamiandó: Challenges continue for the return of stolen land”](#), December 2011.

3 PBI Colombia: [“Escalation of attacks: Member of Justice and Peace kidnapped in Urabá”](#), September 2008.

4 *El Universal*: [“EPN entrega Premio de DDHH al padre Solalinde”](#), 10 December 2012.

5 PBI Mexico, [“New Mexican Government commits to effective application of the Protection Mechanism”](#), 17 December 2012.

6 *CNN México*: [“Las declaraciones de la Marina tensan la relación activistas-Gobierno”](#), 28 July 2011.

7 *La Jornada*: [“Opositores a parque eólico, grupitos que se la pasan bebiendo, dice Cué”](#), 7 February 2013.

8 Código DH: [“Acción Urgente Amenazas contra opositores de San Dionisio del Mar y Caravana de Solidaridad”](#), 8

October 2012; Amnesty International: [“Community Activists in Mexico receive threats”](#), AMR 41/004/2013, 5

February 2013; PRODESC: [“En riesgo la vida y la integridad física de defensores y defensoras de derechos humanos](#)

[en la lucha por la defensa de su tierra y territorio en el Estado de Oaxaca”](#), 2 February 2013; Colectivo Oaxaqueño

en Defensa de los Territorios: [“En peligro personas defensoras y pobladores de San Dionisio del Mar y Álvaro](#)

[Obregón, en Oaxaca”](#), 2 February 2013.

for Transformative Industry (Canacindra) called the Centre for Workers Support (CAT Puebla) and its leader Blanca Velázquez “a danger for Puebla”, stating that “this group only seeks to destabilize the businesses, especially those of North American provenance”.<sup>9</sup> This and other attacks led the organization to close their offices and its members to flee.<sup>10</sup>

Human rights defenders in Mexico have asked to authorities to refrain from defaming them, and instead to launch campaigns of recognition in order for society to understand the importance of HRDs and the risk they face. Since no such policy has yet been implemented, the National Network of Civilian Human Rights Organizations (Red Nacional de Organismos Civiles de Derechos Humanos “Todos los Derechos para Todas y Todos” - RedTDT) – a network conformed by 73 Mexican human rights organizations, launched its own campaign of recognition and publicizing the work of HRDs in Mexico.<sup>11</sup>

For these reasons, at PBI we consider it essential that:

- Government officials refrain from any kind of stigmatization and/or slander of HRDs;
  - Prosecutor General's Offices investigate government officials who make defame or slander HRDs;
  - The international community strongly condemns every kind of slander against HRDs.
- **Human rights defenders are free from physical danger or threat thereof due to their work. In countries in which such danger exists, local governments provide protection through comprehensive protection programs.**

Such programs should be run and staffed wholly by the State; include both protective and preventative measures; and respond to the different needs of women, LGBTI, Afro-descendant, indigenous, and other marginalized populations.

- *Example of a National Program of Protection in Mexico*

In Mexico, in 2010, the concerning rates of attacks against HRDs and the incapacity of the Mexican State to implement the protection measures granted by national Human Rights Commissions or the Inter-American Human Rights System, motivated the development, by civil society, of a proposal for a Protection Mechanism.<sup>12</sup> After years of discussions and debates, and based upon the civil society proposal (this level of participation and cooperation was never seen before in any other process of human

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9 CAT, Prodesc, ProDH, Cereal, Red de Defensoras México, Iniciativa Mesoamericana par Defensoras, Red TdT: “[Denuncian Amenazas por parte de Empresarios de Puebla a Defensoras de Derechos Humanos Laborales](#)”, 8 August 2011.

10 PBI Mexico, “[CAT forced to close its office due to lack of protection guarantees](#)”, 1 June 2012.

11 Campaign Page: <http://defendamoslaesperanza.org.mx/defendamos-la-esperaza-campana-de-la-redtdt-en-favor-de-los-defensores-y-defensoras-de-derechos-humanos/>.

12 PBI Mexico: “[How Many More? The need for a Governmental Protection Mechanism for Human Rights Defenders](#)”, Bulletin n°30, April 2011.

rights policy definition), the Law for the Protection of HRDs and Journalists was finally approved in 2012, and the Interior Ministry created a Protection Mechanism for HRDs and journalists.<sup>13</sup>

The law has respected the criteria defined by HRDs as fundamental for protection to be achieved:

- **Broad definition:** the law defines HRDs according to the UN Declaration 53/144 of 1998.
- **Coordination:** The law provides a legal basis for the coordination between the different governmental agencies responsible for the protection of HRDs and journalists. The law also includes collaboration agreements with state level governments in order to ensure their participation in the Mechanism. In case of municipal or state level incapability or when these levels of Government are shown to be related to the existent threat, the law establishes the 'subsidiarity principle', obliging the Interior Ministry to assume responsibility for the implementation of protective measures.
- **Participation:** The law ensures the participation of civil society organizations in the implementation of the Mechanism and its decision-making processes. It also guarantees the right of the beneficiary to participate in the analysis of his/her risk and the definition of his/her protective measures. The law establishes a complaints procedure for cases in which the beneficiary is not in agreement with the measures authorized or when these measures are implemented in a deficient manner.
- **Preventive and urgent measures:** The law contemplates prevention measures, preventative measure, protective measures and urgent protective measures. The law also defines an extraordinary process for emergency response in less than 12 hours.
- **Justice:** The law ensures that public officials who do not implement the measures ordered by the Mechanism will be legally sanctioned.

Despite these positive steps, the Mechanism has not yet been properly implemented by the Mexican government. In particular, the Mechanism lacks properly trained staff, clear and approved rules regarding the management of its resources, and a guaranteed efficient response. It has not received the high-level political backing necessary to function with impact. Coordination between the federal and state level is still ineffective and does not work in a systematic way. As a consequence, risk assessments are not properly carried out and protection measures are not implemented fully or in a timely manner.<sup>14</sup>

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13 PBI Mexico, "[Briefing on the Mechanism for Human Rights Defenders and Journalists](#)", June 2013.

14 PBI Mexico: "[The Protection Mechanism one year on; activists demand institutional backing from Peña's Government](#)", 25 June 2013.

In September 2013, one of the beneficiaries of the Mechanism was attacked and seriously injured: Vicente Moreno Domínguez from the Centro de Derechos Humanos Zeferino Ladrillero (one of the organizations interviewed by PBI in 2012) from the State of México was beaten by persons linked to a Municipal authority. This is the first case of failure that has been made public.<sup>15</sup> Nonetheless, a large part of Mexican civil society continues to believe that the structure of the Mexican Mechanism is unique and that an effective implementation could improve the HRD situation. Civil society organizations have repeatedly asked for its strengthening.<sup>16</sup>

- *Example of problems with privatization of State protection programs in Colombia*

The duty to protect human rights defenders is a state responsibility. To delegate this responsibility to private companies, as Colombia's National Protection Unit (NPU) has done, results in a dilution of that responsibility, with serious consequences for the safety of those protected. Currently in Colombia, the protection of persons at risk is regulated by decrees 4912 and 1225, which define and set parameters for the NPU. The We Are Defenders Program's (a national coalition of human rights organizations that monitors the situation of HRDs in the country) report on the first half of 2013 analyses the changes that have been occurring after the creation of the NPU in 2011.<sup>17</sup> The report highlights the following concerns about the current state of the NPU:

- A focus on providing armed protection measures, rather than what Colombian HRDs call "political" measures, which they believe are at least as important for their protection: investigations into the attacks against them, public statements from high-ranking government officials supporting HRD work, etc.;
- Protection is conceived as a "service" rather than a "responsibility";
- To understand the protection as composed of mere physical measures does not take into account other key factors such as the different kinds of work carried out by HRDs in rural areas as opposed to urban ones; the effect that the presence of armed men may have on the work of HRDs, particularly when working with victims of violence; and the need for protection of the families of the HRDs;
- The lack of a differential approach that takes gender and other forms of diversity into account.

Currently in Colombia there are three consortiums made up of eight companies contracted by the NPU for providing protection. In this context the protected HRDs have identified several flaws and concerns<sup>18</sup>, including:

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15 "[SEGOB fracasa en su obligación de protección: Defensor de Derechos Humanos beneficiario del Mecanismo sufre ataque y es gravemente herido](#)", public Letter sent by several organisations to Osorio Chong (Mexico Interior Ministry Chief), 11 September 2013.

16 See the [letter sent by several organizations to the Mexico Interior Minister](#), 25 June 2013.

17 We Are Defenders, [Héroes anónimos: Informe Enero-Junio 2013](#), August 2013.

18 Ibid.

- **Oversight of the bodyguards and/or use of resources protection:** In situations in which bodyguards or other security personnel, by a direct act or by omission, threaten the life of protected person, there is no clarity on who is responsible; in the context of private contracting, the company has economic responsibility but not political, legal or moral responsibility;
- **Criminal and/or disciplinary history of protection staff:** In the NPU's contracts with security companies, it is stipulated that the manager of each of the companies has been investigated, but nowhere in the contract is the recruitment procedures for security personnel laid out, thus leaving up to the individual companies this important task, apparently without oversight by the NPU;
- **Exponential growth vs. protection results:** In 2008, before the NPU existed and protection was administered directly by the Ministry of Interior, there were 200 bodyguards; today there are 2000. According to data from the previous administration, in 2008 the HRD, journalist and trade unionist protection program protected almost 9,000 people, with a budget of around US \$4 million. Today there is a budget of US\$118 million and the number of protected persons has dropped to 7,500. Nonetheless, the We Are Defenders program reports an increase in aggressions against HRDs since the NPU was created, as compared to previous years.<sup>19</sup>

- *Examples of the need for differential approaches to protection, specifically for WHRDs*

Differential approaches are incorporated so as to properly address the specific risks and protection needs faced by women, LGBTI, indigenous, afro-descendant, and other marginalized populations.

Protection measures should be adjusted to the protection needs of the beneficiaries without imposing upon them measures that make them uncomfortable, increase their risk or contribute to the persistence of human rights violations against them, and the beneficiaries should be included in the decisions made about the measures and how they are implemented.

With regard to protection for women HRDs (WHRD), there should be recognition of gender discrimination and sexual violence as a weapon.

PBI has observed that harassment against WHRDs has often special characteristics linked to gender. Threats can have sexual allusions, and attacks or harassment are often carried out against their families and children. This has been the case in Mexico<sup>20</sup>, and

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19 Op. Cit. We Are Defenders.

20 See PBI Mexico, [Dignas: Voices of Women Human Rights Defenders in Mexico](#), January 2012.

we mention in particular the case of Valentina Rosendo Cantu and Inés Fernandez Ortega in Guerrero<sup>21</sup>.

According to the Mesoamerican Initiative for Women Human Rights Defenders (*Iniciativa Mesoamericana de Defensoras de Derechos Humanos*), 40% of the 414 aggressions registered against WHRD have a gender component<sup>22</sup>. Their report explains that this gender violence paralyzes and inhibits the work of the WHRDs, making them feel guilty, normalizing the aggressions and reproducing gender stereotypes (women as sexual objects or as wives/mothers). In Mexico, Just Associates-JASS, the National Network of WHRD (*Red Nacional de Defensoras de Derechos Humanos*) and Consorcio-Oaxaca, reported that 40% of the WHRD interviewed in 2013 for a written submission for Mexico's UPR pointed out that sexual violence was the principal form of violence they faced because of their work in favour of human rights.<sup>23</sup>

- **Prevention policies are in place to address, and eventually eliminate, the causes of danger to HRDs, and to provide guarantees of non-repetition.**

Such policies should include:

- Efficient and effective investigations and sanctioning of those responsible for aggressions against HRDs, including of the masterminds;
  - *Example from Mexico of how impunity leads to further attacks against HRDs*

In the state of Guerrero (South of Mexico) in 1998, the Army massacred indigenous leaders who were peacefully gathering in the community of El Charco. The State accused them of being members of the guerrilla. The facts were never seriously investigated and those responsible for the massacre were not prosecuted. In the following years, leaders that survived were detained, tortured and assassinated by alleged paramilitary groups. Two of the leaders, Raul Lucas Lucia and Manuel Ponce, directors of the OFPM, were disappeared in 2009 and eventually found executed. Other organizations, such as the Organization of the Mephaa People (*Organización del Pueblo Indígena Mephaa- OPIM*, accompanied by PBI since 2005), which has denounced this situation, were systematically harassed and attacked. Its leaders have had to eventually flee their region.<sup>24</sup>

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21 PBI México: "[Mexico before the Interamerican Court](#)", Bulletin 29, October 2010; "[Mexican WHRDs: Authorities must guarantee the security of Otilia Eugenio Manuel and members of the OPIM after receiving new death threats](#)", 26 February 2013.

22 IM-Defensoras, "[Violencia contra Defensoras de Derechos Humanos en Mesoamérica. Diagnóstico 2012](#)", August 2013.

23 JASS, Red Nacional de Defensoras de DDHH, Consorcio Oaxaca, "[Situación de las Mujeres Defensoras de Derechos Humanos en México \(EPU 2013\)](#)", 2013.

24 For more information on this case see: PBI- Mexico, "[Silenced: violence against Human Rights Defenders in the South of Mexico](#)", Bulletin n°26, May 2009.

- Dismantling of paramilitary structures in countries where such actors have targeting HRDs (Colombian example, or other country);

- *Example of paramilitary violence affecting human rights defenders in Colombia*

In the regions of the country where Colombia's mining industry is expanding, human rights violations have regularly been reported by affected communities and human rights organizations. Generally in these zones, violence and the armed conflict seriously affect the civilian population, creating forced displacements and destabilising community life.<sup>25</sup> A 2011 report by the United Nations Development Programme highlighted this trend and indicated that competition for soil and subsoil rights could become a latent form of pressuring land evictions.<sup>26</sup>

A variety of human rights organizations have reported that some multinationals have financed paramilitary groups in order to protect themselves or to displace communities from lands from which they wish to extract resources.<sup>27</sup> The latest report from the Colombian NGO Consultancy on Human Rights and Displacement (CODHES) finds there to be a large military and paramilitary presence in mining zones: "The armed forces protect private investment and paramilitaries suppress social protest and create displacement."<sup>28</sup>

Unfortunately, the presence of these groups in Colombia does not seem to be waning. A recent report about the armed conflict from the Development and Peace Studies Institute (Indepaz) provides figures on the current presence of illegal armed groups in the country, including neo-paramilitary groups. The report gives accounts of the presence of these organizations in about 30% of the country's municipalities.<sup>29</sup>

On numerous occasions throughout this year, PBI Colombia has drawn attention to different checkpoints established by these groups in rural areas, principally in the Urabá region. On 6 September in the hamlet of La Hoz (Antioquia), PBI members who were accompanying members of the Peace Community of San José de Apartadó encountered a group of six armed, uniformed men who identified themselves to PBI as members of the 'Gaitanista Self-Defence Forces of Colombia'. Despite denunciations made by local organizations about the presence of this group in the area, the Peace Community affirms that the group has remained in the area, and that many of the civilians in the area have been displaced as a result.<sup>30</sup>

- Construction of official historical memory that document violence against HRDs.

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25 Guadalupe Rodriguez: "[Rebelión contra la minería del oro en Colombia](#)", en *Otraamérica*, 10 July 2011.

26 United Nations Development Programme, "[National Human Development Report 2011: rural Colombia, reasons for hope](#)," September 2011.

27 *El Espectador* : "[Ochenta empresas financiaban a paramilitares del Bloque Norte: Así lo denunció el ex militante, alias 'don Antonio'](#)", 3 February 2010.

28 CODHES: "[¿Consolidación de qué?](#)", Information Bulletin n0 77, February 2011.

29 Instituto de Estudios para el Desarrollo y la Paz (Indepaz), [VIII Informe sobre grupos narcoparamilitares](#), August 2013.

30Peace Community: [Paramilitaresactúan a todasanchas](#), 21 August 2013.

- *Example of the Office for Investigations into Crimes of Social Transcendence in Mexico*

In Oaxaca (South of Mexico), in 2011 the governor issued an agreement which created the Office for Investigations into Crimes of Social Transcendence (*Fiscalía de Investigación de Delitos de Trascendencia Social- FIDTS*) as a means of responding to the organized civil society demand of improving the access to justice and reparation for victims of grave human rights violations committed during the social crisis of 2006-2007. A large part of these crimes were against social leaders, trade-unionists and HRDs in general and remain unresolved. Not one of the cases of attacks against individuals accompanied by PBI has seen a guilty party brought to justice.

Currently, and at the request of the victims, cases of crimes committed against HRDs can be transferred from other areas of Oaxaca State Prosecutor General's Office to the FIDTS. This transfer has already been requested by a large number of at-risk HRDs in the state, in the hope of seeing more efficient progress made. Although the FIDTS is considered as an advance, since its establishment local HRDs have had to exert constant political pressure in order to ensure that the FIDTS has been even partially equipped with the resources and trained staff necessary to properly carry out its functions. HRDs have pointed out several weaknesses: a lack of human resources and financing, lack of properly trained special investigators, lack of protocols for investigations into crimes against HRDs developed in consensus with them, lack of police trained in human rights and treatment of victims among others.<sup>31</sup>

• **The judicial system functions efficiently and effectively, guaranteeing rights of due process in cases in which HRDs are accused of crimes, particularly when accused of political crimes.**

States have every right and duty to open criminal investigations as long as there are guarantees of due process. However, human rights defenders are sometimes prosecuted without respect for national standards of due process, and in some cases such prosecutions have been used as tools to silence their work. In many cases prosecutions are based on trumped-up charges, which can have several disturbing consequences for the work and safety of the accused HRDs and their families. Among the consequences of malicious prosecutions, we highlight:

- The HRD and his/her organization will have to invest time and money to his/her defence, at the expense of his/her human rights work;
- The HRD and his/her NGOs may also lose credibility, which may affect support from others in the future. This isolation may also lead to an increase in physical danger;

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31 For more information see: PBI- Mexico, "[The protection of human rights defenders \(HRDs\) after two years of Gabino Cué's government](#)", November 2012.

- As indicated by a thorough study of malicious prosecutions in Colombia by Human Rights First, unfounded criminal charges, as a form of defamation and slander, can put HRDs in physical danger.<sup>32</sup>

It is concerning that these malicious prosecutions tend to go unnoticed by the international community. In this sense, PBI wishes to draw the attention of the international community to the consequences of this practice, and to encourage it to develop appropriate responses in order to protect and maintain workspaces of HRDs.

- *Example from Colombia of the effects of malicious prosecutions*

David Ravelo Crespo is a prominent Colombian human rights defender and a member of the Regional Corporation for the Defence of Human Rights (CREDHOS) from the city of Barrancabermeja.

On 14 September 2010, Mr Ravelo was arrested on a warrant issued by a prosecutor in the National Counterterrorism Unit in Bogotá,<sup>33</sup> and has been in jail since on charges of aggravated homicide. National and international organizations have denounced multiple irregularities in the case against Mr Ravelo, including the fact that the only witnesses are three demobilized paramilitaries, part of groups that Mr Ravelo had previously denounced for human rights violations.<sup>34</sup> This is not the first time Mr Ravelo has faced prosecution; he was imprisoned for 27 months between 1993 and 1995 on charges of rebellion, for which he was later acquitted of all charges, and subsequently won a lawsuit against the State, which was ordered to compensate Mr Ravelo for unlawful detention.<sup>35</sup>

Since then, Mr Ravelo has reported continued aggressions against him, including plans to kill him, defamations, and numerous threats to him and his family.<sup>36</sup> It is quite clear that the current criminal case against Mr Ravelo has had the effect of preventing his work in defence of human rights.

- *Example from Honduras of the effects of malicious prosecutions*

The Civic Council of Grassroots and Indigenous Organizations (Consejo Civico de Organizaciones Populares e Indígenas de Honduras - COPINH) is a non-governmental organisation that works for human rights, the conservation of the environment, and the recognition of the rights of indigenous peoples. COPINH and its members have filed

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32 Human Rights First: [Baseless Prosecutions of Human Rights Defenders in Colombia: In the Dock and Under the Gun](#), February 2009.

33 Human Rights Defenders Roudtable of Barrancabermeja: "[Privado de la libertad el defensor de derechos humanos David Ravelo Crespo](#)", 14 September 2010.

34 World Organisation Against Torture, "[Colombia: International Organisations express grave concerns at the irregularities in the judicial process leading to the conviction of David Ravelo Crespo, Colombian human rights defender](#)", 10 December 2012.

35 Sentence from the Contentious Administrative Tribunal of Norte de Santander (Colombia), June 2010.

36 See the following "Focos de Interés" reports from PBI Colombia: February, June, July and December 2008; March 2009; April and June 2010. Please write to [comunicaciones@pbicolombia.net](mailto:comunicaciones@pbicolombia.net) if copies are needed.

formal complaints about the types of aggressions and threats against them, including smear campaigns, physical attacks, and the detention of its members for participating in demonstrations.<sup>37</sup>

COPINH has been accompanying Lenca communities of the Rio Blanco region in the departments of Intibucá and Santa Barbara that are peacefully resisting the construction of the Agua Zarca hydro-electric dam by Desarrollos Energeticos, S.A. (DESA). On 1 April 2013, the community began to block the road the company had built on their ancestral territory without their permission, not allowing construction equipment to pass. They have maintained the roadblock ever since.<sup>38</sup>

On 24 May 2013, Berta Cáceres (general coordinator of COPINH) and Tomás Gómez Membreño (member of COPINH) were arrested in a military operation in the Agua Caliente sector of Santa Barbara. The HRDs were informed that they were being arrested for possession of a weapon, supposedly found in the boot of their car. Whilst Tomás Gómez Membreño was released the same night, Berta Cáceres, as a well-known leader within the Honduran social movement, was placed in a cell and treated as a highly dangerous person. She was released the next day with preventive measures.<sup>39</sup> During the pre-trial hearing on 13 June, the case against Berta Cáceres was conditionally closed, giving the Public Prosecutor's Office five years to provide additional evidence and the possibility to reopen the case. The Public Prosecutor's Office presented an appeal, which was granted, ordering preventive detention for Ms. Cáceres, but with conditional freedom pending the requirement for her to sign every week in court until the trial.<sup>40</sup>

On 2 August, public prosecutors in Intibuca formalized charges of land usurpation, coercion and damages against COPINH leaders Berta Cáceres, Tomás Gómez Membreño and Aureliano Molina, based on accusations by the company that the three had instigated the resistance in Rio Blanco. On 14 August an arraignment hearing was held, in which the judge release the accused pending trial, but with the requirement to sign in with the court every week.<sup>41</sup> At a subsequent hearing on 20 September, a judge ordered preventive detention for Berta Cáceres, which had yet to be made effective by 9

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<sup>37</sup> PBI: Report of the Short-term Mission to Honduras: The Situation of Human Rights Defenders, 2011.

<sup>38</sup> Rights Action, "[The Agua Zarca Dam and Lenca Communities in Honduras: Transnational Investment Leads to Violence against and Criminalization of Indigenous Communities](#)", October 2013.

<sup>39</sup> Front Line Defenders, Press release: "[Arbitrary detention, and subsequent release, of Ms. Berta Cáceres and Mr. Tomás Membreño](#)", 27 May 2013.

<sup>40</sup> COPINH, Press release: "[¡Gracias por la solaridad! Llamamos a redoblar las acciones por los derechos del Pueblo Lenca de Río Blanco](#)", 13 June 2013.

<sup>41</sup> Op. Cit.: Rights Action.

October, and ordered restrictions for Aureliano Molina and Tomás Gómez Membreño.<sup>42</sup> These orders require them to sign every fortnight in court and prohibit them from entering the communities in the Río Blanco region. The judge also ordered the eviction of the roadblock by the Lenca communities in the Rio Blanco region.<sup>43</sup>

Furthermore, Victor Fernández, the lawyer of Berta Cáceres, Tomás Gómez Membreño and Aureliano Molina, could be facing similar legal charges as of 13 September. As coordinator for the Broad Movement for Dignity and Justice (Movimiento Amplio para la Dignidad y la Justicia – MADJ) Victor Fernández and his brother Martin Fernández, also a member of MADJ, are accompanying communities in the Florida sector of the municipality of Tela, department of Atlántida who are defending the natural resources in their lands. The charges were presented by la Sociedad Mercantil La Victoria, a mining company with a licence for exploration in the area, filed a complaint in the Public Prosecutor's Office.<sup>44</sup>

As mentioned above, the consequences of these legal accusations are severe. In the case of COPINH, not only do they concern the investment of time and money in the defence of the accused and in the compliance with restriction orders, or the stigmatization of the organization through the accusations of illegal possession of a weapon and instigation of violence, but they also isolate community leaders and impede the ability of these high-profile human rights defenders to provide accompaniment to indigenous communities in less accessible rural areas.

- **Human rights defenders are included in decision-making processes about design and implementation of policies that affect them or the issues on which they work; similarly, conflict-resolution mechanisms exist so as to facilitate dialogue between affected communities and the government and business projects that affect them**

- *Example of the utility of and difficulties with the Guarantees Roundtables in Colombia*

In April 2009 the Colombian government and coalitions of human rights and community organizations initiated a dialogue process known as the “National Guarantees Roundtable,” in an effort to agree upon on strategies and actions that improve security and other conditions for human rights organizations, and social and community leaders.

The Roundtables have included representation from multiple government agencies, like the Interior Ministry, the Human Rights Ombudsman, etc., as well as the armed forces.

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<sup>42</sup> Amnesty International, Urgent Action: “[Indigenous leaders continue to be targeted](#)”, 4 October 2013; Amnesty International, Press Release: “[Honduran Indigenous leaders in risk of unfair imprisonment](#)”, 19 September 2013.

<sup>43</sup> Op. Cit.: Rights Action.

<sup>44</sup> MADJ, Press Release: “[Alerta! Persecución a líderes del MADJ](#)”, 13 September 2013.

The Office of the U.N. High Commissioner for Human Rights, the U.N. Program for Development and the embassies of Spain and Sweden have also participated as observers and guarantors. The Roundtables have taken place both on the national level as well as in various regions of the country.

The Roundtables have resulted in important advances, including the design of the National Protection Unit, the agency established in 2011 to provide protection for HRDs, journalists, trade unionists, politicians, and others.

However, the participating civil society coalitions have had some serious concerns about how the process has taken place. In June 2011, for example, the coalitions suspended their participation after the murder of land rights activist Ana Patricia Córdoba, who had requested protection measures, and the fact that at least 20 other HRDs had already been assassinated so far that year. In suspending their participation, the coalitions highlighted several ways in which they believed the government had not fulfilled promises made during the process.<sup>45</sup>

The Roundtables have been reinitiated, however, and in April of this year, government officials and civil society coalitions, with the presence of U.N. and embassy officials, carried out an evaluation and planning session. All sides recognized the importance of the Roundtables and the need to continue, particularly given the continued high rates of aggressions against HRDs in Colombia.<sup>46</sup> Members of community organizations in particular highlighted the importance of the Roundtables in providing greater recognition for their work and their security situation.

- *Positive and negative examples of civil society participation in the creation of the Governmental Protection Mechanism in Mexico*

In Mexico, as explained above, the creation of a Governmental Protection Mechanism for Human Rights Defenders and Journalists was carried out with significant participation of human rights organizations and HRDs. The Mechanism also provides that beneficiaries of protection measures should be included in their definition and implementation. In addition, the structure of the Mechanism counts with a Consultative Council made up of nine volunteer members of civil society elected by HRDs and journalists. This Council monitors the mechanism and represents HRDs and journalists in the sessions of the Governing Board of the Mechanism.<sup>47</sup>

However, structures and commitment are not sufficient. State willingness to take into account the input of HRDs and to fully implement applicable laws is fundamental. The implementation in Mexico of the precautionary measures issued by the Inter-American System of Human Rights provides a good example. Although the State has been eager to meet with HRDs in order to discuss these measures and agree on how they would be

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<sup>45</sup> Techo Común: "[Plataformas de DDHH suspenden Mesa Nacional de Garantías con el Gobierno](#)", 15 June 2011.

<sup>46</sup> Somos Defensores: [Héroes anónimos. Informe Enero-Junio 2013](#), August 2013.

<sup>47</sup> PBI Mexico, "[Briefing on the Mechanism for Human Rights Defenders and Journalists](#)", June 2013.

implemented, the measures have afterwards not been fully implemented, nor have they taken into account beneficiaries' opinions.

- **Corruption does not impede the work of human rights defenders; government officials carry out their work in an honest and straightforward manner**

- *Example of the negative effects of corruption on HRDs in Kenya*

A recent report by Transparency International ranked Kenya as the country with the fourth-highest rates of citizens having reporting having paid bribes.<sup>48</sup> Corruption and human rights violations are related in many ways and corruption dilutes human rights in a significant way. Corruption leads to misappropriation of resources meant for national development or the enjoyment of the political, social, economic and cultural rights of citizens. In addition, civil and political rights are violated when those accused of corruption connive to suppress and silence anti-corruption campaigners. HRDs working on accountability, anti-corruption and social auditing issues in West Kenya and the Rift Valley, but also in the Nairobi slums have been identified as at particular risk.

At the end of last year a prominent human rights activist and director of a local NGO that campaigns for transparency and accountability was attacked and severely injured. The attackers allegedly demanded that he withdraw a lawsuit he had filed to demand accountability in the procurement of biometric voter registration kits ahead of the March elections because of the corruption associated with the process.<sup>49</sup>

- *Example of how corruption affects HRDs' work in Mexico*

In the North of Mexico, HRDs have documented situations of collusion between authorities and organized crime. This is especially true in violations committed against migrants or in cases of disappearances.<sup>50</sup> This is problematic because HRDs have been obliged to demand justice or protection to authorities who were at the same time direct perpetrators or linked to the perpetrators of these crimes. This of course does not guarantee the necessary impartiality and probity to ensure justice.

- **Human rights defenders have access to secure technology and communications resources, and their information security is protected**

- *Example of how information security issues has affected the work of HRDs in Colombia*

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<sup>48</sup> Transparency International: [Global Corruption Barometer 2013](#), 19 July 2013.

<sup>49</sup> For more information, see: Peace Brigades International: [An assessment of the feasibility and effectiveness of protective accompaniment in Kenya. External Report](#), July 2012; Kenyan Human Rights Commission: [Lest we forget: The faces of impunity in Kenya](#), 24 August 2011; East and Horn of Africa Human Rights Defenders Project : [Overview of the Human Rights Situation in the East and Horn of Africa: November 2012 – March 2013](#), April 2013.

<sup>50</sup> PBI Mexico, [A Panorama of the Defense of Human Rights in Mexico: Initiatives and Risks of Mexican Civil Society](#), April 2013, Chapter 2 and 3.

In January 2013, two external storage hard drives of digital files, project reports and folders with research documents - including reports on cases of human rights violations in the region - were stolen from the office of the Social Corporation for Community Counselling and Training (*Corporación Social para la Asesoría y Capacitación Comunitaria* - COSPACC) in Bogota, Colombia. Other items of value not containing sensitive information were not stolen.<sup>51</sup> COSPACC had been the subject of previous acts of intimidation and surveillance, including cutting of the telephone and Internet lines, and the tapping of the cell phones of several directors of the organization. Given the nature of these incidents, it is believed that the intention was to obstruct COSPACC's work denouncing human rights violations and promoting the rights of local communities.

- *Examples from Guatemala and Mexico of how security protocols can enhance HRDs' workspace*

Several examples in Latin America demonstrate that the use of security protocols (for communications but also transportation, demonstrations, office protection etc.) can have a positive effect in the security of HRDs. Organizations such as Udefegua in Guatemala<sup>52</sup> or the Cerezo Committee and Acuddeh in Mexico<sup>53</sup> have been training other HRDs in assessing their risk and accordingly, designing security protocols in order to increase their capacities and diminish their vulnerability to threats. The Mesoamerican Initiative for WHRDs has also encouraged sharing experiences in order to generate measures of self-care and self-protection. When the State cannot guarantee HRD protection, it seems fundamental that civil society alternatives, such as the one mentioned, can freely develop.

- **States ratify and implement all International treaties, for example the Convention Against Torture, and that there is consistency between the internal laws of each State with respect for international law and human rights and, where applicable, to IHL**

- *Example from Colombia of problems with the lack of implementation of international norms*

Colombia rejected 26 of the recommendations made during the 2013 Universal Periodic Review (UPR) of the country, including the ratification of instruments that allow access of victims to international mechanisms, including on torture, the ratification of the authority of the Committee on Enforced Disappearance, and for the protection of economic, social and cultural rights. Colombia also rejected the reference to the

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51 Nizkor Media Team, "[Allanamiento y robo de documentos de las oficinas de la Corporación Social para la Asesoría y Capacitación Comunitaria \(COSPACC\)](#)", 23 March 2013.

52 See also web pages of UDEFEGUA: <http://www.udefegua.org/>

53 PBI Mexico, [Annual Report 2012](#), March 2013, p.9 (See also web pages of ACUDEH (<http://acuddeh.org/>) and Comité Cerezo (<http://www.comitecerezo.org/>))

required full implementation of the recommendations of the OHCHR in Colombia when in July it conceded to only renew the Office's mandate for one year.

- **Human rights defenders have access to International mechanisms, like the Inter-American System on Human Rights or the United Nations High Commissioner on Human Rights, if unable to find redress in their own countries. Similarly, restrictions are not placed on relationships of support and solidarity with international NGOs**

Access to international mechanisms and to the international community in general has shown to enhance the workspace of HRDs. In PBI's experience, three mechanisms seem to be especially useful:

- *Contact with a network of international contacts*

PBI has regularly organized tours in Europe and North America, which enable HRDs to raise international awareness about, and support for, their important work. The tours empower defenders to develop and build relationships with key allies ranging from parliamentarians and Foreign Affairs Officials to grassroots activists, and gain much needed political moral and financial support.<sup>54</sup>

- *Access to the Inter-American System of Human Rights*

Of particular utility to the organizations we accompany have been the Precautionary Measures issued by the Inter-American Commission, which, in accordance with PBI's experience, have been very useful for supporting and legitimizing alternative proposals for peace and mechanisms for self-protection in the midst of conflict.

As an example, we note the cases of the San José de Apartadó Peace Community and the Humanitarian Zones of the Curbaradó, Jiguamiandó and Cacarica River Basins in Colombia. In order to protect themselves from the conflict, these communities decided to create "humanitarian zones" and "peace communities", based upon the Principle of Distinction, prohibiting the entrance of armed actors in an attempt to keep the conflict off of their lands. Although these figures are not legally recognized by the Colombian State, the communities were able to form and to continue to exist thanks in large part to the Precautionary Measures granted by the Commission.<sup>55</sup>

In addition, the Precautionary Measures have permitted local organizations and PBI to have legal backing in supporting these communities, and have facilitated our work with

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54 For examples of speaking tours see: PBI, [Annual Review 2012](#) (2013), p.5; and PBI Mexico, "[Alma Garcia speaks to European audiences about the defense of human rights, disappearances and the violations committed against the migrant population in Coahuila](#)", 1 October 2013.

55 In March 2003 the Inter-American Court urged the Colombian State to adopt the measures necessary to protect the life and integrity of all the members of the communities formed by the Community Council of Jiguamiandó and the families of Curbaradó. (*"Referring to the families that are connected to the collective territory recognized under Law 70 and that carry out community practices of self-governance, and of active participation in the community life particular to the Community which is referenced so often in Jiguamiandó as well as Curbaradó."*)

these communities as well as with other at-risk communities and organisations that we accompany.

We underscore the collective character of these Precautionary Measures, which has allowed for the protection of the life and physical integrity of small-scale farmer, Afro-descendant and indigenous communities. This can also be seen through our experience in Guatemala, a context in which the conflict between economic interests and the respect of human rights can have dramatic effects, like the violent displacement of communities. To illustrate this, we mention the 14 Q'eqch'ies Mayan communities displaced from the Poloch'ic River Valley in March 2011, and that in the following months suffered from grave health and diet conditions.<sup>56</sup>

In this case, the measures granted by the Commission contributed to the protection of the displaced communities, given that they:

- Bring attention to the protection needs of all the community members in their totality;
  - Mobilized State institutions to adopt specific measures, agreed upon with the communities, aimed at their protection and the investigation of the incidents;
  - Reminded the State of its obligations with respect to human rights and International Humanitarian Law standards.
- *European Union Guidelines for Human Rights Defenders*

The European Union Guidelines on human rights defenders were created to help staff in the embassies of EU member states to proactively protect threatened HRDs. The guidelines advise EU diplomatic missions to act through the diplomatic condemnations, demarches and public statements but also a broad range of actions:

- Produce periodic reports outlining the broad human rights situation, noting specific cases of concern;
- Take urgent local action when needed and make recommendations for further EU involvement;
- Prepare local strategies in co-ordination with HRDs, with special attention given to the protection of women defenders;
- Organise regular meetings between HRDs and missions diplomats;
- Maintain contact with HRDs through receiving them in the missions and visiting their areas of work;
- Publicly recognise HRDs and their work through use of traditional and new-media methods of communication;

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<sup>56</sup> PBI Guatemala, "[Interview with Carlos Morales, UVOC: On land, agrarian conflict and human rights in the Verapaz region](#)", Newsletter Nº 25, 2011.

- Visit, where appropriate, HRDs in custody or under house arrest and attend trials as observers;
- Raise specific cases with third country governments;
- Involve HRDs in the preparation, follow-up and assessment of human rights discussions with third country governments;
- Provide measures for swift assistance of HRDs in danger, including the issuing of emergency visas and the offer of temporary shelter in EU member states;
- Provide access to financial support where necessary.

As an example, in Mexico, representatives of Embassies of the EU Members visited the State of Guerrero in 2009 after the murder of two indigenous HRDs and a follow up visit in 2011 to observe the situation of HRDs in this State. The delegates also met local authorities in charge of their protection, and encouraged them to fulfil more effectively their obligations to protect HRDs and investigate attacks against them.<sup>57</sup> In 2010, EU representatives observed the trial of Raúl Hernández, an HRD whose case was part of the same patron of harassment and who was declared a prisoner of conscience by Amnesty International. In the end, Raúl was released, thanks in part to the diplomatic pressure created by these visits.<sup>58</sup>

*Additional element that we believe to be important, but for which we do not have public concrete examples at this time:*

- **Local media outlets cover a diversity of viewpoints, and provide HRDs with opportunities to have a say;**
- **Local laws and policies make it easy for HRDs to form organizations and carry out their work, for example it is relatively easy for new organizations to legally register, and reporting requirements are not overly burdensome nor invasive;**
- **Human rights defenders have access to funding sources, be it local, national or international, without legal restrictions or other barriers;**
- **The rights of expression, peaceful assembly and association, and access to information are guaranteed.**

Thank you for your work on these important issues and to this input from PBI.

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57 For more information on this case see: PBI- Mexico, "[Silenced: violence against Human Rights Defenders in the South of Mexico](#)", Bulletin n°26, May 2009, p.10; PBI Mexico, "[Working group from the EU visits Chilpancingo \(Guerrero\)](#)", 10 August 2011.

58 PBI México, "[Raul Hernandez: free and exonerated](#)", 1 September 2010.