



Human Rights and
Conflict in Central
America
2012-2013
Report

A woman in traditional Central American attire, including a patterned blouse and a braided hairstyle, is pointing at a map of Central America. The map is overlaid on a background image of a crowd of people. The entire image has a warm, orange-toned overlay.

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The document has been written and published by the Regional Team for Human Rights Monitoring and Analysis in Central America, for the project: "Central American Report 2012-2013 on Human Rights and Social Conflict" which is sponsored by the World Lutheran Federation.

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Introduction

The following report on Human Rights 2012-2013, like its predecessors, is a commendable joint effort of social organizations committed to defending Human Rights. These organizations make up the Regional Human Rights and Conflict Monitoring and Analysis Team in Central America.

This year, the work has been carried out in difficult circumstances, especially in Guatemala with the General Ríos Montt trial, and the great social movement within the Honduran electoral context. Nevertheless, the effort of each of the members of the team made this report possible.

A significant portion of the report is dedicated to regional insecurity and violence. It illustrates how women are affected by the different kinds of violence, including feminicides/femicides, as well as how organized crime's influence has grown in the region. We see how governments have responded with militarization, which exacerbates the situation. It describes how human rights defenders are subjected to systematic smear campaigns and their work is discredited.

Another important part of the report tackles justice and impunity, where the barriers to accessing meaningful justice in the region are laid out, as well as how the lack of an independent judicial system triggers impunity. The criminalization of social protest, the limitations for real freedom of expression and for public information are some of the issues covered in the Crisis of the Democratic Model.

This space doesn't permit me to capture the richness of the human rights issues contained in this report, however I couldn't fail to mention the importance of the issue that is explored in the chapter on Indigenous Peoples' Rights. Here we look at the issues surrounding their territory, in the broadest sense of what that term means for them, as well as the damage wreaked upon it by the region's megaprojects.

I express my great appreciation to the Regional Human Rights Monitoring and Analysis Team for their excellent work. The report holds valuable information that will help many others in their commitment to continue working in favor of women, men, and children so that they can be active citizens capable of living full lives, who are knowledgeable of their rights and hold the tools to influence policy and carry out actions to reform existing structures.

This year the World Lutheran Federation's World Service Program in Central America celebrates 30 years of seeking Justice, Peace and Reconciliation in Central America. There is still a lot of work to do before we reach true justice and peace for Central America's population. This report contributes to a sharper analysis and a more informed advocacy.

San Salvador, November 8th, 2013

Eva Ekelund
Regional Representative
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Regional Context

Central America is characterized by its constant human rights violations, seriously threatening citizen security, the Rule of Social and Constitutional Law, as well as Economic, Social, Cultural, and Environmental Rights.

In an attempt to control the high rates of violence facing the region, governments have created public policies that seek to eliminate it immediately. Such a strategy has produced repressive “security” models that attempt to deal with the crime phenomena. Nevertheless, these haven’t produced the expected results. These public security policies have directly resulted in the remilitarization of society. They have also created a setting where public security has become commodified via *parallel police* structures. At the same time, there are trends of criminalizing and “legally” or de facto persecuting human rights defenders; of collapsed penitentiary systems, and conditions that favor the regression of the region’s sovereignty via the strict adherence to foreign agendas and models – all under the justification of combating drug trafficking.

Concurrently Central America is, mainly, a pass through route for drug trafficking, which leaves a wake of violence throughout the region caused by organized crime and gangs. The illicit activities of these groups are factors that effect Central America’s security.

Beginning in the 90’s, the region experienced a process of institutional and legal reforms, accompanied by diverse sectors of society, which allowed a new judicial system model to proliferate. However, over time, this perspective was pushed to the wayside, at the expense of access to justice under the deteriorating State institutions. The political and economic elite, the Central American justice systems, and even other governments, have favored conditions that have eroded the independence of the judicial system, as well as favoring impunity in important crime against humanity cases committed within the context of the armed conflicts, and the repeated abuse of power.

The communities that experienced armed conflict possess alarmingly high rates of impunity. The victims from this period still demand justice. Processes seeking justice have been finalized, however, they have been blocked by mere legalisms that favor the

victimizers, such as in the case of the ex-dictator Efraín Ríos Montt, in Guatemala, or the Salvadoran military personnel requested by the Spanish National Tribunal.

Furthermore, the countries that make up the Central American isthmus possess weak democratic structures. Governments promote electoral processes as the only mechanism for civic participation. In other words, one can only choose or nominate. This deepens the already well-established norm of delegating important decision-making powers to a small elite; which is characteristic of a representative democracy – not a participatory one. Within this framework, social protest, public denouncement, freedom of expression in its different manifestations, among others, become limited and criminalized.

Poverty, inequality, and poor human development deepen the accelerated implementation of the neo-liberal model, which in turns causes constant human rights violations in the Central American region. This context creates the same patterns across the region – repressive public security policies as the only response to drug trafficking, organized crime, gang proliferation, forced migration (citizens searching for better standards of living and livelihoods, and fleeing persecution), human rights violations against indigenous peoples, and the commodification of Economic, Social, Cultural, and Environmental Rights.

We also found that investment models and government promoted cooperation via free trade agreements, bi-lateral agreements, public private partnerships, mega investment projects, the extractive industry, among others, spark social and territorial conflicts. These strategies further concentrate wealth in the hands of transnational companies, produce forced displacement, and territorial disputes and conflict. This entire panorama most seriously affects rural families, indigenous peoples’, vulnerable sectors, and afro-descendants that have been subjected to live in poverty or extreme poverty conditions.

The general Human Rights context in Central America continues to be seriously worrisome, since the structural problems persist and continue to limit the full enjoyment of these rights.

Chapter I

INSECURITY AND VIOLENCE

I. Violence in the Region

Central America is characterized as one of the most violent and conflictive regions in the world, registering high rates of homicide and levels of social inequality that create high rates of civic and legal insecurity. Honduras faces the worst and most complex multifaceted crisis in their history as is expressed by grave human rights setbacks.

According to the data from the Economy and Peace Institute –IEP in Spanish–¹, during 2012 and the first 6 months of 2013, Central America recorded a significant reduction in violence rates in comparison with 2011. Such is the case in El Salvador, where the homicide rate was 69 for every 100,000 people, and dropped to 24. That is to say, homicides dropped by 45 points in 2012. Some analysts contribute this to the “Gang Truce” which began in March. However, the people forced to migrate due to the violence and State’s inability to protect their rights feel differently.

In Guatemala, after two years of Otto Pérez Molina’s presidency, they have been unable to stabilize the security issue in the country. In the first few months of his administration they managed to reduce violent deaths; however, according to the Guatemalan Mutual Support Group’s –GAM in Spanish– statistics, the current homicide rate has risen to 42 victims per 100,000 inhabitants. Taking into account the approximate 1% increase each month, the number of victims has risen by 5.6% in comparison to 2012.

The Global Peace Index’s analysis of 159 countries shows the Central American countries following rankings, where the 2012 reduction can be observed.

Country	2012 Ranking	2013 Ranking
Costa Rica	35	40
Panama	59	56
Nicaragua	80	66
Guatemala	119	109
El Salvador	122	112
Honduras	125	123

Source: Original table, data from the Economy and Peace Institute “Global Peace Index 2012-2013”

According to the Observatory on Violence at the Honduran Autonomous University, violence rose 9% between the months of August and September 2013, but overall there was a reduction. In general, Honduras reported a 1.8%² decrease in the first quarter of 2013, based on 3,457 homicides³, 67 cases less than the first quarter of 2012.

Costa Rica, Nicaragua, and Panama registered lower rates than in previous years, but the existence of an alarming civic security issue remains, since they each exceed 10 homicides per 100,000 inhabitants⁴, which according to the World Health Organization –WHO– is considered an epidemic, as it exceeds 8.8 homicides per 100,000 people.

All of the region’s countries face unprecedented challenges in terms of civic security before the rising presence of sophisticated criminal organizations, corruption, and impunity grown from the highest political spheres and permeates police authorities and government representatives.

Nicaragua is considered the least insecure country in Central America, nevertheless, many people are assaulted every day; they are victims of muggings, physical harm, and assassination, etc. Official data from the National Police reports that 66% of homicides are caused by aggression, arguments, personal disputes, discussions while inebriated; mainly, “social coexistence” problems.

According to information provided to CENIDH by the Nicaraguan National Police authorities in May 2012, there were 3,231 reports against police in the past year. 530 of the denunciations were administrative sanctions and only 37 cases were sent before a judicial authority. The final results are unknown. Of all of the denunciations that the CENIDH received the same year, 72.39% cases mentioned the Police where they were able to prove a human rights violation. This situation has been rising, according to the records from the first semester of 2013.

In Guatemala, Pablo Castillo, spokesperson for the PNC, reported that between January and May of 2013, 72 agents had been arrested for being implicated in different crimes. This was part of a purging process that the entity had decided to carry out.

For the Regional Team, the phenomena of violence cannot solely be explained by the idea that “violence is generated by poverty”, which in turn criminalizes poverty. It is evident that violence generated by economically, politically, and socially powerful sectors create inequality, which leads to the inability to satiate basic human needs. In this sense, poverty does not generate violence automatically; better said, violence is caused by hunger, less education, greater human rights violations and thereby erodes the population’s standard of living.

In the following chart one can observe that Nicaragua, with the lowest minimum wage, also has the lowest homicide rate.

Country	Minimum Wage in US dollars	Homicide Rate ⁵	
		2011 ⁶	2012/2013 ⁷
Guatemala	293	38,5	32
El Salvador	219	69,2	24
Honduras	295	91,6	83 ¹
Nicaragua	160	12,6	12.0
Costa Rica	538	11,3	8.9
Panama	390	21,6	18 ⁸
Región	315	43	41.5

Source: original table, data compiled by the Regional Team

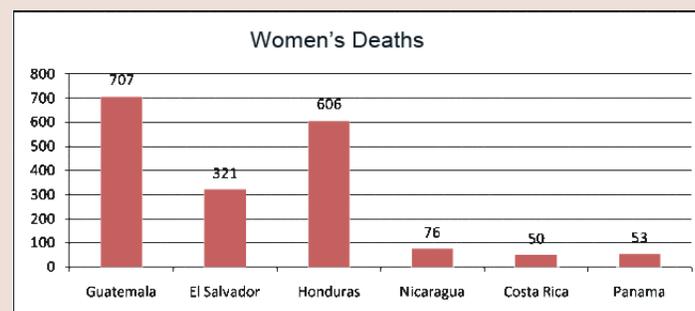
2. Femicide/Femicide

Femicide is the most serious form of violence perpetrated in a discriminatory society where men and women use and abuse women throughout the course of their lives. The assassination of women in Central America “has deep historical roots” and is being further heightened and accelerated by the rise of gangs, and greater levels of organized crime and drug trafficking. In 2013 women continued to be affected by violence in all of its expressions, such as sexual abuse², domestic violence, and violent deaths. All of these forms of violence destroy a country’s stability. Many of these women are mothers, daughters, and these abuses obstruct life’s development due to the permanent scars that violence leaves behind.

The statistics on violence against women continue to be “dramatic” even though there have been “certain advances” given that some countries have established

policies and laws that favor women. The statistics are more alarming each day; crimes against women have reached extreme levels, and the lack of investigation and impunity only strengthen this calamity. In 2012 there were 1,813 registered cases of feminicides in the region, which was 674 women more than in 2011. Women are assassinated with excessive force and cruelty; being strangled, burned, tortured and mutilated; the majority at the hands of their partners or ex-partners.

The World Health Organization’s –WHO– report that includes Costa Rica⁹ among the countries with non-domestic sexual violence, determined that at least 7% of the women in the researched countries had been sexually attacked by someone besides their partner. The data shows that at a global level, 38% of the total femicide homicides were due to domestic violence, a statistic that the WHO categorizes as alarming.



Source: Data collected by the Regional Team

The country with the highest number of women’s deaths is Guatemala, followed by Honduras, and El Salvador. It is important to point out that even though Nicaragua has the lowest homicide rate, the number of women who die in this country is much higher than in Costa Rica or Panama.

In the case of Costa Rica, if the research into feminicides takes into account the rates of violence in neighboring countries, Costa Rica does not reach critical levels. For example in 2012 they registered a significant decrease of women killed by intentional homicide, passing from 64 to 50, or 14 feminicides less. But if the situation is examined over the long term, one can observe that these kinds of crimes have critically risen in the past decades. In the 80’s the statistics didn’t rise above 10 feminicides per year; in the 90’s it rose to 30, and in the first decade of the 2000’s the statistic doubled in comparison to the previous decade.

The Violence Against Women Penalization Law in Costa Rica, in Art. 21, defines “femicide” as the death of a

¹ The homicide rate per 100 thousand inhabitants is calculated according to the number of violent deaths and inhabitants per region. The 2013 data comes from official data from the National Department of Criminal Investigation (DNIC in Spanish), the Police, and the Honduran Autonomous University’s Violence Observatory.

² In Guatemala there were over 2,900 cases of sexual crimes reported, according to GAM’s June 2013 Report on Sexual Crimes.

woman at the hands of a man with whom she maintains a marriage or a relationship, officially or not.

In El Salvador, if the first quarter of 2012 is compared with the first quarter of 2013, there is a decrease of 123 assassinations in the second year. According to the Salvadoran Women's Organization for Peace –ORMUSA in Spanish–, in the aforementioned period in 2012, 223 assassinations were reported¹⁰ and during the same period in 2013 there were 100 assassinations reported¹¹. For what can be said about El Salvador, the assassination of women has decreased significantly.

In Guatemala, according to GAM's data, the monthly average assassination rate of women has increased compared to 2012, by 15.1%. In 2012 there were 57 assassinated women registered each month; in 2013 they registered about 66.

Honduras does not stray far from Guatemala's statistics. From 2011 to 2012 they reported a 18.35% rise in the number of violent deaths against women¹². According to studies, the trend in women's deaths for the past eight years has risen slightly, the majority of the victims coming from urban areas. 225 women lost their lives in some violent manner in the first trimester of 2013, 34 cases higher than the same period in 2012.

In Nicaragua, The Comprehensive Law Against Violence towards Women was passed in June 2012. The law classifies "femicide" as a crime where a man who kills a woman, in private or public, as the result of extreme violence. The assassination of women has continued to rise. According to official figures from the National Police's Women's, Children and Adolescent Station, 76 women were assassinated in 2012. Meanwhile the Women's Network Observatory against violence reported 85. Between January and September of 2013, Pro-Choice Catholics registered 66 femicides, 20% higher than the same period in 2012, when 47 cases were registered.

Of the 66 women assassinated, 21 were killed by their partners, 8 by strangers, 4 by ex-partners, 3 by sons-in-law and another 5 by their sons, cousins, or nephews. Moreover, another 11 were victims of masculine violence of strangers and 4 of organized crime. 38 of the femicides occurred in the women's homes, 9 in public streets, (7 in isolated areas and 2 in workplaces). Among the victims, two were minors. 21 of the 56 were between 21 and 40 years old.

In terms of Panama, on October 24th, 2013, Law 82 passed. The law classified femicide and penalizes violence against

women. The normative hopes to guarantee the rights of women of any age to a life free of violence and protect their rights when they have been victims of violence within the context of relationships of unequal power, thereby preventing and penalizing all kinds of violence against this sector of society. According to official data between January and July of 2013, there were 28 registered cases of women violently assassinated; 16 were classified as femicides. During this same period in 2012, less than half the number of women was killed by domestic violence (7 cases up until June 2012), which is classified as "alarming" by Panama's Peoples Defense. If this trend persists, the number of women killed by domestic violence will exceed 53 cases registered during 2012¹³.



Author: El Nuevo Diario

A group of women protest in front of the Supreme Court, demanding the punishment of aggressors against women's human rights.

3. Organized Crime

Many of the violent deaths that occur in Central America are the result of organized crime; over 25% of deaths are attributed to this cause. The death rate is 41 of every 100,000 inhabitants, even when considering the different variations in each country. Honduras, El Salvador, and Guatemala report regions that are heavily infiltrated by organized crime.

Another factor tied to high levels of insecurity and organized crime in Central America is gangs. These structures are credited for such crimes as extortion, homicides, drug pushing, arms dealing, and car theft.

According to the United Nations Office on Drugs and Crime's –UNODC– report, Central America has become a pass through route for cocaine producers in South America and the United States, where drug cartels have

sought space to carry out their business with greater impunity. Impunity is one of the factors that contributes to the rise of organized crime in the region, joined with easy access to illegal arms and the lack of opportunities for young people of both sexes, who are unable to find stable employment, which together increases the risk of entire towns being taken over by organized crime.

In Guatemala, according to reports presented by GAM, the number of extortions, human trafficking, and the circulation of illegal arms are on the rise. In 2013 there have been 36 extortions for every 100,000 inhabitants¹⁴, and 85% of crimes are committed with firearms.

In El Salvador, organized crime continues to be the primary issue in terms of security. The country has the Law Against Organized Crime and Complex Crimes. The Law saw the implementation of specialized tribunals to try these kinds of cases; however, these frequently collapse due to their overloaded dockets.

The United Nations Office on Drugs and Crime –UNODC–, identifies two criminal structures in the country. Referred to as the “Taxis Cartel” and “Los Perrones”; both are considered drug transporting groups. The UNODC notes that the first group is a very particular example of high level corruption sponsoring drug trafficking; and the second group is a mutation of transportation businessmen. Furthermore, the gangs are showing greater levels of organization. The primary leaders of the referred to “truce” are proof of this organization, which has been credited for the reduction in homicides. In the first 7 months of 2012 there were 1,648 homicides registered, while during the same period in 2013 there were 1,199 – that is to say, 449 fewer homicides. During the same period 112 fewer people filed complaints for extortion.¹⁵

Honduras has registered an average of over 10 monthly massacres in the first nine months of the year; a sign of organized crime’s permanent presence and the very serious security situation in the country. According to the country’s Violence Observatory, there were 96 massacres between January and September. If this pattern continues until the end of the year, Honduras is on track to drastically exceed the 115 massacres committed last year. This figure proves the existence of criminal groups, who are frequently the perpetrators of these multiple homicides, in addition to the local street gangs.

According to Insight Crime’s¹⁶ analysis, Honduras has seen the growing presence of transnational criminal groups in the past few years. As Mexican cartels establish

themselves in the country, seeking safe haven from their own government’s pressure, as well as to secure key drug trafficking territory. This situation has been exacerbated by institutional weakness and corruption that penetrates all levels of the state’s institutions and public entities, from the police on the ground to the elite businessmen and politicians.

Nicaragua has not experienced the same levels of violence as the countries in the Northern Triangle. Gangs from neighboring countries have not penetrated in any significant way. According to the National Police’s data, there are 181 high-risk youth groups with 2,485 members and 150 street gangs with 898 members¹⁷. The street gangs commit robberies, assaults, and intimidation with firearms (mostly home-made). There have also been isolated cases of kidnappings and hired killers, which show that organized criminal groups, as well as gangs, are attempting to penetrate, but the efficient work of the citizens together with police has not allowed them to set down roots.

In their efforts to stop organized crime in 2012, the police broke up 15 cells, seized, among other things, 8 tons of cocaine and 13 million dollars. Work against local drug dealing operations prevented 4.6 million crack doses to reach the hand of young people. They were also able to break up 272 petty crime groups that were affecting the security of small, medium, and large producers. Cattle rustling also decreased by 17%.

Despite the fact that contract killing is not a specified crime and thereby there are no statistics about it, the National Police identify crimes with which they presume have these characteristics, among them are: the assassination of four police officers in Bluefields, committed by organized crime in 2004; the assassination of Wilfredo Barraza Larios with two other people, as ordered by the Honduran network known as the “Little Palace Cartel” (October 2010); the assassination of Yolanda Jiménez and her son Arles Ortega, which according to the police report, was perpetrated by the lawyer Verónica Cruz and her partner, Maynor Ponce Urbina on August 18th, 2013; and the assassination of William Calderón on September 28th, 2013.

In Costa Rica, two situations that have emerged during this period of analysis, that have had significant impact in terms of organized crime. One is tied to the issue of drug business and the other is referred to as “organ trafficking”. It is said that the reality of organized crime in Costa Rica is determined in large part by drug crimes. This issue is related in today’s world with its ties to big business and the so-called “fiscal paradises”. These move

around \$600 billion dollars from drug trafficking, white slavery, other human trafficking, arms dealing, bribes and corruption money a year. (a total of about \$1,500 million)¹⁸.

Drug trafficking is tied to many other crimes. The figure that homicides rose by 8% in the first half of the year is related to organized crime and drug trafficking, since the authorities note that these networks are responsible for most of the deaths. The Judicial Investigative Organism –OIJ in Spanish– notes that of the provinces, San Jose leads the list with 79 crimes, but looking specifically at the homicide rate, Limón remains the most affected with 14.4 homicides per 100,000 inhabitants. The countries homicides are primarily tied to disputes and revenge due to drug trafficking: “One can see that the infighting among groups, primarily from the drug sales and trafficking; are territorial disputes, for settling scores;,” explains Gustavo Mata, sub-director for the OIJ.

The country is located in the area known as the “Mexican drug cartel’s secondary market” and the drugs come from Colombia. This, at the same time, has provoked the displacement of the mid range bosses and high level leaders of the “Sinaloa”, the “Familia Michoacana” (Michoacana Family), The “Golfo”, and the “Caballeros Templarios” (Templar Knights) Cartels to Costa Rica and Panama²⁰. Another case that involves this cartel is the arrest of six suspects in the assassination of the Guatemalan Sigifredo Fernandez Sierra, 52 years old, and the Costa Rican model Pamela Céspedes, that happened in November 2012²¹.

The homicides tied to organized crime in Panama rose by 64%, while socially motivated deaths decreased by 26%, which reflects an evident social ill, as expressed by the Minister of Public Security, José Raúl Mulino to the press.²² Comparatively, the numbers of deaths from organized crime broke pattern with the first semester of 2012; they went from 62 cases in 2012 to 102 cases in 2013, while socially motivated deaths went from 119 cases in 2012 to 87 cases this year.

4. Militarization and Security Policies

The high rates of violence registered in Central America and the effectiveness of repressive policies for crime, the weakness of reinsertion policies, and the limited security budget, as well as the efficacy and public trust in the Armed Forces, are all government justification for the militarization of public security in the region.

An external factor that has favored the militarization of public security in Central America has been the alignment with the “War against Drugs” strategy led by the United States. This strategy focuses pressure in favor of a military response, via their primary instruments in the region: “The Central American Citizen Security Partnership”, launched by President Barack Obama in 2011 during his visit to El Salvador, and the Central America Regional Security Initiative –CARSI–²³.

The Guatemalan government has used figures within the Law of Public Order³ in recent years, with the argument that it is necessary to retake civil order. However, this has translated to the criminalization of social protest and human rights violations for many protestors, such as what happened in Totonicapán in October 2012²⁴.

In El Salvador, there have been slight advances in terms of demilitarizing public security. On one hand, the participation of military personnel in providing security for the country’s prison system has been eliminated, and on the other, the Constitutional Chamber declared unconstitutional General David Munguía Payés’s position as Minister of Public Security. The decision stipulates that the participation of military personnel in public positions should be taken over by civilians. After the Constitutional Chamber’s decision, the ex-Minister of Security Munguía Payés was named Minister of National Defense; and the ex-Director of the police Francisco Salinas, was named the Director of the State Intelligence Organism; which continues to tie them to security work, but now from different institutions. Nevertheless, 6,200 active military personnel continue providing security tasks in the country, with the institution’s budget of \$7,425,225.00.

In Nicaragua, in November 2012, President Daniel Ortega sent an urgent proposal to parliament that summarized all of the Nicaraguan army’s programmed activities for 2013, together with foreign armed forces. The order was part of the “Legislative Decree for Ratification” initiative, which authorized the entrance of troops, ships, and airplanes, from the United States, Venezuela, Russia, Taiwan, and Cuba, to “carry out humanitarian exercises of rescue, life guarding and surveillance against drug trafficking in the Caribbean, including the maritime areas reestablished in the International Justice Court’s sentence on November 19th 2012, which represents important changes for different geo-political aspects for this region of the world.

³ States of prevention, alarm, public calamity, siege and war.

In Panama the Minister of Public Security²⁵, requested \$716,552,443 dollars for the 2014 budget from the National Assembly's Budget Commission of Deputies. Of the 2014 budget, the quantity of 484,849,369 (89.0%) for Public Security stands out. This includes such dependencies as the National Police, the National Border Service –SENAFRONT in Spanish–, the National Air and Naval Service –SEMAN in Spanish–, and the National Migration Service –SNM in Spanish–. The requested amount represents a 5.4% increase compared to the approved 2013 budget, which was for \$686,046, 249.00.

5. Parallel Police

Private security companies have taken possession of Central America, even substituting security offered for the State, which leads to more and more weak points in their service, besides the existence of corruption festering within these institutions.

Guatemala, El Salvador, and Honduras have chosen private security. This situation emerges from the high levels of violence experienced in the region and the limited to non-existent work by the government authorities. In this sense, private security has extended over the general region, including countries like Costa Rica, Nicaragua, and Panama as well.

An example of this trend in Guatemala is that these private security companies lead the list of most dangerous professions in the country. As a general rule, this line of work is one of the few options open before the intense need for work in the country.

The State's absence of control and regulation of this activity has provoked in some cases, that these security companies become more of a problem than a solution to insecurity issues.

In Nicaragua the private security companies now outrank the National Police's number of officers. According to the information provided by the Nicaraguan Private Security Business Association –ASEGPRIN in Spanish–, there are 13 thousand men, a figure that does not include the security guards working for companies that offer security services for neighborhoods or non-residential areas, which there are more of. Add to them the "blue shirts" and the recently formed "Dantos Police Squad", both of which work as the presidential family's security apparatus, and serve to control whichever situation where they are sent and function as repression forces¹



Source: El Nuevo Diario, from Nicaragua
Private security members, known as the blue shirts, attack protestors during a march on September 14th, 2011, in Nicaragua.

The inclusion of ex-military personnel from extinct State security bodies (where those existed) is a characteristic of private security businesses at a regional level. They generate huge profits and discredit police forces. The actual situation is one where police do not exercise control; the private security companies have more men, more resources, and better technology than the public order forces, which the same Central American authorities have admitted.

Nº	Country	Private Police	National Police
1	Guatemala	120.000	24.000
2	El Salvador	21.140	21.000
3	Honduras	60.000	13.500
4	Nicaragua	19.700	11.500
5	Costa Rica	19.550	27.000
6	Panama	30.000	18.000
Total in Central America		270.390	115.000

Source: Original table, data from the Easy Guns report, 2011, published by the International Studies and Development Institute, Guatemala²⁶

Despite El Salvador's decrease in registered levels of insecurity, it still remains above the global average, which further justifies the private institutions in charge of providing "security", to such a degree that, the number of police officers is less than the private security forces. As of June 2013 there were an estimated 377 private security guards for every 100 thousand people²⁷. This is worrisome in the sense that no effective control exists over the few requirements established in Salvadoran legislation to carry out this kind of activity.

Added to this, the country has other institutions that are materially responsible for security tasks, like military personnel and metropolitan agents for each of the 262 municipalities. There is no data on how many exist, and the regulation varies since each municipal mayor has their own legal arrangement. This leads us to define, in the broad sense, El Salvador as a police state.

In Costa Rica, as shown in the following table, has registered a significant rise in private police and security companies in recent years. The Ministry of Public Security's last study discusses the operation of 1,817 private security companies, although, 801 haven't renovated their work permits.

In every one of these cases we see scenarios that have failed, or the mistaken direction of these policies, like increased private security, and the failed control of firearms, since the registered arms are the ones most used in crimes.

Year	Companies (Current License)	AGENTS (Current License)
2009	803	20.632
2010	869	24.782
2011	898	25.960
2012	1038	28.541

Source: private security data base²⁸

6. Human Rights Defenders

In recent years there have been a worrisome number of incidents against the security of human rights defenders. Labels such as "sell out, traitors, criminal defenders", among other pejoratives put their physical security at risk, amidst the high polarization that already exists in Central America.

There have been various attacks and threats against journalists, media and communications professionals, activists, and human rights defenders. There have also been incidents that impact their ability to exercise the right to freedom of expression, mobilization, and organization due to threats, repression, persecution, and the refusal to allow access to information and the restricting access to different State installations. Added to this the authorities' lack of investigation into cases that have victimized journalists and human rights defenders.

Between January and October 2013, Guatemala registered 608 cases of aggression against human rights defenders,²⁹ while conflict increased in the face of the government's and businesses' continued imposition of megaprojects. Within this context 18 assassinations were perpetrated against human rights defenders, 38% of which were registered in 2012. There were also 40 illegal arrests, representing a 140% increase in comparison to last year. Criminalization continues to be the favored strategy to block community dissent against approved concessions for the subtraction of rich natural resources in their territories.

In Honduras the attacks, threats, and harassing against social leaders and human rights defenders continues. The Honduran state does not comply with protectionary measures in favor of these leaders, such as in the assassination case of Manuel de Jesús Varela Murillo, who had been granted protectionary measures.

On September 20th, 2013, judge Lissien Lisseth Knight Reyes of the Court of First Instance's First Division in the Intibucá Department, decided for a preventative incarceration measure against Berta Isabel Cáceres, the General Coordinator for the Civic Council of Popular and Indigenous Organizations of Honduras –COPINH in Spanish–, in a penal process framework where she was accused of committing usurpation, coercion, continued damages against the company DESA-SINOHYDRO (in Spanish). In the context of this conflict, fiscal authorities accused Berta, as well as Aureliano Molina and Tomaás Gómez Membreño, of inciting locals to commit the above-mentioned crimes and cause the company damages.



Source: COPINH
Honduran Judicial System emits an arrest warrant for Bertha Cáceres for defending human rights.

The case of Magdalena Morales stands out as another threat to human rights defenders. Morales is a leader

for the National Rural Workers Central, of Progreso, Yoro, accused of usurpation against Azucarera del Norte, S.A. –AZUNOSA– (Northern Sugar Co.) as part of recovering their lands.

Recently denunciations against the lawyers Víctor Fernández, Martín Fernández and the board members of the community Nueva Esperanza came to light. The charges were for their opposition to the hydroelectric project “Buena Vista I”.

Added to these acts are the assassinations of three toluan indigenous persons: María Enriqueta Matute, Ricardo Soto Fúnez and Armando Fúnez Medina. They were killed on August 25th in the San Francisco Locomapa tribe, Yoro for fighting to defend their natural resources and human rights. Tomás García, COPINH member, was assassinated in July 2013 and his 17 year old son Allan García was wounded in the attack. On top of this, death threats against toluan leaders José María Pineda, Consuelo Soto, and Ramón Matute still persist. These examples place Honduras as the most hostile country for human rights defenders.

There are increasing reports of aggressions and human rights violations in Nicaragua. In a survey realized by CENIDH of 413 human rights defenders, 121 (28.0%) stated that they had received threats due to their work, be they death threats of intimidating words from aggressors or family members in the cases of violence against women or other kinds of human rights violations that they had accompanied. Furthermore, 183 (42.4%) said they had faced some sort of obstacle while carrying out their work.

There is a systematic campaign to discredit and slander their work, as well as persecution and constant threats. An example of this are the articles published in the main stream media against the president of CENIDH, Dr. Vilma Núñez and high level authorities, like the President of the Supreme Court and the Human Rights Ombudsman, discrediting her work.

One of the cases registered during this period was the aggression against several CENIDH members, among them Juan Carlos Arce, the Matagalpa Filial Coordinator. Arce and other youth movement leaders were detained, transferred to the Legal Aid Department cells –DAJ in Spanish–, in Chipote, while they had been accompanying elderly adults in the protest against pensions cuts. From the moment of their arrest until they reached their cells they were beaten in their stomachs and backs by the police; as well as being threatened with torture.

Mr. Héctor Retamal, a photojournalist with the French Press Agency –AFP in Spanish– also filed charges for aggression. Mr. Retamal, of Chilean nationality, was arrested and arbitrarily isolated by Nicaraguan police authorities, who jailed him for a suspected administrative infraction of Nicaraguan migration law. They took him to the Legal Aid Department, a center where such crimes as drug trafficking and organized crime are investigated. This is an illegal abuse and violation of freedom of press in Nicaragua.

In El Salvador, human rights defenders are in a critically vulnerable situation. FESPAD registered 29 aggressions against this sector in the first quarter of 2013. These range from the assassination of Geovanny Antonio Aguirre López and Tania Vásquea, who promoted the rights of high risk youth and of the LGBTI community, respectively, to the various aggressions with threats, arrests, slander, among others³⁰.

The Salvadoran State does not have legal regulations specifically to protect human rights defenders. The only regulation that exists is numeral 21 of Article 30 of the Penal Code, which aggravates the crime when it has been committed towards a person who promotes or protects human rights.

Moreover, the precautionary measures ordered by the Inter-American Court and Commission on Human Rights Commission –IACHR– to protect defenders are orientated through the Victims and Witness Protection Program. This program is designed to offer protection to people still tied to a penal process, rather than protecting human rights defenders. The State hasn't worried itself with creating specialized institutions in this area and the defenders are extremely vulnerable despite the fact that they enjoy IACHR's precautionary measures.

In Panama there has been a registered rise in hostility towards people and organizations committed to human rights. Political authorities via the press use negative public discourse against them, including hate campaigns, discretization, slander, and discriminatory motives, among other hostile acts.

Human rights activists don't use the judicial system to file charges and resolve conflicts for various reasons. There is little access to the necessary information, deficient access to legal services, which produces negative results for any action taken and promotes a lack of trust in the institutions. Therefore they prefer social mobilization actions in defense of human rights.

Chapter II

BARRIERS TO ACCESSING JUSTICE IN CENTRAL AMERICA

Justice has been conceived of in various ways. Concisely, the term can be considered a “conglomeration of rules and norms established by a framework for the relation of people and institutions, prohibiting and permitting specific actions in the interaction between individuals and institutions”. Through this lens, the intention in this section will be to assess in general terms the application of, and ability to access, justice in Central America.

1. Access to Justice

The disregard for guaranteeing effective access to justice is a common denominator in the region’s countries. The institutional response of the Central American governments to resolve the existing fissures has not been sustained nor coherent with the populations need to resolve the problem of defenselessness in the face of human rights violations. This situation is aggravated by the budgetary cuts to the judicial system, influence trafficking, nepotism and interests held by those in power.

It is clear that only when the State willingly assumes its responsibility to punish human rights violators, can democratic institutionalism be strengthened. One of the most serious consequences of the lack of punishment and the administration of justice is the intimidating message sent to society, causing general fear and the unwillingness to file charges, complaints, and vindicating victims, further feeding impunity and impeding the full realization of the Rule of Law.³¹

For 2011, Costa Rica ranked first in the world according to the Index of On-Line Legal Information: with 88%. However, there are serious difficulties in updating the information; to such a degree that there is a nine-month delay and in terms of police information the delay is longer. The situation is different for trimester statistics that are easily available on the Judiciary page in much less time (three or four months). At the end of each trimester they are obligated to display incomplete information for the majority of the areas of the First Instance courts.

In El Salvador there are institutions directly tied to accessing justice: The Attorney General’s Office –FGR in Spanish–, and the Public Defender’s Office –PGR in Spanish. The first has 23 offices³² at a national level, with minimal institutional presence in the

362 municipalities in the country. The number of prosecutors per 100,000 inhabitants is 11; however, the institutions capacity does not meet the country’s needs,³³ since they do not guarantee access to justice⁴. The PGR has 17 offices at a national level, registering 4 public defenders for every 100,000 inhabitants, and on average, each public defender is assigned about 188 cases³⁴, which creates a backlog that does not guarantee the citizen’s effective access to justice. Moreover, one should keep in mind that in practice, the people who seek out the institution are those who do not have the economic capacity to pay a private lawyer.

In Guatemala, justice has been historically denied to many people who have been victims of some sort of crime. In this context, civil society organizations play an important role in demanding this through active denunciations. The justice system in Guatemala should be approached in a comprehensive manner, starting with the National Civilian Police –PNC in Spanish– until arriving at justice entities themselves, such as the Judiciary Organism –OJ in Spanish–, and the Constitutional Chamber –CC in Spanish–. From this point of view it is necessary to point out that the Public Minister –MP in Spanish– entity that has shown the most progress. The current Attorney General and Public Ministry director, Claudia Paz y Paz, has led a notable administration as the head of this entity. During her administration the MP has been able to break up extortion bands, drug traffickers, human trafficking rings, hired assassins, and corrupt public officials.

Another case that deserves special attention is Nicaragua. They rank 134 out of 144 on the global indicator that measures judiciary independence. The Global Competitiveness Report identifies lack of transparency of state institutions, lack of independence in the Judiciary, and the deficiencies in the legal and judicial system as the primary chronic problems in Nicaragua.⁵ Despite the fact that Nicaragua has modern penal legislation, in accordance with their social and democratic system of rights and with modern court institutions in Managua, this hasn’t meant that justice administration has improved substantially. Citizens view the Judiciary as giving preferential service to people with more economic resources, as much in the weight given to the criminal process as the sentence.

⁴ Proof of this is that in 2011 the FGR received 119,797 demands, of which only 31,700 went before the courts.

⁵ The Global Competitiveness Report analyzes the policies and factors that determine the economies productivity and thereby defines their potential for growth and prosperity in those countries, as explained in the in the business school INCAE’s statement. This year’s report consulted over 13,500 world businesses.

Access to justice in Nicaragua is still precarious; the public defense's scarce resources don't guarantee free access to legal support. They only cover penal defense, and even that is still partial coverage. This violates important rights such as the right to interpretation and to proper defense. Accessing justice becomes more and more difficult for those who lack the economic means and for those who want to reach a quick legal resolution, in alignment with the rule of law. Justice is not managed in an equitable manner, nor with the celerity necessary for various reasons, such as ineffectiveness, negligence, the authorities lack of enthusiasm, and other causes like the lack of human, technical, and financial resources; as well as a lack of independence and corruption.

Nicaragua's Attorney General, Julio Centeno Gómez, reported that the Public Ministry has 704 employees and needs 1,000 prosecutors, but there are only 292 prosecutors and 116 assistants. This department has nine specialized Units and 66 offices to serve the country's 153 municipalities with nearly 6 million inhabitants and over 130,000 square kilometers. Each district attorney is responsible for over 100 cases each month and many of them cover more than three courts, which causes trial and legal process delays. This is covered with an annual budget of 6.6 million dollars.

In terms of public defendants, of the 153 municipalities, 14 do not have any. In terms of experts, the Doctor Ernestina Cuadra, a medical examiner at the Coroner's Office, explained how they cover 153 municipalities with 26 offices and 100 coroners; however, they would have to at least triple that number to complete each team with psychologists, coroners, and witnesses.

The "State of the Region" Report notes that access to justice continues to be very disparate. There is only one judge for every 14,000 inhabitants in the country. The legal dispatches are able to resolve an average of 52% of their cases each year. The Supreme Court's annual budget reaches \$76,407,770.00

An example of the lack of access to justice in Nicaragua is the case of Dina Carrión, who died under unclear circumstances, which involved her husband Juan Carlos Siles, who is tied to the political party currently in power. The process has faced numerous irregularities. To date the case has lasted over three years without any clear sentence, which entails a serious delay in justice and is a violation of the guarantee to due process.

2. Judicial Independence

Judicial independence means the guarantee that judges are not subject to un-due restrictions in the implementation of their work. Judicial independence is intimately tied to impartiality, so much so that the objective of the first is to prevent the justice system from being subjected to un-due restrictions in the carrying out of its work.³⁵

In Honduras, judicial independence is guaranteed within written legislation at the constitutional level as well as through international treaties, and secondary laws. Nevertheless the gaps and legal ambiguities, plus the behavior of the judicial and political authorities, have transformed this supposed independence into something more illusive, which has been clearly illustrated in the judiciary's behavior during today's tragic political events that have affected democracy and the rule of law. These events include the application of the national security doctrine in the 1980's and the coup d'état in 2009.³⁶

Technical Coup against the Judiciary

The difficult judicial independence situation in Honduras reached its most critical point with the destitution of 4 of the 5 Constitutional magistrates. This situation is a conclusive example of the permanent political pawing of the judiciary. The destitution process started on the night of December 10th, 2012, when the national congress formed the special commission to investigate the magistrates, which met throughout the following day, and by 1:30 am on December 12th, the commission released it's report the concluded that there had been wrongdoing in the magistrates ruling over the purging of the police force that was no longer in effect. (Information collected during the Human Rights Convergence)

In Panama the Judiciary's reoccurring intervention in the naming of magistrates and Public Ministry office has exacerbated the existing situation of naming judges without legal experience. Moreover, there is a one directional and vertical system in the existing judicial system that creates a suffocating control over

the judges of the lower courts. Therefore, it can be interpreted that those higher up in the hierarchy directly intervene in the judicial selection, naming, evaluation, and training; as well as any disciplinary processes for a lack in judicial ethics.

In this sense, the State does not recognize the Inter-American Commission on Human Rights –IACHR– agreement for the case. The National Assembly, on August 20th, 2013 decided to file for lack of resources the Lay 23 bill, to create a legal career. This is worrisome since such a regulation perpetuates the insecure and unstable environment for judges and magistrates allowing the manipulation of justice and legal insecurity for citizens. It's important to point out that the Judiciary Body currently employs 3,772 people and of these, only 964 (25.5%) are protected by legal career.³⁷

Similarly, for the year 2013 there are 254 legal offices, distributed in the following way: the Supreme Court has 9 magistrates, 14 Superior courts, 133 Circuit Courts, and 107 Municipal Tribunals – one for each of the country's districts; and the municipalities. All of these are directly or indirectly named by the Executive Body, which infringes on their independence. Another set back for the administration of justice has been the suspension of the accusatory penal system that tries to decrease the legal default.

Costa Rica has the highest rate of judges per inhabitants; 21.85 for every 100,000 people. However there are cases that directly or indirectly threaten judicial independence. According to Deputy Fabio Molina's confirmation, the failure to re-elect magistrate Fernando Cruz Castro was a decision that was not valorized or evaluated for his professional skills or ethical conditions, but rather was a mere political calculation. What was actually put into question was Dr. Cruz Castro's ideological conception and some of his politically sensitive rulings. Thus, the rest of the magistrates and general justice operators received the message that they should conform to what the ruling party considers prudent and not exercise independence, nor conform to the legislation that is laid out in the Rule of Law.³⁸

Economic powers continue to interfere with the administration of justice in Guatemala. The Coordinating Committee of Agricultural, Commercial, Industrial, and Financial Association –CACIF in Spanish– which represents the traditional families who hold the economic and political power in the country, carried out a campaign to discredit the criminal

proceedings held against José Efraín Ríos Montt for genocide. Besides establishing their position, the CACIF owned media reproduced the negative portrayal of the genocide case. The official position held by the dominant economic sector was that such a thing had never happened in the country, and that trial threatened the rule of law and the peoples' right to access justice.

When the conviction was emitted, CACIF itself publically requested the rulings annulment, claiming that it lacked foundation, according to their entity.³⁹ It is also appropriate to mention that the Republic's own president, Otto Pérez Molina, released a public opinion stating that genocide had never occurred in the country. This conglomeration of situations strongly pressured the judges responsible for the trial itself, as well as the different objections presented by the defense, and resulted in the annulment of the conviction and subsequent delay of the process.⁴⁰

Furthermore, different judges associations are concerned about the attacks that have been directed against those in charge of the tribunal that emitted the conviction against Efraín Ríos Montt, after the Constitutional Court's annulment of the sentence.⁴¹

3. Impunity

In general impunity refers to the lack of punishment or conviction by corresponding State authorities towards the actions or omissions caused by human rights violations.

At a certain point Costa Rica was characterized as a country whose justice system processed people in economic or political power. Nevertheless, there have been cases of politicians who carry out very questionable activities that impact state finances, with total impunity. These cases have never reached conviction, or minimal sanctions are applied. A recent case featured the former Minister of Public Works and Transportation –MOPT in Spanish–, Francisco Jiménez, who resigned after acts of corruption, occurred in the construction of the border path (that was built along the part of the Nicaraguan border that is being contested by the neighboring country). Francisco Jiménez resigned in May 2012 and has not been sentenced for this act. Similarly, the former Tax Minister Fernando Herrero resigned on April 3rd, 2012 when he became compromised due to a commercial society's tax debt, which he participated

in, and besides resigning, no case was opened against him even though tax evasion is a crime. Another important case referred to as “La Platina”, dealt with a flawed engineering project for one of the capital’s primary highways, which was detected in 2009. To this day there have been no legal proceedings to investigate these acts.

In Panama, corruption cases continue to be the primary issue to be addressed. Between 2012 and 2013 there have been criminal proceeding dismissals, such as in the case of Anabel Villamonte, the former director of the National Authority on Land and Investigations, which continues progressing in the scandals detected in the Migration Office, and the People’s Defense, while citizens wait for those responsible to be convicted.

On July 8th, 2010 Ricardo Martinelli deployed military troops and police repression against the banana workers in Changuinola, Bocas del Toro, killing two and disabling 78 people for life, and wounding over 700 others. Three years later this violence remains in impunity. Similarly, there is the emblematic case of the violent death of 5 young Panamanians, of Chinese descent, whose bodies were found buried within a home. They had been kidnapped one by one on September 11th, 2011 with the involvement of police officers. A year after the crime, the police still had not been convicted. It’s worthwhile to point out that in 2013 there were 9 newborn deaths in the Social Security hospital for feeding them heparina formula, with benzyl alcohol. To this day no one has investigated the case. Additionally, on October 24th, 2013 police agents shot at a vehicle with a 14 year old girl and a 2 year old boy inside, supposedly by mistake, killing both of them. Under the protection of Law 74, police officers are broadly supported and allowed to behave arbitrarily.

In El Salvador there are many things lacking in the justice system. Among them are: the lack of coordination between the police (PNC in Spanish) and the attorney general’s office (FGR in Spanish) during criminal investigations, deficiencies in the management and collection of evidence, lack of denunciations, a limited number of public defenders and their limited participation during the legal process, the prolongation of preventative prison and an excessive dependence upon testimonial proof⁴², all of which generates a state of impunity. At the same time, the spheres of formal power allow public functionaries to escape being processed for different crimes.

The acting Deputies of the Legislative Assembly enjoy privileges that allow them to commit illegal activity that remains in impunity. In the case where the Deputy Rodrigo Samayoa beat his ex-wife, he faced a process where the tribunal and a Penal Chamber declared themselves incompetent to try the case. Finally the Supreme Court –CSJ in Spanish– ruled that the case will be tried when his legislative period is over. Under the legal reasoning applied in this case, the justice operators run the risk of Samayoa’s re-election and thereby not being able to legally process the case. To this day, there is debate within the Parliament about whether or not to grant re-entry to the Deputy, but while this continues he serves as a consultant to the Legislative Assembly.

Since the rupture of constitutional order in Honduras, as a consequence of the coup d’état, generating a political crisis that is more importantly breaking apart the country’s institutionalism. If it is true that the Judiciary, Public Ministry, and the Public Defender’s Office were already under the control of the powerful interests before the coup, afterwards any credibility and institutionalism that existed disintegrated entirely, especially since they continue to defend and support the thesis of “constitutional succession” in its effort to legitimize the events that began with the constitutional crisis. The situation in Honduras is alarming. The generalized corruption that currently exists doesn’t just affect the poor. Journalists, lawyers, prosecutors, judges, human rights defenders, among others, are all experiencing extreme vulnerability.

Impunity continues to be a general issue in Nicaragua, where the government very rarely goes after functionaries and people aligned with the ruling party who commit abuses; to such a degree that the Police behave as accomplices in the commissioning of crimes. An example of this is the failure to investigate the case of the youth movement “#OcupaINSS” where police officers as well as Public Ministry staff refused to fulfill their responsibility to investigate the charges of mass aggression and robbery that happened on June 22nd 2013. Even though there is testimonial and documental proof for this case the Police have failed to make any arrests. Another incident that remains in impunity was the case of men and women from New Guinea who were victims of police abuse and tortured in jail in their municipality for simply protesting alleged electoral fraud in the same municipality.

Another case that illustrates impunity tied to power is the massacre of 3 farmers in “El Carrizo” in the municipality of Somoto, Madriz, in November 2011.

For the CENIDH this massacre is a clear example of the double standard in the application of the law in recent years.

4. Penitentiary Systems

The penitentiary systems in Central America are denigrating and undignified, overpopulated by as much as 50%, packed in to a degree that the incarcerated face health risks, high levels of stress, difficulties coexisting, and managing prisoners in cases of riots. Add to this the highly deteriorated infrastructure, hygiene conditions, lack of medical services, inadequate food and water, plus the levels of internal security since prisoners aren't separated based on their crimes. Panama has the highest judicial backlog with 63% of their 14,990 inmates still without sentencing, followed by Honduras (60%), Guatemala (48.8%), El Salvador (24.2%), Costa Rica (23%), and Nicaragua (19% in 2011).



Source: on-line journal El Universo
Incarcerated population in El Salvador, piled into cells without adequate food or rehabilitation programs.

There is deficient food for the incarcerated. Costa Rica designates 197 million dollars a year, Guatemala invests 66.6 million dollars, Panama 34.5 million dollars, El Salvador 32 million dollars, Honduras 18.5 million and Nicaragua 10.7 million, which does not adequately guarantee the right to food for incarcerated persons.

In the CIDH's report on the situation of incarcerated persons in Honduras" concluded that... "the jails become schools for criminals and anti-social behavior which favors relapse over rehabilitation", and are places where the human rights of prisoners and their families are systematically violated, especially those in vulnerable conditions. The incarcerated population has lost their freedom, but they can't be denied their basic human rights.

Penitentiary Overcrowding in Central America

Country	Years 2005-2007			Year 2011		
	System Capacity	Existing Population	Density by 100 places	System Capacity	Existing Population	Density by 100 places
Costa Rica	7931	7862	99	8894	11,339	127
El Salvador	7770	12561	162	8187	24399	298
Guatemala	6454	8243	128	6492	12303	190
Honduras	8280	11691	141	8190	11985	146
Nicaragua	5446	5672	104	4399	7868	179
Panama	7216	11617	161	7443	13397	180

Source: C.ARRANZA, Elias. ILANUD. 2011. Created with official information provided by each country's authorities.

Another example is the self-governance within the prisons, encouraged by the authorities themselves to delegate disciplinary measures among the inmates, especially the possibility of applying punishments. According to CIDH, this self-governance produces all kinds of abuses, internal extortion, and allows the planning of kidnappings and other crimes from within the prison.

The prison population reaches 92,565 in Central America, according to official registries. This has collapsed the 114 prisons on the isthmus, where unhealthy conditions, deficient legal assistance, inefficient medical attention for hospital, psychological, and nutritional services, and other needs predominate⁴³.

As of September 2013 El Salvador continues to be the country with the highest incarcerated population and degree of overcrowding, exceeding the 22 prisons original capacity. The Salvadoran penitentiary system can hold 8,490 temporary inmates and 26,489 prisoners, registering 17,999⁶ in over population. An example is La Esperanza prison, which was built to hold 1,200 prisoners, but actually houses 5,209.

⁶ Data provided by the Ministry of Justice and Security.

Furthermore, of the 26,489 prisoners, 20,017 have been sentenced, some of who received over 51 years, while the rest await conviction. The overcrowding situation is more serious in the case of the women's prison, which was built to hold 220 inmates, but in July 2013 there were 2,084. The institutional budget for 2012 was US \$1.96 for each inmate per day for food; that is US\$0.65 for each meal.

In the four social insertion centers for adolescents there are 653 teenagers. 337 (51.6%) have already reached the legal age and are currently waiting court orders to be moved to intermediary centers.

For their part, the Foundation for the Study and Application of Law –FESPAD in Spanish– considers overcrowding as an impediment to reinsertion. Despite the prisons' treatment programs⁷ the degree of overcrowding prevents effective reinsertion for the prisoners. The majority of the incarcerated population receives the Penitentiary Center's programs; nevertheless, they don't produce the expected results.

Honduras has a collapsed penitentiary system that presents serious structural deficiencies and systematic human rights violations against the incarcerated population. "The Honduran penitentiary system is dehumanizing, poverty-stricken, and corrupt. The existing conditions found in the jails are completely contrary to human dignity", affirmed the rapporteur Escobar Gil during the presentation of the Situation of Honduras's Incarcerated Population Report. The CIDH, based on information supplied by the state in January 2013 estimates that the incarcerated population in the country is 12,263 people (half of whom have been processed and the other half convicted) and notes that there is a deficit of 3,600 places, or a 44% overcrowding rate. The daily food budget for the nearly 13,000 prisoners has been cut from 53 to 39 cents.

Inmates continue to coordinate many crimes from prison that affect society. Rony López, a prosecutor against organized crime for Guatemala's Public Ministry, claims that the majority of extortions committed in the country are carried out from within the prisons. The functionary added that they have been able to identify just one prisoner who has managed to expand his extortion business to four different countries, including El Salvador, Honduras, Costa Rica, and Uruguay.⁴⁴

The CIDH notes that "the lack of effective security control in the jails facilitates conditions for commissioning crimes within the jails and from the

jails" such as "drug trafficking, gun sales, and charging inmates or their families extortion payments". It also permits the "planning and management of such crimes as homicides, kidnappings, and extortions" all with the consent of penitentiary authorities.

Guatemala has 16,179 inmates among their 22 prisons and their holding capacity is for 7,000 people. A clear example of overcrowding is the Jutiapa prison, built to hold 75 prisoners, but actually holds 300. Penitentiary system data shows that there are currently 8,019 people in preventative detention, while 8,188 are serving sentences. The penitentiary system designates US\$6.73 per prisoner per day. This amount must cover three meals a day whose cost oscillates between \$1.77 and 2.27 dollars⁴⁵. Currently, jail sentences don't comply with the end in which they were created, which is to prevent crime in society.

Two important cases in 2013 expose the penitentiary system's fragility. The first is the former military officer Bryon Lima's pleasure outings, who was convicted for the assassination of Archbishop Juan Gerardi. He also attended a public activity in September 2013 without the authority's permission⁴⁶. The second case involved eight agents taking prisoners from the maximum-security prison "Frajanes II". Both cases illustrate the lack of control that the authorities exercise over the inmates, even of the maximum-security prisons.

In Nicaragua there are about 13,000 incarcerated persons, of which 9,500 are located in prisons whose holding capacity is for 3,086 inmates under normal conditions (institutionally 4 square meters is allotted per prisoner), the rest are within already saturated police districts. The Tipitapa Model Prison was built in 1958 and has a holding capacity of 2,080, and currently holds 4,551 prisoners. The daily budget, per inmate, reaches figures of US\$0.24 to US\$0.50.

One of the reasons for the overcrowding in Nicaraguan prisons is not just the lack of jails and existing spaces, but rather the inefficiency among Penitentiary Supervisory judges; as well as the prison authorities problem with keeping track of conviction times. Many times inmates have completed their sentence but continue to be imprisoned.

For their part, the Supreme Court, through the Public Defender's Office, is preparing a plan to free about 1,800 prisoners with just misdemeanors who are placed in different penitentiary systems around the country. The purpose is to relieve overcrowding in

⁷ There are 12 penitentiary treatment programs: domestic violence, anxiety intervention, aggressive behavior control techniques, drug addiction, sexual aggression control, formal education, job training, productive work, sports, religion, psycho-social competency, art and culture.

the country's jails. The beneficiaries must comply with legal prerequisites, such as being a first time offender. That is to say, without prior offenses and they must not pose a danger to society, as the magistrate Marvin Aguilar, the Judiciary's vice president has stated.

The problems in the Nicaraguan jails are not new, but they persist until now without any demonstrated change from the Government. Entities responsible for human rights monitoring, such as CENIDH, CPDH, the ANPDH, and others who monitor transparency such as IEEPP, are prohibited from entering prisons, even when prisoners request their presence through family members. Similarly, independent journalist are prohibited, as are human rights defenders when there have been cases of rioting. This was the case in Estelí, where the vice minister of governance, Carlos Nájar gave express orders to deny the participation of CENIDH's Estelí Subsidiary Coordinator in the negotiation Commission, even though the inmates and their families had requested this.

Since 2008 there has been steady growth of incarcerated persons in Costa Rica. By May 2013 there was a 37.5% overcrowding rate, which is to say that there were 3,700 more people in the prison system over its holding capacity, adding up to 13,418 prisoners in the country⁴⁷. 24.2% (3,259) remain without a firm conviction, among them 282 women⁴⁸.

In May 2013 the Costa Rican Inhabitants Defense's National Mechanism for the Prevention of Torture published the 2012 Report on the Penitentiary System. The report considers that Costa Rican prisons "are human warehouses" that violate the human dignity of the prisoners, technical staff, and security personnel. It confirmed that the overcrowding facilitates breakouts of "infectious and contagious diseases" and restricts the possibility for inmates' reinsertion into society. The document details how the prisoners are unable to access health, educational, and labor services.

The worst prisons are San Carlos and Pérez Seledón, where overcrowding rates reach 119% and 123% respectively. The San Sebastián prison, where the majority of the inmates are awaiting trial, the overcrowding rate reaches 85%⁴⁹. At the same time, the Reforma Prison (maximum-security) is overpopulated by 63%; housing 3,405 people in a space built for 2,084.

Juvenile conviction rates in Costa Rica indicate overcrowding, lack of opportunities, the increase of incarcerated youth, and the cohabitation of minors with adults, according to the denunciations of organizations

and the magistrates themselves. Some evidence points to the tripling of the number of incarcerated youth, and that adults over the age of 18 who no longer fit in La Reforma prison are being transformed to the juvenile prison, causing overcrowding and the collapse of the social service programs⁵⁰.

Without a doubt, one of the factors that increases human rights violations against the incarcerated population is the low budget. For 2013, the approved budget was for US\$149,927.06, about 15% less than what is necessary. The daily cost of maintaining a prisoner is US\$45.00. If a person is in preventative detention for two months, the state should spend 2,800 US dollars per person. But due to these high costs of maintenance, the prisoner's human right to personal integrity is not respected.

In Panama, the penitentiary system faces a conglomeration of serious situations that threaten and infringe on inmates' human rights. These include high rates of overcrowding, inadequate penitentiary infrastructure which lacks ventilation and natural light, without beds, nor minimal hygiene conditions, the excessive use of preventative detentions such as injunction and the disproportionate use of this, the rate of torture and cruel, inhumane, and degrading treatment, and the lack of adequate supervision by the custodians.

The daily cost of feeding each prisoner is US\$3.15 according to National Penitentiary System statistics⁵¹. As of April 15th, 2013 the imprisoned population was 14,626, a figure that represents an overcrowding rate of over 50%, since the prisons holding capacity is for 7,100 people, between both men and women. The judicial backlog exacerbated the situation in the prisons, with a total of 9,036 prisoners yet to have received sentencing. The largest prisons are Chiriquí and Herrera. In the recruitment centers in the Panama province there are 10,779 prisoners too many, since the holding capacity is for 4,913; a overcrowding rate of 54.42%. Meanwhile in the public prison Chiriquí there are 1,115 inmates despite the fact that the four prisons only have a holding capacity of 388 persons, which is an overcrowding rate of 66.29%. The Herrera prison maintains an overcrowding rate of 50.92%.

The National Human Rights Commission of Panama –CONADEHUPA in Spanish– holds that the penitentiary system is characterized by inequality, caused by influence peddling, where only those with some degree of economic, political, or physical power benefit.

The CIDH recently noted, “prisons and detention centers have become areas with a complete lack of supervision and control, due to traditionally favored arbitrariness and corruption. Prisons as institutions are particularly susceptible to corruption. The lack of accountability, connections with organized criminal groups and the lack of social interest are a perfect recipe that makes this an endemic issue in the majority of the region’s penitentiary systems.

The United Nations Office on Drugs and Crime –UNODC– is of the opinion that corruption practices at all levels give way to the direct violation of rights guaranteed in international human rights instruments, especially the rights of vulnerable persons such as the incarcerated. The corruption practiced by prison officers allows abuses that perpetuate the existence of certain inmate groups to the detriment of the more vulnerable prison population. Many times this is justified due to the poor salaries that these officers receive, but this is not the only factor that causes corruption. It has to be taken into account that many inmates are susceptible to maintaining close relationships with organized crime and therefore have easy access to the capital necessary to sell illegal drugs, weapons, etc. and to gain illegal privileges from the guards.

For example, according to Panama’s Penitentiary System Department, in the first five months of 2013, 82 public servants in the penitentiary system were punished for acts of corruption, 24 of whom were relieved of their posts. The lack of control entities guarantees a high level of impunity and tolerance for corruption in the regions different countries.

5. Transitional Justice

Transitional justice is a set of legal measures and policies that different countries use to make reparations for serious mass human rights violations. These include criminal proceedings, truth commissions, reparation programs and diverse institutional reforms. Transitional justice isn’t a special type of justice, but rather a way of dealing with transitional periods that can range from a conflict situation to state repression. In an attempt to obtain accountability or victim reparations, transitional justice provides victims the recognition of their rights, strengthening civic trust and the rule of law⁵².

The application of justice is still a pending debt in Guatemala, despite that in 2013 there were two

transitional justice convictions, specifically for the cases of forced disappearances during the internal armed conflict (the Edgar Paredes Chegüen⁵³ case and Edgar Fernando García⁵⁴ case) the judicial system still protects powerful persons who in one moment or other have been tried and absolved.

After the signing of the Peace Accords, the country has worked towards building a democratic, progressive society that fully respects human rights; however, 14 years after the signing, the nation finds itself in a critical moment that include a range of problems – from a weak democracy to the disrespect for the rule of law.

Military powers succeeded in granting amnesty for all persons who had committed crimes within the context of the armed conflict. Nevertheless, crimes such as genocide, forced disappearance, and crimes against humanity are not subject to these orders⁸.

In 2013, for the first time in human history a state –Guatemala– tried a former president for genocide, using internal law. General Efraín Ríos Montt served as Head of State between 1982 and 1983; during the period of the highest rates of human rights violations during the armed conflict, especially against the indigenous population. Montt was subjected to a criminal proceeding against him; where an estimated 1,700 Ixil members, in the Quiché Department, were massacred by the Guatemalan State.

The debate lasted two months, and on May 10th the Tribunal declared General Efraín Ríos Montt guilty of genocide and crimes against humanity. He was sentenced to 80 years in jail, while General José Mauricio Rodríguez Sánchez was absolved of these crimes.⁵⁵

Over 50 people testified in the process, narrating vivid horrors from the conflict period and mentioning acts of killing, the practice of rape using guns, the psychological disorders suffered and the effects on the lives of the victims.

However, on May 21st of the same year, the Constitutional Chamber annulled everything that had been ruled in the Sentencing Tribunal and postponed the process until April⁵⁶. In the process of affecting this ruling, not only was the date set back, but also the April resolution pushed the process back until 2015.⁵⁷

This constitutes a set back for the rights of the victims and discredits the Guatemalan justice system, exposing that those who had and still possess quotas of power can remain unpunished, despite the national legislation and international human rights material.

⁸ Article 8 in the National Reconciliation Law



Sources: CB24, CADH and La Prensa de Honduras
Genocide trial against Ríos Montt

Nicaragua spent more than a decade in a war where between 30 and 50 thousand people lost their lives. During the Somoza dictatorship and the Sandinista governments, forced disappearances, assassinations, persecution, extra-judicial killings, and forced displacements were committed. These are not only serious human rights violations, but also crimes against humanity. Unlike Guatemala and El Salvador, once the conflict ended, Nicaragua did not create a Truth Commission to investigate these acts. In 1990, the Sandinista Government approved Law 81 that granted total amnesty to the Sandinista army and the Contras between 1979 and April 1990.

El Salvador's 12 years of civil war resulted in approximately 75,000 dead and disappeared persons. Of all of the cases covered by the Truth Commission, the government was responsible for over 90% of them⁵⁸. After the signing of the Peace Accords two laws emerged that left all of the crimes committed during the conflict in impunity. The first, the National Reconciliation Law, was emitted 7 days after the signing of the Peace Accords⁹, and the second, the General Amnesty Law for the Consolidation of Peace, was emitted 5 days after the publication of the Truth Commission's report⁵⁹.

To date, there have been two important events related to this subject. One was President Mauricio Funes's public recognition, asking forgiveness in the name of the Salvadoran State before the victims of "El Mozote" massacre and the other, the Inter-American Court on Human Rights' rulings on "El Mozote" case, which

states that "the amnesty orders are inadmissible, as are the orders for prescription and the establishment of freeing from responsibility those who hope to impede the investigation and punishment of those who are responsible for serious human rights violations such as torture, summary, extralegal, or arbitrary executions, and forced disappearances; all of which are prohibited for violating the inherently recognized by International Human Rights Law" and ordered the "State to assure that the General Amnesty Law for Peace Consolidation never represents an obstacle for the investigation of material facts in the present case, nor for the identification, judgment, or eventual punishment of those responsible for these or other serious human rights violations that occurred during the armed conflict"⁶⁰.

Added to this is the Constitutional Court's September 2013 acceptance of the demand of unconstitutionality of the Amnesty Law, which opens the possibility of justice to the family members of the armed conflict victims. However, it is worrisome that after the Court accepted this demand, the archbishop of San Salvador decided to shut down the offices of Tutela Legal, where many of the human rights violations from the armed conflict are archived, of which some archives served in the elaboration of the Truth Commission report.

In Panama, there are 47 investigations into killings and disappearances from the period of the 1968-1989 military regime. However, any significant progress in these procedures remains unknown.

⁹ La firma de los acuerdos de paz se da en Chapultepec México, el 16 de enero de 1992.

Chapter III

CRISIS OF THE DEMOCRATIC MODEL

One would suppose there have been significant advances in the levels of democracy and the exercise of citizenship in the past decade; however, Central America has regressed in its democratic processes. In the Democratic Development Index report –IDD in Spanish–, compiled by the Konrad Adenauer Foundation –KAS in German– noted that “The inclusion and social ascension achieved by hundreds of thousands of citizens in the recent decade and the excellent international economic conditions for development in Latin America, far from providing relief for social demands, has increased tensions based on income inequality that is characteristic of the region”⁶¹, emphasizing the weak institutionalism and the economic “boom”, the region has not managed to reduce social inequality and has set back democratic development.

In this report, Costa Rica sits among the countries that have achieved the best results in the past ten years. Panama ranks in the “middle development” category in terms of democracy. El Salvador, Nicaragua and Honduras are ranked in “low development”. These measurements of democracy are an expression of the inability to build stronger institutional systems and policies. The majority of the problems originate from the mismanagement of the controls that a democracy demands and with destabilizing currents within societies that marginalized sectors expressed in the face of exclusion from social, economic, and political benefits.

The upset of constitutional order, the return of authoritarian and anti-democratic governments characterized by a concentration of power at the cost of institutionalism and the rule of law, has provoked constant destabilization and exposes the crisis of the democratic model. A clear example of this are the public policies for citizen security which are in general repressive and non-preventative, encouraging iron fist and trigger happy type policies within a context of impunity.

Among the authoritarian elements that create important barriers to democratization are: the use of repressive policies as an important social control mechanism, the personalization of power and the concentration of political decision making within the executive branch; the subordination of state powers within the executive branch, the electoral irregularities that have assured the re-election of presidents and the excessive

economic and political power quotas for active and retired members of the armed forces. This puts into question the legitimacy of the democratic state, as well as creates a serious barrier to fully realizing rule of social law where justice is the primary foundation for all social and political relations.

The spaces for freedom of expression, the right to protest, organize, and civic participation have been drastically reduced by the control exercised by the parties in power and big business, using the state powers to further their interests, which carries with it the repeated, permanent, and varied violation of human rights. This exposes the actual crisis of the rule of law and the relevance of the subject for the construction of a democratic and inclusive society.

Citizens ability to realize their rights is seriously put at risk with such factors as: the stagnated fight against poverty, the hegemonic forces unconstitutional imposition upon the legal framework to create forms of governance that elevate rates of exclusion, centralization, the cooptation of social organizations, and the closure of spaces allowing critical opinions of public powers.

I. Civic Participation

The regulatory system of each country in the region recognizes the right of every citizen to participate in the conformation, exercise, and control of political power; with the guarantee of liberties, and individual and collective rights for participating being at its essence. In other words, the people don't just legitimize, they also govern via their participation in initiatives, petitions, and legal initiatives, as well as decisions, elections, and voting. However, the right to participation, especially in decision-making processes in a systematic and effective way, is not equitably guaranteed among the citizenry.

In Nicaragua the civic participation model imposed by the government of President Ortega through the Civic Power Cabinet –GPC in Spanish– has affected pluralistic spaces legally established in the Civic Participation Law. The model has eliminated the law's functions as party affiliated structures have taken over and controlled the spaces.

The centralized system of power that predominates in Panama does not allow citizens to participate in public affairs within the central government, nor the municipalities. This facilitates systematic corruption. The government has excluded representatives of civil society organizations from being able to participate in any action that affects the citizenry, except in the cases where they share the same goals as the government.

On August 18th, 2012, the Legislative Assembly approved a set of reforms to the organic laws for different autonomous State institutions. The purpose was to modify the mechanism for electing representatives from the private sector. This was motivated by the fact that historically the National Association for Private Business –ANEP in Spanish– held the leadership of these institutions, excluding the participation of other sectors. The reform broadened the level of participation in the private sector, however, it also gave the President of the Republic the ability to choose the director from a list compiled by professional guilds. According to the Liberty Union Committee of the International Labour Organization this violates the principle of autonomy, which prohibits the interference of the government in the organization’s activities.

In the Report “The Human Rights Situation in Honduras Three Years After the Coup d’état”, presented by the Human Rights Convergence (Northwest Region), notes that the most impoverished sectors face discriminatory policies and actions. They also have limited access to information about the planning and implementation of measures that affect their lives and in general the traditional channels for participation used to publicize their grievances have been cut off.

In Costa Rica the gradual closure of public participation spaces has become the primary tension between the Costa Rican population and the consequent social movement. The Rector of the University of Costa

Rica, in his article “Institutionalism, Governance, and the Quality of Democracy in Costa Rica”, stated, “Democracy, as a framework within itself, should reaffirm political and social spaces for participation for all citizens, especially to empower the most vulnerable, poor, and marginalized sectors to assure the civic, social, economic, and cultural rights are accessible to everyone, without exception. Expanding citizenship and nurturing political and social participation increases the likelihood that the government and its decisions represent the citizens will”.

2. Criminalization of Social Protest

The criminalization of social protest has become more frequent, so much so that it has become a permanent fixture in Central American countries as a means to contain popular protest over the accelerated loss of human rights. Similarly, the government institutes security and defense reforms that respond to the increase in common violence, drug trafficking, and organized crime, tied to charges of police and legal corruption, derived from the Central American Regional Security Initiative –CARSI–.

The inhabitants of four municipalities in Guatemala provide a particularly illustrative case of this. They have been criminalized by authorities for opposing mining activities in San Rafael, which prejudices local health and the environment. The mine is part of the Canadian Tahoe Resources Company. In this context, the government has used police and military force to repress the dissent, justifying the acts under the argument that organized criminal groups and drug traffickers have infiltrated themselves among the protestors. They have also declared martial law in the departmental capital in the municipality of Jalapa Mataquescuintal, and the Casillas and San Rafael Las Flores municipalities, in the department of Santa Rosa.



Source: Mi mundo.org

Martial Law in San Rafael Las Flores, Santa Rosa, and Mataquescuintla, Jalapa, Guatemala after a series of anti-mining protests.



Source: Amauta

A march demanding the reestablishment of different health services in Costa Rica's different hospitals is violently repressed.

In Costa Rica, President Laura Chinchilla's current administration made heavy use of police and political repression in the last year, especially for limiting participatory spaces, by means of criminalizing social protest. The most representative case of repression has been the protests to defend the Costa Rican Social Security Fund –CCSS in Spanish–. On November 8th 2012⁶², thousands of people took to the streets to defend the public healthcare services, social security, and demand the reinstatement of different medical services in the country's hospitals. They also denounced the passage of the "Gag Law" or the Law of Information Crime that implemented a series of limitations on citizens' and the medias' ability to denounce corruption. The law creates jail sentences for leaking documents, among other things. This protest was heavily repressed and resulted in the arrest of 21 people, the majority of whom were union leaders⁶³, supporters of the leftist party and the Broad Alliance Party, university students and an informal vendor who was not participating in the protest.

On the anniversary of the Rivas Battle and the defeat of the filibusters, on April 11th, 2013⁶⁴ members of the National Police carried out repression against citizens. In this case, President Chinchilla ordered the restriction of citizens' entrance into the park, cordoning off the area where the formal proceedings were to take place. This bothered the people who had arrived and resulted in a face off between them and public force officials. The President's security personnel and police hit some journalists covering the incident.

Similarly, a young man was arrested on May 1st "Labour Day", which falls on the same day as that the Executive Branch presents their reports and as the yearly elections of the Legislative Assembly's board of directors. The young man was arrested⁶⁵ and sentenced to two years and 11 months in prison for threatening

government functionaries, aggression with a weapon and the possession of explosive material. Two other young people were also arrested.

Panama's law includes the freedom to meet and associate, although under certain conditions. This is stipulated in the law when it established that anyone using violence or who blocks traffic in public streets can be sentenced to 6 to 24 months of prison. In short, the Government selectively respects these rights in practice.

Organized campesinos continue to be targeted for violent persecution by the military, police and private security guards working for large landowners in Honduras. The massacres against campesinos continue to be carried out via operations that are more and more intense and prolonged, as are arbitrary detentions. An example of this is the events of August 21st 2013, against 22 men and 2 women who were captured and subjected to cruel harassment with serious threats, even of forced disappearance. The state repression, mixed with violence used by large land holders' private security groups who have been reported for assassinating various workers, intensified during the agrarian conflict since the Coup in 2009, especially in the Aguán region.

In 2013 in Nicaragua, one of the most internationally and nationally repudiated incidents of repression was against elderly adults and youth, carried out by police and riot forces made up of Sandinista Youth July 19th –JS19 in Spanish– and the ruling party's supporters between the 17th and 22nd of June. The National Union of Senior Citizens –UNAM in Spanish– led the protests against the reduced pension.

Around 200 senior citizens concentrated in front of the Nicaraguan Social Security Institute –INSS in Spanish– that provoked a violent reaction from the building's

security guards who insulted and wounded some of the elderly. The National Police cordoned off the area, blocking the supply of food, water, and medicine for the adults. This outraged people in solidarity with the elderly, especially the university students who had come to deliver food and water to them. However, the police responded with reinforcements, prohibiting anyone's entrance into the area, including family and CENIDH members who had come to help, which created a confrontation with the police.

In this incident, authorities attacked and dragged the Director of Defense and Denunciation, Gonzalo Carrión, CENIDH defenders Uriel Pineda and Georgina Ruíz, beating them all over their bodies. Agents also beat the journalist Roberto José Martínez while he was covering the protest. Later into the night on the same day 8 youth were arrested; among them the Coordinator of the CENIDH affiliate in Matagalpa, Juan Carlos Arce, who was beaten all over his body, attacked, and threatened. They were transferred to the Legal Aid cells in "El Chipote"¹⁰, where they were interrogated and threatened with torture.

During the protests there were 21 arrests of protestors and no less than 15 physically wounded whom the police or the riot forces with the police's consent had beaten. In the same way, at least 30 youth were victims of theft, when the rioters attacked the protest site around dawn on Saturday June 22nd. Various vehicles were also destroyed and six were stolen. The eviction occurred in less than four hours.

At the time of this report's publication, the police had still not investigated the stolen vehicles nor had they captured the aggressors, despite the fact that the victims had identified them. There were about 300 rioters and the majority of them were transported in the Managua Mayoral Office trucks –ALMA in Spanish–

Some of the youth accompanying the adults were wounded and received protection in nearby houses, where they were trapped since the area was taken over by members of the Civic Power Cabinets and FSLN supporters.

3. Freedom of Expression, Press, and Access to Public Information

The right to freedom of expression and information continued to deteriorate in each of the region's countries in 2013. There were higher levels of aggression,

which became more and more permissible by those responsible for protecting these rights. This situation becomes more intense during electoral processes since obtaining freedom of expression is the basis for real democratic guarantees and the full exercise of the citizenry's political rights and is an irreplaceable factor for a clean electoral process.

In Central America, freedom of press is protected in each country's national and international legal framework. These guarantee the citizenry's right to seek, disseminate, and receive information and ideas through diverse media and without any kind of censorship. However, in actuality, freedom of expression is only exercised under certain risks, constricted by a climate of intimidation and in the midst of large structural restrictions. Economic coercion is maintained in a variety of ways, such as the economic and political power's acquisition of mainstream media, whether they are direct acquisitions or through related people, so as to create media that serves as a tool for partisan and ideological propaganda, rather than for public service. This coercion is also manifested through discriminatory attitudes through the pattern of mainstream publicity against independent media.

Impunity in Honduras is characterized by serious freedom of expression violations. Journalists, communicators and social media communicators have been threatened for their work since the Coup. The International Federation of Journalists has recognized 2012 as the bloodiest year in recent history. 121 communicators were killed worldwide⁶⁶. 10% of those deaths corresponded to Honduras and 26% of journalist assassinations in Latin America. The seizure of transmission sites and the illegal confiscation of equipment are actions that have not produced any convictions, such as the attacks against Radio Progreso, Radio Globo, Radio La Catracha, Radio Juticalpa, Radio Uno, and El Libertador journal, the digital paper "Vos El Soberano" and Channel 36, among others.

One of the challenges that all of the Central American countries face is guaranteeing the ability to produce journalism that checks the powers that be, which is a fundamental role for a true democratic process. While there haven't been reports of many media outlets being shut down; blackmail, threats, cooptation, state intimidation of journalists and media owners, the economic blockade and the lack of access to public information has caused the closure of media programs where people tended to freely express themselves and demand their rights, or it has at least caused self censorship within these programs.

¹⁰ Former torture center for Somoza's Guard, preserved in the same installations since the 70's.

In Nicaragua, of the nine open television channels, eight are owned by a duopoly. The presidential family directly owns 4 channels and the Mexican businessman Ángel González, who until recently was one of President Ortega's partners in owning Channel 4, owns four more channels. Just one channel operates independently, but the economic and information climate is more and more limited and the access to public information is almost nonexistent, despite the 2007 law to protect this right. Thus journalists and media are not the only ones whose freedom to be informed is restricted, but also citizens' right to be independently informed is violated.

In Costa Rica the new Information Crimes Law took effect on November 7th, 2012. The law goes after any information it considers to be politically confidential, but social movements and popular pressure managed to eliminate articles that penalized the dissemination of "secret" public information⁶⁷. On the other hand, big businesses hold television media and the written press, so that primarily foreign monopolies maintain exclusive access to them, which threatens information sovereignty. For example, the owner of one of the television chains (Repretel, Channels 4, 6, and 11) and the Central de Radios conglomerate's most popular radio stations in the country (Monumental, Radio Reloj, Best FM, and 9 other stations), is also the owner of 30 television channels and 70 radio stations throughout Latin America. In the written press, there is an even more concentrated oligopoly. The Grupo Nación dominates newspaper circulation by 63.6%, and the Diario Extra holds 31.4%.⁶⁸

In El Salvador, the primary media outlets are dominated by powerful economic groups that respond to their own interests or to those of political groups and economically privileged sectors. An example of this is the agreement⁶⁹ among media groups called "Media United for Peace" whose purpose was to not publicize or print violent acts or images of assassination victims. However this agreement among media outlets emerged within an electoral context that affected the ARENA party, since the administration at the time faced a security crisis in the country where there were an average of 12 homicides a day. The agreement disappeared once the leftist party came to power. Even though violence rates have decreased under the current administration, the sensationalism in the media has increased⁷⁰.

Furthermore, the Telecommunications Law establishes auctions as the only mechanism to assign electronic radio frequencies. This favors the distribution of frequencies among those with the best economic

offers, violating the constitutional rights and principles associated with freedom of expression, economic order with social justice and the prohibition of private monopolies. Facing this issue, many social organizations, among them FESPAD, have presented a Bill to democratize communications⁷¹ and at the same time have presented a case for the unconstitutionality of the current telecommunications law from 1997⁷².

President Martinelli in Panama also owns Grupo Prisa's 6 radio stations, which he publically confirmed and referring to his innocence if they offer a good price. Similarly, on other occasions he has confirmed that he owns stock in different media outlets, even though he has only directly said that he owns NexTV.

Guatemala has the Free Thought Emission Law and the Access to Public Information Law, which protect and allow access, dissemination, and the right to information without any discrimination. However, these laws are not applied. For example, the institutions that run state funds must make information considered of public character available to any person, but they have avoided this, constantly denying access to public information and therefore committing the crime of retaining information.

The Center for Communication Investigation –CINCO in Spanish– is an institution specialized in studying communication, culture, democracy, and public opinion in Nicaragua. They stress that the "media and journalists are not detectives, nor judges, and much less opposing political parties. The democratic commitment imposes the need for political reform, but their primordial task should be to produce trustworthy information and apply the same critical standard to everyone, including private powers who as large advertisers exercise economic influence over the media".

Freedom of press is constantly threatened in Panama via the criminalization and litigation of journalists. The President Ricardo Martinelli himself has promoted the questioning of journalists. "The mandatory has been emphatic and precise in his attacks against various media outlets, which he categorizes as "opponents".

According to the Public Ministry's data, and the Judicial Branch, there are currently 33 journalists⁷³ with open defamation cases or civil suites presented by functionaries and individuals who consider themselves affected by the publications. The interference of the Judiciary and the prosecutors are mechanisms that the state uses to restrict or limit the different freedom

of expression actions and the journalists monitoring of public administration. The Second Tribunal emitted one of the most recent rulings last October, which overruled the Seventeenth Penal Court's dismissal and sentenced the journalist Rubén Polanco from La Prensa to pay a thousand dollar fine.⁷⁴

In Honduras, one of the objectives for killing journalists is to silence the voices that denounce corruption within the government and the serious human rights violations that are committed. On October 23rd, 2013 the cameraman Manuel Murillo Varela was assassinated. He had previously worked at channel Globo TV, and had been granted protectionary measures by the CIDH on February 25th, 2010. After testifying before the entity on February 2nd 2010, he was kidnapped and tortured together with another colleague by plain-clothes police officers, who drove them to a clandestine prison. The police threatened to kill them if they didn't hand over the videos of the National Front for Popular Resistance's –FNRP in Spanish– protests that followed Zelaya's overthrow.⁷⁵

In Guatemala, there were four assassinations mourned by professional journalists in September 2013.

Most recently, the body of 72-year-old communicator Carlos Chávez was found dead and with bullet wounds along a rural road in the Department of Suchitepéquez. Furthermore, in March 2013, the journalist José Jarquín, who had been working for a local outlet in of the Department Jutiapa, was assassinated. One month later, in the same region, the violent death of communicator Luis Lemus was reported and in August two unknown persons on a motorcycle shot and killed the journalist and announcer Luis Lima, who died inside his vehicle in front of the Zacapa radio station. One week later, the reporter Fredy Rodas survived a shooting while he was leaving a cable television station in Mazatenango⁷⁶. Clearly, the attacks against journalists can be directly related to the violence that is devastating the country, or just as likely, the sensitivity of some subjects among those linked to organized crime.

On May 29th, 2013, Nicaraguan journalists from different media outlets protested with their mouths covered in black tape, as if gagged, in front of the Supreme Court in Managua. They demanded that authorities stop aggressions and blockades against the journalists' work. For example, the deportation of the French Press Agency's –AFP– photographer Héctor Retamal, as well as the aggressions suffered by La Prensa's press teams (who are critical of the government) when they try to cover news⁷⁷.



Source: Confidential journal

Journalists protest outside of the Supreme Court in Managua

On August 25th the indigenous journalist Lucrecia Mateo, for “El Diario Siglo 21” in Guatemala, was attacked while trying to cover a meeting about the construction of a hydroelectric dam in the department of Huehuetenango. The project's opponents hit the reporter and stole her photography equipment, as reported by the AFP. The same day the Guatemalan Information Reports Center denounced death threats against the journalist Aroldo Marroquín of the “Prensa Libre” paper by San Marcos police. In 2013, four journalists have been assassinated in Guatemala and despite the fact that the Journalist Protection Program has been put into implementation; it has not produced the expected results.

In Nicaragua, Ary Neil Pantoja, the former editor for “El Nuevo Diario” and his wife María Lidia Bermúdez, both journalists, have had to go into exile in the face of threats from Engineer Telémaco Talavera, who is the rector of the Agrarian University –UNA in Spanish–, as well as the President of the University's National Council and an advisor to President Ortega in matters related to higher education. According to Pantoja, they are afraid to return to Nicaragua due to the death threats they have received via phone calls to their home.

On May 7th through the 11th, 2013, the photo-journalist for AFP, Mr. Héctor Retamal, of Chilean nationality, was arrested by Nicaraguan police for a supposed migratory infraction. They took him to the Legal Aid Department, a center where they investigate crimes such as drug trafficking and organized crime. He was denied his right to consular and legal council. The supposed administrative infraction of Nicaragua's migratory legislation should have materialized in a resolution that would show his right to appeal before the corresponding entities.

There was also the case of prohibiting Swedish filmmaker Peter Torbjörnsson from entering the country in November 2012, as well as cases of political spying, persecution, harassment, and intimidation against the journalists Ismael López Ocampo, and the media outlets “Esta Noche”, “Esta Semana”, and “Confidencial” by presumed high level military officials in the Defense Information Department –DID in Spanish).

4. Democratic and Participatory Electoral Systems

The Costa Rican electoral system is presented to the world as one of the most transparent, characterized by electoral mechanisms that guarantee pluralism and the minority’s right to participate. These two elements continue to be in question because the system in practice is not very pluralist and implements a system that does not give the right to participate to minority parties.

In terms of pluralism, this clashes with the electoral process of the deputies. When the voter has to choose from a closed and blocked list without being able to show their support for a specific candidate, they thus vote for the party but there is no option to choose between candidates nor is there any respect for the order in which the voter would like them to be elected.

In as far as safeguarding minority party rights, the Electoral Code approved in 2009 keeps in effect the proportional system via the unfair quotient formula and the remainder or sub-quotient system that claims to guarantee the principle of minority representation. In practice it is clear that this formula constitutes a mechanism that prevents an acceptable relation between votes and legislative seats and by practicing this system, there is no recognition of minority parties’ right to elect representatives. It has become a mechanism to deny minority representation and has become a legal barrier that should be overcome to allow their representation.

This system of post assignment doesn’t benefit minorities because once posts are assigned according to the quotient, the remaining posts aren’t attributed to the party that acquired them, rather they are distributed among the parties that reached or exceeded a 50% quotient. This system doesn’t reflect the peoples will in a proportional manner because the parties that manage the remainder are disproportionately benefited before those who did not reach it, which violates the equality principle. According to the criteria of many Costa Ricans, the remainder system should be eliminated and replaced

with a “majority remainder” like a “declining order of the remainder of their voting”, expressly comprising the parties that don’t reach quotient. This would avoid majority parties from receiving a “majority remainder” and the votes received by the minority parties obtain their deserving seats.

It is likely that these situations affecting the electoral system have helped foster the phenomena of voter abstinence that the country has been suffering. This issue was most severe in 1998 with only about 30% voter turnout. At the same time mistrust of the political parties has increased and there is sharp criticism about the representative character of the political institutions, especially the Legislative Assembly. There are diverse proposals to reform the electoral system, among them the possibility that different groups be permitted to present candidates, besides just political parties.

Another decisive issue around electoral systems has to do with political party financing. The financing regime used by the parties was a central theme in the Costa Rican legislation reforms. Nevertheless, it gave way to the continuation of the old practice of political debt certifications, which facilitate inequality and lack of transparency in the management of party finances. Since 2001 the Supreme Electoral Tribunal –TSE in Spanish) had recommended the elimination of titles, taking into account that they are a loop hole for getting illegal donations from foreigners and other sources of money that are not recommendable.

This system was contested in the Constitutional Chamber (in case number 12-017159-0007-CO) that issued an injunction suspending the application of these certificates. However, the TSE decided to form a trust system that held the processes accountable in one way or another, maintaining the unfair and disproportional principles for the parties, especially the small and emerging ones, since it only favors parties well positioned in the polls.

Among the changes included in the reforms are: broaden the possibilities for political participation (introducing absentee voting, gender equality within party structures and the list of candidates – that should be structured under the alternating rule, braille ballots and domestic election observation, among others) and the strengthening of the electoral institutionalism (regulating the electoral jurisdiction and the creation of the Democracy Formation and Studies Institute).

One of the forms of governance adopted by El Salvador is democratic, characterized by being strictly representative. The few spaces that citizens have for participating are

largely just consultative, making political parties the only mechanism for real participation among the citizenry. This sphere needs legal regulation that guarantees the citizens' participation within these entities.

On February 14th, 2013, the Legislative Assembly passed the Political Party Law to regulate their activities. The framework includes regulations ranging from organizational aspects to the financial. While the law remains an important step forward for the democratization of the political system, it still contains certain holes. These include: the omission of allowing the possibility to create different political party categories according to the territorial action context; it doesn't obligate financial accountability, especially of private donations; nor does it effectively regulate the participation of youths as candidates in elected or assigned positions; and it doesn't establish caps on spending that political parties can run during their campaigns.

The Guatemalan electoral system holds very little credibility due to its inability to guarantee true representation, or the effective use of campaign funds. At the same time the system is manipulated by the country's economic elite at will, and ultimately by organized crime that has risen higher and higher within a system that it is constantly weakened. There is an urgent need to reform the electoral and political party's law to stop the abuses and seriously punish those involved with corruption and to give the TSE back its status as the reigning entity in the electoral processes.

It's necessary to highlight that while the country has demonstrated some progress in terms of electing authorities that run the justice system institutions and other positions, such as the attorney general, and creating a specific law for their election – the “Postulation Commission Law”, which seeks to provide accountability to the electoral process and rate the qualifications of the candidates, there continues to be pockets of corruption and manipulation of the commissions. For this reason there is currently a reform proposal to eliminate these kinds of situations.

Panama faces considerable challenges in their electoral sphere due to a “growing social frustration” originating from the government's misbehavior that has strengthened a right wing populist regime with authoritarian tendencies. Nevertheless, for the next elections the panorama gets interesting with the emergence of the new political party Broad Alliance for Democracy –FAD in Spanish–. “The FAD emerges as an alternative, with a primarily neoliberal agenda and support from the popular sectors, among them

the National Alliance for Economic and Social Rights”, made up of social organizations, farmers, indigenous, unions, and the United Construction Union”.

Despite warnings for the need of a regulatory reform to avoid organized crime's penetration of political campaigns, deputies refuse to debate the issue, rejecting in the first debate anything related to accountability as included in the National Commission for Electoral Reform's bill. The vicious cycle of political corruption begins with the enshrouded private donations during campaigns and now the authorities face the challenge of creating mechanisms to detect what could have been controlled more effectively if there was transparency and accountability.

In Nicaragua, the municipal elections on November 4th again imposed the ruling party's will by gradually occupying spaces of power, in this case, local governments, as evidenced again in the Supreme Electoral Commission's –CSE in Spanish– bias by denying accreditation to national organizations trying to practice civic auditing over the electoral process, and by not publishing official results from each polling station. These elections, as well as past and upcoming elections in March 2014, do not comply with the CIDH ruling in the Yatama case.

In April 2012, the President of the Republic presented and passed the National Assembly's bill to reform the Electoral Law Number 331. The reform modified the integration of the polling stations, the rights of the political parties to name attorneys, the distribution of I.D.'s, the registration of voters in the electoral registry, the purging and publication of the electoral registry, and the requisites for political parties to acquire legal status, among others. None of the reformed articles refers to the Inter-American Court for Human Rights' orders, in the Yatama case, that obligates the state to create a legal resolution in response to the CSJ resolutions in terms of electoral legislation and to allow the political participation of indigenous groups and afro-descendent groups based on their own form of organizing.

The reform also includes a measure to guarantee the permanent purging of the electoral registry that puts the names of those who have not participated in the last two elections or other electoral activities, over to a passive registry. This ruling violates the universal right to vote for those citizens who did not vote in the last two electoral periods and goes against what is established in our Carta Magna which indicates the state's obligation to eliminate any obstacles that in practice impede the equality among Nicaraguans in exercising their political rights.

The Municipal Law was also reformed⁷⁸ to raise the number of council members, in some cases quadrupling or quintupling them. In article 82 of the same law it states that political parties are obligated to present the same number of female candidates as male candidates for the positions of mayor, vice mayor, and council members in the municipal elections.

Another serious issue that was thought to have been a thing of the past in Nicaragua is the registration of deceased persons or of those who have emigrated, which exposed the lack of transparency in the electoral processes. Also the “dedazo” (big finger) practice is prevalent, where candidates are imposed via this custom. This spurred different protests where people reacted to these practices, which confirmed the lack of democracy and the disrespect of the peoples vote. This violence has brought grief and mourning to Nicaraguan families whose most basic right has been violated – the right to life. This was the case with the death of the young man Ariel Reyes Gutiérrez, member of the Sandinista Youth in the municipality of El Jícaro, Nueva Segovia and the death of Mr. Juan López Artola and Vidal Obando Lira in Ciudad Darío, Matagalpa, which occurred during the repression of protests against electoral fraud.

Another serious incident has been the use of the National Police and the military to crush social protests. They have used firearms and tear gas bombs to break up protests, producing denunciations against the acts of violence committed and the abuse of authority via illegal mass detentions against citizens demanding that their right to choose their elected representative be respected. Such was the case in Nueva Guinea, Nicaragua, where nine women and 49 men were detained by the National Police and subjected to abuse and mistreatment, as well as threats of rape. They pulled down the women’s pants in front of male officers to do body searches, keeping their legs spread and facing the wall. They weren’t permitted to look to either side, and if they did they would be beaten in the head, while they were forced to listen to the desperate cries of the other detained persons who were complaining of the pain caused by the aggression. The affected persons filed charges, but the police have yet to punish those who were involved in these violations.

In Honduras, 78% of the population feels unsatisfied with their democracy and 59% believe that the elections will be “fraudulent”⁷⁹ as the citizenry reaches the final leg of the 2014 electoral process for November 24th, 2013. This is complemented by the citizens’ strongly negative perception of the institutions. 59% of them state that they have no trust in the political parties, 50% mistrust the National Congress, and 49% mistrust the Supreme

Court, 49% mistrust the Presidency and 48% mistrust the National Police. 60% of the Honduran population says they have little to no trust in the Supreme Electoral Tribunal –TSE in Spanish– and 44% say the same for the National Registration of Persons –RNP in Spanish–. The fact that these attitudes are marked by the deficits of the internal elections from November 2012, especially due to the limited credibility of the transmission of data from the polling centers to the final results.

The country requires urgent changes to the electoral process, and the upcoming elections hold opportunities to do so. The expectations of the citizens view the vote as a means to effect change in the management of the state and in the ways politics have been carried out in the country. 73% of Hondurans believe that the changes should be “radical in every sphere”, and 13% think that these changes should be “gradual in every sphere”, and only 12% think changes should be concentrated in “the most problematic areas”. In this electoral race, nine political parties participated, of which four are running for the first time: “Liberation and Re-founding –LIBRE in Spanish–, Anti-Corruption Party –PAC in Spanish–, Broad Alliance of Political Electoral in Resistance –FAPER in Spanish– and the Patriotic Alliance Party.

Even though the majority of Hondurans feel little interest in actively participating in politics, they do value the importance of the vote and the power that this represents. According to CESPAD’s survey, 80.3% of the people interviewed said they had decided to vote in the November elections.

In total, there are 24 presidential assignments, but only three will hold the position they ran for. Similarly they will elect 298 mayors and the same number of vice mayors and 2,092 council members. They will also elect 128 acting deputies and the same number of substitute deputies to the National Congress. Plus the 20 active and substitute deputies for the Central American Parliament –PARLACEN in Spanish–.

5. Balance of Powers

Democracy cannot be reduced to electoral processes. Manuel Alcántara, a political scientist, considers “the free competitive elections to be a necessary condition, but it is not enough because there must be institutions, which we call the rule of law. If the Executive branch ends up controlling the other state branches, then democracy is adulterated. If the political power takes over the media and imposes penalties on work they dislike, then democracy is taken over. If the political power goes after political

enemies then it is also a take over of democracy, but if the political power does not legislate public policy that favors the majority, then democracy is adulterated”.

In Nicaragua political power has been concentrated in the hands of just one party, with an Executive branch that is more and more authoritarian and state powers entirely aligned with the party’s agenda. The 2012 municipal elections took another step towards the state’s total control, and above all, demonstrated the hegemony of the FSLN in as much as municipalities don’t have any kind of balance of power after the reform of Law 40 that was passed in April and May 2012. This reform forces mayors to align their budgets and policies with the ruling party’s.

On October 6th, 2013, the National Assembly’s majority party presented an initiative to partially reform the Constitution with an attempt to modify over 30 articles. Through this reform they hope to legalize a totalitarian style political system that they have gradually been imposing, without regard for the current constitution, concentrating presidential powers, allowing the president to dictate executive decrees with the full force of the administrative law, which has in effect diminished the legislative competencies of the National Assembly.

The passage of this reform would allow Nicaraguan military personnel to hold public office, including in the Judiciary, which would open the doors to the militarization of the state, tying the military even closer to the political agenda of the ruling party, undermining the professionalism and institutionalism that has characterized the armed forces. At the same time, the concept that deputies belong to parties rather than the public that elected them would become institutionalized, plus it eliminates the Unconstitutional Appeal mechanism.

The CENIDH considers the issue of the constitutional reform to be highly worrisome because of the risk of the government’s impositions taking deeper root through reforms to the Constitutional Policy. This would allow the clashing forces to be constitutional entities and the state led by active military personnel, whose obedience would be between the General Commander of the Army and the President of the Republic.

In theory, the republic form of government adopted by El Salvador avoids absolute power by establishing the division of powers, to create balance among them. In this framework, the judicial independence plays an important role, and in that respect, it has suffered serious attacks of different natures. According to the special rapporteur

on independence for the United Nations’ –UNO– magistrates and lawyers, there have been attempts to hold the Constitutional Chamber’s –SC in Spanish– rulings in contempt. These actions include not receiving notice in the Legislative Assembly of the Court’s rulings, not publishing the rulings in the Official Journal, intimidating and trying to remove magistrates from the chamber, and the creation of commissions in the Legislative Assembly to evaluate the constitutionality of the SC’s rulings.⁸⁰

For 2013, after a series of sentences related to relevant issues in the country, among which included the unconstitutionality of the naming of high level officials, the SC continued to be attacked in clear disregard for judicial independence. Recently, there has been a conflict between the SC and the Chamber for Administrative Disputes, both dependencies of the Supreme Court (CSJ in Spanish). This takes place within the context of the SC admitting a suite filing for the unconstitutionality of the SC’s election of the CSJ’s president (also the president of the SC). Meanwhile the Chamber for Administrative Disputes has admitted a suite filing against the naming of four of the SC’s magistrates⁸¹. To date, this conflict has not been resolved, but the US government has gotten involved⁸² in the issue, also violating the principle of judicial independence.

In Costa Rica there have been situations that have put into serious question the country’s compliance with the balance of powers. An example of this is the case where the Legislative Assembly decided to not re-elect (as has been the institutional custom) one of the Constitutional Chamber’s magistrates, thanks to the votes of the house majority and some opposition deputies, as a “measure of pressure, so that the Chamber resumes institutionalism”.

On November 15th, 2012, for the first time in history, Congress rejected the re-election of a magistrate. The PLN majority party did so to “get the attention” of the Supreme Court. Deputies from different groups managed to get the 38 necessary votes to prevent Fernando Cruz Castillo, magistrate for the IVth Chamber, from remaining another eight years in the position. The leader of the majority party said, “the Constitutional tribunal has overreached its competencies which has generated a state of un-governability, thus making it necessary to re-establish the balance of powers”. This situation was reverted thanks to a constitutional action presented by another legislator, which alleged that the vote to not re-elect the Magistrate was extemporaneous. Thus, on May 14th, 2013 the Legislation session swore in magistrate Fernando Cruz. Cruz was sworn in under the order of the VIth Chamber that ruled in favor of the independent deputy Luis Fishman, who put forward the extemporaneous argument.

Chapter IV

THE NEOLIBERAL MODEL AND INEQUALITY IN CENTRAL AMERICA

Neoliberalism finds its theoretical foundation in the ideas of the Chicago and Austrian Economic Schools, whose main representatives are Milton Friedman and Friederich Hayeck. The neoliberal proposals range from the economic-political sphere, to the rejections of state interventions in economic activities; touching on cultural elements such as individualism, legal regulations like the deregulation of markets; among others.

The referred to model considers the free circulation of goods as its cross cutting theme. It proposes that general market forces regulate the economy and set prices, for non-human goods. It also proposes a low fiscal burden to “incentivize” investment, noting that the state shouldn’t have any kind of investments, considering these as “unfair competition”.

Concretely speaking, the neoliberal model has been the trigger for human rights violations in Central America. In this framework, the region has subscribed to free trade agreements that have damaged third world economies, forming monopolies, promoting mega investment projects, inequality, poverty, the accumulation of wealth, all in detriment of enjoying the most basic human rights.

During the compilation of this report, two of the Central American countries have leftist administrations, who in their moment, proposed the anti-thesis to the neoliberal model. However, they have done nothing to modify the economic, political, legal or cultural structures. Despite the fact that the governments of Nicaragua and El Salvador claim to have alternative economic models, or that they’re different than the neoliberal model, they continue to use the same policies under the same economic logic. Thus, human rights continue to be strongly violated in these Central American countries.

I. Poverty, Human Development, and Social Inequality

Public policies have been insufficient in guaranteeing the populations full enjoyment of their rights. The structural readjustment programs and the free trade agreements

haven’t created benefits for citizens either, quite the opposite, they have only favored monopolistic practices revealing themselves as incapable of resolving poverty issues.

The economic policies implemented by the regions governments have allowed the concentration of wealth in very few hands. The following chart tries to illustrate the high concentration of wealth in the region.

Accumulation of Wealth Indicators in Central America				
Country	Ultra Rich	Percentage of Population	Accumulation	Population
Honduras	215	0.036%	30.000 million	7.8 million
Nicaragua	200	0.029%	27.000 million	5,9 million
El Salvador	150	0.041%	20.000 million	5.7 million
Panama	115	0,031%	16.000 million	3,8 million
Costa Rica	100	0,047%	14.000 million	4.8 million
Guatemala	245	0.060%	30.000 million	14.8 million
Central America	1,025	Average 0.040 %	Total: 137.000 million	Total: 42.8 million

Source: original table, data from *Wealth X of Singapore, World Ultra Wealth Report*, taken from *El país*⁸³

Today Central America has more people living in precarious conditions than ever. This can be confirmed when considering that the “GDP in Central America rose by 53% between 2000 and 2011”⁸⁴; however, the poverty levels don’t immediately reflect these changes in the economy. This indicates that the benefits of economic growth are concentrated among very few people.

On average, Central America’s ranking in the Human Development Index –IDH in Spanish– is 0.674. If the countries that make up the Central American isthmus were ranked together on the list of 186 evaluated countries by the United Nations Development Program –UNDP–⁸⁵, it would rank 109 with a median IDH. Compared to 2011-2012, there hasn’t been any human development progress in the region as it remains in 86th place.

The following table shows the descending ranking and position of the Central American countries in terms of human development.

HUMAN DEVELOPMENT INDEX (IDH in Spanish) IN CENTRAL AMERICA			
N°	Country	IDH (ranking)	IDH (value)
1	Panama	Human development high ranking 59	0,780
2	Costa Rica	Human development high ranking 62	0,773
3	El Salvador	Human development middle ranking 107	0,680
4	Honduras	Human development middle ranking 120	0,632
5	Nicaragua	Human development middle ranking 129	0,599
6	Guatemala	Human development middle ranking 133	0,581

Source: original chart, with data from the UNDP, Human Development Report 2013

Inequality is unique to the capitalist model of production and the neoliberal economic model adopted by the region, therefore, it accentuates inequality and creates societies less and less uniform in the IDH. For this reason it's necessary that the region's countries be evaluated based on existing inequality among their citizens

HUMAN DEVELOPMENT INDEX ADJUSTED FOR INEQUALITY (IDH-D in Spanish) in CENTRAL AMERICA				
N°	Country	IDH-D(value)	Change in Ranking by year	
			2011-2012	2012
1	Panama	0,588	-15	-15
2	Costa Rica	0,606	-7	-10
3	El Salvador	0,499	-11	-11
4	Honduras	0,458	-3	-3
5	Nicaragua	0,434	3	1
6	Guatemala	0,389	1	-3

Source: original table with data from the UNDP, Report on Human Development 2013

When one compares the values between the IDH and the IDH-D in the two tables above, you can observe the decrease in human development when the inequality variable is incorporated for each of the countries. Each of the Central American countries shows negative changes when inequality is taken into account. The countries with the greatest changes in value are the most unequal.

In an interesting twist, the countries with the highest IDH rankings are also the countries with the greatest inequality: Panama, Costa Rica, and El Salvador. Costa

Rica is a worrisome case since they continue having profound inequality among the citizens; the study done by the UNDP for 2012 shows the IDH ranking dropping by 7 positions and in 2013 it dropped 10 places. Similarly, Guatemala rose in ranking and in 2013 its IDH-D dropped by 3.

2. Right to Adequate Food, Security, and Food Sovereignty

The right to food is a universal human right that gives people access to adequate food and the necessary resources to have sustainable food security⁸⁷. For its part, Food Sovereignty is the peoples right to control the agro-food system and its production factors so that family, campesinos, indigenous, agro-ecological, fishing and the recollection of artisan materials can be realized in an autonomous and equitable way. Thereby guaranteeing the human right to permanently provide healthy, nutritive, sufficient, and culturally appropriate food⁸⁸.

Nicaragua has a national and international legal framework that orientates the state to implement programs to protect Nicaraguans against hunger. This framework includes the Constitution, international treaties, and secondary laws. From this it is possible to demand that the state protects the human right to food.

The government covers food security through their program "Zero Hunger", geared towards the rural population, and women in particular. However, it is worrisome the lack of accountability in the management of this program and the exclusion of people in need of the program, since "Zero Hunger" requires that beneficiaries own at least two 'manzanas' of land.

The year to year inflation for August 2013 was 7.9%, greater than the 6% recorded the same month in 2012. More than half was due to the rise in food prices and others⁸⁹, affecting the acquisition power of the population whose salary only covers 37% of the basic food basket, which cost US\$452.00 and the minimum wage is US\$167.32.

According to the FAO, 1.2 million (20.1%) of people suffer from malnutrition, which is among the highest levels in Latin America (90). FAO's measurement in 2012 places Nicaragua as the country in Latin America and the Caribbean that between 1990 and

2010 managed the largest reduction in sub-nutrition indicators in the last two decades, passing from 55% of the population with malnutrition in 1990-1992 to 20% in 2010-2012.

In legislative matters, on November 29th, 2012 they approved the Tributary Agreement Law, taxing primary food products such as packaged rice, butchered chicken and olive oil, which affected middle class Nicaraguans.

According to the population census, El Salvador has 5,744,113 inhabitants, with only 20,742 km² kilometers, making it the most densely populated country in western hemisphere.⁹¹ This limits its ability to produce food and increases demand for the same. Moreover, agricultural production is not subsidized by the government, although with the “National Supply Program for Nutritional and Food Security” the government has handed out a total of 422,980 corn seed and fertilizer packages, as well as 164,855 packages of hybrid bean seed. This program has benefitted 652,880 families who have received various kinds of incentives to improve their production⁹².

The Legislative Assembly’s (2009-2012 period) April 2012 passage of article 69 in the Constitution, geared toward guaranteeing the right to adequate food, was a constitutional recognition of this right. This reform must be ratified by the current legislature but the right wing political parties have opposed it, conditioning their votes on the prohibition of same sex marriage.⁹³

Moreover, halfway through 2013 the Legislative Assembly’s Agrarian Commission began forming the bill “Food Sovereignty and Security Law” with the participation of different interested sectors.

In Costa Rica, for February 2013, the price of the basic food basket reached \$240 in the country’s supermarkets, according to the Ministry of Economy, Industry, and Commerce –MEIC in Spanish–. In this context, someone with a starting wage as “non skilled generic laborer” of \$500.37 a month, as established by the Ministry of Labor, is able to fulfill his or her basic food needs. Nevertheless, a MEIC study determined that there are differences up to 161%. This indicates that the country does not have mechanisms to regulate the prices imposed by corporations on certain items, including basic subsistence items, which clearly threatens the most marginalized sectors ability to acquire these

products.⁹⁴ 47% of the 292 goods and services that make up the basic basket became more expensive in August 2013, while 38% went down in price and 15% maintained the same price, compared to July⁹⁵. Here one can observe that more items increased in price during the year, than those whose prices went down.

In Panama, the basic food basket cost \$320.71 in February 2013 which is \$17.02 dollars higher than the same month in 2012, when it cost \$303.69, as reported in the last report on the basic food basket published by the Ministry of Economics and Finance –MEF in Spanish–. The study was carried out in Panama City and San Miguelito among 10 different food groups and 50 other products that provide the necessary calories for the average person.

For economist Juan Jované, the intermediaries, food importers, and retailers that benefit from this speculative process are affecting the citizen’s economy. For some experts, there is clear evidence of speculation because world food prices only rose by 0.6% in 2012, but in Panama they rose by 7%. This fails to explain why agricultural wages did not increase either.

The Government implemented Jumbo Fairs in the face of the rising cost of living, and while these help the family economy a little bit, they are not a permanent solution and they don’t exist throughout the whole country.⁹⁶ The MEF report notes that these fairs allow consumers to buy 37 of the 50 food basket products for \$195.37.

Panamanian food sovereignty will be affected since they have already welcomed genetically modified corn in favor of the North American companies “Monsanto” and “DuPont”. This is part of a GMO experiment with corn seeds that will be planted in the Azuero region. The corn is used for poultry feed and the poultry will be consumed by Panamanians. The Melo Company that represents the North American transnationals, was given permission to sell the seed as long as it wasn’t for human consumption, however there are no regulatory guarantees or administrative processes for this condition⁹⁷.

The conditions in Honduras to guarantee the right to food aren’t very encouraging. Some 200 thousand children are malnourished according to the World Food Program –WFP–⁹⁸.

3. Right to Decent Work

Work is a human right that allows people to participate in production processes and to earn economic retribution so as to have a dignified life with their family.

World unemployment rates rose with the global capitalist crisis. El Salvador wasn't an exception. For 2009 the unemployment rate was 7.3%⁹⁹. Nevertheless, thanks to the current administrations efforts, unemployment dropped to 6.6% in 2012¹⁰⁰. However, there are a significant number of people with irregular income or underemployment, which reaches 32.7% of the economically active population (PEA in Spanish).¹⁰¹

The regulatory framework for labor relations in the private and public sector has loopholes that allow employers to mock the law, in detriment to the right to work. For example, the regulation of such figures as "post suppression", "trust posts"¹⁰² and "de facto dismissal"¹⁰³, or the public administration's general practice of using professional service contracts to weaken labor stability for all workers.

In the first trimester of 2013, the Executive branch presented a proposal to raise the minimum wage by 10%¹⁰⁴, however, this proposal stirred up negative reactions from private business representatives, who presented a counter proposal to raise it by just 8%¹⁰⁵. Finally, they approved a 12% increase, but to be implemented gradually. The first raise will be 4% on June 1st 2013, the second will be for another 4%, to take effect until January 2014, and the last raise will be in January 2015 for another 4%, which will comply with the 12% raise in three stages. This denies the possibility of raising the minimum wage in the referred to period. Before the staggered raise, the minimum was \$104.98 for the agricultural sector and \$219.35 for the industrial sector.

Nicaragua has not implemented any policy geared towards job creation in a formal context. In 2013, the labor force has contracted due to the decelerated economy, the fall in exports, and the roya (coffee rust) plague. In the first semester of 2013 the work force closed with 3,014,239 employed Nicaraguans, mostly within the informal sector, 3.8% in relation to the same period in 2012. However, this figure is lower in relation with the end of December 2012, when the number of people with some kind of employment rose to 3,096,002. This means that between January and

June this year, 81,763 people were left unemployed¹⁰⁶. The government's strategy to satisfy the right to labor is via megaproject investments. According to data circulated by the Government in the media, they estimate that formal employment will go from 676,200 people employed today, to 1.9 million.

The employment rate's year-to-year growth represents 109,237 workers who have found some sort of employment during this period. By June 2012, according to official figures, 2,904,902 Nicaraguans were employed. It's worthwhile to mention that it is difficult to prove the authenticity of these employment numbers published by the Government because they have failed to publish the database from the Continual Home Survey since the first trimester of 2011.

The greatest growth comes from the industrial sector and the free trade zones in particular. But this is also the area with the most difficult labor conditions. It involves long work days, low earnings, union restrictions, and the lack of recognition of social services or benefits, where workers can't even register in the social security system.

Nicaragua has registered progress in terms of legislation. On October 31st, 2012, the National Assembly and Legislative branch approved the Procedural Labor and Social Security Code, which regulate the procedures that jurisdictionally protect the right to work.

This regulatory body was agreed upon by the sectors involved in the administration of labor justice, including unions and employers.

A significant percentage (80%) of the economically active population continues without enjoying social security benefits. This situation stands in contrast to Costa Rica and Panama where the affiliated population remains around 70% of the economically active population.

Nicaragua's low level of affiliation is due in large part to the fact that the population mostly works in the informal sector. This also goes for the low rates of affiliation in optional insurance schemes, which doesn't represent more than 1% of the total insured population.

In Honduras, the labor situation is threatened by the Emergency Hourly Wage Program, justified as a strategy to create 200 thousand temporary contract

jobs, which loosen and worsen labor conditions, impeding the working population from unionizing and affiliating in the Social Security system. Congress seeks to make this a permanent model and use it as a quasi-replacement for the Work Code.¹⁰⁷

In Costa Rica's case, 2013 brought worrisome indicators in terms of salaries, which inevitably threaten decent salaries. According to the report from August 2013, "75% of Costa Rican workers earn a monthly salary less than \$595. The report shows that 22.4% of the total salaried workers in the country, 40.3% of the independent workers earn less than the minimum wage." Added to this, "the gap between women's and men's wages continues to grow. Women receive salaries 17% lower in comparison to what men earn"¹⁰⁸.

This situation has gotten worse due to the policies pushed forward by the business sector to reduce salary related costs. An example of this is the conflict between waiters and the business sector that resulted in a series of layoffs, threats, and salary reductions, as a tactic to reduce salary related costs. In this context, it is estimated that about 10,000 people who work as waiters were fired after the Constitutional Chamber's interpretation of the Tipping Law (No. 4946).¹⁰⁹

In the same way domestic workers' labor rights are violated. According to the Domestic Workers Association –ASTRADOMES in Spanish–: the "Social Security, minimum wage and vacations are vulnerable guarantees for domestic workers". In this sense, the "feminist organizations reiterated their petition before the state, in May 2013, to ratify the International Labour Organization's –ILO– Agreement #189."¹¹⁰

Along these lines, during September 2013 the Labor Process Code was approved, but was vetoed by the President of the Republic at the time this report was compiled. Different business chambers expressed their concern that the law could provoke an increase in strikes.¹¹¹ The Code includes oral mechanisms for the labor process, to facilitate brevity. It also establishes free legal assistance for workers whose salary is less than double that of the 1st Judicial Assistant; it broadens the list of discriminatory practices, establishing a concise procedure that allows workers to effectively bring forward cases to defend their rights, request reinstatement and the payment of unpaid wages.¹¹²

In Panama's case, the current minimum wage is between 432 and 490 dollars, which is a 15% to 18% increase

from January 2012. On the other hand there are many doctors whose right to work is being affected. In this particular case, Law 69 affects their right to stable work by allowing foreign doctors to be hired.¹¹³ For this reason the national doctors went on strike for over 35 days, supported by auxiliary health nurses.

4. The Right to Access Healthcare

According to the World Health Organization –WHO–, the right to health is defined as such: "the maximum enjoyment of health that's possible"¹¹⁴ Based on this, the right includes access to opportune healthcare which is acceptable, affordable, and quality.

In Nicaragua, while the current government has managed to provide free healthcare, the low quality continues to be a major challenge. Progressively improving the state of this right requires a significant increase in budget; however, the adjustments continue to be minimal if we take into consideration the increased demand.

The assigned budget for the health sector was US\$300,236,125 in 2012, representing 18.47% of the Republic's General Budget –PGR in Spanish–. In 2013 it was 16.6% of the PGR¹¹⁵ which doesn't cover current healthcare demands.

In November 2012 they passed the Law for the Promotion, Protection and Defense of Human Rights against Human Immunodeficiency Virus infection –HIV– and Acquired Immunodeficiency Syndrome –AIDS–. Nevertheless, the law is more discriminatory and doesn't have a human rights based approach. What's more worrisome is the conformation of the National Commission in the Fight Against AIDS, which has excluded human rights organizations. It is worthwhile mentioning that CENIDH was part of this commission of many years and provided human rights based contributions.

In Costa Rica access to healthcare is closely related to the so-called Basic Teams for Integral Health Services –EBAIS in Spanish– and during its auditory process, the Costa Rican Social Security Fund –CCSS in Spanish– is considering closing about 1,013 EBAIS through their "re-sectoring" process. At the time of this report, the CCSS evaluated the closure of 45 teams in Montes de Oca, Curridabat and La Unión, which has alarmed the residents of these areas because their right to health will be highly vulnerable.¹¹⁶

On top of this, the health centers' infrastructure is not ideal. The emergency services offered in Neily City's Hospital in the extreme southern part of the country, the Guápiles hospitals in the Caribbean region; and those in the Golfito, all have very precarious infrastructure conditions. A journalist team from "La Nación" visited 14 of the 29 CCSS hospitals, especially those outside of the urban area. In their report they revealed that 73% of the health infrastructure was in "regular" or "bad" states¹¹⁷; as well as having insufficient space in general.

Panama invests below the WHO's recommended amount for healthcare. The WHO recommends that secondary level hospitals designate a minimum of 100 thousand dollars per bed a year. This includes medical services, supplies, and medicine. In 2011 the Hospital Nicolás Alejo Solano de la Chorrera "that had 150 beds at that time" received 11 million dollars, when the WHO's guidelines would have required 15 million. For the hospitals 208 current beds, it only receives 12.7 million, while it should be able to operate with 21 million dollars. The same situation affects Hospital Luis Chicho Fábrega, in Santiago de Veraguas, and Aquilino Tejeira, in Penonomé¹¹⁸.

Also, the population is being affected by the commodification of healthcare, since under the pretext of improving healthcare services and coverage for the most needy, they are building a hospital complex valued at \$587 million dollars¹¹⁹, which will be given as an administrative concession, like a Public Private Partnership –PPP–, which will imply the exclusion of anyone who is unable to pay for healthcare. Panama's National Commission of Human Rights doubts that the construction of this project will guarantee the right to health, which moreover will include hotels for Social Security Fund patients, which leads them to believe that they are proposing to use them for health tourism.

Honduras' Constitution recognizes the right to health protection. However, there are serious problems related to the management, operations and inefficiency in implementing the existing budget; as well as unequal service coverage within the national healthcare system in Honduras²⁶⁰. The situation is such that 22% of the population has no access to basic healthcare services.²⁶¹ What's more, the primary causes of disability in the country are related to health: illness (35%) and birth related processes (27%).¹²⁰

The Salvadoran government is assigning more resources for the health sector; one just has to compare the Ministry of Health's budget from 2007, of

US\$371.4 million and that of 2013 of \$625.5 million. In terms of the percentage of the GDP assigned to healthcare, it went from 1.8% in 2007 to 2.5 in 2013, increasing healthcare coverage, curative doctors visits, and preventative services provided by the Ministry of Health and the Solidarity Fund for Health –FOSOLUD–¹²¹. Besides these benefits, healthcare investment remains insufficient.

The birthrate and infant mortality rate tend to rise. In 2007 there were 70,653 births and 8,806 childhood deaths. In 2012 these figures rose to 82,546 births and 10,024 still born births¹²².

In terms of medicine, it appears as though the public hospital network has lowered their acquisition, however there is a tendency to continually increase investment for these medicines. In 2007 the hospital network invested US\$38.8 million and for 2013 they have invested US\$42.6 million. When the Medicine Law took effect it created Regulatory Code for Price Control and Maximum Price Caps for Public Medicine Sales, which allows the regulation of prices and protects them from being arbitrarily set by the laws of the market.

5. Right to Quality Education

Education is a fundamental human right and is essential in being able to effectively exercise all of the other rights. Education promotes freedom and personal autonomy and generates important benefits for development.¹²³ States are obligated to guarantee access to and quality education.

In Costa Rica, access to education was affected by the government's prohibition of copying textbooks (photocopies), under the framework of the Dominican Republic – Central American Free Trade Agreement with the United States and the Law for Procedures and Observance of the Intellectual Property Rights, affecting students with limited resources who reproduce documents by photocopying them; which became justification for expulsion and exclusion from the educational system¹²⁴.

According to Ministry of Public Education –MEP in Spanish– data, between 2010 and 2012 the desertion rate for secondary school went from 10.2% to 10.7% at a national level, numbers similar to those recorded at the beginning of the 21st century. Exclusion continues to be particularly high for seventh grade:

16.7% in 2012, almost the same as 2010 (16.5%). In absolute terms the number of excluded students dropped from 39,032 to 37,762¹²⁵. Gender based exclusion: “women” are the smallest group and represent 19.6%¹²⁶, similarly, those excluded for social and performance causes: “the poor”, are a large group: they represent 31.2% of the excluded student population, male and female.

Despite the fact that Nicaragua is not at war, they designate a similar percentage of the national budget (PGR in Spanish) to education as they do for defense spending. The education budget barely reaches 4% of the PGR, that is, three points lower than the 7% necessary based on current demand. With this investment, Nicaragua continues to rank second to last as the Central American country that least invests in Education: Costa Rica invests 6.4%, Honduras 5.4%, Guatemala and El Salvador 3%.

Panama approved 1,005 million dollars from their budget, of which 161 million corresponds to investment (where the Government provides 59%) and 69.9 million dollars is projected for the Educational Insurance line. Of the eight programs implemented by the Ministry of Education –MEDUCA in Spanish–, the largest concentration of resources is for strengthening technological education with 83 million dollars, followed by construction and repairs for school centers throughout the country with 25.6 million dollars, and lastly the rehabilitation and maintenance of the schools with just one million dollars¹²⁷.

The curriculum transformation carried out by MEDUCA between 2010 and 2012 failed to increase coverage, reduce grade repetition, and for students who dropped three subjects, the effects were contrary and the exclusion or “desertion” increased, despite scholarships, subsidies, and bonuses.

In Honduras, the illiteracy rate continues to remain relatively high, with 16.4% of the population being illiterate.²⁷¹ Also, according to the OIT, 12.3% of the population attended school, while just 5.2% have a university degree.²⁷² Among the primary education issues in Honduras, those that stand out the most are the high rates of teacher’s reduced attendance and shortened school days; high rates of grade repetition; and the limited coverage of secondary education.¹²⁸

In El Salvador, as in the health sector, education is one of the primary strategic areas for the current government. The budget for the 2013 school year was

US\$833,230,206.00, which provided multiple benefits for students, such as free school uniforms, shoes, and school supplies for 1.3 million kindergarten and elementary public school students, for 51.1 million dollars.¹²⁹ This also benefited micro and small businesses who participated in the production of the uniforms and shoes given to the students.

In 2012 they created the joint Department for the Inclusive and Full Time School Integrated System. The Department was created to develop the program that began in 2011 and includes 145 schools, benefiting 50,608 students in 55 municipalities throughout the country.¹³⁰ Also, there are other programs geared towards improving conditions in the educational process; School Health and Nutrition Program, that aims to create better nutritional conditions for students and benefits 1,339,726 children; the “Cup of Milk” Program that benefits 820 thousand students; the Literacy Program that benefits 98,293 women and 44,492 men, reducing illiteracy from 17.97% to 13.23%.

6. Right to Dignified Housing

According to the Office of the High Commissioner for Human Rights (OHCHR) and their General Observation No. 4, dignified housing is where citizens and their families can live in security, peace, and dignity. This right is directly tied to access to land, which allows the full realization of the right to dignified housing.

The housing deficit in El Salvador is 58%, one of the highest in Central America. Taking into account the population density and the small geographic territory, this has accelerated the growth of major cities. The Poverty and Social Exclusion map from 2010 calculated that Salvadoran cities are home to half a million homes in areas considered “marginal”, whose homes are built with what others discard: bamboo poles, plastic, corrugated tin, cardboard, and dirt floors.

In the face of these difficult housing situations, many people decide to organize to demand and defend their right to dignified housing. These organizations include the National Movement for Land Defense –MOVITIERRA in Spanish– and the Federation of Housing Cooperatives for Mutual Support –FESCOVAM in Spanish–. The first organization is made up of 60 community settlements from throughout the national

territory and the second is made up of 21 housing cooperatives. Their primary strategies are to demand dignified housing, overturn decree 23 that permits expedited eviction processes,¹³¹ which causes intense repression against the communities; the approval of the social interest housing law that seeks to recognize the human right to dignified housing and establish policies for accessing land to favor the great majority of poor people in the country; via the expansion of the housing cooperative model, among others.¹³²

Furthermore, President Mauricio's administration projected building 25,000 homes for social interest, under the program called "Housing for Everyone" and to date they have built a little over 3,500 houses, which does not contribute to guaranteeing the right to dignified housing. Adding to this, the high cost of the houses has made it so that only people who earn four times the minimum wage can access the housing.¹³³

In Nicaragua, there has been legislative progress with the passage of the Law for the Promotion of Housing Construction and Housing Access for Social Interest, under the rental system with an option for purchase.

Within the National Development Plan and the housing policy, they project reducing the current housing deficit of 957 thousand units. Despite the government's initiatives the housing deficit continues to grow in Nicaragua. The number of houses built is insufficient to absorb the 15,000 new families that need housing each year, calculated at 700 thousand. Actually, businessmen estimate that to provide a real response to the housing issue in Nicaragua they would need to build between 15,000 and 25,000 houses a year.¹³⁴

75% of houses in Nicaragua are inadequate due to their lack of basic services.¹³⁵ An adequate home, beside infrastructure, should include basic services, a school, and all of the nearby community services, as required by its inhabitants. 78% of the Nicaraguan population does not have dignified housing.

In Costa Rica, the right to dignified housing in most cases refers to the right to land for a place to build a home. During this report's period of analysis there have occurred incidents where families with scarce resources have invaded land, generally fallow, to build their homes. In the case of over 100 squatters, among them minors and elderly, were arrested during an eviction carried out by the Public Force on the

"Aguacate" farm in Liberia. The officers launched tear gas when the occupants threw stones at them. The eviction was carried out after a judicial order ruled that the dozens of families must abandon the 330 hectare property that they had taken for several months. The squatters argued that the farm had been abandoned for 40 years and that there are actually 400 families¹³⁷.

In the same way, 300 families took part of a farm belonging to the Ston Forestal company in the southern part of the country. In the Southern Caribbean part of the country various families are being evicted for occupying land that overnight a law declared a "maritime land zone" – the families having been historic owners of the land.¹³⁸

Panama, like in El Salvador and Costa Rica, has recorded various cases of land grabs by citizens trying to fulfill their human right to land. Before this situation, the state represses people who occupy private land despite the fact that there are no governmental plans geared towards reducing the housing deficit, which rises above 39%. In absolute, access to housing is not guaranteed since issue is only addressed from a commercial perspective and without a rights based approach. The same thing is happening in Honduras with the implementation of model cities that are inherently exclusionary and don't even claim to satisfy housing needs, but rather the commercial needs of the economic elite.

7. Impact of the Extractive Industries and Megaprojects

Megaprojects are public or private works on a large scale; among them include mining, hydroelectric dams, highways, and tourism projects. While the government may present them as development projects for the populations benefit, these can cause devastating consequences for local communities and the environment, and tend to benefit the national and international economic elite.

In August 2012, Nicaragua ratified the ILO Convention #169 on the Rights of Indigenous and Tribal Peoples through which prior consultation is required and which obligates the Nicaraguan state to apply and comply with this convention. Nevertheless, this mechanism has not been implemented in the indigenous and afro-descendant

communities where the projects will have an impact. The Nicaraguan government promotes different megaproject that range from a Great Interoceanic Canal, a satellite that would offer services to surrounding countries, and even the authorization of mining concessions. They claim that the population's standard of living will improve with the implementation of these proposals, however, for the communities in the regions affected, there will be considerable environmental damage and above all it will threaten the way of life of the indigenous and afro-descendant peoples.

Megaprojects like the Great Interoceanic Canal and the satellite were highly publicized, but to date there has been no apparent progress. The deep-sea port Monkey Point that was announced years ago ended up not being viable according to a feasibility study carried out by the Andrade Gutiérrez consortium. Another large project, "Bolívar's Supreme Dream", that in its initial phases will be a gas reservoir to supply the region, is not a public initiative. Rather a private consortium in which the ruling party is participating as a private business is driving the initiative, but which means it will not generate revenue for the national budget.

The mining budget also represents environmental risks, especially for the humanity of those who work in those regions or live in surrounding areas. Such was the case during November 2012, in the Santa Pancha Comarca, Larreynaga municipality, León, where a sinkhole swallowed the home of Mrs. Blanca Aracely Sánchez Valdivia. People in the community recount that the sinkhole appeared after loud noises and tremors provoked by the underground detonations carried out by the Triton Mining Company (B2GOLD).

One of the most emblematic cases in Costa Rica has been the open pit mining under the authority of Infinito Industries that hopes to build a mine in the Cutris area of San Carlos. After the Constitutional Chamber's June 19th 2013 ruling against their favor, the Infinito Mining Industries (a subsidiary of the Canadian Company Infinito Gold) announced that it will seek economic indemnification by means of international lawsuits where they will present a "revealing" document with information about the case. The company's spokesperson Yokebec Soto shared this during an interview with the Costa Rican University's radio program called

"UNIVERSIDAD", where she expressed her idea that the Constitutional Chamber's ruling would not effect "the rest of the processes" that the company had begun, because the lawsuit that the company filed against Costa Rica in the International Centre for Settlement of Investment Disputes –ICSID– prohibits any pending cases in the country.¹³⁹

This situation is a clear example of the consequences caused by signing the free trade agreement. At the same time it reveals the way transnational corporations violate citizens' rights and the country's sovereignty. Add to this the Crucitas case, which is also immersed in elements tied to corruption. A concrete example is the evidence that the prosecutors office requested from Canada related to a supposed donation that the Arias Foundation for Peace and Progress had solicited on behalf of the Infinito Industries, which ended up not being what the Costa Rican authorities required. The financial evidence was meant to determine if Infinito Industries had donated 200 thousand dollars to the referred to foundation in 2008, when Oscar Arias was President. The money, according to the NGO Mining Watch Canada, had been transferred to the foundation days before Arias declared the Crucitas Mine a public interest. However, the Foundation refused to turn over, as requested by this medium, the financial accounts that could prove that there was no donation, as investigated by the Public Ministry, and that could connect, or absolve, the former President Oscar Arias with the case.¹⁴⁰

Along the Guanacaste beaches and other areas of the province they have reactivated tourist and real estate projects that had been frozen after the real estate crisis of 2008. It is possible to predict that conflicts over water will worsen, as communities withstand overpricing of the resource and the huge demand required by these kinds of projects. One of these projects is Las Catalinas Properties Holding Ltda.¹⁴¹

In El Salvador, after the million dollar lawsuit presented by Commerce Group Corp. against the State, for having revoked the necessary environmental permits to exploit gold mines in San Sebastian, La Unión department, the country faced a litigation process in the ICSID for more than \$100 million dollars. In August 2013 the litigation was resolved in favor of El Salvador.¹⁴² On the other

hand, there is still the pending international case against El Salvador, driven by the Canadian mining exploration company Pacific Rim.

Another threat faced by El Salvador deals with cross border mining. Such is the case of the Cerro Blanco mine, located in Asunción Mita Jutiapa, Guatemala, and operated by Canadian Goldcorp's subsidiary company. The mine, which sits only 18 kilometers from Metapán, could pollute the Lempa River due to its subterranean connection to Lake Güija. The mine's cyanide, heavy metals, and acid drainage could pollute the country's primary river that provides the greatest water supply for the majority of the population¹⁴³.

Mining Company Lawsuits are another Business Strategy

The Commerce Group Corp. mining company hoped to win 100 million dollars from El Salvador and Pacific Rim is suing for 345 million dollars. Both companies have sought shelter within the Central American Free Trade Agreement with the United States, CAFTA-DR, which has caused serious consequences detrimental to the country's economy.

Between 2010 and 2012 the Panamanian Assembly debated different projects and approved laws to modify the Mineral Resources Code. These reforms allow foreign direct investment in the Panamanian mining sector. This produced a conflict between government interests and the indigenous community of the Ngöbe-Buglé autonomous region. The autonomous regions have a special regime that legitimizes the traditional authority structures of the indigenous peoples. The Ngöbe-Buglé autonomous region is territorially important, with the greatest mineral resources. New laws transform this obstacle into decision making and autonomous participation mechanisms, cutting off their ability to negotiate and protect their territory.

Today, there are close to 46 concessions in the permitting process and another 33 concessions granted. Of these, 19 projects are in Chiriquí, Bocas del Toro, and Veraguas, totaling 1,800 million dollars in investment.

For the indigenous, the projects represent human rights violations since they have been forced to accept the government's unilateral decision and the irreversible alteration of the unique ecological conditions that have historically existed in their communities.

Furthermore, the Law 278 "Hydro Resource Management Framework" hopes to permanently grant water concessions more easily, weakening citizen rights in the process. In as far as indigenous communities,¹⁴⁴ this project infringes on indigenous autonomy over their territories, and consequently, over their water sources.

On September 11th, 2013 the joined mission for field verification and the technical revision of the environmental impact evaluation for the Barro Blanco hydroelectric project, to be built on the Tabasará River, released their report. The UNDP presented the results of the international independent expert report before representatives of the Government, traditional Ngöbe-Buglé authorities, the Catholic Church, and the United Nations Organization –UNO–. The report's results showed that the dam's impacts are real and important and are not limited to the areas that could be directly flooded, but also the surrounding communities who access the area's resources.

Petaquilla Minerals has a combined thousand squared kilometers of concessions designated for mining. The new district does not appear on the official political map but foreign investors have been clear about its location. The "Petaquilla mining district", also known as the Petaquilla Mining District", according to Petaquilla Minerals, Ltd. Reports, who represents the company internationally. The new denomination of the colonense de Donoso and surrounding areas is recollected in the Petaquilla Minerals presentations for businessmen in Canada, United States, financial investment forums (like Investorshub) and even among Chinese Investors Club publications. It is a "district" that the company categorized as "remote and underexploited" and that has "the potential to become the next major mining region in Latin America within the next four years". "Inmet Mining (former owner of Panama Mining) plans to put into production the third largest copper deposit in the world".¹⁴⁵

Within the borders of the National Santa Fe Park (a protected area in the Veraguas province) a gold mining operation is in the permitting process. The Mineral Resources Department of the Ministry of Commerce and Industries—MICI in Spanish—received the paperwork for the concession and declared the company eligible to obtain 13,200 hectares where the National Santa Fe Park, still under Decree 147 from December 11th, 2001, is declared a protected area.¹⁴⁶

Experts are concerned about the role of the authorities, pointing out that the biggest issue is based in the fact that the corresponding authorities, such as the National Environmental Authority –ANAM in Spanish–, “do not possess suitable specialists” who can judge the true impacts on ecosystems so as to demand an adequate parameter from the mining companies. This means that the mining companies have minimal margins for addressing these impacts and they themselves end up self-regulating.

In Guatemala, during Oscar Berger’s presidential campaign, he proposed construction works of large magnitude and high impact for the development of the country. The megaprojects have become one of the greatest dreams of the current government. He spoke of building a new airport terminal, remodeling the Champerico port, building a beltway and also saving Lake Amatitlán.

As with all of the other countries in the region, the “purpose” of these projects is to create employment and strengthen the country’s development. The projects could not be completed within a government’s four year period due to their dimension, cost, and duration; they would require future administrations to follow through, as well as million dollar investments.

For this reason the government created the Megaproject Commission and named Luis Flores Asturias, former vice president of the Republic, as

the director. The current list of projects that the Commission plans on implementing bring together the highest expectations: an intercontinental airport in Escuintla with high-speed transportation to move its passengers, an inter oceanic beltway, a dry canal between the Caribbean and the Pacific Ocean, a water plan that would convert the Amatitlán Lake into a reservoir for surrounding communities, and making the Champerico port into a main attraction for a tourism and economic boom along the southern coast¹⁴⁷. Each one of these investments requires hundred million dollar investments that the Government can’t even begin to approach, and only knows that they lack sufficient funds; however, that would be just one of the obstacles in their way, and not necessarily the most difficult to negotiate.

The Guatemalan Human Rights Defenders Protection Unit –UDEFEQUA in Spanish– has observed the exponential rise in conflicts in the rural areas of the country over the past four years due to increase imposition of commercial megaprojects without consultation, as well as the expansion of organized crime’s territorial control. An example of these conflicts is the incident from September 2013, where the inhabitants of Santa Cruz Barillas confronted security forces over the installation of a hydroelectric dam. These confrontations have been occurring since 2008.

Honduras is another country where investors are interested in megaprojects. In May 2013 Latin American executives for the China Harbour Engineering Company Ltda. –CHEC– expressed their interest in investing in development projects to the country’s president. Among the contemplated ideas are engineering and technology projects, as well as cultural exchanges on behalf of CHEC. The Asian company was invited by President Porfirio Lobo to explore infrastructure projects that Honduras hopes to launch, among them highways and inter-oceanic railways.

CHAPTER V

SOCIOPOLITICAL AND CULTURAL DISCRIMINATION

Central American states have evolved in the area of human rights in their recognition of the rights of different populations. The international community advanced significantly in admitting the existence of differences and specificities between certain populations, who although having been born free and endowed with equal rights and dignity, require recognition of their diversity. This entails the approval of new legal and institutional tools to eliminate the discrimination to which vulnerable groups could be subject to when facing difficulties, or when robbed of full enjoyment of their fundamental rights and of the attention and satisfaction of their specific needs.

I. Migrant Rights

In the last few years, Central America has experienced great changes in migration patterns. Up until the 1970s, the movement of populations had been concentrated within countries at an internal level and at an intraregional scale; after this decade, an extra regional migration profile emerged. Currently, a diversity of migration patterns present the region as a dynamic area in terms of population movements.

Unlike previous decades, there is currently a close relationship between economic factors and migration: poverty, unemployment, the absence of investment in development, and the limited investment in social services by the state. The response to such structural conditions is without a doubt migration, which can be both individual and collective, thereby making economic factors the primary cause of emigration for Central Americans.

The Migration Profile of the International Organization for Migration –IOM– for Central America states that the region encourages the free movement of goods and services, and important steps have been taken to promote the movement of people. Nonetheless, the movement of workers between countries in Central America remains a challenge for the states in the region.

Costa Rica is the country with the largest migrant population in the isthmus, primarily made up of persons from Nicaragua. This population consists of 395,899 people, which is 9% of the country's total population. However, the discrimination and invisibilization of immigrants allows for human rights violations. For example, in April 2013, Costa Rica's Directorate of Migration and its Ministry of

Labor revealed that nearly 600 Nicaraguan workers were employed in subhuman conditions in orange plantations located in La Cruz, Guanacaste.¹⁴⁸ They had no access to potable water and worked seven days a week, sleeping crowded together and eating only once a day.

Nicaragua has maintained its migration profile as a country that serves as either an emitter or as the origin for migrant populations. Approximately eight hundred thousand Nicaraguans—10% of the country's population—live abroad, primarily in the United States and Costa Rica; half of this number are undocumented and have had to leave their country in search of better conditions or employment for their family's subsistence.

Costa Rica is the top destination for Nicaraguan migrants. Within the country, Nicaraguans make up 12% of the total labor population. Most work in agriculture, cattle ranching, construction, and in the service sector. 57% of foreigners residing in the country are employed, whereas 47% of Costa Ricans are formally employed. 18% of foreigners work in agriculture, 16% in the commercial sector and 11% in the industrial sector, according to statistics from the Directorate of Migration.

Although Nicaragua has made significant improvement in terms of regulating and institutionalizing various recently-passed laws, including ratifying the Hague Convention Abolishing the Requirement for Legalization for Foreign Public Documents (1961) in 2012, which reduces the cost and the number of steps needed certify migration documents, a Law for the Attention and Protection of Nicaraguan Migrants Abroad, presented in 2009 by the Nicaraguan Civil Society Network for Migrations at the National Assembly, urgently needs approval.



Source: **La Prensa**

Thousands of Nicaraguan workers have gone through the process of achieving legal status in Costa Rica in order to receive the benefits of formal employment, according to data from the Directorate of Migration and Immigration in San José.

A small number of migrants from the region live in Nicaragua, approximately forty thousand foreigners (WB, 2011), primarily from Honduras and El Salvador, though migrants also travel through the country as a stop in transit on the way to the United States. These intraregional flows are helped by free movement agreements (CA-4) and by border relations between these countries, especially those linked to commercial exchange and to the movement of the labor force, access to healthcare services, education, and to security.

In 2012, Nicaragua received \$1.0142 billion in family remittances, the highest in the past two decades, according to data from the Central Bank of Nicaragua –BCN in Spanish–, 11.3% more than in 2011, and coming primarily from the United States in the sum of \$553.4 million, which comprises 54.6% of total remittances, followed by Costa Rica with \$182.6 million (18%) and Spain with \$57.9 million (5.7%), among other countries. In the first half of 2013, the BCN reported having received \$521.6 million, 5.5% more than the \$494.3 million received during the same period in 2012. 59.3% of this amount came from the United States, 22% from Costa Rica, 5.1% from Spain, 2.6% from Panama, 1.2% from El Salvador, and 1% from Canada and Mexico.

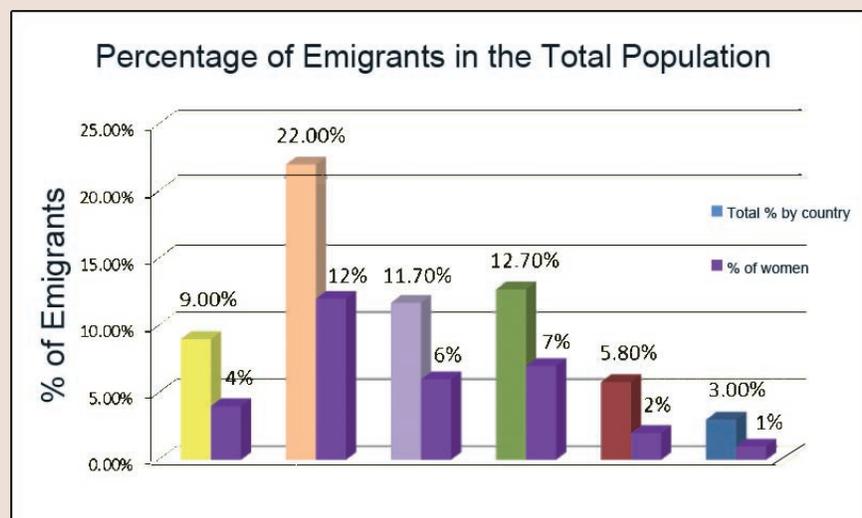
Human trafficking is a crime that has found “fertile ground” in Central America. Nicaragua stands out as the only country that combats this crime adequately, taking important steps in giving legal follow-up to human trafficking, protection of trafficked persons, and in prevention. However, this is still not enough. Along these lines, the Integral Law Against Violence Against Women establishes human trafficking as a crime and establishes legal sentences that range from 7 to 12 years in prison.

In terms of El Salvador, an estimated 600 Salvadorans leave the country each day. In the year 2011, a total of 2,950,126 lived outside the country. Of this number, 2,587,767 lived in the United States¹⁴⁹; Canada has the second-highest number of Salvadoran migrants after the United States¹⁵⁰.

In countries that receive a high number of migrants, these tend to suffer rights violations due to their legal status. To try and improve the difficult situation of Salvadoran migrants in the United States, a manual that will regulate

legal and human rights assistance has been created. This will allow the Salvadoran Consulate to develop specific actions used to coordinate with civil aid organizations and with local, state, and federal authorities in the United States in order to protect Salvadoran immigrants.

The economic model implemented in El Salvador depends on family remittances, these being the primary source of currency, and consisting of a total of 3.911 billion dollars in 2012¹⁵¹. The country continues to depend on the exploitation of migrants abroad, given that the State expels a good amount of the economically active population, whose ages range from 20 to 29 years old. Consequently, its economic model rests on the migrant population¹⁵².



Source: FMICA in Spanish, *Women in Central America, Migration and trafficking from a labor perspective*. Guatemala, May 2013.

Guatemala’s location and economic characteristics place it as a country of origin, transit, destination, and return for migrants. According to data from the Chief of the IOM mission in Guatemala, more than 300 migrants leave the country daily searching for opportunity in other countries, and approximately 200 return forcibly from the United States and Mexico. In the last four years (2009-2012), approximately 249,000 persons have returned.

The remittances that migrants send to their families are the main source of income for the economy of the country. In 2012, remittances reached \$4.7 billion, 11% of the national GDP. Along with foreign direct investment—an approximate value of \$1.3 million—, remittances eclipsed the income generated by the country’s main exports, including coffee, sugar, and plantains¹⁵³.

There are two very different realities for countries in Central America: the countries in the Northern Region joined together by the CA-4, Guatemala, Honduras, El Salvador, and Nicaragua, and another for the countries to the south, Costa Rica and Panama. An indication of this difference is in the percentage of women that emigrate from their home countries, such as is Honduras and Nicaragua, where women's migration has reached 48%¹⁵⁴, whereas in Costa Rica and Panama this figure is less than 2%.

Migrant populations are one of the most vulnerable segments of society. Their protection and the furtherance of their human rights concerns not only the governments of the countries in the region, but the international community as well, which has structured a series of regulations so that all states make firm commitments to safeguard migrants' rights. The conventions adopted in the area of human rights establish defense mechanisms for their legal effectiveness. These agreements, without ignoring the sovereignty of each country, impose restrictions on the ability of authorities to act when their actions could violate human rights.

2. LGBTI Rights

In addition to the confrontation and the political polarization that the elections have generated in the region, the context of insecurity, drug trafficking, and human rights violations in different segments of the population must be added, particularly for certain minorities.

In countries such as Guatemala and Honduras, discrimination is fairly accentuated against minority groups such as peasant farmers, women and sexually diverse people.

For the LGBTI population, discrimination is manifested in varying ways and scenarios, such as within the family, at the workplace, in healthcare settings, in politics, education, and in social and sporting activities, among others.

In Costa Rica, due to the country's historic religious affiliation with the Roman Catholic Church, and to the strengthening of fundamentalist evangelical groups, the struggle for respect for LGBTI rights has reached a momentary standstill. In the Legislative Assembly, a bill that recognizes the rights of homosexual couples has gained some supporters among legislators, yet

Congressman Justo Orozco expressed that the bill has 80 motions against it¹⁵⁵. Detractors believe that heterosexual marriage cannot be likened to same-sex unions. Such is the power acquired by these conservative sectors that Congressman Orozco was elected president of the Commission on Human Rights of the Legislative Assembly for the 2012-2013 period, maintaining and even augmenting his homophobic statements. These acts demonstrate that the open discrimination of a population based on its sexual orientation is present within official institutions in the country¹⁵⁶.

In El Salvador, after the advances in regulation noted in the previous report by the Regional Team, the situation of the LGBTI community does not show improved human rights; to the contrary, workplace discrimination continues, as well as discrimination in access to healthcare and education. Similarly, transgender people are hindered in their rights to their identity.

Hate crimes persist, according to the Solidarity Association to Promote Human Development (ASPIDH- ARCOIRIS TRANS in Spanish). As of August 2013, there are nine recorded hate crimes, none of which have been properly investigated by the Attorney General's Office.

On the other hand, only 23% of transwomen report hate crimes committed against them out of fear of retribution by their aggressors; also because compliance with laws against the perpetrators is not guaranteed¹⁵⁷. Additionally, criminal law does not severely penalize hate crimes against this community.

In Nicaragua's case, it should be noted that on the international day against homophobia, about 27 sexual diversity organizations rallied at the National Assembly where legislators had approved new articles in the Family Code that prevent same-sex couples from starting a family. Legislators reiterated that the constitution only legally recognizes the union between a man and a woman.

In August of 2013, according to the Special Ombudsman's Office for Sexual Diversity in Nicaragua, there were five people reported killed and six assaulted or raped in homophobic attacks during the year; similarly, the Office reported that homophobic crimes doubled this year, attributing this increase to "the radical discourse of many religious denominations" against gay people and the refusal of the National Police to process reports filed by members of the LGBTI community.¹⁵⁸

Serious violations of LGBTI rights occurred during the administration of President Porfirio Lobo in Honduras, including homicides, attempted homicides, abuses of authority, injuries, illegal arrests, robberies, harassment, death threats, domestic violence, and assaults. According to the Commissioner's Office on Human Rights –CONADEH in Spanish– in three years of the administration (2010-2012), sixty members of the LGBTI community died violently. A large percentage of these were killed with firearms, some with bladed weapons and some even by strangulation. Among the main aggressors and violators were members of the National Police, Municipal Police, family members, security guards, and strangers.¹⁵⁹

Another finding of the report is that even if the perpetrators were taken into custody, over 92% of crimes committed against the LGBTI community remained in total impunity for lack of investigation. The cities with the highest number of reported violent acts committed against the LGBTI community are Comayagüela, San Pedro Sula, Tegucigalpa, Choloma, La Ceiba and El Progreso.

The Violence Monitoring Unit at the Autonomous National University of Honduras –UNAH in Spanish– registered 101 violent deaths in the community between January 2010 and May 2012. The victims' bodies showed signs of torture, such as dismemberment, or cutting or the insertion of objects into genitalia, which categorizes these as hate crimes.

Members of the LGBTI community demand that the authorities at the United Nations intervene in this situation and that the state reform its Penal Code to consider homicide against gay, lesbian, and transsexual individuals a felony.

In Panama, a gauge of the context for sexual minorities can be found in its lack of protections for their rights. There is no law that regulates the criminalization of crimes against, or violations of the rights of, LGBTI people, thereby preventing them from seeking justice.

The 2008 repeal of Article 149 of the 149 Law that criminalized “sodomy” is considered an advance, however, since then there have been no other legislative changes. On the contrary, widespread homophobic attitudes continue, with the police carrying out raids against transsexual individuals, fundamentalist segments of the population attacking the LGBTI community, and the media issuing vitriolic, discriminatory, and stigmatizing commentary against them¹⁶⁰.

The Association of New Men and Women in Panama asserts that young men have emigrated to Canada due to the persecution they've faced for appearing “effeminate;” despite the existence of an Ombudsman's Office they feel as though they lack protection because of a lack of understanding of proper treatment for groups in vulnerable situations.

In Guatemala, the National Network for Sexual Diversity and HIV expressed concern over the levels of homophobia, lesbiphobia, and transphobia in the country accentuated and perpetrated by the denial of their rights, the complete lack of legislation and political interest in promulgating laws favoring the LGBTI community.

The Guatemalan president claims to be unaware of agreements reached at the OAS, particularly those created in the city of Medellín in 2008, in which 35 member countries reached consensus to “manifest their concerns for the acts of violence and human rights violations related to and committed against individuals due to their sexual orientation and gender identity.”

Guatemala has accumulated numerous red flags from international human rights protection organizations. In 2012, the High Commission of the United Nations in Guatemala demonstrated that “prejudices and homophobic stereotypes have marginalized gay, lesbian, bisexual, transgender, and intersex individuals. These individuals have also suffered physical and verbal attacks, and twelve transgender people were murdered in 2012.” In November of 2012, the Inter-American Court of Human Rights held a thematic hearing with LGBTI movements in the country because it recognized the fragile governmental response to the promotion, protection, and defense of human rights, especially for LGBTI communities, and in 2013, the Council on Human Rights of the United Nations made time-sensitive recommendations to the State of Guatemala to recognize the human rights of this community.¹⁶¹

3. Women's Rights

In Central America, the historic invisibilization of women persists despite formal recognition of their entitlement to equal rights, as has been outlined explicitly in the United Nations Conference on Human Rights (Vienna 1993). This recognition has been insufficient for guaranteeing women real enjoyment of their full rights.

Similarly, despite important legal advances in the region, there is still an enormous gap between formal recognition of human rights for women and their ability to enjoy them.

In 2012, Social Watch presented the “Gender Equity Index” for different countries across the globe; the following table illustrates this data for countries within the region:

Gender Equality Index (GEI)¹⁶² 2012		
1	Guatemala	49
2	El Salvador	62
3	Honduras	63
4	Nicaragua	74
5	Costa Rica	74
6	Panama	76

Source: Created with data from Social Watch

The Gender Equity Index –GEI– gauges the gap between men and women in education, economic activity, and political empowerment. In this sense, Social Watch calculates the value of the gap between genders on a scale from 0 to 100. Zero means absolute inequality and 100 perfect equality. In other words, the further a GEI is from 100, the higher the degree of gender inequality in a given country.

On average, the Central American region has a GEI of 66.3. The country with the highest gender inequality is Guatemala, with a GEI of 49; the country with the lowest is Panama with a GEI of 76. Nonetheless, all these countries reflect a high degree of gender inequality.

Although Costa Rican society has gradually advanced in the quest for gender equality through the implementation of various laws, patriarchal patterns still remain in place. This is evidenced in the dress code the Judiciary Branch establishes for its employees, which prohibits, among other things, the use of short skirts and “very tight, low-cut, spaghetti-strap or strapless” blouses for legal functionaries at work.

The limited access to quality employment is another factor that affects women’s rights. A study published by the National Institute for Census and Statistics

determined that the number of women who earn less than minimum wage was more than 17% in the first third of 2013, and the percentage of women without social security rose from 36% to 41% between the second trimester of 2011 and the first of 2013. Female underemployment rose from 10% in the first trimester of 2011 to 16% in the second trimester of 2013.¹⁶³

According to the Organization of Salvadoran Women –ORMUSA in Spanish–, 141 women were victims of multiple crimes during the first half of 2013; these include firearm injuries, rapes, domestic violence, and disappearances.¹⁶⁴

In the previous report, the Regional Team noted the primary advances in regulation by the Salvadoran State after it approved the Law for Equality, Equity, and Eradication of Discrimination Against Women, and the Special Integral Law for a Violence-Free Life for Women. Nonetheless, widespread knowledge and implementation of these laws by state institutions and by the general populace remain a challenge.

Political participation for women in El Salvador remains very limited; more serious still is that women’s limited participation is at a disadvantage. An example of this is that of the 262 cities nationwide, only 29 have women mayors¹⁶⁵, and of the 84 seats available in the Legislative Assembly, 18 are taken up by women.

In terms of legislation, there is a Political Parties Law which requires political institutions to have at least 30% of their legislative and municipal council candidates be women.

There is also a Sexual and Reproductive Health Law, implemented by the Ministry of Health –MINSAL in Spanish– through the Sexual and Reproductive Health Specialized Unit, as well as the monitoring system for maternal mortality. To this effect, the country surpassed Millennium Challenge No. 5 that states that countries must pledge to reduce maternal mortality to 52.8 maternal deaths for every hundred thousand live births¹⁶⁶. Nevertheless, there have as yet been no advances made in decriminalizing abortion. Abortion is still completely prohibited, even when the mother’s life is at risk or when the fetus is not viable.

Women at Risk Through the Total Ban on Abortion: Death or Jail for Beatriz

Beatriz, a twenty-two year-old woman, became pregnant and was diagnosed with Discoid lupus erythematosus; this, compounded with her severe kidney disease, placed her in danger of either losing her life or going to prison due to the total legal ban on abortion. Despite medical diagnoses that confirmed that the unborn child was missing part of its brain and cranium, which would cause death at any moment before, during, or shortly after birth, she was not allowed to abort. Medical diagnoses confirmed that Beatriz had a high-risk pregnancy and could lose her life if she carried the pregnancy to term.

Because of the total ban on abortion, doctors in the public healthcare system did not interrupt the pregnancy for fear of being charged with the crime of aggravated abortion and sentenced to up to twelve years in prison.

The Salvadoran justice system again risked a woman's life by denying her the ability to interrupt her pregnancy despite existing scientific evidence backing the impossibility of successfully carrying the pregnancy to term, in this case placing Beatriz in an extremely vulnerable situation knowing that the unborn child would die.

Nicaragua takes first place in Latin America and the Caribbean in gender equity, and globally is in ninth place, according to the report on equality published by the World Economic Forum that evaluates 135 countries in terms of the degree of social equilibrium achieved between the sexes. From 27th place, Nicaragua rose to 9th at a global level, gaining on global leaders in this arena; however, most women in public office have subordinate positions and are beholden to the decisions of male leaders. As for the rest of the Central American nations, Costa Rica is 29th, Honduras is 74th, El Salvador is 94th, and Guatemala is 116th.

The full application of women's rights is still a work in progress for Nicaragua. Although in the legislative arena there have been advances in ratifying certain laws, such as the Equal Opportunities and Rights Law, the Integral Protection Law Against Violence Against Women, and the Fund Promoting Gender Equality in Land Sales for Rural Women Law, among others, all of these have not been properly budgeted to permit their true and effective enforcement. This runs the risk of leaving these laws as purely symbolic, creating inclusive policies for women that appear politically correct but in fact preserve the supremacy, values, criteria, and practices of subordination.

In 2012, the Integral Law Against Violence Against Women went into effect; this was considered an important advance in respecting human rights in its inclusion of new crimes such as patrimonial violence, workplace violence, theft of sons and daughters, violence in carrying out public charges, requirement to report sexual harassment, as well as a ban on mediation, the inclusion of precautionary measures, the creation of courts and criminal branches for special appeals on violence, among other benefits. There are other fields in which the state still needs to fulfill its obligations; among these are the exercise of political rights, the right to a violence-free life and access to justice.

The Second Chief of the Women's Commission, Isabel Largaespada, noted that 8,768 (30.7%) more reports were filed between January and March of 2013 than during the same period in 2012. Among these is the case of a woman in custody who was raped by police agents, Ariel Antonio García Martínez, an internal control official, and Samuel Martín Casanova Mercado, Chief of the Tipitapa Sector, both of whom were dishonorably discharged. The 2012 National Police Report noted a 1.5% increase in rapes from 2011. On its end, the Forensics Institute filed 2,903 special reports for sexual violence, 84.6% of the victims were teenage girls, most of whom were under the age of 14.

Another violation of women's rights has been the criminalization of therapeutic abortion (October 26, 2006). From this date onward, women's organizations and the CENIDH, through various means, have demanded that this legislation be reinstated, handing in documents to the Supreme Court demanding that it rule the Penal Code partially unconstitutional, specifically articles 143, 144, 148 and 149, because they violate women's constitutional rights. These articles refer specifically to the ban on therapeutic abortion.

4. Rights of Disabled People

Central American nations have already ratified the Convention on the Rights of People With Disabilities. Despite this, there is still a lack of job opportunities in public and private institutions for disabled people as a result of the discrimination they face in most countries. Among the most noteworthy physical and social obstacles for them are: being denied education; difficulties in finding employment despite being properly qualified; and access to information; lack of proper medical and hygienic care; difficulty with mobility. Aside from the challenges of integrating into society and being accepted, disabled people additionally face high poverty rates.

In Costa Rica, public policy for disabled people has focused primarily on accessibility in physical spaces, rather than on accessibility in other aspects of daily life. This is evidenced by the fact that 63.7% of people with disabilities are unemployed, which forces a good amount of this population to depend on State funds.¹⁶⁷ Related to access to employment is access to education, given that only 25% of students with disabilities graduate from primary school.¹⁶⁸

In El Salvador, although laws that protect the rights of disabled people have existed for over a decade, there is no database that identifies people with disabilities; therefore, all efforts to benefit this community have been ineffective. It was only until May 2013 through signing an agreement with the National Register of Naturalized Persons –RNPN in Spanish– and the National Council on Integral Attention for People with Disabilities –CONAIPD in Spanish– that the country was able to collect data on people with disabilities. A weakness of this system is that the method through which disabled people are identified is through their acquisition

of their national identity card, thereby excluding minors from the database.

Up until April 2013, the RNPN in El Salvador registered 254,522 people with disabilities, of which 4,745 are blind, 23,334 are paraplegic, 252 are quadriplegic, and 68,612 have limited vision, among other disabilities¹⁶⁹.

The Permanent Salvadoran Roundtable of People with Disabilities considers that there have been some advances this year, but that these have been very slow and insufficient. Nonetheless, The Roundtable considers the following to be positive steps: the increase in funding for CONAIPD's 2012 budget, the implementation of the "Inclusive Cities" pilot project undertaken by the Ministry of Public Works; promoting art and culture by people with disabilities by the Secretary of Culture; promoting their insertion into the workforce by the Ministry of Labor and Social Care in conjunction with other institutions through job fairs; the inclusion of physical therapists and psychologists in the Multidisciplinary Teams employed in the Specialized Community Teams for Family Health –ECOS in Spanish– through the Ministry of Health; and the donation of sports equipment to disabled people through the National Sports Institute –INDES in Spanish–¹⁷⁰.

Nicaragua does not have an updated database of people with disabilities. The latest official data was presented in the year 2003 in the Nicaraguan Survey for People with Disabilities. On its end, the Federation of Associations for People with Disabilities –FECONORI– currently estimates that the number of people with disabilities in Nicaragua is more than 10% of the total population, approximately 600 thousand people. Their biggest challenge is access to employment, because businesses have made no openings for hiring this segment of the population.

Though Nicaragua approved the Rights of People with Disabilities Law in 2011, its real and effective implementation is yet to be seen. Based on Article 33 of the Convention on the Rights of Persons with Disabilities, Nicaragua created the Special Ombudsman's Office for the Rights of People with Disabilities, equipped to regulate the implementation of the aforementioned law in public and private institutions. Meanwhile, there have also been some advances at a municipal level. In 2012, the Municipal Commission for People with Disabilities was created to attend to this segment of the population.

5. Children's, Adolescent's and Youth Rights

Central American States have the responsibility of implementing policies and regulations that guarantee the integral protection of the rights of children, adolescents, and youth in order to reduce the threats and insecurities that put them in high-risk situations. Likewise, they must provide social integration processes that allow for their emotional, physical, and psychological development according to their needs and to the appropriate stage in their development.

Although Costa Rica has made great efforts to eradicate child labor, which threatens integral childhood development, there is still a long road to walk. Currently, 47,400 children under the age of 15 are working to help their family financially instead of focusing on their education. Of these adolescents, about 25,000 labor in "dangerous working conditions"¹⁷¹.

On this same subject in Nicaragua, still lacks opportunities for integral development in childhood, adolescence, and youth. There is an educational deficiency, precarious health conditions, lack of conditions for a dignified life and in general, a lack of necessary conditions for an adequate quality of life. In addition to physical and mental abuse issues, many minors are forced to work the worst kinds of jobs and participate in various forms of sexual abuse and exploitation, as well as being exposed to domestic and gender-based violence.

In terms of legislation, the Nicaraguan government has presented the National Policy on Early Infancy entitled the "Love for the Smallest Ones" Program¹⁷² geared towards healthcare, food security, education, early cognitive stimulation, motor, affective, cognitive, and communicational development, and value formation for children under the age of six and their mothers. The state has been criticized for casting its responsibilities as secondary through regulations intended to guarantee the protection of childhood and adolescence which only leave possibilities for interventions within the family nucleus, as is the case for the "Restitution of Rights and Special Protection of Children and Adolescents" Regulation. In terms of the reform of Chapter III of the Childhood and Adolescence Code dealing with the increase in prison sentencing currently under review by the National Assembly, the Committee on Children's Rights of the United Nations observed in 2012 that though it has been 12 years since the Code went into effect, it has still not been granted the necessary priority, and there is a noticeable lack of institutional, human, technical and financial resources for it, which makes the Code's full implementation difficult.

In March 2012, the National Assembly of the Republic of Nicaragua approved a new Family Code that introduces important procedural advances, but allows for excessive and abusive intervention in private life.

CEPAL indicates that one of the regions most affected by teenage pregnancy is Central America, with Nicaragua at the top of the list with 27% of mothers.¹⁷³ 25% of these are adolescents; one out of every four pregnancies on record corresponds to a minor under the age of 19.¹⁷⁴ Birth rates among adolescents rise to 30% in rural areas; these are primarily caused by poverty, lack of opportunity and low-quality education. The United Nations Population Fund –UNFPA– indicates that close to 1,700 girls between ages 10 and 14 become pregnant, primarily as a result of rape by men between the ages of 16 and 22.¹⁷⁵ Teenage pregnancy became a more severe issue in Nicaragua with the unconstitutional ban on therapeutic abortion that left pregnant underage rape victims with no options.

Nicaragua is the third country in Central America with the smallest budget set aside for primary school education and is considered to be the country that invests the least amount of money per student each year.¹⁷⁶ In 2012, \$152 million dollars were set aside for primary and secondary school education, 1.3 times more than the military budget for 2012, which was \$64 million dollars for a country that is currently not at war.

There is not enough educational infrastructure. Independent organizations calculate that 22.3% of school-age children do not enroll because their nearest school is too far away. In rural schools, a lack of teachers creates one-room schoolhouses where one teacher oversees the entire primary school¹⁷⁷ of that given community, reducing the quality of education.

Child labor limits childhood development and threatens their dignity. According to the National Survey on Child Labor (2005), 238 thousand children and adolescents are exposed to workplace exploitation; 2.4% of these children are between the ages of five and nine years of age. The Quality of Life Survey¹⁷⁸ indicates that of every 100 children that enroll in primary school in rural areas, only 33 manage to finish the sixth grade. Poverty forces all members of the family to participate in survival activities.

There is no up-to-date official data on child labor—the most recent is from 2005—which impedes the development of a pertinent and coherent intervention strategy for child laborers, much less the adequate evaluation of the impact of already-implemented policies.

Waldemar, the Achilles Heel of State Institutions in Protecting Human Rights in Childhood and Adolescence

Waldemar López, age 4, faced a difficult situation in the Salvadoran public healthcare system. While handling a metal polishing machine his father uses at work, he accidentally turned it on and the machine fell on him, cutting his stomach and cutting off the artery that feeds the small intestine, causing the complete removal of the organ. While facing a difficult clinical profile, Waldemar began to lose considerable weight due to his first surgical intervention and to being fed intravenously; the effect was so considerable that he was diagnosed as brain dead. The minor was in immediate need of a small intestine transplant; however, the procedure could not be performed within the country because a small intestine donor must be deceased, and there is no legislation that permits this in El Salvador.

Due to the aforementioned, the family tried to move the child to another country where he could undergo the procedure. The combined cost of the procedure and medical treatment would have surpassed \$200 thousand dollars. To raise funds, Waldemar's parents opened a bank account so that their family and friends could deposit donations, which did not even total a fourth of the needed sum. In these conditions and after a long hospitalization of more than six months at the Benjamin Bloom Hospital, Waldemar passed away July 23rd, 2013.

This case occurred despite the fact that El Salvador has both national and international regulating bodies that guarantee the right to children's and adolescents' healthcare free of charge, which shows that the state's legal advances have not been implemented, leaving children's human rights at risk.

In the previous report, the Regional Team noted regulatory and institutional advances by the Salvadoran state, such as ratifying the Protection of Childhood and Adolescence Law –LEPINA in Spanish– and the institutions that would oversee it. In June 2013, the National Council on Childhood and Adolescence –CONNA in Spanish– presented the National Policy on Childhood and Adolescence, which was created through a consultation process undertaken in 2012, in which more than 7,000 people participated, among them 3,000 children and teens from 55 municipalities in El Salvador¹⁷⁹.

Costa Rica maintains that child labor has gone down on the streets, given that reported cases went down from 113,000 to 47,400 in the last three years; however, Defense for Children International –DCI– has criticized the measures taken by the government to stop child labor for oftentimes remaining at a discourse level, since poverty indicators reveal a situation that still puts minors at risk¹⁸⁰.

6. Rights of Afro-descendant Communities

New sociopolitical scenarios in Central American countries are characterized by a greater recognition of

cultural diversity, as well as by the creation of indigenous and afro-descendant movements as active social and political actors, able to position their demands on national and international agendas. Nonetheless, in daily life these communities experience significant economic and political inequality in relation to other groups in society, as well conditions that do not allow them a dignified life. The situation is even more critical for women who belong to these groups, because they face greater obstacles in getting out of poverty and providing stability for their families.

This necessitates the creation of public policies that contribute to closing the equality gap. Taking into account that indigenous people and afro-descendants are very heterogeneous groups, this is one of the greatest challenges faced by states in the region.

Afrocaribbean communities in Costa Rica have denounced that administrative authorities have been giving orders to displace them and destroy buildings dating back over a hundred years, which this community has preserved in Costa Rica's southern Caribbean coastal region. The Maritime Terrestrial Zone Law does not take into account any rights whatsoever of the people who have historically lived in that part of the country,

colonized since the end of the 19th century by black communities who came into the country to work on the train being built to the Atlantic. These communities have begun to propose the possibility that International Labor Organization Convention #169 on indigenous and tribal peoples could help support their rights¹⁸¹.

In Nicaragua's case, many issues, primarily land disputes, have involved Garifuna and Miskita communities, as well as other cultures that live in autonomous regions of the Atlantic. The situation for Afro-Nicaraguans remains one of marginalization from healthcare, education and economic resources. While the recognition of bilingual education programs and the allocation of land titles have been seen as positive steps, there are also signs that these have been ineffective due to lack of financial resources. In terms of education, in general, literacy rates are lower among this population; 5% less than among non-afro-descendants.¹⁸²

Despite the fact that in the 2007 Population Census 7,000 Salvadoran self-identified as afro-descendants¹⁸³, the state has done nothing to recognize the human rights of this segment of the population. There is no law that regulates their rights and protects them from the racial discrimination they could be subject to.

7. Senior Citizens' Rights

In December 2012, the UN published Resolution 67/139, in which it broadened the UN Working Group on Aging's term in office so it could receive proposals. Now with an international legal instrument, countries are obligated to design and establish public policy to promote rights and social support for this population. In this way, the move aims to prevent senior citizens from having their programs reduced, or worse still, from having their pensions altered when it is convenient for the government in office, as has happened in some countries.

In terms of respecting senior citizens' rights in Costa Rica, as with the rights of disabled people, most of the effort has been made in the area of physical accessibility for these populations. Physical aggression against the elderly has doubled in three years, according to the records of the Statistics Sector of the Judicial Branch, which are based on the number of reports filed with attorneys. In 2010, the number of infractions of the Integral Law for Senior Citizens—through which these cases were reported—was 680; in 2011 it rose to 939, and last year the number reached 1,335 incidents. According to Isela Corrales of the Costa Rican Gerontologic Association

—ACEGO in Spanish—, “there is an almost universal invisibilization [of this issue], such that the number of reports must be an incredibly low percentage of the actual committed crimes.”¹⁸⁴ This statement responds to the fact that senior citizens are usually accompanied by an institution or by a professional when filing a report; therefore, they are only empowered to file reports for physical and psychological mistreatment with counseling by specialists in psychology and social work. The state is required to provide this accompaniment to this population so that its dignity and integrity are respected¹⁸⁵.

Senior citizens in Nicaragua experience systematic violations of their human, economic, social and cultural rights. For this reason, the National Union of Senior Citizens —UNAM in Spanish— was created, which for over five years has managed to put these issues on the national agenda through their pension demands. It is exactly these demands that have focused national attention on the Social Security system (INSS in Spanish).

Nicaragua has the Senior Citizen Law¹⁸⁶, which recognizes a legal and institutional system of protections and guarantees for senior citizens in its objectives; however, the law was ineffective because the economic benefits it established were linked to the benefits obtained by pensioners in the INSS, making them unequal before the law. Meanwhile, representative civil society organizations like the National Commission for Senior Citizens —CONAM in Spanish—, were never convened and did not create new entities because the Executive did not establish an operating budget for them.

Nicaragua has also been denounced for ending payments on pensions under the government of President Violeta Barrios de Chamorro. When Daniel Ortega returned to power in 2007, he did not reestablish payment of the reduced pension plan despite insistent demands from senior citizens. However, the government gave some economic aid using funds from the Venezuelan government. Despite this, allocation of these funds was suspended and as a result, senior citizens' organizations increased their protest actions (see *supra*, Chapter III, Criminalization of Social Protest).

In El Salvador, senior citizens are at high risk for insecurity, and social and economic exclusion, and government programs are insufficient in satisfying all their needs. Through the “My Elder Rights” program, the government provides a basic pension to senior citizens in the 75 poorest municipalities in the country, but due to the great needs of this population segment, this help is not enough¹⁸⁷.

Chapter VI

INDIGENOUS PEOPLES' RIGHTS

The situation of indigenous peoples in Central America in the time period covered by this report shows no significant changes in any of the countries of the region. Indigenous people continue suffering grave violations of their fundamental, individual, and collective rights and guarantees.

Though there are variations in Central American countries on how indigenous peoples' rights are protected, almost all of the countries have judicial systems that recognize indigenous rights (El Salvador and Panama are the only countries that have not adopted the ILO Convention #169). In the other Central American countries, limitations are observed on the recognition of these rights.

During the presentation of the Report of the Special Rapporteur on the Situation of Human Rights and Fundamental Freedoms of Indigenous People in Central America¹⁸⁸, which was compiled with the participation of representatives from indigenous communities, representatives from the Office of the UN High Commissioner on Human Rights' headquarters in Panama stated that the country should "make more of an effort" to guarantee the full exercise of indigenous peoples' rights and cultural preservation. The report points out that human rights organizations have emphasized the need to increase efforts to guarantee health care access in rural areas and areas with poor access, as well as reduce the number of maternal deaths in indigenous regions.

In Honduras, the still-fractured institutionalism contributes to threats against the lives of indigenous leaders. Neoliberal governmental policies are increasingly cutting away at the right of the Comarcas, especially in relation to natural and territorial resources. The massacre of indigenous leaders of the Tolupan Tribe of San Francisco de Locomapa¹⁸⁹, Yoro, perpetrated on August 25, 2013, in which Ricardo Soto Funez, María Enriqueta Matute and Armando Funez Medina died, once again illustrates the war for the exploitation of common goods that is underway in Honduras, especially in indigenous territories. This war is partly in the hands of organized crime, linked to antimony extraction, the destruction of forests, and the construction of hydroelectric dams.

In Guatemala, the Peace Accords of the 1990's continue to not be fully complied with, increasingly postponing

the demands that indigenous peoples make to other sectors of society, who continue making indigenous culture invisible. This lack of compliance results in an inability to influence governmental authorities to even minimally comply with the Accords.

In El Salvador, despite the model of a socially advanced government, very little progress has been made, remaining almost decorative and folkloric in relation to the issue of rights recognition.

In Nicaragua and Costa Rica there exist legal orders with important legal regulations that at least in theory protect indigenous rights consistently. However, because of multiple private and governmental interests that affect the rights of these ancestral communities, these regulations aren't put into practice after their proclamation. In Costa Rica the case of Bill #14.352, which seeks to contribute to indigenous autonomy, but has been sitting in the Legislature for 20 years without being passed.

I. Land and Territory

Violence over land issues has become characteristic of Guatemala, and in past years the issue of natural resources is increasingly related to violations of indigenous human rights. Near Guatemala City, in the village of San José Nacahuil that is majority indigenous maya k'achikel; armed men killed 11 and injured 28 in the beginning of September 2013¹⁹⁰. Although police claim that corrupt officials or gang members were involved, indigenous communities are opposed to this hypothesis and claim that these are acts of repression related to mining, as this is a community that struggles to keep itself free of mining and militarization. Indigenous organizations have presented a petition to the Inter-American Court of Human Rights that states that the Guatemalan government openly protects and supports the mining sector by passing laws that unjustly benefit the industry.

In Honduras, infringement of territorial rights is linked to environmental potential on indigenous lands, such as in the case of the Hydroelectric Project Agua Zarca located in ancestral lands of the Lenca indigenous people. There have been many acts of repression against those who have opposed the dam, such as leaders of the indigenous movement. A judge in Intibucá charged Bertha Cáceres, member of the Civic Council of Popular and Indigenous Organizations of Honduras –COPINH in Spanish–, after being accused of the crimes of usurpation, coercion, and damages

inflicted upon the company DESA, in charge of the megaproject¹⁹¹.

Currently in El Salvador, indigenous territories are nonexistent as a result of the land grabbing suffered during the Spanish invasion and following phases of monoculture implementation (indigo and coffee), causing the extinction of communal and collective lands. In addition, there have been genocides inflicted upon indigenous people in the country, such as the 1932 massacre, which is representative of a policy of oppression and annihilation towards ancestral communities and the elimination of their culture.

By 2011, it is estimated that only 5% of indigenous people in El Salvador had legal rights to land, illustrating a grave lack of access to land. The Funes Administration's efforts to provide access to land titles between 2009 and July of 2012 have benefitted 28,000 people, of which only 307 families identified themselves as indigenous¹⁹². However, this does not eliminate the historic lack of recognition.

Authorities of the Mayangna territories in the North Atlantic Autonomous Region of Nicaragua –RAAN in Spanish– through a press release, requested the President's intervention in implementing a peaceful purification of colonizers from their territories. They request a state of emergency be declared for the BOSAWAS Reserve due to the presence of colonizers that are taking indigenous lands and destroying forests¹⁹³. The fact that land titles for 17 out of 23 of the territories are held by indigenous peoples, as well as the strong conviction expressed by the state authorities to continue granting titles for the remaining 8 territories is favorable. A purification process is crucial to truly protect these territories.

In Nicaragua, recognition of the human rights of the Miskitu, Mayangna (Sumu), and Rama indigenous groups and Afro-Descendants, Afro-Caribbean, tribes, Creole and Garífuna of the Atlantic or Caribbean coasts was guaranteed in the 1987 Political Constitution of Nicaragua. The 1995 constitutional reform extended this protection to the indigenous people of the North Central Pacific of Nicaragua –PCN in Spanish–, Cacaoopera-Metagalpa in the north central part of the country, and in the Pacific region to the descendants of of Chorotega-Nahua-Mangue, Naoha-Nicarao and Xiu-Sutiabas, previously known as Maribios. This protection was confirmed through the ratification of Convention #169 in 2010. However, in national legislation, the indigenous people of the North Central Pacific (PCN for its name in Spanish) region are not recognized. For

almost a decade, indigenous people of PCN have been proposing, discussing, and coming to agreement with the Commission on Ethnic Autonomous Regions and Indigenous Peoples' Issues of the National Assembly regarding a proposed law that would regulate their legal situation. Recently indigenous people of the PCN region reported the fact that this law still has not been passed nor placed on the Legislative Agenda for the first trimester of 2013.

Since 2102, indigenous communities in the village of Buenos Aires de Puntarenas, southern Costa Rica, began recuperating lands after having their rights violated by various non-indigenous interests. Some ancestral communities since this time have organized themselves to recuperate these areas, reasoning that the state has not done anything regarding the issue for dozens of years. In September of 2012, this provoked the attack of the indigenous leader Sergio Rojas Ortiz, of the Salitre territory by non-indigenous people who shot him multiple times.

Other cases have been reported of spontaneous community organization to recuperate ancestral lands. One case is that of the community Guatuso in the northern part of the country in December of 2012, and another case in January of 2013 in Cabagra, located in the southern part of the country (like Salitre). In addition, in the beginning of 2013, repressive actions were taken by non-indigenous land usurpers against community indigenous people in the southern area of the country.

In February of 2013 a group of approximately 130 non-indigenous people invaded a 460-hectare plantation located in the indigenous territory of Terraba, in Buenos Aires, Puntarenas. This provoked stand offs between various groups. Claims have been made that these lands are related to six plantations of a total of 2,000 hectares, of which a judge ordered that the state pay compensation to the previous owners on a good faith basis. The money was given to these people, despite the argument that they were being treated as landowners after having entered the territory by force, usurping indigenous lands¹⁹⁴.

Indigenous People in Panama represent 10% of the population. 285,231 people claimed to be indigenous in the 2000 census. The seven indigenous groups in Panama are: Ngobe, Bugle, Kuna, Embera, Wounan, Bribri, and Naso. Ngobe represent 59.3% of the indigenous population, followed by the Kuna, who represent 21.6%.

James Anaya, UN Special Rapporteur on the Rights of Indigenous Peoples, in his report filed on the July 2013 visit made in Panama¹⁹⁵, found particularly worrisome the lack of territorial security of the Bribri and Naso peoples, whose territories do not have regional recognition. This is unlike other communities such as the Emberas and Wounaan communities and the Guna territory of Dagargunyala that live outside of the recognized regions but are acknowledged.

He recommended that the government move forward without delay in processing the pending requests of the Bribri, Embera and Wounaan peoples, in accord with Law #72 (2008), regarding indigenous peoples' collective land ownership, resolving any problems that could come up in the application process or delay the process more. In addition, he called for the state to cooperate with indigenous authorities to control and put an end to land invasions and privatizations, including the indigenous territories that are waiting to be demarcated by and titled to the state.

2. The Right to Consultation

In Guatemala, the right to consultation has become controversial throughout history, despite having been one of the first countries in the world to ratify the ILO Convention #169. Community consultations have been a particularly controversial point over time. One of these incidents has been in relation to constitutional reforms, educational reforms, and energy services, as reflected in presidential plans at the end of 2012. Various communities have criticized that governmental actions are considered consultations, when in reality they are not.

In October of 2012, Community Mayors and the Council of Mayors of the 48 cantons of Totonicapán, in representation of the town of Totonicapán, presented their disagreement to the President of the Republic with the proclaimed “consultation processes”. “These reforms have not been accepted in any moment, nor are we expressing an opinion regarding such reforms. The information that we have been given does not in any way constitute a process of consultation in good faith with the Assembly of Community Mayors and the Board of Directors of Community Mayors of the 48 cantons of Totonicapán, as is laid out in Convention #169 regarding indigenous and tribal peoples in independent countries. More so, we reject the reforms we have been informed about,” they expressed.

One of the main problems related to consultations that have occurred in this country is that the simple remission of a notice from a governmental authority to a communal entity (such as in this case to the Communal Mayors Board) satisfies the requirements for indigenous consultations, as determined in Article 6 of ILO Convention #169.

In September of 2013, indigenous Maya and Xica people brought a lawsuit to the Inter-American Court of Human Rights against the Guatemalan State for not allowing them to decide on the installation of mining projects in their territories. The lawsuit was admitted after February 2013, when the Supreme Court's Constitutional Chamber rejected a claim of unconstitutionality against the Mining Law, previously approved by the Congress of the Republic¹⁹⁶. The indigenous communities presented this dispute because they considered that their right to community consultation had been violated upon the installation of megaprojects in their territories.

In September 2013, the Honduran government began consultations with the population of Mosquitia in the eastern province of Gracias a Dios to determine if they accepted oil exploration in the Caribbean. According to the government, 3,500 people were consulted, representing each community, and that President Porfirio Lobo had begun the consultations months before hand with leadership of the organization Mosquitia Asla Takanka –MASTA for its name in Spanish, meaning “Mosquitia United”–, later consulting the 12 communities into which the Misquito population is divided¹⁹⁷.



Source: Indigenous Press

One week before the consultations on oil exploration, the Honduran government registered 128 indigenous communities of the Mosquitia region, in the province of Gracias a Dios.

Coincidentally, media sources said that the Honduran government had announced in September 2013 that it had registered more the 654,000 hectares in the name of 128 indigenous communities of Mosquitia. This was fulfilling an 1859 promise with England when the British crown granted Honduras Mosquitia lands, including what today is the entire province of Gracias a Dios, covering 17,000 km², with a population of 100,000 habitants, the majority is Misquitos territory divided into 12 zones, including other indigenous people such as the Tawahkas, Pech, and Garífuna.

All of this occurred one week before the community consultation on oil exploration were to be held in the zone. There is a concern that this was a strategy to condition the communities to the presence of an oil company in the zone, as well as the installation of US air bases in the zone to fight drug trafficking¹⁹⁸.

In El Salvador, on a legal level, indigenous people continue being made invisible to the point that their rights are not constitutionally recognized. This is in despite of the fact that the 2007 census, held by the General Census and Statistics Board, certified the existence of 13,319 people in the country who identified as indigenous, representing 0.2% of the total population.

With the exception of some initiatives made by the executive branch of the current administration, there are no state policies oriented towards this sector of the population. At the time of writing of this report, despite demands of indigenous people¹⁹⁹, the constitutional reform to articles 62 and 63 that was approved on April 25, 2012 has not been ratified. This reform would recognize the rights of these people. ILO Convention #169 has still not been ratified, and the conditions for the ratification do not exist in the short term, which is clear evidence of the violations of the rights of indigenous people in this country.

In Nicaragua, Law #840, the Special Law for Nicaraguan Infrastructure and Transportation Development is pertinent to the Great Canal, Free Trade Zones, and Associated Infrastructure. It was approved by the National Assembly on June 13 and published in the newspaper Official Diary #110 on June 14, 2013. In response, on July 1, 2013 members of the indigenous groups Rama, Mískitu, Ulwa (Mayagan/Sumo), and Creole descendants presented claims of unconstitutionality to the Supreme Court, citing a lack of consultation during the formulation of the law as well as the usurpation of their land and infringing upon their “inalienable” property rights to the lands that the indigenous and Afro-Descendant peoples of the South Atlantic

Autonomous Region hold titles to and traditionally occupy and use. In addition, they filed charges for blocking their access to natural resource use as well as a lack of free, informed consent regarding issues that can adversely affect them. This resulted in the violation of a total of 23 articles of the Political Constitution of Nicaragua, international instruments for the protection and promotion of indigenous peoples’ human rights (which the State of Nicaragua has ratified and signed), in addition to the ILO Convention #169 on Indigenous and Tribal Peoples in countries independent from the ILO, the UN Declaration on the Rights of Indigenous Peoples, and the American Convention on Human Rights.

Through Law #840, the Nicaraguan State has unilaterally anticipated indigenous peoples’ consent regarding future actions that put the existence of indigenous and Afro-Descendant peoples in danger in their own territories, implicating their survival and the effective “use and enjoyment” of their lands and territories.

In Costa Rica the Constitutional Court ruled on a decree declaring the hydroelectric project El Diquis of public interest. This megaproject is planned to be built in the canton of Buenos Aires de Puntarenas in the southern part of the country. Through Vote 2011-12975, the declaration of unconstitutionality was rejected, the judges claiming that the decree is not unconstitutional, “...because the consultation as established in Article 4 was held within the 6 month period from the notification of this declaration.” The Court’s interpretation threatens the consultation process, as stated in the report from the UN Special Rapporteur on the Rights of Indigenous Peoples, who made an official visit in 2011 to investigate the issue of the Hydroelectric Project El Diquis.

Another issue related to the controversy of the right to consultation in Costa Rica is that of the REDD+ strategy, which is a global plan that is being promoted to create a system between polluting countries and countries with environmental potential, of which Costa Rica intends to be the first on the planet. REDD+ is criticized for not being appropriately disclosed in indigenous territories.

Various indigenous representatives have reiterated that there exists very little or no information on this topic, especially amongst members of local indigenous governments. Indigenous people asked the Director of the National Forestry Financing Fund –FONAFIFO in Spanish–, manager of the REDD+ Strategy and implementation of Costa

Rica's Readiness Preparation Proposal –R-PP–, “What happens if indigenous people do not want to participate in REDD+?”, to which the FONAFIFO representative replied, “Nothing, because just as participation in the payment for environmental services is voluntary, so is participation in REDD+”²⁰⁰. Aside from the lack of information in communities, another problem is that the governmental system that promotes these consultations does not allow communities to control funding or dynamics of the consultation process. These questionable behaviors occur in all Central American countries.

In Panama, large investment projects in indigenous territories have caused numerous violations of

indigenous peoples' rights, especially in the case of hydroelectric and mining projects. People affected by these projects have reported irregularities through which building permits are obtained for dams, as well as the process of agreeing on these projects. One example is that of the hydroelectric dam Barro Blanco.

Regarding the right to political participation, it is important to mention that despite the fact that indigenous people represent 12% of the total population, indigenous representation in the Parliament in Panama is very low. The participation of indigenous women in the general congresses (the maximum traditional indigenous authority) is even lower, where only one out of every twelve is led by a woman²⁰¹.

CONCLUSIONS

INSECURITY AND VIOLENCE

In Central America, efforts continue to be focused on repression of violence and not prevention. Traditional-style plans are adopted that seek to punish people who break the law, creating collapsed and inoperable penitentiary systems in which inmates have no possibilities for social reinsertion. Within this context, active military members participate in public security tasks and “retired” military members provide private security. In addition, military officials are placed in public servant positions, and even elected, thus creating critical conflict scenarios and human rights violations in the region. This has occurred in Guatemala, whose government has resorted to frequently implementing “martial law” in certain areas, as well as in Honduras after the coup d’état.

There have been violence reduction methods adopted that are different from the repressive mechanisms implemented by the state. One example is the so-called “Gang Truce” in El Salvador and Honduras. These methods have shown that there are different ways to approach civic security in the region. The truces have shown certain weaknesses and are unsustainable in the long term. If the state does not adopt policies that guarantee the general population’s human rights, a greater risk is created. For this reason, these processes are not considered a definitive solution to the complex security problem that the region faces.

Due to its geographic location, Central America provides favorable conditions for passing drugs from South America for consumption primarily in the United States. This situation has led to influence of organized crime groups in various areas and has affected institutionalism, as evidenced by the “Taxis Cartel” case in El Salvador.

There has been progress in creating legal mechanisms for women’s protection related to femicide, but this does not guarantee women’s right to life per se, especially when state institutions don’t know, apply, or put such laws into place. Costa Rica is the country that represents the greatest lack of legal protection in this area, defining femicide as misogynist killings within two married people.

BARRIERS TO ACCESSING JUSTICE

The level of conflict in the region requires improvements in the justice systems in order to guarantee that all

citizens can receive proper services. Currently state institutions related to justice (Public Ministries, Police, the Judiciary, Coroners Office, etc.) do not have ideal budgets nor the human resources necessary, affecting investigation into crimes and creating setbacks in achieving justice, thus creating impunity. Offering services free of charge is conditioned on the amount of human resources that the institution has, its geographical accessibility, and the trustworthiness that it earns. In some cases inefficient processing of paperwork forces citizens to the point of covering the costs of a private lawyer.

A lack of respect for judicial independence is an issue in the region, and in every country there are reported cases of threats to this principle. Amongst the most alarming of cases are the “Technical Coups” to the Constitutional Tribunal of Honduras, the intervention of economic power in the judicial proceedings against Ríos Montt in Guatemala, the failure to re-elect magistrates due to political criteria in Costa Rica, the election mechanism for judges in Panama, and the creation of special commissions to investigate magistrates of the Constitutional Chamber in El Salvador based on its resolutions.

It is worrisome that there is not a positive response to begin legal processes for grave human rights violations committed during the recent civil wars in the region. The case in Guatemala of the lawsuit filed against Ríos Montt, as well as the case in El Salvador of military officials called by the Spanish National Court for the death of six priests and two employees have suffered setbacks due to institutional complicity.

Despite the fact that Central America is one of the most violent regions in the world, no country has developed plans to prevent crimes or take clear actions for the reentry of incarcerated people. Prisons in all countries in the region are in critical status, and there exists a common denominator of overcrowding, causing systematic human rights violations and constant outbreaks of violence in prisons. In addition, most countries in the region lack internal and external registration systems in the prison system. Phenomena such as self-governance in prisons have a particularly negative impact on the incarcerated population.

CRISIS OF THE DEMOCRATIC MODEL

The political party model does not properly resolve

the challenges that the construction of democratic societies demands. For this reason, the construction of a new political and legal institutionalism is urgent; one that does not take priority over the people but rather expresses its will. Social movements are a means of political participation because they guarantee the direct participation and mobilization of the population through local base organizations. On the contrary, political parties present themselves as intermediaries, to which the people delegate the authority to decide on public policy, meaning that the majority of decisions made by political parties are not legitimate.

Throughout the region, intolerance to criticism and dissidence is observed amongst public authorities. Social protest is stigmatized and criminalized through political-military repression, arbitrary police searches, and legal processes. This violates rights to protest, free expression, and freedom of movement. In addition, in some countries in the region there exists a belief amongst powerful economic sectors that freedom of expression is exclusively practiced through media and journalism, thus making invisible and delegitimizing public protest and outcry on behalf of the public that demands their rights.

The grave human rights violations committed by concentrations of economic and political powers are particularly alarming. They abuse their authority by disproportionately using police, military, private security, and riot squads, inflicting cruel and inhuman punishment and threatening the physical well being of their targets.

The vicious cycle of violation of the popular will expressed through voting, followed by violence and impunity, will not be broken until suitable authorities are elected that act independently from the interests of the economically and politically powerful.

THE NEOLIBERAL MODEL AND INEQUALITY IN CENTRAL AMERICA

The application of the neoliberal model in the region has shown itself to be capable of creating economic growth in the past decade. However, due to its essence, is it not nor will be capable of creating adequate living conditions for the population. Rather, it creates a greater accumulation of wealth amongst the national and international elite. This has been made possible through free trade agreements, extractive industries, mega investment projects, and others.

Generally speaking, citizens are not guaranteed their Economic, Social, Cultural, and Environmental Rights. Effort on behalf of governments such as those of El Salvador and Nicaragua are not sufficient because the governments claim to not have the sufficient economic resources to develop policies, plans, programs, and projects to completely guarantee these rights. On the other hand, due to the inability of the States to fulfill said rights, private companies create projects such as “Model Cities” in Honduras or “Hospitality Cities” in Panama, or the closing of public hospitals in Costa Rica. This creates increased opportunities for private businesses to sell their services, thus converting human rights into objects for sale.

Aside from the environmental, social, and economic impacts created by extractive industries and megaprojects, it creates a new modality that is harming countries in the region: national and international lawsuits filed on behalf of corporations against states to be able to obtain millions of returns without making any investments- all of which is covered under business treaties.

SOCIAL-POLITICAL AND CULTURAL DISCRIMINATION

Central America does not create material conditions to respect the rights of vulnerable and minority groups. Among these are the particularly critical situations of women and the LGBTI community. Despite the existence of legal mechanisms that in some way protect women’s rights, they continue to be violated as a result of ignorance and lack of political will to apply the respective laws. One example of the serious situations women face is the penalization of abortion. In addition, the LGBTI community is not recognized by the state as having rights. In both cases, the vulnerability of these groups is increased by cultural problems such as sexism and the lack of action by the state to eradicate manifestations of these problems.

With the exception of Costa Rica, all Central American countries produce migrants, orienting their economies towards consumption and creating dependency on remittances. Nevertheless, countries that receive migrants do not recognize their human rights because of their irregular legal status.

Similarly, states do not recognize the rights of people with disabilities. Despite regulations that protect their rights, they are made invisible, and efforts are reduced to small projects that seek to eliminate physical or

architectural barriers rather than efforts towards guaranteeing rights to health, education, dignified work, housing, and a safe environment

INDIGENOUS PEOPLES' RIGHTS

Large amounts of indigenous people in the region live within areas of environmental potential. Despite the fact that in Nicaragua, Costa Rica, and Panama there exist specific recognitions of the territories indigenous groups are entitled to, large companies continue with their plans to exploit these areas in some way or another. This includes the case of the questionable registration of 654,000 hectares under the name of 128 indigenous communities in Mosquitia, which is suspicious because they are areas intended for oil drilling.

Even though there have been no significant changes regarding protection of indigenous rights in the region, it is important to mention how the repression occurring in Honduras takes a particular form against indigenous and community leadership, such as in the case of San Francisco de Locomapa, committed in Locompa, Yoro in August 2013.

In the 21st Century the issue of territorial rights in Central America is primarily linked to the issue of natural resources. The trend is no longer that of large landowners' interests that infringe upon indigenous jurisdictions, but rather transnational economic interests that seek access to these resources to extract natural riches - from oil and minerals to water and biodiversity.

Governments in the region refuse to recognize indigenous peoples' territorial rights (as mentioned in the previous report the case of the government of Panama's refusal to recognize communal lands of the Naso people), as is the case in Nicaragua with Pacific, Central, and Northern communities. This can also be explained by the desire of the state to exploit natural resources with the full knowledge that declarations of "indigenous territories" prevent opening these areas to resource exploitation. This has not been an obstacle, however, as in the Costa Rican case of the "Costa Rican

Electricity Institute" megaproject and "Hydroelectric Project El Diquis", promoted by the government, that was put into place without respect for the rights of the affected indigenous people.

The right to consultation that is obligatory in all of the Central American countries that have ratified the ILO Convention #169 is increasingly weakened. In Nicaragua a law was passed that seeks to create conditions to open up an interoceanic canal, without any consultation process at all. In Guatemala the government grants companies permits for mining exploitation without holding consultations. In Honduras, a country that does not offer any type of legal guarantees to communities, a consultation is underway so that Miskita communities express their opinion on the proposal to place an oil exploration project. In Costa Rica, the Constitutional Tribunal delegitimized the contributions of the UN Special Rapporteur on the Situation of Human Rights and Fundamental Freedoms of Indigenous People who visited in 2011 and advised that consultations processes be held in an environment of collaboration between the state and indigenous communities. Ignoring this recommendation, orders are made to hold the consultations process on the Diquis Mega Project in just six months.

In every part of the region there are criticisms of the proposed methodologies for consultations on the REDD+ strategy. No efforts have been observed on behalf of governments or international funding agencies that work on these issues to give indigenous communities' the power to call for or hold the consultation processes. Warnings have been made that in some situations, and in the best of cases, these decisions are left in the hands of community leaders that are often connected to government or funding agency interests.

Upon analyzing the recommendations made in the last report, it is noteworthy that the majority of them have not been fulfilled, providing evidence to claim that the primary issues are: The lack of full recognition of indigenous cultures and their fundamental rights, and the lack of opening up spaces for indigenous peoples' participation in public policy in these countries.

RECOMMENDATIONS

The Regional Team for Human Rights Monitoring and Analysis in Central America, in terms of insecurity and violence that exists in the region, recommends:

Central American States should cease to use crime repression as their only security strategy and identify and strengthen preventative mechanisms and the re-socialization of people in conflict with the law. In such a context they would have to demilitarize the region, reduce the defense budget and stop imposing on public functionaries or naming military personnel to civilian posts.

In all of the countries the Public Ministry or Prosecutor should investigate existing ties between public functionaries, organized crime, and drug trafficking; especially those functionaries tied to the Taxis Cartel in El Salvador.

To cease military actions directed at citizens who fight against the extractive industry and mega investment projects, such in the case of Guatemala with the constant implementation of martial law. Similarly, the region should adopt mechanisms to protect human rights defenders, such as the harsh sentences for crimes committed against them and protection programs for when they are threatened or receive precautionary measures, especially in El Salvador. Also, they should not use legal processes to politically persecute human rights defenders in Honduras.

By principle, states should provide greater budgets for the institutions responsible for public security –Police– to minimize the security services provided by private agents and to establish more rigorous requisites for private security employees, who should be constantly trained in human rights.

It's a fact that the existing regulatory framework does not guarantee a women's right to life. For this reason the judicial systems, public ministry, and all of the government institutions should safeguard the existing laws and not resort to the inapplicability or neglect of them, justifying their behavior with technicalities.

The Regional Team for Human Rights Monitoring and Analysis in Central America, in terms of the obstacles citizens face when trying to access justice in the region, recommends:

We make a call to the Judicial Tribunals and the Public Ministry in each country to not apply amnesty, prescription, or penal responsibility expiration to any case where a person has committed genocide, torture, rape, and crimes against humanity.

Also, the different countries government entities, as well as real powers, international organisms and even other states, should respect judicial independence, guaranteeing institutionalism and the rule of constitutional law.

Due to the collapsing penitentiary systems in the region, states should create public policies designed to improve human rights conditions for the incarcerated. This ranges from expanding physical spaces and creating suitable mechanisms for the penitentiary population's social re-insertion. Moreover, they should eradicate the practice of delegating disciplinary responsibility to the inmates themselves, especially in the application of punishments, and they should retake internal control of each penitentiary establishment so that the state can exercise internal security within the jails and all of the other administrative functions as well.

Allow human rights defenders and organizations access to prisons and police barracks to check the conditions in which the inmates are living, remembering that they are people whose freedom has been restricted, but not the rest of their rights, including political.

Acts of human rights violations are impermissible and should not remain in impunity, much less the states that have been internationally sentenced for failing to investigate, try, and convict those responsible for torture, extra judicial executions, forced disappearances, rape, and other serious violations of international rights and human rights.

The Regional Team for Human Rights Monitoring and Analysis in Central America, in terms of the crisis of the democratic model facing the region, recommends:

States should reform the necessary laws designed to create suitable mechanisms allowing citizens to decide on public policy issues, rather than delegating these powers exclusively to public functionaries.

In terms of elections, the Electoral Laws should be reformed as required by the citizens, as well as the different electoral observation missions who have visited the region's countries in prior elections.

Nicaragua especially should comply with the Inter-American Court on Human Rights' August 22nd 2013 decision.

All forms of demonstrations for freedom of expression should be fomented and respected, by means of the media, protests and public denouncement. Also, mass media should be democratized to prevent the political and economic elite's domination of these spaces.

In general, it is necessary that the countries look after what is established in their respective constitutions and urgently restore the rule of constitutional and social law.

The Regional Team for Human Rights Monitoring and Analysis in Central America, in terms of neoliberal model's creations of inequality, recommends:

Each state should facilitate integration among Central America's nations and adopt an alternative economic model that respects human rights, equality, and social justice.

The promotion of projects, plans, and programs that foment economic and social development that is sustainable and respectful of the environment and ancestral cultures; such as agricultural or housing cooperatives, among others; solidarity economies for the production of goods and services; also local and communal projects for mutual support.

Governments should avoid the wasteful acquisition of luxury and secondary goods for the government's administrations, as well as tax evasion, acts of corruption that weaken public financing; and they should invest more in social programs. In this context and to alleviate the external debt, they should create fiscal policies that allow greater taxation of the powerful sectors, to obtain greater income, and guarantee citizens' human rights while reducing the inequality gap.

They should revoke mining exploration and exploitation permits; stop mega investment projects, and monocultures, that seriously impact health, land access, dignified housing, dignified work, and a generally healthy environment, especially for the surrounding communities.

Governments should increase health, education, housing, potable water, and other coverage, with the objective of giving them the connotation or human rights based

focus, rather than the commercialized focus preferred by the economy's private agents.

The Regional Team for Human Rights Monitoring and Analysis in Central America, in terms of socio-political and cultural discrimination in the region, recommends:

The creation of the necessary regulations and institutions to end impunity of hate crimes against the LGBTI community and any other kind of discrimination against this population.

The passage of the pertinent legal reforms to guarantee women's physical, moral, and emotional integrity. Specifically, each country's legislation needs modification to de-criminalize abortion, instead of prohibiting it entirely.

Public policy should be geared towards creating social well being among the citizenry to avoid migration. Similarly, Central American states should create alliances and networks with other countries, international organizations, and non-governmental organizations to safeguard the rights of the migrant population in the receiving and transit countries.

They should create and intensify plans and programs that protect the rights of the elderly, the disabled, and afro-descendants by facilitating access to healthcare, pensions or dignified benefits, housing, adequate food, and by eliminating illiteracy.

In terms of children and adolescents, it is not enough to create laws or institutions that formally recognize their rights. The state must play an active role in achieving the full enjoyment and compliance with those rights.

The Regional Team for Human Rights Monitoring and Analysis in Central America, in terms of indigenous peoples in the region, recommends:

The following are issues that require further constructive dialogue between indigenous peoples and governments: infringement upon territories, threats of hydroelectric construction projects, legal security for lands, settler invasions, illiteracy, access to public services, indigenous child labor, violence against women, public policies taking into account indigenous peoples representation, cultural discrimination, natural resource exploitation, land seizures, and the violation of collective rights.

It is necessary to consolidate and implement public policies that favor the rights of indigenous peoples in a way that is coherent with international standards.

An important step forward for recognizing indigenous rights was that Ratification of the International Labour Organizations Convention #169 on Indigenous and Tribal peoples in Independent Countries. We call on the governments of El Salvador and Panama to ratify the convention as a sign of good will towards guaranteeing and protecting indigenous peoples' rights.

To support the indigenous struggles to defend their land, which are occurring in every country in the region. These struggles are evident in the alarming acts

of repression against indigenous leaders, such as those being seen now in Costa Rica.

It is necessary to follow through on the consulting processes in the Mosquitia area of Honduras, in relation to petroleum exploitation plans. Likewise with Nicaragua's plans to build an inter-oceanic canal, the law demands proper consultation. The same goes for dams in Costa Rica and the processes being denounced in Guatemala.

In terms of the REDD+ strategy that is underway in all of the region's countries, we should demand that the governments and foreign cooperation agencies collaborate in the process, and that they open the way for indigenous communities to direct implementation, and not just the leaders who's interests may have been already compromised.

SIGLAS, ABREVIATURAS Y ACRÓNIMOS

AFP	French Press Agency
AIDS	Acquired Immune Deficiency Syndrome
AGECO	Costa Rican Gerontological Association
ALMA	Managua's Mayoral Office
ANEP	National Private Business Association
ANAM	National Authority on the Environment
ASTRADOMES	Domestic Workers Association
BCN	Central Bank of Nicaragua
CACIF	Coordinating Committee of Agricultural, Commercial, Industrial and Financial Associations
CARSI	Central American Regional Security Initiative
CC	Constitutional Chamber
CCSS	Costa Rican Social Security Savings
CENIDH	Nicaraguan Human Rights Center
CHEC	China Harbour Engineering Company Ltda
CINCO	Center for Investigation on Communication
CONADEH	National Human Rights Commission
CONADEHUPA	National Human Rights Commission for Panama
CONAIPD	National Council of Integral Attention for Disabled Persons
CONAM	National Commission for the Elderly
COPINH	Civic Council of Popular and Indigenous Organizations of Honduras
CSJ	Supreme Court of Justice
CSE	Supreme Electoral Council
DAJ	Legal Support Department
DCI	Defense for Children International
DID	Defense Information Department
EBAIS	Basic Teams for Integral Health Services
ECOS	Community Teams for Specialized Family Health
FAD	Broad Alliance for Democracy
FAPER	Broad Alliance of Electoral Politics in Resistance
FESCOVAM	Federation of Housing Cooperatives for Mutual Support
FECONORI	Federation of Disabled Persons Association
FGR	Attorney General for the Republic
FNRP	National Alliance for Popular Resistance
FOSALUD	Health Solidarity Fund
FONAFIFO	National Fund for Forestry Financing
GAM	Mutual Support Group of Guatemala
GDP	Gross Domestic Product
GPC	Citizen Power Cabinets
HIV	Human Immunodeficiency Virus
IACHR	Inter-American Court and Commission on Human Rights
ICJ	International Court of Justice
ICSID	International Centre for Settlement of Investment Disputes
ICT	Costa Rican Tourism Institute

IEP	Economy and Peace Institute
IOM	International Organization for Migration
INDES	National Sports Institute
INIDE	National Institute for Information Development
INSS	Nicaraguan Social Security Institute
JS19	Sandinista Youth July 19th
LIBRE	Freedom and Re-foundation Party
MASTA	Mosquitia Asla Takanka
MEDUCA	Ministry of Education
MEF	Ministry of Economy and Finance
MEIC	Ministry of Economy, Industry and Commerce
MEP	Ministry of Public Education
MINSAL	Ministry of Health
MICI	Ministry of Commerce and Industries
MOPT	Ministry of Public Works and Transportation
MP	Public Ministry
MOVITIERRA	National Movement in Defense of Land
OJ	Judiciary Organ
PAC	Anti-corruption Party
PARLACEN	Central American Parliament
PCN	National Civilian Police
PCN	North Central Pacific of Nicaragua
PGR	Public Defender's Office
PPP	Public Private Partnership
RAAS	Southern Atlantic Autonomous Region
REDD+	The United Nations Collaborative Programme on Reducing Emissions from Deforestation and Forest Degradation in Developing Countries
RNP	National Persons Registry
RNPN	National Registrar for Naturalized Persons
SNM	National Migration Service
SENAFRONT	National Border Service
SENAN	National Air and Naval Service
TSE	Supreme Electoral Tribunal, of Nicaragua
TSE	Supreme Electoral Tribunal, of El Salvador
UDEFEGUA	Human Rights Defenders Protection Unit of Guatemala
UNA	Agronomy University of Nicaragua
UNAM	National Union of Senior Citizens
UNDP	United Nations Development Program
UNFPA	United Nations Population Fund
UNO	United Nations Organization
UNODC	United Nations Office on Drugs and Crime
WFP	World Food Program
WHO	World Health Organization

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