



Protection of Environmental Defenders in Latin America

Brazil • Chile • Colombia • Guatemala
Honduras • Nicaragua • Venezuela

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Summary

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This report by the foreign law research staff of the Law Library of Congress's Global Legal Research Directorate includes surveys of laws guaranteeing the safety of environmental defenders in Latin America, especially in Brazil, Chile, Colombia, Guatemala, Honduras, Nicaragua, and Venezuela.

A United Nations Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean, which was adopted on March 4, 2018, in Escazú, Costa Rica, for the specific purpose of promoting, protecting, and defending human rights in environmental matters was signed by Brazil, Guatemala, and Nicaragua. However, Colombia and Honduras are the only countries that have enacted specific legislation for the protection of environmental defenders.

Brazil and Honduras have laws that may be used for the transfer or temporary relocation of environmental defenders. In Brazil, if a temporary relocation is needed, a federal law that offers special programs for the protection of threatened victims and witnesses may be used to the benefit of environmental defenders and their family members. The protective measure must be provided by the Union, the states, and the Federal District, within their respective competencies. In addition, if the protected person is unable to work or has no other source of income, the law also states that monthly financial support to cover necessary expenses must be offered to the protected person and his or her family.

In Honduras, the Regulation of the Protection Law for Human Rights Defenders, Journalists, Social Communicators and Justice Operators provides for temporary relocation of persons in need of protection as well as their family members. This protective measure must be provided by specialized bodies or individuals. The funds to fulfill the law must be assigned by the Secretariat of Finances, and a special fund for the protection of human rights defenders was created by the Protection Law.

Although Colombian law does not have a specific provision regarding temporary relocation, its legislation determines that local entities in charge of the execution of security and protection programs for communities and territorial organizations may appropriate funds to cover comprehensive protective measures.

In regard to emergency applications and rapid responses to such applications, Honduran law determines that in cases of imminent risk of threat or aggression that could put a person in danger, protective measures must be put in place by the appropriate agency within a short period of time to protect such person. All other surveyed countries do not have such a provision.

Brazilian law does not directly address maintenance of secrecy for cases involving applications submitted by environmental defenders. However, secrecy may be imposed during criminal or civil procedures to preserve a person's exposure to the media where required by public or social

interests. The Protection Law of Honduras requires that information regarding the protection of beneficiaries of the law and their family members be kept confidential.

No legislation was located in the surveyed jurisdictions providing for spaces for dialogue between mining companies, investors, public officials, and affected communities.

Brazil

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SUMMARY Brazil has yet to enact a specific law for the protection of environmental defenders. A UN Treaty that obliges states to protect people and groups that defend the environment was signed by Brazil in September 2018, but still needs ratification. Federal laws provide several tools for the protection of environmental defenders, including their relocation, the provision of financial aid, and secrecy of criminal or civil proceedings.

I. Safety of Environmental Defenders

Brazil does not have a specific law guaranteeing the safety of environmental defenders. In the absence of specific laws, other laws may be used to guarantee the safety of such people, including, but not limited to, the Constitution,¹ Penal Code,² and Code of Criminal Procedure.³

On September 27, 2018, Brazil signed the United Nations Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean, which was adopted on March 4, 2018, in Escazú, Costa Rica.⁴ According to the UN, the treaty is the first of its kind in the world to include specific, binding provisions for the protection and promotion of people, groups, and organizations that promote and defend human rights in environmental matters.⁵ Brazil has yet to ratify the treaty.

II. Transfer or Temporary Relocation of Environmental Defenders

During a trial or before a case is addressed, an environmental defender could presumably benefit from the disposition of Law No. 9,807 of July 13, 1999, which sets forth rules for the creation and maintenance of special programs for the protection of threatened victims and witnesses, established the Federal Program for Assistance to Victims and Threatened Witnesses (Programa Federal de Assistência a Vítimas e a Testemunhas Ameaçadas), and protects accused or convicted persons who have voluntarily collaborated effectively with police investigations and the criminal process.⁶

¹ Constituição Federal art. 5, <https://perma.cc/YJ6V-XYPX>.

² Código Penal, <https://perma.cc/FSY4-9LKV>.

³ Código de Processo Penal [C.P.P.], <https://perma.cc/4ZEL-HHGU>.

⁴ Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean (Regional Agreement) art. 4.1., Escazú, Mar. 4, 2018, C.N.195.2018.TREATIES-XXVII.18, <https://perma.cc/4548-FXPP>.

⁵ *UN Experts Urge Prompt Ratification of Landmark Latin America and Caribbean Environment Treaty*, United Nations Human Rights Office of the High Commissioner, <https://perma.cc/LUQ3-WWDU>.

⁶ Lei No. 9.807, de 13 de Julho de 1999, art. 7(III), <https://perma.cc/RLX6-HLJR>.

Decree No. 3,518 of June 20, 2000, regulates the Federal Program for Assistance to Victims and Threatened Witnesses, which was created by article 12 of Law No. 9,807.⁷

According to article 7(III), the transfer of an individual from his or her residence, or the provision of temporary accommodation in a place more compatible with protection, are among the measures listed in the special programs, which are applicable individually or cumulatively for the benefit of the protected person, according to the severity and circumstances of each case.⁸

A. Specific Security Service

Article 1 of Law No. 9,807 determines that the protective measures required by victims or witnesses of crimes who are coerced or exposed to serious threat as a result of collaborating with a criminal investigation or prosecution must be provided by the Union, the states, and the Federal District, within their respective competencies, in the form of special programs organized on the basis of the provisions of Law No. 9,807.⁹ The Union, the states, and the Federal District may enter into agreements (*convênios* or *acordos*), adjustments, or terms of partnership between themselves or with nongovernmental entities to carry out the programs.¹⁰

B. Security Service to Family Members

The protection measures granted pursuant to the programs must take into account the severity of the coercion or the threat to the physical or psychological integrity of the person, the difficulty of preventing or suppressing such coercion or threats by conventional means, and the importance of such measures for the production of evidence.¹¹ The protection may be directed or extended to the spouse or partner, ascendants, descendants, and dependents who habitually cohabit with the victim or witness, as specifically necessary in each case.¹²

III. Financial Resources Provided

Another measure listed in article 7 of Law No. 9,807 for the benefit of the protected person includes monthly financial support to cover necessary expenses for individual or family subsistence if the protected person is unable to perform regular work, has no other source of income,¹³ or has been temporarily suspended from functional activities without prejudice to his or her salary or benefits when the person is a public or military servant.¹⁴

⁷ Decree No. 3,518 of June 20, 2000, <https://perma.cc/G97Y-CXK6>.

⁸ Lei No. 9.807 art. 7(III).

⁹ Id. art. 1.

¹⁰ Id. art. 1(§ 1).

¹¹ Id. art. 2.

¹² Id. art. 2(§ 1).

¹³ Id. art. 7(V).

¹⁴ Id. art. 7(VI).

IV. Emergency Applications

There appear to be no emergency applications available for cases involving environmental defenders.

V. Rapid Responses and Secrecy

The legislation did not reveal any guarantees for environmental defenders to obtain rapid responses to emergency applications or the maintenance of secrecy of legal cases submitted.

Article 201 of the Code of Criminal Procedure states that whenever possible, an offended person (i.e., a person against whom a crime allegedly was committed) will be asked about the circumstances of the infraction, who the perpetrator is or is presumed to be, and the evidence that he or she has, and will also be asked to make a written statement.¹⁵ The judge must take the necessary measures to preserve the privacy, private life, honor, and image of the offended person, and may even determine the “secrecy of justice” in relation to the data, statements, and other information contained in the case about the person to prevent his or her exposure to the media.¹⁶

In civil matters, article 189(I) of the Code of Civil Procedure determines that legal proceedings are to be conducted in public; however, proceedings may be conducted in secret where the public or social interest so requires.¹⁷

VI. Dialogue

No legislation was found regarding the possibility of dialogue between mining companies, investors, public officials, and affected communities.

¹⁵ C.P.P. art. 201.

¹⁶ Id. art. 201(VI).

¹⁷ Código de Processo Civil art. 189(I), <https://perma.cc/8MSQ-5BWM>.

Chile

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Chile has no specific laws on the protection of environmental defenders¹ and the government recently decided not to sign the regional Escazú Agreement, which provides for the protection of environmental defenders.²

The Political Constitution generally protects certain rights,³ including the right to life and freedom of expression and association, reunion, and petition. None of the environmental laws in force, such as Law 20600 Creating the Environmental Courts or Law 19300 on the General Bases of the Environment, provide for specific protections to environmental activists or defenders.⁴

Although Chile does not have the highest number of deaths in the Americas, there have been recent reports of a number of deaths and unclarified suicides, especially in areas where access to water has been under attack by agricultural businesses.⁵ Environmental activists complain that their leaders have not received police protection, considering the risks and threats experienced in the areas affected by environmental conflict.⁶ In addition, there is the case of an indigenous environmental leader who has fought against illegal logging activities in the traditional indigenous area inhabited by the Mapuches.⁷ He is being accused of a number of criminal activities and has been in pretrial detention for almost fourteen months awaiting a trial, which has been postponed many times.⁸ It was recently announced that his trial was scheduled to start on November 13, 2019.⁹

¹ José Olavarría, *Corte Interamericana de DD.HH. Fija Como Prioridad el Acuerdo de Escazú en Informe sobre Persecución de Defensores Ambientales*, El Mostrador (Oct. 4, 2019), <https://perma.cc/NXA7-BLEG>.

² *Chile Debe Firmar el Acuerdo de Escazú*, Radio JCL (Sept. 13, 2019), <https://perma.cc/DV6W-B3UF>.

³ Constitución Política de Chile arts. 19 & 20, Diario Oficial [D.O.], Sept. 22, 2005, <https://perma.cc/GPP4-FUJ9>.

⁴ Ley 20600 Crea los Tribunales Ambientales, D.O., June 28, 2012, <https://perma.cc/T6LM-GMEE>; Ley 19300 Aprueba Ley de Bases del Medio Ambiente, D.O., Mar. 9, 1994, <https://perma.cc/S4GP-7Q8F>.

⁵ Héctor Cossio, *Muertes, Suicidios no Esclarecidos y Amenazas: Los Peligros que Enfrentan los Activistas Medioambientales en Chile*, El Mostrador (Feb. 9, 2019), <https://perma.cc/PB4S-CR9H>.

⁶ Id.

⁷ *Upcoming Trial of Mapuche Leader Alberto Curamil*, Front Line Defenders (Nov. 11, 2019), <https://perma.cc/789W-PEVZ>.

⁸ Id.

⁹ Id.

Colombia

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SUMMARY Colombia is one of the most dangerous country in the world for those who are dedicated to protecting the territory and fighting for environmental interests. At the domestic level, Colombia has created the Integral Program for the Security and Protection of Communities and Territorial Organization, which adopts comprehensive protection measures for human rights defenders and organizations. The Program applies an early warning and rapid-response system run by the Ministry of Interior in coordination with the local authorities and law enforcement forces. The government of Colombia has not signed the regional Escazú Agreement protecting environmental defenders' human rights.

I. Introduction

The nongovernmental organization Global Witness has reported that more than half of the murders of environmental defenders in 2018 were in Latin America.¹ Colombia is one of the most dangerous countries in the world for those who are dedicated to protecting the territory and fighting for environmental interests. In 2018 alone, twenty-four environmental leaders were killed in Colombia.²

In response to this problem, several initiatives have been undertaken at the regional level, the most relevant being the Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean, adopted at Escazú, Costa Rica, on March 4, 2018.³ It is the first regional environmental agreement among the countries of Latin America and the Caribbean and the first in the world containing specific provisions on environmental human rights defenders.⁴ However, the government of Colombia has not signed the Escazú Agreement, arguing that various legal instruments already provide protections for environmental defenders, the sustainability news source *Semana Sostenible* reported. Activists have criticized the government's approach, which they think sends the wrong message to those defenders whose lives are at risk.⁵ A spokesman for the Colombian Environmentalist Movement, a nongovernmental organization based in Bogota, was quoted as saying "the systematic

¹ Global Witness, *Enemies of the State: How Governments and Businesses Silence Land and Environmental Defenders* (July 30, 2019), <https://perma.cc/8SZH-6SQH>.

² *Id.* at 8.

³ Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean, Escazú, Mar. 4, 2018, C.N.195.2018.TREATIES-XXVII.18, <https://perma.cc/B4SZ-BWHX>.

⁴ *Id.* art. 9.

⁵ *¿Por qué el Gobierno no se comprometió a firmar acuerdo que protegía líderes ambientales?*, *Semana Sostenible* (Oct. 9, 2019), <https://perma.cc/PK48-C6TN>.

annihilation of environmentalists is the reflection of the few actions of the government to protect them and that is why Colombia occupies the second place in the world in the murder of environmental defenders.”⁶

II. Legal Protections for Environmental Defenders

The Integral Program for the Security and Protection of Communities and Territorial Organizations (the Program),⁷ created by Decree in 2018, is tasked with adopting comprehensive protective measures for human rights defenders and organizations, including environmental defenders.⁸ The security and protective measures are intended to prevent violations and provide protection, encourage respect, and guarantee the human rights to life and a healthy environment, among other human rights.⁹

Protected groups include environmental defender organizations and their leaders, representatives, and activists, whose lives, safety, or freedom are at risk or under threat. The protective measures undertaken are to guarantee freedom of opinion and expression, public and peaceful demonstration, association, and assembly, and guarantee freedom to access resources, and to communicate with international organizations.¹⁰

The Program’s objectives are the

- adoption of preventive measures aimed at identifying the risk factors for violations of the rights to life, liberty, integrity, and security of the protected groups;
- adoption of security and protective measures for the prevention of the materialization of the risk or mitigating its effects;
- adoption of measures promoting reconciliation and peaceful and democratic coexistence of public entities and communities, through local and national coordination and cooperation; and
- adoption of measures strengthening and protecting the reporting of wrongdoing by human rights organizations.¹¹

The measures adopted within the Program must include the active participation of civil society, including environmental defenders.¹² Local authorities are tasked with designing protective measures that guarantee early and urgent ways to prevent the materialization of the risks within

⁶ Id. (translation by author).

⁷ Decreto 660/2018, Programa Integral de Seguridad y Protección para Comunidades y Organizaciones en los Territorios, D.O., Apr. 14, 2018, <https://perma.cc/RNM9-6SQM>.

⁸ Id. art. 2.4.1.7.1.1.

⁹ Id.

¹⁰ Id. art. 2.4.1.7.1.3.

¹¹ Id. art. 2.4.1.7.1.4

¹² Id. art. 2.4.1.7.1.9, para. 13.

the areas reported and demarcated as subject to risks.¹³ The Program applies an early warnings and rapid response system (EWRRS) run by the Ministry of Interior in coordination with the local authorities and law enforcement forces.¹⁴ The early warning component of the EWRRS is handled by the Ombudsman's Office, while rapid response is provided by the National Government in coordination with local authorities.¹⁵

The EWRRS was designed to more effectively reduce or suppress homicides of social leaders, increasing the presence of law enforcement and police in the highest-risk territories.¹⁶ The system monitors risks in order to prevent violations of the rights to life, integrity, freedom, and personal security; violations of international humanitarian law; and activities of criminal organizations and behaviors at the national and territorial level.¹⁷

It sets up early warnings with regard to risks of violations of the rights to life, safety, freedom, and personal security and violations of international humanitarian law.¹⁸ Local entities in charge of the execution of the Program may appropriate funds for this purpose. Other national agencies will use budgetary resources of their own to financially support the execution of the Program.¹⁹

In spite of all the legislative initiatives taken in Colombia, the effectiveness of those initiatives is low due to personnel shortages and administrative and regulatory barriers that have reinforced the sense of impunity felt by persons violating the human rights of environmental activists.²⁰ Investigations of threats have produced almost no results, which allows people to make criminal threats with high levels of impunity, according to Defensoría del Pueblo, a non-governmental organization.²¹

No specific protections regarding temporary relocation, safety or secrecy measures during trials and emergency applications were found.

¹³ Id. art. 2.4.1.7.4.4.

¹⁴ Decreto 2124 de 2017 Reglamento del Sistema de Prevención y Alerta para la Reacción Rápida a la Presencia de Acciones y/o Actividades de las Organizaciones, Hechos y Conductas Criminales que Pongan en Riesgo los Derechos de la Población y la Implementación del Acuerdo Final para la Terminación del Conflicto y la Construcción de una Paz Estable y Duradera, D.O. Dec. 18, 2017, <https://perma.cc/M7ZG-PDDZ>.

¹⁵ Id. art. 2.

¹⁶ *Fortalecimiento de alertas tempranas y mayor reacción de Fuerza Pública para combatir homicidios de líderes sociales*, Presidencia de la República (Dec. 19, 2017), <https://perma.cc/MVY4-5BKT>.

¹⁷ Decreto 2124/2017, art. 5.1.

¹⁸ Id. art. 5.3.

¹⁹ Decreto 660/2018, art. 2.4.1.7.6.18.

²⁰ Defensoría del Pueblo, *Alerta Temprana* No. 26-28, at 26, 44, 51-52 (Feb. 28, 2018), <https://perma.cc/4CT8-WVZU>.

²¹ Id. at 51.

Guatemala

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Guatemala is a state party to the 2018 Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean,¹ which it signed on September 27, 2019.²

While the country was reported as being “the deadliest nation for land defenders per head of population with 16 confirmed killings” during 2018,³ no specific legislation for the protection of environmental defenders was located. However, the following legislation, while not mentioning the protection of environmental defenders, is indirectly related to the subject:

- Decree No. 70-96, Law for the Protection of Procedural Subjects and Persons Linked to the Administration of Criminal Justice.⁴
- Government Accord No. 09-2012, Creating the Request for an Analysis (*Instancia*) of Attacks against Human Rights Defenders in Guatemala.⁵ Article 1 of the Accord provides that the main function of the Analysis is to analyze “the patterns of attack against human rights defenders through a scientific methodology.” Article 1 Quáter defines a “human rights defender” as

[a] person who individually or collectively promotes and seeks to protect and implement human rights and fundamental freedoms at the national and international levels, and these may be journalists, union leaders, justice operators, defenders of the lesbian, gay, bisexual, trans or transgender or intersex (LGBTI) community, indigenous peoples, women and activists that among others are dedicated to the promotion and defense of human rights.

¹ Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean art. 4.1., Escazú, Mar. 4, 2018, C.N.195.2018.TREATIES-XXVII.18, <https://perma.cc/F5AU-DZ94>.

² *Regional Agreement, Status as at: 08-11-2019 05:00:38 EDT*, UNTC, <https://perma.cc/QV8G-KHRX>.

³ *Despite More than 160 Environmental, Land Rights Activists Murdered in 2018, Report Says*, France24.com (July 30, 2019), <https://perma.cc/5CNF-NQGJ>.

⁴ Decreto No. 70-96, Ley para la Protección de Sujetos Procesales y Personas Vinculadas a la Administración de Justicia Penal, La Gaceta, Sept. 27, 1996, <https://perma.cc/7VQG-B9QN>.

⁵ Acuerdo Gubernativo No. 09-2012, Crea la Instancia de Análisis de Ataques contra Defensores de Derechos Humanos en Guatemala, La Gaceta, Jan. 10, 2012, <https://perma.cc/W2GG-CPUA>, repealing Acuerdo Gubernativo No. 103-2008, La Gaceta, Jan. 10, 2008, <https://perma.cc/6ES8-RFEK>.

Honduras

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SUMMARY Honduras has not signed the UN Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean. However, its Protection Law for Human Rights Defenders, Journalists, Social Communicators and Justice Operators includes defenders of the environment and conservationists among the defenders of human rights that it aims to protect. Any individual or legal entity covered by the Law may request protection before the General Directorate of the Protection System. The Technical Committee of the Protection Mechanism carries out risk analyses for persons requesting protection and issues technical opinions recommending protective measures so that the General Directorate proceeds to their implementation. These bodies are not limited in the types of protective, preventive, or collective measures they may take to guarantee the life, integrity, freedom, and security of those at risk and their families.

I. Safety of Environmental Defenders

A. Protection Law

While Honduras has not signed the UN Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean,¹ it has enacted the Protection Law for Human Rights Defenders, Journalists, Social Communicators and Justice Operators,² which recognizes, promotes, and protects those human rights and fundamental freedoms guaranteed by the Honduran Constitution and international law instruments to any individual or legal entity dedicated to the promotion and defense of human rights, freedom of expression, and the work of the judiciary when those individuals or entities are placed at risk because of such activity.

The Protection Law expressly includes defenders of the environment and conservationists among the defenders of human rights that it aims to protect. These are defined as any person who exercises the right, individually or collectively, to promote and ensure the protection and realization of human rights and fundamental freedoms within the framework of national and international law.³ The Law obligates the state to respect the human rights of defenders and to

¹ *Regional Agreement, Status as at: 08-11-2019 05:00:38 EDT*, UNTC, <https://perma.cc/2THW-SS73>.

² Decreto No. 34-2015, *Ley de Protección para las y los Defensores de Derechos Humanos, Periodistas, Comunicadores Sociales y Operadores de Justicia (Ley de Protección)* art. 2, *La Gaceta [L.G.]*, May 15, 2015, <https://perma.cc/U9CE-232D>.

³ *Id.* art. 5(1).

reasonably prevent threats, harassment, and acts of aggression against them, regardless of whether they are state or private actors.⁴

B. Responsible Agencies

The Protection Law also created the National System for Human Rights Defenders (el Sistema Nacional de Protección para Personas Defensoras de Derechos Humanos) whose function is to lay the foundations for coordination with other public institutions and with society in general for the effective protection of defenders within the framework of public policy and the national human rights plan. The National System for Human Rights Defenders is made up of several institutions, among them, the General Directorate of the Protection System (la Dirección General del Sistema de Protección) and the Technical Committee of the Protection Mechanism (el Comité Técnico del Mecanismo de Protección).⁵

The Protection Law gives the General Directorate of the Protection System the following functions, among others:

- 1) Receive all protection requests and process them in accordance with the Law;
- ...
- 3) Process the application of security measures *sua sponte* when any person covered by the Law faces a situation of risk that merits urgent measures;
- ...
- 9) Provide support to the petitioners for or beneficiaries of protective measures regarding procedures, complaints, or notices for the investigation of the origins of the risks they face[.]⁶

C. Civil Society Participation

The National Protection Council for Human Rights Defenders acts as an advisory, deliberative, and consultative body of the National System of Protection of Human Rights Defenders to guarantee the rights set forth in the Protection Law.⁷ The Council is made up of government agencies, representatives of the judiciary, representatives of human rights organizations, and members of civil society, among others.⁸ The Council must facilitate the attendance of guest individuals or organizations that can temporarily or permanently support the work of the Council and act as advisors, due to their profile and experience. The Council may decide to meet

⁴ Id. art. 6.

⁵ Id. art. 19.

⁶ Id. art. 29 (translation by author).

⁷ Id. art. 20.

⁸ Id. art. 21.

in places other than the capital city, such as in affected communities or places. These sessions must be held at least four times a year outside of the Council's headquarters.⁹

II. Implementation of Protective Measures

A. Process for Requesting Assistance

Any beneficiary of the Protection Law, whether an individual or legal entity, may personally request protection before the General Directorate of the Protection System without the need of legal representation. The request may be verbal or in writing, using any means of communication, and may be submitted at any time, during or after business hours. A request may be submitted on the at-risk person or entity's behalf by a third party, organization, or other authority that is aware of the risk situation if serious or exceptional causes prevent direct submission by the affected person or entity. In any case, the request must be formalized in writing as soon as possible.¹⁰

B. Risk Assessment and Possible Measures

The Technical Committee of the Protection Mechanism is responsible for carrying out a risk analysis and reaching a decision regarding the person who requested protection. The Technical Committee is also responsible for issuing technical opinions; recommending, suspending, and/or canceling protective measures; and dictating new protective or preventive measures, whether routine or urgent, that will guarantee the life, integrity, freedom, and security of the person at risk.

The General Directorate of the Protection System is responsible for implementing, by itself or in coordination with other relevant institutions, the protective measures recommended by the Technical Committee.¹¹ Those protective measures must be implemented within forty-eight hours after receipt of the Committee's resolution decreeing the respective measure.¹²

The Regulation of the Protection Law provides that the Technical Committee and the General Directorate will maintain lists of suitable measures for the prevention and protection of the Law's beneficiaries. These lists, which are nonrestrictive and nonlimiting, are to include, among possible other measures, the following:

⁹ Acuerdo Ejecutivo No. 59-2016, Reglamento General de la Ley de Protección para las y los Defensores de Derechos Humanos, Periodistas, Comunicadores Sociales y Operadores de Justicia (Reglamento General de la Ley de Protección) art. 6(4), (5), L.G., Aug. 20, 2016, <https://perma.cc/WW4T-B2RA>.

¹⁰ Ley de Protección art. 41.

¹¹ Id. art. 32(2).

¹² Id. art. 48.

1. Protective Measures. These include, among others:
 - a. Evacuation;
 - b. Temporary relocation of the beneficiary person or his/her immediate family for up to six (6) months;
 - c. Escorts by specialized bodies or individuals;
 - d. [Real] property protection;
 - e. Delivery of cellular equipment, radio or satellite telephony, panic buttons, or applications with similar functionality;
 - f. Installation of cameras, locks, lights, or other security measures in the facilities, group house, or [individual] house of a person;
 - g. Bulletproof vests;
 - h. Metal detectors;
 - i. Armored cars; and
 - j. Other [measures] as required.
2. Preventive Measures. These include, among others:
 - a. Instructions and manuals for protection and self-defense;
 - b. Both individual and group self-defense courses;
 - c. Recognition by national, departmental, or municipal authorities of the work that [the Law's beneficiaries] perform;
 - d. The accompaniment of human rights observers and journalists;
 - e. Call to the authorities representing the state to refrain from obstructing the work of the beneficiary, recognize his/her actions, and avoid pointing out or [engaging in] stigmatization campaigns made by public or private actors;
 - f. Other [measures] as required.
3. Collective Protective Measures. The Risk Analysis Unit must design a specific protocol for the implementation of these types of measures, based on the context, social realities, and needs of the beneficiary persons.¹³

The Regulation does not appear to directly address relocation and security services during trial although, as noted above, it provides for the temporary relocation of the beneficiary or his/her immediate family for up to six months. Similarly, the Regulation provides for escorts by specialized bodies or individuals.¹⁴

III. Financial Resources

The Protection Law directs the Secretariat of Finances to assign sufficient and necessary resources of the General Budget of the Republic for the effective fulfillment of the Law.¹⁵ The Law created

¹³ Reglamento General de la Ley de Protección art. 54 (translation by author).

¹⁴ Id.

¹⁵ Ley de Protección art. 65.

the Special Fund for the Protection of Human Rights Defenders, Journalists, Social Communicators and Justice Operators.¹⁶

IV. Emergency Applications

If the situation presents the imminent risk of threats or aggression within the next twenty-four to seventy-two hours that could seriously affect the life, physical integrity, or personal freedom of the petitioner, the General Directorate must urgently order protective measures for the requesting person and instruct the appropriate state security agency to implement such measures within eight hours after receipt of the Resolution decreeing such measures.¹⁷

V. Secrecy

The Protection Law generally mandates that the information regarding the protection of beneficiaries and their family members must be kept strictly confidential,¹⁸ and also specifically directs the members of the Technical Committee to maintain strict confidentiality concerning protective procedures and their analysis of cases under their consideration.¹⁹ The Regulation of the Law reiterates these confidentiality requirements.²⁰

VI. Dialogue

The Protection Law does not appear to address dialogues between mining companies, investors, public officials, and communities.

¹⁶ Id. art. 66.

¹⁷ Id. art. 45.

¹⁸ Id. art. 3(15).

¹⁹ Id. art. 31.

²⁰ Reglamento General de la Ley de Protección art. 2(17).

Nicaragua

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Nicaragua is a state party to the 2018 Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean,¹ which it signed on September 27, 2019.²

No specific legislation for the protection of environmental defenders was found. The country's environmental legislation, such as the Special Law of Crimes Against the Environment and Natural Resources³ and the General Law of the Environment and Natural Resources, among many others,⁴ does not refer to environmental defenders.

Secondary sources indicate that Nicaragua is not a safe place for defenders of the environment. For instance, a study on two hundred defenders of the environment and earth who were killed during 2016 states that “[o]ther Latin American countries that stand out in the study are Nicaragua and Honduras. The first case is worrying, because 11 murders recorded in 2016 make Nicaragua the most dangerous country in the world per capita for environmental defenders.”⁵

¹ Regional Agreement on Access to the Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean (Regional Agreement) art. 4.1., Escazú, Mar. 4, 2018, C.N.195.2018.TREATIES-XXVII.18, <https://perma.cc/F5AU-DZ94>.

² *Regional Agreement, Status as at 08-11-2019 05:00:38 EDT*, UNTC, <https://perma.cc/QV8G-KHRX>.

³ *Ley Especial de Delitos contra el Medio Ambiente*, La Gaceta [L.G.], Oct. 26, 2005, <https://perma.cc/5TSY-Q5N2>.

⁴ *Ley General del Medio Ambiente y los Recursos Naturales*, L.G., June 6, 1996, <https://perma.cc/NL8L-PP7F>.

⁵ Milton López Tarabochia, *200 Defensores del Ambiente y la Tierra Fueron Asesinados Durante el 2016*, Mongabay Latam (translation by author), <https://perma.cc/RK3R-GXXL>.

Venezuela

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Venezuela does not have specific legislation protecting environmental defenders and has not entered into the 2018 Escazú Agreement, which provides protections for environmental defenders.¹ Regarding domestic law, general protections are granted in the Venezuelan Constitution,² such as the right to life, freedom, access to justice, protection of human rights, and compensation for victims of human rights violations, but none of the environmental laws in force, such as the Criminal Law of the Environment³ or the Organic Law of the Environment,⁴ specifically protect environmental activists or defenders.

Although Venezuela does not have the highest number of deaths in the Americas, the nongovernmental organization Global Witness reported three murders of environmental defenders and a number of threats and acts of intimidation towards indigenous environmental leaders in 2018 on indigenous lands where illegal mining activities are occurring.⁵

Under the Organic Law of Indigenous Peoples and Communities, indigenous communities have been granted extensive protective rights to their land as well as the right to participate in decision-making processes affecting their land and its environment, including through the creation of an indigenous justice system.⁶ However, Global Witness has reported that indigenous leaders who are environmental defenders not only have not received protection from the government, but have been subject to criminal prosecution for their activism.⁷

¹ Lorena Meléndez G., *No Hay Quien Proteja a los Defensores Ambientales en Venezuela*, Mongabay (Oct. 28, 2019), <https://perma.cc/5JHM-ZYED>.

² Constitución de la República Bolivariana de Venezuela tit. III, ch. 1, Gaceta Oficial [G.O.], Feb. 19, 2009, <https://perma.cc/UCX5-CN5N>.

³ Ley Penal del Ambiente, G.O., May 2, 2012, <https://perma.cc/6NTN-UW5W>.

⁴ Ley Orgánica del Ambiente, G.O., Dec. 22, 2006, <https://perma.cc/P28Y-ET2F>.

⁵ Global Witness, *Enemies of the State: How Governments and Businesses Silence Land and Environmental Defenders* 8, 11 (July 30, 2019), <https://perma.cc/8SZH-6SQH>; Meléndez G., *supra* note 1.

⁶ Ley Orgánica de Pueblos y Comunidades Indígenas arts. 11-17, 19, 68, 132-136, G.O. Dec. 27, 2005, <https://perma.cc/7K5T-WSAF>.

⁷ Global Witness, *supra* note 5, at 11.