

Americas

Antonio Cicioni, Phyllis Gerstenfeld,
Janet Oropeza Eng, Cecilia Toledo,
Natalia Torres



Alaska (US)

CANADA

NORTH
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UNITED STATES

ATLANTIC
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Hawaiian Islands (US)

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SURINAM

ECUADOR

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ARGENTINA

North America

Phyllis Gerstenfeld and Janet Oropeza Eng

The context for minorities and indigenous peoples varies considerably across North America, with each country shaped by its particular history. In the case of Mexico, indigenous communities faced ongoing issues during 2013 relating to land rights and resource extraction. Negative stereotypes and broader patterns of discrimination remain, impacting on livelihoods and excluding many from basic services such as health care. In the United States, this is also a particularly pressing issue for minorities and indigenous groups. The government implemented a number of reforms during the year with the aim of extending health care access, though these led to considerable resistance and were a major factor in the temporary shutdown of the federal government in October. Migration from other countries to the United States, including Mexico, also remained a divisive subject. While some states adopted measures during the year to improve protections for migrant workers in the country, others took steps to increase their restrictions.

The countries in the region have also developed distinct responses to tackle incitement and hate crime against minorities and indigenous groups. In Mexico, the focus within the law has been primarily on tackling discrimination through a range of national and local level legislation. Nevertheless, in reality many indigenous peoples remain marginalized, and community activists continued to be vulnerable to intimidation and targeted killings during the year. In the United States, while reporting mechanisms are in place, there is still considerable uncertainty about the true incidence of hate crime due to under-reporting. Hate speech also remains a divisive subject as freedom of speech is constitutionally protected, meaning that incidents are generally only prosecutable if there is a clear threat of imminent

physical violence. The proposed introduction of a review in early 2014 on hate speech and ways to address it attracted criticism from commentators who viewed it as an encroachment on free expression. This tension is also evident in Canada, though Canadian law has stronger restrictions on hate speech. While a controversial section of the country's Human Rights Act addressing online hate speech was repealed in June, the court in a separate ruling during the year upheld the basic principles of hate speech regulations. However, across the region some of the most innovative measures to curb discriminatory language against minorities and indigenous peoples came from NGOs and civil society, including online users monitoring hate speech and countering negative stereotypes with positive representations and awareness raising.

Mexico

Mexico's justice system continues to be defined by widespread impunity for military forces and inadequate protection for victims of abuses from state and non-state actors, including human rights activists. Judicial reforms dating back to 2008 have still only been implemented in a fraction of the country's 32 states. The new Victims Law, enacted in January to strengthen protections for victims of crime, reportedly remained unimplemented as of the end of the year. Similarly, the Protection Mechanism for Human Rights Defenders, passed in 2012, was undermined by lack of resources. In addition to these shortcomings, indigenous peoples are hampered in their search for access to justice by language barriers and limited translation services.

These deficits particularly affect Mexico's indigenous population, who faced ongoing violations of their land and consultation rights during the year by large-scale development or resource exploitation projects in their territories. This included, during 2013, continued resistance to the La Parota dam in Guerrero State. The hydroelectricity project would, if implemented, result in land expropriation and the displacement of indigenous communities. Other indigenous protests included the opposition of Nahua and Totonaca indigenous groups in Zautla, Puebla to a mining project and the movement of Yaqui against the construction of an aqueduct in Sonora without prior consultation that could threaten their water access.

Indigenous peoples and activists continued to be threatened or murdered for defending their rights. In July, the body of Heron Luciano Sixto López, an indigenous rights activist, was found after he was abducted from his office. In May, eight members of the indigenous rights group Unidad Popular were kidnapped: three of them were tortured and executed, while the rest escaped and went into hiding. Both crimes highlighted the real challenges that indigenous peoples face in advocating for their rights.

This vulnerability to targeted violence occurs against a backdrop of entrenched discrimination. This is despite the fact that Mexico has a relatively well-developed anti-discrimination framework. At the country level, this includes a Law for the Prevention and Elimination of Discrimination, enacted in 2003. It prohibits racially offensive messages and images in mass media, and discriminatory practices in general. It also mandates the creation of the National Council for the Prevention of Discrimination as a federal agency in charge of preventing and eliminating discrimination, as well as formulating and promoting public policies for equal access to opportunities for all. At the local level, the majority of provinces in Mexico now have specific laws and institutions to address discrimination. Though fairly new, these are playing a major role in combating discrimination and placing the issue on the public agenda. For example, the Council for the Prevention and Eradication of Discrimination in Mexico City has taken a very active role in sensitizing citizens through media campaigns about practices and behaviours that can be considered discriminatory. It has also investigated complaints of discrimination submitted by minority and indigenous groups.

Despite the existence of these laws and institutions, indigenous peoples still face institutional discrimination in many areas of life, including access to basic services. This was reflected in an incident in October when Irma López, a Mazatec indigenous pregnant woman, went to a clinic in the Mexican province of Oaxaca. Despite being in labour, she was denied medical care and had her baby in the clinic's garden. The same month, Susana Hernández, of the indigenous Tzotzil community in the province of Chiapas, died after childbirth in

what has been reported as a case of negligence. Both examples are part of a pattern in which indigenous women are denied the full exercise of their right to health or exposed to institutional violence from public institutions. This discrimination extends into other areas as well, such as access to justice and education. This included, in November, a reported incident involving a junior high school student in Mexico City who was subjected to sustained bullying and humiliation on the basis of her indigenous background by her schoolmates. The victim claimed that authorities had been slow to take action after she lodged a complaint to the Public Ministry.

Indigenous women are especially vulnerable to negative stereotypes based on their dress, language or livelihoods. In November, Ali Roxox, an indigenous PhD student from Guatemala, was kicked out of a bakery in San Cristóbal de las Casas in the Mexican province of Chiapas. The employees assumed that she was a street vendor simply because of her indigenous origin. Another case towards the end of the year involved the local congresswoman of the Democratic Revolution Party complaining that she had been denied access to the restrooms by Congress staff because of her indigenous origin. This discrimination is an important enabling factor in the exposure of indigenous people, particularly women, to violence. It also has the effect of reinforcing their marginalization. This was reflected in the announcement in August by the director of the public agency in charge of adoptions in the Mexican province of Chihuahua that 91 per cent of people wishing to adopt were not willing to take a child with indigenous features – yet 95 per cent of the children available for adoption had these characteristics. This situation makes the placement and adoption of indigenous children extremely challenging.

United States of America

A number of issues affecting minority and indigenous communities dominated political and media discussions during 2013. Perhaps foremost among these was the implementation of the 2010 Affordable Care Act (ACA) – the legislation dubbed 'Obamacare' by its opponents after President Barack Obama, its sponsor – with

significant portions of it coming into effect in late 2013. Repeated efforts by its opponents in the United States House of Representatives to repeal the law were a leading factor in a two-week shutdown of the federal government in October. One purpose of the ACA was to provide better health care for the poor and uninsured, helping to reduce health care disparities that adversely affect minorities. According to a 2013 report by the Centers for Disease Control, ethnic minorities in the United States suffer disproportionately from a number of health-related problems, including infant mortality and premature death. Because the ACA began to take effect only at the end of the year, it is too early to assess the law's impact on minority and indigenous health in the country.

Another issue that received considerable attention during the year – if little resulting political action – was immigration. According to a 2013 survey by the Public Religion Research Institute, a majority of people in the United States – both Democrats and Republicans – favour improving the path to citizenship for immigrants currently in the country. Efforts at new legislation have received some bipartisan support in Congress. At least one expert has asserted that because political and media rhetoric can inspire hate crimes, the improved public attitude towards immigrants might explain an apparent decline in the incidence of reported hate crimes against Latinos. By the end of 2013, however, despite public support and President Obama's strong urging, Congress had not yet undertaken meaningful efforts at reform and immigration continued to be a source of division. This was reflected in a surge in immigration legislation during the year, with 43 states passing laws on various related issues such as identification checks and access to benefits for undocumented residents. While some took positive steps to improve protections, however, others imposed tighter restrictions. Nearly 2 million people had thus far been deported since Obama took power in 2008 – the highest under any administration. Many of those accused of being in the United States illegally are held in detention centres run by for-profit companies, and federal law mandates that the beds in these facilities be kept full.

Right: Honduran immigrants in the United States. *Piotr Malecki/Panos.*

In other areas, the criminal justice system's disparate treatment of minorities also attracted significant coverage in 2013. People of colour are treated more harshly within every aspect of the criminal justice system, from police contacts to sentencing. 'Zero-tolerance' policies in schools often result in a large number of minority and disabled students being channelled into the juvenile justice system, while drug sentencing guidelines can lead to harsher punishments for minority offenders. In 2010, Congress passed the Fair Sentencing Act to reduce the large (100:1) disparity in sentencing requirements for powder versus crack cocaine: this had had an adverse impact on people of colour, who were disproportionately likely to be accused of possessing or selling crack cocaine. In 2013, a federal appeals court held that sentencing under the old guidelines was unconstitutional under the Equal Protection Clause and also ordered that the new rules be applied retroactively. Furthermore, Obama commuted the sentences of eight federal prisoners in 2013 who had already served very long terms for possessing crack cocaine.

In particular, the existence in many states of 'stand your ground' laws, which allow people to use deadly force in self-defence even if they could have safely retreated from the situation, have also been criticized for their potential bias against ethnic minorities. During the summer of 2013 George Zimmerman, a Floridian of mixed ethnicity, was tried for the killing the previous year of an unarmed African American teenager, Trayvon Martin. Many critics claimed that Zimmerman's actions were motivated by a racist assumption that Martin was dangerous merely because of his ethnicity. In July, although in the end his defence did not rely on the 'stand your ground' doctrine, Zimmerman was found not guilty of second-degree murder and manslaughter. Although the federal government considered hate crime charges against Zimmerman, by the end of 2013 such charges seemed unlikely. However, the case played a major part in the United States Commission on Civil Rights voting in June to launch an inquiry into the possible bias of these laws.



Finally, the proposed Keystone XL oil pipeline to carry oil across Canada and the United States triggered a range of objections on environmental and safety grounds in 2013. In January, the members of 25 US Native American tribes and Canadian First Nations signed a treaty of mutual support in opposition to the pipeline. Of particular concern is the fact that the pipeline would pass near or through the lands of numerous indigenous communities in both countries.

Minority groups in the United States, such as Jews, African Americans and immigrants, are also regularly vilified by extremist organizations. The apparent rise in the number of hate groups

in the United States in recent years, documented by the Southern Poverty Law Center, may be partly driven by broader social and political forces in the country, including the poor economy. Another likely factor, however, was the re-election of the country's first African American president in 2012, combined with the shrinking share of the white population. According to a 2013 census report, ethnic minorities currently make up about half of the children under five years old in the United States. Non-Latino whites are expected to become a minority by 2043. These shifts – the result of immigration as well as differential birth rates – have created anxieties among some sections of the white population of

a loss of power in the future.

But while hate group membership appears to have increased in recent years, relatively few hate crime offenders belong to extremist groups: in fact, most offenders are little different from other people in terms of background and beliefs. The extent to which the rise in the number of hate groups is mirrored by an increase in hate activity is unclear. A report issued by the Federal Bureau of Investigation in 2013 even suggested that hate crimes in the United States had actually decreased nearly 29 per cent between 2000 and 2012.

However, police data is problematic in a number of respects. For many years, researchers have been claiming that law enforcement data represents only a small portion of the hate crimes committed in the United States, largely because few incidents are reported to the police – though the true extent is unknown and estimates have varied. In 2013, however, the Bureau of Justice Statistics (BJS) released a report analysing hate crime data obtained from the National Crime Victimization Survey. According to this survey, which relies on direct questioning of people in the United States rather than on police reports, between 2007 and 2011 an average of nearly 260,000 hate crime victimizations occurred every year in the United States. More than 50 per cent of incidents were motivated by race, 30 per cent by ethnicity and a little over 20 per cent by religion. A little less than 20 per cent included gender as a motive. (As offences may have more than one motive, the total exceeds 100 per cent). By contrast, the FBI reported fewer than 10,000 hate crimes in each of those years. This suggests, of course, that fewer than one in 25 hate crimes are recorded by police in the United States.

There are a number of reasons why this disparity between actual and reported incidents might exist. According to the BJS survey, the most common explanation given by victims for failing to report the crime was that they felt the police would not or could not provide support. This is a troubling finding, but it is unclear if it is a reflection of poor relationships between law enforcement and minority communities or represents a more general lack of confidence in the police. Other reasons for failure to report, documented by researchers elsewhere, include

reluctance by undocumented residents to contact police; embarrassment over victimization; fear of retaliation; and a lack of knowledge about the law.

Even when victims report a hate crime, law enforcement might not record it as such due to bias, inadequate training, lack of interest, the absence of a specialized bias crime unit, a desire to avoid additional investigation or the belief that a conviction is unlikely – which is in fact the case. According to a 2013 report by the California Attorney General, for example, 930 hate crimes were recorded by police the previous year. Of these, only 158 were eventually prosecuted as hate crimes and just 49 hate crime convictions had been obtained at the time of the report's publication. Among other things, these data suggest that while many states, such as California, have now had hate crime legislation on the books for over 30 years, there has been little or no improvement in conviction rates. Most likely this stems from the often impossible task of proving an offender's motive beyond a reasonable doubt. However, lack of convictions may also contribute to the reluctance of victims to report these crimes.

Hate crimes can usually – although not always – be prosecuted under state law, though laws vary a great deal from state to state and local enforcement patterns likely differ even more. In 2009, after years of congressional debate, the Shepard–Byrd Hate Crime Prevention Act became law. This law makes a bias-motivated offence a federal crime. By October 2013, a total of 44 people had been convicted under this law. It remains unclear how frequently the Department of Justice will seek to use the federal law, and whether it intends to focus on particular offences, victims or locations. The federal government has also taken action in certain cases where local authorities have appeared to be negligent in their responsibilities to hate crime victims. In one instance, in Suffolk County, New York, hate crimes against immigrants were common and in 2008 an Ecuadorian man was murdered by a group of high school students. A federal investigation of the police department ensued, culminating in a conclusion that local police had not adequately responded to hate crimes. In late 2013, a settlement was reached, giving the United States Department of Justice

oversight over the local police.

Federal hate crime prosecutions and convictions in 2013 represented a variety of types of offences. For example, in Tennessee, two white men were convicted in December of burning a cross on the lawn of an interracial family. In Washington, a man received a 40-month sentence for severely beating a Sikh cab driver whom he mistakenly thought was Muslim. And in Texas, federal hate crime charges were filed against a white man who punched a 79-year-old black man and filmed footage of the incident, apparently as part of the so-called 'knockout' game.

Hate crimes against minorities in educational settings also gained attention during 2013. In November, four students at San Jose State University in California were suspended from school and charged with hate crimes against their African American room-mate. The four had evidently engaged in systematic racist bullying, including name-calling, hanging Confederate and Nazi images on the walls, and clamping a bicycle lock around the victim's neck. As a result of this incident, the California Assembly created a committee on campus climate, charged with investigating and improving diversity conditions at the state's public institutions of higher education. Bias-motivated incidents, such as racist remarks or graffiti, were also reported on a number of college campuses in other states during the year.

The protection of freedom of speech in the First Amendment of the US Constitution means that restrictions on expression, including hate speech, continue to be resisted. Legal actions against hate speech have typically focused on incidents where the verbal abuse is deemed as a prelude or incitement to imminent physical violence. This makes legal action especially difficult in the context of social media, where platforms such as Facebook, YouTube and Twitter are regularly used to post and disseminate hateful and denigrating content. When in April 2014 Senator Edward Markey introduced the Hate Crime Reporting Act of 2014 to require the National Telecommunications and Information Administration 'to update a report on the role of telecommunications, including the Internet, in the commission of hate crimes' and 'include any recommendations, consistent with the First

Amendment to the Constitution of the United States ... appropriate and necessary to address' these issues, some activists attacked the legislation for its perceived encroachment on free speech.

Nevertheless, hate speech directed at ethnic and religious minorities and indigenous communities, as well as other marginalized groups, remains a visible part of the online landscape. According to a report released in 2013 by the Simon Wiesenthal Center, for example, many thousands of posts were made by people using bias-laden account names or hashtags. A map produced by students of Humboldt State University, using data on racist and other bias-motivated tweets, also illustrated the geographical sources of biased tweets in the United States. The map suggests not only that hate is widespread, but also that certain geographic areas are more likely to express hatred against particular groups.

While the First Amendment to the United States Constitution prohibits most government interference with internet speech, private companies are free to regulate the content that is posted on their platforms. Doing so is problematic for the companies, however, in part because of the volume of material that gets posted, and in part because regulation leaves them open to complaints of censorship. Some companies, such as Twitter and Tumblr, resist hate speech regulations because they are hesitant to block the free flow of ideas. Facebook and YouTube already have policies restricting hate speech, but it is unclear how well those policies are applied. Furthermore, these policies are in need of frequent adjustments.

However, social media users have also developed positive non-legal responses to counter online hate speech. For instance, one Twitter user, YesYoureRacist, retweets racist messages, especially those that contain the phrase 'I'm not a racist but ...' Anti-bias organizations such as the Anti-Defamation League and the Simon Wiesenthal Center maintain very active social media presences and have tens of thousands of followers. The Southern Poverty Law Center, for example, had almost 150,000 'likes' in May 2014 on Facebook, and publishes a Teaching Tolerance blog (www.tolerance.org) with materials and activities for educators.

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Case study by Phyllis Gerstenfeld
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Drawing the line between hate speech and freedom of expression in Canada

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Like the United States, Canada is a diverse, multi-ethnic society with a history of violence against and oppression of indigenous people, but its hate crime laws are still relatively new and evolving. One important difference between the United States and Canada, however, is that Canadian law has stronger measures against hate speech – that is, about offensive words or images that would not otherwise constitute a criminal offence. In the United States, the Supreme Court has adopted a restrictive approach to fundamental rights limitations, so unless the speech incites violence and is likely to give rise to imminent violence, it is unlikely that a case will be brought. In Canada, by contrast, hate speech may be penalized under other circumstances – though whether particular instances of speech meet the legal criteria for a criminal offence is not always certain.

In April 2013, for example, police refused to file hate crime charges against the Muslim Council of Calgary after it allegedly posted articles on its website accusing Jews of immorality and of plotting to destroy religion, provoking complaints from a local Jewish organization. Calgary police concluded that the articles – which were later removed from the website – were not hate crimes. As the case demonstrates, punishing hate speech raises complex definitional and policy problems. The application and limits of Canadian hate



speech codes still appear somewhat unclear.

Furthermore, Canadian hate speech restrictions have been contentious. The debate centres primarily on the same issue that has received considerable attention in the United States and elsewhere: how to protect freedom of speech while discouraging the potentially negative effects of biased speech. This was particularly evident in the case of Section 13 of Canada's Human Rights Act, which includes a provision against the posting on the internet of 'any matter that is likely to expose a person or persons to hatred or contempt'. In June 2013, a bill repealing Section 13 was passed in the Senate, meaning that from June 2014 it will be officially annulled. However, in January 2014 a Federal Court of Appeal ruling found that Section 13 was not unconstitutional and did not violate free



speech – a judgment that could see the law reinstated in future by another government.

Aside from the debate on Section 13, the Canadian Supreme Court upheld the principles of hate speech restrictions in another case from 2013 – in this instance, the application of the provincial hate speech code against an anti-gay activist in Saskatchewan. In doing so, the Court concluded that hate speech restrictions address an important problem and are proportionate to the harmful effects of hate speech. The Court also pointed out that hate speech tends to silence the target group and therefore hate speech itself diminishes freedom of expression. ■

Above: A man from the Dene First Nation in Canada. *Ami Vitale/Panos.*

Central America

Janet Oropeza Eng and
Cecilia Toledo

Indigenous groups and ethnic minorities in Central America still experience significant social and economic inequalities in health, education and political participation as a result of deep-seated structural discrimination. Violence has often played a major role in creating and maintaining these problems, particularly for indigenous women. This includes attacks and intimidation targeting those seeking change. In countries across the region, human rights defenders defending the land rights of minorities and indigenous groups have been killed, injured or threatened as a result of their actions.

Collective and individual rights for indigenous and minority groups are still a long way from fulfilment in Central America. This plays an important role in reinforcing vulnerabilities, including the high risk of violence towards indigenous women. In particular, land entitlement and effective access to natural resources are ongoing issues of concern for indigenous peoples. Private companies operating development projects, mostly large-scale mining and hydroelectric schemes, are in fact benefiting from legal conditions that ensure that lands are secured through expropriation in the name of the ‘national interest’, rather than consultation. Some countries in the region have established or are considering moratoriums on mining licences to allow mining companies, government officials and indigenous organizations the chance to find a way forward – though so far success in this area has been limited. Conflicting interests between different parties have increased the risk of social conflict, threatening governance and realization of indigenous and minority rights.

The UN Convention on the Elimination of All Forms of Racial Discrimination and the American Convention on Human Rights are two treaties relevant to combating discrimination in

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Case study by Livia Saccardi
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Using street theatre to tackle discrimination in the Dominican Republic

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‘They do not accept us. In Haiti we are not Haitians. In the Dominican Republic we are not Dominicans. So where are we from?’

‘She told me that my parents were foreigners, and she did not want to give me my papers. After one week I went back there and I told her that my parents are not foreigners and that if she is a Dominican, then so are my parents.’

This is what two young women in the Dominican Republic, both members of the country’s Haitian minority, said when interviewed for the documentary film *Say My Name*. Dominico-Haitians represent a substantial minority of up to a million people and form a distinct ethnic group. But although many Dominicans have Haitian ancestors and connections, anti-Haitian xenophobia is rife – and the state, despite their considerable contributions to the country, still considers them ‘in transit’. Yet only a few government officials acknowledge the existence of this prejudice: in general, authorities claim there is no discrimination.

In this challenging context, beginning in 2010, MRG partnered with a local organization, Movimiento De Mujeres Dominico Haitiana (MUDHA), to challenge commonly held racist attitudes and stereotypes through drama and theatre. This provided an opportunity to engage ordinary members of the majority community in debates about diversity, difference, discrimination, equality



and justice. MUDHA, having recruited a theatre troupe with a mix of Dominico-Haitian and Dominican actors, then developed the focus of the play through research. This involved spending time with the minority community – talking with different community members, cleaning a local children’s playing area, organizing baseball games – to identify the main challenges for the Dominico-Haitian population. Through this approach, it became clear that the main obstacle confronting them was the absence of official recognition, citizenship and identity documentation.

Their situation was then dramatized in their play to allow the actors to express these issues vividly to a wider audience. ‘The programme defied racism. It allowed Haitian people to say in public “I am here. I am like this...”’, said one community member working with MUDHA. Through engaging storylines, mixing humour and tragedy, the performance communicated the discrimination that young minority members had experienced to a wider audience. Though the group faced some challenges, especially in engaging the majority population, the final results greatly exceeded the original targets. Street theatre enabled



MUDHA to reach out to new audiences and draw them in emotionally with the story. Rosa Lidia Yan, one of the actors, says:

'We are trying to raise awareness in our own community and the general public. In our play we are expressing our difficulties in getting identity papers and difficulties with discrimination.... The theatre is a help, it gives support to people supporting those that have problems with their documentation not to give up their fight, to continue defending their rights. Because if we do not defend our rights, nobody else will do it!'

This was echoed by Sirana Dolis, acting head of MUDHA, who said:

'We know that the fight will be long and maybe I will not see it [the end] but my grandchildren and great-grandchildren here in the Dominican Republic, they can say their grandmother fought for this.' ■

Above: Participants in MRG's Street Theatre programme put on a performance in the Dominican Republic. MUDHA/MRG.

the region. The latter expresses in Article 13 that:

'any propaganda for war and any advocacy of national, racial, or religious hatred that constitutes incitements to lawless violence or to any other similar action against any person or group of persons on any grounds including those of race, colour, religion, language, or national origin shall be considered offenses punishable by law'.

Catalina Botero, the Special Rapporteur for freedom of expression of the Inter-American Commission on Human Rights (IACHR), has stated that 'any harmful expression promoting racial hatred, discrimination, violence and intolerance that often precede crimes against humanity should be considered as hate speech and therefore ruled by law'. Most Central American countries have formally acknowledged in their constitutions the prohibition against discrimination on the grounds of nationality, ethnicity, religion, gender, sexual preference, disability and language. Guatemala, El Salvador and Nicaragua, for example, have amended their criminal codes to include hate speech as a crime based on ethnicity that may lead to genocide. Honduras is the first country in the region to penalize hate crimes on the ground of gender, sexual orientation and ethnicity, and make advances towards classifying hate crime as an independent crime. Costa Rica has also adopted secondary laws aimed at preventing discrimination on different grounds, including regulations on coverage in the mass media of specific ethnic groups.

Guatemala

With more than 14 million people, Guatemala is one of the most populous countries in Central America. It is also a multicultural society with a large number of indigenous groups and Afro-descendant communities. Despite a slow economic recovery, unequal distribution has meant that Guatemala remains one of the poorest countries in the region. This impacts disproportionately on the country's indigenous population, particularly women, who suffer markedly lower developmental outcomes in health care, nutrition and education. While literacy rates for non-indigenous young males

in urban areas are 97 per cent, for example, for young indigenous women in rural areas the rates fall to just 68 per cent.

Guatemala continues to struggle with the legacy of its recent history of political violence, particularly towards indigenous peoples, with limited justice for the many victims of human rights abuses during the decades-long civil war. Indigenous women were especially vulnerable to rape and torture, comprising 88 per cent of all those targeted with gender-based violence during the conflict, and continue to experience high rates of violence and discrimination. During the year, some steps have been taken by the government to address impunity and limited access to justice by indigenous women and girls, including the creation of specialized tribunals against femicide in the departments of Chiquimula, Quetzaltenango, Huehuetenango and Alta Verapaz.

The year 2013 began with the announcement in January that cases would be opened against former President José Efraín Ríos Montt, together with retired General José Mauricio Rodríguez Sánchez, for genocide and crimes against humanity, targeting indigenous peoples, during Ríos Montt's tenure between March 1982 and August 1983. The trials started in March and the testimonies of 90 Maya Ixil survivors helped to demonstrate that armed forces implemented a strategy of eradication of Maya Ixil people, who were considered by the government to be linked to the *guerrillas*. Techniques aiming to destroy the 'internal enemy', such as militarization, massacres and scorched earth policies, resulted in the killing of 1,771 Maya Ixil people, the forced displacement of 29,000 people from their ancestral lands and sexual violence perpetrated against women and girls. On 10 May, Ríos Montt was convicted on these charges – the first time a former head of state has been successfully prosecuted in a domestic court for genocide. Ten days later, however, this decision was annulled by the Constitutional Court. It was subsequently announced that the retrial would not begin until January 2015, leaving victims without access to justice.

In July, a break-in occurred at the office of the UN Special Rapporteur on the right to

freedom of opinion and expression, Frank La Rue, with computers and other documentation stolen by the unknown perpetrators. La Rue is a Guatemalan labour and human rights lawyer. The incident highlighted the ongoing challenges facing human rights groups in the country. A further high-profile case involved Irma Alicia Velásquez Nimatuj, an indigenous K'iche' activist who has extensively researched the impact of violence and discrimination during the civil war. During the year, following the publication of a critical article, she was publicly denounced by the head of the Foundation against Terrorism, Ricardo Méndez.

Indigenous peoples are still demanding the state's formal recognition of their right to their ancestral lands and natural resources, including their right to determine their own forms of development and their right to free, prior and informed consent. Land rights continue to be a source of violence and social tensions, with the UN reporting 1,336 cases of ongoing land disputes in 2013. Extractive industries in the country have had a particularly damaging effect on communities. Following the end of an extended moratorium on mining licences in the country, hundreds of exploration and exploitation licences for metals mining have been issued, with reports of misleading or inadequate consultation with communities. During the year, indigenous activists protesting mining and hydroelectric projects in their areas continued to be harassed and intimidated for their activities.

Media coverage in Guatemala has been accused of actively encouraging violence. In October 2013, NGO representatives presented details on the current human rights situation at a hearing of the IACHR. Among other issues, the petitioners accused the media of actively conducting a hate campaign against rights defenders, using offensive names like 'lowlifes', 'terrorists' and 'parasites', which they felt reached the level of incitement to violence against them – reinforced by remarks from government officials appearing to condone these attacks. As a result, according to the petitioners, over 600 attacks had occurred against defenders between January and October 2013, an increase of 40 per cent compared to 2012.

Honduras

Elections in Honduras on 24 November brought Juan Orlando Hernández to power as the country's President. Despite limited political support – Hernández secured less than 37 per cent of the votes – the new administration's emphasis on increased militarization has troubling implications for human rights protections. However, even before Hernández's election, a law was adopted in August allowing for the creation of a military police force to perform public order tasks, such as conducting arrests, controlling violence or handling conflicts. Security is a serious issue in Honduras, where homicide rates are the highest in the world. Discrimination and marginalization are also ongoing challenges, particularly for the country's indigenous and Afro-descendant populations. Both continue to suffer social exclusion, poverty and intimidation. The Garifuna community, for example, has some of the highest rates of HIV in the country, placing them in a situation of particular vulnerability.

In 2013, the Congress adopted legislation granting itself the power to remove judges and the country's attorney general, undermining judicial independence and weakening an already compromised justice system. This could impact on indigenous groups and Afro-descendants experiencing abuses relating to land disputes, which persisted during the year, particularly in the Bajo Aguán region. The conflict there has its origin in a 1992 agrarian reform that allowed communal lands to be sold to individuals. Afro-descendant and indigenous leaders who denounce these land rights violations have been repeatedly threatened or killed by state and non-state representatives.

In July, for example, military personnel shot the indigenous Lenca leader Tomás García dead and injured his son while they were taking part in a non-violent demonstration against a planned hydroelectric project in Lenca ancestral lands. Other indigenous members opposing the project suffered threats as well. The IACHR urged the Honduras government to prosecute the perpetrators of these crimes and ensure the security of indigenous Lenca leaders. In September, the indigenous activist, Berta Cáceres, who led the opposition to a hydroelectric

project, was charged with the illegal possession of a weapon and for participating in protests. These charges were denounced as motivated by a desire on the part of state authorities to stop her activism. By the end of the year, her trial had not been held.

The Garifuna community are particularly exposed to discrimination and human rights violations. Against a backdrop of entrenched discrimination, violence against Garifuna members also persisted. For example, in July 2013, two Garifuna members were killed with extreme brutality. In November 2013, Amnesty International sent a public letter to all presidential candidates highlighting the various structural challenges that Garifuna members face. These include inadequate access to public services and decision-making processes, the absence of justice regarding crimes and abuses against the Garifuna, and the weak enforcement of the right to free, prior and informed consent. It called for greater protections for both Garifuna and indigenous communities from rights violations by state officials and non-state actors.

These incidents highlight how issues such as land rights and broader discrimination against minority and indigenous groups in Honduras contribute to violence against them. There were some positive signs of progress as well during the year, however, such as the granting of ownership deeds by the government to five Miskito indigenous groups. As a result, the Miskito indigenous community now owns approximately 7 per cent of the country's land. With this measure, the government ended a conflict that lasted over 40 years and involved a large number of violent deaths.

At the beginning of the year, the first Public Policy and National Action Plan for Human Rights was approved. It mandates each ministry to consider the realization, promotion and enforcement of human rights in their planning and budgeting. This plan is expected to be continued by the government elected in November. If properly implemented, this plan could guarantee and promote the rights of indigenous peoples and Afro-descendants, which to date have not been protected. In February, the Penal Code was also amended to

prohibit incitement of discrimination publicly or through the media for a variety of criteria, including ethnicity or origin, nationality, language and religion.

South America

Antonio Cicioni and Natalia Torres

Despite significant economic growth and investment in the region, indigenous peoples and minorities such as Afro-descendant communities continue to experience disproportionate levels of poverty and marginalization. In many cases, development driven by governments and multinationals in areas such as infrastructure, energy and mining is having a direct impact on these groups. Across the region, groups continued to be exposed to displacement and violence in relation to land and natural resource access, with protesters silenced, imprisoned or even killed. In some cases, such as Brazil or Peru, these incidents have been enabled by broader public policies. In the case of Colombia, insecurity and militarization in indigenous areas has also contributed to targeted attacks on local residents.

Indigenous and Afro-descendant groups in South America still struggle with the legacy of colonialism, including racist denigration. In Brazil, despite the country's stated inclusiveness, historical discrimination is still strongly felt today, with stereotypes reinforcing these inequalities. In some countries, the media may also perpetuate the invisibility of certain groups by, for example, presenting them humorously or excluding them from soap operas, television programmes and other mainstream platforms – a major element in what has been described in Brazil as a 'dictatorship of whiteness'. Importantly, however, the region is also seeing a political shift in favour of anti-discrimination. Argentina and Bolivia, for example, are actively recognizing the role of indigenous culture. While these steps are being resisted in some quarters, including sections of the media – such

as a November 2013 opinion piece in one of Brazil's most influential newspapers which opposed the introduction of quotas for Afro-descendants in the federal parliament as 'electoral apartheid' – they could reduce the vulnerability and rights gaps that underpin acts of violence and denigrating language against the most marginalized groups.

Bolivia

Bolivia has the highest proportion of indigenous people in the Americas, amounting to 35 per cent of the total population in the 2012 national census. In 2005 the country elected the first indigenous President in the region, Evo Morales, and since then has pursued a sustained policy of 'decolonization' to deliver systematic improvements to the situation of indigenous peoples and minorities. Nevertheless, Bolivia's long history of colonial violence and discrimination continues to affect these groups.

A number of progressive measures have been taken by the government to overcome the root causes of discrimination. Government offices have been created, including the Vice-Ministry of Decolonization, as well as the National Committee against Racism and All Forms of Discrimination. The National Committee had its first ordinary session in October 2013. The departmental committees are essential for the implementation of the 17 different programmes that compose the current national strategy, with several activities undertaken during 2013. These included courses on decolonization for public servants, involving more than 600 participants during 2013. Training sessions were also provided to members of the judiciary and other authorities in response to long-standing criticisms of systematic racism within many public bodies. During the July 2013 'Plurinational Symposium for Decolonization and Depatriarchalization of the Justice System', a high-ranking official said that 'to move from a colonial [system of] justice to a plural one lies in including historically excluded peoples, making judicial processes more efficient, and generating norms that respect Bolivia's diverse cultural realities'.

The government has also been active in promoting positive representations of the indigenous population and their place in the



Above: An Afro-Bolivian woman dances during a carnival parade in Bolivia. *David Mercado/REUTERS.*

country, particularly through education. This included, in 2013, the launching of an academic network of racism studies and publications on related topics, such as the liberation struggles of indigenous peoples during colonial rule and the Afro-Bolivian community. In May, 14,000 students participated in a 'Plurinational Day against Racism and All Forms of Discrimination', while in September on-the-spot assessments were conducted in hundreds of schools across the country to assess the practical implementation of anti-discrimination legislation. There were also a number of other events and activities recognizing the cultural and historical contribution of indigenous peoples and minorities, including the construction of monuments commemorating female and male anti-colonial leaders, a campaign to revive the traditional Andean 'Christmas' and a celebration of Afro-Bolivian music. While these activities have been launched through the initiative of the state, there has been a progressively stronger uptake from civil society and local communities.

These efforts have been underpinned by a number of anti-discrimination laws. In 2007, Bolivia became the first country to introduce the United Nations Declaration on the Rights of Indigenous Peoples into local law. The new Constitution, formally approved in 2009, provides for the development of a comprehensive legal framework. One of the most prominent laws is the 2010 Law against Racism and All Forms of Discrimination, also known as Law 045, which criminalizes a range of racist or discriminatory actions, including violent incitement and the dissemination of racist or discriminatory material through media and other means. This legal instrument was welcomed among indigenous communities and came after years of advocacy by NGOs and the UN Committee on the Elimination of Racial Discrimination. It has been publicly commended by UN representatives since its approval. Following its passing, Article 281 of the Bolivian Penal Code was also amended to include hate speech.

However, the country is still some distance from achieving its ambitious 2025 target of 'zero racism and discrimination'. Between January and October 2013, the Vice-Ministry

of Decolonization accepted 135 complaints about racism or discrimination, though 22 were subsequently dismissed; 15 were based on cultural identity and 14 on geographical precedence. However, Law 045 has given greater visibility to these issues. While few complaints were registered before its passing, since then numbers have grown to an average of around 12 each month and the government has started to publish monthly reports. Nevertheless, despite giving greater visibility to these issues, no one has yet been convicted as a result of Law 045, even though hundreds of formal complaints have been lodged. Officials have argued that the problem resides not in the law itself but in deeper shortcomings within the justice system. A case in early 2014, when a passer-by who attacked and racially vilified a young journalist in the city of Santa Cruz de la Sierra was subsequently released without charge, was cited in an article by the Inter Press Service as an illustration of the law's lack of practical implementation.

At the same time, notwithstanding its limited effect so far, Law 045 has also attracted criticism for its inclusion of fines and prison sentences of up to five years for media and journalists charged with spreading or endorsing racist and discriminatory material. For instance, following their coverage of a speech by Morales in 2012, three media outlets were accused of inciting racism and discrimination in a move condemned by Article 19 as 'an illegitimate attempt to restrict freedom of expression'. Another journalist accused by authorities of disseminating racist material in late 2012, Marianela Montenegro, also claimed that the government was launching a politically motivated campaign against her.

Accusations of hate speech have also extended into the Bolivian political arena during the year, with the government accusing a leading opposition figure of discriminatory language in October after he called Morales a 'tenant in the presidential palace'. The Minister of Communication said that this expression 'denotes that the grandchildren of the Spanish conquerors have always considered indigenous peoples as tenants in their own land'. Incidents such as these remain highly divisive, suggesting that Bolivia's programme of 'decolonization' remains an ongoing process.

Brazil

Brazil's huge population – nearly 200 million – is largely made up of Afro- and Euro-descendants, with indigenous peoples and Japanese-descendants also forming sizable communities, though both under 1 per cent. According to the 2010 national census, 50.7 per cent of Brazilians identify themselves as *preto* (purely Afro-descendant) and *pardo* (mixed-race). The majority of these are descended from the estimated 3.7 million people imported from Africa to Brazil as slaves. Though Brazil only abolished slavery in 1888, making it the last country in the Americas to do so, widespread intermarriage between different groups and the lack of formal segregation in the post-abolition era has meant that it was subsequently presented as a 'racial democracy' without discrimination based on ethnicity. However, beginning in the 1970s, the *Movimento Negro* or Black Movement began to condemn 'racial democracy' as a false concept.

Indeed, this representation has been increasingly questioned by critics in recent years, who have highlighted the ongoing reality of discrimination and repression experienced by particular ethnic groups. The severe inequities faced by Afro-descendants are reflected in every area of their lives, from health and education to employment and wealth. Average incomes for black households are just 43 per cent those of white households, for example, while average life expectancy for Afro-Brazilians is almost seven years less than for white people. According to the National Network for Social Monitoring and Health of the Black Population, black women are even given less anaesthesia during normal childbirth. Half of all Afro-Brazilians are also illiterate, with 40 per cent not having completed elementary school. Politically, too, black people remain heavily under-represented. Out of 81 senators, only one self-identifies as black; just one of the 38 members of President Dilma Rousseff's cabinet is black.

Nevertheless, there has been some evidence of progress. The Supreme Court President is, for the first time, a black person. A large proportion of the 30 million Brazilians who have left poverty over the past decade are black. Most importantly, more and more Afro-Brazilians are going to court

about racism and winning settlements. There are more signs of ongoing cultural change: on the agenda of an employees' strike that stopped banks in October 2013, one of the demands of trade unions was the allocation of at least 20 per cent of vacancies to black employees. These are signs of a broader re-evaluation of racism in Brazil and a growing commitment to addressing its underlying causes.

Brazil has also begun to roll out a range of initiatives to combat discrimination in the labour market. Since 2012, for example, public universities have been obliged to set aside half of their places for public high school students, largely aiming to benefit blacks. In November 2013, Rousseff presented a bill for introducing a 20 per cent quota for Afro-descendants in the federal public administration. Similar measures have also been taken up by some states, sometimes with even higher quotas. Parliament is currently discussing a 33 per cent quota for blacks in the lower chamber, a provision that would initially last for two decades.

In spite of these measures, what commentators have described as a 'dictatorship of whiteness' persists in Brazil, evident in literature, television programmes, magazine stands and even store window displays. This cultural dominance is especially pervasive in mass media. Activists and researchers have repeatedly criticized the roles assigned to blacks in television shows and soap operas, arguing that they reinforce established stereotypes that marginalize or silence them. Until 2013, when the Afro-Brazilian journalist Maria Júlia Coutinho was appointed to the role, one of the largest TV stations in Brazil, Rede Globo, had never featured a black TV personality presenting the weather. This widespread and systematic exclusion is why the main theme of the 2013 National Conference for Racial Equality in November was equality and representation in mass media.

This bias is especially evident in the fashion and beauty industry. In the north-eastern state of Bahia – considered the centre of Brazil's African-oriented culture – the organizers of the Miss Bahia 2013 beauty contest were criticized for fielding only two black women out of a total of 30 participants. While one of the black contenders was subsequently crowned

the winner, the incident was seen as another example of the routine under-representation of black women. In November, Rio Fashion Week's representatives, following previous controversies and protests led by the NGO Educafro, reportedly signed an agreement to ensure that a minimum of 10 per cent black models were included in the event. Other incidents during the year also highlighted the continued marginalization of black women from mainstream fashion platforms.

Although until 1951 there was no formal recognition of discrimination in its law, Brazil has more recently developed a legal framework to tackle the issue. In 1988, a new Constitution finally included different clauses related to racial discrimination, making it a crime subject to penal law, while also establishing state protection for indigenous and Afro-Brazilian cultures. Law 7716 on racism was passed the following year, criminalizing a range of discriminatory practices. In 1997, the law was extended by parliament to include racist hate speech.

Despite this, however, hate speech remains widespread as a result of the continued marginalization of the Afro-Brazilian population. Numerous reported cases during 2013 illustrated the regular occurrence of discrimination or abuse in a variety of everyday contexts, including stores, shopping malls, restaurants and supermarkets. A number of incidents of online hate speech also gained attention during the year. One of the most controversial cases was a racist advert with a photo of two black children on an online shopping website, offering 'blacks for sale' for less than a dollar. Troublingly, some incidents were allegedly carried out by staff and personnel in institutional locations such as hospitals and schools. In March, a political uproar also ensued when the federal House of Representatives elected a right-wing member, Marco Feliciano, as President of the Human Rights and Minorities' Commission. He had tweeted derogatory statements about Africa, among other denigrating remarks. According to the Commission website, Feliciano no longer holds the position.

A number of high-profile violent incidents occurred during the year. These included, in March, the beating of a young Afro-Brazilian

girl in Brasilia by other girls for being black. The case attracted much media coverage and shortly afterwards the city government created the *Disque Racismo* (Dial Racism) hotline. The service received hundreds of calls within the first fortnight of its operation. In April, a 71-year-old black man was beaten into a coma by a suspected neo-Nazi group, who assaulted him while he worked as a car guard. He died of his injuries two months later. In October, another elderly Afro-Brazilian was killed by a policeman after an argument in a bar where he allegedly objected to the other's use of a racist description of him. These cases highlight the ongoing reality of discrimination that the non-white population experiences, despite many positive measures in recent years.

Indigenous peoples also continued to struggle against entrenched discrimination during 2013. Many groups have found themselves on the frontline of Brazil's rapid development, including the expansion of farmland into community territory. In May, following pressure from interest groups, the government announced that it would widen decision-making over the demarcation of ancestral lands to involve agricultural representatives – a move denounced by indigenous activists as undermining their land rights. Later that month, the eviction by police of a group of indigenous Terena from a ranch in the western Mato Grosso do Sul state, recognized as part of their ancestral territory in a 2010 court ruling, ended with the death of one protester. Following their reoccupation of the land, another protester was injured by unidentified gunmen. Tensions between farmers and indigenous groups continued throughout the year. At the year's end, both sides were reportedly dissatisfied with the government's attempts to broker an agreement.

In addition to the ongoing destruction of tribal forests by illegal loggers, indigenous groups have also been impacted by government-led development programmes such as the controversial Belo Monte dam. In May, following local demonstrations at the site, a number of journalists covering the protests were reportedly expelled from the area. However, in October a regional federal court – the first of its kind in the country – put construction on the project on hold, announcing that a new environmental

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Case study
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Countering racism in South American football

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It is well known how enthusiastic South Americans are when it comes to football. However, while the region has attracted positive attention for the passion and commitment it invests in the game, this image has also been tarnished by incidents of racism. As in other regions, South American stadiums are places where hate speech and xenophobia have become all too apparent. In many ways, this development is an unwelcome consequence of two positive phenomena – the increasing importance of regional rather than national tournaments, and more frequent migration of players within the region. With Brazil set to host the World Cup in June and July 2014, the pressure to transform negative attitudes within the game towards minorities has become even more acute.

The Fédération Internationale de Football Association (FIFA) took action to reduce hate speech in stadiums in 2013 with its 'Resolution to Fight against Racism and Discrimination', released in May. The document calls for football organizations around the globe to adopt a range of measures, including: the design of an action plan to fight racism; the appointment

permit would not be issued until the project satisfied certain environmental criteria. However, the ruling was overturned five days later.

Quilombola also struggled to secure their land rights in the face of encroachments by a bauxite mining company. In Rio de Janeiro, ahead of preparations for the 2014 World Cup, demonstrators calling for the protection of a small indigenous museum next to

of a national Officer against Racism to assist referees and public authorities; and the implementation of a severe and strict framework of sanctions to prevent discriminatory actions. Nevertheless, FIFA itself attracted criticism after it announced that a pair of white actors would be hosting the ceremonial Final Draw of the Cup – a move that was seen by some as a snub to the two black actors originally suggested by a Brazilian TV network.

Nevertheless, Brazil and FIFA have agreed that the 19th World Cup will be ‘the Cup against Racism’. The tournament is an unmatched opportunity in terms of global reach, and President Dilma Rousseff of Brazil has made it clear that it is her goal to use it to spread a message of fraternity, promoting peace and countering racism. The Brazilian Football Association determined, among other measures, that during the 2014 Championship all referees would wear a badge on their shirts with the message ‘We are all equals’.

Some initiatives have emerged from local clubs. Brazil’s Gremio, for example, has launched large campaigns based on FIFA’s plan. In Gremio’s case, a key element was the participation of Zé Roberto – a hero of the club and the national team – telling audiences about his own story of discrimination because of his skin colour. However, as an incident in March 2014 illustrated, the process of transformation among fans is still a slow one. The club was fined US\$35,000 after supporters subjected a defender playing for Internacional to racist abuse.

Brazil is hardly the only country where

racism is evident among football supporters. The Peruvian Football Association established a set of preventive measures and sanctions in 2013. For example, at the beginning of every match the audience will be informed about the preventive measures. In case of any racist incidents, the referee will warn the public. If the incidents continue, matches will be stopped. Nevertheless, problems have persisted, as demonstrated in early 2014 when an Afro-Brazilian player for Belo Horizonte’s Cruzeiro was insulted by Cusco’s Real Garcilaso supporters: every time he touched the ball, monkey-like shouts would come from the benches. The South American Football Association opened an investigation and announced sanctions for the Peruvian team.

Uruguay has also developed a set of responses to address hate speech relating to football. After supporters of Danubio, from Montevideo, shouted out racist songs against an Afro-Colombian player of rival River Plate, the former received a fine – the first sanction against a club for racism in the history of Uruguayan football. In another case relating to Uruguay, it was a referee who insulted an Afro-descendant player who refused to leave the field after having been sent off. The match was suspended, and the referee is being prosecuted. Cases like these demonstrate how entrenched racism is among certain sections of the football world – but also a growing commitment among players, fans and officials to root these attitudes out from the game. ■

Maracanã football stadium were forcibly expelled by police. Land and resource conflicts have often pitted indigenous peoples against farmers, developers, illegal loggers and other groups. In June, the Indigenous Missionary Council announced that rising numbers of indigenous people had been killed since 2002, with 452 deaths between 2002 and 2010, compared to 167 between 1995 and 2002.

Colombia

Colombia’s long history of internal conflict between the government and the Revolutionary Armed Forces of Colombia (FARC) continued in 2013, impacting disproportionately on minorities. A 2013 study by the organization Consultoría para los Derechos Humanos y el Desplazamiento (CODHES) reported that there were approximately 52,000 Afro-Colombians

displaced during the previous year, amounting to more than 20 per cent of the total number of displaced in the country in 2012.

Afro-Colombians have experienced longstanding poverty and marginalization in the country. Average incomes are just a third of those earned by white Colombians, for example, while as many as 60 per cent of Afro-Colombians do not have access to basic health care. This makes them especially vulnerable in a context of protracted insecurity.

Activists who have advocated for basic rights or political participation for their communities have regularly been targeted. Demetrio López Cardenas, an Afro-Colombian political leader in La Caucana, who had received death threats when he ran for a position on the community council, was assassinated in February 2013. He had reported his case to the Attorney's Office in August 2012, and the prosecutor immediately asked for a risk assessment and for protective measures to be put in place. However, no steps had been taken to implement this request by the time he was shot. Like López, many other Afro-Colombian activists have been assassinated for their involvement in rights issues.

The country's indigenous population, comprising 3.4 per cent of the national population, were also excluded from basic rights and access to ancestral lands during the year. Like many Afro-Colombian communities, indigenous groups have frequently been targeted due to their location in areas with valuable natural resources. In March, the Colombia National Indigenous Organization (ONIC) and the Andean Coordinating Body of Indigenous Organizations presented a report to the Inter-American Human Rights Commission (IACHR) highlighting the vulnerability and marginalization of indigenous peoples in the country, with 65 out of 102 communities at risk of cultural or physical extinction. Many smaller groups have also been displaced as a result of the conflict. These included, in March, the reported displacement of 227 people among the Awá community in southern Colombia as a result of military operations. Two Awá community leaders were also assassinated during the same period. Other indigenous groups, such as the Nasa Sath Tama Kiwe de Caldonio community, reported rights

abuses and violence as a result of increasing militarization in their area. In October, Amnesty International reported that large numbers of indigenous protesters had been injured by security forces during demonstrations and that there had also been threats of 'social cleansing' from paramilitary forces.

In 2013, Colombia's Constitutional Court set an important precedent, which has had regional repercussions (for example, it has already been referred to Peru's Ombudsman). It gave an emphatic warning to a university in Bogotá because one of its professors had used racist language towards an Afro-descendant student. The student had submitted a complaint, arguing that his right to equality, dignity and education had been violated repeatedly. The professor used expressions of common parlance that equate Afro-descendants with slaves, sometimes even as he watched the student with mocking laughter (the young man was the only Afro-descendant in his class). The Court determined that no such expression could be used in Colombian classrooms, and ordered the university to avoid the repetition of these actions and to organize an event to celebrate Afro-Colombian culture and its contribution to the country. The Court asserted that educators using such language are 'acting cruelly', and that they are also violating the constitutional rights to education and to equality. Furthermore the Court considered that such expressions reinforce racist stereotypes, whereas education should be central to preventing and combating racism and xenophobia.

Colombia's national Law 1482, better known as the Anti-Discrimination Law, specifically criminalizes acts of discrimination based on characteristics including ethnicity and xenophobia. It also establishes the legal basis on which hate speech and hate crime are combated, protecting the rights of those subjected to racist or ethnic discrimination. Enacted in 2011, it has met with strong resistance from conservative groups and two lawsuits claiming it violates constitutional rights. In 2013, the Constitutional Court struck down one of these lawsuits, which disputed the constitutionality of the Anti-Discrimination Law on the grounds that indigenous and Afro-descendant groups had not been consulted sufficiently. The Court ruled that,

in this case, prior consultation with marginalized communities was not required because the law is intended to protect society as a whole. The other lawsuit attacked the regulation from a different angle, pointing out that it is unconstitutional to incarcerate people for expressing their ideological, religious or moral opinions. This motion against the Anti-Discrimination Law was supported by Colombia's Inspector General, who requested the Court to repeal the law because of its violation of the rights to free expression and religious freedom. In this second case, the Court declined to issue a definitive ruling.

A number of cases involving Law 1482 occurred during 2013 in Cartagena – one of the few large cities with an Afro-descendant majority in Colombia – in the courts. This included, in August, an official from the city's government being charged following accusations of hate speech for posting denigrating comments on his Twitter account. The case has received considerable media coverage and is being led in the courts by black community leaders. Other court cases involved incidents earlier in the year concerning verbal abuse and physical aggression against a black community activist at the airport, and a researcher belonging to the national university in a supermarket. However, at least one commentator has argued that a major reason these cases reached this level was because of the public profile of the victims or the attacker, meaning that they represented only a small portion of actual incidents.

In the context of Colombia's current insecurity and weak rule of law, systematic political and social reform is needed to provide the country's minorities and indigenous communities with protection from violence and rights abuses. This means addressing the root causes of the displacement and assassinations that Afro-Colombians and indigenous peoples continue to experience. Despite the ongoing challenges, there were some signs of progress during the year in strengthening the rights of these groups. In February, for example, a judge suspended mining operations in approximately 50,000 acres of indigenous lands due to the company's insufficient consultation with local communities. The same month, a controversial eco-tourism project was put on hold following a court ruling

on similar grounds. In May, Colombia also recognized 'the national and cultural interest' of indigenous sacred land – an important step in protecting customary territories from development such as mining. These measures, if extended and successfully enforced, could play an important role in preventing future violence against minorities and indigenous groups.

Peru

Around 80 per cent of Peru's 30 million inhabitants identify themselves as either Amerindian or *mestizo* (mixed). The relative centrality of *mestizo* and Andean indigenous culture has resulted in a number of significant social movements and even political ideologies. Although the white minority still holds a disproportionate share of political and economic power, Peru's Amerindian community has been able to benefit from the country's recent extraordinary economic growth.

The Afro-Peruvian minority is less fortunate. A 2013 study conducted by the United Nations Development Programme concluded that Afro-Peruvians have experienced economic stagnation, with no important reduction of poverty standards during the recent years of fast growth. The challenges facing Afro-descendants in Peru are heightened by their invisibility. For example, the name of the government office created in 2001 to safeguard the interests of minority and indigenous groups, the National Commission for Andean and Amazonian Communities, does not mention the Afro-descendant community despite this group being included in its remit. While the Constitution also contains a number of provisions for Amerindian communities, endowing them with legal status and rights to identity, autonomous administration of their land and communal work, no article of the Basic Law refers to Afro-Peruvians. There are in fact few specific references to Afro-Peruvians in the whole of Peru's legislation.

Many isolated indigenous groups also face ongoing insecurity and rights abuses relating to resource extraction on their ancestral lands. The government has announced plans to strengthen the protection of special reserves from encroachment, but photographs in an internal report reportedly documented extensive illegal



clearings linked to gas concessions. In March, the UN's Committee on the Elimination of Racial Discrimination called for an immediate halt to the expansion of the Camisea gas project into Nahua-Nanti territory. Survival International also reported that seismic testing had been conducted by a Colombian-Canadian company in the north of the country in an area that is home to uncontacted indigenous people. The 2011 'prior consultation law', requiring government consultations with indigenous peoples before beginning development or extraction projects in their area, was also rolled back to exempt Quechua-speaking communities from its protections. A lawsuit was filed by a Peruvian rights organization in August against the Energy Minister and the company responsible for the Camisea project to halt work on the concession.

Minority and indigenous groups continue to experience discrimination. This was reflected

in the results of the First National Survey on Human Rights, released by the Ministry of Justice in December 2013. The survey found that while on average 40 per cent of the people polled reported that their right not to be discriminated against was not usually respected, in the case of indigenous communities this perception rose to 57 per cent, while for the Afro-Peruvian population it reached as much as 64 per cent. There are a number of legal measures in place in Peru focusing specifically on discrimination in areas such as employment and education. In 2013, Peru also passed Law 30096 on Informatics Crimes, which in its Article 323 punishes anyone who, by themselves or through third parties, 'discriminates against one or more persons or group of persons or incites or promotes publicly discriminatory acts' motivated by racism, religion and other characteristics, via the internet. In addition, some measures are

Left: An indigenous Andean dancer performs during Day of the Dead celebrations in Peru. *Enrique Castro-Mendivil/REUTERS.*

being consolidated at the local level: between 2011 and 2013, more than ten municipalities enacted regulations to counteract discriminatory offences. Given how recently they have come into force, there is little information available on their implementation.

According to the last Ombudsman Office's Report on the Fight against Discrimination, 52 complaints about discrimination were submitted in Peru in 2012, with a further 17 incidents recorded between January and March 2013. One example was a case that took place in 2012 involving an Afro-Peruvian student at a tertiary school in Callao city, who was subjected to constant verbal abuse by one of his teachers, with other students subsequently joining in. Discriminatory language also continued to feature in the media. Lundu, a renowned NGO that advocates for Afro-Peruvian rights, launched in 2013 its Observatory against Racism, an initiative to monitor discriminatory attitudes and hate speech in national media. For the first trimester alone, the Observatory found 400 violating news pieces, 80 per cent of them related to sports newscasts. Lundu was also involved in a legal case against a television station over a programme that mocked the Afro-Peruvian community. After three years of litigation, it won the case – the first time the Peruvian government has penalized a media outlet for racism.

During 2013, the national Ombudsman's Office also played an active role in the fight against discrimination and racism. Besides processing and resolving complaints, although it has no sanctioning power, it launched a number of initiatives. One example is the Race against Discrimination, with more than 6,000 participants. The Ministry of Culture also launched an online platform, Warning against Racism, aiming to provide information and to promote interaction on issues related to ethnic and racial discrimination. The website provides tools to empower citizens and generates updated statistics on acts of ethnic and racial discrimination that occur in Peru. The resulting information is intended to

influence the formulation and design of public policies in the immediate future. The Ministry of Culture has implemented other initiatives, such as the translation of the Law on Water Resources into five indigenous languages and the release of a handbook for police stations in Quechua, the most widely spoken of indigenous languages. In December 2013, the Ministry of Justice and Human Rights also launched the National Commission against Discrimination, in collaboration with other ministries. The Commission monitors developments and advises the national executive branch on public policies on equality and non-discrimination. Initiatives such as these aim to address the different structural causes of discrimination in Peru. ■

Minority Rights Group International

Minority Rights Group International (MRG) is a non-governmental organization (NGO) working to secure the rights of ethnic, religious and linguistic minorities and indigenous peoples worldwide, and to promote cooperation and understanding between communities.

Our activities are focused on international advocacy, training, publishing and outreach. We are guided by the needs expressed by our worldwide partner network of organizations which represent minority and indigenous peoples.

MRG works with over 150 organizations in nearly 50 countries. Our governing Council, which meets twice a year, has members from nine different countries. MRG has consultative status with the United Nations Economic and Social Council (ECOSOC), observer status with the African Commission on Human and People's Rights, and is registered with the Organization of American States.

MRG is registered as a charity and a company limited by guarantee under English law. Registered charity no. 282305, limited company no. 1544957.

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MRG's annual ranking showing countries most at risk of mass killing is now available as an online map:
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World Directory of Minorities and Indigenous Peoples

The internet's leading information resource on minorities around the globe:
www.minorityrights.org/Directory

State of the World's Minorities and Indigenous Peoples 2014

Events of 2013

Across the world, minorities and indigenous peoples are disproportionately exposed to hatred. From intimidation and verbal abuse to targeted violence and mass killing, this hatred often reflects and reinforces existing patterns of exclusion. The impacts also extend beyond the immediate effects on individual victims to affect entire communities – in the process further marginalizing them from basic services, participation and other rights. This year's edition of *State of the World's Minorities and Indigenous Peoples* highlights how hate speech and hate crime, though frequently unreported or unacknowledged, continue to impact on every aspect of their lives. The volume also documents many of the initiatives being taken to promote positive change and the different ways that governments, civil society and communities can strengthen protections for minorities and indigenous peoples.

