



**Third Human Rights Observation Mission in Honduras
Honduras Forum Switzerland
September 1-8, 2017**

Introduction

From September 1-8, 2017, the Honduras Forum Switzerland held its third Human Rights Observation Mission in Honduras to get a better understanding about the situation in the country. During our mission, we had the chance to meet people from different sectors. We visited human rights organizations, civil society organizations, national institutions, international organizations and in an especially touching encounter, victims of human rights violations. The dolorous testimonies of the victims gave us a profound insight into the Honduran context, where tremendous violations of fundamental rights take place and the Honduran government hasn't shown any real effort to punish the responsible people of these criminal acts. This fosters impunity and aggravates their situation of in-defensiveness.

In the report we presented in 2015, we welcomed the opening of an office by the United Nations High Commissioner for Human Rights in Honduras (*Alto Comisionado de la Naciones Unidas para los Derechos Humanos en Honduras, (OACNUDH)*) They opened the office last year and we'd like to highlight their important role in the country. For that reason, we ask the international community to financially and politically support them as they face a lot of pressure.

We are very grateful that COSUDE supported the establishment of the OACNUDH. It is very important that this support continues in order to strengthen this institution faced with a country suffering from such a terrible human rights crisis and institutional fragility which foster impunity and in-defensiveness.

In the present report, we want to emphasize the most important and urgent topics and problems we were made aware of on our tour through Honduras. Especially, we would like to point out the high risks and dangers Honduran human right defenders face on a daily basis.

1. Elections

There is an understandable frustration and despair due to the failure to comply with constitutional precepts in electoral matters. The increase of authoritarianism and the wish by the current President of the Republic, Juan Orlando Hernández, to run again, opens the door to an aggravation of practices that are opposed to dialogue and to democratic respect. This will generate more social decomposition and lead to more human rights violations. In the current context, the country is polarized and tense about the coming election results.

In many countries the re-election of a presidential candidate is permitted and legitimate. Therefore, this way of governing is not in itself anti-democratic. However, in the case of

Honduras and as noted by the UN Human Rights Committee¹, the fact that President Hernandez intends to be re-elected is illegitimate and unconstitutional. The possibility of being reelected has to be validated by the people of Honduras through a popular vote. But instead of a popular vote, reelection was declared legal by Judges of the Supreme Court who were elected by the National Congress, which, according to our interpretation follows the sole interest of the government.

The ruling party seeks to legitimize the reelection at all costs. The fact that there are foreign missions such as those of the OAS and the European Union that have confirmed their participation as observers is worrisome because their presence could be used by the National Party to legitimize the re-election.

Another concern is that the bodies responsible for overseeing the transparency of electoral results like the Supreme Electoral Tribunal (TSE), also respond to the interests of the current president. This means that the country not only faces an illegitimate and unconstitutional election, but also does not have bodies and mechanisms that guarantee the independence and impartiality of the powers in terms of electoral results. A good working democracy, which represents all the people, must respect the Constitution of the Republic. We are convinced that the concept of democracy incorporates much more than just the execution of one's right to vote.

Recommendations:

- In solidarity with the Honduran people and evoking the fundamental principles of democracy, we urge the Public Prosecutor's Office and the Supreme Court of Justice to resolve the citizens demand and immediately stop the illegal re-election.
- We urge foreign observation missions to include the context to the elections as well as the illegitimate and unconstitutional character of these presidential elections in their reports.

2. Democracy, Rule of Law and Human Security

During previous missions in 2013 and 2015, delegations by the Honduras Forum Switzerland expressed their concerns about a continuous and strong concentration of power of the president and the drawback of the independence of the Legislative and Judicial Powers.

We are anxious to observe that this trend continues in a systematic way. An example is the dismissal of judges of the Supreme Court of Justice¹ who issued an opinion contrary to the Zones for Employment and Economic Development, or so called model cities, in which the rule of law is annulled and citizen lack basic rights. On many occasions the process to approve new laws in Honduras has violated the Organic Law of the Legislative Power as ad-hoc committees under the control of the president have changed the congressional will. Therefore, the rule of law is in a process of dismantlement and legal insecurity grows with the aim of favoring a small economic and political elite. It is important that the international community does not look away from these developments.

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In the concluding remarks of the second periodic report to Honduras, the UN Human Rights Committee expresses its concern about the re-election of President Juan Orlando Hernández, considering that this would not be in line with the political constitution of the State. The Committee is concerned about allegations of irregularities during the general elections in 2013 (among others: the purchase of votes, deficiencies in updating the electoral census, the lack of transparency in the financing of the electoral campaign and the possibility that there could have been fraud in the transmission of the electoral ballots to the Supreme Electoral Tribunal) and is concerned about the murder of more than a dozen of opposition activists and candidates during the last election campaign. The Committee expresses its concern that despite the limit of the presidential term established in the Constitution, the office holder is running for re-election. (art. 6 y 25)." See: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR/C/HND/CO/2&Lang=Sp. Pág 8 y siguientes

There is a tendency to manipulate statistics about homicide rates and violence in the country. Juvenile gangs are presented as the sole generator of high rates of violence and important data to find the real causes of violence in Honduras is ignored. According to testimonies by victims and organizations, the main perpetrators of such violence are made up of state actors and para-state actors as well as organized crime.

It is worrying that pretending to tackle crime, the Honduran Congress lowered the age for criminal persecution from 18 to 16 years. This violates international conventions and treaties to protect children made by the State of Honduras, according to Luis Pedernera of UNICEF Honduras.ⁱⁱ

Human rights defenders, journalists and social communicators face fear and death almost every day. Impunity prevails and 96% of the cases are not solved. .

Impunity also affects a lot of women who are confronted daily with violence, but do not have access to justice. It is important for the State of Honduras to comply with international commitments to address this problem. Compliance with the Convention on the Elimination of All Forms of Discrimination against Women, CEDAW, would alleviate the problem. The ratification of the Optional Protocol of CEDAW, which is still waiting for approval in the National Congress would demonstrate further support for the eradication of violence against women.

Gender violence is reflected in various forms in the country, be it hereditary, sexual, psychological, physical or political violence. The great inequalities between Hondurans have disastrous consequences, especially regarding access to health and education and equal pay and job opportunities for women. Indigenous, afro-descendant and peasant women suffer even more from gender discrimination. Access to land is almost impossible for women.

An impunity rate of 95 per cent reflects the scope of violation of women's human rights. Before the coup d'etat in 2009, there were 218 femicides per year, but in the last eight years an average of 528 women were violently murdered per year.

Another group of people who are greatly affected by discrimination and violence is the LGBT community. They face death on a daily basis. Hate crimes have not been assumed with sufficient responsibility leading to their increase. Honduras promised during its Universal Periodic Review to address this problem It is necessary that it takes strong actions that demonstrate the political will to end the violence against the LGTB community.

The reform of the security sector includes the purging of the police force and a project for a new citizen police. We fail to understand how at the same time the number of military police has been increased. Furthermore, it is disturbing that their number grows especially in regions where economic projects have been established that favor transnational corporations.

In various meetings with different groups, the Honduras Forum Switzerland was made aware of an increasing process of militarization. The creation of these new repressive forces has generated not only increased State expenditure but also led to serious human rights violationsⁱⁱⁱ.

"Some 200 members of the military police arrived and we became victims to their widespread use of tear gas that they shot to the right and left of them. Children, women, youth and adults were affected ny toxic gases. The wife of an other peasant activist even suffered an abortion because of the gas. There were also inmates of the Comayagua penitentiary center to accompany the police supporting their repressive acts." Peasant testimony in front of the delegation at the headquarters of COFADEH.

Victims and organizations told us that the practice of torture is widespread, which seriously undermines the physical integrity of the affected persons.

"... from my son's phone, they called me and told me that my children are dead and they even sent me to buy the coffin for the funeral. As our neighbors knew about our situation, some eight to ten communities had a reunion, and due to pressure from them they handed out our children." Testimony of relatives of victims in a meeting with the Honduras Forum at COFADEH.

Recommendation:

- We urge the international community to express its concern regarding the dismantling of the Rule of Law and to monitor the results by the Honduran state's efforts to fight impunity.

3. Criminalization of Human Rights Defenders

The delegation was deeply concerned by the growing stigmatization, defamation and criminalization of organizations and individuals exercising their legitimate right to defend rights. There exists a stigmatizing discourse from high officials of the Honduran State^{iv}

In most criminalization cases there is evidence of collusion between companies, interested in getting rid of those who they see as obstacles or even enemies in the realization of their projects, and state entities like security forces and judicial institutions. This collusion was evident in the case of COPINH and its general coordinator Berta Cáceres, eventually leading to her assassination.

But it also affects other people defending human rights and speaking out against the murder of Berta Cáceres. The DESA hydroelectric company sued Suyapa Martínez, a women's rights advocate and director of the Center for Women's Studies-Honduras, CEM-H, for slander. Despite the fact that the complaint was dismissed the company insists on taking her to trial.

The criminalization of the defense of human rights is also evident in the case of Miriam Miranda^v, general coordinator of OFRANEH, as well as Madeline Martina David, Neny Heidy Ávila and Lety Hernández, all Garífuna leaders of the community of Guadalupe, municipality of Santa Fe, Trujillo. They had criminal charges filled against them by Canadian businessman Patrick Daniel Forseth, general manager and legal representative of the corporation CARIVIDA SA of R.L for denouncing the illegal sale of Garífuna communal lands that involved local authorities and Canadian tourist businesses, including Forseth and Randy Jorgensen^{vi}. The persecution also includes harassment of the community radio Waruguma^{vii}, supported by OFRANEH, which suffers illegitimate pressure by the National Telecommunications Commission, CONATEL.

There are also victims of criminalization in the South of Honduras. For their struggle to defend their territories Santos Hernández and Abel Pérez, both of the community of Zacate Grande^{viii}, face criminal charges.

Furthermore, we are concerned about the approval and implementation of the Tourism Promotion Law^{ix}, which facilitates the implementation of Zones for Employment and Economic Development (ZEDEs), also called charter cities, as well as the execution of the so-called master plan for the Gulf of Fonseca that will further worsen the situation for human rights defenders and will leave them completely defenseless.

The community of Pajuiles in Tela, Atlántida, accompanied by the Broad Movement for Dignity and Justice (MADJ), faces a struggle for access to water and the protection of their environment against the hydroelectric company HIDROCEP)^x. But while HIDROCEP has the entire state apparatus to protect it, community leaders are criminalized through criminal prosecutions, persecution, and threats of imprisonment. The State of Honduras fails to protect the human rights of its citizens but instead lends a hand to capital interest.

Criminalization through the use of criminal law has become strategic and a common instrument against both leaders and members of different organizations and movements. The victims of the deprivation of freedom of expression and of their territories are converted in perpetrators, as well as being harassed and threatened. For that reason their organizations are subject to enormous signs of wear. Instead of being able to construct proposals for the future, they are forced to react continuously to acts of criminalization and to legally defend their members.

We were able to get to know the case of criminalized students of the National Autonomous University of Honduras (UNAH). The students demand a democratic university where they are represented in its governing bodies. But in return, they face criminal processes, threats, persecution, as well as campaigns of hatred and stigmatization by university and state authorities.

There are currently more than 60 criminal trials against students while the complaints of threats by students collect dust in the drawers of the Public Prosecutor's Office. In this context of violence, the attacks are now directed also at those who accompany the students, i.e. human rights defenders. Three of them face criminal proceedings for the sole act of making use of their right to defend human rights. 22 students were arrested on September 8, the day the Honduras Forum Switzerland ended its observation mission in Honduras. This act demonstrates the excessive power of state agents, including not respecting a CONADEH bus with defenders and students, as well as the arbitrary manner how they were arrested and the crimes that have been chosen to accuse them of.

Recommendations:

- There is an urgent need to take back recent criminal reforms and the adoption of the new Penal Code which includes a legal framework which criminalize the right of the population to protest peacefully and which uses terrorism and crime to criminalize such rights and violates international standards, as has pointed out the OACNUDH^{xi}.
- We urge the Honduran authorities to stop criminalization practices and open channels of dialogue to discuss different positions that agreements can be reached based on respect for and guarantee of human rights, in opposition to current practices that abuse the criminal law to intimidate the exercise of ones right to protest.

4. Defense of territory

During our visit to the communities Ranchería, Prado I and Prado II in the south of Honduras, we shared moments of solidarity with the inhabitants of this area. They have been protesting for almost two year against the installation of large-scale photovoltaic power plants by setting up two protest camps.

The delegation noted that in the vast majority of these economic projects in Honduras – be it hydroelectric (DESA), mining (Aura Minerals) or monoculture (in the Bajo Aguán) - the population is neither previously informed nor consulted. In addition, communities expressed their discomfort because they do not benefit from the energy production. The energy is sold to the Central American market and the profits are just shared among large national and transnational companies.

Thus, what is considered "clean energy" by international investors, becomes a source for socio-environmental conflicts that characterizes the policy of development of the Honduran state. This policy is embodied in the law on Zones for Employment and Economic Development (ZEDE, Decree No. 120-2013)². Returning from discussions with different popular and civil society organizations, the delegation is seriously concerned about the imposition of this neoliberal economic model. The policy is characterized by the prioritization of foreign investment in the extractive, energy and tourism sector, the privatization of public resources and enterprises, and by the reduction of social expenses as well as regressive fiscal model. The delegation is convinced that this policy, instead of benefiting the whole population, will result in more poverty and violence within the country.

In indigenous territories, the lack of participation of popular organizations and the civil society in the decision-making process about the model of development, the use of and access to territories as well as natural assets, could be improved through the application of the Convention 169 of the International Labor Organization (ILO).

However, the recent legal process for a Honduran Prior Consultation Bill revealed weaknesses due to the lack of participation of key organizations of indigenous and Afro-Honduran people such as COPINH and OFRANEH and the illegitimacy of the process. During her visit to Honduras the UN Special Rapporteur for the Rights of Indigenous Peoples, Vicky Tauli-Corpuz, recommended: "... *the State, the international community and international organizations, including the United Nations System in Honduras; in particular the OHCHR, to collaborate with indigenous peoples in carrying out the necessary dialogues for the development of a law of prior consultation and to generate a road map for this purpose ...* " The delegation regrets that they didn't meet with indigenous and Afro-Honduran peoples' organizations to get their view on this process^{xii}.

All those who denounce human rights violations like popular and social movements, national and international human rights organizations, alternative media outlets and journalists or independent justice operators are confronted with a strong stigmatization by the authorities and the mass media³. This hostile discourse promotes all kinds of aggression against them. The delegation is extremely concerned about the lack of protection of these people, as national and international protection mechanisms are not effective enough.

The climate of threats, persecution and stigmatization reached a very high level and puts the right to life of many people into precarious conditions. The circumstances are extremely dangerous for defenders and promoters of human rights. For that reason Honduras is the most dangerous country for environmental activists, as Global Witness points out in its January 2017 report^{xiii}.

Another fact is that people who accompany Honduran human rights defenders as international observers face a double vulnerability. On the one hand, the internal protection system does not work and on the other hand, international mechanisms such as guidelines of the European Union, Switzerland and Norway usually aren't applied as they should be or there is a lack of commitment to apply them. This is a violation of the right of every individual or organization in the world to defend fundamental rights, as defined by the Declaration of Human Rights Defenders adopted at the United Nations General Assembly in 1999^{xiv}. The implementation of these guidelines could make a real difference.

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http://www.tsc.gob.hn/leyes/Ley_zonas_empleo_desarrollo_eco_2013.pdf

3

Espacio de Acción de la Sociedad Civil en Honduras:

http://www.swisspeace.ch/fileadmin/user_upload/Media/Publications/Essentials/SP_Essential_1701-S-5-WEB.pdf

This situation has put at risk international human rights defenders who came to the country to observe the human rights situation of marginalized communities or to accompany national human rights defenders.

Recommendations:

- To the Government: Establish a real dialogue about a policy of development that benefits the communities, is inclusive and sustainable.
- To the local, national and international public, social and civil society organizations: to strengthen the capacities to increase the level of information, exchange and articulation, and promote joint strategic action among communities, organizations and movements.
- To search for more effective strategies and protection mechanisms while not forgetting the psychosocial dimension.
- We urge foreign representatives in the country (Ambassadors and Consulates) to comply with their obligation to implement the European Union guidelines for the protection of defenders^{xv}, the Swiss Guidelines for the Protection of Human Rights Defenders^{xvi} and the Guidelines of Norway for the protection of Human Rights Defenders.^{xvii}

GENERAL RECOMMENDATIONS

TO THE STATE OF HONDURAS

Promote a culture of respect and protection for the work of human rights defenders. Support a positive image of their work through media campaigns, including in official government communication, as well as by broad and simplified dissemination of the Act for the Protection of Human Rights Defenders, Journalists, Social Communicators and Justice Operators.

TO THE INTERNATIONAL COMMUNITY

Continue with the work of the so-called Grupo Enlace⁴ and establish a systematic follow-up mechanism for cases and petitions of human rights defenders which allows feedbacks about the actions taken by the Ambassadors and their results in the political dialogue with the Honduran State.

Facilitate the creation of a network of focal points at EU embassies to monitor the situation of human rights defenders in general and coordinate the implementation of actions specified in the EU guidelines on human rights defenders in Honduras.

TO ORGANIZATIONS OF THE INTERNATIONAL COOPERATION

It is important that development cooperation organizations have components in their projects that address the problems of the rights of populations, whether in the form of crosscutting justice and human rights or direct actions to support the construction of a culture of fulfillment of human rights.

COSUDE is encouraged to continue their sound approach focused on justice and human rights through actively promoting the rule of law and reducing the fragility of the State.

In the specific case of NGOs that support processes to accompany community protest like the installation of photovoltaic companies, it is recommended to conduct

⁴ Group of ambassadors from the European Union and Switzerland created to coordinate the implementation of the actions specified in the EU Guidelines on Human Rights Defenders in Honduras to facilitate political dialogue between civil society and the State, collecting allegations of human rights.

documented studies on the effects of photovoltaic energy on human health, environmental damage and other issues that support the argumentation of the troubles and problems of people defending their territories and how they are affected by these projects.

TO CIVIL SOCIETY

The delegation values significantly the expressions of how the civil society organizations, committed academics, human rights institutions and activists like the Coalition against Impunity, the Articulation 611 enforcing human rights standards in the formulation and approval of the new Penal Code, and other organizations. They all have demonstrated their commitment to reverse the situation of impunity in search of respect for fundamental rights.

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- ii <http://www.elheraldo.hn/pais/584145-214/vendria-condena-por-despido-de-magistrados>
 - iii http://www.laprensa.hn/honduras/1082525-410/criminalidad-edad_punible-onu-maccih-honduras-matar-asesinatos-naciones-unidas
 - iv <http://hondudiario.com/2017/01/02/policia-militar-mato-de-un-disparo-a-joven-en-un-operativo/>
 - v <http://criterio.hn/2017/07/11/piden-honduras-cese-hostigamiento-defensores-derechos-humanos/>
 - vi <http://informes.rel-uita.org/index.php/sociedad/item/cuando-defender-la-tierra-es-delito>
 - vii <http://www.pasosdeanimalgrande.com/index.php/es/amenazas-a-la-libertad-de-expresion/item/1841-miriam-miranda-dirigenta-de-ofraneh-y-tres-defensoras-garifunas-mas-son-querelladas-por-empresario-canadiense>
 - viii <https://ofraneh.wordpress.com/2017/07/26/amenazan-con-clausurar-la-radio-comunitaria-garifuna-waruguma-en-trujillo/>
 - ix <http://defensoresenlinea.com/a-cinco-anos-y-un-mes-de-prision-son-condenan-defensores-de-zacate-grande/>
 - x <https://ofraneh.wordpress.com/2017/08/02/carta-de-ofraneh-al-congreso-nacional-en-relacion-a-la-ley-de-fomento-al-turismo/>
 - xi <https://www.movimientoamplio.org/single-post/2017/09/01/PRONUNCIAMIENTO-HIDROCEP-irrespeto-acuerdos-del-di%C3%A1logo>
 - xii <http://www.pasosdeanimalgrande.com/index.php/es/amenazas-a-la-libertad-de-expresion/item/1656-cidh-y-oacnudh-los-estados-no-deben-limitar-los-reportajes-periodisticos-sobre-actos-amenazas-o-promocion-del-terrorismo-y-otras-actividades-violentas>
 - xiii <http://unsr.vtaulicorpuz.org/site/images/docs/special/2017-06-09-honduras-unsr-additional-observations.pdf>
 - xiv <https://www.globalwitness.org/en/campaigns/environmental-activists/honduras-el-pa%C3%ADs-m%C3%A1s-peligroso-del-mundo-para-el-activismo-ambiental/>
 - xv http://www.ohchr.org/Documents/Issues/Defenders/Declaration/declaration_sp.pdf
 - xvi <https://www.consilium.europa.eu/uedocs/cmsUpload/16332-re02.es08.pdf>
 - xvii <http://imumi.org/attachments/2014/directrices-suizas-proteccion-defensoras-ddhh.pdf>
- https://www.regjeringen.no/contentassets/b7384abb48db487885e216bf53d30a3c/mr_spansk_2011.pdf
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