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AMNESTY INTERNATIONAL SUBMISSION TO THE UN UNIVERSAL PERIODIC REVIEW

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FOLLOW UP TO THE PREVIOUS REVIEW

During the first Universal Periodic Review of Honduras in 2010, reviewing states made important recommendations on impunity and the administration of justice,[1] human rights defenders,[2] public security and policing,[3] and the promotion and protection of the human rights of vulnerable groups, including women and girls, minorities, Indigenous Peoples, Afro-Hondurans, and lesbian, gay, bisexual, transgender and inter-sex (LGBTI) persons.[4] Although Honduras accepted these recommendations, very little progress has been made, and Amnesty International is increasingly concerned about the human rights situation in the country.

During the government of Porfirio Lobo Sosa (2010-2014) and under the leadership of the then Ministry of Justice and Human Rights (created in 2010), measures were taken to implement the recommendations of the 2010 review.[5] However, most of the decisions were made on paper at a formal level and have had very little impact on the human rights situation in practice.

On 27 January 2014, President Juan Orlando Hernandez was sworn into power for a four-year period. As presidential candidate he had committed to the implementation of the "Public Policy and National Plan of Action on Human Rights" adopted under Lobo's government in 2013. However, this commitment has yet to be reflected in specific policies, measures and actions. So far, there appears to be no political will to put human rights at the forefront of his government.

THE NATIONAL HUMAN RIGHTS FRAMEWORK

ADMINISTRATION OF JUSTICE AND IMPUNITY

Given the lack of trust in the institutions and the widespread climate of impunity and corruption, scores of people do not turn to the authorities to report crimes, either for fear of possible reprisals or simply because of the ineffectiveness of the justice system. Impunity is prevalent for human rights violations and abuses, including those committed during the 2009 *coup d'état*.

In April 2013, the then Attorney General explained to the National Congress that the Public Prosecution Service had the capacity to investigate only 20% of the country's homicides.[6] In 2013, extraordinary measures were taken by Congress, which included the suspension and removal of the Attorney General and his Deputy, and the subsequent election of new officials to these posts.[7]

In December 2012, the National Congress voted to remove four of the five Supreme Court judges who comprise the Constitutional Chamber of the Supreme Court of Justice, in what appears to be a worrying interference in the independence of the judicial system. The judges had earlier delivered a judgment that blocked a law proposed by Congress intended to facilitate a clean-up of the police force. The judges had found aspects of the law to be unconstitutional. The Inter-American Commission on Human Rights has criticised these controversial dismissals and urged the government to respect and guarantee the independence of the judiciary.[8]

THE HUMAN RIGHTS SITUATION ON THE GROUND

HUMAN RIGHTS DEFENDERS

In recent years, scores of human rights defenders, including Indigenous and peasant leaders, LGBTI activists, justice officials and journalists, have been victims of human rights violations and abuses. Some have been killed and others have been subjected to physical violence, kidnapping, threats and verbal abuse in reprisal for their human rights work. Both state and non-state actors appear to be implicated in the attacks.

In July 2013, three human rights defenders were killed in less than two weeks.[9] One of them was Tomás García, an Indigenous leader and deputy mayor in his local community. On 15 July, he was shot dead by the army during a demonstration against a hydro-electric power project in Santa Barbara, western Honduras. His 17 year-old son was also shot and wounded.[10]

On 7 December 2013, journalist Juan Carlos Argeñal was shot dead in his house in Danlí, department of El Paraíso. He was a correspondent for *Radio Globo* and *Globo TV*, as well as the owner of a local TV station and a political activist. Later, his brother Mario Argeñal became the target of intimidation and harassment for having demanded justice from the authorities.[11]

On 27 August 2014, prominent *campesino* (peasant farmer) leader Margarita Murillo was shot dead in the community of El Planón, north-western Honduras. The fatal attack occurred after she had reported being under surveillance and receiving threats.[12]

Although Amnesty International has documented scores of cases of human rights violations and abuses against human rights defenders in the last five years, the organization is aware of only one case where those responsible have been prosecuted, convicted and sentenced.

In June 2014, Congress discussed a first draft of a Law to Protect Journalists, Human Rights Defenders and Justice System Workers (*Ley de Protección para los Defensores de Derechos Humanos, Periodistas, Comunicadores Sociales y Operadores de Justicia*). In August 2014, following national and international pressure, the draft law was finally shared with civil society. However, the law is yet to be approved. A mechanism for the effective protection of those at risk is also yet to be established.

OTHER GROUPS IN SITUATIONS OF VULNERABILITY

Indigenous Peoples and Garífuna (Afro-descendant) communities suffer discrimination and inequalities, including in relation to their rights to land, housing, water, health and education. Large-scale projects have been carried out on their lands without consultation or their free, prior and informed consent. Indigenous and Garífuna leaders have reportedly faced fabricated criminal charges and been the target of attacks and intimidation in reprisal for their human rights work.[13] On 17 July 2014, members of a Garífuna community in the north-east, including human rights defender Miriam Miranda, were temporarily abducted by heavily armed men after they discovered an illegal runway used by drug traffickers on their territory.[14]

Long-standing disputes over land between **peasant communities** and powerful landowners is one of the underlying causes of the high levels of violence faced by peasant communities. Local organizations in the Bajo Aguán region claim that in the past five years there have been over 120 killings related to land disputes. On 22 September 2012, human rights lawyer Antonio Trejo Cabrera was shot dead in Tegucigalpa. He had earlier received death threats linked to his work representing three peasant cooperatives embroiled in a complex land-rights dispute in Bajo Aguán. Antonio Trejo had helped *campesino* communities gain legal rights to land in the valley and was due to travel to Washington, DC in October 2012 to take part in hearings at the Inter-American Commission on Human Rights.

In August 2014, the Commission expressed serious concern about the situation in the Bajo Aguán region following a series of violent evictions, during which a number of *campesino* leaders were threatened and arrested. The leaders were the beneficiaries of precautionary measures granted by the Commission on May 2014.[15]

Violence against **women and girls** is rife, with civil society groups reporting 636 femicides in 2013, the highest number since 2005.[16] More recently, between December 2013 and January 2014, there was a wave of killings of female sex workers in San Pedro Sula city, northern Honduras.[17] At the beginning of 2013, the Honduran Criminal Code was reformed to establish the crime of femicide.

Abortion is banned without any exception under the law. The government is yet to re-establish the legality of the Emergency Contraceptive Pill, as a 2009 decree (*Acuerdo Ministerial*) concerning contraception issued by the *de facto* authorities still remains in place.

Lesbian, gay, bisexual, transgender and inter-sex (LGBTI) persons suffer discrimination and violence. The Criminal Code was reformed in 2013, enabling the punishment of hate crimes, but has yet to be implemented. Worryingly, some Congress members have attempted to get the reform repealed. When LGBTI persons approach state institutions, such as the police, they risk further discrimination and abuse.

Poverty and extreme poverty undermine the ability of large sectors of society to access their human rights. More than 60% of the population live in poverty, and more than 40% in extreme poverty.[18] Many Hondurans leave the country as **irregular migrants** to escape violence, to fulfill their most immediate needs, or in search of a better future. Almost 50% of the population is under 18 years of age, and many of those leaving the country are unaccompanied minors. During their journey, irregular migrants are highly vulnerable and risk of becoming victims of human rights violations or abuses abroad.[19]

PUBLIC SECURITY

Honduras has the world's highest homicide rate with 90.4 homicides per 100,000 people in 2012.[20] Impunity is endemic, and the levels of organized and common crime are high. In response to the high levels of insecurity and the weakness, lack of credibility and widespread corruption of the National Police, there has been a growing militarization of the country. Various groups are now in charge of policing, including the Inter-institutional Security Force (*Fuerza de Seguridad Interinstitucional* – Fusina), the TIGRES Unit (Investigation Troop and Security Special Response Group) and the Public Order Military Police (*Policía Militar de Orden Público*).

There are concerns that these groups have not received adequate human rights training, and that they have committed human rights violations on a number of occasions. For example, in April 2013, Wilmer Sabillón, a young man who was on a fishing trip near his home, was shot by a navy officer for no apparent reason. Late in the evening of 26 May 2012, 15-year-old Ebed Yánez was shot dead on his way to meet a friend for failing to stop at an army checkpoint.

In addition, there appears to be a proliferation of firearms and private security companies operating in the country. Given the high levels of insecurity, many people possess and carry firearms to protect themselves. It is legally permitted to possess and carry up to five firearms. Private security companies, far from being a solution to the problem, have in some cases become yet another aggravating factor of the human rights situation. Following a visit in 2013, the UN Working Group on the Use of Mercenaries highlighted that in many cases companies were committing abuses, with the permission or participation of the police and the military, and with complete impunity.[21]

RECOMMENDATIONS FOR ACTION BY THE STATE UNDER REVIEW

Amnesty International calls on the government of Honduras to:

National human rights framework

- Take concrete actions to implement the "Public Policy and National Plan of Action on Human Rights".

Administration of justice and impunity

- Strengthen and guarantee the autonomy, independence and impartiality of the judiciary, including by adopting safeguards to prevent irregular dismissals and appointments;
- Adopt all necessary measures to guarantee effective and fair access to the justice system for all, without discrimination, including protocols to enable equal access to people in situations of vulnerability;
- Guarantee that all complaints of human rights violations or abuses committed by the police, armed forces, members of private security companies or any other actors, are promptly, independently and exhaustively investigated and sanctioned, and that the victims have access to remedy and reparation.

Human rights defenders

- Approve and implement the "Law to Protect Journalists, Human Rights Defenders and Justice System Workers", and provide adequate financial and human resources to establish an effective state mechanism to protect those at risk, incorporating a gender and differentiated approach to the protection of those at risk;
- Adopt procedural safeguards within the criminal justice system to prevent its misuse against human rights defenders, in line with the 2013 UN Human Rights Council Resolution on Protecting Human Rights Defenders (A/HRC/RES/22/6);
- Ensure that investigations into attacks and threats against human rights defenders result in the punishment of the perpetrators and reparation for damages caused;
- Comply with the recommendations of the UN Special Rapporteur on the situation of human rights defenders following her visit to Honduras in 2012, and with the recommendations of the Inter-American Commission on Human Rights on this matter;
- Ensure that human rights defenders can freely carry out their activities without unfair restrictions or fear of reprisals, and make the authorities at all levels fully aware of the international standards that protect them, including the UN Declaration on Human Rights Defenders.

Indigenous Peoples and Afro-descendent communities

- Guarantee the human rights, both individual and collective, of Indigenous Peoples and Garífuna communities, including by ensuring their effective access to health, education, housing and other basic services, and the participation of their members, particularly women, in the formulation of policies and practices;
- Prevent and ensure that human rights violations and abuses against these communities and their leaders are investigated and punished, with reparation provided to the victims, whether the crimes were perpetrated by state or non-state actors;
- Guarantee the right to free, prior and informed consultation and consent for Indigenous Peoples and Garífuna communities when projects affect their ancestral lands or territories, as established in international human rights law.

Peasant communities

- Take measures to fairly redistribute land, ensuring that people in a particularly vulnerable or disadvantaged situation, such as rural women, are able to participate under equal conditions;
- Take measures to prevent human rights violations and abuses committed in the context of land redistribution, and to ensure that any such violations or abuses whether committed by state or non-state actors, are investigated and punished and reparations provided;
- Comply with the precautionary measures ordered by the Inter-American Commission of Human Rights in relation to the peasant communities and their leaders.

Rights of women and girls

- Guarantee the protection and the effective access to justice of women victims of violence, including by providing sufficient resources and gender-sensitive training to law enforcement personnel, the judiciary and health-service, and by undertaking effective and gender-sensitive investigations and prosecuting those responsible.
- Take all necessary measures to ensure the effective implementation of Article 321 of the Criminal Code, which sanctions the crime of femicide;
- Guarantee safe access to appropriate sexual and reproductive health services, including access to emergency contraception; repeal laws criminalizing abortion and ensure access to save abortion both in law and in practice, at a minimum in cases where the pregnancy poses a risk to the life or the physical or mental health of the woman or girl, where the foetus will be unable to survive outside the womb, and where the pregnancy is the result of rape or incest;
- Ratify the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination Against Women.

LGBTI persons

- Take all necessary measures to ensure the effective implementation of Article 321 of the Criminal Code, which sanctions hate crimes;
- Promote, guarantee and implement differentiated protocols to enable fair and impartial access to the justice system, both at the investigative stage and during prosecution and punishment of hate crimes;
- Adopt and implement policies and programmes that promote tolerance to sexual diversity and the human rights of LGBTI people.

Irregular Honduran migrants

- Adopt all necessary policies, programmes and measures to address the main factors that cause Honduran citizens to migrate elsewhere, including inequality, poverty and violence;
- Provide consular assistance to irregular Honduran migrants, who have suffered alleged human rights abuses abroad;
- Disseminate widely, in co-ordination with civil society, accessible information among communities likely to undertake irregular migration, particularly children and women. Such information should explain migrants' rights, outline patterns of abuse experienced by migrants, detail how to file complaints and secure consular assistance;
- Strengthen bilateral and regional co-operation to improve the protection of the rights of irregular migrants, including the right to access justice and the protection of children.

Public security

- Take steps to ensure that policing functions by the army is only a temporary measure, and that such tasks are strictly regulated and carried out with respect for human rights and the rule of law;
- Incorporate a human rights approach in measures intended to fight impunity and insecurity, ensuring the provision of rigorous human rights training to those in charge of security and policing functions;
- Take effective measures to reduce and control the proliferation of firearms in Honduras, and to regulate and control private security companies.

END NOTES

[1] *Report of the Working Group on the Universal Periodic Review, Honduras,* 4 January 2011 (A/HRC/16/10), recommendations 82.17 (Brazil), 82.54 (Azerbaijan), 82.55 (Ghana), 85.56 (Slovenia), 82.57 (Hungary), 82.59 (UK), 82.60 (Nigeria), 82.61 (Poland), 82.62 (Slovakia), 82.63 (Switzerland), 82.65 (Costa Rica), 82.67 (Mexico), 82.68 (Austria), 82.69 (Thailand), 82.70 (Spain), 82.71 (Austria), 82.72 (Mexico), 82.75 (Poland), 82.80 (Canada), 82.83 (Peru), 82.84 (Sweden), 82.88 (Spain), 82.89 (Argentina), 82.93 (Sweden), 82.95 (Argentina) and 82.96 (Uruguay).

[2] A/HRC/16/10, recommendations 81.2 (Ireland), 82.19 (UK), 82.29 (Austria), 82.30 (Canada), 82.31 (Ireland), 82.33 (France), 82.67 (Mexico), 82.80 (Canada), 82.99 (Uruguay) and 83.9 (Chile).

[3] A/HRC/16/10, recommendations 82.14 (Costa Rica), 82.15 (Thailand), 82.16 (Italy), 82.22 (Switzerland), 82.27 (Argentina), 82.28 (Hungary), 82.33 (France), 82.37 (Ireland), 82.46 (Japan), 82.68 (Austria), 82.71 (Austria) and 82.90 (Netherlands).

[4] A/HRC/16/10, recommendations 81.1 (Czech Republic), 82.2 (Ecuador), 82.8 (Ghana), 82.9 (Spain), 82.11 (The Holy See), 82.18 (Colombia), 82.21 (Ecuador), 82.34 (Ireland), 82.35 (Ireland), 82.36 (USA), 82.37 (Ireland), 82.38 (Brazil), 82.41 Azerbaijan, 82.24 (Canada), 82.44 (Thailand), 82.45 (France), 82.46 (Japan), 82.47 (Italy), 82.80 (Canada), 82.106 (Nigeria), 82.107 (Ghana), 82.108 (Angola), 83.2 (Ecuador, Spain, France), 83.4 (Austria) and 83.12 (Austria).

[5] Honduras. INFORME DE MEDIO TÉRMINO SOBRE EL AVANCE DE CUMPLIMIENTO DE LAS RECOMENDACIONES FORMULADAS AL ESTADO DE HONDURAS EN EL MARCO DEL EXAMEN PERIÓDICO UNIVERSAL, 18 de marzo de 2013. Available at: http://lib.ohchr.org/HRBodies/UPR/Documents/Session9/HN/Honduras_1.pdf (last visited on 12 September 2014)

[6] According to UN figures, Honduras has the world's highest homicide rate with 90.4 homicides per 100,000 people in 2012: http://www.unodc.org/documents/gsh/pdfs/2014_GLOBAL_HOMICIDE_BOOK_web.pdf

[7]Human rights organizations described this election as unconstitutional, biased and lacking in transparency. See for example: Coalición contra la Impunidad: Elección de Fiscal es un proceso oscuro con graves irregularidades, 27 de agosto de 2013. Available at http://defensoresenlinea.com/cms/index.php?option=com_content&view=article&id=2747:coalicion-contra-la-impunidad-eleccion-de-fiscal-es-un-proceso-oscuro-con-graves-irregularidades&catid=42:seg-y-jus&Itemid=159 (last accessed on 8 September 2014)

[8] IACHR. In View of Situation in Honduras, IACHR Stresses Importance of Principle of Independence of the Judiciary, 3 January 2013. Available at: http://www.oas.org/en/iachr/media_center/PReleases/2013/003.asp (last visited on 12 September 2014)

[9] Honduras: Amnesty International condemns the recent killings of people defending justice, equality and human rights (AMR 37/007/2013) http://www.amnesty.org/es/library/info/AMR37/007/2013/es

[10] HONDURAS: EL EJÉRCITO DISPARA CONTRA MANIFESTANTES EN HONDURAS, 23 July 2013 (UA: 188/13, AMR 37/006/2013), http://www.amnesty.org/es/library/info/AMR37/006/2013/es

[11] Honduras: Further information: Brother of killed journalist at risk, 4 March 2014 (AMR 37/004/2014) http://www.amnesty.org/en/library/info/AMR37/004/2014/en

[12] Honduras: *Campesino* leader shot dead in Honduras: Margarita Murillo, 2 September 2014 (AMR 37/010/2014) http://www.amnesty.org/en/library/info/AMR37/010/2014/en http://www.amnesty.org/en/library/info/AMR37/010/2014/en

[13]See for example: "Defending Human Rights in Honduras is a Crime", 22 November 2013 (AMR 37/016/2013), http://www.amnesty.org/en/library/info/AMR37/016/2013/en

[14] Honduras: Afro-descendant community at risk in Honduras, 22 July 2014 (AMR 37/009/2014), http://www.amnesty.org/en/library/info/AMR37/009/2014/en

[15] IACHR expresses concern over threats against and arrests of *campesino* leaders in Bajo Aguán, Honduras. August 29, 2014. Available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/094.asp (last visited on 10 September 2014)

[16] See for example http://www.tiempo.hn/sucesos/noticias/en-honduras-se-comete-un-femicidio-cada-15-horas.

[17] Amnesty International. Honduras: Sex workers targeted and killed in Honduras (AMR 37/001/2014). Available at: http://www.amnesty.org/en/library/info/AMR37/001/2014/en (last visited on 11 September 2014)

[18] 2013 Figures, National Institute for Statistics of Honduras. Available at: http://www.ine.gob.hn/index.php/prensa/noticias-news/140-cifras-de-pais-2013 (last accessed on 18 September 2014)

[19] Mexico: Drop unfair charges against tortured prisoner of conscience, 23 July 2014, http://www.amnesty.org/en/for-media/press-releases/mexico-drop-unfair-charges-against-tortured-prisoner-conscience-2014-07-23-0

[20] UNODC Homicide Statistics, available from: http://www.unodc.org/documents/gsh/pdfs/2014_GLOBAL_HOMICIDE_BOOK_web.pdf (last accessed on 8 September 2014)

[21] See for example the introduction and paragraphs 13, 38, 53 and 55 of the Report of the Working Group of the Use of Mercenaries as a Means of Violating Human Rights and Impeding the Right of People to Self-determination – after the 2013 Mission to Honduras, A/HRC/24/45/Add.1.