



**ISHR**

INTERNATIONAL SERVICE  
FOR HUMAN RIGHTS



## THE SITUATION OF HUMAN RIGHTS DEFENDERS

# HONDURAS

UPR Briefing Paper - September 2014

In its last Universal Periodic Review (UPR) in November 2010, Honduras accepted all 12 recommendations it received regarding human rights defenders (HRDs), committing to guarantee their protection and their right to freedom of expression and opinion. This process sparked governmental and legislative projects in response, including current initiatives to draft and enact a law for the protection of HRDs. It is vital that these initiatives incorporate civil society feedback, meet international standards and are approved promptly if Honduras is to respond to the critical situation of widespread attacks, intimidation and impunity facing civil society activists.<sup>1</sup>

### RISKS FACING HUMAN RIGHTS DEFENDERS

- The Honduran authorities often disproportionately resort to military or police force to ensure public safety, leading to arbitrary arrests of activists and excessive use of force during demonstrations. HRDs face violence, threats and abductions.<sup>2</sup> Threatening e-mails and phone-calls are common, and can be followed by kidnappings, assaults, torture or other cruel treatment, and even murder.<sup>3</sup>
- Prosecuted HRDs are often given disproportionate sentences, and cases of unfounded charges have been reported, such as that of Magdalena Morales, a member of the National Centre of Agricultural Workers accused of 'land invasion'.<sup>4</sup> Due process guarantees are apparently often not applied to HRDs.
- HRDs are subject to stigmatisation both in the media and by public officials, accused of conducting disinformation campaigns,<sup>5</sup> or branded as traitors to the country, members of radical groups, or even terrorists.<sup>6</sup>

### OFFICIAL RESTRICTIONS ON THE SPACE FOR HUMAN RIGHTS DEFENDERS

- Legislation restricts media freedom and independence. CONATEL Resolution NR003/2011 allows for the suspension of permits and licenses

for radio frequencies, while Law 185-95 on the Framework of the Telecommunications Sector restricts access to frequencies, hindering the freedom of expression of HRDs.<sup>7</sup>

- Law No. 252-2010 on the Financing of Terrorism restricts freedom of assembly and makes it more difficult for NGOs to associate and register.<sup>8</sup>
- The Law for intervention in private communications (Decree 243/2011) allows the authorities to wiretap HRDs if they are considered as 'persons under investigation'. The Law on NGOs (Decree 32/2011) obliges registered NGOs to submit their accounts and funding sources to a governmental registry, provoking fears that the State might be able to arbitrarily cancel the about legal status of organisations registered as NGOs.<sup>9</sup>

### INTIMIDATION AND REPRISALS AGAINST DEFENDERS ACCESSING INTERNATIONAL HUMAN RIGHTS MECHANISMS

- Internationally respected HRDs Bertha Oliva of COFADEH and Victor Fernández of MADJ have been the targets of criticism by authorities and the media, following their attendance at a hearing at the Inter-American Commission on Human Rights. They are accused of conspiracy against the electoral process in their country.<sup>10</sup>

## HUMAN RIGHTS DEFENDERS FACING PARTICULAR RISKS

- LGBTI defenders are stigmatised as inciting immoral behaviour, and are often victims of violence and attacks by police officers. They can be threatened and intimidated, which sometimes leads them to close offices or reduce their work defending LGBTI rights. In early 2013, 10 trans women, 10 gay men and 4 lesbians were killed, demonstrating the dangerous context in which LGBTI rights defenders operate.<sup>11</sup>
- Lawyers and judges working on human rights and against impunity face harassment, threats and even assassination. In the first 8 months of 2013, 12 legal professionals were assassinated, such as Judge Mendoza Peña who was a member of an NGO defending legal professionals.<sup>12</sup>
- Due to pervasive gender discrimination, women human rights defenders face violence and threats from police and military, and are more likely to be subjected to prejudice, exclusion and repudiation than men.<sup>13</sup>
- Land and indigenous rights defenders face threats and harassment, forced evictions, and attacks (often carried out by private security guards) because of their work to defend their economic, social and cultural rights, their ancestral lands and the environment against hydroelectric dam constructions, mining and tourism. Some activists have even been killed during protests, such as Tomas Garcia in July 2013.<sup>14</sup>
- Honduras is one of the most dangerous countries in the Latin America for journalists and media workers, especially when they report on human rights. Since the coup d'état in 2009, at least 34 journalists have been killed. Community radio stations have been burnt, journalists receive threatening phone calls, and offices and equipment are subjected to raids and sabotage, leading to self-censorship of journalists.<sup>15</sup>

## THE RESPONSE OF THE STATE REGARDING THE PROTECTION OF HUMAN RIGHTS DEFENDERS

- There is almost complete impunity for attacks against HRDs, and perpetrators are rarely brought to justice. More than 90% of murders of journalists are perpetuated with impunity. Neither the granting of precautionary measures by the Inter-American Commission for Human Rights, nor UN experts' recommendations, have resulted in the Honduran State implementing effective measures to protect HRDs and journalists.<sup>16</sup>
- During 2014, Congress debated a draft Law to protect human rights defenders, journalists and justice operators, with the support of the Executive. This law would create a protection mechanism for members of these populations who are at risk. Nevertheless, a broad coalition of civil

society organisations identified both conceptual and practical deficiencies in the proposal.<sup>17</sup>

- In August 2014, Honduran civil society organisations and international experts presented to Congress a series of concrete recommendations - based on their realities and international experience – which must be included in the bill in order to ensure its utility.<sup>18</sup>
- Having taken the important step of consulting HRDs, the Honduran Congress must now carry out its third and final debate, in which it should incorporate these recommendations and approve the law, which the Executive must then implement in consultation with civil society.<sup>19</sup>
- The creation of the Ministry of Justice and Human Rights, the Ministry for Indigenous Peoples and Afro-Hondurans, and the Commission for Truth and Reconciliation represent positive steps towards a greater institutionalisation of human rights. However, there is little coordination between those institutions; they have weak mandates, plus a lack of funding and independence.<sup>20</sup>
- According to information provided to the UN Special Rapporteur on HRDs, the Office of the National Commissioner for Human Rights (CONADEH) is unable to exercise its mandate effectively and some HRDs expressed their distrust towards its leadership. This in spite of the State's commitment, made during its last UPR, to strengthen the CONADEH.<sup>21</sup>
- The lack of knowledge within, and training of, State security forces regarding the role and contribution of HRDs, hinders efforts to protect activists effectively.<sup>22</sup>

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The election of a new President in January 2014 and the renewal of legislative work around the protection of HRDs provide opportunities to strengthen the protection of human rights defenders, who have operated in particularly precarious circumstances since the 2009 coup d'état. It is critical that the Honduran State take strong steps, in both policy and in practise, to ensure that the voice of civil society is at the heart of the Honduran transition.

## RECOMMENDATIONS TO THE GOVERNMENT OF HONDURAS

- Pass a Law to protect human rights defenders, journalists and justice operators, which incorporates civil society input (including the minimums outlined below).
- Implement the Law in consultation with civil society, whilst ensuring the full consent of beneficiaries in the definition of their protective measures.
- Refrain from criminalising the legitimate activities of HRDs - particularly in the case of LGBTI defenders and HRDs opposing large-scale development projects - and repeal all laws and policies that restrict their activities.
- Combat impunity by ensuring the prompt, thorough and impartial investigation of all violations against HRDs, the prosecution of perpetrators, and access to effective remedies for victims.
- Demonstrate political support through statements recognising the legitimate and important role of HRDs and by refraining from discriminating against LGBT and women HRDs in the media and political spheres.
- Implement campaigns to raise awareness about the important and legitimate work of HRDs, targeting public officials and law enforcement agencies, as well as wider society.
- Develop and implement a National Action Plan on the implementation of the UN Guiding Principles on Business and Human Rights, including policies and measures to protect and support HRDs who work on issues of corporate accountability.
- Strengthen the role and independence of CONADEH, which should include a focal point on HRDs.
- Provide specific advance responses during the UPR on the steps taken to implement each of the recommendations made by the Special Rapporteur on HRDs in her 2012 report.

## KEY CIVIL SOCIETY RECOMMENDATIONS ON DRAFTING AND IMPLEMENTATION OF THE LAW TO PROTECT HRDs, JOURNALISTS AND JUSTICE OPERATORS.<sup>23</sup>

- The law must contemplate the explicit recognition of the right to defend human rights.
- The protection mechanism which the law will create ought to reside under the complete control of the Secretary of State for the Offices of Human Rights, Justice, the Interior and Decentralisation (la Secretaria del Estado de los Despachos de Derechos Humanos, Justicia, Gobernación y Descentralización), who must be granted the power to coordinate the participation of all other governmental institutions in the protection of the mechanism's beneficiaries.
- The only security officials charged with the protection of beneficiaries within the protection mechanism must be specifically trained for this purpose.
- Beneficiaries of the protection mechanism must have given their informed consent to the protection measures they are granted.
- The protection mechanism ought to develop, in consultation with civil society, effective protection plans for collectives, communities, groups of HRDs and social movements.
- The law must ensure that sufficient budget, training and capacity is provided for all authorities and institutions involved in its implementation.
- The law must guarantee a clear risk analysis methodology with transparent, previously defined and coherent criteria which respond to regional best practise.
- The law must clarify how the mechanism will coordinate with the Inter-American System for Human Rights, ensuring that the mechanism cannot revoke previously authorised protection measures.

## ABOUT THIS BRIEFING PAPER

ISHR encourages States to consult UPR submissions by local activists and make recommendations to Honduras regarding the protection of HRDs. Excellent local sources of information on HRD security are Friendship Americas ([honduras@friendshipamericas.org](mailto:honduras@friendshipamericas.org)), the Centro de Investigación y Promoción de los Derechos Humanos ([ciprodeh@cablecolor.hn](mailto:ciprodeh@cablecolor.hn)) and Peace Brigades International – Honduras Project ([coordinacion@pbi-honduras.org](mailto:coordinacion@pbi-honduras.org)). For detailed and up-to-date information regarding the status of Honduran legislative proposals for the protection of HRDs, ISHR recommends contacting Luisa Pérez at Protection International ([lperez@protectioninternational.org](mailto:lperez@protectioninternational.org)). For further information on this briefing paper, contact Michael Ineichen ([m.ineichen@ishr.ch](mailto:m.ineichen@ishr.ch)).

1. [http://www.pbi-honduras.org/fileadmin/user\\_files/projects/honduras/Publications/PBI\\_Honduras\\_Bulletin\\_01-eng.pdf](http://www.pbi-honduras.org/fileadmin/user_files/projects/honduras/Publications/PBI_Honduras_Bulletin_01-eng.pdf)
2. <http://www.hrw.org/world-report/2014/country-chapters/honduras>
3. Peace Brigades International, Honduras – The Defence of human rights: A high-risk activity, December 2012.
4. Peace Brigades International, Honduras - ¿ Nuevo panorama para los derechos humanos ?, January 2014.
5. A/HRC/22/47/Add.1 <http://bit.ly/1uCG9bZ>; Reporters Without Borders: <http://bit.ly/1uCGf3e>; Frontline: <http://bit.ly/1uCGgnS>.
6. KOFF, Resumen del Taller Guatemala/Honduras de la Conferencia: Defensores y defensores de en peligro: ¿Qué hace Suiza?, 06/2014.
7. Ibid.
8. Supra n° 2; A/HRC/22/47/Add.1.
9. Supra n°2.
10. <http://hondurasaccompanimentproject.files.wordpress.com/2014/02/2013-oct-novdec-hr-report.pdf>.
11. Supra n°2; A/HRC/22/47/Add.1; Frontline: <http://bit.ly/1uCG3kC>; OAS: <http://bit.ly/1uCG0oQ>.
12. Supra n°2 ; [http://www.oas.org/en/iachr/media\\_center/PReleases/2013/055.asp](http://www.oas.org/en/iachr/media_center/PReleases/2013/055.asp).
13. A/HRC/22/47/Add.1. The Special Rapporteur on violence against women's visited in July 2014. See <http://bit.ly/1mXPGR1>.
14. Supra n° 12 ; <http://www.oas.org/es/cidh/prensa/comunicados/2013/052.asp>.
15. [https://www.ifex.org/honduras/2014/06/10/greater\\_protection/](https://www.ifex.org/honduras/2014/06/10/greater_protection/) ; <http://www.refworld.org/docid/52ab05734.html>; Supra n°2 and 12.
16. Pen International: <http://bit.ly/1mXUaqV>; OHCHR: <http://bit.ly/1uCF5WA>.
17. <http://protectioninternational.org/2014/08/11/protection-international-and-cejil-join-efforts-to-pass-law-protecting-human-rights-defenders-in-honduras/>
18. See box at end of this briefing paper for the key recommendations put to Congress by local HRDs with the support of Protection International and the Center for Justice and International Law (Cejil).
19. Supra n° 1 ; <http://www.oas.org/en/iachr/docs/annual/2013/docs-en/Annual-Report-Chap4-Honduras.pdf>.
20. Supra n°2.
21. <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=11830&LangID=E>.
22. Supra n°12.
23. Recommendations reflect those given to legislators by a coalition of human rights defenders, with the support of Protection International and Cejil, in August 2014.

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