

Making Way for Corruption in Guatemala and Honduras

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In Guatemala and Honduras, corrupt officials in executive branches and legislatures are putting into place laws and policies to limit oversight and action by judicial authorities, human rights defenders, civil society activists, and journalists to expose and protest abuses, while sweeping away obstacles to their own corruption.

As the situation deteriorates rapidly, the White House focus on migration is almost exclusively driving U.S. government diplomacy towards the two countries, as well as towards El Salvador. U.S. aid for violence prevention, opportunities for youth at risk, and rural poverty reduction was suspended, and while the [release](#) of some \$140 million in aid was [announced](#) in October 2019, most appears to be [redirected](#) towards implementing migration accords and strengthening borders. Programs to improve justice systems, expand civil society anti-corruption efforts, prevent violence, and protect LGBTQ+ rights have been slashed. Concern for corruption and rights violations is largely sidelined —even though corruption and rights violations are some of the very drivers of forced migration from the region.

Guatemala: Searching for Institutions to Weaken

Guatemalan President Jimmy Morales ended the mandate of the International Commission against Impunity in Guatemala (CICIG), the UN agency that had [successfully](#) uprooted corruption, indicted a president and vice president, and prosecuted corrupt politicians, former presidents, drug traffickers, and judges. In the process, it strengthened the Guatemalan judiciary's capacity and resolve and offered hope for the nation's future. CICIG closed its doors on September 3, 2019.

As President Morales ends his term at the end of this year, he and corrupt members of Guatemala's legislature appear to be trying to ensure their own protection from exposure and prosecution. Now that CICIG is shut down, they are turning their attention to remaining obstacles in their way.

Attacking people and institutions protecting human rights:

- Members of the Guatemalan Congress have mounted an attack on Jordán Rodas Andrade, the Guatemalan government's outspoken human rights ombudsman, whose agency is one of the few recourses for Guatemalan citizens seeking protection from abuse or denouncing government corruption and neglect. These members of Congress are organizing an initiative to [recall](#) Rodas and [withholding](#) the ombudsman's office budget. Mr. Rodas is under threat and has received [protective measures](#) from the Inter-American Commission on Human Rights.
- President Morales issued a two-month "state of siege" in 22 municipalities in a disproportional response to the killing of three soldiers in one municipality. While now lifted, the state of siege limited freedoms and made it difficult for community leaders, human rights and humanitarian

organizations to carry out their work in those municipalities, which are characterized by conflicts between indigenous communities and mining and other large-scale extractive projects.

- High-level government officials have placed human rights defenders in danger through intimidating speeches. For example, President Morales publicly labeled human rights activists “[pseudo human rights defenders](#)” in a September 4th speech announcing the state of siege.
- Members of Congress have actually installed a commission to [investigate](#) CICIG, opening the door to intimidation against Guatemalan prosecutors and judicial personnel who collaborated with CICIG to combat corruption and human rights violations. While the Constitutional Court ruled against the establishment of this anti-CICIG commission, members of the Congress continue to hold hearings investigating CICIG.
- A law regarding nongovernmental organizations that would [increase regulations](#) over NGOs and empower the Public Ministry to shut down NGOs for vaguely-defined actions against the public order is nearing approval in the legislature.

Reducing penalties for/making it more difficult to prosecute abusers:

- The Guatemalan Congress voted to make changes to the penal code that considerably [reduced](#) penalties for corruption, bribery, money laundering, and some other crimes. The original bill would have introduced plea bargaining, allowing prosecutors to go after higher-level perpetrators by encouraging suspects to provide information in returned for reduced sentences. But the final bill [allows](#) corrupt officials to receive sharply lower penalties merely by admitting to the crime without providing information.
- Despite the Guatemalan Constitutional Court ordering the withdrawal of a blanket amnesty law for crimes committed during the conflict, bill 5377, which would shield human rights abusers from prosecution and set war criminals free, members of the Guatemalan Congress continue to try to [advance](#) this bill through the legislature.
- Proposals have been floated to reorganize the Attorney General’s office, such as a proposal to divide into three parts the Human Rights Prosecutor’s Office, which could weaken this important unit which investigates attacks against human rights defenders, trade unions, and journalists as well as other human rights violations. There are concerns as well for the continuation of the strong work of the Prosecutor’s Office against Impunity (FECI), which collaborated with CICIG, given the withdrawal of CICIG and the attacks against its record.

Situation of human rights defenders and journalists

In the context of this assault on rights and protections, Guatemala’s community leaders, human rights defenders, and journalists—as well as honest judges and prosecutors—are at increasing [risk](#). Some prominent human rights advocates and judicial officials have sought exile abroad. The Guatemalan nongovernmental group UDEFEGUA has [registered](#) 402 aggressions against human rights defenders from January through September 2019, including 14 murders, 9 incidents of torture, and 277 incidents criminalizing human rights defenders. Twenty-six defenders were killed in 2018.

To mention only several of the latest killings, Diana Isabel Juarez, coordinator of a parish environmental ministry in Suchitepequez, was [shot](#) to death on September 7, 2019 by assassins in a passing car. Indigenous human rights defender Paulina Cruz Ruiz, a Maya Achi’ ancestral authority, was [shot](#) to death

on September 14 in Rabinal, Baja Verapaz when four men opened fire. On November 6, Manuel Perez Hernández, a member of the Community of Campesino Development (CODECA) in San Pedro Pinula, Jalapa, was [killed](#) by men who entered his home and opened fire as he held his two-month-old baby in his arms.

Guatemala ranks [116](#) out of 176 countries in 2018 in terms of press freedom, according to Reporters without Borders, which [notes](#), “Exposing political or administrative corruption and embezzlement can lead to threats and physical violence.”

Situation of women’s organizations & LGBTQ+ community

Women’s organizations have been affected by threats and attacks, including a series of break-ins into their offices. Efforts to move forward on protections against gender-based violence have been stymied, including by cutbacks to funding for centers of attention to women survivors (*Centros de Apoyo Integral para Mujeres Sobrevivientes de Violencia*), which are NGO-run but receive government funding. LGBTQ+ persons face violence, with [22 LGBTQ+ persons](#) murdered in 2018. LGBTQ+ activists face growing societal attacks. A bill, the Law to Protect Life and the Family (5272), which would outlaw abortion even in cases of rape and potentially criminalize women suffering miscarriages, and which would expressly prohibit same-sex marriage, is being considered by the legislature. U.S. support for LGBTQ+ rights in Guatemala in terms of diplomatic statements and assistance programs has notably diminished under the Trump Administration. Some programs directed towards LGBTQ+ persons were cut prior to the general aid freeze.

U.S. policy towards Guatemala

In a positive move, on December 3, 2019, the State Department [announced](#) it was barring a former housing minister from the United States for “significant acts of corruption.” But while the U.S. government has long been a champion of CICIG’s anti-corruption efforts and enforcement of the Global Magnitsky Act continues, in the last year the diplomatic message against corruption and in support of human rights in Guatemala has been overshadowed by the emphasis on migration cooperation.

Honduras: Corruption from the Top

A New York jury convicted Tony Hernández, the brother of Honduran President Juan Orlando Hernández, of drug trafficking on October 18, 2019. In the course of the trial, New York prosecutors [labeled](#) President Hernández “a co-conspirator,” presented evidence that he had [received](#) drug cartel money for his presidential campaign, revealed a web of drug connections to army and police officials, and [denounced](#) “state-sponsored drug trafficking.”

Yet the State Department stood by the Honduran government, [declaring](#) Honduras “a reliable ally.” A team of U.S. Department of Homeland Security and State Department officials [arrived](#) the very next week to hammer out an agreement—not on purging the government of corruption, but to establish Honduras as a “[safe third country](#)” so that the Trump Administration can stop Nicaraguans, Haitians, Cubans, and others from trying to claim asylum in the United States. The message was sent that the U.S. cares more about deporting asylum seekers than about corruption at the top.

To many Hondurans, the signals were clear. As one human rights defender told us, “Our president is a drug trafficker—who can possibly protect us?” Another human rights activist explained, “If the U.S. is supporting the drug trafficker, people feel even more afraid.”

As in Guatemala, members of the Honduran Congress as well as the executive branch are working hard to protect corruption as well as limit rights of those seeking to expose corruption and abuse or defend their communities. In particular, these measures seek to limit the actions of the Organization of American States’ Mission of Support against Corruption and Impunity in Honduras (MACCIH) and the Honduran judicial unit, Special Prosecutor’s Unit against Corruption and Impunity (UFECIC), which together are advancing in investigating cases of corruption.

- The Honduran government pressed the Organization of American States to agree to [evaluate](#) the Mission of Support against Corruption and Impunity in Honduras (MACCIH) prior to considering renewing its mandate, which expires in January 2020. Anti-corruption advocates are concerned the government will use this to weaken the mandate. The Honduran government/OAS evaluation team started the evaluation on November 13 and its results are expected shortly. The mandate urgently needs to be renewed now, ideally for another four-year term and with the same mandate it currently holds.
- A penal code reform containing controversial provisions [reducing penalties](#) for [corruption](#), [misuse](#) of public funds, and money laundering was passed in September 2019. The head of the National Anti-Corruption Council Gabriela Castellanos [said](#), “A Honduran who robs a cellphone will now face more serious penalties than the government official who robs their agency’s budget.” A provision allowing journalists to face criminal prosecution for slander—in essence in the same bill, decreasing penalties on the corrupt and increasing penalties on the journalists investigating them—was eliminated after advocacy by press freedom groups and embassies. Civil society groups are organizing a citizen initiative to delay the Penal Code’s implementation.
- A measure granting immunity for members of Congress regarding actions taken as part of their legislative duties, allowing them only to be judged by fellow legislators, was passed as part of the *Ley Orgánica del Poder Legislativo* on October 24, 2019, in an action widely interpreted as protecting members implicated in corrupt use of public funds. This was passed after MACCIH exposed misuse of public funds by members of Congress in the set of cases known as “*Red de Diputados*.” The Public Ministry subsequently [challenged](#) the law’s legality on procedural grounds. A separate law, the Special Law for Public Funds for Social, Community, Infrastructure, and Social Programs, authorized funding members of Congress could use for constituent projects while weakening controls over corruption. It [established](#) that public corruption by legislators could only be prosecuted in regular courts if the weak Superior Court of Auditors ruled their actions corrupt. In the meantime, all other legal cases against them—including those pending from MACCIH/UFECIC’s *Red de Diputados* cases—would be suspended.

Treatment of protest

As these legislative and executive branch initiatives to restrain anti-corruption efforts advance, the Hernández Administration continues to crack down on widespread rounds of social protest. Protests exploded in the aftermath of the November 2017 elections in which President Hernández was reelected

amidst accusations of fraud and continue today over issues of corruption, cuts in health and education spending, conflicts with communities over mining and other projects, and other issues.

During the post-electoral protests in late 2017 and early 2018, nongovernmental groups reported [over 30](#) dead, the majority of whom were protesters allegedly killed by members of the Military Police of Public Order. The United Nations High Commissioner for Human Rights office in Honduras investigated cases of at least [16 people](#) allegedly killed by government security forces.

Two years later, only two security officers have been indicted for these killings, and none convicted. No new protocol for handling protests has been developed. The head of the Military Police during the crackdown was [promoted](#) to head of the armed forces' budget office. The role of the armed forces continues to expand, with new powers granted even for the army to play a role in [agricultural development](#). Excessive use of force by security forces during protests continues. In a September 2019 hearing before the Inter-American Commission on Human Rights, Honduran human rights groups asserted that 9 people were [killed](#) in the context of protests in 2019 and that firearms and excessive use of tear gas were regularly employed by security forces in repressing protests.

Situation of human rights defenders & journalists

Human rights defenders—including environmental activists, union leaders, Garifuna, indigenous, and other community leaders—face a daily onslaught of threats, harassment, specious prosecution, attacks—and murders. Honduran union leader Jorge Alberto Acosta was [murdered](#) on November 16, 2019. Due to threats against his life he had been accepted into the Honduran government's limited protection program, but effective protection measures were not implemented. Acosta's murder took place just three weeks after the [kidnapping](#) and torture of Jaime Atilio Rodriguez, former president of the union of middle school teachers that had played a role in massive protests against education and health system cuts. Rodriguez fortunately survived. Garifuna community leader Mirna Teresa Suazo Martínez was [shot](#) to death September 8, 2019 by two men who approached her in the restaurant that she owned and without a word opened fire. Oscar Francisco Guerrero Centeno, who had been providing security and support to Suazo's family, was murdered on October 21 by unidentified assailants. According to the records of the National Network of Women Human Rights Defenders in Honduras, Mirna Teresa Suazo is the fourth Garifuna woman murdered in the month of September. This year alone, 17 Garifuna people were [murdered](#), six of them women community leaders.

Prosecutors seem adept at bringing charges against human rights defenders while cases of attacks against defenders are prosecuted slowly. Even in the most high-profile case, the murder of indigenous activist Berta Cáceres, while seven perpetrators were convicted (and finally sentenced a year after they were convicted), the trial of one alleged intellectual author has just begun. Multiple community leaders defending the Guapinol community from environmental harm caused by a mining project are in jail.

Honduras [ranks](#) 146 out of 176 countries in terms of press freedom around the globe in 2018, and security forces, especially the army and Military Police, are [responsible](#) for the majority of abuses against journalists, according to Reporters without Borders. According to the Honduran human rights ombudsman, Roberto Herrera Cáceres, 4 journalists were [killed](#) in 2019. Twenty-one-year-old Johana Alvarado was shot and [killed](#) right outside the Public Ministry building in Catacambo, just two weeks after she started as a journalist in training at Canal 45. Fifteen journalists have gone into [exile](#) in 2019,

according to journalist and human rights advocate Dina Meza. Journalists' ability to obtain information is greatly limited by the so-called "Law of Secrets" (*Ley de Secretos*) limiting access to information according to press freedom group C-Libre.

Situation of LGBTQ+ Hondurans

LGBTQ+ Hondurans face frightening levels of violence. No fewer than [164](#) LGBTQ+ Hondurans were murdered from January 2014 – June 2019, with 27 killed in 2018 alone. In some cases attacks appear to be hate crimes motivated by the victim's gender and activism, as in the cases of the November 9, 2019 beating of LGBTQ+ activist [Alejandra Vega Balenciaga](#) in San Pedro Sula and the murder of trans woman [Bessy Michelle Ferrara](#) who was killed with 8 shots on July 8, 2019 in Comayagua. Notably, assaults against LGBTQ+ persons [increase](#) during July, Pride month.

U.S. policy priorities—migration cooperation, not corruption

U.S. policy rewards Honduras for collaborating with the new program in which Honduras, as well as Guatemala and El Salvador, will accept deported asylum seekers from other countries. There are some important positive messages that continue to be sent from the Embassy's chargé d'Affaires and the State Department, particularly support for [renewing MACCIH's mandate](#) and the helpful presence of the Embassy's human rights officer at the Cáceres trial and the trial of the Guapinol community leaders. But these signals are far outweighed by the dominant message, which is: it does not matter if the president of Honduras is corrupt, involved in drug trafficking, and repressive, as long as he accepts deported asylum seekers and endorses the fiction that Honduras is a "safe third country."

Recommendations for U.S. Policy

For Guatemala, the State Department and U.S. Embassy should:

- immediately issue public statements of support for human rights ombudsman Jordan Rodas and urge the release of the office's budget;
- increase public statements, social media, and actions in support of Guatemala's human rights defenders, stressing concerns about the widespread criminalization of human rights defenders as well as threats and attacks;
- express concerns regarding restrictions on nongovernmental organizations and journalists; and
- encourage strengthening, not weakening, of the Public Prosecutor's Human Rights Unit and the Prosecutor's Office against Impunity (FECI).

For Honduras, the State Department and the U.S. Embassy should:

- immediately insist that the President of Honduras agree to a four-year renewal of MACCIH's term with the same mandate as it currently has;
- end public expressions of support for President Hernández and his administration to send clear signal that corruption, drug trafficking, and repression are not tolerated;

- increase public statements, social media, and actions in support of Honduran human rights defenders, stressing concerns about criminalization of Honduran human rights defenders, including the Guapinol community leaders; push for effective prosecution of the intellectual authors of Berta Cáceres' murder;
- urge effective prosecutions of the security forces involved in the killings of protesters, an end to the use of the armed forces and Military Police in responding to protest, and the development and use of an appropriate protocol in protest situations for the civilian police. The embassy should also make strong public statements when abuses against protesters take place; and
- express concerns regarding restrictions on nongovernmental organizations and journalists and monitor application of the penal code.

For both countries, the U.S. State Department should:

- release aid to civil society and accountable local governments for violence prevention, poverty reduction, opportunities for youth at risk, women's and LGBTQ+ rights, anti-corruption efforts and human rights initiatives, while withholding all military assistance.

In addition, the Congress should:

- make public statements immediately urging renewal of MACCIH's term in Honduras with the same mandate;
- carry out vigorous oversight of safe third country agreements with Guatemala, Honduras, and El Salvador, and discourage the administration from advancing with these plans;
- through letters, statements, and social media, express support for the human rights defenders at risk in Guatemala and Honduras; and
- urge the State Department to carry out the above recommendations.

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