



## **Honduras: Space for Activists and Journalists Closing, Wide Open for Corruption**

**Editor's Note:** *This is the first part of a series by Latin America Working Group Education Fund on the intersection of human rights, migration, corruption, and public security in Honduras and El Salvador. You can find the full series at [lawg.org/BetweenDangers](http://lawg.org/BetweenDangers).*

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**“The space for us is closing.”** During a July 2017 trip to Honduras and subsequent contacts with human rights defenders and journalists in Honduras, the Latin America Working Group (LAWG) heard this warning repeatedly. What does this mean in practice?

- Murders of and attacks and threats against human rights defenders and journalists are rampant and go largely unpunished. Some defenders and journalists have gone into exile.
- Penalties—jail time—for social protest and for reporting on social protests are being increased.
- Penalties for government corruption—one major focus of social protests—are being decreased.
- Crackdowns on social protest—such as at the national university—are a constant.
- A law restricting access to information is in full force, facilitating corruption.
- Honduras has failed to clean up the election process prior to the November 26, 2017 elections.

### **More Jail for Protest, Less Jail for Government Corruption**

The Honduran legislature on September 19, 2017 approved article 590 of the Penal Code, allowing judges to condemn some protestors to prison terms of up to 20 years. The article does this by defining “terrorist associations” as any group of two or more people who commit a crime with the intention of “*gravely subverting the constitutional order, gravely affecting public peace or provoking a state of terror in the population or any part of it.*” It states that “*Leadership, promoters or financial supporters of [such an] association should be punished with prison terms of 15 to 20 years.*” The vague definition of “terrorism” in the Honduran context could mean anti-corruption rallies in front of government buildings, indigenous protests that block roads, university sit-ins, or other forms of social protest. [1]

In April 2017, another disturbing revision to the Penal Code, article 335, was passed allowing judges to give 4- to 8-year prison terms to journalists or others whose statements are seen as “apologies for terrorism.” (The provision states that “*anyone who publicly or through the media or other means of communicating to the public makes an apology, elevates or excuses the crime of terrorism or of those who have participated in carrying it out, inciting others to commit terrorism or financing it, will be punished with four to eight years in prison.*”) In practice, this could mean that journalists who covered an unruly protest or reported on government security forces beating protestors, or human rights defenders who issued a statement in support of a rally or condemning repression of protests, could end up in jail. Overly broad provisions regarding slander (crimes against “honor”) impede journalists from running exposés of corrupt officials and businesses. Pro-government reporting is encouraged in a number of ways, including by allowing media to pay taxes owed by running government ads and finding bureaucratic reasons to hold up license renewals for opposition media. [2]

“Never in our history,” said Edy Tabora of the Honduran press freedom association C-Libre, “has journalists’ work been so criminalized,” noting the passage of laws to silence freedom of association. “We are living in an era in which violence has become a daily occurrence... homicides, stigmatization, threats, harassment, use of decrees and laws to silence journalists.” [3]

Meanwhile, penalties for crimes of corruption (“*malversación por apropiación, uso y administración desleal del patrimonio público*” and other similar crimes) were reduced in the new Penal Code. The proposal to reduce the penalties was offered by a member of President Juan Orlando Hernández’s Nationalist Party. [4] These reduced penalties could benefit, among others, government officials implicated in sacking over \$300 million from the Honduran national health care system and channeling \$3 million into the Nationalist Party campaign funds, crimes that are still largely unpunished. The National Anti-Corruption Council termed the actions to reduce penalties for corruption “a chronicle of impunity foretold.” [5] Juan Jiménez Mayor, head of the OAS’s anti-corruption agency in Honduras, MACCIH, called the move “a bad signal for the country.” [6]

A New York investigation related to drug trafficking in Honduras is producing widening allegations of drug trafficking and corruption at the highest levels of the Honduran government. The allegations involve not only ex-President Pepe Lobo, his son Fabio Porfirio Lobo, and other associates, but also members of the current government. [7] The two presidents deny involvement. But in September 2017, Fabio Lobo was sentenced to 24 years for drug trafficking. According to the U.S. Attorney’s Office for the Southern District of New York, “Before and while LOBO’s father was president of Honduras, LOBO used his and his father’s reputation and political network to broker corrupt connections between large-scale Honduran drug traffickers and individuals within the Honduran government, including high-level officials such as sitting Honduran congressmen as well as customs, military, and law enforcement personnel. By managing security and what LOBO described during a recorded meeting as ‘logistics’ for these criminals, LOBO facilitated and participated in extensive cocaine trafficking with strong support from multiple elements of the Honduran government.” [8]

Despite this widening scandal, the Honduran legislature has still failed to pass legislation recommended by MACCIH to allow plea bargaining tools to be used to encourage drug traffickers and organized crime members to reveal information on organized crime bosses and corrupt officials.

### **Crackdowns on Social Protest**

Concern about being jailed for protest, or even observing protest, is not an abstract fear in Honduras. On September 8, 2017, four human rights defenders were observing the eviction of students protesting in the National Autonomous University of Honduras (UNAH). [9] They were in a car owned by the Honduran government’s human rights ombudsman’s office along with ombudsman staff, also there to monitor the tense situation with the students. Police approached, stopped the car and ordered them out, which the human rights defenders refused to do. The ombudsman staff abandoned the car and retreated to a distance. The police then threw tear gas into the car, forcing the defenders out of the vehicle. Two of the defenders had to be treated at a hospital. These human rights defenders, carrying out their legitimate work monitoring the eviction of the students, then had charges lodged against them for “cover-up” and for “attacks against the state of Honduras.”

Twenty-six students were detained the same day and human rights defenders denounced excessive use of force by the police. [10] The student protests are part of a long-running standoff between UNAH’s administration and students calling for changes in university leadership and greater student participation in university affairs. Numerous students face legal charges, including for “sedition,” and expulsion from the university, while “complaints of threats against the students gather dust in the [file] drawers of the Public Prosecutor’s office.” [11] One student facing charges was murdered as was the father of another student protestor; another student activist was tortured in August 2015 by police,

burned with a lighter, and threatened with disappearance. [12]

This is just one of the latest examples of excessive use of force against protestors and violations against and prosecutions of human rights defenders. Indigenous people protesting dams, communities rejecting mining concessions in their neighborhoods, and campesino activists defending their lands are some of the many groups of people who face criminalization of social protest and excessive use of force by police, armed forces, and private security. Criminal charges against activists mount while cases of threats and attacks against them stall. [13]

### **Death Threats and Murders of Defenders and Journalists**

José de los Santos Sevilla was at his home in Montana del la Flor, La Ceiba on February 17, 2017 when five men burst in and opened fire. Santos Sevilla was a teacher and leader of the indigenous Toluán people, who are fighting to protect their lands from mining and logging projects. [14]

Moisés Sánchez, leader of the Honduran agricultural trade union STAS, was attacked by six armed men on April 13, 2017, as he was bicycling with his brother, Misael, who was seriously wounded as he was protecting Moisés. Moisés Sánchez was kidnapped, beaten, and threatened with death if he continued his union work. [15]

Honduras remains one of the most dangerous countries in the world for human rights defenders and journalists. The risks for human rights defenders and journalists increased dramatically since the 2009 coup. For the last decade, according to Global Witness, Honduras has been the most dangerous country in the world per capita for land and environmental defenders, with 123 of these defenders killed since the June 2009 coup and 14 killed in 2016. At least 17 beneficiaries of “precautionary measures” (emergency protection demanded by the Inter-American Commission on Human Rights and intended to be implemented by the Honduran state) were killed in Honduras between 2001 and mid-2016, starkly illustrating the Honduran government’s failure to protect human rights defenders. In addition to the human rights defenders killed in 2016, more than a dozen lawyers and justice operators were murdered, according to the National Commission for Human Rights in Honduras (CONADEH). [16] Nine human rights defenders left the country due to attacks and intimidation. [17] Anti-corruption activists are among those under attack and forced into exile.

Unionists face threats, attacks, and harassment. Unions are weakened by dismissals of unionized employees and union leaders, and teachers’ unions are especially targeted. [18] The International Trade Union Confederation 2017 index gives Honduras its lowest rating: “no guarantee of rights.” [19]

Three journalists were murdered this year as of September 2017. Carlos William Flores, director of the TV program *Sin Pelos en la Lengua* (Channel 22) was shot multiple times by unknown individuals traveling in a vehicle in Omoa municipality. “The journalist was known to take a critical stances toward the extractive industry,” according to the Inter-American Commission on Human Rights. [20] “The lack of accountability for crimes against journalists impedes the establishment of whether the crimes are connected with their work and thus promotes the notion that journalists are simply victims of generalized violence,” explains the UN High Commissioner for Human Rights’ office in Honduras (OHCHR-Honduras). [21] According to the National Human Rights Ombudsman’s Office, 69 journalists were killed from 2001-January 2017, 23 of these murders since January 2014; only 9 percent of the murders have been successfully prosecuted. [22] Conversations with Honduran journalists reveal the

pressure and threats they receive from national and local political leaders and police, among other sources of risk.

Threats and attacks against human rights defenders are rarely brought to justice. The perpetrators have not yet been brought to justice in a single one of 13 cases of beneficiaries of precautionary measures who were killed between 2012 and 2016, according to OHCHR-Honduras in its 2016 annual report; as of the date of that report, five cases are in the trial phase, six are under investigation and two are still awaiting assignment of a prosecutor. [23]

With the spotlight of international attention focused on the assassination of renowned indigenous activist Berta Cáceres on March 2, 2016, there has been some progress in investigating and prosecuting the material authors of this crime, including current and retired military officers and dam company personnel. However, even in this most high-profile case, to date little progress is evident in bringing the intellectual authors to justice. Moreover, attacks, threats, and harassment continue against Berta Cáceres' family members and COPINH leaders. [24]

A mechanism to protect human rights defenders, journalists, and justice operators was established and is beginning to be implemented in Honduras, which is a step forward. However, the mechanism covers only 104 people as of August 2017; [25] beneficiaries complain that police patrolling is erratic and some beneficiaries receive little more than courses in self-protection. On July 10, 2017, LGBTI human rights defender David Valle was gravely wounded at his house; he had solicited protection measures and the only measures implemented were the installation of cameras and, reportedly, an urgent phone line, when this attack took place. [26]

To make matters worse, public officials place human rights defenders in danger by publicly attacking their work and failing to react when they are killed or threatened. [27]

## **The Law of Secrets**

In 2014 the Honduran Congress approved the Law for the Classification of Public Documents Related to Security and National Defense, more popularly known as the "Law of Secrets." This law undermined progress in freedom of information and transparency efforts in Honduras that had advanced in the previous decade. The law gives the National Defense and Security Council broad authority to classify documents for 5 to 25 years, and the public as well as other government agencies have to appeal to the council to declassify documents. [28]

Critics note that the law has made it impossible to know, for example, how the government is spending the special security tax that was levied or to access information about whether the drop in homicides claimed by the government is backed by valid data. However, the information restricted is not limited to national security. The Council has classified documents from agencies such as the national health system and water and electrical utilities, making it difficult to monitor budgets and spending. "This law of secrets is a shield for those who are corrupt, it's that simple," said Libre opposition deputy Jorge Calix. [29] The Student Anti-Corruption Coordinator, a watchdog organization coming out of the Indignados anti-corruption movement, noted that the Law of Secrets and the untransparent security tax "have created conditions that allow government officials to misappropriate public funds to benefit the political elite." [30] The MACCIH has called for revisions to the Law of Secrets—but so far it is still in force.

## **Elections Without Full Guarantees**

Hondurans go to the polls to elect a President and members of the legislature on November 26, 2017. The MACCIH, European Union and other international actors urged the Honduran legislature to pass a law on campaign financing and other election-related issues, which was passed on October 20, 2016. However, anti-corruption watchdogs note that after the vote, changes were made in the law, dropping a provision that prohibited companies receiving government contracts and concessions (such as mining concessions) from making campaign contributions. Implementation of the law was also delayed until after the primary elections in March 2017.

Supporters of the opposition coalition question whether problems affecting the 2013 elections have been resolved, such as parties offering store discounts and other benefits to voters, voters' assignments to distant voting locations, or allegations that some transmissions from voting tables to the Supreme Electoral Council were changed. They also denounced use of state resources for the President Hernández's reelection campaign and lack of sufficient opposition representation in the Supreme Electoral Council and at polling stations. Six weeks before the election, one million voter identity cards were not yet delivered.

The Honduran Catholic Bishops' Conference issued an unusually strong statement regarding the context of the elections, lamenting the lack of separation of powers and rule of law in recent years. [31]

Above all, the election is clouded by the question of presidential reelection. In April 2015, the Supreme Court ruled invalid the constitutional provision prohibiting presidential reelection, allowing President Juan Orlando Hernández to run for reelection. Constitutional scholars noted that the Supreme Court does not have the power to change the Constitution, just to interpret it, and in effect this ruling changed a provision of the Constitution. [32] Despite this controversy, the President's reelection campaign went forward.

Reelection, or no reelection, is a reasonable question for Hondurans to decide. But as no one in Honduras can forget, the ostensible reason of the 2009 coup, with all of its damaging impact on human rights and democratic institutions, was to prevent President Manuel Zelaya from carrying out a referendum on whether presidential reelection should be permitted.

## **Undeterred**

Despite the threats and against the odds, Hondurans are organizing for their rights. In the one week during the LAWG's July 2017 visit, for example, indigenous movements led a daily rally in front of a Tegucigalpa hotel where a conference for international mining companies was promoting the ease of investing in Honduras; students were protesting at the UNAH; think tanks and civil society groups were hosting workshops and conferences on democracy and human rights; anti-corruption activists were advocating with the Congress and planning their next moves; LGBTI organizations were documenting violence against LGBTI Hondurans; and human rights defenders were accompanying the student strikes so that possible excessive use of force by police or private security would not go unwitnessed. Communities in rural Honduras are organizing referendums on mining and other projects on their territories. But all of these determined Honduran citizens are defending their rights at great risk.

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***By Lisa Haugaard***

## End Notes

- [1] President Juan Orlando Hernandez's National Party provided the votes for this disturbing decree, and some opposition leaders opposed it, but many opposition members failed to show up for the vote—allowing it to be approved with only 42 of 128 deputies in favor.
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