

## Report on Honduras

### **Situation on Human Rights, Judicial Independence, Poverty Reduction and Promotion of Economic Growth, Militarization of Law Enforcement and Compliance with Conditions in the U.S. Department of State, Foreign Operations, and Related Programs Appropriations Act for FY16 related to the Alliance for Prosperity in the Northern Triangle of Central America**

#### **Coalition Against Impunity<sup>1</sup>**

The [U.S. legislation regarding the] Plan for the Alliance for Prosperity establishes that to ensure disbursements of the US\$750 million in aid for the countries of the Northern Triangle of Central America—Guatemala, Honduras and El Salvador—the governments must comply with certain conditions:

- I. The State, Foreign Operations Appropriations Act for FY2016 states in Section 7045(3)(B) that beneficiary governments must **“(iii) implement reforms, policies, and programs to improve transparency and strengthen public institutions, including increasing the capacity and**

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<sup>1</sup> The Coalition Against Impunity is made up of the following organizations: Association of Youth in Movement (AJEM); Association of Judges for Democracy (AJD); Association of Renewed Intibucán Women (AMIR); Trans Feminist Association (AFeT); Association of Food International Action Network (FIAN) Honduras; Association of the Scalabrini Missionary Sisters of San Carlos Borromeo; Inter-municipal Association for Development and Social Monitoring of Honduras (AIDEVISH); LGBT Rainbow Association of Honduras; Association of Persons Living with HIV/AIDS (ASONAPVSIIDA); the Association for Participatory Citizenry (ACI-PARTICIPA); CARITAS – Diocese of San Pedro Sula; Center for the Rights of Women (CDM); Center for Human Development (CDH); Center for Education and Prevention in Health, Sexuality and HIV/AIDS (CEPRES); Center for Women’s Studies—Honduras (CEM-H); Center for Studies for Democracy (CESPAD); Center for the Investigation and Promotion of Human Rights (CIPRODEH); Center for the Prevention, Treatment and Rehabilitation of Victims of Torture and their Families (CPTRT); Diamond LGBT Collective of La Lima; Gemas Collective; Pink Color Unity Collective; Committee of Relatives of the Detained and Disappeared of Honduras (COFADEH); Committee of Relatives of Disappeared Migrants from El Progreso (COFAMIPRO); Committee for Freedom of Expression C-Libre; Convergence for Human Rights of the Northeastern Zone; Chrysalis of Villanueva; Coordination of Private Institutions for Children, Adolescents, Youth and their Rights (COIPRODEN); Independent Monitoring Group of Honduras (EMIH); Reflection, Investigation, and Communication Team (ERIC-Society of Jesus); University Feminists; Franciscan Family of Honduras (JPIC); Broad Front of COPEMH; Forum of Women for Life; National Forum on Migration (FONAMIH); Social Forum on External Debt and Development of Honduras (FOSDEH); United Indignant Citizens of Honduras (“Indignados”); Just Associates (JASS) of Honduras; Broad Movement for Dignity and Justice (MADJ); Diversity in Resistance Movement (MDR); “Visitación Padilla” Women’s Peace Movement; Permanent Observatory of Human Rights in the Aguán; Christian Organization for Comprehensive Development (OCDIH); Pastoral Group on Human Mobility of the Bishops’ Conference of Honduras; Young Women’s Network of Cortés; United Network of Women of Ramón Amaya Amador Neighborhood; Participatory Network of Civil Society Organizations of Siguatepeque (RPOSC); National Network of Women Human Rights Defenders of Honduras; Tribunal of Women Against Femicide; Union of Companies and Organizations of Rural Workers (UTC-La Paz).

**independence of the judiciary and the Office of the Attorney General** (bold and underlining are ours).

- a. Regarding this condition, we believe that Honduras is not making sufficient progress, especially with regard to strengthening judicial independence. For example, the new Supreme Court, two months after it was installed, published a judgment in the official *Gazette* dated 14 March 2016, in which it declared unconstitutional Articles 4, 23, 24 and 64 of the Council of the Judiciary and Judicial Service Law, arguing the “extensive effect” of this declaration, and repealed the entirety of this law governing the framework of judicial independence and the system for appointing and promoting judges and appeals court magistrates.<sup>2</sup>
- b. The main consequences of this declaration of unconstitutionality include i) the demise of the Council of the Judiciary and Judicial Service, and (ii) consolidation of administrative functions in the Chief Justice of the Supreme Court,<sup>3</sup> to the detriment of the separation of administrative and legal functions.<sup>4</sup> This thereby limits the scope of the reform of Articles 303 and 317 of the Constitution of Honduras, which sought to improve the formal-objective structure of judicial independence by creating the Council of the Judiciary, and the separation of functions in the leadership of the judiciary.
- c. This judgment of unconstitutionality is a serious setback in terms of human rights, as one of its serious effects is that repeal of the Council of the Judiciary Law then puts the old Judicial Service Law of 1980 back into effect.<sup>5</sup> This decision means that the previous disciplinary system is back in force. This old system had been applied to the victims in the case of *López Lone et al. vs. Honduras*, in which the judgment of the Inter-American Court of Human Rights considered it to be too vague by granting “excessive discretion” to the body charged with imposing sanctions against judges.<sup>6</sup> The Inter-American Court of Human Rights also asserted that under this law it was especially hard to determine the competent authority to apply sanctions and that there was a lack of guarantees of

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<sup>2</sup> “**SECOND:** Applying the extensive effect of the declaration of unconstitutionality, **declares unconstitutional** Legislative Decree No. 215-2013 [Council of the Judiciary and Judicial Service Law], issued by the National Congress of the Republic, on the 6th of September 2013, published in official *Gazette* No. 33, 244, on the 2nd of October 2013” (operative part of the Supreme Court’s Judgment of Unconstitutionality, 14 March 2016).

<sup>3</sup> And, with the entry into force of the Council of the Judiciary and Judicial Service Law, **Transitory Article 3** of Decree No. 5-2011 was implicitly repealed; but this was now back in effect with abrogation of the Council of the Judiciary and Judicial Service Law, meaning that the Chief Justice of the Supreme Court regains all the powers this decree conferred and the Law of Judicial Service, its Regulations and the Internal Regulations of the Council of Judicial Service go back into effect. (holding of the Supreme Court’s Judgment of Unconstitutionality, 14 March 2016).

<sup>4</sup> **Transitory Article 3** of Decree No. 5-2011 states: “The Chief Justice of the Honorable Supreme Court is empowered to retain the power to select, appoint and dismiss judges, justices and administrative personnel according to the provisions of the law; and at the same time the power to organize and administratively run the ‘judiciary’” (extract copied from the Supreme Court’s Judgment of Unconstitutionality, 14 March 2016).

<sup>5</sup> “... And the Judicial Service Law, its Regulations and the Internal Regulations of the Council of Judicial Service go back into effect” (extract copied from the Supreme Court’s Judgment of Unconstitutionality, 14 March 2016).

<sup>6</sup> Inter-American Court of Human Rights, Case of *López Lone et al. vs. Honduras*. Preliminary Motion, Merits, Reparations and Costs. Judgment of October 5, 2015, paragraph 264.

the independence of the Judicial Service Council. In these circumstances, by the abovementioned laws taking effect again, there is a high degree of probability that new violations of human rights and new attacks against judicial independence will take place.<sup>7</sup>

#### **Concentration of Powers**

- d. Another important issue about the reforms being implemented by the current government is that they are not focused on strengthening public institutions, but instead are using the State apparatus for the governing party's reelection scheme. Along these lines, the reforms have at least three purposes: i) centralize power in the President of Honduras and in the National Council for Defense and Security to ensure social order;<sup>8</sup> ii) adapt the legal framework and State institutional framework to the needs of private national and international capital; and iii) develop a handout-based social policy—based on transfer payments—to expand and consolidate the electoral base of the governing party.
- e. These reforms, which concentrate key public management functions in the office of the President, above all in matters of security, the economy and social protection, also show clear evidence of restricting the right of access to public information, especially that related to 18 important state institutions. This was guaranteed with the adoption in January 2014 of the Law to Classify Public Documents Related to Security and National Defense, known as the “Official Secrets Act.” This law limits the functions of the Institute for Access to Public Information and is incompatible with the constitutional and international legal framework regarding transparency, human rights and the fight against corruption, and openly contradicts the provisions of the Inter-American Convention Against Corruption ratified by Honduras on 25 May 1998 and the Johannesburg Principles on National Security, Freedom of Expression and Access to Information.

II. Section 7045(3)(B) of the conditions establishes that the government should: “**(vii) cooperate with commissions against impunity, as appropriate, and with regional human rights entities.**” The following examples reflect the extent to which Honduras is cooperating with the Inter-American Human Rights System, particularly whether it is complying with the judgments of the Inter-American Court of Human Rights in the cases in which it was found internationally responsible for violations of rights recognized by the American Convention on Human Rights.

- a) In the case of the judgment in “López Lone et al. vs. Honduras” of 5 October 2015, seven months have elapsed since the government was notified, yet the judgment has not been executed. The victims have not even been summoned to establish a roadmap to guide effective

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<sup>7</sup> Ibid. Paragraphs 2, 221 and 228.

<sup>8</sup> These institutional reforms are supported by Legislative Decree No. 266-201—The Law to Optimize Public Administration, Improve Public Services and Strengthen Government Transparency—which modifies seven legal instruments necessary for the public administration to function, including: i) Law of Public Administration, ii) Law of Administrative Procedure, iii) Law of Government Contracting, iv) Law on Jurisdiction of Administrative Disputes, v) Organic Budget Law, and vi) Law of the Superior Audit Tribunal.

implementation of the reparation measures ordered by the Inter-American Court of Human Rights, such as the reinstatement of justices Tirza del Carmen Flores Lanza, Adán Guillermo López Lone and Luis Alonso Chévez de la Rocha, and payment of the appropriate compensation for material and nonmaterial damages.

- b) Judgments in the following Inter-American Court of Human Rights cases are likewise in total or partial noncompliance: “Punta Piedra Garifuna Community and its Members vs. Honduras” and “Triunfo de la Cruz Garifuna Community and its Members vs. Honduras,” both of 8 October 2015, and “Pacheco Teruel et al. vs. Honduras” of 27 April 2012, which has been impossible to implement due to multiple delays and lack of political will by the Honduran government.
- c) Similarly, the Honduran government has not been diligent in implementing precautionary measures [to protect human rights defenders, journalists and others] decreed by the Inter-American Commission on Human Rights (IACHR), which, from 2009 to 2015, verified the existence of serious and urgent situations and imminent risk of irreparable harm to the life and safety of at least 429 Hondurans. However, most of these measures are not being effectively implemented by the government, which to date has resulted in the killing of 14 persons subject to these [precautionary] measures, among them, natural resources defenders, indigenous tribal leaders and members, and LGBTI community activists.<sup>9</sup>

III. Regarding condition “**(viii) support programs to reduce poverty, create jobs, and promote equitable economic growth in areas contributing to large numbers of migrants,**” it is relevant to note that:

- a) In Honduras, official statistics acknowledge that in 2014, poverty reached 68.2% of the population and during 2015 increased to 68.7%, which, according to the World Bank, makes Honduras one of the most unequal countries in Latin America. In absolute terms, this increase means there are 222,306 people newly living below the poverty line, of which 129,375 are extremely poor.

IV. Another condition indicates that [the government] must “**(ix) establish and implement a plan to create a professional, accountable civilian police force and curtail the role of the military in internal policing.**” However, the government’s progress has not been sufficient or notable, especially given the central role or intervention of the military in law enforcement. In this regard, it is important to note:

- a) With the growing disrepute and ineffectiveness of the National Police and the failed purge begun with the creation of the Bureau of Investigation and Evaluation of Police Service, and the Public Safety Reform Commission, which in four years and spending 222 million lempira did not remove

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<sup>9</sup> REYES R., German H. [Precautionary Measures Do Not Prevent Killing of 14 Social Activists in Honduras] “Medidas cautelares no impidieron el asesinato de 14 activistas sociales en Honduras.” *Revistazo*. Monday, 14 March 2016. Available at <http://www.revistazo.biz/web2/index.php/nacional/item/1119-medidas-cautelares-no-impidieron-el-asesinato-de-14-activistas-sociales-en-honduras>

a single commissioner general of police, the President of Honduras created the Special Commission for the Purge and Restructuring of the National Police in mid-April. This, according to reports, to date has evaluated 164 officers with the rank of commissioner general, commissioner or deputy commissioner, has purged 68 senior officers and is currently investigating 108 commissioners. However, none of the senior officers who have been dismissed or are under investigation has been accused in court and their unlawful acts have still not been clarified. In addition, people who allegedly participated in serious human rights violations have been confirmed in their positions. Furthermore, the Commission included an evangelical pastor, which is in violation of the Constitution.

- b) However, at the same time—and despite that in a nation governed by the rule of law, democratic norms dictate that public safety issues should be under the exclusive purview of civilian police forces that are properly organized and trained—the military has been given public security duties that go beyond support for civilian authorities and the police, given that they patrol the streets, set up checkpoints and document checks, dismantle drug distribution sites, conduct arrests and searches, and direct different intelligence agencies and key institutions ranging from the National Telecommunications Company, the General Directorate of Migration and Foreigners Services, the Honduran Civil Aeronautics Agency, and the National Registry of Persons, to the Honduran Institute of Agricultural Marketing. The little that was achieved with the demilitarization of the mid-1990s was undermined, receiving its coup de grace with the creation of the Military Police for Public Order (PMOP) and the appointment of an active-duty member of the armed forces to head the Secretariat of Security.<sup>10</sup>
- c) Of great concern is the creation of the National Directorate of Investigation and Intelligence (DNII), which reports directly to the National Council on Defense and Security; more than a coordinating body, it has all the characteristics of a supra-government headed by Honduras' President. This directorate is a structure independent of other ministries and institutions with the goal of gathering and providing accurate and confidential information to office-holders in the executive, legislative and judicial branches before making decisions on crime fighting, working with surveillance units to search for information on extortion, contract killings and drug trafficking and with units involved in interception of communications and the investigation of high-profile cases or ones affecting society.
- d) However, there is no real control over the information collected by the DNII because its director has sole discretion over it, undermining the transparency, credibility and legal certainty of public prosecution, perilously meddling in criminal investigations that are constitutionally the responsibility of the Office of the Attorney General, and lending itself to violations of rights such as the privacy of communications and individual privacy. In turn, since its inception, its leadership and highest-ranking positions have been in the hands of members of the military, and

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<sup>10</sup> Inter-American Commission on Human Rights. *Situation of Human Rights in Honduras*. OEA/Ser.L/V/II. Doc. 42/15. 31 December 2015, paragraph 243, p. 101.

although in theory it is a civilian intelligence agency, everything indicates that a military approach reigns in the implementation of policies adopted by the National Council on Defense and Security.

- e) On 27 June 2013, Decree 103-2013 entered into force, creating the TIGRES (Intelligence and Special Security Response Group Units), an elite group that focuses on special operations against organized crime and terrorism. However, there is insufficient clarity about its coordination with other police units, its role in investigations that are central to the fight against organized crime and the accountability of its agents for their actions. On 22 August 2013, Decree 168-2013 created the Military Police for Public Order, which is part of the Armed Forces. It is composed of military personnel and is a strike force empowered to (a) act in emergency situations; (b) apprehend people associated with criminal structures; (c) conduct investigations and intelligence activities in the offensive against organized crime; (d) combat smuggling and tax fraud; and (e) other National Police duties. In practice, this last function enables the military to remain on the streets continuously carrying out crime prevention, suppression and investigation.
- f) It is extremely serious that the Military Police should be accompanied by prosecutors and judges with national jurisdiction and authority who have passed tests to evaluate trust given by the DNII, whose director is appointed by the National Council on Defense and Security, outside the judiciary and the Office of the Attorney General. Given that these prosecutors and judges are precisely those who are empowered to criminally prosecute crimes committed by military police, this relationship of “accompaniment” is, at the least, problematic in terms of the independence and impartiality that should exist in the investigation and punishment of those responsible for human rights violations. In turn, judges and prosecutors with national jurisdiction may hold hearings without revealing their physical location, through virtual media, and may even reside outside the country. But what is even more concerning is that hearings in some cases heard by courts with national jurisdiction are held in military installations, seriously affecting the perception of impartiality in these trials, which together with true impartiality, is critical to maintaining respect for the administration of justice and public trust in the justice system.
- g) This growing military presence has even permeated the prison system, for which (i) a trio of colonels was appointed to head the prisons in clear violation of the provisions of the National Penitentiary System Law; (ii) the director of the National Penitentiary Institute and the directors of the main prisons were put under the authority of the armed forces; and (iii) preventive detention centers were authorized to be established in military installations that in practice are guarded by military personnel.
- h) The budget is the best indicator for learning about the priorities of a government and along these lines, when comparing figures for 2015 and 2016, it is evident that the shared budget allocated to Defense and Security is the only one that has increased from 6.8% al 8.8% (13.736 billion lempira) of the national budget and is similar to the budget for the Secretariat of Health (14.385 billion lempira). In other words, the government “is earmarking a similar amount of

resources to buy weapons, police and military patrol cars and other vehicles, military uniforms, and salaries for police and military personnel, as it allocates to the purchase of medicines, equipment for public hospitals, upgrading health facilities, etc.”<sup>11</sup>

- i) Moreover, on 5 July 2011, the Population Security Law – known as the “Security Tax”— was adopted, which by October 2015 has brought in some 400 million dollars as a result of a 0.3% tax on bank transactions. Most of the resources that have been amassed in recent years have been for security, defense and intelligence (87%), while 7% has gone to prevention, 5% to the Office of the Attorney General and the judiciary, and 1% to municipal governments. This obviously lopsided distribution of resources is disturbing, since allocations to defense and security allow for hiring 200% more personnel than the judiciary currently has and 600% more than the Office of the Attorney General. If the lack of an impartial and effective investigation is one of the main reasons for the country’s high rates of impunity, the above-detailed breakdown shows that the priority of the current administration is not to sufficiently strengthen the government’s investigative institutions, but rather to focus its energy on building up the military.

V. With regard to condition number “(x) **protect the right of political opposition parties, journalists, trade unionists, human rights defenders, and other civil society activists to operate without interference,**” it is important to note the following:

- a) The case of the murder of indigenous grassroots leader Berta Cáceres, and the partial impunity surrounding it due to the paucity of compelling advances in identifying and punishing all the perpetrators and masterminds, is an example of the government’s inability and lack of political will to comply with this condition. In this regard, we mention the following:
  - To date only four people have been identified as alleged perpetrators of this crime: Douglas Yovani Bustillo (a retired lieutenant); Mariano Díaz Chávez (an active-duty member of the Special Forces of the military and instructor of the Military Police for Public Order); Sergio Rodríguez Orellana (social-environmental and communications manager for DESA, an energy development company); and Atilio Duarte Meza (a retired army captain).<sup>12</sup>
  - In this case, the investigations and prosecution were declared secret, which has prevented the victims (Berta Cáceres’ daughters, son and mother) from knowing the status of the proceedings, limiting their rights and their chances to provide evidence in

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<sup>11</sup> Centro de Estudio para la Democracia. *La militarización amenaza a las libertades democráticas*. CESPAD. Tegucigalpa. January 2016, p. 4.

<sup>12</sup> “Cuatro detenidos por supuesta participación en crimen de Berta Cáceres.” *El Heraldo*. 4 May 2016. Available at <http://www.elheraldo.hn/pais/955688-466/cuatro-detenidos-por-supuesta-participaci%C3%B3n-en-crimen-de-berta-c%C3%A1ceres>

this case for effective justice. Neither has the government agreed to the formation and involvement of an independent international commission to contribute to investigations that are underway, in light of mistrust of the institutional structure.

Contrary to what might have been compliance with this condition, human rights defenders, journalists and other civil society activists, such as college students, have been victims of illegal detentions, killings and criminalization of their work to defend rights, recently documented in the alternative report submitted by the Honduran Universal Periodic Review (UPR) Platform to the United Nations Committee on Economic, Social and Cultural Rights.<sup>13</sup> The following are several cases of defenders who have been murdered in 2016:

- a) Lesbia Yanet Urquia: Environmental leader, murdered on 6 June in Marcala, La Paz.
- b) René Martínez: Murdered on 3 June 2016, leader of the San Pedro Gay Community LGBTI collective in San Pedro Sula, Cortés, in northern Honduras.
- c) Alejandra Padilla: Trans community human rights defender murdered on 15 April 2016 in San Pedro Sula. According to the Inter-American Commission on Human Rights, as of 2014, 69 hate crimes against transgender women had been reported in Honduras.
- d) Nelson Noé García: Murdered on 15 March 2016 in the Río Chiquito community in the Department of Cortés. He was a leader in the Civic Council of Popular and Indigenous Organizations of Honduras (COPINH).
- e) Berta Isabel Cáceres Flores: Murdered on 2 March 2016 in her home in La Esperanza, Department of Intibucá. She was a Lenca indigenous advocate and coordinator of COPINH, and led the fight against the activities undertaken without consultation by the DESA corporation, concessionaire of the Agua Zarca hydroelectric project, which affects the Gualcarque River and access by the Lenca people to this water resource.
- f) José Pantaleón Alvarenga Galdámez, Elvin Joel Palencia Fuentes, Carlos Roberto Palencia Fuentes, Nahún Alberto Morazán Sagastume, Santos Filander Matute: Members of the Tolupán people, specifically the San Francisco de Locomapa tribe, murdered on 21 February 2016 in the hamlet of Cabeza de Vaca Número Dos, Department of Yoro. They were massacred together and four of them belonged to the same family.
- g) Paola Barraza: Murdered on 25 January 2016. She was a transgender woman who was a human rights advocate and member of the board of directors of the Rainbow LGBT Association in Comayagüela, Francisco Morazán.

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<sup>13</sup> Plataforma EPU-Honduras. *Informe Alternativo al Segundo Informe del Estado de Honduras ante el Comité de Derechos Económicos, Sociales y Culturales*. 58th Session. May 2016.



With regard to these murders, the Committee on Economic, Social and Cultural Rights recommends that the Honduran government “thoroughly and effectively investigate all allegations and attacks against the life and physical safety of human rights defenders, including defenders of economic, social and cultural rights, for which the Committee recommends adopting effective measures such as the creation of a special prosecutor’s office in the Office of the Attorney General to investigate these crimes and properly punish those responsible for the recent murders of Berta Cáceres and René Martínez, and widely disseminate the results of these investigations.”<sup>14</sup>

**Attacks on journalists.**<sup>15</sup> The executive branch holds almost absolute control over the media, as a result of which, journalists and social communicators who attempt to break through the media blockade and responsibly exercise their freedom of expression and right to information as citizens have been victims of attacks seeking to intimidate them and silence their voices. The following are several specific cases:

- a) Lesly Banegas Frazier and Inmer Gerardo Chévez, journalists with Radio Progreso: On 11 June 2016 they were repressed by police when covering a public demonstration against the construction of a toll booth in San Manuel, Cortés.<sup>16</sup>
- b) Benjamín Zepeda Carranza, a journalist with Radio Globo: On 9 June 2016 he was assaulted by a traffic policeman in a bus on the urban Tegucigalpa route to prevent him from videotaping to record an event.
- c) Juan Carlos Álvarez, a cameraman for Mundo TV television station: He was shot and injured on 9 June 2016 while on his way to work. The incident occurred in a taxi in the capital.
- d) Cesario Padilla and Eleana Borjas, journalists with Pen Honduras and Radio Progreso, respectively, and José Somoza, a human rights defender: On 1 June 2016 they were assaulted by officers of the National Police. The incident occurred in front of the National Autonomous University of Honduras (UNAH) while they were covering a public demonstration by college students.
- e) Félix Antonio Molina, a freelance journalist and director of Communication Alternatives (ALTER-ECO): On 2 May 2016, he was attacked by unknown assailants on two different occasions in Tegucigalpa, in which he received four gunshot wounds, two in each leg, causing serious injuries.
- f) Globo TV: On 20 May 2016, officials from the National Telecommunications Commission (CONATEL) took Globo TV off the air, alleging that, along with 21 other television stations, its operating permits had expired. Suspension of the television signal was done without respect for

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<sup>14</sup> Comité de Derechos Económicos, Sociales y Culturales. *Observaciones finales sobre el segundo informe periódico de Honduras*. E/C.12/HND/CO/2. 24 June 2016, p. 3, recommendation 10, a).

<sup>15</sup> Information taken from C-LIBRE alerts on its website. Available at <http://www.clibrehonduras.com/alertas>

<sup>16</sup> Journalists Banegas and Chévez of Radio Progreso have precautionary measures granted by the Inter-American Commission on Human Rights.

the due process that would have enabled Globo TV to correct the administrative error. It should be noted that Globo TV is the main television station that is critical of the government and regularly reports on corruption by current government officials, including the President of Honduras.

**Excessive use of force and criminalization of UNAH students.** In early June 2016, the UNAH student body began a series of peaceful protests, including the takeover of university facilities in different parts of the country, demanding the repeal of certain harmful academic standards that are autocratic and exclusionary.

- a) Instead of establishing constructive dialogue, university authorities have proceeded to request the use of force by the police and military against the students, leading to violent evictions in the cities of Tegucigalpa (7 June) and San Pedro Sula (17 June). An excessive number of military personnel have participated in these operations and have made indiscriminate use of force and of tear gas, harming students' health and wounding them. In turn, participation by military intelligence agents was detected, who had orders to profile and photograph students, which is why they chose to cover their faces for fear of reprisals against them.
- b) University authorities have proceeded to criminalize social protest by students through the abusive use of criminal law against them, which is serious in a country where police officers, judges and prosecutors reduce the exercise of social protest to being an exclusively criminal activity, without making the slightest effort at serious legal analysis, based on constitutional law and international human rights law, which would enable weighing a potential clash of rights. Students who are reported are stigmatized and criminalized, and in addition to being victims of police and military repression, criminal proceedings are brought against them by criminal pigeonholing of conduct and actions that fall within the scope of the exercise of their citizen rights to publically express themselves through social protest.<sup>17</sup>
- c) On 1 July 2016, police violently evicted students from the UNAH. It was reported that the police used excessive force and that several students were wounded; 24 students were arrested, two of them minors. The recently opened office of the United Nations High Commissioner for Human Rights issued a statement on 4 July 2016 expressing "concern for the prosecution of students regarding student protests and the eviction from UNAH premises in Tegucigalpa and other university campuses around the country."<sup>18</sup> Currently there are 110 criminal cases pending against university students in different parts of Honduras, 18 of whom are accused of sedition.

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<sup>17</sup> One of the most commonly used criminal offenses is the crime of unlawful occupation of real property (Article 231 of the Criminal Code), which requires that the intent or purpose of the perpetrator is the appropriation of property. However, even someone who is not an expert in criminal law can understand that the purpose of protests involving the takeover of university facilities is not to appropriate them, but rather to pressure and demand protection of the right to public higher education.

<sup>18</sup> More information in an article in El Heraldo, available at: <http://www.elheraldo.hn/pais/976746-466/preocupa-procesos-contra-estudiantes-de-la-unah-al-alto-comisionado-de-la>

The issue of criminalization brings to the fore the questionable manipulation of justice sector institutions (Office of the Attorney General and the judiciary) that immediately filed charges against demonstrators, in counterpoint to the many cases of human rights violations that have gone unpunished since the 2009 coup. Likewise, the Criminal Code is being used to facilitate criminalization, a situation that has not changed with the New Criminal Code, but rather has worsened, providing new criminal provisions that make it easier to criminalize behavior [related to protest].

With regard to the validity and application of the Law for the Protection of Human Rights Defenders, there have been worrisome formal constraints that restrict participation by civil society organizations, especially in decision-making bodies such as the National Council for Protection. Similarly, we are concerned that governmental agencies have not provided an ongoing forum for dialogue to improve implementation of this law. For this reason, the United Nations Committee on Economic, Social and Cultural Rights recently recommended that the government of Honduras

ensure effective implementation of the Law for the Protection of Human Rights Defenders, Journalists, Social Communicators and Legal Practitioners, among others, allocating sufficient human, financial and technical resources for this purpose [... and investigate] all acts of harassment and defamation of human rights defenders for exercising their duties and conduct information and awareness campaigns about the fundamental work being done by human rights defenders, in order to foster a climate of tolerance that enables them to conduct their work free from any kind of intimidation, threats or retaliation.<sup>19</sup>

**In accordance with the foregoing, we request the following:**

- a) Suspension of economic aid to the government of Honduras in the framework of the Plan for the Alliance for Prosperity in the Northern Triangle of Central America, due to its lack of political will to protect human rights.
- b) These allocations to the Honduran government should be suspended due to its failure to strengthen the independence of the judiciary; for its lack of collaboration with regional human rights agencies (Inter-American Commission on Human Rights and Inter-American Court of Human Rights); for not promoting actions to reduce poverty; for not taking actual measures to demilitarize law enforcement and withdraw the military from public security tasks and other civilian duties; and for not protecting the right of journalists and human rights defenders to carry out their work without interference, coercion, threats and attacks against their life and safety.
- c) Finally, we request that the Honduran government should not be certified or supported in the Plan for the Alliance for Prosperity and we urge support for the “Berta Cáceres Human

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<sup>19</sup> Comité de Derechos Económicos, Sociales y Culturales. *Observaciones finales sobre el segundo informe periódico de Honduras... op. cit.*, p. 3, punto 9.

Rights Act,” to put an end to all aid to police forces as well as equipment and training for Honduran police and military.

**COALITION AGAINST IMPUNITY**

Honduras, 30 June 2016