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AMNESTY  
INTERNATIONAL



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# 1. INTRODUCTION

Amnesty International submits this document to the United Nations (UN) Human Rights Committee (the Committee) ahead of its review of Honduras' second periodic report on the implementation of the International Covenant on Civil and Political Rights (the Covenant). The submission highlights Amnesty International's concerns in relation to a number of questions on the Committee's List of Issues with specific focus on violence against women, right to life, the prohibition of torture and other cruel, inhuman or degrading treatment (other ill-treatment), sexual and reproductive rights, the right to privacy, freedom of expression and opinion and freedom of assembly and association.

# 2. RIGHT TO LIFE AND SECURITY OF PERSON AND PROHIBITION OF TORTURE AND CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT (ARTS. 2, 6, 7, 9 AND 24, LOI PARAS. 8 AND 9)

## 2.1 RIGHT TO LIFE AND SECURITY OF PERSON

Although homicide rates have declined over the last few years,<sup>1</sup> insecurity and violence continue to be major concerns in Honduras. In addition, the level of impunity is alarming and represents one of the determinant factors in the upward spiral of continued violence. Widespread impunity also undermines public trust in local authorities and the justice system.<sup>2</sup>

Young people are particularly affected by violence. From January to September 2016, 1905 persons aged between 15 and 29 were killed.<sup>3</sup> The vast majority of victims is male.<sup>4</sup> Young men

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<sup>1</sup> Police Statistic System (*SEPOL*). Available at <https://www.sepol.hn/artisistem/images/sepol-images/files/Estadistica%20cantidad%20Abril%202017.xlsx>; see also Annual report of the High Commissioner for Human Rights on the activities of his office in Honduras A/HRC/34/3/Add.2, February 2017, para 10. Available at [http://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/34/3/Add.2](http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/34/3/Add.2)

<sup>2</sup> Annual report of the High Commissioner for Human Rights on the activities of his office in Honduras A/HRC/34/3/Add.2, February 2017, para 15-16. Available at [http://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/34/3/Add.2](http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/34/3/Add.2) See also Preliminary Observations on the official visit to Honduras by the Special Rapporteur on extrajudicial, summary or arbitrary executions, 23 to 27 May 2016, available at:

<http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=20030&LangID=E#sthash.4U3h0qJAdpuf> para. 3; and Inter-American Commission on Human Rights, Report on the situation of Human Rights in Honduras, 2015, para 263. Available at [www.oas.org/en/iachr/reports/pdfs/Honduras-en-2015.pdf](http://www.oas.org/en/iachr/reports/pdfs/Honduras-en-2015.pdf)

<sup>3</sup> UNAH – IUDPAS. Observatory on violence p.3, 4, Graphic 4. Available at <http://www.iudpas.org/pdf/Boletines/Nacional/NEd43EneSep2016.pdf>; See also Amnesty International, *Home Sweet Home? Honduras, Guatemala and El Salvador's role in deepening refugee crisis* (AMR 01/4865/2016) page 17.

<sup>4</sup> UNAH – IUDPAS. Observatory on violence p.3, 4, Graphic 4. Available at <http://www.iudpas.org/pdf/Boletines/Nacional/NEd43EneSep2016.pdf>; See also Amnesty International, *Home Sweet Home? Honduras, Guatemala and El Salvador's role in deepening refugee crisis*, page 17.

and boys are being forcibly recruited by gangs; and those who refuse are at risk of violent retaliation.<sup>5</sup> As mentioned below, women and LGBTI people are also particularly subjected to different forms of violence.<sup>6</sup>

Amnesty International's research shows that violence is a key push factor of migration from Honduras, where levels of violence and an increase in the amount of territory controlled by gangs affect the enjoyment by people of their rights to life, physical integrity, education and free movement.<sup>7</sup> As a consequence of the lack of protection and access to justice, many Hondurans have no choice but to flee the country to save their lives. The number of asylum applications from Hondurans worldwide has increased over the last years.<sup>8</sup> Between 2013 and 2015, asylum applications received in Mexico rose by 187 %.<sup>9</sup> The surge in asylum applications by Hondurans and of unaccompanied Honduran minors arriving at the United States southern border until the beginning of fiscal year 2017<sup>10</sup> also reflects the increasing number of people fleeing the country and seeking protection. Of the nearly 69,000 unaccompanied children apprehended at the US border in 2014, 34,495 were from Honduras.<sup>11</sup> In a statement of April 2016, UNHCR considered the situation in the Northern Triangle of Central America (comprised by Honduras, Guatemala and El Salvador) to be a protection crisis: "We are particularly concerned about the rising numbers of unaccompanied children and women on the run who face forced recruitment into criminal gangs, sexual and gender-based violence and murder".<sup>12</sup>

The magnitude of people deported back to Honduras<sup>13</sup> and information received by Amnesty suggest that people fleeing violence do not always receive adequate international protection in Mexico and the United States, and are even exposed to violations of the principle of non-refoulement. Despite some efforts to improve the immediate reception and welcome process for deportees, Amnesty International has seen that this support ends the moment the deportees leave the reception centres, and most of them are sent back to the same conditions they had initially fled, leaving many of them exposed to serious risks to their life and personal integrity.<sup>14</sup> Anecdotal information gathered by the organization and news coverage suggest that new episodes of violence, including murder of deported migrants, are not uncommon.

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<sup>5</sup> Amnesty International, *Home Sweet Home? Honduras, Guatemala and El Salvador's role in deepening refugee crisis*, page 17.

<sup>6</sup> Annual report of the High Commissioner for Human Rights on the activities of his office in Honduras A/HRC/34/3/Add.2, February 2017, para 4 y 10. Available at [https://documents-dds-ny.un.org/doc/UNDOC/GEN/G17/029/29/PDF/G1702929.pdf / http://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/34/3/Add.2](https://documents-dds-ny.un.org/doc/UNDOC/GEN/G17/029/29/PDF/G1702929.pdf?http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/34/3/Add.2)

<sup>7</sup> Amnesty International, *Home Sweet Home? Honduras, Guatemala and El Salvador's role in deepening refugee crisis* (AMR 01/4865/2016), October 14, 2016. Available at <https://www.amnesty.org/es/documents/amr01/4865/2016/en/>; see also Doctors without Borders, *Forced to Flee Central America's Northern Triangle A neglected humanitarian crisis*, 2017, pages 10-11. Available at <http://www.doctorswithoutborders.org/article/report-forced-flee-central-americas-northern-triangle-neglected-humanitarian-crisis>

<sup>8</sup> According to UNHCR available statistic data, asylum applications from Hondurans worldwide increased by 106% between 2014 and 2015, to reach a total of 16,473. UNHCR, *Population Statistics, Asylum-Seekers*, available at [popstats.unhcr.org/en/asylum-seekers](http://popstats.unhcr.org/en/asylum-seekers). See also Amnesty International, *Home Sweet Home? Honduras, Guatemala and El Salvador's role in deepening refugee crisis*, page 25.

<sup>9</sup> Own calculation from data published by the Mexican Commission for Refugees (COMAR) Available at: [http://www.comar.gob.mx/work/models/COMAR/Resource/267/6/images/ESTADISTICAS\\_2013\\_A\\_04-2016\\_act.pdf](http://www.comar.gob.mx/work/models/COMAR/Resource/267/6/images/ESTADISTICAS_2013_A_04-2016_act.pdf)

<sup>10</sup> Although the figures from February 2017 onwards show an overall drop of apprehensions at the US border, Amnesty International considers it is too early to point to definitive reasons for these changes in flows. In addition, experts have noted that each time the government adopts new immigration enforcement measures the numbers fall, only to rebound, in some cases higher than before. See quote from Faye Hipsman, a policy analyst at the Migration Policy Institute, a nonpartisan think tank based in Washington, D.C <http://www.latimes.com/nation/la-na-border-apprehensions-20170309-story.html>

<sup>11</sup> US Customs and Border Protection, *Southwest Border Unaccompanied Alien Children FY 2014*, available at [www.cbp.gov/newsroom/stats/southwest-border-unaccompanied-children/fy-2014](http://www.cbp.gov/newsroom/stats/southwest-border-unaccompanied-children/fy-2014)

<sup>12</sup> Northern Triangle refers to the Central American governments of Honduras, Guatemala and El Salvador. United Nations High Commissioner for Refugees, *UNHCR calls for urgent action as Central America asylum claims soar*, 5 April 2016, available at [www.unhcr.org/news/latest/2016/4/5703ab396/unhcr-calls-urgent-action-central-america-asylum-claims-soar.html](http://www.unhcr.org/news/latest/2016/4/5703ab396/unhcr-calls-urgent-action-central-america-asylum-claims-soar.html) See also Doctors without Borders, *Forced to Flee Central America's Northern Triangle A neglected humanitarian crisis*, 2017. Available at <http://www.doctorswithoutborders.org/article/report-forced-flee-central-americas-northern-triangle-neglected-humanitarian-crisis>

<sup>13</sup> For instance, the number of deportations from Mexico increased by 128% between 2010 and 2016. Own calculations based on information published by the Migration Policy Unit of the Mexican Interior Ministry, *Boletines Estadísticos para 2010. Table 3.2.1* (available at [http://www.politicamigratoria.gob.mx/es\\_mx/SEGOB/Extranjeros\\_alojados\\_y\\_devueltos\\_2010](http://www.politicamigratoria.gob.mx/es_mx/SEGOB/Extranjeros_alojados_y_devueltos_2010)) and *Boletines Estadísticos para 2016* (available at [http://www.politicamigratoria.gob.mx/es\\_mx/SEGOB/Extranjeros\\_alojados\\_y\\_devueltos\\_2016](http://www.politicamigratoria.gob.mx/es_mx/SEGOB/Extranjeros_alojados_y_devueltos_2016)).

<sup>14</sup> Amnesty International, *Home Sweet Home? Honduras, Guatemala and El Salvador's role in deepening refugee crisis*.

### Amnesty International calls on the Honduran authorities to:

- Improve coordination between consular services abroad and national reception centres to identify cases of deported people in need of protection;
- Assume central responsibility for the protection of deportees using the resources required given the demand caused by the increase in numbers of deportees, and when needed relocate deportees in danger to different communities and provide them with housing, education and work possibilities in the new communities;
- Ensure that all reception, reintegration and protection programmes for deported migrants take into consideration the rights and specific protection issues relating to groups such as women, indigenous people, LGBTI people and unaccompanied children.

## 2.2 GENDER-BASED VIOLENCE (ARTS. 3, 6 AND 7, LOI, PARA 7)

Young girls and women, as well as lesbian, gay, bisexual, transgender and intersex (LGBTI) people are subjected to a number of forms of violence.<sup>15</sup> The Committee on the Elimination of Discrimination against Women (CEDAW) found, in November 2016, that violence against women, including sexual violence, abduction, disappearance and murder, as well as *femicide* remains a serious concern in the country.<sup>16</sup> The female murder rate increased by 37% between 2008 and 2015 in Honduras<sup>17</sup>. Between 2005 and 2015, 25,044 medical evaluations for sexual crimes were requested by the Public Prosecutor's Office, more than 87% of these were performed on women victims.<sup>18</sup> However, these numbers are believed to be far higher as these attacks are generally underreported. In addition, the vast majority of crimes reported against women remains unpunished, with an estimated 95% impunity rate.<sup>19</sup>

LGBTI people are also frequently targeted for abuse, intimidation and violence because of their sexual orientation and/or their gender identity. According to the NGO Cattrachas, 100 LGBTI persons were killed in Honduras since 2014: 37 of them in 2015 and 22 in 2016<sup>20</sup>. As of May 2017, 15 new violent deaths had been reported.<sup>21</sup> Amnesty International's research found that transgender women, who because of patriarchal social norms are particularly stigmatized, are especially subjected to violence.

### Amnesty International calls on the Honduran authorities to:

- Implement effective and coordinated measures to prevent gender-based violence;
- Strengthen efforts to carry out prompt, impartial and effective investigations into all forms of gender-based violence and to bring those responsible to justice.

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<sup>15</sup> Annual report of the High Commissioner for Human Rights on the activities of his office in Honduras A/HRC/34/3/Add.2, February 2017, para 4 y 10. Available at [https://documents-dds-ny.un.org/doc/UNDOC/GEN/G17/029/29/PDF/G1702929.pdf / http://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/34/3/Add.2](https://documents-dds-ny.un.org/doc/UNDOC/GEN/G17/029/29/PDF/G1702929.pdf?http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/34/3/Add.2)

<sup>16</sup> Committee on the Elimination of Discrimination against Women CEDAW/C/HND/CO/7-8, November 25, 2016. para 22. Available at [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/HND/CO/7-8&Lang=En](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/HND/CO/7-8&Lang=En) See also inter-American Commission on Human Rights (IACHR). Situation of Human Rights in Honduras, December 2015, Para 110-115. Available at <http://www.oas.org/en/iachr/reports/pdfs/Honduras-en-2015.pdf>

<sup>17</sup> Female murder rates calculated using homicide statistics as above, and population figures from the United Nations Population Division, 2015 Revision of World Population Prospects.

<sup>18</sup> United Nations in Honduras, Press Release on International Women's day, March 8, 2016. Available at <http://hn.one.un.org/content/unct/honduras/es/home/presscenter/comunicado-dia-internacional-de-la-mujer.html>

<sup>19</sup> IACHR. Situation of Human Rights in Honduras, December 2015, Para 118. Available at <http://www.oas.org/en/iachr/reports/pdfs/Honduras-en-2015.pdf>

<sup>20</sup> Cattrachas, Observatory, violent death of LGBTI people per year, Available at <http://www.cattrachas.org/index.php>

<sup>21</sup> Cattrachas, violent death of LGBTI people per year, Available at <http://www.cattrachas.org/index.php>

## 2.3 SEXUAL AND REPRODUCTIVE RIGHTS (ARTS. 6, 7- LOI PARA. 9)

According to a study published by the NGO Center for Women's Rights (Centro de Derecho de las Mujeres) in 2015, available data suggest that 5 per cent of maternal deaths are related to unsafe abortions<sup>22</sup>.

However, Honduras missed an historic opportunity to protect women's rights and guarantee access to safe and legal abortion for women in April 2017. Despite recommendations from international human rights bodies and mechanisms<sup>23</sup>, the Honduran Congress decided to maintain the absolute prohibition of abortion in the new criminal code. Abortion remains a crime in all cases, including when the life and health of a woman are at risk, or when the pregnancy is a result of sexual violence. Honduras is among the nine countries worldwide that still prohibits all forms of abortion. Between January and September 2016, 28 cases of illegal abortion, two against girls, were opened by the prosecution services.<sup>24</sup>

### Amnesty International calls on the Honduran State to:

- decriminalize abortion in all circumstances, and ensure access to abortion in law and in practice as a minimum in cases where the pregnancy poses a risk to the life or health of the woman, where the foetus suffers from severe malformation or is not viable, or where the pregnancy is the result of rape or incest.

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<sup>22</sup> Center for Women's Rights (Centro de Derecho de las Mujeres), Observatory on Women's Human Rights, 2015. Available at [http://www.derechosdelamujer.org/tl\\_files/documentos/aborto/Aborto-Honduras-2015.pdf](http://www.derechosdelamujer.org/tl_files/documentos/aborto/Aborto-Honduras-2015.pdf)

<sup>23</sup> Joint press release: Honduras needs progressive reform of abortion law to advance women's human rights, say UN experts, april 2017. Available at <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21549&LangID=E> ; Annual report of the High Commissioner for Human Rights on the activities of his office in Honduras A/HRC/34/3/Add.2, February 2017, para 39; Committee on the Elimination of Discrimination against Women CEDAW/C/HND/CO/7-8, November 25, 2016. Para. 36-37. Available at [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/HND/CO/7-8&Lang=En](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/HND/CO/7-8&Lang=En) ; See also Honduras' second examination under the Universal Periodic Review, 2015.

<sup>24</sup> Annual report of the High Commissioner for Human Rights on the activities of his office in Honduras A/HRC/34/3/Add.2, February 2017, para 39.



# 3. RIGHT TO FREEDOM OF EXPRESSION, ASSOCIATION AND PEACEFUL ASSEMBLY (ARTS. 9, 19, 21, 22 AND 25, LOI PARA 20)

Honduras remains one of the most dangerous countries in Latin America for human rights defenders, especially for environmental and land activists. According to a report published in January 2017 by the NGO Global Witness, Honduras had the highest number per capita of killings of human rights defenders working on issues related to land, territory and the environment in the world.<sup>25</sup> Amnesty International's research confirmed that the vast majority of those responsible for threats and attacks against this group of human rights defenders are not brought to justice. Impunity has helped perpetuate violence against human rights defenders: the failure to identify, bring to trial and punish those responsible sends a message that there are no consequences for those who commit the attack. LGBTI human rights defenders are also particularly targeted with threats and attacks.<sup>26</sup>

## **LAW TO PROTECT HUMAN RIGHTS DEFENDERS, JOURNALISTS, SOCIAL COMMUNICATORS AND JUSTICE OFFICIALS**

Amnesty International welcomes the entry into force of the Law to Protect Human Rights Defenders, Journalists, Social Commentators and Justice Officials (Protection Law), adopted on 15 May 2015. This was a positive step towards ensuring the safety and protection of human rights defenders. However, two years after its adoption, several challenges still need to be addressed in order to ensure its adequate implementation and effective protection of human rights defenders.

For instance, Amnesty International's research has confirmed that most of the protection measures implemented by the Protection Mechanism established by the Protection Law are police measures, such as police patrols or perimeter security, when more structural measures are

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<sup>25</sup> Global Witness, Honduras: the deadliest country in the world for environmental activism, January 2017. Available at <https://www.globalwitness.org/en/campaigns/environmental-activists/honduras-deadliest-country-world-environmental-activism/>

<sup>26</sup> René Martínez, president of the Sampedrana Gay Community in the city of San Pedro Sula, was found dead on 3 June with his body bearing signs of torture. The Worldwide Movement for Human Rights reported that members of the LGBTI rights group Asociación Arcoiris were victims of 36 security incidents between July 2015 and January 2016, including killings, threats, surveillance and harassment. The military was accused of infiltrating social movements and attacking human rights defenders. See Amnesty International, Annual report 2016, Honduras. Available at <https://www.amnesty.org/en/countries/americas/honduras/report-honduras/>

needed to create an environment favourable to the defence of human rights (i.e. impartial, thorough and prompt investigations into attacks on defenders, or the implementation of public campaigns aimed at recognizing the legitimacy of their work). In addition, the authorities have not developed a specific protocol for granting collective measures for groups or communities at risk, which becomes particularly relevant for human rights defenders working on issues related to land, territory and the environment.

Coordination with the Public Prosecutor's Office also needs to be strengthened. The representatives of the Public Prosecutor's Office to the Mechanism do not consistently attend the meetings of the National Council. Moreover, the Human Rights' Prosecutor, who is the representative of this institution on the Protection Mechanism's Technical Committee only has jurisdiction over the attacks perpetrated by authorities, but not over those committed by non-state actors. This constitutes a serious limitation in a context where impunity remains a major concern in relation to attacks suffered by human rights defenders.<sup>27</sup>

Additionally, the effective participation of civil society throughout the different stages of decision-making in relation to protection provided to human rights defenders has not been effectively guaranteed. The Protection Law created a National System for the Protection of Human Rights Defenders, Journalists, Social Commentators and Justice Officials (Protection System) composed of several bodies,<sup>28</sup> all of them under control of the Secretary of State in the Ministry of Human Rights, Justice, the Interior and Decentralization. The Protection Council, which is the only body which allows for the participation of civil society and representatives from professional bodies of justice officials and journalists, has very limited powers. Of the 14 seats on this body, two are designated to representatives of human rights organizations that must be accredited by the National Human Rights Commission; a representative of the Honduran Bar Association; two representatives of journalists and the press; and a representative of judges and magistrates. On the other hand, the Protection Mechanism Technical Committee, which carries out expert risk analysis and decides which protection measures should be adopted, is made up solely of State institutions and does not allow for the participation of civil society.<sup>29</sup>

Amnesty International also notes that human rights defenders continue to report a lack of information and consultation regarding the National Protection System.<sup>30</sup>

To date, a major challenge for the National Protection System is the transition to the implementation of the precautionary and provisional measures<sup>31</sup> granted by the Inter-American Commission and Court of Human Rights respectively, which were previously implemented by the Ministry of Security. Some human rights defenders who had been granted precautionary measures expressed concerns to Amnesty International that the progress achieved in the implementation of their measures by the Ministry of Security would be at stake during the transition. As of February 2017, the Ministry of Interior was overseeing the implementation of nine precautionary measures already underway.

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<sup>27</sup> Amnesty International, Americas: State protection mechanisms for human rights defenders, AMR 01/6211/2017, May 2017. Available at <https://www.amnesty.org/es/documents/amr01/6211/2017/es/>

<sup>28</sup> The Protection System is composed of the National Council for Protection, the Protection System General Directorate, the Protection Mechanism Technical Committee and the Human Rights Department of the Secretary of State in the Ministry of Security.

<sup>29</sup> Amnesty International, We are defending the land with our blood': Defenders of the land, territory and environment in Honduras and Guatemala. 1 September 2016, AMR 01/4562/2016 Available at <https://www.amnesty.org/en/documents/amr01/4562/2016/en/>

<sup>30</sup> Amnesty International, Americas: State protection mechanisms for human rights defenders, May 2017.

<sup>31</sup> Precautionary measures and provisional measures are protection mechanisms for serious and urgent situations creating a risk of irreparable harm to a person or a group of people, granted by the Inter-American Commission on Human Rights and the Inter American Court of Human Rights, respectively.

## SAFE AND ENABLING ENVIRONMENT

In 2009, the Inter-American Court of Human Rights condemned Honduras for the killing in 1995 of the environmental defender Blanca Jeannette Kawas Fernández. The IACHR ordered that a monument be erected in her memory and a park be named after her. In addition, the Court declared that “the State shall have a period of two years to carry out a national awareness and sensitivity campaign regarding the importance of the work performed by environmentalists in Honduras and their contribution to the defense of human rights, in accordance with paragraph 214 of this Judgment.”<sup>32</sup> To date, the state has not implemented such a campaign.<sup>33</sup>

The implementation of this campaign is vital in a context of increasing stigmatization and discrediting of human rights defenders. For instance, after José Angel Flores, President of the Unified Campesino Movement of the Aguán (MUCA) and Silmer Dionisio George, member of MUCA were killed in October 2016<sup>34</sup>, a statement entitled “Who is protecting the Bajo Aguan hitmen?” and a poster entitled “NGOs protecting hitmen in Bajo Aguan” began to circulate. In both documents, the two defenders who were killed were presented as high profile criminals and several other defenders, including Bertha Oliva from the NGO Committee of Relatives of the Disappeared in Honduras (Comité de Familiares de Detenidos Desaparecidos en Honduras - COFADEH), were being accused of defending them.<sup>35</sup>

On 25 January 2017, for the first time, the National Council for Protection issued a public declaration recognizing the important and legitimate role of women human rights defenders. This was an important step forward to implement non-police measures targeting the structural causes of the violence against human rights defenders, and defenders generally. Unfortunately, just a few days after this public declaration of recognition, several civil society organizations and movements were subjected to a smear campaign, driven by both state and non-state actors.<sup>36</sup> There were no declarations from authorities recognizing the important work human rights defenders do to counteract the hostile environment created around them.

Amnesty International is particularly concerned about new criminal provisions approved by Congress in February 2017, including a reform to article 335 of the penal code, which delineates the criminal offence of “terrorism”,<sup>37</sup> and adds article 335 B which outlines the criminal offence of “apology and incitation of terrorism acts”.<sup>38</sup> These new provisions are couched in an overly broad and vague manner, contrary to the principle of legality, and could lead to arbitrary and inadequate application in the context of peaceful protests and other human rights work, which may criminalize human rights defenders, and obstruct social movements.

## ACCESS TO JUSTICE

Amnesty International’s research confirms the lack of progress in investigations into killings, physical attacks, threats and harassment targeting human rights defenders, particularly those

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<sup>32</sup> Inter-American Court of Human Rights, Case of Kawas Fernández vs Honduras, Monitoring Compliance with Judgment, Order of the Inter-American Court of Human Rights of 27 February 2012. Available at: <http://www.corteidh.or.cr/index.php/en/compliance-with-judgment>

<sup>33</sup> Amnesty International, ‘We are defending the land with our blood’: Defenders of the land, territory and environment in Honduras and Guatemala.

<sup>34</sup> Amnesty International, Two campesino Leaders shot dead, AMR 37/5015/2016, October 19, 2016. available at <https://www.amnesty.org/es/documents/amr37/5015/2016/es/>

<sup>35</sup> Amnesty International, Digital Platform Speak Out for Defenders. Available at <https://speakout4defenders.com/en/single/5845e344de7ed16d3aba186c#>

<sup>36</sup> AMNESTY INTERNATIONAL, HONDURAS: INCREASING SMEAR CAMPAIGN AGAINST DEFENDERS, AMR 34/5613/2017, FEBRUARY 2. AVAILABLE AT <HTTPS://WWW.AMNESTY.ORG/EN/DOCUMENTS/AMR37/5613/2017/EN/>

<sup>37</sup> Amnesty International, Honduras: Las reformas al Código Penal y nuevas leyes sobre seguridad deben apegarse a los derechos humanos, AMR 37/5587/2017, January 27, 2017. Available at <https://www.amnesty.org/download/Documents/AMR3755872017SPANISH.pdf>

<sup>38</sup> Joint press release of the Inter-American Commission on Human Rights, its Special Rapporteurship for Freedom of Expression and the Office of the United Nations High Commissioner for Human Rights in Honduras, February 23, 2017. Available at <http://www.oas.org/en/iachr/expression/showarticle.asp?artID=1054&IID=1>

working on issues related to land territory and the environment. This has allowed those responsible to evade justice and sends a message that their acts are tolerated by the authorities.

Investigations into the killing of Berta Cáceres are ongoing. At the beginning, the investigation did not take into account the possibility that the killing could have been linked to her human rights work. Initially, the authorities were speculating that the killing might have occurred during a robbery, and a few hours after the crime, a former partner of the human rights defender who was also a member of COPINH was detained, suggesting that the Public Prosecutor's Office was pursuing the hypothesis that the killing was the result of a 'crime of passion'. In the following days, Berta Cáceres' colleagues in COPINH were repeatedly questioned. On 7 March, a few days after the killing, the Attorney General's Office told Amnesty International that all lines of investigation were being considered, including her personal life and background. At the end of March, the Public Prosecutor's Office issued a statement indicating that the possibility that the killing was in connection to her work as a human rights defender was also being considered as part of the investigation. Currently, eight men have been accused and detained: one was a manager of the Honduran company owner of the Agua Zarca's project (Desarrollos Energeticos S.A., also known as "DESA"); another a military, and a third, a former military soldier, who provided security to the Agua Zarca's project.<sup>39</sup>

The Preliminary Hearing, that will prepare the case for trial, was originally scheduled for April, 2017. However, it was postponed twice this same month at the request of the lawyers of the accused and the legal representatives of the defender's family, on the grounds that the public prosecutor had not shared/made all the evidence for the prosecution available before the hearing. The hearing scheduled for May 24, 2017 was also postponed, since the evidence was not shared until May 19, 2017, making it impossible for the lawyers to review such a large amount of information and prepare adequately for the hearing in the few days available. The hearing has now been rescheduled for June 7, 2017<sup>40</sup>.

In addition to concerns about due process and the right to justice, truth and reparation for the family of Berta Cáceres, there is uncertainty about whether the Honduran Public Prosecutor has made any progress in identifying the brains behind the operation of the killing; about whom Amnesty International has repeatedly inquired. On 18 May 2017, the Inter-American Human Rights Commission convened a working meeting in Tegucigalpa to review compliance with the precautionary measures granted to the family of Berta Cáceres and the Civic Council of Popular and Indigenous Organizations of Honduras (Consejo Cívico de Organizaciones Populares e Indígenas de Honduras – COPINH). However, representatives of the public prosecutor, which is in charge of the investigation into the assassination of Ms Cáceres and attacks against several COPINH members, which provided the grounds for the precautionary measures, did not attend this meeting.

As a consequence, to date, the identification, prosecution and judgment against those responsible for planning and paying for the murder, remains at risk.

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<sup>39</sup> Amnesty International, *We are defending the land with our blood: Defenders of the land, territory and environment in Honduras and Guatemala*.

<sup>40</sup> Amnesty International, *Honduras: justice still in jeopardy in Berta Cáceres murder case (AMR 37/6335/2017)* 24 May 2017, available at <https://www.amnesty.org/en/documents/document/?indexNumber=amr37%2f6335%2f2017&language=es>

## **CHARGES FOR ILLEGAL OCCUPATION OF LAND**

There are numerous judicial proceedings against human rights defenders who work to defend and promote the rights to territory, the environment and those linked to access to land in Honduras. The representative of the National Confederation of Farmworkers (Central Nacional de Trabajadores del Campo) told Amnesty International that there are about 800 people, including Indigenous people affiliated to campesino organizations, subject to judicial proceedings in the Department of La Paz alone. The NGO COFADEH estimates that about 3,000 campesinos face unfounded criminal procedures, 700 of them in Bajo Agúan.

In the municipality of Santa Elena, several members of the Independent Lenca Indigenous Movement of La Paz (Movimiento Indígena Lenca Independiente de La Paz, MILPAH) have complained to the Public Prosecutor's Office that they have been arbitrarily detained for hours or days, sometimes without a judicial warrant, as well as being subjected to beatings and other ill-treatment by police. Similarly, MILPAH reported that at least 30 people were subject to judicial proceedings, some of them accused of the crime of land usurpation. Approximately 15 people who are being prosecuted have had non-custodial restrictions imposed on them requiring them to sign in before a judge: some every eight days; others every 15 or 30 days.

Legal proceedings against members of social movements and human rights organizations impose a significant burden on defenders, their families and the organizations to which they belong. This is particularly acute when the individual is a community or rural leader, because of the very limited financial resources available. Most organizations and community and rural movements do not have lawyers among their members. This means they have to approach other human rights organizations to get legal advice, but there are not enough of these to cover the large number of human rights defenders facing criminal charges in Honduras.

Bail conditions imposed on human rights defenders that are released pending trial also have a direct impact on their work. Having to go to sign a register in court involves incurring transport costs or, in those cases where the journey can be made by foot, walking for hours to get to the court. These human rights defenders commonly work in areas of entrenched poverty where the main source of income for families is agriculture. These long journeys create huge demands on the families' meagre resources and also mean the loss of one or several days of work. The economic situation and food security of the household are seriously compromised when the person is required to sign in every eight days.

Amnesty International has heard from several of those on whom these non-custodial measures have been imposed that have been warned by the authorities not to approach human rights organizations or the "ringleaders" of organizations and avoid meetings or social movements. Alternative bail conditions, whether conveyed in writing or verbally, that order an individual not to make contact with human rights organizations are violations of the right to defend human rights, as well as to the rights to freedom of association and expression.<sup>41</sup>

### **Amnesty International calls on the Honduran authorities to:**

- Recognize, publicly and at the highest levels of local and national authorities, the legitimate work of human rights defenders and implement a public awareness campaign throughout the country about the importance of their work;
- Ensure comprehensive protection for human rights defenders that incorporates preventive, collective and gender-sensitive approaches in their protection strategies;
- Initiate timely, independent and impartial investigations into attacks, threats and assaults against human rights defenders and bring to justice those responsible;

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<sup>41</sup> Amnesty International, *We are defending the land with our blood': Defenders of the land, territory and environment in Honduras and Guatemala.*

- Refrain from misusing the justice system to intimidate, harass and discredit human rights defenders, and initiate prompt, thorough and impartial disciplinary and criminal investigations against authorities that misuse the justice system to criminalize human rights defenders.

**AMNESTY INTERNATIONAL  
IS A GLOBAL MOVEMENT  
FOR HUMAN RIGHTS.  
WHEN INJUSTICE HAPPENS  
TO ONE PERSON, IT  
MATTERS TO US ALL.**

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# HONDURAS

## SUBMISSION TO THE UNITED NATIONS HUMAN RIGHTS COMMITTEE (120<sup>TH</sup> SESSION, 3-27 JULY 2017)

Amnesty International submits this document to the United Nations (UN) Human Rights Committee (the Committee) ahead of its review of Honduras second periodic report on the implementation of the International Covenant on Civil and Political Rights (the Covenant). The submission highlights Amnesty International's concerns in relation to a number of questions on the Committee's List of Issues with specific focus on violence against women, right to life, the prohibition of torture and other cruel, inhuman or degrading treatment (other ill-treatment), sexual and reproductive rights, the right to privacy, freedom of expression and opinion and freedom of assembly and association.