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**Honduras Project**

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**SITUATION OF THE JUDGMENT OF THE INTER-AMERICAN COURT OF HUMAN RIGHTS IN THE CASE OF LÓPEZ LONE VS HONDURAS; EXPIRATION OF THE TERM OF COMPLIANCE**

After the 2009 coup in Honduras, Magistrate Tirza del Carmen Flores Lanza and Judges Adán Guillermo López Lone, Luis Alonso Chévez de la Rocha and Ramón Enrique Barrios Maldonado, all members of the Association of Judges for Democracy (AJD), were dismissed arbitrarily. The case went to the Inter-American Court of Human Rights (IACHR), which issued a sentence and recognized the active role that the Supreme Court of Honduras played in the coup.

Since the public hearing held in February last year in San José, Costa Rica, PBI-Honduras has closely followed this paradigmatic case, the first by the Inter-American Court of Human Rights in the context of the coup d'état, and the only case on judicial independence in Central America that the Court has addressed so far.

This document aims to draw the attention of the international community to the lack of progress in complying with the judgment, which expires on November 10, 2016, one year after being notified.

The Association of Judges for Democracy (AJD) is an organization of independent judges, founded in 2006, whose mission is to participate actively in processes aimed at strengthening the rule of law and democratic institutions in Honduras particularly the judiciary. A magistrate and three judges of the AJD were removed from their positions in the context of the coup. PBI Honduras has followed this case closely and has provided protective accompaniment to members of the AJD at specific moments.

After the coup d'état of 2009, the Plenary of Magistrates of the Supreme Court of Justice supported the rupture of the constitutional order. However, the members of the AJD condemned the coup and joined the demonstrations and public protests at that time. As a result, disciplinary proceedings were initiated against some members of the AJD and, in mid-2010<sup>1</sup>, they were dismissed from their judicial posts.

Justice Tirza Flores and Judges Guillermo López Lone, Luis Chévez de la Rocha and Ramón Barrios presented the case to the Inter-American Human Rights System, claiming they were arbitrarily dismissed. On March 17, 2014, four years after filing the formal petition, the Inter-American Commission on Human Rights (IACHR) submitted to the jurisdiction of the Inter-American Court of Human Rights the Adán Guillermo López Lone case and others against Honduras for violation of the rights to judicial guarantees, the principle of legality, freedom of expression, freedom of association, political rights, judicial protection and right of assembly of victims.<sup>2</sup>

In October 2015, the Inter-American Court of Human Rights found the State of Honduras guilty and ordered it to reinstate the dismissed judges, compensate them for the material and non-pecuniary damage suffered and to publish the summary of the judgment in the national media

<sup>1</sup> AJD. Revista Justicia, 2a época, año 8, No. 16. 2015.

<sup>2</sup> Inter American Court of Human Rights. López Lone et al vs. Honduras case. Sentence from 5 October 2015 (*Excepción Preliminar, Fondo, Reparaciones y Costas*).

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as well as publishing the judgment in its entirety on an official government website.<sup>3</sup> Honduras requested to defer compliance with the judgment on February 4, 2016, however, this was dismissed by the Inter-American Court of Human Rights on September 2, 2016.<sup>4</sup>

On May 7, 2016, the State published the summary of the sentence in the Official Gazette<sup>5</sup> and in a newspaper of national circulation<sup>6</sup> in an illegible manner, which caused the protest of the victims.

After a year, the Honduran authorities have disobeyed the sentence. Only on October 27 did the Attorney General's Office summon the victims to inform them in a formal way that the Supreme Court of Justice would not consider reinstating them and that they would only comply with the material damages. Given this, the beneficiaries expressed their disagreement and stated that they would submit that decision to the consideration of the Inter-American Court.

### **Weakening of the independence of the judiciary**

PBI notes that, contrary to the ruling, the Honduran State has taken measures that undermine the independence of the judiciary and allow the arbitrary use of disciplinary processes.<sup>7</sup>

Earlier this year, during the election of judges and magistrates of the Supreme Court of Justice in Honduras, international organizations noted the disrespect of international standards that ensure the independence and impartiality of these types of bodies.<sup>8</sup> Two months after the new judges took office, on March 14, 2016, the new Supreme Court of Justice repealed the law governing the framework of judicial independence and the system of admission and promotion of judges, magistrates, magistrates and judges of the appellate courts.<sup>9</sup>

According to the Coalition against Impunity, this is a serious setback for human rights<sup>10</sup>, as it returns to the old Judicial Career Law of 1980, the law which was used against the victims of the López Lone case and others vs. Honduras. In that judgment, the Inter-American Court established that this regime allows "excessive discretion" to the body responsible for imposing sanctions, does not adequately determine the competent authority to sanction and does not guarantee the independence of the Judicial Career Council.<sup>11</sup>

### **Failure to face regional human rights entities**

<sup>3</sup> *Ibíd.*, p.97.

<sup>4</sup> Inter American Court of Human Rights. López Lone et al vs. Honduras case. Sentence from 02 September 2016 (*Excepción Preliminar, Fondo, Reparaciones y Costas*).

<sup>5</sup> *La Gaceta*. Official Newspaper of the Republic of Honduras, No. 34,027, 7 of May 2016, P.5-12. Available: <http://www.tzibalnaah.unah.edu.hn/bitstream/handle/123456789/3409/20160507.pdf?sequence=2&isAllowed=y>

<sup>6</sup> *Diario La Tribuna*, 10 May 2016, P.19.

<sup>7</sup> A.J.D. Op. Cit.

<sup>8</sup> *Centro por la Justicia y el Derecho Internacional (CEJIL) Fundación para el Debido Proceso (DPLF)* Impunity Watch (IW) and International Platform Against Impunity. Honduras does not guarantee the independence, impartiality and professional competence of the new Supreme Court members. 16 February 2016.

<sup>9</sup> Sentence of the Supreme Court of Justice; Unconstitutionality of various articles in the Law of the Judiciary and the Judicial Career. 14 March 2016.

<sup>10</sup> *Coalición contra la Impunidad*. 2016. Presentation in the context of the compliance with the legal conditions outlined in the Prosperity Partnership for the Northern Triangle in Central America.

<sup>11</sup> Inter American Court of Human Rights. López Lone et al vs. Honduras case. Sentence from 5 October 2015 (*Excepción Preliminar, Fondo, Reparaciones y Costas*).



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Also of concern is the failure of the State of Honduras to address regional human rights entities, such as the Inter-American Court, despite having recognized its jurisprudence.

November 10, 2016 marks one year after the notification of the sentence of Lopez Lone and others vs. Honduras, without the State having executed the sentence in its entirety. Specifically, the magistrate and judges have not yet been reinstated to their posts, which blocks the process of reparations ordered by the Inter-American Court.<sup>12</sup> The victims, after several steps and requests with the competent authorities<sup>13</sup>, consider that their rights continue to be violated by the State.

It should be noted that this is not the only judgment of the Inter-American Court that Honduras has not complied with. There are eight more sentences that show a total or partial non-compliance<sup>14</sup>, among them the cases Garífuna Community Punta Piedra and its Members vs. Honduras and the Garífuna Community Triunfo de la Cruz and its Members vs. Honduras.

As well as this omission of responsibilities that the State has shown in relation to regional human rights entities, there is also a lack of political will to implement the precautionary measures (as the Honduran organizations that are members of the Coalition against Impunity have pointed out) decreed by the IACHR<sup>15</sup> in favour of human rights defenders. Between 2009 and 2015, at least 426 people in Honduras have been beneficiaries of these protective measures, of which 16 have been killed.<sup>16</sup>

### **In light of this situation PBI calls on the international community to recommend that the Honduran State:**

- Comply with the sentences issued by the Inter-American Court of Human Rights within the established time frame, in particular with the sentence issued on October 5, 2015 on the case López Lone et al. vs. Honduras.
- Adopt the necessary legislative measures to ensure the independence of the judiciary and ensure transparency in the selection processes of its members.
- Guarantee, as established by the IACHR, the exercise of freedom of expression and association of justice operators by ensuring that disciplinary regimes do not illegitimately sanction such rights.
- Take firm measures for the protection of human rights defenders according to repeated recommendations made by UN experts.
- Recognize the important work of human rights defenders as well as justice operators and establish the necessary measures and policies for their protection.

<sup>12</sup> Information provided to PBI by the IACHR.

<sup>13</sup> Information provided to PBI by AJD.

<sup>14</sup> Information provided to PBI by the IACHR.

<sup>15</sup> *Coalición contra la Impunidad*. 2016. Presentation in the context of the compliance with the legal conditions outlined in the Prosperity Partnership for the Northern Triangle in Central America.

<sup>16</sup> *ACI Participa. Medidas Cautelares en Honduras: Sueño y Realidad*. 2016.