

DECEMBER 2016



BULLETIN

PBI HONDURAS



The walls of Utopia, near La Esperanza, are painted with murals that pay homage to courageous women activists. December 2016. Photo: PBI Honduras

BULLETIN PBI HONDURAS 04

December 2016

Team: Jhony Arango, Romina Bettucci, Nuria Frey, Joana Kathe, Jennyfer Mannof, Roberto Romero García, Marcos Sebastián Langhoff, Mark Thomas Waterman y Lena Weber

Edition: Graciela Martínez González y María José Urgel

Coordination: María José Urgel, Giovanna Tejjido Vázquez y Graciela Martínez González

Translation: Joanne Hutchinson

Design and graphics : Matteo Motta (matmot.eu).

Photos: PBI

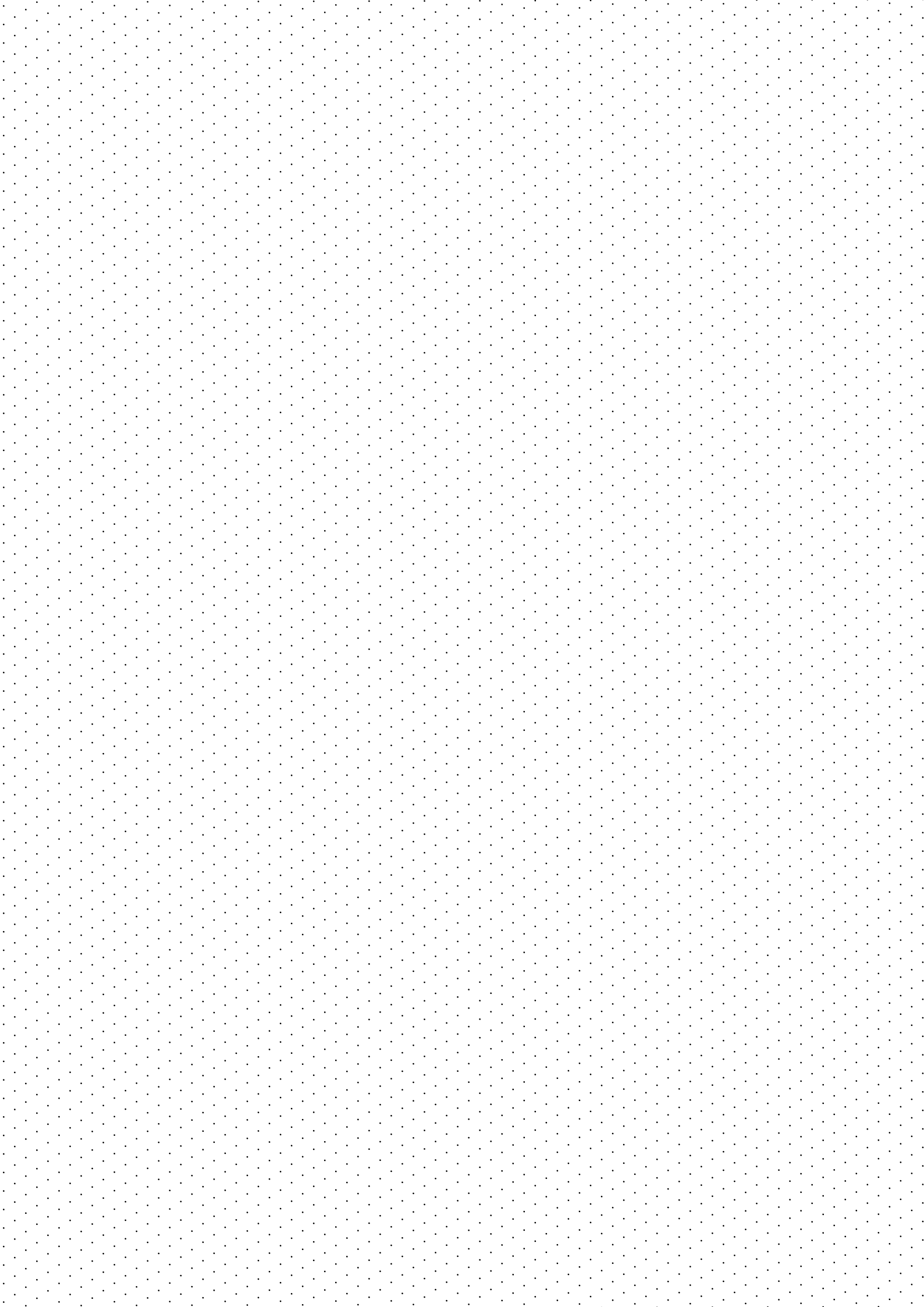
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EDITORIAL

In Honduras, environmental defenders continue to run high risks, a fact made clear by the March 2016 murders of COPINH leaders Berta Cáceres and Nelson Noé García, as well as the murders, in October, of José Ángel Flores, president of the MUCA, and of community leader Silmer Dionisio George, along with numerous other attempted murders of human rights defenders in recent years.

It is also important to highlight the fact that a significant number of defenders murdered in Honduras in 2016 were beneficiaries of precautionary measures granted by the Inter-American Commission on Human Rights. That is why we discuss, in this publication, the lack of effective implementation of this and other types of protection mechanisms.

In this fourth edition of the PBI Honduras Newsletter, we pay special tribute to the celebrated women human rights defenders who left us this year. In addition to the killing of Berta Cáceres, which leaves a huge void in Honduran civil society, the country has suffered the loss of historic women human rights defenders such as Gladys Lanza and Magdalena Morales, both of whom died of natural causes, but whom were also victims of threats, criminalization, and harassment. We have dedicated our first chapter to these women and the wise strength with which they have transmitted their knowledge to new generations of women human rights defenders.

During this year, PBI Honduras has expanded its work considerably, accompanying new organisations and individuals dedicated to defending a wide range of rights. Throughout the year we have accompanied the organisation CEHPRODEC and the Arcoiris Association, as well as the journalist Dina Meza and women's rights defender Gladys Lanza. Likewise, we have maintained close working relationships with COPINH, the Association of Judges for Democracy, the C-Libre organisation and environmental defender Kevin Ramírez, all of whom we have accompanied at certain moments, also participating in their activities as observers.

In this newsletter, we would like to share information about the work of all these people and highlight the risks they face as a result of their work as human rights defenders.

In terms of legislation affecting human rights in Honduras, this year we have chosen to highlight two key initiatives: the reform of the Penal Code and the process of creating a law on consultation that will allow indigenous peoples to enjoy autonomy over the use of their lands and territories. The Penal Code reform has been strongly criticised for the failure to provide for the active participation of civil society, while the law on consultation has not been fully embraced by all of the parties concerned.

In light of the present situation in Honduras, the presence of an international community that ensures respect for international human rights conventions and standards is more necessary than ever. We hope that PBI's work in Honduras continues to contribute to the protection of human rights defenders in the country and to the opening of spaces for peace.

We hope that 2017 brings freedom, security and respect for all.

GLADYS LANZA AND THE TIRELESS WOMEN HUMAN RIGHTS DEFENDERS OF HONDURAS

In September of this year, PBI Honduras had the deeply saddening experience of saying goodbye to a fantastic woman human rights defender: Gladys Lanza Ochoa, general coordinator of the Visitación Padilla Movement for Women, who had been accompanied by PBI since 2015.

Gladys had a remarkable career as a human rights defender in Honduras. She told stories of how, at age four, she would run away from home to participate in demonstrations. In the 1970s, Gladys began to work in the National Electricity Company (Empresa Nacional de Energía Eléctrica - ENEE), where she discovered her vocation as a trade unionist, becoming involved in the Workers' Union within the National Electricity Company (Sindicato de Trabajadores de la Empresa Nacional de Energía Eléctrica - STENEE). In those days, STENEE was one of the most important trade unions in the country, and was dominated by men. However, with the fighting spirit that always characterised Gladys, she worked her way through the ranks, eventually becoming president of the union.⁰¹

"When the doctrine of national security began in the 1980s, I was forced to confront institutions that were repressing the trade union movement and we were forced to defend our lives, that was what it was like at that time, permanent persecution, terror, monitoring, surveillance, we had to overcome so many things, including fear itself," Lanza said in an interview with Conexihon in 2013.⁰²

During that decade, Gladys was frequently arrested, tortured and threatened. The serious persecution she suffered forced her to live in hiding for a year. In the late 1980s, a bomb exploded in her home, wounding her and destroying the building, but that did not stop Gladys in her fight against the privatisation of ENEE and in favour of labour justice.

After a mass firing forced her to leave the company, Gladys joined the Visitación Padilla Movement for Women, with whom she had already had a close relationship. And during the last 20 years, she fought tirelessly for the rights of women and was a key player in achieving the abolition of compulsory military service in the country.

01. "Gladys Lanza: mi vida ha sido una constante metamorfosis", Conexihon, January 24, 2013.

02. Ibid.



Human rights defender Gladys Lanza during a march in Tegucigalpa on the Day of the Honduran Woman. January 2016. Photo: PBI Honduras

“Just hearing women speak and hearing how unjust life has been for all of us, gives me the reason to carry on. This is an endless struggle, yes, but there is a reason for the struggle, which I learned as a girl: justice. That is the most important thing,” Lanza said in an interview in 2013 with Cimac News.⁰³

Throughout her life, Gladys was exposed to numerous threats and was persecuted for the work she carried out. However, she maintained an unwavering commitment to the causes she defended, including countless cases of victims of domestic violence and femicide and the fight for the reproductive rights of Honduran women in general. Finally, in 2009, the Inter-American Commission on Human Rights (IACHR) granted precautionary measures to Gladys with the objective of safeguarding her integrity.

03. “Aún a costa de su vida, Gladys Lanza mantiene su lucha feminista”, CIMAC Noticias, October 10, 2016.

PBI Honduras began to accompany Gladys in July 2015. She had been sued that same year by Juan Carlos Reyes, director of the Foundation for the Development of Social, Urban and Rural Housing in Honduras (Fundación para el Desarrollo de la Vivienda Social, Urbana y Rural de Honduras - FUNDEVI), after she made statements in support of a woman who had reported being sexually harassed by Reyes. In March 2015, she was sentenced to 18 months in prison for the crime of defamation, with penalties that would prevent her from assuming the leadership of her organisation.⁰⁴ One month later, Gladys filed an appeal with the Supreme Court. The response was still pending on the day of her death, although the appeal should have been resolved 60 days after its submission. Meanwhile, even as her health worsened, Gladys was forced to appear every two weeks in court to sign a probation control book.

Sadly, Gladys is just one of many Honduran women who have been persecuted by the justice system until their very last days. Also this year, the Honduran social movement has mourned the death of Magdalena Morales, a leader of rural farmworker struggles and former secretary general of the National Centre for Rural Workers (Centro Nacional de Trabajadores del Campo - CNTC) in the Yoro department.

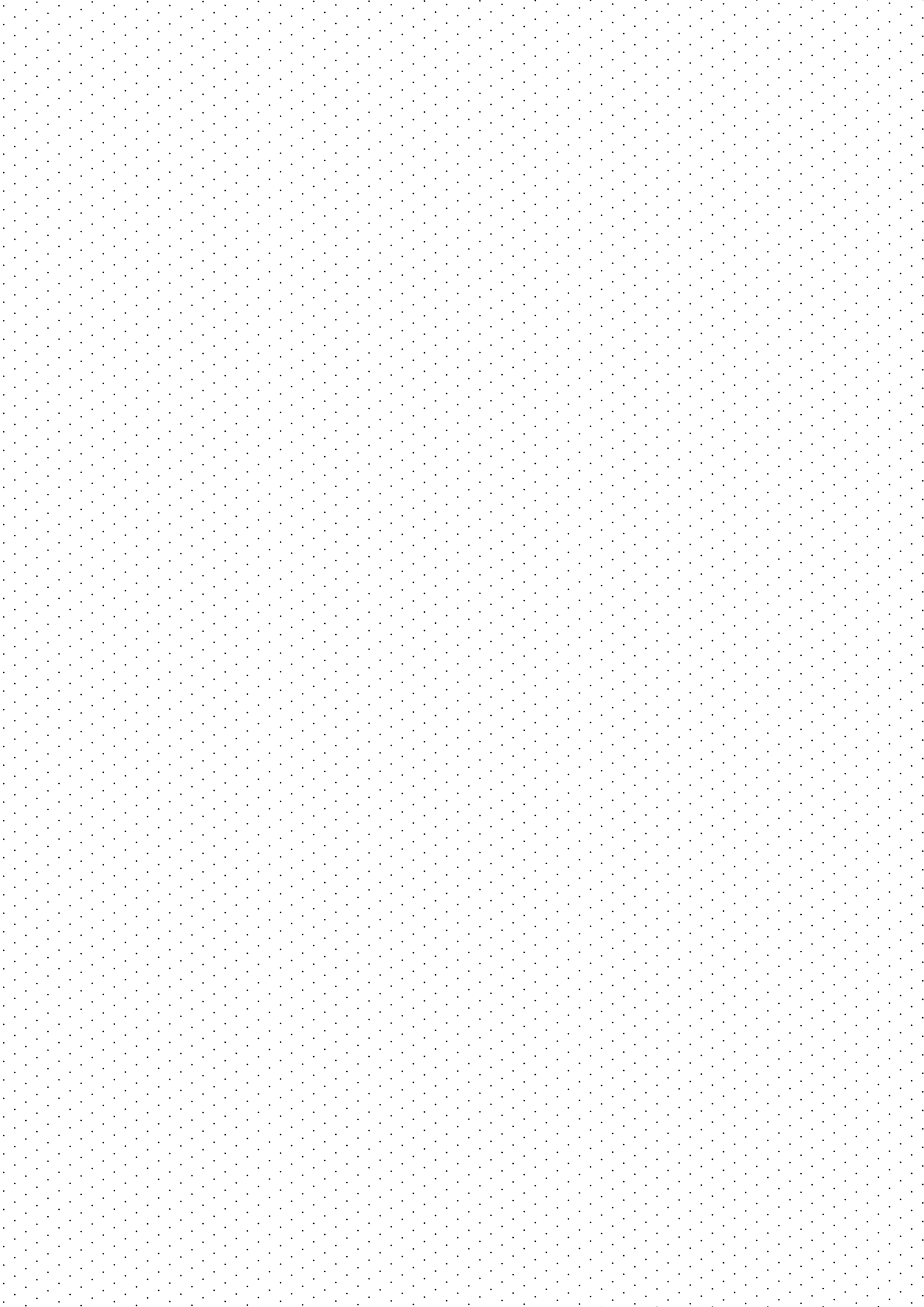
Magdalena had been criminalised for fighting for access to land in the Sula Valley and had stood up to the British-owned sugar company AZUNOSA, which owns some 10,000 hectares of land in this fertile valley in northern Honduras. In 2013, police officers stormed the CNTC's regional offices, and Magdalena was arrested and held for 24 hours, charged with usurpation and damages. In all, 108 small farmers linked to the case were prosecuted during a protracted battle that ended in the Supreme Court.⁰⁵

Magdalena did not stop struggling for the fair distribution of land in the area, even after being diagnosed with cancer. Today, the 1,600 peasant families who are claiming their right to land in the Sula Valley have not yet been offered a solution.

The legacy and memory of Gladys, Magdalena and all the women defenders who have left us this year, like Berta Cáceres, will live on in the Honduran people and will accompany us in our efforts to protect human rights defenders. Their struggles are examples for life and encourage us to continue our work, to continue to open spaces for peace, so that defenders can carry out their mission free from violence and reprisals.

04. "Honduras must end criminalization of Gladys Lanza, human rights defender", Amnesty International, May 5, 2015.

05. Conciliation process stalls while criminalisation continues, PROAH, February 5, 2014.



HUMAN RIGHTS SITUATION: NEWS ABOUT OUR WORK

HONDURAN CENTRE FOR THE PROMOTION OF COMMUNITY DEVELOPMENT (CENTRO HONDUREÑO DE PROMOCIÓN PARA EL DESARROLLO COMUNITARIO - CEHPRODEC)

The organisation CEHPRODEC was founded 25 years ago. Its work focuses on community development, the right to food security, and the defence of economic, social and cultural rights (ESCR). In addition, the organisation provides technical and legal advice to indigenous and small-farming populations for the defence of their lands, and supports organisational, training and protection processes. CEHPRODEC is present in 11 of the 18 departments of the Republic of Honduras and coordinates the National Coalition of Environmental Networks and Organisations (Coalición Nacional de Redes y Organizaciones Ambientales - CONROA).



*March against mining megaprojects in the municipality of Dulce Nombre de Culmí in the department of Olancho. August 2016.
Photo: PBI Honduras*



Accompaniment during the "Meeting of the Peoples" held in Marcala in solidarity with MILPAH defender Ana Mirian Romero. February 2016. Photo: PBI Honduras

PBI ACCOMPANIMENT

On February 12 and 13, 2016, PBI Honduras accompanied CEHPRODEC during the "Meeting of the Peoples" in the municipality of Marcala, in solidarity with human rights defender Ana Mirian Romero. The event was organised by CEHPRODEC and MILPAH, with the participation of CONROA member organisations. The proceedings began with a Lenca indigenous ceremony, followed by cultural events and talks on local issues related to land defence, precautionary measures for defenders and the rights of peoples. The meeting concluded with a mass, attended by indigenous and small-farming communities, and a walk for life.^{L01}

PBI Honduras accompanied CEHPRODEC on a number of occasions, including during follow-up meetings on IACHR precautionary measures for several MILPAH members, in which representatives of the National Human Rights Commissioner (Comisión Nacional de los Derechos Humanos - CONADEH), the National Police and the Secretariat of Security were present. We also accompanied the CEHPRODEC team to open meetings in several regions of the country (El Triunfo, Choluteca and Olancho), where various municipalities declared themselves "free from mining".^{L02}

Throughout the year, PBI Honduras maintained a presence on a number of occasions in the department of Olancho. In August of this year, we observed the march against mining in Dulce Nombre de Culmí, and forums and workshops on extractive projects. In Tegucigalpa, we observed the CONROA assembly and the annual World Food Day march in October 2016.

In 2016, the Honduran Centre for the Promotion of Community Development (CEHPRODEC), an organisation accompanied by PBI Honduras since 2014, reported security incidents linked to its advisory work with the Independent Indigenous Lenca Movement of La Paz (Movimiento Indígena Independiente Lenca de La Paz - MILPAH), an organisation which is facing serious risks. Most of the attacks against MILPAH documented by PBI Honduras in 2016 were directed against the movement's leaders, as well as against members of local Indigenous Councils⁰⁶ and their families in the department of La Paz, because of their opposition to the construction and implementation of the Los Encinos hydro-electric dam, on the Chinacla River.

On March 17, MILPAH member Víctor Vázquez received a death threat while in his home, an attack that was reported to the Ethnic Prosecutor's Office on March 30. Víctor is a representative of the Simpinula Indigenous Council, members of MILPAH who have been defending their lands. Six months after the original threats, Víctor was once again threatened with death and attacked with stones by members of the community of Santa María, who oppose this indigenous land defence.

06. The indigenous peoples of La Paz and their communities have formed Indigenous Councils as their own local authorities, a right established in ILO Convention 169 on Indigenous and Tribal Peoples.

L01. Encuentro de los Pueblos, CEHPRODEC. Available at: <http://www.cephrodec.org/index.php/2-uncategorised/46-encuentro-de-los-pueblos>

L02. The communities generally make this type of declaration via an open council meeting, a traditional local decision-making mechanism.

Other MILPAH members, including one of the movement’s coordinators, Martín Gómez Vázquez, reported surveillance around their homes and death threats from supporters of the Los Encinos hydroelectric plant.

These events took place after the body of Javier Vázquez Benítez was found at the end of 2015. Javier was the son of Gilberto Vázquez, president of the Indigenous Council of Gualinga, one of the communities affected by the Los Encinos hydroelectric project.⁰⁷ Javier Vázquez Benítez was also the nephew of Felipe Benítez, current coordinator of MILPAH.

ATTACKS AGAINST HUMAN RIGHTS DEFENDERS ► Defenders of land and territory

	REPORTED CASES
T01. On Dangerous Ground, Global Witness, 2016.	In Honduras, between 2010 and 2015, 8 defenders of land and territory were killed. In relation to the total population of the country, Honduras has the second highest index in the world related to this type of murder, according to figures from the international organisation Global Witness. ^{T01} Added to this data are the murders of other land defenders in 2016: Berta Cáceres and Nelson Noé García (COPINH), Lesbia Yaneth Urquía Urquía, environmental defender from Marcala ^{T02} and José Ángel Flores and Silmer Dionisio George, both from MUCA.
T02. "Honduras: Muerte de ambientalista Lesbia Urquía trasciende fronteras", El Heraldo, July 7, 2016. Available at: http://www.elheraldo.hn/pais/977887-466/honduras-muerte-de-ambientalista-lesbia-urqu%C3%ADa-trasciende-fronteras	Currently, more than 6,000 small-scale farmers have judicial processes open against them at the national level due to their defence of the right to land. Of these, 1,700 are rural and/or indigenous women. In the last three years, 120 peasant farmers have been killed, including five women. To date, women still cannot have land titled in their name, so single mothers face a difficult situation guaranteeing food for their family. ^{T03}
T03. "Mil 700 mujeres campesinas, indígenas y garifunas han sido judicializadas en los últimos tres años", Pasos de Animal Grande, June 22, 2016. Available at: http://www.pasosdeanimalgrande.com/index.php/en/contexto/item/1402-mil-700-mujeres-campesinas-indigenas-y-garifunas-han-sido-judicializadas-en-los-ultimos-tres-anos	
T04. Defendemos La Tierra Con Nuestra Sangre - Personas Defensoras de la Tierra, el Territorio y el Medio Ambiente en Honduras y Guatemala, Amnesty International, September 2016. Available at: https://www.amnesty.org/en/documents/amr01/4562/2016/es/	
T05. "Relator Especial ONU: Robo de expediente del caso Berta Cáceres muestra vulnerabilidad del sistema judicial hondureño", Conexihon, October 6, 2016. Available at: http://conexihon.hn/site/noticia/derechos-humanos/berta-caceres-vive-mujeres/relator-especial-onu-robo-de-expediente-del-caso	PROGRESS IN INVESTIGATIONS After the murder of Berta Cáceres, her family and COPINH requested the State to allow the creation of an independent commission of IACHR experts to participate in the investigation of the case. To date, no progress has been made with the installation of such a commission. COPINH has reported, on several occasions, difficulties participating in the investigation and in accessing the case file. ^{T04} In September 2016, the original case file on Berta Cáceres' murder was stolen. ^{T05}
T06. "Honduras: 114 abogados han sido asesinados desde 2010", La Prensa, August 11, 2016. Available at: http://www.laprensa.hn/honduras/988908-410/honduras-114-abogados-han-sido-asesinados-desde-2010	REPORTED CASES According to CONADEH, 114 lawyers and prosecutors have been murdered between January 2010 and August 2016 ^{T06} These include Kevin Ferrera, 27, president of the Youth Section of the Liberal Party, who legally represented Miguel Briceño, leader of the Indignant Opposition (Oposición Indignado) and won one of the cases that had been brought against him. ^{T07}
T07. "Acribillan abogado en la Colonia Los Laureles de Tegucigalpa", El Tiempo, August 9, 2016. Available at: http://tiempo.hn/acribillan-abogado-la-colonia-los-laureles-tegucigalpa/	
T08. "Honduras: 114 abogados han sido asesinados desde 2010", La Prensa, August 11, 2016. Available at: http://www.laprensa.hn/honduras/988908-410/honduras-114-abogados-han-sido-asesinados-desde-2010	PROGRESS IN INVESTIGATIONS Since 2010, 94% of cases have remained in impunity. ^{T08}

07. Case History: Gilberto Vázquez, Front Line Defenders. Available at: <https://www.frontlinedefenders.org/es/node/1973>

ANA MIRIAN ROMERO AND THE SECURITY SITUATION OF MILPAH

CEHPRODEC provides advice and follow-up in cases of attacks and prosecution against MILPAH members. MILPAH was founded more than six years ago to defend natural resources in community territories. For several years it has opposed two hydroelectric projects implemented by Aurora S.A. in indigenous territory: La Aurora, in the municipality of San José, and Los Encinos, in the municipality of Santa Elena. For over five years Lenca indigenous peoples have been living on state lands where both projects are located. According to information reported by MILPAH to PBI Honduras, the La Aurora hydroelectric concession was approved in 2009⁰⁸ by the Secretariat for Natural Resources and the Environment (Secretaría de Recursos Naturales y Ambiente - SERNA), violating the right to free, prior and informed consultation as established by Convention 169 of the International Labour Organisation (ILO) and ratified by Honduras in 1995.



Ana Mirian Romero receives the "Front Line Defenders" award in Dublin for her struggle to defend the right to land in her community, June 2016. Photo: FrontLineDefenders

08. Licencia Ambiental N°395-2009, Contrato de Operación Expediente 2008-A-1491, August 13, 2009.

Ana Mirian Romero is a defender of land and natural resources, and a member of MILPAH and of the Indigenous Council of San Isidro Labrador. In June this year, the Honduran human rights defender was awarded the Front Line Defenders Award in recognition of her work, at a time when her personal integrity was under serious risk.⁰⁹

On October 22, 2015, Ana Mirian Romero's home and two other houses were raided by a group of about 40 people, consisting of police, infantry battalion soldiers and civilians from the El Potrero community, where Ana Mirian Romero lives.¹⁰ Several people, including Ana Mirian, were assaulted and threatened with death; in addition, three children present in one of the houses were beaten and intimidated and belongings were stolen from the Indigenous Council of San Isidro Labrador. Nearly 200 shots were fired.¹¹ Ana Mirian was pregnant at the time of the aggression and needed special medical attention for the injuries she suffered. Two weeks later, on November 2, unidentified men fired over 15 shots outside her home. As a result of these events, the IACHR granted precautionary measures to her and her partner, Rosalío Vázquez, and to 12 members of MILPAH.¹²

Three months later, on January 29, 2016, unknown individuals set fire to Ana Mirian Romero's home, while her family was away for security reasons. In that attack, the family lost documentation, work tools and food.¹³ On May 9, 2016, Ana Mirian Romero and her family suffered another incident, when men armed with machetes and a revolver once again entered their home. The incident came just a few hours after a BBC Radio reporter had interviewed Ana Mirian about her work defending land rights.¹⁴

LENCA AUTONOMOUS CONSULTATION

On July 10, 2016, the MILPAH movement held a consultation at the municipal level with technical advice from CEHPRODEC. This census and autonomous consultation (a MILPAH term, as the process was not convened by the Government) involved 82% of the population in the municipality. The organisers convened the municipal corporation of Santa Elena and explained the process and invited a number of people to participate in the consultation. The mayor's office was also invited, but did not participate.¹⁵

Although the District Director of Education was given an order not to provide schools as polling centres during the autonomous consultation, many school

09. "Ana Mirian Romero: Voz y Rostro de la Lucha", Radio Progreso, September 9, 2016. Available at: <http://radio-progreso.net/index.php/comunicaciones/noticias/item/3166-ana-mirian-romero-rostro-y-voz-de-lucha>

10. "Policías, militares y civiles agreden a pobladores indígenas en La Paz", CEHPRODEC, 2015. Available at: <http://www.cephrodec.org/index.php/noticias/45-policias-militares-y-civiles-agreden-a-pobladores-indigenas-en-la-paz>

11. Report made to the Human Rights Prosecutor, Tegucigalpa, October 27, 2015 (N° I445967805). Also reported to the Prosecutor in Marcala.

12. Ana Miriam Romero y otros respecto de Honduras. Medidas Cautelares N° 589/15. CIDH. Resolución 46/2015.

13. Case History: Rosalío Vázquez Pineda, Front Line Defenders. Available at: <https://www.frontlinedefenders.org/zh/node/1634>

14. "Amenaza a muerte contra Ana Mirian Romero", CEHPRODEC, 2016. Available at: <http://www.cephrodec.org/index.php/noticias/51-amenazas-a-ana-miriam-romero>

15. "Sobre la Autoconsulta de los pueblos Lencas de La Paz", CEHPRODEC, July 13, 2016. Available at: <http://cephrodec.org/index.php/noticias/55-sobre-la-autoconsulta-de-los-pueblos-lencas-de-la-paz>

directors offered the use of their facilities and 15 polling centres were set up in schools in several communities. After the consultation, some district directors were threatened with being dismissed from their positions, even receiving threats against themselves and their families' lives.¹⁶

Two questions were asked in the autonomous consultation, namely: Do you agree with the implementation of a land register in the municipality of Santa Elena, La Paz? and Do you agree with the installation of a hydroelectric plant on the Chinacla River, in the municipality of Santa Elena, La Paz? The majority of participants (more than 90%) said no to the municipal land register, due to concerns that its creation would lead to the individualisation of their lands (division by owner instead of communally owned lands), which is contrary to the collective concept of property for indigenous peoples. As for the second question, more than 80% said no to the construction of the hydroelectric dam on the Chinacla river, one of the main sources of water in the area.¹⁷

Taking these results into account, MILPAH plans to request that the National Congress order the Santa Elena authorities to declare the municipality exempt from the land register law and free from concessions for hydroelectric dams.

The autonomous consultation was observed by the Office of the United Nations High Commissioner for Human Rights (OHCHR) in Honduras, the international organisation Trocaire and several national organisations. In addition, the Marcala Red Cross and members of the Security Secretariat were present, instructing the local police to ensure security during the process. PBI Honduras accompanied the members of CEHPRODEC during the process.

CEHPRODEC IN EUROPE AND THE USA

A member of CEHPRODEC's legal team and the executive director of the Pico Bonito National Park Foundation (Fundación Parque Nacional Pico Bonito - FUNAPIB) carried out a tour of Europe (UK, ^{L01} Switzerland, Germany and Belgium) and the United States (Washington DC) in April 2016. They held meetings with representatives from the European Parliament, the United Nations, the IACHR, and members of various international organisations.



Accompaniment to CEHPRODEC during the process of autonomous consultation of the Lenca peoples in La Paz, June 2016. Photo: PBI Honduras

16. "Lencas de La Paz votaron por el NO ante concesión del río Chinacla y el catastro municipal", Radio Progreso, July 15, 2016. Available at: <http://radioprogreso.hn.net/index.php/comunicaciones/noticias/item/3037-lencas-de-la-paz-votaron-por-el-no-ante-concesion-del-r%C3%B3n-del-r%C3%ADo-chinacla-y-el-catastro-municipal>

17. CEHPRODEC, op. cit.

L01. "Voices from the Frontline: The Dangers of Defending Land Rights in Honduras", PBI UK, April 26, 2016. Available at: <http://peacebrigades.org.uk/news/2016-04-26/voices-frontline-dangers-defending-land-rights-honduras>

PBI ACCOMPANIMENT

PBI Honduras accompanied Dina Meza this year to public events and activities related to student protests at the UNAH. We accompanied Dina to meetings to follow up on the agreements between the student movement and university authorities, and we paid special attention to the case of student Dayanara Castillo. We also provided accompaniment to Dina Meza during her training workshops on defending the right to freedom of expression for journalists and communicators in the department of La Paz. We also accompany Dina in her work with the Caravan for Peace, Life and Justice (Caravana por la Paz, la Vida y la Justicia), an initiative of relatives of the victims of human rights violations, civil society organisations and social movements from a number of Central American countries, calling for an end to the war on drugs in the region.

In October 2016, Dina Meza visited Spain to participate in several events organised by the PBI Spanish Country Group, Front Line Defenders, Jass Mesoamérica, IM-Defensoras and the Calala Women's Fund. The events focused on the particular situation of women human rights defenders and how the issue of gender plays a substantial role in violent actions against them. Dina also held meetings with political representatives and Spanish civil society organisations.



Dina Meza takes part in an event organised during the visit of the Special Rapporteur on human rights defenders to Honduras. August 2016. Photo: Erika Martínez

DINA MEZA, HONDURAN ASSOCIATION FOR DEMOCRACY AND HUMAN RIGHTS (ASOCIACIÓN POR LA DEMOCRACIA Y LOS DERECHOS HUMANOS DE HONDURAS - ASOPODEHU)

Dina Meza is director of the Honduran Association for Democracy and Human Rights (ASOPODEHU) and president of PEN Honduras. The internationally-recognised human rights defender and journalist has worked on cases of conflicts related to land and mining in Honduras. She has also defended other threatened journalists and social leaders persecuted for their defence of human rights.

PBI Honduras has accompanied Dina Meza since May 2014, due to the numerous threats and incidents of harassment against her. The Inter-American Commission on Human Rights has stated that the situation of insecurity is serious for journalists and communicators in Honduras.¹⁸



18. Situation of human rights in Honduras, IACHR, December 31, 2015. Available at: <http://www.oas.org/en/iachr/reports/pdfs/Honduras-en-2015.pdf>

Freedom of Expression

◀ **ATTACKS AGAINST HUMAN RIGHTS DEFENDERS**

REPORTED CASES	<p>In its report on the human rights situation in Honduras, published in February 2016, the IACHR described the serious insecurity faced by journalists and communicators in the course of their work, considering them as a group especially vulnerable to attacks in the country.^{T01}</p> <p>In their Report on Freedom of Expression in Honduras in 2015,^{T02} published in August of this year, the Committee for Free Expression (C-Libre) reported that most of the aggressors against freedom of expression are officials of the Executive Branch, followed by justice operators, police and the military.^{T03}</p>
PROGRESS IN INVESTIGATIONS	<p>According to CONADEH, more than 90% of the murders of journalists in Honduras in recent years remain in impunity.^{T04}</p>

In August this year, the online newspaper “Pasos de Animal Grande”, founded and directed by Dina, learned about a list containing the names of eight defenders that the Honduran government had ordered surveillance and investigations against. In addition to Dina Meza herself, the list included the names of Wilfredo Méndez from the Centre for Human Rights Promotion and Research (Centro de Promoción e Investigación de los Derechos Humanos - CIPRODEH), Hugo Maldonado and Jorge Jiménez from the Committee for the Defence of Human Rights in Honduras (Comité para la Defensa de los Derechos Humanos en Honduras - CODEH), Karla Alegría from Vía Campesina, Kenia Oliva from the Journalism and Democracy Initiative (Iniciativa Periodismo y Democracia), Cesario Padilla, a journalism graduate and student leader at the National Autonomous University of Honduras (Universidad Nacional Autónoma de Honduras - UNAH), and others. Most of these human rights defenders accompany cases of victims of human rights violations, and UNAH students in particular.¹⁹

- T01. IACHR, op. cit.
- T02. Informe de Libertad de Expresión en Honduras (ILE-2015) – Estado de la libertad de expresión en Honduras en 2015, C-Libre, August 2015. Available at: <http://www.clibrehonduras.com/content/informe-libertad-de-expresi%C3%B3n-2015>
- T03. “Informe de C-Libre: Funcionarios del Poder Ejecutivo los mayores agresores contra la libertad de expresión en Honduras”, Pasos de Animal Grande, August 4, 2016. Available at: <http://www.pasosdeanimalgrande.com/index.php/es/amenazas-a-la-libertad-de-expresion/item/1462-informe-de-c-libre-funcionarios-del-poder-ejecutivo-los-mayores-agresores-contra-la-libertad-de-expresion-en-honduras>
- T04. “EE.UU. urge poner fin a impunidad en crímenes contra periodistas en Honduras”, La Tribuna, November 2, 2016. Available at: <http://www.latribuna.hn/2016/11/02/ee-uu-urge-poner-fin-impunidad-crimenes-periodistas-honduras/>



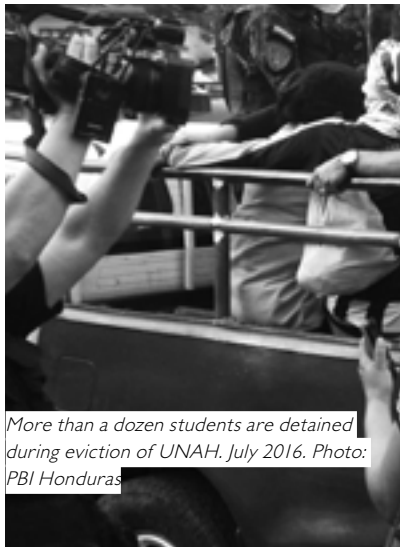
19. Supposedly, the list was sent to the Police Investigation Directorate and to the Strategic System of Collection, Collation, Analysis and Information Archive (Sistema Estratégico de Recolección, Cotejamiento, Análisis y Archivo de Información - SERCAA). “Gobierno ordena investigación y seguimiento a defensores y defensoras de derechos humanos”, Pasos de Animal Grande, August 10, 2016. Available at: <http://www.pasosdeanimalgrande.com/index.php/es/denuncias/item/1467-gobierno-ordena-investigacion-y-seguimiento-a-defensores-y-defensoras-de-derechos-humanos>

Accompanying Dina Meza during the eviction of UNAH students. July 2016. Photo: PBI Honduras.

STUDENT PROTESTS AT UNAH

In 2016 students from the UNAH resumed protests which had originally begun in 2011, with the aim of obtaining a more democratic university. Six students had been expelled from the university in 2015 and a warrant had been ordered for their arrest, even though five of them stated that they had not been present on the date in question and the only person who was there stated that they were carrying out independent journalistic work.^{L01}

On July 1 this year, several buildings were occupied by the students, who were later evicted by the authorities. During the eviction, 22 students were arrested, though they were later granted letters for their release.^{L02} In July, the authorities of the UNAH and the University Student Movement (Movimiento Estudiantil Universitario - MEU) signed an agreement. A month later, the MEU expressed concern about weaknesses in the implementation of this agreement.^{L03}



More than a dozen students are detained during eviction of UNAH, July 2016. Photo: PBI Honduras

L01. "Sobreseimiento definitivo para 25 estudiantes del MEU", Pasos de Animal Grande, July 26, 2016. Available at: <http://www.pasosdeanimalgrande.com/index.php/en/especiales/protesta-social-unah/item/1453-sobreseimiento-definitivo-para-25-estudiantes-del-meu>

L02. Ibid.

L03. "La de nunca acabar: Autoridades de la UNAH presionan a estudiantes para que rompan el acuerdo", Pasos de Animal Grande, August 9, 2016. Available at: <http://www.pasosdeanimalgrande.com/index.php/en/especiales/protesta-social-unah/item/1466-autoridades-de-la-unah-presionan-a-estudiantes-para-que-rompan-el-acuerdo>

DAYANARA CASTILLO, STUDENT LEADER FROM UNAH

Dayanara Castillo is a student of Sociology and a student leader in the Broad University Movement (Movimiento Amplio Universitario - MAU) in the National Autonomous University of Honduras. Since 2010, she has demanded greater democracy in the operations of UNAH, along with other students.²⁰

At the end of 2014, Dayanara was expelled from the university along with five classmates. After an appeal for the protection of their constitutional rights was presented to the Constitutional Chamber of the Supreme Court of Justice (Sala de lo Constitucional de la Corte Suprema de Justicia - SCJ), Dayanara was able to return to the university.²¹ However, since that date, she was subjected to surveillance, monitoring, discrimination and violence because of her activism. In August of last year, she was abducted by police a short distance from her home in Tegucigalpa.

Members of the police and men in civilian clothes took Dayanara to a police post in Comayagüela and tortured her along the way, causing injuries to her spine and ankle. Once at the police station, they burned her with a lighter, beat



20. "“Quien se va, no regresa sin pagar cuentas”, le advierten desconocidos a Dayanara Castillo, estudiante de la UNAH", Pasos de Animal Grande, August 22, 2016. Available at: <http://www.pasosdeanimalgrande.com/index.php/es/denuncias/item/1480-quien-se-va-no-regresa-sin-pagar-cuentas-le-advierten-desconocidos-dayanara-castillo-estudiante-de-la-unah>

21. "UNAH reintegra a seis estudiantes anteriormente expulsados", Presencia Universitaria, February 14, 2015. Available at: <https://presencia.unah.edu.hn/administracion/articulo/unah-reintegra-a-seis-estudiantes-anteriormente-expulsados>



Globo TV interviews Dina Meza after the murder of defender Berta Cáceres. March 2016. Photo: PBI Honduras

CLOSURE OF GLOBO TV

In May 2016, the National Telecommunications Commission (Comisión Nacional de Telecomunicaciones - CONATEL) announced that several television channels, including the Globo TV channel, did not have valid operations permits. As they had not renewed their permits according to CONATEL information, the channel would be temporarily closed. C-Libre reported that this closure violated the Constitution.^{L01}

Globo TV and Radio Globo are two of the few media channels that openly opposed the coup of 2009. In addition, the television channel revealed last year, through the work of journalist David Romero Ellner, the diversion of high sums of public money by the Honduran Social Security Institute (Instituto Hondureño de Seguridad Social - IHSS) to ghost companies, several of which financed the campaign of the National Party.^{L02}

REPORTED ATTACKS

On May 2, 2016, freelance journalist Félix Molina was assaulted during a taxi ride in Tegucigalpa. At dusk that same day, as he was once again taking a taxi near the same place, he was shot twice, once in each leg. The journalist recovered without permanent damage. Earlier that same day, Félix had published personal reflections in his Facebook account on the arrests related to the investigations into the murder of Berta Cáceres.^{L03}

her with a macana²² on her feet, and threatened to forcibly disappear her. Following this incident, Dayanara went into exile for a year outside of Honduras, during which time she continued to receive telephone threats.²³ In June this year, while she was out of the country, the university authorities asked for an arrest warrant to be brought against her (along with five other students), as she was accused of usurpation against UNAH. A few days after her arrival in Honduras in August 2016, Dayanara suffered harassment and threats, and in early November, unknown individuals in a vehicle without a licence plate attempted to run her over.²⁴

GLADYS LANZA, VISITACIÓN PADILLA WOMEN'S MOVEMENT FOR PEACE "LAS CHONAS"

The Visitación Padilla "Las Chonas" organisation was founded in 1984 as a women's movement promoting human rights, in particular the rights of women. The organisation provides psychosocial support and legal advice to women who have experienced violence, and provides community training. They also carry out important advocacy work with local actors and international authorities in defence of sexual and reproductive rights and in favor of a life free from patriarchal violence.

22. C. Rica, El Salv., Hond. and Nic. Farming implement consisting of a long pole with a point or an iron at one end. From the Spanish definition of the RAE, 2016.

23. "Aún en el exilio: 'Si regresas a Honduras te vas a arrepentir', le dicen por celular a la estudiante de la UNAH Dayanara Castillo", Pasos de Animal Grande, June 14, 2016. Available at: <http://www.pasosdeanimalgrande.com/index.php/en/amenazas-a-la-libertad-de-expresion/item/1391-aun-en-el-exilio-si-regresas-a-honduras-te-vas-a-arrepentir-le-dicen-por-celular-a-la-estudiante-de-la-unah-dayanara-castillo/1391-aun-en-el-exilio-si-regresas-a-honduras-te-vas-a-arrepentir-le-dicen-por-celular-a-la-estudiante-de-la-unah-dayanara-castillo>

24. "Acciones paramilitares: Vehículo sin placas y vidrios polarizados intenta atropellar a Dayanara Castillo", Pasos de Animal Grande, November 1, 2016. Available at: <http://www.pasosdeanimalgrande.com/index.php/en/denuncias/item/1547-acciones-paramilitares-vehiculo-sin-placas-y-vidrios-polarizados-intenta-atropellar-a-dayanara-castillo>

L01. "Cierre del canal Globo TV está basado en argumentos jurídicos 'ilegales'", Radio Progreso, May 27, 2016. Available at: <http://radioprogreso.net/index.php/comunicaciones/noticias/item/2920-cierre-del-canal-globo-tv-est%C3%A1-basado-en-argumentos-jur%C3%ADdicos-%E2%80%99Cilegales%E2%80%99D>

L02. "¿Por qué el gobierno de Honduras cerró Globo TV, el principal medio opositor del país?", BBC Mundo, May 25, 2016. Available at: http://www.bbc.com/mundo/america_latina/2016/05/160525_honduras_cierra_principal_medio_opositor_an

L03. "Félix Molina: El periodista que cubre su propia noticia al filo de la muerte", Pasos de Animal Grande, May 4, 2016. Available at: <http://www.pasosdeanimalgrande.com/index.php/en/amenazas-a-la-libertad-de-expresion/item/1340-felix-molina-el-periodista-que-cubre-su-propia-noticia-al-filo-de-la-muerte/1340-felix-molina-el-periodista-que-cubre-su-propia-noticia-al-filo-de-la-muerte>

PBI ACCOMPANIMENT

On January 25, 2016, PBI Honduras accompanied Gladys Lanza during a march on the Day of the Honduran Woman. We also accompanied the human rights defender during the trial of Lesbia Pacheco in the Supreme Court of Justice.

PBI Honduras had been accompanying Gladys Lanza, general coordinator of the *Visitación Padilla Women's Movement for Peace "Las Chonas"*, since July 2015. Unfortunately, Gladys died on September 20, 2016, after a long illness.

This year the *Visitación Padilla* organisation defended Lesbia Pacheco and supported her complaint of sexual harassment against her former employer Juan Carlos Reyes, director of the Foundation for the Development of Social, Urban and Rural Housing in Honduras (*Fundación para el Desarrollo de la Vivienda Social, Urbana y Rural de Honduras - FUNDEVI*). After the trial, Lesbia Pacheco was sued by Reyes for having written comments on her Facebook profile, exercising her right to freedom of expression.²⁵ She was later sentenced by the Supreme Court of Justice, contrary to the provisions of Article 19 of the International Covenant on Civil and Political Rights.²⁶

Visitación Padilla has also worked for the decriminalisation of abortion in the Penal Code and has met with members of the National Congress to discuss this issue, one of the most fundamental issues for Honduran civil society organisations. The Penal Code is still under review. The women's organisation requested that the right to abortion be granted in several instances: when the pregnancy results from a rape, when the foetus has a severe congenital disorder or when the life of the mother is in danger.²⁷

Gladys Lanza during a march on the Day of the Honduran Woman, January 2016. Photo: PBI Honduras



25. "Primer fue la defensora, ahora tras la víctima: Querellan a Lesbia Pacheco", *Pasos de Animal Grande*, November 24, 2015. Available at: <http://www.pasosdeanimalgrande.com/index.php/en/denuncias/item/1101-primer-fue-la-defensora-ahora-tras-la-victima-querellan-a-lesbia-pacheco/1101-primer-fue-la-defensora-ahora-tras-la-victima-querellan-a-lesbia-pacheco>

26. "Primera condena por supuestas publicaciones en Facebook", *Conexihon*, October 11, 2016. Available at: <http://conexihon.hn/site/noticia/libertad-de-expresi%C3%B3n/primer-condena-por-supuestas-publicaciones-en-facebook>

27. "Piden al Congreso despenalizar el aborto, la calumnia e injuria en Honduras", *El Heraldo*, May 19, 2016. Available at: <http://www.elheraldo.hn/pais/961690-466/piden-al-congreso-despenalizar-el-aborto-la-calumnia-e-injuria-en-honduras>

ARCOIRIS LGBT ASSOCIATION

The Arcoiris LGBT Association was founded on August 1, 2003 to empower and inform the LGBT community of Honduras on issues related to their emancipation, integral health, and the defence and promotion of the human rights of sexual diversity. Its programs are aimed at lesbian and bisexual women, gay and bisexual men, and trans men and women (transsexual, transgender and transvestite). The organisation raises awareness in society with the aim of reducing stigma and discrimination on the basis of sexual orientation.



Solidarity march after the massacre in Orlando (United States) to demand justice for victims of hate-based violence. June 2016. Photo: PBI Honduras

PBI Honduras began to accompany the organisation in July 2015. The leaders of Arcoiris have continued to report multiple attacks during 2016; PBI Honduras has been informed of 21 security incidents during this year alone. Members of the organisation and the LGBT community in general, continue to be victims of serious attacks, including surveillance, harassment, arrests, assaults, robberies, threats, sexual assault and even murder.

In January, Paola Barraza, a transsexual woman and member of the board of directors of Arcoiris, was murdered. The human rights defender had been the target of attacks over a long period of time. Two other murders were also committed against members of the Litos Group (Grupo Litos), a group of lesbian women within Arcoiris. Also, during the course of 2016, "J-Lo" Cordova, a transsexual woman, a member and leader of the organisation, survived two attacks by unknown gunmen. In addition to the aforementioned attacks and murders, 2016 also saw the disappearance and murder, in July, of René Martínez, president of the Lesbian, Gay, Bisexual, Transgender and Intersexual (LGBTI) community in San Pedro Sula.²⁸

According to Arcoiris leaders, in Honduras members of the LGBT community are forced to leave the country on a daily basis because of the insecurity and discrimination they experience.²⁹

28. "Honduras: Assassination of René Martínez, president of the LGBTI Community in San Pedro Sula", Observatory for the Protection of Human Rights Defenders, June 7, 2016. Available at: <http://www.omct.org/human-rights-defenders/urgent-interventions/honduras/2016/06/d23795/>

29. Meeting with Donny Reyes, October 28, 2016.

PBI ACCOMPANIMENT

In 2016, PBI Honduras accompanied the Arcoiris LGBT Association in meetings with various authorities, including the European Union Delegation in Honduras, the European Union Special Representative for Human Rights and representatives from the new Tegucigalpa Office of the United Nations High Commissioner for Human Rights.

In collaboration with National PBI Groups, we have accompanied Donny Reyes (Arcoiris coordinator and member of the Protection Council of the National System for the Protection of Defenders) to various public events and meetings both in Honduras and in Europe, in his work with the Coalition Against Impunity and the UPR (Universal Periodic Review) Platform.

Our team has also been present at several Arcoiris workshops, including training sessions on LGBT rights for public prosecutors and police officers and discussions on the process of acceptance of LGBT sons and daughters by their relatives. We have also observed public demonstrations such as the annual LGBT pride march and the march against homophobia.

ATTACKS AGAINST HUMAN RIGHTS DEFENDERS ► **LGBTI Rights**

REPORTED CASES	From 2009 to August 2016, 224 murders of members of the LGBTI community were registered by the authorities and organisations that defend their rights. ^{T01} Last year, 37 people were murdered, 11 more than in 2014. ^{T02}
PROGRESS IN INVESTIGATIONS	According to information received by PBI Honduras, the authorities have not reported any progress, and many of the cases are still under investigation.

CIVIC COUNCIL OF POPULAR AND INDIGENOUS ORGANISATIONS IN HONDURAS (CONSEJO CÍVICO DE ORGANIZACIONES POPULARES E INDÍGENAS EN HONDURAS – COPINH)

COPINH is a Lenca indigenous organisation founded in March 1993. It is currently composed of more than one hundred communities from four different departments in the country: Intibucá, Santa Bárbara, Lempira and La Paz. The organisation works for the protection of indigenous territories and the recognition of the political, economic, social and cultural rights of indigenous communities in Honduras.

Accompanying COPINH during the "Justice for Berta Now!" mobilisations in La Esperanza. September 2016. Photo: PBI Honduras



T01. "APUVIMEH denuncia que funcionaria de Justicia y derechos Humanos les discrimina", Pasos de Animal Grande, August 14, 2016. Available at: <http://www.pasosdeanimalgrande.com/index.php/en/denuncias/item/1470-apuvimeh-denuncia-que-funcionaria-de-justicia-y-derechos-humanos-les-discrimina/1470-apuvimeh-denuncia-que-funcionaria-de-justicia-y-derechos-humanos-les-discrimina>

T02. Índice de muertes violentas de LGTTBI en Honduras, Cattrachas, 2016. Available at: <http://www.cattrachas.org/index.php>

On March 3 this year, Berta Cáceres, the well-known COPINH general coordinator and defender of indigenous rights and natural resources, was murdered at her home in La Esperanza, Intibucá. Berta Cáceres was a beneficiary of precautionary measures granted by the IACHR, and had also been awarded the Goldman Environmental Award in 2015.³⁰ The murder of Berta Cáceres provoked forceful reactions and strong condemnations at the national and international level. Following her assassination, PBI Honduras began to accompany the coordinating members of COPINH.

A few days after Berta's murder, on March 15, Nelson Noé García, an indigenous leader and member of COPINH, was killed in his community in the department of Cortés, mere hours after he had been on hand to support the inhabitants of Río Chiquito (municipality of San Francisco de Yojoa), a community that had been evicted that same morning.³¹ The inhabitants of this village are members of one of the Lenca indigenous communities and also members of COPINH. Both PBI Honduras and Witness for Peace were present during the eviction as international observers. Nelson was also a beneficiary of precautionary measures from the IACHR.

MURDER OF BERTA CÁCERES

In the communities near the Gualcarque River, Berta led the opposition to the Agua Zarca hydroelectric project, owned by the company Desarrollos Energéticos Sociedad Anónima (DESA). In 2015, she persuaded the Chinese company Sinohydro and the World Bank to withdraw from the project.³² The concession had been approved by the competent Honduran authorities without prior, free and informed consultation with the indigenous community, as established under ILO Convention 169, an international instrument that regulates the rights of indigenous and tribal peoples, ratified by Honduras in the 1990s.³³

PBI ACCOMPANIMENT

As part of PBI Honduras' accompaniment to COPINH, we have made regular visits to their offices in La Esperanza. We have also observed a number of COPINH activities, including demonstrations in May, June and October outside the Presidential Residence and at the Public Prosecutor's offices in Tegucigalpa, where the organisation demanded information on progress in the investigations into the murder of Berta Cáceres.



More than a thousand people attend the wake of Berta Cáceres in La Esperanza. March 2016. Photo: PBI Honduras

30. "Berta Cáceres", The Goldman Environmental Prize, 2015. Available at: <http://www.goldmanprize.org/recipient/bertha-caceres/>

31. Informe Alternativo al Segundo Informe del Estado de Honduras presentado ante el Comité de Derechos Económicos, Sociales y Culturales de Naciones Unidas en el 58º período de sesiones, Plataforma EPU Honduras, May 2016.

32. "Berta Cáceres, Honduran human rights and environment activist, murdered", The Guardian, March 4, 2016. Available at: <https://www.theguardian.com/world/2016/mar/03/honduras-bertha-caceres-murder-environment-activist-human-rights>

33. Río Blanco: La reconstrucción histórica de la lucha por la defensa del río Gualcarque", CESPAD, August 2016. Available at: http://cespad.org/sites/default/files/Rio%20Blanco-Final%20con%20portada_0.pdf

AGGRESSION AGAINST INTERNATIONAL CARAVAN

In mid-April, PBI Honduras was present at the international meeting “Berta Lives,” organised by COPINH together with other national and international human rights organisations. On the last day of the event, April 15, the delegation of approximately 400 people, including members of international human rights organisations, travelled to the Gualcarque River to commemorate the life of Berta Cáceres. As they arrived at the river, a group of about 30 people also arrived, expressing their support for the Agua Zarca hydroelectric project, at the same time brandishing machetes and threatening COPINH and the other participants at the event. Although there was a strong police and military presence, only a few officers stood in front of the instigating group. After the ceremony, the individuals supporting the DESA company unexpectedly began throwing stones at the international group and threatened to kill several COPINH members. The people who were the objects of these threats and harassment were forced to flee to protect themselves. A dozen people, including beneficiaries of precautionary measures granted by the IACHR, were injured by the stones. In spite of the violence, the police did not react immediately, and only took action after several people insistently requested their intervention.^{L01}

The human rights defender had previously been criminalised and prosecuted. In September 2013, Berta was sentenced to prison for the crimes of usurpation, coercion and damages against the DESA company. At the beginning of 2014, the Court of Appeals in Comayagua issued a provisional dismissal of the case.³⁴ A few days before her assassination, Berta Cáceres mentioned that she had received several death threats via calls and text messages in which she was pressured to abandon her defence of the Gualcarque River³⁵.

Following the murder, the IACHR granted precautionary measures to COPINH, to Berta Cáceres’ family members and to Gustavo Castro, a Mexican national, principal witness and also victim in the attack that killed Berta. After giving a statement about the events, Gustavo Castro was detained in the country for 30 days by an immigration alert arbitrarily issued by the Honduran authorities (he could legally have also given a statement from his country of origin) at a time when his life was at serious risk. Óscar Castro, his brother, travelled to Honduras to support Gustavo and received accompaniment from PBI Honduras during his time in Tegucigalpa. The lawyer who took the case was suspended from her job for 15 days.³⁶ On April 1, Gustavo Castro was finally able to leave the country after the measures imposed on him expired.³⁷

In the absence of results in the investigations, COPINH and Berta’s relatives requested the technical assistance of the IACHR to create a commission of experts, independent and trustworthy individuals who could supervise, support and participate in the investigations into the murder of Berta Cáceres. They also requested the immediate and definitive cancellation of the concession granted to the Agua Zarca hydroelectric plant.³⁸ In April 2016, Michel Forst, Special Rapporteur on the situation of human rights defenders, took up these requests and asked the State of Honduras to allow an independent investigation into the murders of Berta Cáceres and Nelson Noé García.³⁹ On September 28, armed men intercepted the judge in charge of the case and stole the original case file, prompting a new statement by Rapporteur Forst, who requested a reconstruction of the case file and expressed concern about “the risk of impunity in the case”.⁴⁰

34. Plataforma EPU Honduras, op. cit.

35. “‘Time was running out’: Honduran activist’s last days marked by threats”, The Guardian, April 25, 2016. Available at: <https://www.theguardian.com/global-development/2016/apr/25/bertha-caceres-murder-honduras-death-threats-hitman-agua-zarca-dam>

36. “Jueza inhabilita a la abogada de Gustavo Castro testigo del asesinato de Bertha Cáceres”, Pasos de Animal Grande, March 10, 2016. Disponible en: <http://www.pasosdeanimalgrande.com/index.php/es/denuncias/item/1268-jueza-inhabilitacion-a-la-abogada-de-gustavo-castro-testigo-del-asesinato-de-bertha-caceres>

37. “Gustavo Castro, testigo del crimen de Berta Cáceres, sale de Honduras”, El Heraldo, April 1, 2016. Available at: <http://www.elheraldo.hn/pais/945438-466/gustavo-castro-testigo-del-crimen-de-bertha-caceres-sale-de-honduras>

38. Comunicado familia Bertha Cáceres y COPINH, COPINH, March 9, 2016. Available at: <https://copinh.org/articulo/comunicado-familia-bertha-caceres-y-copinh/>

39. “Honduras murders: UN Expert urges independent investigation into killings of rights”, OHCHR, April 22, 2016. Available at: <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=19864&LangID=E>

40. “Honduras: Experto de la ONU advierte sobre el riesgo de impunidad en el caso de Berta Cáceres”, OHCHR, October 6, 2016. Available at: <http://www.ohchr.org/SP/NewsEvents/Pages/DisplayNews.aspx?NewsID=20645&LangID=S>

L01. ALERT: Attacks and intimidation against participants and international observers at the International Meeting “Berta Cáceres Lives”, PBI Honduras and other human rights organisations, April 2015. Available at: http://www.pbi-honduras.org/fileadmin/user_files/projects/honduras/Publications/ALERT_attacks_and_intimidation_against_participants_and_international_observers_15th_April_Honduras_.pdf

At the request of Berta Cáceres' family, COPINH, Gustavo Castro and other national and international organisations, the creation of an International Advisory Group of Experts (Grupo Asesor Internacional de Personas Expertas - GAIPE) was announced at the beginning of November. The objective of the GAIPE, composed of experts in international human rights law and criminal law, is to conduct an independent and impartial analysis of the events that ended Berta Cáceres' life.⁴¹



Members of OFRANEH during the second day of COPINH protests outside the Presidential Residence in Tegucigalpa to demand justice in the case of Berta Cáceres. May 2016. Photo: PBI Honduras

OTHER CASES

ASSOCIATION OF JUDGES FOR DEMOCRACY (ASOCIACIÓN JUECES POR LA DEMOCRACIA - AJD) AND THE LÓPEZ LONE VS HONDURAS JUDGMENT FROM THE IACTHR

The Association of Judges for Democracy (AJD) is an organisation of independent judges founded in 2006, whose mission is to actively participate in processes aimed at strengthening the rule of law and democratic institutions in Honduras, particularly the judiciary branch. One magistrate and three judges from the AJD were removed from their government posts after opposing the 2009 coup d'état.

41. "Caso Berta Cáceres: se crea grupo internacional de personas expertas para colaborar con la investigación", Pasos de Animal Grande, November 9, Available at: <http://www.pasosdeanimalgrande.com/index.php/es/component/k2/item/1553-caso-berta-caceres-se-crea-grupo-internacional-de-personas-expertas-para-colaborar-con-la-investigacion>

L01. ALERT: State Repression of Peaceful Protest at the Public Prosecutors Office Demanding Justice in the case of Berta Cáceres", PBI Honduras, October 25, 2016. Available at: http://www.pbi-honduras.org/fileadmin/user_files/projects/honduras/files/Alert_PBI_Honduras___State_Repression_of_COPINH_Peaceful_Protest_.pdf

Following the 2009 coup d'état in Honduras, Judge 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 arbitrarily dismissed. The case went to the Inter-American Court of Human Rights (IACtHR), which recognised in its judgment the active role that the Supreme Court of Honduras played in the coup.⁴²

Since the public hearing held last February in San José, Costa Rica, PBI Honduras has closely followed this emblematic case, the first heard by the Inter-American Court of Human Rights in relation to the coup, and the only case on judicial independence in Central America which the Inter-American Court has addressed to date.

One year on from the sentence, the Honduran authorities have not yet complied with its provisions. It was not until October 27 that the Attorney General's Office summoned the victims to inform them that the Supreme Court of Justice had decided not to reinstate them in their former posts as judges, and that the State would only commit to complying with the material damages aspect of the sentence. Given this response, the beneficiaries expressed their disagreement and stated that they would submit the decision for consideration to the Inter-American Court.⁴³

KEVIN RAMÍREZ IN QUIMISTÁN

Environmental defender Kevin Ramírez is from El Listón, a community in northern Santa Bárbara, which is the department with the largest number of extractive⁴⁴ and hydroelectric⁴⁵ project concessions in Honduras. Kevin Ramírez is also president of the Water Council in his community.

The community of El Listón has been affected by the installation of a hydroelectric dam near the village of Paso Viejo. The construction of the hydroelectric plant would affect four rivers: Negro, Cuyamel, Chiquito and Listón, which provide water to 17 communities in the municipality.⁴⁶ In 2013, the company began the construction of the dam, despite the fact that 27 communities, organised under the leadership of Kevin Ramírez, strongly opposed this project.

As a result of his work, Kevin has been repeatedly threatened and, as a result of these threats, forced to leave his community in the municipality of Quimistán on three occasions. The last time was this year. Kevin was granted precautionary measures by the IACHR in 2015, but continues to be the target of threats because he continues to raise concerns about mining and hydroelectric con-

42. Case of López Lone and others vs. Honduras. IACtHR. Judgment of 5 October 2015 (Preliminary exception, Merits, Reparations and Costs).

43. Briefing: Situation of the Judgment of the Inter-American Court in the case of López Lone vs Honduras; Expiration of the Term of Compliance, PBI Honduras, November 10, 2016. Available at: http://www.pbi-honduras.org/fileadmin/user_files/projects/honduras/Publications/161110Briefing_AJD_EN.pdf

44. Diagnóstico de la situación minera en honduras 2007-2012, ICEFI, June 2013.

45. Represas hidroeléctricas y exclusión: el conflicto social en los valles del norte, November 2014.

46. Defensor de bienes naturales denuncia amenazas a muerte por oponerse a represa, ERIC-Radio Progreso, October 23, 2015. Available at: <http://radioprogreso.net/~rprog/index.php/comunicaciones/noticias/item/2476-defensor-de-bienes-naturales-denuncia-amenazas-a-muerte-por-oponerse-a-represa>. Solicitud de Medidas Cautelares a favor de Kevin Ramírez a la CIDH, ERIC-Radio Progreso, September 7, 2015.

cessions affecting rivers and mountains near El Listón. In 2016, PBI Honduras has begun to raise awareness about his case.⁴⁷

In October, PBI Honduras observed an informational municipal meeting in Quimistán. During the meeting, a lawyer representing one of the hydroelectric companies in the region gave a presentation on the project, which is already in progress. The project is being implemented amid a lack of transparency and without having consulted the affected communities. During the meeting, PBI Honduras observed intimidation towards the people who were questioning the project and towards PBI volunteers themselves, as well as direct threats directed against Kevin Ramírez. According to the Kevin, the aggressors include employees of the municipality and officials from the government's Better Life (Vida Mejor) program.



*PBI Honduras visits Kevin Ramírez in the community of El Listón in Quimistán. May 2016.
Photo: PBI Honduras*

COMMITTEE FOR FREEDOM OF EXPRESSION (COMITÉ POR LA LIBERTAD DE EXPRESIÓN - C-LIBRE)

The Committee for Freedom of Expression (C-Libre) is composed of journalists and members of civil society. The organisation was established in 2001 to defend and promote freedom of expression and the right to information in Honduras.

PBI Honduras accompanied C-Libre in August this year during its activities at the International Forum "Freedom of Expression in Honduras and Presentation of the ILE-2015 Annual Report". Also present at the forum were Edison Lanza, Special Rapporteur for freedom of expression in the Inter-American Commission on Human Rights, Javiera Olivares, president of the Chilean Journalists Association, Moisés Sánchez, executive secretary of the Regional Alliance for Freedom of Expression and Information and Mariana Mass of the Open Society Foundation.⁴⁸

47. Honduras – Economic, social and cultural rights. Briefing on the situation of human rights defenders. PBI Honduras, June 2016. Available at: http://www.pbi-honduras.org/fileadmin/user_files/projects/honduras/Publications/examen-II-eng-web.pdf

48. "Relator de Libertad de Expresión llegará a Honduras en visita académica", Conexihon, July 21, 2016. Available at: <http://conexihon.hn/site/noticia/libertad-de-expresi%C3%B3n/relator-de-libertad-de-expresi%C3%B3n-llegar%C3%A1-honduras-en-visita-acad%C3%A9mica>

PROGRESS ON PROTECTION MECHANISMS

LAW ON PROTECTION FOR HUMAN RIGHTS DEFENDERS, JOURNALISTS, COMMUNICATORS AND JUSTICE OPERATORS

PROGRESS AND SETBACKS TO PROTECTION MEASURES

PROGRESS	LACK OF COMPLIANCE
At the national level	
In August, the rules procedure for the Law on Protection of Human Rights Defenders, Journalists, Communicators and Justice Operators were published.	The budget to implement the mechanism is limited.
In November, the director of the National Protection System took office.	Until now, the protection measures implemented have been mainly political.

GENERAL ADMINISTRATION OF THE PROTECTION SYSTEM

On November 1, 2016, Nora Urbina took office as director of the National Protection System in Honduras. The lawyer has previously served as public prosecutor for child cases.

At the end of August 2016, the Rules of Procedure for the Law on Protection of Human Rights Defenders, Journalists, Social Communicators and Justice Operators were published in the Official Gazette of the State of Honduras.⁴⁹ According to the law, which was approved by the National Congress on April 16, 2015, the Secretariat of Human Rights, Justice, Governance and Decentralisation should have drawn up both the regulations and protocols within three months of its entry into force.⁵⁰ However, the Honduran government delayed adopting the regulations and protocols last year at the request of 22 national and international organisations, with the aim of broadening the debate and reaching a greater consensus on the proposal.⁵¹ Subsequently, after a series of workshops were held with a number of human rights organisations in September 2016, the procedures, methodology and structure of the mechanism were approved. The Protection System excludes justice operators, who will have a different mechanism, according to their specific risk situation.

49. "Protegerán a periodistas y comunicadores en honduras", Proceso, August 28, 2016. Available at: <http://www.proceso.hn/nacionales/item/130394-protegeran-a-periodistas-y-comunicadores-en-honduras.html>

50. Article 64 of the Law on Protection.

51. "Primero el consenso: Gobierno debe posponer reglamentos y protocolos de Ley de protección", Pasos de Animal Grande, August 15, 2015

However, the National System of Protection for Defenders did not begin to operate until November 1 of this year, when a new director took charge of this Honduran government body.⁵² Indeed, since its approval the protection mechanism has not had stable leadership, and the position of director remained unfilled for around half a year.⁵³ In the meantime, cases referred to the protection mechanism could not be analysed within the terms established by law and, therefore, petitioners did not receive protection measures according to their risk situation and context.⁵⁴

After the approval of the rules of procedure, precautionary measures granted by the Inter-American Commission on Human Rights will now be implemented by the National System of Protection for Defenders.⁵⁵ The role of this mechanism is therefore key to ensuring the protection of human rights defenders in Honduras, which makes it even more necessary for it to be effective.

Despite the progress made during 2016, civil society organisations have identified weaknesses in the mechanism, such as the composition of its National Protection Council,⁵⁶ which has 12 representatives from government institutions and only two from civil society. Criticism has also been levelled at the budget allocated to the protection mechanism, namely 10 million lempiras in 2015 (around 400,000 euros),⁵⁷ and for 2016, 11.7 million lempiras from the general budget, and an additional 10 million from the Security Tax.⁵⁸

In addition to a budget increase, human rights organisations have identified other challenges for 2017: broadening the participation of civil society in the bodies related to the mechanism, in particular in the National Protection Council; establishing protection measures according to the situation of each defender, specifically measures with a gender perspective, measures for the LGBTI population, for indigenous communities, and for defenders of the environment, land and territory. The implementation of preventive measures is also fundamental, and such measures could include, as recommended by international human rights bodies, the formal recognition of human rights defenders by the highest-ranking Honduran authorities.

PBI ACCOMPANIMENT

In 2016, PBI Honduras held more than 35 meetings with Honduran national and local authorities. During these meetings, concerns were raised about the risks faced by human rights defenders in the country, in particular, by defenders accompanied by PBI Honduras, and the need for the government to take the necessary measures for their protection, including the implementation of an effective protection mechanism.

52. "Juramentan a Nora Urbina como directora del Sistema de Protección", *Tiempo Digital*, November 2, 2016. Available at: <http://tiempo.hn/juramentan-nora-urbina-directora-del-sistema-proteccion/>

53. "Gobierno boicotea implementación del mecanismo de protección para periodistas y defensores de derechos humanos", *Criterio*, October 17, 2016. Available at: <http://criterio.hn/2016/10/17/gobierno-boicotea-implementacion-del-mecanismo-proteccion-periodistas-defensores-derechos-humanos/>

54. *Ibid.*

55. Article 59 of the Rules of Procedure. Available at: http://www.tsc.gob.hn/leyes/Reglamento_Ley_proteccion_def_derechos_humanos_comunicadores.pdf

56. The Council is one of the three main bodies created specifically for the implementation of the mechanism. In particular, it is an advisory body that, among other tasks, advises, supervises and makes proposals for the effective functioning of the National System for the Protection of Human Rights Defenders, according to the terms established by law

57. "32 periodistas y 6 defensores de derechos humanos se han acogido al mecanismo de protección según informe", *Pasos de Animal Grande*, July 27, 2016. Available at: <http://pasosdeanimalgrande.com/index.php/es/contexto/item/1455-32-periodistas-y-6-defensores-de-derechos-humanos-se-han-acogido-al-mecanismo-de-proteccion-segun-informe>

58. Resources of the Honduran State collected from contributions to financially support security and justice operators, in the prevention of and fight against crime and insecurity in the country.

UNITED NATIONS (UN) SYSTEM

PROGRESS AND SETBACKS TO PROTECTION MEASURES

PROGRESS

LACK OF COMPLIANCE

United Nations

The UN Human Rights Council passed a historic resolution on the protection of ESCR defenders.

The UN Rapporteur on Defenders points to Honduras as the most hostile country for environmental defenders.

In November, the UN High Commissioner for Human Rights officially opened the OHCHR office in Tegucigalpa.

UPDATE ON THE OPENING OF THE OHCHR OFFICE IN TEGUCIGALPA

On November 23, 2016, Kate Gilmore, the United Nations Deputy High Commissioner for Human Rights, officially opened the OHCHR office in Tegucigalpa. During her visit, she met with civil society organisations and state authorities. The office, led by María Soledad Pazo, who arrived in Honduras in September 2016, has the support of national and international officials. ^{L01}

In March 2016, the United Nations Human Rights Council adopted a historic resolution at its thirty-first session on the protection of defenders of economic, social and cultural rights (ESCR). In this resolution, the United Nations reaffirms the urgent need to respect, protect, promote and facilitate the work of defenders of these rights for their effective implementation, particularly in relation to the environment, land and development.⁵⁹ The document also condemns attacks against ESCR defenders by both States and corporations. The resolution was preceded by a letter of support, signed by more than 150 human rights organisations, including PBI.⁶⁰ The UN extended its support to ESCR defenders this year with a statement issued by the ESC Committee in October 2016, urging States to take concrete actions such as establishing public recognition of the work of human rights defenders on behalf of the highest-level State authorities.⁶¹

Michel Forst, UN Rapporteur on human rights defenders, presented a report on August 3 of this year which points to Honduras as the most hostile country for environmental defenders.⁶² That same month, Rapporteur Forst reiterated his concern about the general situation of human rights defenders in the country during an unofficial visit he made to carry out a series of consultations with Central American activists.⁶³

Throughout this year, three UN committees evaluated Honduras (the Committee on ESC Rights, the Committee against Torture, and the Committee for the Protection of the Rights of All Migrant Workers and Members of Their Families), expressing concern about smear campaigns, threats, acts of intimidation and murders of human rights defenders in the country, as well as the degree of impunity enjoyed by those responsible for these acts. The Committee Against

59. Protecting human rights defenders addressing economic, social and cultural rights, UN Human Rights Council (A/HRC/31/L.28), March 21, 2016. Available at: <https://documents-dds-ny.un.org/doc/UNDOC/LTD/G16/055/98/PDF/G1605598.pdf?OpenElement>

60. Letter to Member States of the UN Human Rights Council: Support resolution on the protection of human rights defenders addressing economic, social and cultural rights, March 22, 2016. Available at: http://www.ishr.ch/sites/default/files/article/files/letter_to_member_states_of_the_unhrc_hrds_final_24-03.pdf

61. Statement on Human Rights Defenders and Economic, Social and Cultural Rights: "Human Rights Defenders and Economic, Social and Cultural Rights" (E/C.12/2016/2), ESC Committee, October 7, 2016. Available at: http://tbinternet.ohchr.org/Treaties/CESCR/Shared%20Documents/I_Global/E_C-12_2016_2_8097_E.docx

62. Report of the Special Rapporteur on the situation of human rights defenders (A/71/281), ONU, August 3, 2016. Available at: https://www.protecting-defenders.org/sites/protecting-defenders.org/files/57d2a3364_0.pdf

63. "Relator de la ONU sobre situación de defensores y defensoras de DDHH visita Honduras", defensores en línea, August 26, 2016. Available at: <http://defensoresenlinea.com/relator-de-la-onu-sobre-situacion-de-defensores-y-defensoras-de-ddhh-visita-honduras/>

L01. "Apertura de la Oficina del Alto Comisionado de las Naciones Unidas para los Derechos Humanos (OACNUDH) en Honduras", ONU, November 24, 2016. Available at: <http://hn.one.un.org/content/unct/honduras/es/home/presscenter/apertura-oacnudh-honduras.html>

Torture, in particular, expressed concern over public statements made by senior State officials maligning the work of human rights defenders, thereby endangering their physical integrity.⁶⁴

For its part, the Committee on the Elimination of All Forms of Discrimination against Women (CEDAW) also expressed concern about the prevailing context of crime, violence and impunity. The Committee reviewed several state reports on the implementation of this UN Convention and pointed out that the recent murders of four human rights defenders, in addition to that of prominent environmentalist Berta Cáceres, reflect the alarming nature of the issue.⁶⁵

EUROPEAN GUIDELINES ON THE PROTECTION OF HUMAN RIGHTS DEFENDERS

During 2016, the Forum for International Cooperation Agencies (Espacio de Agencias Internacionales de Cooperación - Espacio ACI),⁶⁶ in which PBI Honduras participates, has maintained a dialogue with the Focal Group (Grupo Enlace - a space formed by members of the European diplomatic corps resident in the country), with the aim of coordinating the implementation of actions set forth in the EU Guidelines on Human Rights Defenders.



From November 14 to 16, the UN held the Fifth Business and Human Rights Forum 2016. During the event, Laura Zuñiga Cáceres, a member of COPINH and daughter of human rights defender Berta Cáceres, denounced the murder of her mother and the impact of extractive industry on human rights. November 2016. Photo: PBI Switzerland

64. Honduras: Joint Letter: Human Rights Defenders Situation, October 25, 2016. Available at: <http://www.omct.org/es/human-rights-defenders/statements/honduras/2016/10/d24017/>

65. "Honduras: Comité de la ONU expresa alarma por los asesinatos de defensoras de derechos humanos", UN News Centre, November 3, 2016. Available at: <http://www.un.org/spanish/News/story.asp?NewsID=36193>

66. The Espacio ACI was founded in Honduras in 1994 with the aim of influencing democratization processes in Honduras based on the strengthening of governmental and non-governmental organisations, on equity and justice, and the inclusion of all in sustainable human development. For further information, see: <http://espacioaci.org/que-es-espacio-aci/que-es/>

L01. Honduras – economic, social and cultural rights. Briefing on the situation of human rights defenders. June 2016. Available at: http://www.pbi-honduras.org/fileadmin/user_files/projects/honduras/Publications/examen-II-eng-web.pdf

L02. Final Observations ESCR Committee, July 11, 2016. Available at: <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=4slQ6QsmlBEDzFEovLCuW7r%2fs5PmlHnsb%2bdhE9gELmAtKbtSsGHdyvVcvoFuY18yZr%2b8qKmlReyED5gSAK8obDeBQGMXilHUfLLkDlhDdZS%2fKjPaEnAw85GQpY7MSDu>

LGBTI DEFENDER MURDERED DURING LAMBRINIDIS VISIT

EU Special Representative for Human Rights Stavros Lambrinidis visited Honduras June 2-4, 2016 and emphasised the importance of the urgent and effective implementation of a protection mechanism for human rights defenders. During this visit, LGBTI leader René Martínez was brutally murdered in San Pedro Sula. Both the EU Delegation and Lambrinidis himself condemned the attack. ^{L01}

PBI ACCOMPANIMENT

PBI held 40 meetings with embassies in Honduras during 2016. The meetings addressed the importance of strengthening the human rights work of the EU Delegation and the need to create spaces to ensure the effective protection of the defenders that PBI Honduras accompanies.

At-risk organisations from Honduran civil society such as MILPAH (Movimiento Indígena Lenca de La Paz Honduras - MILPAH)⁶⁷ have shared with this group the risk situation in which they find themselves, as well as the status of their complaints to the authorities. Meetings were also held to address issues of special relevance such as the rights of persons with disabilities, the status of the implementation of the national protection mechanism for defenders, the Law on Consultation and the Penal Code. At these meetings, representatives of the diplomatic corps committed to take actions aimed at improving the human rights situation in the country.



The Special Rapporteur on human rights defenders, Michel Forst, with LGBT rights defender and director of the Arcoiris Association, Donny Reyes, during an event organised by PBI in Geneva. June 2016. Photo: PBI Switzerland

INTER-AMERICAN SYSTEM OF HUMAN RIGHTS (OAS)

PROGRESS AND SETBACKS TO PROTECTION MEASURES

PROGRESS	LACK OF COMPLIANCE
<p>Inter-American System</p> <p>In relation to Honduras, the IACHR issued precautionary measures in favour of the members of COPINH, the family of Berta Cáceres and Gustavo Castro.</p>	<p>In 2016, 5 human rights defenders with precautionary measures from the IACHR were killed in Honduras.</p> <p>Honduras records total or partial non-compliance with 8 judgments issued by the Inter-American Court against the State.</p>

L01. Statement by the Spokesperson on the killing of Human rights' defender René Martínez in Honduras, June 6, 2016. Available at: https://eeas.europa.eu/delegations/honduras/5046/statement-spokesperson-killing-human-rights-defender-rene-martinez-honduras_en

67. The Lenca Indigenous Movement in La Paz is an organisation that defends the land and territory of Lenca peoples with representation in 11 of the 19 municipalities of the department of La Paz, as well as in the municipality of San Sebastián in the department of Comayagua.

In 2016 the Inter-American Court of Human Rights (IACtHR) followed up on three of its judgments against the State of Honduras, namely the cases *López Lone and others v. Honduras*, *Garífuna Community of Punta Piedra and its members v. Honduras*, and *Garífuna Community of Triunfo de la Cruz and its members v. Honduras*. To date, none of these judgments has been duly complied with. It should be noted that these are not the only judgments of the Court to which Honduras has not adequately responded. There are 8 sentences that show total or partial non-compliance.⁶⁸



Francisco Javier, member of COPINH, gives a speech during the 33rd ordinary session of the UN Human Rights Council, September 2016. Photo: PBI Switzerland

IACHR REPORT ON HONDURAS

As a result of the IACHR's on-site visit to Honduras, which took place from December 1 to 5, 2014, the report "Situation of Human Rights in Honduras" was published on February 18, 2016. Following the visit, Commissioner José de Jesús Orozco, Rapporteur on the Rights of Human Rights Defenders, stated that Honduras has a duty to "protect defenders when they encounter risks to their life and personal integrity, by adopting an effective and comprehensive prevention strategy, with the goal of preventing attacks".^{L01} Together with Rapporteur Forst, the Commissioner described Honduras as one of the most dangerous countries for human rights defenders.^{L02}

In relation to Honduras, the Inter-American Commission on Human Rights (IACHR) issued precautionary measures in March 2016 in favour of COPINH members, the family of Berta Cáceres and Gustavo Castro.⁶⁹ These measures were extended to protect Víctor Fernández, Arnold Guifarro, Carlos Jiménez and three other people with reserved identity.⁷⁰ In this same period, 11 defenders were killed, 5 of them beneficiaries of precautionary measures from the IACHR.

This year, the IACHR held two sessions of hearings. In April, the hearings included the case of Honduras with regards to the situation of the LGBT community. This hearing was attended by the Arcoiris Association and members of the social movement from the Bajo Aguán region. The second hearing, held in December in Panama, focused on the protection mechanism and justice for human rights defenders, as well as the right to consultation under ILO Convention 169.

68. Information given by the IACtHR to PBI Honduras in 2016.

69. IACHR. Resolución 8/2016. Medida Cautelar No. 112 – 16. Asunto miembros de COPINH y familiares de Berta Cáceres respecto de Honduras, March 5, 2016. Available at: <https://www.oas.org/es/cidh/decisiones/pdf/2016/MC112-16-Es.pdf>

70. IACHR. Resolución 8/2016. Medida Cautelar No. 112-16. Ampliación de beneficiarios Asunto miembros de COPINH y familiares de Berta Cáceres respecto de Honduras, March 23, 2016. Available at: <https://www.oas.org/es/cidh/decisiones/pdf/2016/MC112-16-Es-ampliacion.pdf>

L01. "IACHR Publishes Report on the Human Rights Situation in Honduras", IACHR, February 18, 2016. Available at: https://www.oas.org/en/iachr/media_center/PReleases/2016/015.asp

L02. "Honduras, one of the most dangerous countries for human rights defenders – Experts warn", IACHR/UN, August 19, 2016. Available at: https://www.oas.org/en/iachr/media_center/PReleases/2016/118.asp

THE PROPOSED HONDURAN LAW ON CONSULTATION

Since the coup d'état of 2009, both indigenous and Afro-Honduran communities,⁷¹ and national and international human rights organisations, have reported the intensification of the concession of rivers and forested territories for the installation of extractive projects in Honduras. In particular, the last two Honduran governments have granted 837 mining concessions — covering 35% of the national territory — in many cases without the consent of the affected peoples.⁷² The lack of free, prior and informed consultation during these processes has not only violated the rights of internationally recognised indigenous peoples, but it has also led to serious ecological damage, forced land grabbing, and conflict and polarisation within affected communities.⁷³

It has been more than two decades since Honduras ratified the International Labour Organisation (ILO) Convention No. 169 on Indigenous and Tribal Peoples in Independent Countries, but the process of creating a national law on consultation has accelerated in recent months. In fact, as many as four different proposals have been on the table. One of these, which has the support of the United Nations Development Program (UNDP) and the ILO,⁷⁴ responds to the requirements of both Convention 169 and the United Nations Declaration on the Rights of Indigenous Peoples. Nevertheless, this version of the law has not been without criticism.

OBLIGATIONS OF HONDURAS REGARDING CONSULTATION

ILO Convention 169 (1989), ratified by Honduras in 1995, and the UN Declaration on the Rights of Indigenous Peoples (2007), which the Central American country has also signed, establish a universal framework of minimum standards for the rights of indigenous peoples around the world. Both international instruments recognise the right to free, prior and informed consultation on any measure that may affect indigenous peoples, and indicate that States must

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71. The State recognises seven indigenous peoples and two Afro-Honduran peoples: Tolupán, Tawahka, Miskitu, Nahua, Lenca, Maya Chortí, Pech, Negro de Habla Inglesa and Garífuna.
 72. CONFLICTOS MINEROS EN AMÉRICA LATINA: EXTRACCIÓN, SAQUEO Y AGRESIÓN - Estado de situación en 2014, Observatorio de Conflictos Mineros de América Latina, April 2015.
 73. "Mapeo de Concesiones y acaparamiento de tierras en zonas indígenas", Informe de Consultoría al Foro Agrícola. Lazo, Jersi. 2013.
 74. Anteproyecto de ley marco de consulta libre, previa e informada a los pueblos indígenas y afrohondureños, Government of Honduras, May 2016. Available at: http://dinafroh.sedis.gob.hn/images/documentos/ANTE-PROYECTO_CPLI_FINAL.pdf



Eviction of indigenous Lenca people from COPINH in the Río Chiquito community. Nelson Garcia, a member of COPINH, who had been present during the eviction, was killed that same day a few kilometres away. March 2016. Photo: PBI Honduras

carry out this consultation in good faith.⁷⁵ Both documents also emphasise the need for respect for the customs of indigenous peoples and their organisations during the implementation of treaties. Furthermore, the UN Declaration states that indigenous peoples have the right to fair and equitable redress, should they be dispossessed of their means of subsistence and development.⁷⁶

Moreover, international treaties ratified by the Honduran State are protected under the Constitution; if an international agreement or treaty disagrees with Honduran law, the international norm prevails.⁷⁷ At the same time, national legislation must be in harmony with international regulations, and the State must adjust its legislation and develop programs that allow said regulations to be effectively implemented.⁷⁸ The mining law of 2013, for example, stands in contradiction to ILO Convention 169, since “it promotes citizen participation after the fact, that is after the exploration permits have been granted and the project has begun, rather than before”.⁷⁹

75. Article 6, para. 2, of ILO Convention 169, and Article 32, para. 2, of the UN Declaration on the Rights of Indigenous Peoples.

76. Article 10, Article 20, para. 2, Article 28, para. 1, and Article 32, para. 3, of the UN Declaration on the Rights of Indigenous Peoples.

77. Article 18 of the Constitution of the Republic of Honduras.

78. Lazo, Jersi, op. cit.

79. Ibid.

The annual review performed by the commission on the application of ILO standards (including Convention 169), took place in May and June of this year. The review considers the opinions of the government of Honduras, a delegation representing workers and Honduran employers, and government representatives from various countries. In the report, the Committee of Experts concludes that the State of Honduras must “ensure the application of the Convention in a climate of dialogue and understanding, free from violence” and “regulate, without delay, in consultation with the social partners [...] the requirement to consult indigenous peoples, so that such consultations are held in good faith and in a form appropriate to the circumstances, with the objective of achieving agreement or consent to the proposed measures”.⁸⁰

During this review, the Honduran government reported that an inter-agency technical panel was already working on the preparation, implementation and follow-up to the legal instrument for consultation and informed the commission of the existence of a preliminary draft law.⁸¹ The UNDP, by virtue of its mandate, had begun in 2013 to accompany the creation of a law on consultation at the request of the Government of Honduras. In fact, the implementation of the Reducing Emissions from Deforestation and Degradation (REDD+) program, a UN initiative to combat climate change caused by deforestation, demanded the existence of such a law.⁸² For the preparation and the sharing of drafts of the law, the program has subsequently relied on the Confederation of Indigenous Peoples of Honduras (Confederación de Pueblos Autóctonos de Honduras - CONPAH), an organisation that brings together indigenous and Afro-Honduran groups. This decision was strongly criticised by some local organisations who consider that CONPAH does not legitimately represent all of the indigenous peoples in the country.⁸³

To date, Honduras has not yet fulfilled its duty to protect the right to free, prior and informed consultation. This failure has delayed the resolution of disputes over the rights of indigenous peoples, and has prolonged the negative impacts of development projects on communities in the form of internal conflicts and environmental devastation. Indeed, in December 2015, the Inter-American Court of Human Rights stated that Honduras was responsible for violating the right to consultation in two cases involving Garífuna communities.⁸⁴ The UN Special Rapporteur on the Rights of Indigenous Peoples has also expressed her views on this issue. During her visit to Honduras late last year, Victoria Tauli-Corpuz stated that “the lack of full recognition, protection and enjoyment of their rights to ancestral lands, territories and natural resources” is a fundamental problem faced by indigenous peoples in the country.⁸⁵

80. Third item on the agenda: Information and reports on the application of Conventions and Recommendations. Report of the Committee on the Application of Standards, International Labour Conference, Provisional Record, ILO, 105th Session, Geneva, 2016

81. Ibid.

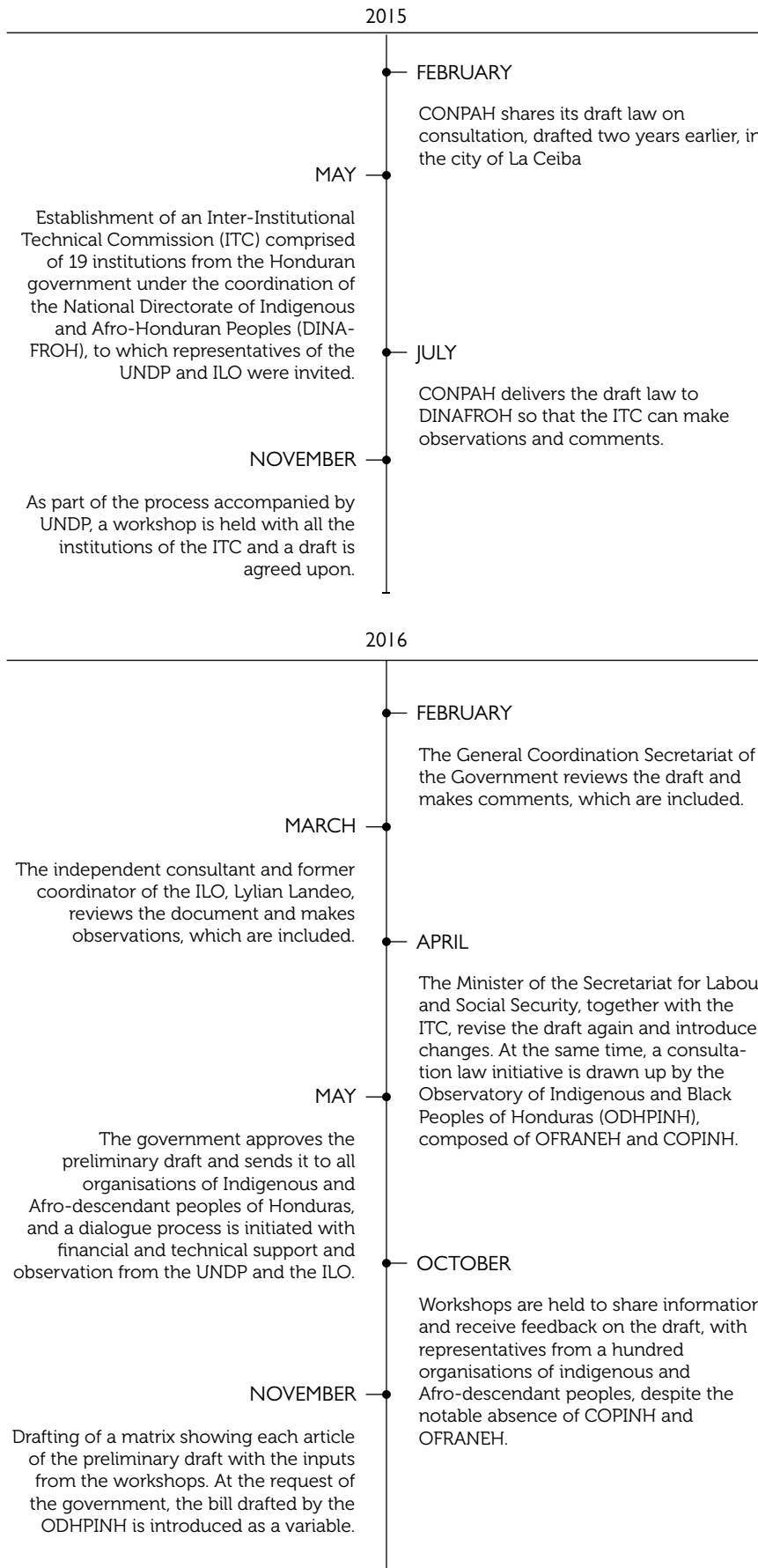
82. For further information on the REDD+ program, consult: <http://www.ocphn.org/reddhonduras.html>

83. Letter from COPINH to World Bank: We reject the fraudulent process in Honduras, COPINH, 2013. Available at: <http://www.redd-monitor.org/2013/02/12/letter-from-copinh-to-world-bank-we-reject-the-fraudulent-redd-process-in-honduras/>

84. Judgments of the IACtHR Court on the Triunfo de la Cruz Garífuna Community and its Members vs. Honduras and the Punta Piedra Garífuna Community and its members vs. Honduras October 8, 2015.

85. End-of-mission statement on Honduras by the Special Rapporteur on the rights of indigenous peoples, Victoria Tauli-Corpuz, November 10, 2015. Available at: <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16740&LangID=E>

◀ TIME LINE: CREATION OF THE LAW ON CONSULTATION



It is now expected that the Honduran government will adapt the current bill and present a second draft, which it will again present to the indigenous and Afro-descendant peoples of Honduras for review. The following steps are still unknown, but according to information gathered by PBI Honduras, a Follow-up Committee, made up of three indigenous representatives from each workshop, will meet to jointly study the second draft. Subsequently, a national meeting should be planned between the Monitoring Commission and the government, so that the latter can respond to observations, comment on the changes that have been introduced, and justify the inputs that have not been taken into account. Should the parties be unable to reach an agreement, the government will have to decide to either extend the dialogue process with the indigenous and Afro-descendant peoples of Honduras, or to simply introduce the second draft for discussion and approval in the legislative chamber.

WHO HAS THE LAST WORD?

The drafting of the law on consultation has generated criticisms from both indigenous and civil society organisations, who question the content of the draft and whether or not it is necessary to regulate the consultation process via a national-level law.

The Centre for the Study of Democracy (Centro de Estudio para la Democracia - CESPAD), a citizen initiative which is critical of the proposal, reported that the process is excluding indigenous groups, and that it does not have the consent of them all. In addition, CESPAD believes that the mechanism of dialogue/presentation of the draft could lead to “a delicate situation that, far from granting the legitimate right to consultation, will deepen a crisis that has led to abuses and the systematic violation of the human rights of the indigenous peoples in the country”.⁸⁶ COPINH (Consejo Civico de Organizaciones Populares e Indigenas de Honduras - COPINH), an organisation accompanied by PBI since May 2016, feels that there is an intention to impose a consultation mechanism, and the organisation criticises the fact that this mechanism has not been constructed from within grassroots indigenous organizations.⁸⁷ Felipe Benítez, the general coordinator of MILPAH (Movimiento Indígena Lenca de La Paz Honduras - MILPAH), claims that only government institutions are able to participate in the Technical Committee and that the Lenca representative, Gloria López, is a known National Party supporter.⁸⁸

In terms of content, the original proposal has been questioned, in the first place because according to Article 20 of the preliminary draft, it is the State that will ultimately make decisions about the natural resources of indigenous peoples.⁸⁹ CEHPRODEC, an organisation accompanied by PBI since 2014, questions this aspect and also points out that the law proposed by the government does not include provisions to deal with the concessions that have already been granted.⁹⁰

86. “Gobierno aprobará ley de consulta marginando a pueblos indígenas y negros de Honduras”, CRITERIO, July 29, 2016. Available at: <http://criterio.hn/gobierno-aprobara-ley-consulta-marginando-pueblos-indigenas-negros-honduras/>

87. “COPINH denuncia a las Naciones Unidas por su intención de imponer un mecanismo de consulta previa, libre e informado en comparsa con el estado de Honduras”, November 3, 2016. Available at: <https://copinh.org/article/copinh-denuncia-a-las-naciones-unidas-por-su-inten/>

88. “Denuncian a Gladis Aurora López por manipular proyecto de ley de consulta previa”, CRITERIO, September 13, 2016. <http://criterio.hn/denuncian-gladis-aurora-lopez-manipular-proyecto-ley-consulta-previa/>

89. For further information on the bill, see: <http://www.hn.undp.org/content/honduras/es/home/library/otros/insumos-recogidos-en-talleres-de-dialogo-con-los-pueblos-indigen.html>

90. Lazo, Jersi, op. cit.

In turn, OFRANEH (Organización Fraternal Negra Hondureña - OFRANEH) has referred to the omission, throughout the draft bill, of the concept of consent, which is cited only in Article 21, and the organisation recalls that the initiative presented by ODHPINH (Observatorio de los Derechos Humanos de los Pueblos Indígenas de Honduras - ODHPINH), which includes COPINH, included the concept of obtaining consent.⁹¹ This article has also been the subject of reservations for the indigenous and Afro-descendant peoples of Honduras, because the wording appears to leave open the possibility that these peoples will not be consulted in some cases.⁹²

Regarding the resolution of disputes that may arise from the application of the consultation law, Article 29 of the preliminary draft establishes that a governmental body, DINAFROH (Dirección de Pueblos Indígenas y Afrohondureños - DINAFROH), is to be in charge of conducting these processes. According to the inputs received from indigenous and Afro-descendant peoples of Honduras during the workshops, it is imperative that this mandate be carried out by an independent commission and not by a state institution.⁹³

Finally, in relation to compensation and reparations in cases of damage to the environment and territorial compensation, CESPAD believes that the proposal ignores "the seriousness and irreversible consequences in some communities where extractive projects have been implemented and continue to be implemented, and where the State cannot guarantee that exploitation projects will not affect natural resources".⁹⁴ Nor does the new draft examine the major impacts that these projects can have, instead limiting its focus to territorial rights.⁹⁵

For the United Nations Special Rapporteur on the Rights of Indigenous Peoples, who spoke again about the law on consultation in Honduras during her visit to Mexico in November, more time should be allowed for reflection on the content so that there can be substantive feedback. She also urged the government and the United Nations in Honduras to ensure greater inclusion of all indigenous peoples and organisations.⁹⁶

91. Alerta: A punto de ser aprobado anteproyecto ley de Consulta impulsado por el Estado de Honduras y PNUD, OFRANEH, October 10, 2016. Available at: <https://ofraneh.wordpress.com/2016/10/10/alerta-a-punto-de-ser-aprobado-anteproyecto-ley-de-consulta-impulsado-por-el-estado-de-honduras-y-pnud/>

92. Article 21 of the preliminary draft law provides that: "In the event that the relocation, storage and disposal of hazardous materials on the lands and territories of the peoples directly affected is necessary; it should be made only with the freely given consent and with full knowledge of the facts. Where consent can not be obtained, appropriate procedures will be established in national legislation, including public surveys, in cases where the peoples concerned have the possibility of being effectively represented".

93. Inputs gathered in dialogue workshops with indigenous and Afro-Honduran Peoples, UNDP, 2016. Available at: <http://www.hn.undp.org/content/honduras/es/home/library/otros/sumos-recogidos-en-talleres-de-dialogo-con-los-pueblos-indigen.html>

94. "¿Para qué una ley de consulta, si el estado decidirá sobre la concesión de los recursos naturales de pueblos indígenas?", CESPAD, September 2016. Available at: http://www.cespad.org/sites/default/files/Alerta%20SEPTIEMBRE%202016_0.pdf

95. PNUD, op. cit.

96. "Consultation and consent: Principles, experiences and challenges" Presentation of the UN Special Rapporteur on the rights of indigenous peoples, Victoria Tauli-Copuz, for the international colloquium on free, prior and informed consultation: International and Regional Standards and Experiences, Mexico City, November 8, 2016, pag. 9. Available at: http://unsr.vtaulicopuz.org/site/images/docs/special/UNSR_Presentation_OHCHR_MX_Colloquium_Nov2016_ENG.pdf

WHEN IS CONSENT ESSENTIAL?

Although there are different doctrinal and jurisprudential positions when interpreting whether consent is essential to make a decision or whether it is only a requirement related to procedure but not to results,⁹⁷ international standards that refer to free, prior and informed consultation establish the concept of consent as an aim but not as a right in itself.

Nevertheless, there are certain situations in which international standards recognise consent as essential and mandatory:

- In development or investment plans or projects that involve the displacement of indigenous peoples or communities from their traditional territories, that is, their permanent relocation
- In cases where the implementation of investment or development plans or concessions to exploit natural resources would deprive indigenous peoples of the ability to use and enjoy their lands and other natural resources necessary for their subsistence.
- In the case of the depositing or storage of hazardous materials on indigenous lands or territories.⁹⁸
- In establishing projects for the extraction of natural resources on indigenous peoples' lands and in other situations where projects could have a significant social or cultural impact on the lives of the indigenous peoples concerned.⁹⁹

THE STRUGGLE OF OFRANEH FOR AN INCLUSIVE LAW

OFRANEH has been working for almost 40 years in defence of the cultural and territorial rights of the Garífuna peoples in the country, and has been one of the most active local voices during the development of the law on consultation for indigenous and Afro-Honduran peoples, and generally a strong advocate for compliance with ILO Convention 169 since its ratification in Honduras.

In 2003, the World Bank promoted a property law (or Property Development Law) in Honduras, approved by the National Congress in 2004, which, according to OFRANEH, threatened free, prior and informed consultation, among other rights, through the elimination of community land titles. Given the possible consequences of the law for indigenous and Afro-Honduran peoples, OFRANEH decided to carry out a consultation process on the proposal, and the communities who were consulted rejected it. In 2004, the law was approved and OFRANEH contested the decision: in 2006 the organisation filed a petition with the World Bank's Inspection Panel citing breaches of the Bank's operational guidelines and filed an appeal due to unconstitutionality in Honduras in 2009. Neither appeal was successful.¹⁰⁰

97. *Digesto de jurisprudencia latinoamericana sobre los derechos de los pueblos indígenas a la participación, la consulta previa y la propiedad comunitaria*, DPLF, 2013.

98. *Rights of Indigenous and Tribal Peoples over their Ancestral Lands and Natural Resources*. Norms and jurisprudence of the Inter-American Human Rights System (OEA/Ser.L/V/III. Doc. 56/09), IACHR, December 30, 2009, para. 334.

99. *Report of the Special Rapporteur on the situation of fundamental rights and freedoms of indigenous peoples*, James Anaya (Doc. ONU A/66/288), UN, General Assembly, August 10, 2011, para. 84.

100. *Honduras: El derecho a la consulta de los Pueblos Indígenas*, OFRANEH, November 6, 2012. Available at: <https://ofraneh.wordpress.com/2012/11/06/honduras-el-derecho-a-la-consulta-de-los-pueblos-indigenas/>



The Honduran Fraternal Black Organisation (OFRANEH) emerged in 1978 as a federation of the Garifuna people of Honduras. Since then, it has been committed to the defence of the cultural and territorial rights of this community.

In the same period, a new proposal was introduced called the Indigenous Law,¹⁰¹ linked to the Project for the Integral Development of Indigenous Peoples (Desarrollo Integral de los Pueblos Indígenas - DIPPA), financed mainly by the Inter-American Development Bank (IDB). According to OFRANEH, the preliminary draft ignored collective rights and did not include indigenous and Afro-Honduran peoples in its drafting process.¹⁰²

Since the launch of the United Nations REDD+ program in Honduras in 2013, four proposals have been submitted responding to demands for a law on consultation. Miriam Miranda, coordinator of OFRANEH, has called for a different pre-consultation law, with the objective of defending the interests of indigenous peoples and fulfilling the urgent need for Honduras to create legal instruments that facilitate compliance with the international conventions and declarations it has ratified.¹⁰³

OFRANEH's proposal, presented in conjunction with COPINH, was presented in the Honduran Congress in May 2016 by Congressman Rafael Alegría, from the LIBRE party. The team that drafted the law was composed of representatives of the indigenous peoples of the country and according to OFRANEH, the proposal fills the existing legal vacuum which has allowed the State of Honduras to reduce consultation to a simple sharing of information after the fact.¹⁰⁴ At present, the discussion of this initiative is paralysed in the legislative chamber.

In addition to the two existent public proposals, other draft bills have recently emerged: a draft prepared by DINAFROH itself,¹⁰⁵ and a draft prepared by the government.¹⁰⁶ The latter, according to OFRANEH, was drafted behind closed doors and intends to "defend the interests of the State, transnational corporations and the Honduran Council for Private Enterprise" (Consejo Hondureño de la Empresa Privada – COHEP).¹⁰⁷

101. Proyecto de Decreto Ley Indígena, Congreso Nacional, 2010. Available at: <http://www.congreso-nacional.hn/phocadownload/Proyectos/ProyectosAnteriores/proyecto%20de%20decreto%20ley%20indigena.pdf>

102. La Ley Indígena del BID y la violación de su Política Operativa, Miriam Miranda, March 25, 2008. Available at: <http://www.alainet.org/es/active/23004>

103. "Ley de Consulta previa es engaño del Estado de Honduras para proteger transnacionales", Pasos de Animal Grande, September 9, 2016. Available at: <http://www.pasosdeanimalgrande.com/index.php/en/contexto/item/1507-ley-de-consulta-previa-es-engano-del-estado-para-proteger-transnacionales>

104. "Observatorio de los Pueblos Indígenas de Honduras introdujo anteproyecto Ley de Consulta Previa en el Congreso Nacional". OFRANEH, April 5, 2016, <https://ofraneh.wordpress.com/2016/04/05/observatorio-de-los-pueblos-indigenas-de-honduras-introdujo-ante-proyecto-ley-de-consulta-previa-en-el-congreso-nacional/>

105. Anteproyecto de Ley elaborado por DINAFROH, published by OFRANEH, 2016. Available at: <https://www.scribd.com/document/317721457/Anteproyecto-Ley-de-CPLI-Version-Dinafroh>

106. Anteproyecto de Ley de consulta promovido por el Estado de Honduras y que se encuentra en discusión en el Congreso Nacional, published by OFRANEH, 2016. Available at: <https://www.scribd.com/document/317721389/Proyecto-Ley-de-Consulta-CPLI-Version-Gobierno>

107. "Critican Ley de Consulta promovida por ONU-REDD y Estado hondureño", Servindi, August 18, 2016. Available at: <https://www.servindi.org/actualidad-noticias/17/08/2016/ley-de-consulta-promovida-por-onuredd-y-el-estado-de-honduras-viola>

COMMUNITIES AND DEFENDERS AT RISK

The implementation of megaprojects in Honduras has become a source of persecution, criminalisation and aggression against land and environmental rights defenders in the country. The recent murder of COPINH leader Berta Cáceres is the most emblematic case,¹⁰⁸ but not an isolated one. Looking at per capita statistics, Honduras is the most dangerous country in the world for environmental and land activists with 101 murders between 2010 and 2014.¹⁰⁹

During the process of presentation/consultation with indigenous and Afro-Honduran peoples for the drafting of the law on consultation, one of the workshops scheduled for July 5 in Marcala, with the Lenca indigenous people, was suspended by a direct government order. Subsequently, the Technical Commission was reconfigured to include higher level political operatives such as government ministers and ministry advisers. That same day the environmentalist Lesbia Yaneth Urquía, a supporter of COPINH and MILPAH, was murdered in Marcala. Subsequently the process was resumed, and on October 19 and 20 of this year¹¹⁰ the latest in the first round of workshops were held in Marcala.

The Due Process of Law Foundation (DPLF) has warned about patterns of pressure and intimidation against communities consulted at the regional level, particularly leaders, and recalls that threats, harassment and criminalisation around a consultation process limit or deny its possibility of being considered "free".¹¹¹

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108. "Estado hondureño viola derecho de consulta previa a pueblos indígenas, Radio Progreso, August 5, 2016
<http://radioprogreso.net/index.php/comunicaciones/noticias/item/3093-estado-hondure%C3%Bl%o-viola-derecho-de-consulta-previa-a-pueblos-ind%C3%ADgenas>
109. How many more? Global Witness, April 20, 2015. Available at: <https://www.globalwitness.org/en/campaigns/environmental-activists/how-many-more/>
110. "El asesinato de Lesbia Yaneth Urquía y el precio de ser ambientalista en Honduras", Univisión, July 8, 2016. Available at: <http://www.univision.com/noticias/medio-ambiente/el-asesinato-de-lesbia-yaneth-urquia-y-el-precio-de-ser-ambientalista-en-honduras>
111. "Resumen Ejecutivo, Derecho a la consulta y al consentimiento previo, libre e informado en América Latina. Avances y desafíos para su implementación en Bolivia, Brasil, Chile, Colombia, Guatemala y Perú.", DPLF, 2015.

PENAL CODE REFORM AND HUMAN RIGHTS IN HONDURAS

Honduras is currently involved in the process of approving a new Penal Code. On August 24, 2015, the president of the National Congress, Mauricio Oliva, publicly presented the proposal, which reforms almost all legal regulations included in the current 30-year-old Code and provides for the inclusion of new crimes.¹¹² The drafting of the preliminary proposal has taken almost two years, and has involved several state institutions. An international consultant, Francisco Javier Álvarez, has also worked on the process, supported by the Spanish Agency for International Cooperation for Development (AECID) and the European Union.¹¹³

On the same day as its presentation, the proposal entered the plenary for discussion and approval, and a special multiparty commission was appointed to give its opinion. The commission's president, nationalist deputy Mario Alonso Pérez explained: "The proposal seeks a more effective criminal justice system with a minimum intervention of criminal law only for those behaviours that seriously damage protected legal rights".¹¹⁴ However, Honduran civil society organisations have expressed their strong rejection of the proposal and have united in a platform called Articulation 611 (Articulación 611), with the aim of highlighting the regressive aspects of this new set of laws that will affect the defence of human rights.¹¹⁵

112. The current Penal Code was issued by Decree No. 144-83 of the National Congress of Honduras and has been applied since 1984. "Código Penal, ¿proyecto de criminalización?", La Prensa, May 7, 2016. Available at: <http://www.laprensa.hn/opinion/columnas/957625-412/c%C3%B3digo-penal-proyecto-de-criminalizaci%C3%B3n>

113. "CN lanzará mañana oficialmente proyecto de nuevo Código Penal para Honduras", Tiempo Digital, August 24, 2015. Available at: <http://tiempo.hn/cn-lanzara-manana-oficialmente-proyecto-de-nuevo-codigo-penal-para-honduras/>

114. "CN comienza a aprobar en primer debate proyecto de nuevo Código Penal para Honduras", Congreso Nacional de Honduras, April 26, 2016. Available at: <http://www.congresonacional.hn/index.php/2014-02-10-22-24-42/item/1601-cn-comienza-a-aprobar-en-primer-debate-proyecto-de-nuevo-c%C3%B3digo-penal-para-honduras.html>

115. "Articulación 611 demandó se detenga aprobación de nuevo Código Penal por atentar contra los derechos humanos", September 8, 2016, Pasos de Animal Grande. Available at: <http://www.pasosdeanimalgrande.com/index.php/es/contexto/item/1506-articulacion-611-demando-se-detenga-aprobacion-de-nuevo-codigo-penal-por-atentar-contra-los-derechos-humanos/1506-articulacion-611-demando-se-detenga-aprobacion-de-nuevo-codigo-penal-por-atentar-contra-los-derechos-humanos>

ARTICULATION 611

The proposal for reform of the Penal Code has been under discussion in the legislature since April 2016. Concerns have been raised by several organisations from Honduran civil society, regarding both the way the project has been adopted and the lack of participation of civil society, as well as the proposal's content and the impact on constitutionally and internationally protected human rights. Thus, in August of this year, Articulation 611 was formed, and it was officially presented on September 7 to the lower levels of the National Congress.¹¹⁶

Articulation 611 is made up of local human rights organisations — some accompanied by PBI Honduras — such as the Arcoiris LGTB Association, journalist Dina Meza, the Visitation Padilla Women's Movement for Peace (Movimiento de Mujeres por la Paz Visitación Padilla), the Committee of Relatives of the Detained- Disappeared in Honduras (Comité de Familiares de Detenidos Desaparecidos en Honduras - COFADEH), The Committee for Free Expression in Honduras (Comité por la Libre Expresión en Honduras - C-Libre), the Association of Judges for Democracy (Asociación de Jueces por la Democracia - AJD), the Centre for Women's Rights (Centro de Derechos de Mujeres - CDM), the Network of Children's Institutions (Red de Instituciones por los Derechos de la Niñez - COIPRODEN), The Center for Women's Studies (Centro de Estudios de la Mujer - CEM-H), the National AIDS Forum (Foro Nacional de Sida - FOROSIDA), the Coalition against Impunity (Coalición contra la Impunidad - CCI), the Women Defenders' Network (Red de Defensoras), the Network of Sex Workers (Red de Trabajadoras Sexuales), the Network of Domestic Workers (Red de Trabajadoras Domésticas), the Network Of Rural Women (Red de Mujeres Rurales), ACI Participates (ACI Participa), the Honduran Institute of Environmental Law (Instituto Hondureño de Derecho Ambiental), Vía Campesina, the "Las Hormigas" Intibucana Organisation of Women (Organización Intibucana de Mujeres "Las Hormigas") and the Quality of Life Association (Asociación Calidad de Vida). The network's main objective is to monitor the reforms proposed by the team of consultants and the ruling committee in the National Congress and to contribute with its experience to the proposal, thus avoiding the violation of fundamental rights. The group takes its name from the total of 611 articles in the draft of the new Penal Code.

One of the main demands of Articulation 611 is the active participation of civil society in the drafting of the Code; that is to say, the consideration of civil society's suggestions and the presence of civil society organisations in the debates in which the Code is discussed, analysed and approved. The network also aims to establish spaces in which the opinions of individuals, organisations and independent experts with broad knowledge of the issues being addressed can be heard.¹¹⁷ The organisations grouped within this network point out that there is a "huge contradiction" in some articles of the new Penal Code with respect to domestic law and the Constitution, in which the fundamental rights of Hondurans are guaranteed, and the international treaties and conventions to which the country is a party.¹¹⁸

116. "Propuesta de cambios al Proyecto de Código Penal Hondureño de las Organizaciones de Sociedad Civil agrupadas en la ARTICULACION 611", *Articulación 611*, September 7, 2016.

117. *Pasos de Animal Grande*, op. cit.

118. "Articulación 611 demanda suspensión de la aprobación de Nuevo Código Penal por vulnerar derechos fundamentales", *Criterio*, September 7, 2016, <http://criterio.hn/2016/09/07/articulacion-611-demanda-suspension-la-aprobacion-nuevo-codigo-penal-vulnerar-derechos-fundamentales/>

PBI ACCOMPANIMENT

The civil society organisations who have grouped together in Articulation 611 invited the ACI Human Rights Forum to participate in their discussions and working groups. Since August 2016, PBI Honduras has therefore been involved in the process for the reform of Penal Code as an international observer, which has included attending public events and meetings.

At the same time, as part of the United Nations OHCHR's agreement with the Honduran government, the newly established OHCHR office is also observing the process, in fulfilment of its mandate which includes advising the government and issuing reports and recommendations.^{L01}

L01. "Acuerdo entre el Alto Comisionado de las Naciones Unidas para los Derechos Humanos y el Gobierno de la República de Honduras relativo al establecimiento de una oficina en Honduras", OHCHR, May 4, 2015.

APPROVAL PROCESS

The general section of the draft Penal Code contains 139 articles as well as the rules and principles to be applied to the various crimes included in the special section. This general section has already been approved in its entirety, except for four articles in the chapter on the Criminal Liability of Legal Persons, which have been suspended for the moment, due to reluctance expressed by the Honduran private sector.¹¹⁹ The approval of the special section of the bill by the plenary of the National Congress is still pending, as the Supreme Court of Justice must first issue its opinion.¹²⁰

Articulation 611 has drawn attention to the following aspects related to the process of the bill's preparation, discussion and adoption:

- The lack of transparency and access to information. The content and various modifications to which the draft Penal Code has been submitted have not been published and shared in compliance with the law on transparency and access to public information.
- The secrecy with which the Code has been developed, which is inconsistent with the public nature of a criminal law whose purpose is to regulate relations in society to prevent aggressions, and when these occur, to punish them according to the Code's provisions.¹²¹
- The waiving¹²² of the first two readings in the Congress for the approval of the general section and the uncertainty as to whether the approval of the special section will proceed in the same way.
- The lack of adequate channels for dialogue between the Congress and the team in charge of the drafting of the Code, Honduran society and international organisations. Likewise, the lack of spaces for discussion that would enable the effective participation of civil society in the process.

With reference to the last point, Articulation 611 and other international organisations have met with the international consultant to transmit their observations and proposals; however, local organisations did not have a hearing with representatives of Congress until October 31.¹²³ As a result of this meeting, a commitment has been made to hold two days of meetings before the beginning of the approval process for the special section of the bill in the plenary of the legislative chamber. It remains unknown when these meetings will take place and who exactly will participate.

119. "Empresarios reticentes a figura de nuevo Código Penal", La Tribuna, August 11, 2016. Available at: <http://www.latribuna.hn/2016/08/11/empresarios-reticentes-figura-nuevo-codigo-penal/>

120. The Criminal Chamber of the Supreme Court, as an expert body in the matter, issues a non-binding opinion on the draft Penal Code that translates to the Decision-Making Commission of the National Congress.

121. "Nuevo Código Penal: Congreso Nacional ignora a la sociedad hondureña, denuncia Articulación 611", Conexihon, October 26, 2016, <http://conexihon.hn/site/noticia/derechos-humanos/derechos-humanos/nuevo-c%C3%B3digo-penal-congreso-nacional-ignora-la-sociedad>

122. "In cases of urgency, the Plenary or the President may decide that bills or motions shall be passed during the session or at the recess, and shall be presented at the same session. Likewise, if the Plenary so decides, one or two debates may be dispensed with and discussed in one". Article 63 of the Organic Law of the Legislative Power; Decree No. 363-2013, December 26, 2013. (Document in Spanish, unofficial translation of Article 63). Available at: http://www.tsc.gob.hn/leyes/Ley_organica_poder_legislativo_2014.pdf

123. "Defensores de derechos humanos piden al CN considerar recomendaciones en nuevo Código Penal", Congreso Nacional de Honduras, October 31, 2016. Available at: <http://www.congresonacional.hn/index.php/2014-02-10-22-24-42/item/1754-defensores-de-derechos-humanos-piden-al-cn-considerar-recomendaciones-en-nuevo-c%C3%B3digo-penal.html>



*More than a dozen Honduran civil society organisations form Articulation 611, which is demanding that the approval of the proposed new Penal Code be suspended. January 2016.
Photo: PBI Honduras*

TYPES OF CRIME AND HUMAN RIGHTS

The types of crimes included in the proposed Code that have been subject of the most criticism due to their regressive nature are those that have the most impact on the exercise of human rights, and on which both the 611 articulation and the OHCHR Honduras office have made observations.¹²⁴ The rights that would be affected if the new Penal Code is approved would include freedom of expression, the rights of assembly and demonstration, the rights of the LGBTI community and the rights of women.

ANALYSIS OF THE IMPACT OF
THE PROPOSED PENAL CODE
ON HUMAN RIGHTS

HUMAN RIGHT AFFECTED

Freedom of assembly and protest

CRIME IN THE DRAFT PENAL CODE

Crime of attacks against authority,^{T01} disobedience^{T02} and public disorder.

The concern in this case is that the crimes mentioned may be used to penalise social protest, as they could be applied to peaceful or defensive behaviour such as peaceful demonstrations or meetings, which by their very nature may obstruct public roads or occupy buildings and facilities and which could be dissolved illegally or via the use of force.

OBSERVATIONS

The new proposal, unlike the current Penal Code, does not take into account the circumstances in which the **attack** occurs (whether or not it is an armed aggression, whether the perpetrator is a government official, whether or not there is physical force), in order to decide whether the sentence will include a prison term. The draft of the new Code proposes, on the other hand, extending the prison terms for this crime, ranging from one to three years to three to six years. Thus, the severity and disproportionate nature of the penalty is of concern.

The vagueness of the definition of **disobedience** is also disturbing. While state authorities can and must issue orders within their functions, and failure to comply with these orders should carry a sanction, this should be at the administrative, fiscal or civil level. It is worrying that a simple breach of an order from a State authority is considered to be a crime.

In the case of **public disorder**, sentences will be served by "those who act in a group to disturb public order, causing injuries to people, causing damages, obstructing public roads with serious danger to those who are travelling on these roads, or invading facilities or buildings". Again, in this case certain behaviours are defined but the crimes themselves are not defined.

CRIME IN THE DRAFT PENAL CODE

Crime of usurpation

OBSERVATIONS

Another typified offence that has received criticism for criminalising social protest is that of usurpation. To the current definition of "whoever occupies, without authorisation, a third-party property, dwelling or building" has been added the phrase "that does not constitute a dwelling", and the crime will be punishable with imprisonment for one to three years. This addition confers greater scope to the crime and also offers a very vague and open definition of the word "third-party". The right of demonstration includes the occupation of buildings without appropriation, but this typification does not limit the crime of usurpation to the intent to appropriate, it also includes the simple intent to occupy.

T01. In the proposal it is considered an attack against authority when an individual is aggressive towards authorities, employees or public officials, seriously intimidates them, makes serious active resistance or employs force against them, when they are in the exercise of the functions of their office or as a result thereof.

T02. According to the proposal: "Persons who seriously disobey an authority, official or public employee in the exercise of their functions, without serious active resistance, use of force or intimidation, are punished for the crime of disobedience".

124. Observaciones de la Oficina en Honduras del Alto Comisionado de las Naciones Unidas para los Derechos Humanos sobre el "Proyecto de Código Penal de Honduras", OHCHR, August 2016; Propuesta de cambios al Proyecto de Código Penal Hondureño de las Organizaciones de Sociedad Civil agrupadas en la ARTICULACION 611, Articulación 611, September 7, 2016.

HUMAN RIGHT AFFECTED

Freedom of expression

CRIME IN THE DRAFT PENAL CODE

Crimes against "dignity and honour", in which libel and slander are typified.

OBSERVATIONS

Offences are classified as crimes when by their nature or effects or circumstances they are considered by the public to be serious. Concerns have been raised about the ambiguous wording and the lack of clarity regarding what is understood as serious, because this could violate the principle of clarity (or certainty) and generate a wide margin of discretion in the interpretation of the crime in question. Both Articulation 611 and the OHCHR have proposed decriminalising the offences of libel and slander, as they are seen as restricting the right to freedom of expression, and integrating them instead into civil law.

HUMAN RIGHT AFFECTED

Women's rights

CRIME IN THE DRAFT PENAL CODE

Abortion

OBSERVATIONS

Abortion continues to be penalised within the draft Penal Code: "A woman practicing her own abortion or consenting to another person performing such an act, will be sentenced to imprisonment for three to six years". It does not recognise the three cases in which international law recognises a legally admitted cause for a woman to abort: therapeutic abortion, abortion after rape and abortion due to congenital disorder.

The denial of access to medical care represents discriminatory treatment and impedes the enjoyment of the fundamental right to health. In cases of pregnancy due to rape or incest, the criminalisation of abortion leads to the violation of the right to privacy and the right to be free from cruel, inhuman and degrading treatment.^{T03}

HUMAN RIGHT AFFECTED

LGBTI rights

CRIME IN THE DRAFT PENAL CODE

Hate crimes

OBSERVATIONS

It has been noted that within the chapter on crimes against life, hate crimes are not typified (homicide committed for reasons of hatred or contempt for race, age, mental or physical disability, economic status, religion, ethnicity, nationality, political affiliation or sympathy or of any nature, sexual orientation or gender identity). Crimes against members of the LGTBI population would not be sentenced, even though in recent years there has been a considerable increase in violent deaths in Honduras.

Articulation 611 has also raised concerns about the way in which other types of crime are typified in the preliminary draft, such as femicide, gender abuse, crimes against moral integrity, torture and degrading treatment, rape, incest and crimes against the environment.¹²⁵ In its first report on the Draft Penal Code of Honduras, the OHCHR also refers to provisions for the loss of nationality and loss of citizenship contained in the general section of the Penal Code, and to the crimes of forced disappearance, torture and terrorism, found within the special section.¹²⁶

125. Articulación 611, op. cit.

126. OHCHR, op. cit.

T03. Along these lines, the Committee on the Elimination of Discrimination against Women (CEDAW) expressed its views on Honduras in 2007. More recently, in June 2016, the Committee on Economic, Social and Cultural Rights expressed concern about: "The criminalization of abortion without exception" and urged the State to review "the current prohibition of abortion in order to make it compatible with other fundamental rights such as women's health and life, as well as with their dignity, especially in the framework of the reform of the Criminal Code currently under discussion". Concluding Observations of the Committee on the Elimination of Discrimination against Women: Honduras, CEDAW, 10 August 2007. Available at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fHON%2fCO%2f6&Lang=en and "Final Observations on the second periodic report on Honduras", Committee on Economic, Social and Cultural Rights, June 24, 2016. Available at: https://www.google.hn/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=0ahUKEwj2n8Xk_aHQAHV06GMKHd_I2_HND_CO_2_24397_S.docx&usg=AFQjCNHIsB_c o B x K E s z 2 Y z w j h H Q v A W e _tg&bvm=bv.138493631,d.cGc&cad=rja

Another body that has made observations on certain articles that are incorporated in the draft Penal Code is the Mission to Support the Fight against Corruption and Impunity in Honduras (Misión de Apoyo contra la Corrupción y la Impunidad en Honduras - MACCIH). In a report published last September, the MACCIH noted the omission of criminal typifications, which should be included in order to comply with international standards, as well as the lack of rigour in the current framework with respect to the penalties under which persons can be deprived of liberty for crimes of corruption. The Mission also considers that the possibility of applying benefits such as commutation, conciliation and suspension of the execution of the sentence, contribute to a scheme of impunity, which is why it is necessary to study and evaluate their relevance to crimes with significant social impact and social harm.¹²⁷

POSSIBLE SCENARIOS

In an interview with PBI Honduras, Guillermo López Lone (AJD) who is a member of Articulation 611, highlighted several possible scenarios in the coming months regarding the approval of the draft Penal Code.

In his opinion, international cooperation agencies, especially the AECID and the consultant Francisco Javier Álvarez, are concerned that if the special section is not approved in the short term, the process will be shelved ahead of internal party elections that will take place in March 2017, and the subsequent national elections scheduled for November next year. This means that the special section could be approved by the end of 2016 and the process finalised in January or February 2017, to avoid overlap. Another possible scenario would be the partial approval of the special section before the March elections, and the approval of the final part in April before the legislative elections.

López Lone does not rule out the possibility that the process will be frozen and that it will fall to the new National Congress, constituted after the November 2017 elections, to approve the special section of the project, although this is not the most favourable scenario either for the government of Honduras or for international cooperation, since the proposed Penal Code might not even be approved at all in this scenario. In part, the timing of the approval process will depend on whether or not the two debates required for approval by the Congress are once again waived.

According to López Lone, it would be logical to follow the same process for the second section of the law, since even though the law is being voted as different sections (the general and the special), it is in fact one single law, and the procedure should therefore be the same for both parts. However, he points out that a law as important as the Penal Code, which regulates aspects as relevant as the protection of legal assets against possible threats and relationships between persons, should be approved without disputes and be afforded all the discussion time necessary, ensuring the participation of civil society organisations.

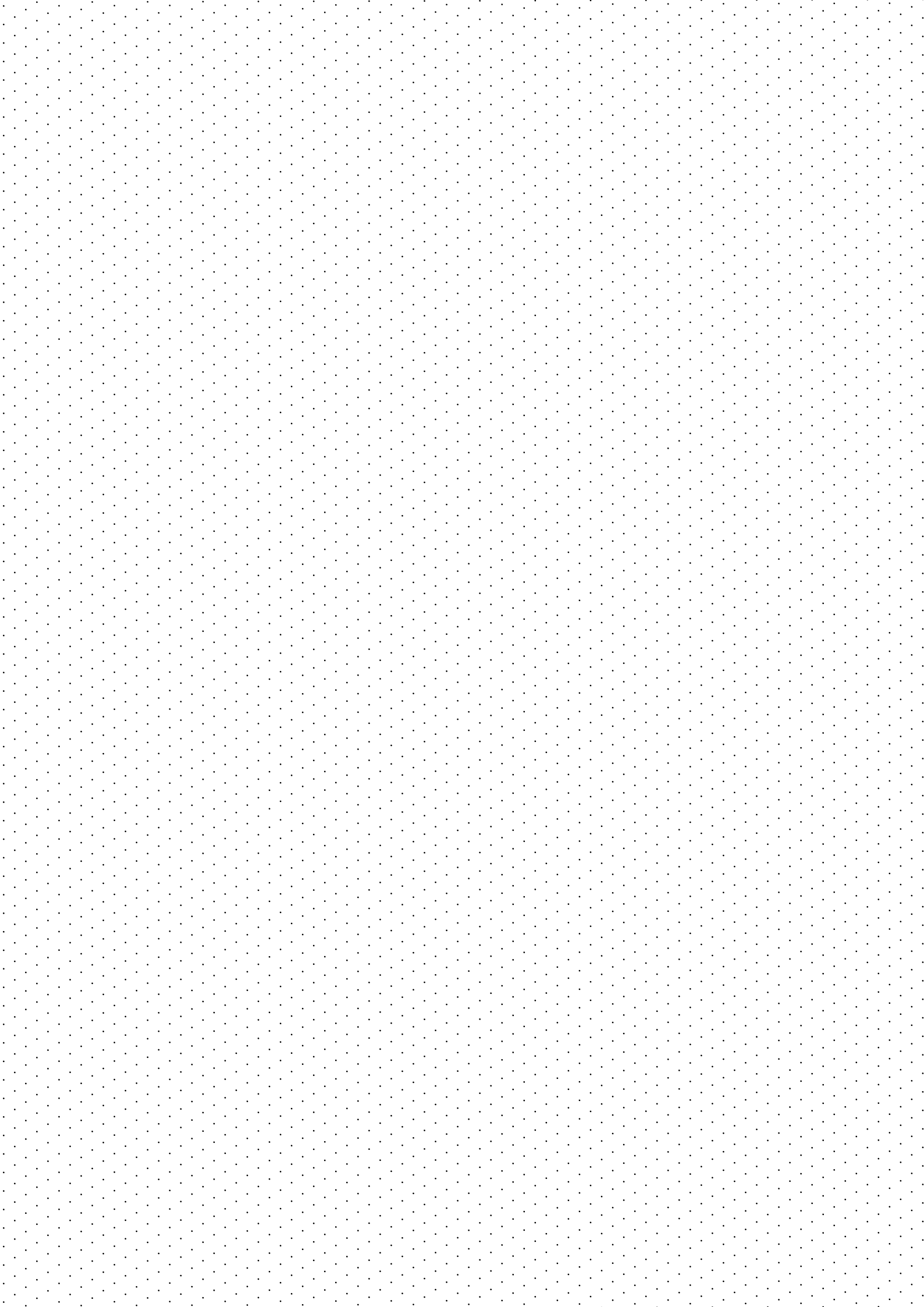
The National Congress has no obligation to enable the participation of civil society or human rights organisations in the legislative chamber or to allow them

127. "Comments on the Criminal Code Reform, General Part and Crimes against Public Administration, version of July 25, 2016", MACCIH (OAS), September 29, 2016.

to submit their observations and recommendations to certain articles, which would then be voted by parliamentarians. In 2006, during the government of Manuel Zelaya, a citizen participation law was passed that allowed citizens and organisations to exercise such rights, however, in 2010, after the coup d'état, the law was repealed. Currently, the National Congress is authorised, but not obliged, to allow such participation.

As such, Articulation 611 is demanding the suspension of the process before the proposal goes up for discussion of the special section in the National Congress, so that a space for dialogue with society civil society and human rights organisations can be created, enabling them to elaborate proposals for changes in the draft Penal Code and ensure that the Code complies with international human rights standards.¹²⁸

128. "Nuevo Código Penal: Congreso Nacional ignora a la sociedad hondureña, denuncia Articulación 611", Conexihon, October 26, 2016, <http://conexihon.hn/site/noticia/derechos-humanos/derechos-humanos/nuevo-c%C3%B3digo-penal-congreso-nacional-ignora-la-sociedad>



PRESENTATION

Peace Brigades International (PBI) is a non-governmental organisation that promotes the protection of human rights and conflict transformation through nonviolent means. Via international accompaniment, PBI provides protection for individuals, organisations and communities who carry out actions to promote and defend human rights, always at their request and in response to their needs. In this way, PBI helps to protect the space for human rights, social justice and peace initiatives. PBI currently has projects in Colombia, Guatemala, Mexico, Kenya, Nepal, Indonesia and Honduras, and 16 active national groups in Europe, North America and Australia.

PBI'S MANDATE IN HONDURAS

PBI Honduras seeks to contribute to improving the human rights situation and the development of participatory processes in the country, through an international presence that offers support to protect and extend the workspace of individuals, organisations and other social initiatives that face repression for their work defending human rights.

INTERNATIONAL ACCOMPANIMENT

Our international accompaniment and observation work is based on three principles:

NON VIOLENCE – we accompany individuals, organisations and other social initiatives that peacefully defend human rights.

NON PARTISANSHIP – PBI is independent of political and economic powers. We maintain working relationships with the different parties involved in the conflict, such as social organisations and public authorities.

NON INTERFERENCE – we respect the autonomy of organisations. We accompany human rights defenders without interfering in their decision-making processes.

INTERNATIONAL ACCOMPANIMENT FOR THE PROTECTION OF HUMAN RIGHTS IS CARRIED OUT THROUGH:

PHYSICAL PRESENCE – we visit the headquarters of accompanied organisations and communities – we also attend public events and meetings when they request it.

MEETINGS WITH AUTHORITIES – we explain our work to local, district, national and international authorities. We express concern over attacks against the individuals, organisations and social initiatives that we accompany.

DISSEMINATION OF INFORMATION – we send information to our support network within and outside the country, in order to raise awareness on the reality for human rights defenders.

pb honduras

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