

BRIEFING ON THE SITUATION OF HONDURAN LAWYERS (2010-MARCH 2015)

Since the 2009 coup d'état there have been human rights violations that have gravely affected the Honduran population, their effects and repercussions have continued, persisted, and made the situation of the country very complex. This situation has been stated by different United Nations mechanisms: Special procedures, Human Rights Treaty Bodies, and the Human Rights Council. The Inter American Human Rights System and different national and international human rights organizations have also referred to it.

According to a study by the United Nations Office on Drugs and Crime (UNODC), the homicide rate per 100,000 inhabitants rose in Honduras from 50.9 in 2000 to 81.8 in 2010, 91.4 in 2011, and 90.4 in 2012. In fact, in 2013 Honduras had the highest homicide rate in the world. According to information provided by the State—based on statistics from the Violence Observatory at the National Autonomous University of Honduras (UNAH), which uses a different methodology than that of the UNODC—the homicide rate dropped from 85.5 per 100,000 inhabitants in 2012 to 79 in 2013. Even using these statistics, the homicide rate continues to be one of the highest in the region and in the world.

The InterAmerican Human Rights Commission (IAHRC), has included Honduras in its Chapter IV Report, in 2009, 2010, 2011, 2012, 2013 in accordance with Article 59(1)(h) of its Rules of Procedure.

Regarding its 2013 Report, the information received on by the IAHRC points to structural situations, which are viewed by the IACHR with particular concern; specifically, the situation of citizen security, Independence of the judicial and other branches of government, weaknesses of the administration of justice associated with high levels of violence and impunity, the situation of human rights defenders, freedom of expression, indigenous peoples, as well as discrimination and marginalization of segments of society¹.

It also received reports on assassinations and intimidation of judges in Honduras. The IACHR received information about the assassination of Mireya Efigenia Mendoza Peña, a trial court judge in El Progreso, Yoro and Assistant Secretary of the Association of Judges for Democracy, an organization that works to defend judges in Honduras. According to the information received, on July 24, 2013, Mireya Efigenia Mendoza Peña was murdered by several gunshots fired by two killers on motorcycles when she was driving her truck out of a shopping mall. According to information supplied by the

¹ IAHRC, 2013 Annual Report, Chapter IV, Honduras, p.235

National Human Rights Commissioner, her death brought to 64 the number of law professionals who had lost their lives in violent circumstances since January 2010.

Based on information provided by the State in its observations on the instant report, on July 27, the Public Prosecutor's Office brought charges before the Courts of National Jurisdiction against one of the persons allegedly responsible for the murder. Additionally, on August 1, 2013, a preliminary hearing was held wherein a preventive detention order was issued. Several other investigatory measures are still pending².

The State also made reference to the murder of attorney Orlan Arturo Chávez, Chief of the Money Laundering Unit of the Office of the Special Prosecutor against Organized Crime of the Public Prosecutor's Office, on April 18, 2013, as an example of another operator of justice, who was a murder victim this year. The State noted that the investigation into this case is still open³.

Based on the information received in 2013, the IACHR called upon the Honduran State to take the measures necessary to guarantee the independence of judges and prosecutors, so as not to allow undue interference from other powers to affect their independence. The IACHR also urged the State to adequately protect the lives and personal integrity of judges against any kind of external pressure that might influence their performance on the bench.

The IACHR stated that it received consistent information on the absence of a specific protection program designed to protect the life and physical integrity of operators of justice and their families from threats and risks stemming from the performance of their duties. According to the operators of justice, the lack of a program to protect their lives and personal integrity makes them a vulnerable group to threats, intimidation and interference in the performance of their duties, which must be fulfilled with independence and impartiality⁴.

In 2014, the IACHR made an *in loco visit* to Honduras, in December 2014, reason why that year Honduras did not appear in the Chapter IV of the IACHR Annual report. Product of that visit the IACHR presented preliminary observations in which it pointed out that⁵:

The IACHR verified that violence and insecurity are grave problems faced by Honduran society. During this visit, the IACHR constantly received information

² Ibid, p.301

³ Ibid, p. 302.

⁴ Ibid, 376.

⁵ **IACHR**, Preliminary Observations concerning the Human Rights Situation in Honduras, Press Release, available at http://www.oas.org/en/iachr/media_center/PReleases/2014/146A.asp

severely criticizing the actions of public security institutions, as well as the lack of results in efforts to combat violence. This situation has led to high levels of violence in recent years, with serious impacts on individuals in various activities, professions, and occupations, as well as on specific groups.

The IACHR also verified the lack of security and pressures on justice operators. During its visit, the Commission continued to receive information on the lack of security for justice sector operators. According to publicly available information, in 2014 at least 20 judges have received death threats; from 2010 to date, 86 law professionals have been killed; and, according to information provided by the Asociación Jueces por la Democracia (Association of Judges for Democracy), at least three judges have been violently killed in the last two years. This situation is extremely serious.

Several justice operators made reference during the visit to the country's limited budget for providing comprehensive protection measures for themselves and for their families, and reported that because of this shortfall they generally preferred not to make use of protection measures. They also indicated that the means of protection offered do not necessarily fit their needs. As one prosecutor in San Pedro Sula explained, "Sometimes having personal protection tends to raise your profile and make you a much more sought-after target. Plus they say, 'Let's get one of his children' It doesn't do any good to have security for me while my family is at home, by themselves."

Besides issues of insecurity, the IACHR received information concerning other measures used to apply pressure on the work of justice operators. In that regard, justice operators reported to the Commission that prosecutors had used the criminal charge of "prevarication" to intimidate judges for issuing decisions against their interests. The Commission notes its concern that several judges expressed their fear of being targets of this type of criminal prosecution, particularly since Decree 56-2013, which reformed the Criminal Code, established the crime of prevarication as one which does not allow for alternatives to pretrial detention.

During the visit, the IACHR also heard concerns regarding threats made to frame judges through sham disciplinary proceedings, for the purpose of frightening them and manipulating their decisions. As an example of this, a trial attorney in San Pedro Sula said that when he told a judge that he was going to present a psychiatric expert to seek changes to the pretrial detention regime being requested by the Public Prosecutor's Office, the judge answered, "Let me be clear. As a criminal court judge, if I dismiss the case against that girl, I'll be fired the next day."

Finally, the IACHR was concerned to receive information concerning a complaint lodged with the Supreme Court's Office of the Inspector General of the Courts by the Legal Auditor of the Armed Forces, against Judge Mario Rolando Díaz, President of the Asociación Jueces por la Democracia (AJD). This complaint is allegedly motivated by the AJD's participation with other organizations in a paid advertisement in a national newspaper, on the occasion of the start of the Commission's onsite visit.

Also, the Special Rapporteur for Human Rights Defenders, stated in the report she presented after her visit in Honduras, in 2012, that violence and insecurity are the key concerns. The report indicates that the pervasive violence is the result of a number of factors, including an increase in organized crime and drug trafficking. The police force itself is responsible for serious human rights violations and corruption, which has led to the increase in the use of private security providers. The high levels of impunity, corruption, poverty and inequality, compounded by with increasing criminality and violence, have negatively affected the confidence of the Honduran people in national institutions⁶.

It is of grave concern to the Special Rapporteur that most of the human rights violations reported were allegedly attributable to law enforcement authorities. In the light of the investigative responsibility of the police, she noted a systematic failure to report violations against defenders when police officers are alleged to have been responsible. The Special Rapporteur notes that the need for police reform is widely acknowledged by all public institutions and civil society; she therefore recommends the implementation of holistic policies to effectively combat impunity in the country⁷.

The Special Rapporteur point in her reports that lawyers, prosecutors and judges, because of their legitimate work in upholding human rights and fundamental freedoms, are one of the category of human rights defenders are at particular risk, being subjected to death threats or even murdered. Those working on cases of impunity for human rights violations or investigating corruption had been particularly targeted.

The Special Rapporteur received information that prosecutors, particularly those working on human rights and environmental issues, had received death threats and that their situation had become especially precarious. Furthermore, prosecutors and judges working on cases in which the police had been involved in crimes were under political pressure from high-ranking authorities, including from within the office of the General Prosecutor. The Special Rapporteur is concerned at the situation of the

⁶ United Nations, Report of the Special Rapporteur on the situation of human rights defenders, Margaret Sekaggy, A/HRC/22/47/Add.1, 13 December 2012, p.13

⁷ Ibid, p.39

staff of the Human Rights Office of the Public Prosecutor. She believes that the Office is fundamental in combating the high level of impunity in the country. She also noted that judges faced political pressure, which may affect their independence⁸.

The Special Rapporteur received reports that lawyers working for the National Commissioner for Human Rights had been threatened. Staff members of the office of the National Commissioner were continuously exposed to danger, given that, on many occasions, the police were involved in the allegations received by the office.

CONADEH'S (National Commissioner for Human Rights) REPORT ON THE ATTACKS AND KILLINGS OF LAWYERS IN HONDURAS IN 2010-march 2015

According to the CONADEH, 89 lawyer have died in violent circumstances between 2010 and march 2015. During the President's Lobo mandate (2010-2014) 76 lawyers died in different violent forms. While during President Juan Orlando Hernandez, 13 have died in similar circumstances.

The departments that present the highest murder rates for lawyers are Francisco Morazán, where the capital –Tegucigalpa M.D.C- is located and Cortés, where the most violent city of Honduras –San Pedro Sula- is located.

According to their gender 81% of the victims are men and 19% are women.

According to their areas of work, in the list figure, judges, private attorneys, public prosecutors, former judges, Legal advisers of peasant's associations, members of the Lawyer's bar, public defenders.

Most of the victims were executed in their vehicles, some even in the company of their kids, wives, driver, friends and even clients. Other were killed in their homes and in the public streets.

According to the CONADEH's report, 94% of the cases remain in impunity, only in 5 cases condenatory resolutions have been emitted by the tribunals.

Violent attacks in the last months (computed until march 2015)

The CONADEH registered 45 violent acts against lawyers between 2013 and march 2015, in which resulted 40 dead persons and 10 wounded. From the 40 deaths, 34 were lawyers, and six particular persons that were at the sight of the crimes. From the

⁸ Ibid, p. 93

10 wounded, 7 were lawyers and 3 were persons related to lawyers, including an employee, a mother and a daughter of a lawyer.

From the 34 dead lawyers, 28 were men and 6 women.

Lawyer's Deaths in 2014

During 2014, the CONADEH registered the death of 11 lawyers, 8 were men and 3 women. Most of the victims had their own firms, one of them was the coordinator of a Department of the District Attorney's office, another one was a Prosecutor in the District Attorney's office in the area of environmental crimes. Both of them were appointed at the San Pedro Sula's office and where killed in the same violent act. Another of the victims was a public defender from Catacamas, Olancho and another one was a former prosecutor of the District Attorney's office.

Regarding the perpetrators, in 82% of the cases they are unidentified, in some cases the police detained certain suspects but their cases remain in impunity.

In 100% of the cases, weapons were used by the perpetrators.

CONADEH'S REPORT ON THE ATTACKS AND KILLINGS OF LAWYERS IN HONDURAS IN 2013

Particularly, the registers from the CONADEH's office from 2013, indicate the following data:

In 2013, 29 violent acts were committed against lawyers, in which 9 resulted injured and 24 dead. From the 24 dead personas, 21 were lawyers and 3 were particulars that were at the place where de violent acts were committed.

Regarding the 9 persons injured, 6 were lawyers , 1 was a lawyer's assistant, a mother and a daughter of a lawyer;19 were men and 2 women.

According to the activities they performed, the victims were: a judge, a prosecutor form the District Attorney's office, 2 former judges, 1 ex candidate of the LIBRE Party, a public functioner, private attorney's that work in the areas of civil, labor, penal law, a company adviser, a state adviser, 1 candidate of the Anticorruption Party, among others.

In most of the crimes the perpetrators conducted themselves in motorcycles (the typical modus operandus of hitmen in Honduras).

In 15 of the above mentioned cases, the perpetrators have not been identified. In the rest of the cases the perpetrators include, gang members, former police agents, family members.

Attacks against lawyers

The CONADEH report for 2013, registers the following attacks against lawyers:

1. A group of employees of a law firm suffered two attacks in which 2 persons resulted wounded in Comayaguela, Francisco Morazán..
2. ON august 7th 2013, the Association of Democratic Judges reported that a Judge of La Ceiba, had to fled the country due to threats he received against his life and his wife's.
3. Also on august 8th 2013, a lawyer's mother and daughter resulted wounded, while being shot at their house backyard, in the city of Yoro, department of Yoro. The police captured 2 men as suspects of the attack.
4. August 12th, a lawyer and a candidate for mayor for the National Party, resulted wounded in an attack in which their brother in law was killed. The attack was executed by unidentified men that in San Pedro Sula.
5. August 21th, a lawyer that work at the Ministry of Industry and Commerce, named Ana Paola Pizzatti Lagos, age 33, suffered an attack in Tegucigalpa, Francisco Morazán. Unknown subjects shot her from another vehicle.
6. October 28th, 2 prosecutor of the District Attorney's office, assigned to the Department that investigates crimes against justice operators and other high profile crimes, suffered attacks while they were traveling in a vehicle from San Pedro Sula to Tegucigalpa.

Abductions

On September 19th, 2013, a lawyer, former Judge of the Supreme Court and former member of the Central America Parliament, Marco Tulio Castillo Santos, was abducted in the city of Trujillo, Colón. The lawyer was intercepted by two men when he was leaving his office. He was rescued by the National Police, 5 days later, in an operation in which were captured the perpetrators.