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HUMAN RIGHTS PROTECTIONS IN HONDURAS

Evaluating State Capacity to Protect and Promote Human Rights

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INTRODUCTION

In the last decade, the problem of insecurity and impunity has deeply affected the people of Guatemala, El Salvador and Honduras, making this region (known as the Northern Triangle of Central America) one of the most violent in the world. High levels of violence, corruption, and impunity have eroded the capacity of the states to develop accessible and efficient institutions, and address the needs of their populations.

The absence of effective responses has weakened citizens' confidence in state institutions, leading to an alarming number of people who have been internally displaced or forced to migrate to other countries to escape the violence and lack of economic opportunities.

Against this backdrop, the Washington Office on Latin America (WOLA), the University Institute on Democracy, Peace and Security (IUDPAS) of Honduras, the University Institute for Public Opinion (Iudop) of the José Simeón Cañas Central American University (UCA) of El Salvador, and the Myrna Mack Foundation (FMM) of Guatemala have developed a tool for monitoring and evaluating the policies and strategies currently being implemented in Guatemala, Honduras, and El Salvador to reduce insecurity and violence, strengthen the rule of law, improve transparency and accountability, protect human rights, and fight corruption. This initiative has been made possible thanks to the support of the Latin America Division of the Swiss Agency for Development and Cooperation, the Tinker Foundation, the Seattle International Foundation (SIF), and the Moriah Fund.

THE CENTRAL AMERICA MONITOR

The Central America Monitor is based on the premise that accurate, objective, and complete data and information are necessary to reduce the high levels of violence and insecurity, and establish rule of law and governance in a democratic state. This will allow efforts to move beyond abstract discussions of reform to specific measures of change.

The Monitor is based on a series of more than 100 quantitative and qualitative indicators that allow a more profound level of analysis of the successes or setbacks made in eight key areas in each of the three countries.¹ More than a comprehensive list, the indicators seek to identify a way to examine and assess the level of progress of the three countries in strengthening the rule of law and democratic institutions. The indicators seek to identify the main challenges in each of the selected areas and examine how institutions are (or are not) being strengthened over time. The Monitor uses information from different sources, including official documents and statistics, surveys, interviews, information from emblematic cases, and analysis of existing laws and regulations.

The indicators were developed over several months in a process that included an extensive review of international standards and consultation with experts. The eight areas analyzed by the Monitor include:

1. Strengthening the capacity of the justice system;
2. Cooperation with anti-impunity commissions;
3. Combatting corruption;
4. Tackling violence and organized crime;

5. Strengthening civilian police forces;
6. Limiting the role of the armed forces in public security activities;
- 7. Protecting human rights;**
8. Improving transparency.

The Monitor reports are published by area and by country. The first series of reports will serve as the baseline for subsequent analysis, which will be updated annually. Each annual series of reports will be analyzed in comparison with reports from the previous year. This allows researchers, civil society organizations, and other actors to assess the level of progress in strengthening the rule of law and reducing insecurity.

The first round of Monitor reports will primarily focus on data sets from an approximate 4-year time period, 2014 to 2017, in order to provide a snapshot of Central America's institutions.

The Monitor will serve as a tool for searchable, easy-to-comprehend data, delineating trends, progress, patterns, and gaps within and between the three countries of the Northern Triangle. The data, graphics, charts, and reports will be available on the Monitor's website.

This report of the Central America Monitor produced by the IUDPAS of Honduras aims to define a baseline for the indicators related to analyzing human rights conditions and measures the Honduran government has taken to protect and promote human rights.

ABOUT THE RESEARCH FOR THIS REPORT

We obtained research for this report via official requests for information from government institutions studied in this report. We also obtained research via reports from national and international organizations that assess issues related to attacks and threats against human rights defenders in Honduras, hate speech, criminalization, preventative security measures, and human rights conditions in general. We also conducted interviews for further details on advances and setbacks on transitional justice issues.

After compiling and reviewing information for each indicator, we developed a comprehensive baseline analysis on human rights conditions for the 2014-2017 time period. Each year, we will collect information on these same indicators to allow for comparative analysis over time. The main points of our research and synthesized in key findings in the following pages.

It is important to note that government institutions did not fully comply with requests for public information. Some institutions did not release the information we requested, while we were unable to collect complete information for some indicators, factors which affect our analysis and indicators.

KEY FINDINGS

- Numerous international and national human rights bodies recognize the grave human rights conditions in Honduras. Despite high levels of violence and abuse against human rights defenders, there is no official data on these figures.
- According to some sources, between 2014 and 2017, a total of 141 human rights defenders were killed, and attempts were made against the lives of 13 others. Among rights defenders' killed, 10 of them had been awarded precautionary security measures by the Inter-American Commission on Human Rights (IACHR).
- In a worrying trend, Honduran criminal law is frequently abused in an attempt to prevent or halt the work of human rights defenders. Some human rights defenders are wrongfully charged for crimes that further their stigmatization and criminalization. These efforts result in hostility and social exclusion.
- Honduras has made progress in creating institutions and policies dedicated to investigating human rights violations and protecting defenders. However, impunity for human rights crimes remain high. According to the IACHR, between 95 and 98 percent of crimes against rights defenders go unpunished.
- In a positive development, the government established a special prosecutorial unit to investigate crimes committed against human rights defenders, the Special Prosecutor's Office for Human Rights (*Fiscalía Especial de Derechos Humanos*, FEDDDH). However, the FEDDDH has limited jurisdiction for crimes, does not have human rights-specific protocols, and lacks sufficient human and financial resources. By the end of 2017, the FEDDDH only employed 18 prosecutors.
- Passage and supplementary regulation of the Law for the Protection of Human Rights Defenders, Journalists, Social Communicators, and Justice Officials (*Fiscalía Especial para la Protección de Defensores de Derechos Humanos, Periodistas, Comunicadores Sociales y Operadores de Justicia*) mark an important advancement.
- Despite progress, the National Protection System (*Sistema Nacional de Protección*) must be strengthened, including but not limited to areas related to communications, training, raising awareness, education, investigation, and combatting impunity, which are fundamental to mitigating risks for human rights defenders. By the end of 2017, the System had still not yet established a sub-unit critical to risk mitigation and crime prevention, the Unit for Prevention and Context Analysis. The Unit for the Reception of Cases and Immediate Reaction and the Unit for Risk Analysis only had 10 employees to handle cases across the entire country. This means that cases labeled as “emergency” situations frequently aren't addressed promptly.

- The National Protection System should guarantee active civil society participation in the National Council for Protection of Human Rights Defenders (*Consejo Nacional de Protección para las y los Defensores de Derechos Humanos*).² It also should guarantee participation of the Public Prosecutor's Office (*Ministerio Público, MP*) and judicial branch since indifference from these institutions fuels impunity and the search for long-term solutions to grave human rights conditions. Participation of the military and Ministry of Security (*Secretaría de Seguridad*) is worrying, as they are among the main security threats to human rights defenders and most commonly responsible for human rights violations.

HUMAN RIGHTS PROTECTIONS IN HONDURAS

Evaluating State Capacity to Protect and Promote Human Rights

Honduras is deemed to be one of the most dangerous countries for people who defend human rights. There are high rates of criminality and impunity for human rights violations, and rights defenders are subjected to threats, harassment, and intimidation as well as smear campaigns and wrongful criminal accusations.

Since the coup d'état in 2009, the sociopolitical situation has deteriorated, marked by significant institutional weakness, a lack of judicial independence, and a deepening of corruption and the infiltration of organized crime in state structures. This is compounded by a lack of democratic legitimacy, especially due to the questionable 2017 elections. Amid this sociopolitical crisis, the government has tended to implement heavy-handed measures, militarizing police duties and other civilian tasks and using the criminal justice system to criminalize social movements, resulting in high levels of human rights violations and impunity.

After the 2009 coup, the extractive economic model has further expanded the frontier for monoculture of African palm, favoring concessions for mining, logging, hydroelectric, and other industries. The overexploitation and

extraction of resources with inefficient controls has sparked conflicts between the business sector and local populations, including indigenous and Garífuna peoples.³ In some cases, these conflicts have caused grave human rights violations that include forced displacements, evictions, criminalization of environmental leaders, smear campaigns, as well as attacks on and the murder of rights defenders.⁴

International bodies are aware of this situation. Thus, since 2009, the IACHR has qualified Honduras as a country under special observation and placed it on the list of governments that cause concern due to their persistent human rights violations. In its 2015 report, the IACHR described Honduras as “one of the most dangerous countries for human rights defenders. Threats, attacks on and murders of journalists, lawyers and human rights defenders, especially those who defend the land and environment, are commonplace.”⁵

Meanwhile, the United Nations Secretary-General identified Honduras as being among the 29 countries in which people who cooperate with the UN human rights system have been subject to intimidation and reprisals.⁶

MURDERS, CRIMINALIZATION AND OTHER ATTACKS ON DEFENDERS

MURDER OF HUMAN RIGHTS DEFENDERS

As international experts have indicated, Honduras lacks official statistics on murders and attacks against people who defend human rights. Official data is confusing, and the Public Prosecutor's Office only has overall murder figures, with no disaggregated information found during the period under study that would allow for identifying killings of human rights defenders. Nor is it possible to disaggregate this data by the victim's gender, profession or trade, geographical area, or other variables of interest (to distinguish between attacks on rural and urban rights defenders, or between the murder of journalists and people who defend the environment, for example).

Data collected for this study, based on information from multiple primary and secondary sources,⁷ indicate that a total of 141 human rights defenders were killed in Honduras between 2014 and 2017. Murder attempts were made against another 13 in the same period. Among those killed, 10 had been awarded precautionary measures by the IACHR.

In general, the statistics on attacks against rights defenders have been amassed based on monitoring reports produced by human rights organizations. However, each organization focuses on its topic of interest, not always including attacks against people who defend other rights. With this in mind, the following information includes data outside the period of study.

Environmentalists: The international organization Global Witness deemed Honduras to be

the most dangerous country for defending the environment. According to its 2015 report, the country had the greatest number of murders of environmental activists per capita in the last five years, registering an increase in killings related to hydroelectric projects but also associated with mining and other causes such as agro-industry, illegal logging, and other extractive industries.⁸ According to the IACHR, between 2010 and 2017, more than 120 land rights advocates were killed in Honduras.⁹

LGBTI people: In recent years, Honduras has been the site of a high number of crimes against people from the LGBTI community, including numerous LGBTI rights activists. According to the National Violence Observatory (*Observatorio Nacional de la Violencia*, ONV) of the National Autonomous University of Honduras (*Universidad Nacional Autónoma de Honduras*, UNAH), in its 30th bulletin on sexual diversity, a total of 119 LGBTI individuals were murdered between 2011 and 2014. Of those killed, 52.9% identified as gay, 32.8% as transgender, and 12.6% as lesbian. In 2017, the number of murders increased to 162. The non-governmental organization CATRACHAS's Observatory of LGTBI Violent Deaths (*Observatorio de Muertes Violentas LGTBI*) reports that, from 2008 to 2017, 298 violent deaths of lesbian, gay, bisexual and transgender people were recorded, with 89% of victims identifying as gay and/or transgender.¹⁰

Honduras had the highest rate of homicides of transgender women in the entire hemisphere: 9.68 killings for every one million inhabitants, according to the NGO Transgender Europe.¹¹

With regard to the total number of killings of LGBTI people, there is no record of how

many were LGBTI rights defenders or activists. However, according to a United Nations report, from 2008 to 2017, at least 11 defenders and activists from the LGBTI community were murdered.

Journalists: In Reporters Without Borders' global report for 2017, Honduras ranks as one of the most dangerous countries in Latin America for engaging in journalism.¹² According to statistics from the National Human Rights Commission in Honduras (*Comisionado Nacional de los Derechos Humanos en Honduras, CONADEH*), 75 journalists, social

communicators, media owners, camerapeople, and radio and television operators were killed between October 2001 and 2017. And 92% of those murders have gone unpunished.¹³ The UNAH/ONV recorded a total of 45 homicides against journalists between 2008 and 2017.

Lawyers: According to the UNAH/ONV's 77th bulletin, between 2014 and 2017, 49 justice officials were murdered, 85.9% of whom were men and 14.1% women. Among those killed, 11 were prosecutors, judges, public defenders or assistant prosecutors.

TABLE 1
MURDERS OF HUMAN RIGHTS DEFENDERS, 2014-2017

Year	Number
2014	38
2015	42
2016	50
2017	11
TOTAL	141

Source: Prepared by the authors

According to the information collected, the profile of the rights defenders under threat aligns with the global trend of high vulnerability among land rights and environmental defenders;

as well as defenders of freedom of expression, including journalists and communicators; and activists from the LGBTI community.

TABLE 2**MURDERS OF HUMAN RIGHTS DEFENDERS BY TYPE OF RIGHTS/PROFESSION, 2014-2017**

Type of Rights/Profession	Total
Journalists and communicators	21
LGBTI	11
Environment/land and territory	25
Trade unionists	2
Human rights defenders in general	33
Justice officials and prosecutors	49
TOTAL	141

Source: Prepared by the authors

CRIMINALIZING THE DEFENSE OF HUMAN RIGHTS

The IACHR has expressed its concern over the use of criminal lawsuits to hinder human rights defenders' work, subjecting them to prolonged judicial processes and ordering alternative measures and arrest warrants against them.

Subjecting defenders to lengthy criminal proceedings, in which alternative measures are also ordered, has a multiplying effect in terms of intimidation. These unjustified criminal proceedings impose personal and material costs that serve to harass, intimidate, and reduce the work of human rights defense in general—costs that are made worse by delays in criminal proceedings.¹⁴

It was difficult to find numerical information on cases of criminalization of environmental and land rights defenders during the period analyzed. However, data from the Honduran *Vía Campesina* estimates that nationwide some 6,200 rural farmers and Garífuna and indigenous people are facing criminal proceedings for defending their rights, including some 1,700 women.¹⁵

As occurs in other countries, in Honduras judicial officials apply criminal offenses that do not always respect legal principles or that do not meet international standards.

The Public Prosecutor's Office, through its **Prosecutor's Offices for Common Crime**, carries out the criminalization of rights defenders, mainly utilizing the offenses of illicit demonstrations, land usurpation, damages, opposition to forestry management plans, threats, and sedition (for blocking highways and occupying facilities). At the same time, companies and public officials tend to use criminal definitions such as libel and slander as a method of criminalization, considering that in Honduras so-called crimes against honor have not been decriminalized, which is particularly problematic in the case of journalists and social communicators.

The IACHR has flagged the use of the illicit demonstrations crime (established in Article 331 of the penal code)¹⁶ to charge a large number of people detained in the context of public demonstrations.¹⁷ In relation to this offense, the United Nations High Commissioner for Human

Rights recommended that officials “revise or abrogate national legislation incompatible with international standards, in particular provisions on crimes of sedition and illicit demonstrations.”¹⁸

In addition, human rights organizations have denounced that the government—specifically, the Prosecutor’s Offices in coordination with the Military Police and the National Bureau of Investigation and Intelligence (*Dirección Nacional de Investigación e Inteligencia*)—has raised the stakes in the charges filed against rights defenders. These bodies accuse them of more serious offenses such as robbery, arson, unlawful association (a criminal definition used against organized crime), and even homicide or murder (applied in a generic way to members of a community).

Human rights organizations also denounce that rights defenders accused of crimes such as land usurpation or hindering extractive concessions must face criminal proceedings in a criminal court with national jurisdiction created specifically for handling organized crime cases.

HATE SPEECH AND SMEAR CAMPAIGNS

Distintos informes sobre la situación de Various reports on the human rights situation in Honduras indicate that one of the most common forms of intimidating people who defend human rights is by telephone intimidation and smear campaigns on social media.

The main means of aggression used are anonymous telephone calls; threats via voice messages or text messages on platforms such as WhatsApp; emails; the creation of fake pages on social media such as Facebook from which systematic attacks are made through false accounts; and other means that produce harassment, fear, demobilization, and a climate of surveillance and high risk.

On this issue, the IACHR has warned about “the constant use of social media and other means of information to spread stigmatizing and delegitimizing messages about human rights defenders, who are accused of being ‘criminals,’ ‘drug traffickers,’ ‘terrorists,’ ‘anti-development,’ ‘drug lords,’”¹⁹ among other serious accusations.

Reports also mention that, on occasion, senior public officials perpetrate attacks against defenders. For example, in the days leading up to the country’s Universal Periodic Review (UPR) before the United Nations in 2015, Honduran government officials accused rights defenders of being “political activists from the opposition” and of leading a “smear campaign” against them. Other senior officials described them as “bad Hondurans” who want to “denigrate the country,” or who carry out “a perverse and biased plot in which reality is distorted.”

In November 2016, the Honduran president made statements stigmatizing and criminalizing human rights organizations, accusing them of “having illicit economic ties to gangs in the country.”²⁰

te campaigns have not only targeted rights defenders and national organizations in Honduras; international organizations such as OXFAM, Peace Brigades International (PBI), Peace Watch, and Global Witness have also experienced hate campaigns, especially via social media.²¹

These online hate campaigns seek to disparage the work of rights defenders and to incite hate and social disdain for them and their efforts. Some promote the demobilization of the defender, their families and organizations, and inflict moral and psychological damage, constituting a grave form of attack. Despite this situation, there is no data regarding the number of complaints of this nature filed with the Public Prosecutor’s Office or regarding what type of

public policy measures have been implemented to eradicate such threats.

HUMAN RIGHTS VIOLATIONS DURING THE POST-ELECTION CRISIS

On November 26, 2017, Honduras held general elections in a climate of doubt regarding the transparency and impartiality of electoral institutions. This electoral climate was further complicated by the fact that the Supreme Court of Justice (*Corte Suprema de Justicia*, CSJ) authorized the president to seek a second consecutive term, which the Honduran Constitution expressly prohibits. The Office of the United Nations High Commissioner for Human Rights (OHCHR) reported 15 violent deaths of political candidates, city council members, and activists before the elections, and that charges were only filed in two of those cases.²²

Increased hostility and protests prior to elections led to an electoral process held under heavy militarization. After an unusually long wait following the end of the voting process, the Supreme Electoral Tribunal (*Tribunal Supremo Electoral*, TSE) indicated that results favored the opposition candidate. However, the TSE then halted the vote count for 36 hours. After reactivating the vote count, the TSE announced that results favored the incumbent leader seeking re-election. Public distrust morphed into an outburst of conflict and violence, which included mass protests, vandalism, harsh military-police repression resulting in deaths, hundreds of people detained or wounded, political prisoners, and people fleeing the country.

In its report, “Conflict and Political Violence: 2016-2017 Primary and General Elections,” IUDPAS documented 50 victims of homicide during this crisis, four of whom were women. Of

these people, five were killed during the primary election cycle, seven during general elections, and 38 in the post-election period. IUDPAS found that murders took place in 10 of the country’s 18 departments, with 80% occurring in the northern and central regions.²³

In its 2017 annual report, the OHCHR stated that at least 23 people died in the context of the post-electoral protests: 22 civilians and one police officer. At least 16 of the victims died as a result of bullets fired by the security forces, including two women and two children, and at least 60 people were wounded – 30 of them by firearms.

The OHCHR reported that 1,351 people were detained between December 1 and 5, 2017, many of whom experienced ill-treatment at the time of their arrest or during their detainment, and that members of the security forces participated in illegal raids. At this time, there was also an increase in threats and intimidation against journalists and human rights defenders.

According to data provided by human rights organizations, 232 people were injured, 115 of them during the first week of the state of emergency. The majority of the injuries were caused by the Military Police or the Army, and others by the Police’s Special Forces.²⁴

The CONADEH recorded 31 deaths during repression of the protests. Meanwhile, between November 26, 2017 and January 23, 2018, the Coalition against Impunity (*Coalición contra la Impunidad*, CCI) – a network of more than 50 human rights organizations and social movements – recorded 33 deaths linked to the post-election conflict, both during and after demonstrations. On top of this, three deaths of police officers were also recorded.²⁵

The OHCHR recorded 897 demonstrations took place between November 29, 2017 and January

28, 2018, while civil society organizations recorded 1,155 demonstrations.²⁶ Both sources establish that the law enforcement authorities were heavily armed, and, due to the orders incorporated in Decrees 084/2017 and 085/2017, they used excessive force to disperse crowds and break up highway blockades without taking into account whether these demonstrations were peaceful or not.²⁷

According to reports, people detained in the post-election context were subjected to ill-treatment—including threats, insults, kickings, and beatings—while the Military Police and National Police arrested and detained them. The Public Prosecutor’s Office reported having received 583 complaints of illegal detentions and abuse of authority, complaints that are under investigation.²⁸

The Committee of Relatives of the Detained and Disappeared in Honduras (*Comité de Familiares Detenidos y Desaparecidos en Honduras*, COFADEH), a non-governmental organization, reported that, of the hundreds of people detained, at least 117 had been prosecuted for different crimes.²⁹ COFADEH also reported that 33 of those prosecuted were transferred to the military facilities of the 105th brigade in San

Pedro Sula, where they were allegedly subjected to cruel, inhumane, and degrading treatment.

The CCI’s report documented 64 attacks during the post-election crisis on environmental leaders and human rights defenders. Of these, 42 individuals (including at least 15 women) suffered some kind of persecution by the National Interagency Security Force (*Fuerza de Seguridad Interinstitucional Nacional*, FUSINA), the Military Police of Public Order (*Policía Militar del Orden Público*, PMOP), the Honduran Armed Forces, the Ministry of Security through the National Police, and/or the Police Investigations Department (*Dirección Policial de Investigación*, DPI).³⁰

As of early 2018, there was no knowledge of any charges filed by prosecutors (*requerimientos fiscales*) over the abuses committed before, during, or after the elections. According to the OHCHR, one problem behind this delay lies in the involvement of multiple prosecutor’s offices and the lack of coordination to address this issue as a pattern of human rights violations.³¹ The Monitor’s next report will examine progress on the investigation and criminal prosecution of those responsible for the abuses perpetrated during the post-election crisis.

NATIONAL SYSTEM FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS

In 2015, via Legislative Decree 34-2015, Honduras approved the Law on the Protection of Human Rights Defenders, Journalists, Social Communicators, and Justice Officials, also known as the Law on Protection. A year later, in August 2016, the detailed regulations of this law were published.

Article 2 of the Law on Protection is to recognize, promote and protect the human rights and fundamental liberties, as recognized and established in the Honduran Constitution and in international law, of all individuals or legal entities dedicated to the promotion and defense of human rights, and to guarantee their rights to freedom of expression and to work in defense of human rights.

In Articles 1 and 5, the Law on Protection recognizes the right to defend human rights, and it defines the nature, objectives, principles, definitions, and scope of the rights held by defenders under the same law.

Article 6 establishes that the government assumes a special responsibility to protect

human rights defenders, stipulating that “the State is obligated to respect the human rights of defenders and to take reasonable measures to prevent threats, harassment, and attacks against them, including when these acts are perpetrated by government actors or officials.”³²

The Law on Protection and its detailed regulations create two systems:

- The National System for the Promotion of Human Rights and the Prevention of their Violation (*Sistema Nacional para la Promoción de los Derechos Humanos y de la Prevención de sus Violaciones*),³³ which includes components related to dissemination, communication, training, awareness-raising, education, research, and the fight against impunity, among others;³⁴ and
- The National System for the Protection of Human Rights Defenders, Journalists, Social Communicators, and Justice Officials,³⁵ charged with interagency coordination to provide effective protection to people defending human rights, among others.

BOX 1

OPERATIONAL BODIES OF THE NATIONAL PROTECTION SYSTEM

- Governing body: the State Secretariat of the Offices of Human Rights, Justice, Governance and Decentralization (*Secretaría de Estado en los Despachos de Derechos Humanos, Justicia, Gobernación y Descentralización*) as the governing body³⁶
- The National Protection Council³⁷
- The General Directorate of the Protection System (*Dirección General del Sistema de Protección*)³⁸
- The Technical Committee of the Protection Mechanism (*Comité Técnico del Mecanismo de Protección*)³⁹
- The Human Rights Department of the Ministry of Security⁴⁰

The **National Protection System** establishes mechanisms for early alerts with the goal of carrying out a constant risk analysis that allows for preventing risks and attacks on rights defenders. The system is made up of five operational bodies (see Box 1).

The **National Protection Council** is the entity affiliated with the Ministry of Human Rights that serves as the deliberative, consultative, and advisory body of the National Protection System.

The Council is made up of 14 representatives and alternates from government agencies and civil society, including: the Ministry of Human Rights; Ministry of Foreign Affairs; Ministry of Security; the Ministry of Defense; the Public Prosecutor's Office; the judicial branch; the Solicitor General's Office (*Procuraduría General de la República*, PGR); the Bar Association of Honduras (*Colegio de Abogados de Honduras*); the Association of Journalists (*Colegio de Periodistas*);

the Press Association of Honduras (*Asociación de Prensa de Honduras*); one representative from the association of prosecutors; one representative from the association of judges and magistrates; and two representatives from civil society human organizations that focus on defending human rights that are accredited by CONADEH.

However, between 2014 and 2017, the OHCHR indicated that government institutions in charge of the key tasks for protection—such as the Public Prosecutor's Office and the judicial branch—are often absent or represented at Council meetings by low-level officials who cannot provide any follow-up or adopt decisions on behalf of their institutions.⁴¹

The **General Directorate of the Protection System** is the executive organ of the National Protection System. Its responsibilities are defined by Article 29 of the Law on Protection and outlined in Box 2.

BOX 2

RESPONSIBILITIES OF THE GENERAL DIRECTORATE OF THE PROTECTION SYSTEM

1. Receive all requests for protection and process them.
2. Request implementation of Protection Plans for the beneficiary population and monitor their proper fulfillment.
3. Process ex officio the application of security measures when any person subject to the Law faces a situation of risk that warrants urgent measures.
4. Order measures, in coordination with other state institutions and with the active participation of civil society, to prevent harm to individual beneficiaries.
5. Coordinate with state institutions, civil society, and other entities deemed pertinent regarding compliance with the measures and Protection Plans.
6. Request and provide frequent follow-up to provisional measures of the Inter-American Court of Human Rights, the IACHR's precautionary measures, and the corresponding security measures decreed by the bodies.
7. Present semi-annual reports to the National Protection Council regarding the effectiveness of adopted measures and work performed.

8. Develop operational protocols necessary for the effective application of the Law on Protection.
9. Provide support to the person(s) petitioning for, or benefiting from, protection measures regarding the procedures, complaints, or motions filed related to the investigation into their case.
10. Act as the Executive Secretariat of the National Protection Council.
11. Monitor nationwide denunciations of human rights violations affecting beneficiaries, with the goal of identifying patterns of aggression and drafting risk maps in order to adopt preventive measures.
12. Handle appeals against the decisions adopted by the Technical Committee of the Protection Mechanism, in accordance with the Law on Protection's administrative procedures.
13. Take any other actions necessary to effectively fulfill the Directorate's mandate.

The **Technical Committee of the Protection Mechanism** is the entity in charge of issuing rulings involving risk analysis, deliberation, and decision-making regarding the requests for protection presented before the General Directorate.

The Technical Committee is made up of the Director-General of the Protection System, who presides over it, and representatives from the Solicitor General's Office (PGR), the FEDDDH, and the Human Rights Department of the State Secretariat at the Security Office. The Technical Committee must seek advice from people who are experts in risk analysis. Civil society does not participate in this activity.

Rights organizations indicate that the Prosecutor's Office for Human Rights is the only prosecutorial office that acts as a representative before the Technical Committee of the Protection Mechanism, which is limiting since it only has jurisdiction over attacks perpetrated by authorities but not over those committed by non-state actors.⁴²

The **Human Rights Department of the Ministry of Security** handles implementation of the protection measures that the General Directorate of the Protection System relays to the Ministry of Security and National Police. At the same time, this department is responsible for coordinating with police departments and headquarters, which prioritize implementation of the protection measures.

INTERNAL ORGANIZATION AND COMPOSITION OF THE GENERAL DIRECTORATE OF THE NATIONAL PROTECTION SYSTEM

As described previously, the General Directorate of the National Protection System is the operational entity in charge of protection measures for defenders. Internally, the Directorate is organized into four operational units, according to the responsibilities of its mandate:

- Unit for the Reception of Cases and Immediate Reaction
- Unit for Risk Analysis

- Unit for Implementation and Follow-up
- Unit for Prevention and Context Analysis

The **Unit for Risk Analysis** is a fundamental piece in the protection process since it evaluates potential threats and probable undesired events and harm, along with the consequences they could have, in order to determine if measures should be taken. It is also responsible for developing protection plans to respond to detected risks, determining the type of measures to be ordered on an individual, case-by-case basis. This unit was created in October 2016, and it carried out 91 risk analyses during 2017.

The **Unit for Prevention and Context Analysis** did not exist in 2017, although it was expected to become operational in 2018. This unit must analyze the power structures and asymmetrical relations involved when state agents carry out persecution. On this matter, the IACHR has urged Honduras to “strengthen the investigation of the sources of risk that underlie precautionary measures, with the goal of mitigating them.”

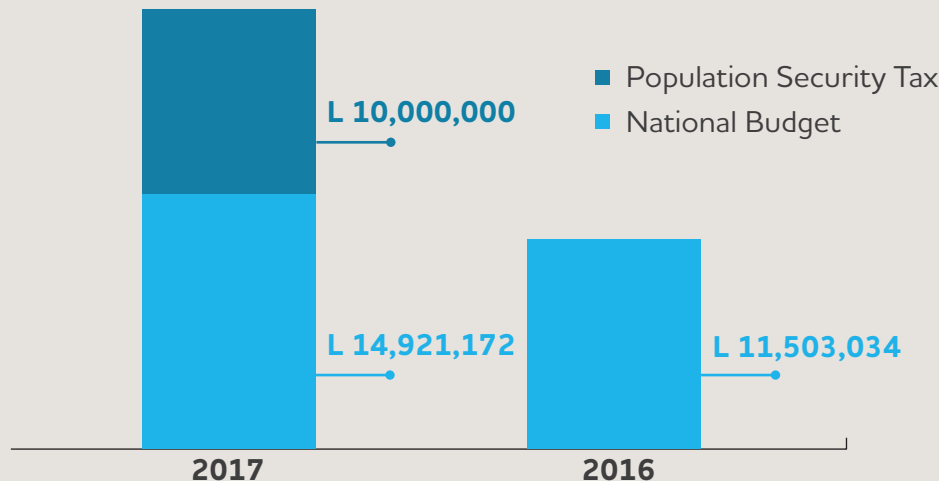
BUDGET OF THE NATIONAL PROTECTION SYSTEM

At civil society’s urging during the process to get the Protection Law approved, an emergency fund was created for the protection of people at risk, derived from resources in the Population Security Fund (*Fondo de Seguridad Poblacional*).⁴³ Therefore, the Protection System operates with two kinds of resources: it receives funds from the overall budget allocated to the Ministry of Human Rights, and funds from the Special Population Security Tax Trust Fund (*Fideicomiso Especial de la Tasa de Seguridad Poblacional*).

In 2016, the Protection System was allotted a budget of 11,503,034 lempiras (\$500,242.84). In 2017, the budget increased to 14,921,172 lempiras (\$630,876.36). However, since an additional allocation of 10 million lempiras coming from the security tax was included that year, the National System operated with a budget of 24,996,750 lempiras (\$1,056,878).⁴⁴

GRAPH 1

THE HUMAN RIGHTS PROTECTION SYSTEM’S BUDGET, 2016-2017



The Protection System employed 26 people by late 2017. Three people worked in the Unit for the Reception of Cases and Immediate Reaction, seven in the Unit for Risk Analysis, seven in the Unit for Implementation, and three in the technical and legal office. Remaining staff were charged with administrative matters. At that time, the Unit for Prevention and Context Analysis had not been created.⁴⁵

The number of staff assigned to the units for the reception of cases, follow-up, and risk analysis is low considering that their work has a national scope, that the majority of rights defenders at risk are in rural areas, and given the high number of attacks against defenders in Honduras.

TYPES OF MEASURES PROVIDED

According to the website of the General Directorate of the National Protection System,⁴⁶ a range of measures can be implemented to protect individual beneficiaries:

- **Preventive measures:** self-protection resources; support from national or international observers from human rights organizations and those defending freedom of expression; public recognition of the work being done; the requisitioning of authorities and private individuals to avoid campaigns that are accusatory, stigmatizing, or discrediting; the requisitioning of judicial authorities regarding progress on investigations, etc.
- **Protection measures:** personal security escorts for institutions or individuals, bulletproof vests, bulletproof vehicles or the bulletproofing of vehicles, temporary relocation for up to six months, and also the installation of closed-circuit television systems, alarms, sensors, barbed wire, help buttons, security locks, communication devices, etc.

- **Collective measures:** installation of community alarms, implementation of community security shelters, installation of communication structures, the forming of support networks, collective courses on self-protection, as well as actions aimed at dealing with the psychological and social impact of violence among defenders, their families, and the organizational spaces in which they participate, etc.

Furthermore, according to the law and for the sake of protection, some of the following measures can be taken:⁴⁷

- **Preventive measures:** A set of actions adopted with the goal of reducing risk factors.
- **Reactive measures:** A set of actions and security measures to address risk and protect the individual beneficiary's right to life, personal integrity, personal liberty, and security.
- **Urgent protection measures:** A set of actions and measures to safeguard, in an immediate fashion, the individual beneficiary's life, integrity, and liberty, and in some cases their assets.
- **Psychosocial measures:** A set of measures and actions aimed at dealing with the psychological and social impact of violence among defenders, their families, and the organizational spaces in which they participate.
- **Measures aimed at tackling impunity:** A set of measures and actions aimed at ensuring the effective investigation, prosecution, and sanction of those responsible for attacks on individual beneficiaries.

PROCEDURE FOR REQUESTING PROTECTION

Requests for protection must be submitted to the Unit for the Reception of Cases in writing, orally, personally, electronically, or by telephone. They can be presented by the petitioners themselves, their family members, or an organization that defends human rights or a similar entity. In any case, the request must then formally be made in writing shortly thereafter.

In urgent or emergency cases, the General Directorate, through the Unit for the Reception of Cases, must arrange for urgent measures, responding within 24 hours of receiving the request for protection. But delays occur given the limited availability of personnel (three people nationwide), the lack of weekend shifts, and the complexity of certain cases, especially those originating in remote areas of the country.

Once the request is presented, the procedure is as follows:

- The Unit for Risk Analysis produces a detailed analysis and proposes a Protection Plan, if it determines that measures should be taken.
- The General Directorate of the Mechanism, through the Unit for Risk Analysis, presents the case before the Technical Committee of the Protection Mechanism so that it may weigh and ultimately decide on what type and how measures are applied in each case.
- The Technical Committee orders the application of specific types of measures and approves the Protection Plan.
- The Technical Committee can review, modify, suspend, or cancel the measures ordered. To this end, it reviews the measures every six months.
- The General Directorate of the National

Protection System provides follow-up to the measures granted by the IACHR; it can carry out risk analysis to broaden these measures in a complementary way, but it cannot modify or cancel them under any circumstance.

- In cases involving crimes, the Technical Committee must send such cases to the Public Prosecutor's Office for investigation.

When the attacks or threats have the characteristics of a crime and formal complaints are referred to the Public Prosecutor's Office, human rights organizations report that the ensuing investigation is of limited effectiveness in terms of defusing the nature of the risks and investigating and punishing the attacks and threats against human rights defenders. They point to this as one of the Protection Mechanism's main weaknesses.

Regarding this issue, the Inter-American Court has stressed that "to address the risk of defending human rights in Honduras in a comprehensive and interagency way, it is indispensable that the investigation of aggressions be strengthened in order to defuse the sources of risk in a real and effective manner."⁴⁸ In this sense, the Court recognizes as positive the fact that the regulations refer to the investigation of incidents in both National Systems for Prevention and Protection.⁴⁹

The General Directorate of the National Protection System also intervenes in precautionary measures granted by the IACHR, having taken up 24 cases by the end of 2017. Nonetheless, the vast majority of precautionary measures are not being handled by the Protection Mechanism, given that the IACHR granted a total of 426 precautionary measures to defenders between 2009 and 2016, which are being handled in a disjointed way by distinct state bodies.

Although the law contemplates the protection of justice officials, the judicial branch announced that it would create in 2018 its own protection mechanism for judicial officials with regard to their work-related risks. Judicial branch data reveals that in Honduras, approximately 900 judges are not covered by any protection mechanism. That is why officials are planning to create a Special Unit for Protection of the Judicial Branch (*Unidad Especial de Protección del Poder Judicial*) that would be in charge of weighing the internal and external risks associated with that branch and its officials, including judges, magistrates, and public defenders.⁵⁰ Those not included in the judicial branch mechanism would be prosecutors at the Public Prosecutor’s Office, agents of the Technical Agency of Criminal Investigation (*Agencia Técnica de Investigación Criminal, ATIC*) and members of the National Police, instead assisted by the General Directorate of the National Protection System.

The Special Unit for Protection of the Judicial Branch – in addition to carrying out risk analysis and ordering preventive measures to safeguard judicial officials’ lives and integrity – will also seek to spur on investigations in order to tackle impunity, identify the intellectual and material authors of threats, prosecute them, and provide adequate reparation to the victims.

QUALITATIVE ANALYSIS OF THE MEASURES PROVIDED

By the end of 2017, the General Directorate of the National Protection System had received 230 requests, rejecting 65 of them and admitting 165 cases. As of early 2018, a total of 143 cases were being processed, and 22 had been closed. Risk analysis was carried out in 91 cases.⁵¹

TABLE 3

HUMAN RIGHTS PROTECTION REQUESTS BY GENDER

Various (LGBTI)	51
Feminine	54
Masculine	125
TOTAL	230

Source: General Directorate of the Protection System

Analysis of the data shows that there is a high admissibility of cases and that more than 71% of beneficiaries are human rights defenders, followed by journalists and communicators, and, to a lesser extent, judicial officials.

The system seems to rely solely on measures involving police protection and the provision of technological means. There is no explicit record

of psychosocial measures being employed to address the impact on the affected persons’ mental and emotional health. Similarly, the data shows no record of preventative measures aimed at reducing risk factors, or measures to tackle impunity that pursue the investigation and sanction of those responsible for threats.

Human rights organizations report that the

types of protection most frequently ordered by the System are police escorts, temporary relocation, evacuation of the danger zone, support for media outlets, technological measures (security cameras, gates, barbed wire, panic buttons, etc.), housing rentals, and other

related measures.⁵² That said, the National Protection Council widely distributed public statements praising the work of defenders and their social contribution, which is an important measure for protecting people at risk.

TABLE 4

HUMAN RIGHTS PROTECTION REQUESTS AND MEASURES, 2015-2017

Requests	2015	2016	2017	Total
Precautionary measures				
Requests handled	9	78	143	230
Requests not admitted, by sector				
Journalists	0	7	2	9
Justice officials	0	13	11	24
People under the protection of another special law	0	0	0	0
Population not covered by the law	0	0	10	10
Social communicators	0	0	1	1
Human rights defenders	1	10	10	21
Total requests not admitted, by sector	1	30	34	65
Requests admitted, by sector				
Journalists	1	8	24	33
Justice officials	0	6	8	14
Human rights defenders	7	31	69	107
Social communicators	0	3	8	11
Total requests admitted, by sector	8	48	109	165
Admitted requests filed, by sector*				
Journalists	1	6	10	17
Justice officials	0	1	6	7
Human rights defenders	5	10	20	35
Social communicators	0	2	2	4
Total admitted requests filed, by sector	6	19	38	63

Requests	2015	2016	2017	Total
Cases of requests for protection measures currently being handled by the Inter-American human rights system, by sector				
Journalists	0	2	14	16
Justice officials	0	5	2	7
Social communicators	0	1	6	7
Human rights defenders	2	21	49	72
Total cases of requests for protection measures currently being handled by the Inter-American human rights system, by sector	2	29	71	102
Type of measures				
Police protection	0	0	191	191
Military protection	0	0	35	35
Protection related to infrastructure and technology	0	0	1,133	1,133
Other measures	0	0	282	282
Processes in coordination with other institutions and organizations aimed at promoting rights fulfillment	0	0	1,136	1,136
Risk analyses completed*	0	0	91	91

**The responsible unit was created in October 2016*

Source: General Directorate of the Protection System

MOST COMMON RISKS

Based on analysis of the measures, the System has identified that the main patterns of threats or attacks against defenders are: being followed by unknown vehicles, threats via social media, sabotage of personal vehicles, and anonymous threats.⁵³

This data coincides with the records kept by human rights organizations. For instance, the Committee for Free Expression (*Comité por la Libre Expresión, C-LIBRE*) systematized a total of 65 incidents against journalists and social communicators between August 2014 and October 2015. The majority of these incidents

were direct physical aggressions, which in some cases were accompanied by damage to the victims' work equipment; ranking second were threats; murders ranked third, which continues to alarm social communicators, above all those who carry out independent journalism; in fourth place was criminalization and illegal detentions; harassment ranked fifth; and in sixth place was damage to equipment and material, which accounted for 2% on its own, although it must be taken into account that many physical aggressions (42%) are accompanied by damage to work equipment and material, as mentioned before

There is some resistance to formally including the criminalization of individuals as risks by the

Public Prosecutor's Office as risks. The Protection System Mechanism conceptualizes such cases as an expression of "the law being enforced." It does not consider the power relations involved or the growing trend to criminalize rights defenders via crimes against peaceful demonstrations, freedom of association and expression, and defense of the environment and indigenous peoples' territories. The Protection Mechanism acted similarly during the post-election crisis in late 2017, failing to evaluate the risks to individuals and groups that defended the right to vote and electoral transparency. This pattern is a drain on the Mechanism's independence.

THE JUDICIAL SYSTEM'S RESPONSE TO HUMAN RIGHTS VIOLATIONS

In complying with the recommendations issued by diverse international bodies (the IACHR, the Inter-American Court, and the UN, among others), the state of Honduras has taken various public policy measures to reduce impunity for attacks against rights defenders and human rights violations. Some of the measures implemented or adopted during the period under study include:

- The creation in 2013 of the Unit on Deaths with a High Social Impact and the Unit on Deaths of People Belonging to Vulnerable Groups, to handle the murder of LGBTI people. Both Units are affiliated with the MP's Special Prosecutor's Office for Crimes against Life (*Fiscalía Especial de Delitos Contra la Vida*). By 2017, the actions of those Units decreased, but they continued operating.
- The establishment in 2013 of the Roundtable for LGBTI Access to Justice (*Mesa de Acceso a la Justicia LGBTI*) with the participation of LGBTI organizations, the Public Prosecutor's Office, the investigative police, and officials from the United States embassy.⁵⁴

- The creation by the Public Prosecutor's Office in February 2014 of the UMBIVA to investigate the crimes related to an agrarian conflict in the Bajo Aguán region, in the Department of Colón. The Permanent Human Rights Observatory of Bajo Aguán (*Observatorio Permanente de Derechos Humanos del Bajo Aguán*, OPDHA) has recorded 123 cases of murders, 6 forced disappearances, and 12 massacres.
- The establishment of a Panel for Validating Cases to investigate human rights violations committed during the 2017 post-election crisis, which was made up of the General Directorate of Prosecutors (*Dirección General de Fiscalías*), the Prosecutor's Office for Crimes against Life, the Prosecution Unit Assigned to the Military Police of Public Order, and the Police Investigations Department.⁵⁵ The Prosecutor's Office for Human Rights was not incorporated into the Panel for Validating Cases, since murder investigations were prioritized exclusively and no other serious crimes were addressed, favoring their impunity.
- The creation in 2017 of a Special Prosecutor's Office for the Protection of Human Rights Defenders, Journalists, Social Communicators, and Justice Officials, which, starting in 2018, was to be in charge of handling all crimes—with the sole exception of crimes against life—that are committed against these particular victims.
- The initiative launched in 2017 to draft a Single Manual for Criminal Investigation at the Public Prosecutor's Office, which would help standardize and unify investigative processes and techniques. It would also aid in consolidating ATIC and implementing the Specialized Comprehensive Assistance Modules (*Módulo de Atención Integral Especializado*, MAIE) to provide help to women who are victims of violence and

to victims and witnesses in vulnerable conditions. The draft of the manual was due to be completed in 2018.

- The development in 2017 of Special Regulations on the Organization and Functioning of the General Directorate of Prosecutors (*Reglamento Especial de Organización y Funcionamiento de la Dirección General de Fiscalía*) to resolve jurisdictional matters between Prosecutor's Offices. The regulations helped improve case

management responsibilities and systems and avoid unnecessary duplication of efforts.

Despite these measures, impunity figures remain high. In 2014, the IACHR confirmed high impunity rates, which civil society organizations estimate range between 95% and 98%.⁵⁶ More specifically, and as we examine in the following section, numerous challenges remain with regard to the investigation, criminal prosecution, and sanction of human rights violations and crimes against rights defenders.

STATE CAPACITY FOR INVESTIGATING AND SANCTIONING HUMAN RIGHTS VIOLATIONS

The obligation to investigate grave human rights violations is a fundamental duty of the state, and it is also a right of victims, their family members, and of society itself.⁵⁷ Investigations should be serious, impartial, and effective, and should be focused on discovering the truth, and on the pursuit, arrest, trial, and eventual punishment of the perpetrators.⁵⁸

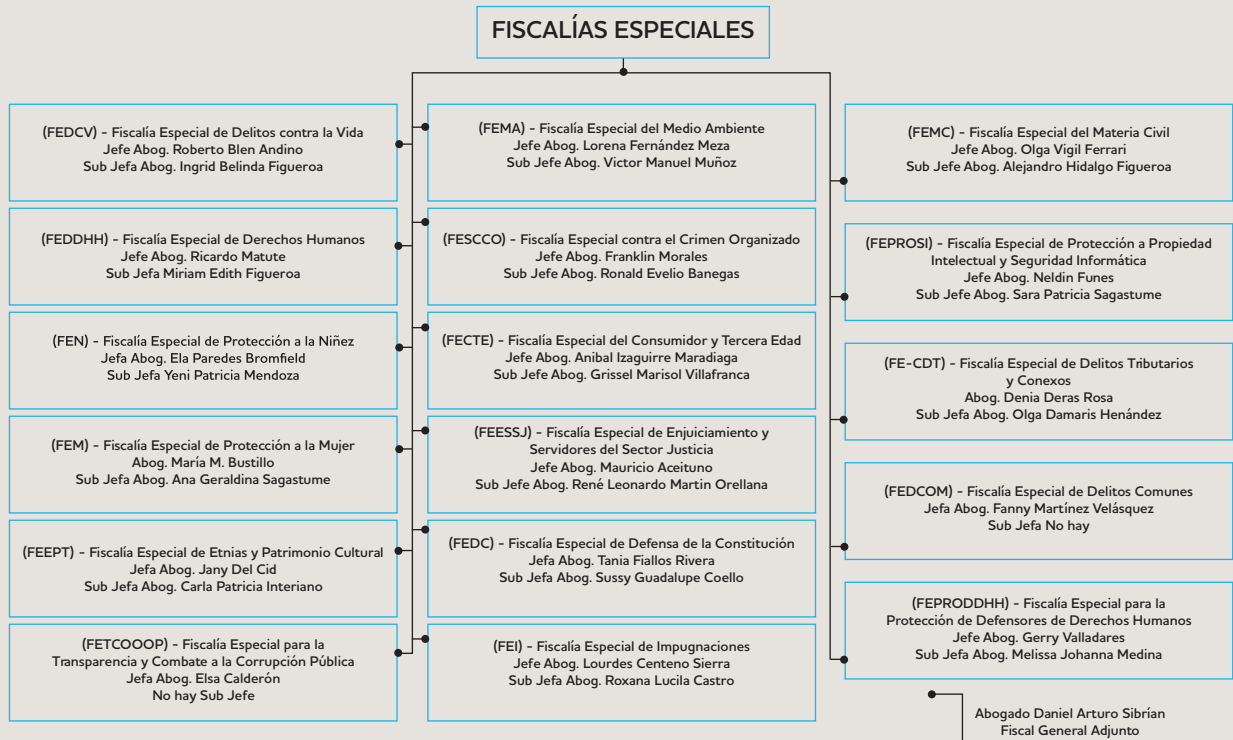
In Honduras, the power to investigate crimes lies with the Public Prosecutor's Office or the General Prosecutor's Office (*Fiscalía General*).⁵⁹ In practice, the National Police and its subdivisions also carry out investigations into criminal complaints that are brought to their offices nationwide. The police collect evidence that would allow the Prosecutor's Office to decide whether to present a prosecutor's requisition before the courts. However, even in cases in which the investigation begins with the police, the Public Prosecutor's Office has

the exclusive authority to lead the investigation, and the police must serve as assistants to the prosecutors in processes of criminal investigation and arrests.

Internally, the Public Prosecutor's Office is divided into 17 Special Prosecutor's Offices that have mandates to address specialized issues pertaining to the investigation and prosecution of crimes of a particular nature – whether because they are especially serious (such as crimes of corruption, environmental damage, or organized crime), or due to the victim's identity and their affiliation with a social group that requires particular state protection (such as indigenous peoples, children, women, human rights defenders, etc.). In addition to the Special Prosecutor's Offices, the Public Prosecutor's Office also has Prosecutor's Offices for Common Crime and Regional Prosecutor's Offices.

FIGURE 1

SPECIAL PROSECUTORS’ OFFICES OF THE MP



Fuente: página web Ministerio Público, disponible en <https://www.mp.hn/images/PDF/FESP.pdf>

INVESTIGATION OF HUMAN RIGHTS VIOLATIONS AT THE PUBLIC PROSECUTOR’S OFFICE

At the time of its founding in 1993, the Public Prosecutor’s Office created a **Special Prosecutor’s Office for Human Rights (FEDDHH)** to investigate and prosecute all crimes linked to human rights violations committed by public agents or officials throughout the country.

In parallel, there were Special Prosecutor’s Offices for the Environment, for Ethnic Groups and for Women, among others that handled cases based on whether the subject or victim belonged to a specific social group that required special protection. Thus, for example, if there

was a case perpetrated by an agent of the state, the case was handled by the Prosecutor’s Office for Human Rights; but if the victim belonged to an ethnic group, then that same case was transferred to the Prosecutor’s Office for Ethnic Groups; or if a woman was involved, the Special Prosecutor’s Office for Women intervened; and so forth.

The FEDDHH only has offices in the cities of Tegucigalpa and San Pedro Sula, which means that its staff must move around to provide coverage to cases in the country’s interior. In some cases, it relies on the Prosecutors of Common Crime who work in the provincial bureaus of the Public Prosecutor’s Office – and who are often the very same people criminalizing human rights defenders.

The Special Prosecutor's Office for Human Rights is made up of six divisions with national geographic coverage:

- Division on investigations (*Sección de instrucción*);
- Special division on various crimes (*Sección especial de delitos varios*);
- **Special division for the protection of human rights defenders, journalists, and communicators;**
- Division for assisting with agrarian issues (*Sección relacionada a la atención de la problemática agraria*);
- Division for assisting with forced disappearances and crimes against life (*Sección de atención a las desapariciones forzadas y delitos contra la vida*);
- Special division for investigating crimes in detention centers (*Sección especial de investigación de delitos en centros de privación de libertad*).

Over the years, it became clear that there was fragmentation in the investigation and prosecution of murder cases, and even duplicated efforts among the Prosecutor's Offices, leading in 2013 to the creation of a **Special Prosecutor's Office for Crimes against Life**, with the mandate to investigate homicides or murders, regardless of who the alleged perpetrator is or what profile the victim has. This new Special Prosecutor's Office brings together all units that handled violent deaths and cases that were being processed in the other Special Prosecutor's Offices.

Since then, the Prosecutor's Office for Human Rights has handled other crimes perpetrated by state agents, such as torture, cruel and inhumane treatment, illegal detentions, abuse of authority, unlawful entry, injuries, threats, discrimination

against the LGBTI community, and other crimes, as long as the alleged perpetrator is a public official or state agent.

Despite that reform, during the period analyzed, the IACHR found that there has been no improvement in the coordination between entities or in the transferring of capacities. The duplication of entities and in some cases their functions can create confusion regarding each one's obligations, which in turn has repercussions for effective and timely state responses.⁶⁰

The OHCHR has made similar observations, concluding that the investigation and prosecution of human rights violations is distributed among several units and offices, without the Prosecutor's Office for Human Rights having clear leadership over them. With this in mind, it suggested amending how powers are distributed and strengthening the institutional structure, procedures, and capacity of the Prosecutor's Office for Human Rights.⁶¹

In 2017, the Public Prosecutor's Office announced the creation the following year of a **Special Prosecutor's Office for the Protection of Human Rights Defenders, Journalists, and Social Communicators**, which was to handle all the crimes committed against these particular victims (with the sole exception of crimes against life, such as the homicide or murder of a rights defender or a communicator, which would continue being handled by the Special Prosecutor's Office for Crimes against Life).

With its new mandate, the Special Prosecutor's Office for Human Rights would oversee the crimes against citizens perpetrated by state agents, as well as the cases it was already handling in which the victims are rights defenders, journalists, and communicators through its Special Division for the Protection of human rights defenders, journalists, and communicators.

Nonetheless, it is worth noting that the Special Division for human rights defenders only investigates and prosecutes the crimes committed by public officials against rights defenders, journalists, and communicators. International bodies have recommended broadening investigations to include civilians who commit human rights violations at the behest of, or with the consent or acquiescence of, state agents.⁶²

To resolve issues related to overlap or lack of clarity regarding the roles of each Prosecutor’s Office and Special Division, in 2017 the Public Prosecutor’s Office approved Special Regulations on the Organization and Functioning of the General Directorate of Prosecutors. The regulations sought to resolve jurisdictional matters by improving case management responsibilities and systems and avoiding unnecessary duplication of efforts.⁶³

THE CAPACITY OF THE PROSECUTOR’S OFFICE TO INVESTIGATE HUMAN RIGHTS VIOLATIONS

Nationwide, there was a total of 959 prosecutors in the Public Prosecutor’s Office as of 2017, including those assigned to Special Prosecutor’s Offices, Regional Prosecutor’s Offices, and Prosecutor’s Offices for Common Crime, plus those assigned to special agencies such as the Special Prosecution Unit to Fight Corruption-Related Impunity (*Unidad Fiscal Especial Contra la Impunidad y la Corrupción*, UFECIC) and those assigned to the General Directorate of Prosecutors (of the Public Prosecutor’s Office).

Of the 959 prosecutorial staff, only 18 are assigned to the Special Prosecutor’s Office for Human Rights.

TABLE 5

PROSECUTORS AND ASSISTANT PROSECUTORS ASSIGNED TO THE PUBLIC PROSECUTOR'S OFFICE

2014	633
2015	813
2016	891
2017	959

Source: Prepared by the authors based on data from the Public Prosecutor’s Office

On budgetary matters, the Public Prosecutor’s Office received an allocation of 5,391,996,458

lempiras (around \$219 million) between 2014 and 2017.

TABLE 6**TOTAL BUDGET OF THE PUBLIC PROSECUTOR'S OFFICE, 2014-2017**

Institution	2014	2015	2016	2017
MP	L 1,065,907,100	L 1,165,307,100	L 1,415,307,100	L 1,745,475,158

Source: based on data from the Public Prosecutor's Office

During that same period, the FEDDHH received an allocation of 53,450,764 lempiras (approximately \$2,163,998). This figure

amounted to less than 1% of the budget allocated to the Public Prosecutor's Office.

TABLE 7**TOTAL BUDGET OF THE SPECIAL PROSECUTOR'S OFFICE FOR HUMAN RIGHTS, 2014-2017**

Institution	2014	2015	2016	2017
FEDDHH	L 13,996,616	L 12,676,499	L 12,676,499	L 14,101,150

Source: based on data from the Public Prosecutor's Office

Research carried out indicates that there are no specialized police units that handle cases of rights violations or attacks against human rights defenders. The measures to safeguard life and integrity granted by the National Mechanism for the Protection of Defenders do not establish specialized units for investigating crimes against human rights or against rights defenders; instead, they are mere measures for implementing protection actions.

With regard to the judicial system, there are also no special jurisdictions or specialized courts assigned to handling the cases of human rights violations or crimes against rights defenders, which means it is not possible to track precise statistics on the evolution of these cases in the judicial system. The only official source for probing issues related to access to justice in the case of human rights violations is the Special Prosecutor's Office for Human Rights.

FORMAL COMPLAINTS OVER HUMAN RIGHTS VIOLATIONS BEFORE THE PUBLIC PROSECUTOR'S OFFICE

Statistical shortcomings are a widespread problem in Honduras, since the majority of public institutions do not produce data in a systematic way, and there are weaknesses regarding disaggregation by gender, age, origin, and geographical area. Furthermore, there are sharp variations between different sources, and even within the same institution. At the level of the Prosecutor's Offices, weaknesses in the recording of data can also be seen.

In terms of punishing human rights violations and crimes against rights defenders, the data provided by the MP and FEDDHH do not allow for clear tracking of cases entered into the system, or which resulted in a verdict. This is

mainly because the system does not specifically monitor whether victims are human rights defenders. In other cases, the information provided was incomplete.

In this context, the Special Prosecutor's Office for Human Rights reported that it received 1,141 complaints in 2013 and 367 the following year.⁶⁴

The striking difference between the number of complaints per year cannot be explained away by the figures. One possible explanation is that 2013 marked a year of internal conflict in the country as a result of acts of political violence committed before, during, and after the general elections held that year.

TABLE 8

CASES UNDER INVESTIGATION AND CHARGES FILED BY TYPE OF CRIME, SPECIAL DIVISION FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS, JOURNALISTS, AND COMMUNICATORS

Crime	Cases Under Investigation					Charges Filed				
	2014	2015	2016	2017	Total by crime	2014	2015	2016	2017	Total by crime
Abuse of Authority	0	1	4	6	11	0	0	6	5	11
Threats	2	8	23	23	56	0	0	0	3	3
Illegal detention	0	2	0	0	2	0	0	1	0	1
Discrimination	1	0	3	4	8	0	0	0	1	1
Homicide	0	0	0	0	0	0	0	0	0	0
Mistreatment (vejámenes)	0	0	0	0	0	0	0	1	0	1
Murder	1	0	0	0	1	0	0	0	0	0
Unjust deprivation of liberty	1	0	0	0	1	0	0	0	0	0
Attempted homicide	0	0	1	0	1	0	0	0	0	0
Injuries	0	0	0	1	1	0	0	0	1	1
Unlawful entry	0	0	0	2	2	0	0	0	0	0
Theft	0	0	1	1	2	0	0	0	0	0
Torture	0	0	0	0	0	0	0	0	1	1
Crime against media outlet	0*	0*	0*	0*	0	0	0	0	1	1
Breach of duty	0	0	2	1	3	0	0	0	0	0
Attacks (atentado)	1	0	0	0	1	0	0	0	0	0
TOTAL	6	11	34	38	89	0	0	8	12	20

0* = Public Prosecutor's Office did not provide data

Source: Prepared by the authors based on data from the Public Prosecutor's Office

The Special Division for the Protection of Human Rights Defenders, Journalists, and Communicators handled 89 cases under investigation between 2014 and 2017, which is quite a low number in relation to the overall number of cases recorded by the FEDDHH. Of these, the largest share (56 cases) were for threats, followed by possible cases of abuse of authority (11 cases).

The FEDDHH's Special Division for the Protection of Defenders experienced slow progress amid judicial delays. Of the 89 complaints that were under investigation between 2014 and 2017, prosecutors only filed charges in 20 cases, including eight in 2016 and 12 in 2017.

According to MP data, the Special Prosecutor's Office for Crimes against Life was investigating 64 cases related to crimes against journalists or members of the LGBTI community. Of these, 13 took place in 2014, 17 in 2015, 22 in 2016, and 12 in 2017. Prosecutors filed charges in 23 of these cases (including 4 in 2014, 5 in 2015, 5 in 2016, and 9 in 2017) and 15 went to trial, resulting in 7 convictions and 5 acquittals.

CATTRACHAS's Observatory of Violent Deaths reports that, of the 298 violent deaths of LGBTI persons that took place between 2008 and 2017, charges were only filed in cases by the end of 2017. Of those, only 15 went to trial and ended with verdicts.⁶⁵ Data from the Committee for Free Expression (C-LIBRE) indicates that of the 75 journalists and social communicators killed between 2001 and 2017, 92% of the cases have gone unpunished.⁶⁶

In some cases, the information from the Public Prosecutor's Office is confusing or was provided in an incomplete way; for example, the crime of forced disappearance is recorded along with data on people who have gone missing for any other reason, and so it does not address the specific crime that refers to responsibility by state agents. Thus, the Public Prosecutor's Office reports that between 2014 and 2017, it received 2,692 complaints over cases of disappeared persons, without specifying if they involve disappearances for reasons of common criminality or if they refer to the crime of forced disappearance perpetrated by state agents or their collaborators – the latter of which constitutes a grave international human rights violation.

Civil society organizations state that the main factors contributing to structural impunity for human rights violations include the complex institutional structure for carrying out criminal investigations; the lack of capacity of the Public Prosecutor's Office to carry out investigations with the proper diligence and within an overall policy framework that features protocols for investigation; and the weakness of the Special Prosecutor's Office for Human Rights, along with the difficulty it faces in doing its work given the limited material support it has.⁶⁷

On this last point, since the Special Prosecutor's Office for Human Rights does not have provincial offices, in many cases it relies on the assistance of the Prosecutors of Common Crime in the various regions. However, as mentioned previously, the greatest number of cases of criminalization of human rights defenders are led by these prosecutors, meaning they are expected to act as the defenders and prosecutors of the very same people. Clearly, this is incompatible with access to justice for human rights violations.

REGULATIONS THAT LIMIT THE DEFENSE OF HUMAN RIGHTS

One public policy measure that restricts the investigation of human rights violations committed by officials is the Law on the Classification of Public Documents Related to National Security and Defense, also known as the Secrecy Law, approved in 2014 and complemented by the 069/2014 CNDS resolution, approved in July 2014 by the National Defense and Security Council (*Consejo Nacional de Defensa y Seguridad*, CNDS). These instruments classify information from 18 civilian state institutions for periods of 10, 15, and 25 years, with potential extensions, which has served to limit access to information regarding the crimes committed by government officials and agents.

Another measure that favors human rights violations as well as their systematic impunity is the Law of the Military Police of Public Order (Decree 168-2013), approved in 2013. This law gives privileges to that military body, exempting members from investigation by the FEDDDH in the case of crimes against human rights; instead, its members can only be investigated and prosecuted by the prosecutors and judges assigned to the National Jurisdiction (meaning those who investigate organized crime, alongside the military police).⁶⁸

The prosecutors and judges assigned to work with this special force are selected from members of the National Jurisdiction or Organized Crime Jurisdiction, who by law must pass vetting requirements (according to Article 8 of the Military Police Law) before the National Bureau of Investigation and Intelligence—an entity affiliated with the National Defense and Security Council. Experts indicate that this can distort the process for investigating crimes committed by members of the Military Police.

ACRONYMS AND ABBREVIATIONS

ATIC	Technical Agency of Criminal Investigation
CCI	Coalition against Impunity
CONADEH	National Human Rights Commission in Honduras
DPI	Police Investigations Department
FEDDHH	Special Prosecutor's Office for Human Rights
FEPRODDHH	Special Prosecutor's Office for the Protection of Human Rights Defenders, Journalists, Social Communicators, and Justice Officials
FFAA	Armed Forces of Honduras
FUSINA	National Interagency Security Force
IACHR	Inter-American Commission on Human Rights
IUPDAS	University Institute for Democracy, Peace and Security
MP	Public Prosecutor's Office
OHCHR	Office of the United Nations High Commissioner for Human Rights
ONV	National Violence Observatory
PJ	Judicial branch
PMOP	Military Police of Public Order
UFECIC	Special Prosecutor's Unit against Impunity and Corruption
UNAH	National Autonomous University of Honduras
WOLA	Washington Office on Latin America

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NOTES

- ¹ A detailed list of indicators is available at www.wola.org/cam.
- ² Decree 34-2015, Law on the Protection of Human Rights Defenders, Journalists, Social Communicators, and Justice Officials. Article 21, on the creation of the Council.
- ³ Data from the University Observatory on the Territorial System (Observatorio Universitario de Ordenamiento Territorial) indicate that the government registered 769 mining concessions across the country by the end of October 2015. Many laws facilitate large-scale extractive activity in Honduras, including: Decree 233-2010, repealing ministerial decrees 001-96 and 158-2009, which prohibited hydroelectric projects in protected areas; General Law on Water (Decree 181-2009); General Law on Mining (Decree 32-2013); Organic Law on Employment and Economic Development Zones (Decree 120-2013); Law Promoting Public-Private Alliance (Legislative Decrees 143-2010 and 24-2012); Law for the Protection and Promotion of Investments (Decree 51-2011); Law for the Generation of Hydroelectric Energy (Decree 70-2007); and the Law to Restructure the Public Debt (Decree 145-2013).
- ⁴ The Inter-American Commission on Human Rights (IACHR) expressed its concern in its 2013 Annual Report, regarding the “persistent threat posed to indigenous peoples by implementing projects for mining and logging, hydroelectric dams, macro-tourist complexes, and so-called ‘model cities.’” <http://www.oas.org/es/cidh/informes/pdfs/Honduras-es-2015.pdf>.
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- ¹⁶ The Penal Code of Honduras establishes in Article 331 that “all meetings attended by people with arms, explosive devices, or objects that are blunt or dangerous in any other way, with the aim of committing a crime, will be deemed to be unlawful.”
- ¹⁷ IACHR. Criminalization of the Work of Human Rights Defenders. December 31, 2015.
- ¹⁸ Report of the United Nations High Commissioner for Human Rights on the violations of human rights in Honduras since the coup d’état on 28 June 2009. United Nations. March 3, 2010. <https://www2.ohchr.org/english/bodies/hrcouncil/docs/13session/A-HRC-13-66.pdf>.
- ¹⁹ As an example, in 2017, a smear campaign was unleashed against the director of Radio Progreso, the priest Ismael Moreno, and indigenous leader Salvador Zúñiga, linking them to drug trafficking and accusing them of receiving important sums of money to “discredit” Honduras. See: <https://confidencialhn.com/denuncian-persecucion-orlandista-contra-sacerdote-ismael-moreno-y-el-dirigente-salvador-zuniga/>; also, farmers from Bajo Aguán were accused in a Military Intelligence report of “forming a guerrilla cell with support from leftist movements, training by the Colombian guerrillas, and strategic financing from drug trafficking are behind the peasant groups that have occupied various estates.” See: <https://www.laprensa.hn/honduras/502250-97/celula-guerrillera-se-arma-en-el-bajo-aguan>.
- ²⁰ Honduras. Los Defensores y Defensoras de Derechos Humanos, entre la Espada y la Pared.
- ²¹ As an example, in 2017 during the presentation in Tegucigalpa of the report by Global Witness, its representatives were the focus of a smear campaign led by senior public officials who urged police authorities to detain and expel the members of the Global Witness team that was visiting the country. This came on top of hate campaigns by anonymous groups on social media, which prompted the UN Special Rapporteur on the situation of human rights defenders to call for “understanding that the new report by

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- ³⁰ Coalición contra la Impunidad. Honduras: Monitoreo de violaciones a derechos humanos.
- ³¹ Edwin Funez. “Más de siete meses y crímenes post-electorales siguen en la impunidad”. *Tiempo.hn*. July 14, 2018. <https://tiempo.hn/crimenes-post-electorales-en-impunidad/>.
- ³² According to Article 6 of the Law on Protection, the state has the obligation to respect the human rights of defenders and prevent in a reasonable manner the threats, harassment, and aggressions that could be used against them, regardless of whether these originate with state actors or private individuals.
- ³³ Regarding this, see Articles 12 to 18 of the Law on the Protection of Human Rights Defenders, Journalists, Social Communicators, and Justice Officials, and Article 4 of the detailed regulations of the Law on Protection.
- ³⁴ Order of the Inter-American Court of Human Rights of August 30, 2017. Case of Kawas Fernández and Case Luna López v. Honduras.
- ³⁵ Regarding this, see Articles 19 to 35 of the Law on Protection, *supra* note 47, and Articles 5 to 35 of the detailed regulations of the Law on Protection.
- ³⁶ Article 19 of the Law on Protection. In 2017, the government announced its decision to create a State Secretariat of Human Rights.
- ³⁷ Article 16 of the Law on Protection.
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- ⁴⁷ Article 5, sections 11, 12, 13, 14, and 15 of the Law on Protection.
- ⁴⁸ Order of the Inter-American Court of Human Rights of August 30, 2017. Case of Kawas Fernández and Case Luna López v. Honduras.
- ⁴⁹ For example, the regulations mandate that the entities belonging to the National Protection System must send all information related to the commission of crimes against human rights defenders to the Public Prosecutor’s Office, even *ex officio*. Moreover, the regulations clarify that although “a formal complaint over incidents that constitute crimes creating a situation of risk is not an indispensable condition for studying a case or determining measures,” officials should always “facilitate that the person requesting (the measure) file their complaint before the Public Prosecutor’s Office.” At the same time, the detailed regulations indicate that transfers of formal complaints to the Public Prosecutor’s Office must follow these criteria: “1) When the Committee determines that the incidents must be formally denounced as a protection measure, the Special Prosecutor’s Office for Human Rights will immediately facilitate the reception of the complaint and will inform

the Committee regarding progress on the inquiries, information about which will be recorded in the official minutes of the session following the one in which the measure was ordered; 2) In the prior case, the Prosecutor's Office for Human Rights must apply the proper protocols and the highest international standards established to confront impunity, identifying the intellectual and material authors and prosecuting them." Article 51 of the Law on Protection, and Articles 4.2 and 41 of the Law on Protection's detailed regulations. See the aforementioned Order of the Inter-American Court of Human Rights of August 30, 2017. Case of Kawas Fernández and Case Luna López v. Honduras, available (in Spanish) at: http://www.corteidh.or.cr/docs/supervisiones/casoskawas_lunalop_30_08_17.pdf

⁵⁰ "Poder Judicial crea unidad para dar protección a operadores de justicia." *ElHeraldo.com*. October 30, 2018. <https://www.elheraldo.hn/pais/1229406-466/poder-judicial-crea-unidad-para-dar-proteccion%C3%B3n-a-operadores-de-justicia>

⁵¹ OHCHR. Annual report from 2017. 2018. https://www.un.org/en/ga/search/view_doc.asp?symbol=A/HRC/37/3/Add.2

⁵² The Committee of Relatives of the Detained and Disappeared in Honduras (COFADEH) has indicated that "the focus that the System has given to protection measures is generally reactive and not preventive. The Protection System has focused on police measures and protection measures involving infrastructure and technology." Report presented by COFADEH to the UN Committee on Forced Disappearances in view of the adoption of the List of Issues regarding the report by Honduras, for the evaluation of the Honduran state scheduled for the Committee's 14th session on May 22-June 1, 2018.

⁵³ Amnesty International. *Americas: The Situation of State Protection Mechanisms*.

⁵⁴ "Honduras: las 280 muertes de Vicky".

⁵⁵ Eduin Funez. "Más de siete meses y crímenes post-electorales".

⁵⁶ "Preliminary Observations concerning the Human Rights Situation in Honduras." IACHR. December 5, 2014. http://www.oas.org/en/iachr/media_center/PReleases/2014/146A.asp

⁵⁷ The Inter-American Court of Human Rights, in its judgment in the Velásquez-Rodríguez case, clearly points to the existence of a state duty "to use the means at its disposal to carry out a serious investigation of violations committed within its jurisdiction, to identify those responsible, to impose the appropriate punishment and to ensure the victim adequate compensation." The Court has also been clear about establishing that the obligation

to investigate remains "regardless of what agent is eventually found responsible for the violation. Where the acts of private parties that violate the Convention are not seriously investigated, those parties are aided in a sense by the government, thereby making the State responsible on the international plane." Further, it has indicated that the state must ensure that victims are given "full access and (are) recognized the standing to act" in all stages of the investigation and trial. See: Inter-American Court of Human Rights. Case of Velásquez-Rodríguez v. Honduras. Judgment of July 29, 1988 (Merits). Inter-American Court of Human Rights. Case of Kawas Fernández v. Honduras. Judgment of April 3, 2009 (Merits, Reparations and Costs).

⁵⁸ Inter-American Court of Human Rights. Case of Juan Humberto Sánchez v. Honduras. Judgment of June 7, 2003 (Preliminary Objections, Merits, Reparations and Costs). http://www.corteidh.or.cr/docs/casos/articulos/seriec_99_ing.pdf

⁵⁹ Article 1, section 2, of the Law on the Public Prosecutor's Office establishes that office's power to legally lead criminal investigations. Literally, that power is defined in the following way: "Collaborate on and ensure the prompt, diligent, correct, and effective administration of justice, especially in the criminal justice arena. Legally lead and orient the investigation of crimes until discovering who was responsible and procure from the competent tribunals the application of the law by carrying out public criminal proceedings or private ones when appropriate. It will be assisted with these activities by the National Police, which will follow the orders that it gives while fulfilling these functions."

⁶⁰ IACHR. *Situation of Human Rights in Honduras*. 2015.

⁶¹ OHCHR. Annual report of the United Nations High Commissioner for Human Rights on the human rights situation in Honduras. 2016. <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G17/029/29/PDF/G1702929.pdf?OpenElement>

⁶² OHCHR. Annual report by the High Commissioner. 2016.

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⁶⁶ Pasos De Animal Grande. "Honduras. El 43% de los asesinatos de periodistas."

⁶⁷ Order of the Inter-American Court of Human Rights of August 30, 2017. Case of Kawas Fernández and Case Luna López v. Honduras.

⁶⁸ Article 13 of the Law of the Military Police of Public Order says: "When members of the Military Police of Public Order, in fulfilling their duties, are accused of committing alleged crimes, the criminal proceedings may only be initiated and handled by prosecutors and judges with national competence and jurisdiction who have passed the tests of trustworthiness. In the case in which pretrial detention is ordered as a precautionary measure, they must be confined in military establishments for the duration of the judicial process."

ABOUT THE ORGANIZATIONS

THE UNIVERSITY INSTITUTE FOR DEMOCRACY, PEACE AND SECURITY (INSTITUTO UNIVERSITARIO EN DEMOCRACIA, PAZ Y SEGURIDAD, IUDPAS) is affiliated with the Faculty of Social Sciences of the National Autonomous University of Honduras (UNAH). It was created to strengthen the research capacity of the UNAH, promote multidisciplinary in methodological theoretical approaches in the areas of security, public policies, city studies, democracy and development, issues related to youth, as well as to strengthen the competences of different university professionals.

THE WASHINGTON OFFICE ON LATIN AMERICA (WOLA) is a leading research and advocacy organization advancing human rights in the Americas. We envision a future where public policies protect human rights and recognize human dignity, and where justice overcomes violence.

ABOUT THE PROJECT

The Central America Monitor is a subregional project that seeks to assess the level of progress being made by the countries of Guatemala, Honduras and El Salvador in the areas of strengthening the rule of law, reducing violence, combating corruption and organized crime, and protecting human rights through the use of a series of indicators. The project also monitors and analyzes international cooperation programs in the aforementioned areas.

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For more information, visit www.wola.org/cam