



HONDURAS

ECONOMIC, SOCIAL AND CULTURAL RIGHTS

BRIEFING ON THE SITUATION OF HUMAN RIGHTS DEFENDERS
JUNE 2016

HONDURAS ECONOMIC, SOCIAL AND CULTURAL RIGHTS

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INTRODUCTION

On the 8th and 9th June 2016, the second Periodic Review of the Committee on Economic, Social and Cultural Rights in Honduras (CESCR) will take place in Geneva. In the previous review in May 2001, 26 recommendations were made to Honduras. However none of these recommendations made explicit reference to the situation regarding the defence of economic, social and cultural rights. On the 5th May 2015, Honduras presented a progress report on the fulfilment of the recommendations made in the context of the International Covenant on Economic, Social and Cultural Rights, although this should have been presented no later than the 30th June 2006.

Since the publication of the CESCR report in 2001, more than 111 environmental and land rights defenders have been assassinated in Honduras. Among them was Berta Cáceres, coordinator of the Civic Council of Popular and Indigenous Organisations of Honduras (COPINH), who lived defending the territorial and cultural rights of the indigenous and peasant communities, and the Garifuna people. The assassination of this well recognised defender, who in 2015 received the Goldman Environmental Prize, has made evident the extremely serious situation in the country. Despite an apparent return to normality six years after the Coup d'Etat, serious irregularities regarding land ownership, failure to comply with international standards, as well as the high level of impunity and the use of criminalization continue to threaten the organisations and communities working in defence of economic, social and cultural rights. The response of the State and its mechanisms of protection have been inadequate and insufficient in the face of this situation of serious risk.

Through this briefing, PBI wishes to add to the efforts of Honduran organisations as they alert the Committee and the international community to the lack of protection and the vulnerability of the defenders of those rights which are the object of the Honduras Review. Effective achievement of economic, social and cultural rights depends on the valiant contribution of civil society and HRDs. It is necessary to guarantee their protection so that their voices can be heard without fear of reprisal. This obligation remains implicit in the regulatory content of the ESCR⁰¹

01. Honduras: Information Document Committee on Economic, Social and Cultural Rights, ISHR, Pi and the Global Initiative for ESCR, September 2015.

WHO ARE THE PEOPLE, COMMUNITIES AND ORGANISATIONS WHO PROMOTE ESCR?^{L01}

The UN Declaration on Human Rights Defenders defines a human rights defender as any person who works for the promotion and protection of Human Rights. Those who promote economic, social and cultural rights contribute towards the achievement of environmental and social rights such as the fight against climate change and the conservation of biodiversity and natural resources for future generations.

It is important to make specific reference to women defenders and their considerable contribution to human rights despite the difficulties they face. The human rights work carried by these women is seen as a challenge to the cultural, religious and social norms relating to their feminine attributes and their role as women in society. Due to this they are doubly vulnerable, both for whom they are and for the work that they do.

L01. The Declaration on Human Rights Defenders refers to individuals, groups and associations & who contribute to& the effective elimination of all violations of human rights and fundamental liberties of peoples and individuals (4th para. of the Preamble) General Assembly A/RES/53/144

CONTEXT

Honduras is located in the heart of the Mesoamerican Biological Corridor (MBC), a conservation belt which extends across eight States, from Mexico to Panama, that is rich in natural resources and biodiversity. There are 35 primary watersheds, of which two, those of the rivers Patuca and Ulúa, cover 25,000 and 22,000 km² respectively. According to government sources, 56% of Honduran territory is under forest. However, deforestation is so severe and illegal exploitation so generalised, that the State Forestry Administration – the Honduran Corporation for Forestry Development (AFE-COHDEFOR), recognises that they have no reliable figures for the volume of trees felled annually.⁰² The subsoils are also rich in minerals and other materials, as demonstrated by the 487 mining concessions issued up to 2013 – mostly licences for metals (gold, silver, zinc, lead, copper)⁰³ In Honduras, as in neighbouring countries in Central and South America, and despite the country's wealth of natural resources, there is a marked inequality in land ownership. According to data from the World Bank (WB) and from the UN Food and Agriculture Organisation (FAO), cultivatable and pasture lands account for more than one third of the territory.⁰⁴ According to the Economic Commission for Latin America and the Caribbean (ECLAC), 72% of all producers have access to 12% of cultivated lands and approximately 44% of the rural population have little or no access to land,⁰⁵ a fact which causes high levels of poverty among the rural, indigenous and Garifuna population.

According to the social organisations, in the years following the Coup the deterioration of the situation has accelerated due to the approval of several laws which consolidate a development model that facilitates the exploitation of natural resources and threatens the right to land for small farmers, indigenous and the Afro-Honduran people. Among them is the Organic Law of Zones for Employment and Economic Development (ZEDE)⁰⁶, which would involve the

02. Defence of Human Rights : a high risk activity, PBI Honduras, 10th December 2012.

03. Statement of transfer of lands in Honduras: inventory of mining concessions 2013, CEHPRO-DEC-CONROA, 2013. (last visited on 20th May 2016).

04. Agreement on Agriculture of the OMC. The experience of its implementation; Case studies from developing countries. FAO, Rome, 2004.

05. Agrarian structures and small farmers in El Salvador, Guatemala y Honduras. ECLAC, September 2001.

06. Organic Law of the Zones of Employment and Economic Development (ZEDE) (Decree No. 120-2013), 6 September 2013.

LAND REFORM

The most important land reform initiative in Honduras was in 1962, when the Agrarian Reform Law was passed^{L01}. This allowed for the redistribution of lands that were not considered to be fulfilling a social function (according to the requirements established). The "Golden age" of agrarian reform in Honduras was in the '70s, in particular between 1973 and 1977, when in just 5 years over 120,000 hectares were redistributed. This process continued with the Agrarian Reform Law of 1974^{L02} which, for example, established that no person or company could own more than 250 hectares in the Valley of Sula, unless it received a special permit to do so.^{L03} But from 1992 onwards, the agrarian reform process came to a halt and, in the framework of the new Structural Adjustment Programmes, the Law of Agricultural Modernization was approved^{L04}. The small farmers' organisations denounced the fact that this seriously limited access to land by small agricultural producers.

L01. Law of Agrarian Reform (Decree No. 2), 29 September 1962.

L02. Law of Agrarian Reform (Decree No 170), 30 December 1974.

L03. The Struggle for Land in Agua Blanca Sur, SOA Watch, (last visited 20 May 2016).

L04. Law for the Modernization and Development of the Agricultural Sector (Decreto No.31-92), 5 March 1992

modification of various articles of the Constitution⁰⁷ and permit the installation of independent cities with their own judicial and security systems, particularly in the indigenous and Garifuna territories. At the same time they denounced that in the middle of the institutional crisis caused by the Coup, the National Congress approved the General Water Law⁰⁸ which allowed third parties access to the country's hydro resources without prior consultation with the affected communities.⁰⁹

These decisions have been strongly rejected by the indigenous and small farmer movements who see their economic, social and cultural rights adversely affected.¹⁰ In this context different indigenous and small farmers' movements have grown over recent years, campaigning for access to land and the defence of their territory. There have been strong tensions between them and national landowners, security firms and elements of the State security system. The social organisations have denounced the strategy of repression through judicial persecution, harassment and violence against members of the small farmers' and indigenous movement, as well as the use of force in land clearances. In this report we focus on specific case studies where PBI has observed patterns of attacks on economic, social and cultural rights (ESCR) that have been replicated in different regions of the country and have caused high levels of territorial conflict.



MINING LAW

The General Mining Law, approved in 1998, benefits mining companies, in particular the foreign companies, and provides minimal environmental or social protections.^{L01} Article 32 of the Law establishes that "those who have been issued a mining licence" (...) can request the appropriate authority to facilitate expropriation by force in response to public utility and need (...). However, in 2006, 13 articles of this Law were declared unconstitutional by the Supreme Court, including article 32 which permitted forced evictions^{L02}. On the 28th February 2013 the new General Mining Law was ratified, but it too has been strongly criticised because it facilitates investment in mining, particularly foreign investment, reducing the timescales, procedures and requirements for the approval of concessions and environmental licences, without a time restriction on the concession, nor any regulation on open-cast mining. It prohibits any area being declared free from mining and has serious weaknesses in relation to the communities' right to be consulted.^{L03}

Accompaniment of lawyers from CEHPRODEC who were participating in the Supaya Canton Assembly dealing with a conflict between the community and the mayor in relation to the installations of a mining company in Pespire, Valle Department, 7th February 2015. Photo PBI

07. Decree No. 4-2011 of 17 February 2011, to ratify the Decree No. 283-2010 of 19 January 2011, reforming Articles 304 y 329 of the Constitution relating to the territorial jurisdictions of the Special Regions of Development (Model City)

08. General Law of Water (Decree 181-2009), 14 December 2009.

09. PBI Honduras, op. cit.

10. PBI Honduras, op. cit.

L01. General Law of Mining (Decree No. 32-2013), approved 30 November 1998.

L02. In Honduras it is a Sin to Protect Life An Ethnography of the Discourses, the Practises and the Dangers of Opposition to Mining in Honduras, Nick Middeldorp, August 2014.

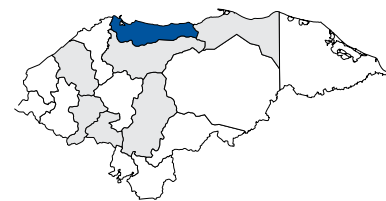
L03. The Law of Mining has nine conflictive articles, Conexihon, 7 August 2013, (last visit 20 May 2016).

CASE STUDY

CASE: COMMUNITY OF NUEVA ARMENIA

Defence of the Land Group
Department of Atlántida

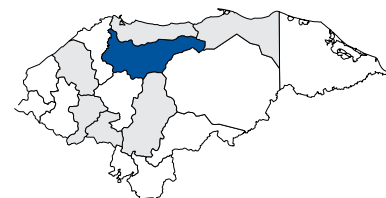
In the early 19th century, in the river Papaloteca delta, one of the most productive areas in the department of Atlántida, the Garifuna community of Armenia - known as África- was founded. This area developed into an important banana port and gained the status of municipality in 1907. At the start of the 20th century, the Standard Fruit Company put pressure on the Garifuna population and displaced them to the left bank of the river Papaloteca, where they formed the community of Nueva Armenia. In 2000, the licence period granted to the Standard Fruit Company (currently known as DOLE) ended, but the land was never returned to the Garifuna community.¹¹ In 2010, the resettled community suffered yet another displacement attempt when 150 blocks of land, to which the community of Nueva Armenia held title, were illegally privatized.¹² In 2000, the community, through its board of trustees¹³, set up the group called Defence of the Land (Grupo de Defensa de la Tierra). Since then, the group has defended and reclaimed their ancestral territory, África.



CASE: AZUNOSA

CNTC El Progreso
Department of Yoro

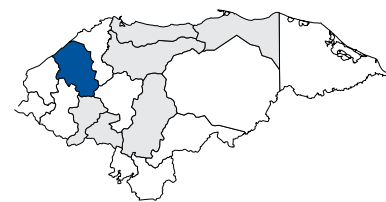
Land in the Valle de Sula is ideal for agricultural production. In the 90s, under the protection of the Law for the Modernization and Development of the Agricultural Sector,¹⁴ the Northern Sugar Processing Company (Azucarera del Norte S.A: AZUNOSA) acquired large tracts of land in the región—in 2011, it acquired 10,000 hectares in the Valle de Sula.¹⁵ AZUNOSA was bought by the Honduran Brewery (Cervecería Hondureña S.A) in 1979, a subsidiary of the British and South-African owned transnational SABMiller¹⁶ since 2001. Most of the sugar produced in the Valle de Sula is used in the manufacturing of products for the Coca Cola company.¹⁷ Twenty rural associations made up of more than 1,500 families, have formed the National Union for Rural Workers (Central Nacional de Trabajadores del Campo: CNTC) and the Association for Rural Development in Progreso (Asociación para el Desarrollo Campesino de Progreso: ADCP) with the aim of reclaiming these lands.



11. "Garifuna people are evicted from their ancestral lands", OFRANEH, 8 April 2014.
12. Meeting held with Grupo de Defensa de Tierra from the Nueva Armenia community, PBI Honduras, 22 March 2016.
13. According to Article 2 of the "Law of patronage and community associations" Ley de Patronatos y Asociaciones Comunitarias (Decree No. 253-2013), published on 10 of February 2014, the board of patronage is "the legal manner of association that communities living on a particular physical space organize themselves in order to seek out common good, the self-realisation of their needs, and the defence of their interests".
14. "Law for the Modernization y Development of the Agricultural Sector" Ley de Modernización y el Desarrollo del Sector Agrícola: Decree No.31-92), 5 March 1992.
15. Meeting with members of the rural associations of Agua Blanca Sur who belong to CNTC-Progreso, PBI Honduras, 24 March 2016.
16. "Expropriated lands returned to Azunosa", Defensores en Línea, 4 February 2014.
17. Id.

CASE: KEVIN RAMÍREZ

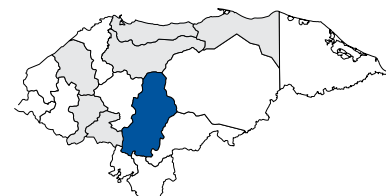
Reflection, Research and Communication Team ERIC
Department of Santa Bárbara



Santa Bárbara is one of the departments with the highest number of licences granted for extractive industries¹⁸ and hydroelectric projects.¹⁹ Within the municipality of Quimistán is El Listón, a community affected by the installation of a hydroelectric dam near the village of Paso Viejo. The Paso Viejo hydroelectric company, owned by the Honduran business man Jhony Canahuati, impacts on four rivers (the Negro, Listón, Cuyamel and Chiquito) which supply water to 17 communities of the municipality.²⁰ In 2013, the company began construction work on the dam. However, work was halted in October 2014 because of strong opposition from 27 communities organized under the leadership of Kevin Ramírez. Since 2012, Kevin has received serious death threats and both he and his family have been harassed.²¹ On 7 September 2015, the Reflection, Research and Communication Team (Equipo de Reflexión, Investigación y Comunicación: ERIC) sought precautionary measures from the Inter-American Commission on Human Rights (Comisión Interamericana de Derechos Humanos: CIDH). These were granted 21 days later.²²

CASE: VALLE DE SIRIA

CAVS
Department of Francisco Morazán



The Valle de Siria, in the department of Francisco Morazán, has been an important region for agricultural and livestock production. From 1999, the Entre Mares company (a subsidiary of the Canadian transnational Gold Corp since 2006) was granted a mining licence in San Ignacio, one of three municipalities in the valley.²³ The company, protected under Article 32 of the current General Mining Act (Ley General de Minería),²⁴ and through the use of threats and harassment, succeeded in displacing the Palos Ralos community.²⁵ In 2008, work was stopped, as a result of strong pressure from the municipality's three communities, organized as the Valle de Siria Environmental Committee (Comité Ambientalista del Valle de Siria: CAVS). However, the company still retain a licence covering 14,100 hectares.²⁶ This open-cast mine, the first in Central America, has had a serious impact on the inhabitants of the three municipalities: it has affected their health, their access to natural resources, including water and has torn apart the local social fabric.²⁷

18. "Breakdown of the mining situation in honduras" 2007-2012, ICEFI, June 2013.

19. "Hydroelectric plants and exclusion: social conflict in the valleys in the north of Santa Barbara", CESPAD, November 2014.

20. "A defender of natural resources denounces death threats because of opposing the Plant", ERIC-Radio Progreso, 23 October 2015. "Application for Preventative Measures to the IACHR in favour of Kevin Ramirez", ERIC-Radio Progreso, 7 September 2015.

21. "Application for Precautionary Measures to the IACHR in favour of Kevin Ramirez", ERIC-Radio Progreso, 7 September 2015.

22. Resolution33/2015: MC 460-15, CIDH, 28 September 2015.

23. "The organization and struggle of the Valle de Siria Environmental Committee (CAVS) during their resistance to mining exploitation from 1999-2012", CEHPRODEC, March 2014.

24. The "Mining Law" Ley de Minería approved in 1998, which benefits mining companies, in particular foreign companies, by providing minimum social and environmental protections establishes in Article 32 that "the title holders of mining rights will be able to apply for the forced expropriation [of the lands] for reasons of public use and need."

25. Meeting with the board of CAVS, PBI Honduras, 16 May 2016.

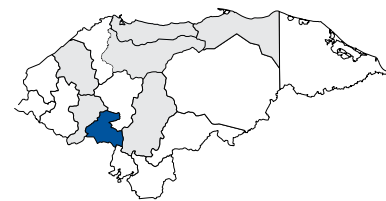
26. A defender of natural resources denounces death threats because of opposing the Plant", ERIC-Radio Progreso, 23 October 2015. "Application for Preventative Measures to the IACHR in favour of Kevin Ramirez", ERIC-Radio Progreso, 7 September 2015.

27. Meeting with the board of CAVS, PBI Honduras, 16 May 2016.

CASE: LOS ENCINOS

Independent Indigenous Lenca Movement of La Paz, Honduras (MILPAH)
Department of La Paz

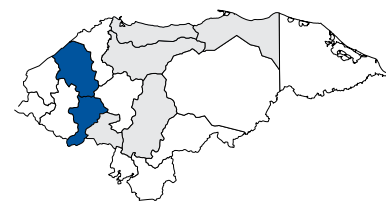
La Paz, along with Lempira, Intibucá and southern Santa Bárbara, is one of the departments where the Lenca people live. High levels of malnutrition are recorded throughout these regions²⁸ because the communities there have limited access to natural resources. Take the case of the river Chinacla, which runs through La Paz and Intibucá and functions as the water supply for people of seven municipalities. Two licences have been granted for the construction of hydroelectric projects: to Aurora Inc., in San José, and Los Encinos Inc in Santa Elena. This has led to strong tension between communities and authorities in the region. One example of community opposition has come in the form of the Independent Indigenous Lenca Movement of La Paz, Honduras (Movimiento Independiente Indígena Lenca de La Paz – Honduras: MILPAH).



CASE: AGUA ZARCA

Civic Council of Popular and Indigenous Organizations (COPINH)
Departments of Intibucá and Santa Bárbara

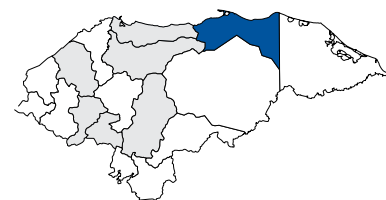
The river Gualcarque runs through the departments of Intibucá y Santa Bárbara and provides the water supply to the 11 Lenca communities in the municipalities of Agua Caliente, San Pedro de Zacapa and Río Blanco. A licence has been granted²⁹ to Energy Developments (Desarrollos Energéticos, de C.V.: DESA) to build the Agua Zarca hydroelectric project in the municipality of San Francisco de Ojuera. The project was part funded by the Inter-American Bank for Economic Integration (Banco Interamericano de Integración Económica: BCIE).³⁰ On the 9th of September 2010, the Honduran State³¹ signed this operating contract. A response worth highlighting is the opposition of Lenca communities organized as the Civic Council of Popular and Indigenous Organizations (Consejo Cívico Popular de Honduras: COPINH).



CASE: GUADALUPE CARNEY COMMUNITY

Campesino Movement of Aguán (MCA)
Department of Colón (Bajo Aguán)

The community of Guadalupe Carney is located in lands previously used by the Regional Centre for Military Training (Centro Regional de Entrenamiento Militar: CREM). It was here, during the 80s, that the Honduran Armed Forces trained the armies of El Salvador and Nicaragua. These armies were embroiled in internal armed conflicts, under the direct coordination of the Pentagon and the US Department of State.³² In Bajo Aguán, territory in state possession amounted to 5.724 hectáreas. In 1993, CREM was shut down. The State, in accordance with Agrarian Reform (Reforma Agraria), then disposed of the lands through the National Agrarian Institute (Instituto Nacional Agrario: INA). In this context, 45 rural associations – with a membership of over 3.000 people, formed the Campesino Movement of Aguán (Movimiento Campesino del Aguán: MCA), with the aim of reclaiming the community's land.



28. Millennium Development Goals: 3rd Country Update, Honduras 2010, United Nations in Honduras, 2010.

29. Contract No.043-2010 for the provision of electrical energy, using as their source of generation hydrological resources, between the (ENEE) and the company Desarrollos Energéticos S.A. de C.V., (Hidroeléctrica Agua Zarca), generated by the hydroelectric plant "Proyecto Hidroeléctrico Agua Zarca", located in the municipality of San Francisco de Ojuera, in the Department of Santa Bárbara. Approved by National Congress through Decree No.159-2010 on the 9 September 2010. "Agua Zarca Hydro Project, Honduras", BANKTRACK (latest visit 20 May 2016).

30. "Honduras: Indigenous Lenca Communities rebelling against loss of territories", LINyM, 7 April 2013, (latest visit 20 May 2016).

31. Decree N°56-2010 and contract number 043-2010.

32. "Free at last Chabelo", Defensores en Línea, 21 October 2015.



In the Case of the Guadalupe Carney community, one of the small farmers who forms part of the community, Chabelo Morales, suffered judicial harassment, as detailed further on in the report. The third trial against Chabelo Morales, 21 October 2015, Trujillo, Department of Colon. Photo Greg McCain.

On the 14th of May 2000, the State officially handed over part of the land to 700 rural families, members of the Campesino Movement of Aguán (MCA); the same day, they founded the Guadalupe Carney agrarian community. According to data registered by the Public Prosecutor's Office Against Corruption (Fiscalía Contra la Corrupción), at the same time, the Municipal Corporation of Trujillo illegally sold those lands to land owners, politicians and military personnel. Among these people was Henry Osorto, a member of the police force and the Cressida Corporation (Corporación Cressida, previously known as DINANT), owned by Miguel Facussé. Investments made by Facussé's company in the agri-industrial sector were backed by the International Financial Corporation (Corporación Financiera Internacional), the German Development Bank (Banco Alemán de Desarrollo) and other funders.

FROM THE 2001 CESCR PERIODIC REVIEW TO THE SITUATION OF THE DEFENCE OF ESCR IN 2016

The United Nations International Covenant on Economic, Social and Cultural Rights (ICESCR - referred to henceforth as the Covenant) and Convention 169 of the International Labour Organisation (ILO) – ratified by the Honduran State in 1981 and 1995 respectively – recognise the right of all peoples to freely make use of their natural resources, the right to be informed and consulted³³ and make clear that in no circumstance should people be denied access to their own means of subsistence. Also, Convention 169 of the ILO demands respect for the rights of the indigenous people to their land and territories (arts 13 to 17), which includes the right to remain on their lands (without being moved), the recognition of their rights to the lands natural resources, and the right to participate in the administration of these. Additionally, the UN Guiding Principles on Internal Forced Displacement (1998), the United Nations Guidelines, the Basic Principles and Guidelines on Development-based Evictions and Displacements (2007), and the Rio Declaration on Environment and Development (1992), establish important precepts on an international level which prohibit arbitrary relocation, protect the right to adequate housing and other related rights, and reaffirm the obligation to undertake environmental impact assessments, in relation to any proposed activity that has a potentially negative impact on the environment.

Honduras has integrated some of these standards into national legislation. However, the country's human rights organisations regret that these are not respected in the established legal framework and that as a result, in a climate of impunity, the situation remains unchanged. Below we will present a review of the fulfilment of the recommendations from the CESCR report issued in 2001, as well as subsequent communications with the Honduran State in the context of the Defence of ESCRs.

33. The right of indigenous peoples to be informed and consulted is recognised in the Convention 169 of the ILO on Indigenous and Tribal People in Independent Countries, and in Art. 19 of the UN Declaration on the Rights of Indigenous People, and in the Declaration of the Right to Development, and in the international agreements of civil and political rights and economic, social and cultural rights.

I. FULFILMENT OF INTERNATIONAL STANDARDS RELATING TO SECURITY AND LAND OWNERSHIP.

During her mission to Honduras in August 2001, the UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions gathered information and heard declarations "on cases of ecologists and indigenous activists assassinated on the orders of powerful landowners and businessmen. According to this information, in the majority of the cases, the perpetrators enjoyed complete impunity given their social standing and political contacts"

Report of the Special Rapporteur, Sra. Asma Jahangir presented in fulfillment of Resolution 2002/36 of the Human Rights Commission. E/CN.4/2003/3/Add.2, Naciones Unidas, 14 de junio de 2002, p. 22.

RECOMMENDATIONS OF CESCR 2001

The Committee is concerned about the cases of forced eviction, particularly those of small farmers and indigenous communities to make way for large projects, without ensuring sufficient compensation nor adopting appropriate measures for relocation. The Committee recommends that Honduras review its legislation and adopts all the relevant measures with a view to pursuing its agrarian reform and resolving the issues of land distribution, taking into account the specific needs of small farmers and indigenous communities. The Committee deeply regrets that the Honduran State has not adopted suitable measures to effectively deal with the problem of excessive deforestation, which has serious negative impact on the habitat of indigenous communities.

ADVANCES AND SET-BACKS

In November 2015, the Committee requested information on the measures adopted by the State to resolve the issues of land ownership and the guarantees for the protection of the rights of small producers. In the information submitted by the Honduran State in its reply, we find information relating to 2001-2013, stating that in this period the INA issued 158 property titles to indigenous and Garifuna peoples. However, PBI has received detailed information of serious irregularities committed in the acquisition and sale of the land to third parties in the same period. As we will see in the case studies which follow, these shortcomings give rise to a structural agrarian and territorial conflict.



INCREASE IN STATE FUNDING TO THE ARMED FORCES IN MATTERS OF STATE SECURITY

Following the Coup, successive governments have used military force in matters of public security, actions which have included the forced eviction of indigenous communities and small farmers. According to a report from the Freiderich Ebert Institute ^{L01}, between 2008 and 2014, there has been a gradual increase in the budgets of the Ministry of Security, and even more so, in that of Defence. The expenditure of both Ministries have increased by 42% and 129% respectively.

A visit to the companies by the Authentic Revindicative Campesino Movement of Aguan (MARCA) in the Bajo Aguan, 20 of May 2015. Photo by PBI.

In the case of the Bajo Aguan, the lawyer representing MARCA, Antonio Trejo Cabrera was murdered on the 22 of September 2012 after denouncing the threats that he and his family had been subject to. His murder remains in impunity.

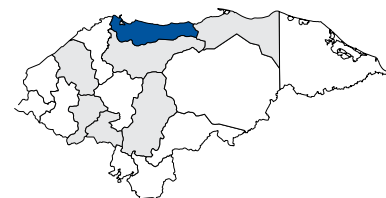
L01. Public Security in Honduras 2013 y 2014, Edy Tabora, Friederich Ebert Stiftung, July 2014.

In addition, the Committee has asked the State for information on the steps that have been taken to effectively protect small farmers and members of their families from forced evictions and other acts of violence. In its reply, the Honduran State did not provide any information regarding this point. Based on information received and processes observed by PBI, we have established that a lack of information and a general distrust of the small advances which have been made in regularizing land ownership, have resulted in the communities themselves undertaking actions to recover their land. We will see from the case studies that these actions are often met with violent repression. To this we must add the growing participation of a strong contingent of private security guards, in many cases employed directly by landowners as well as by member of the military force. The Inter-American System of Human Rights (IASHR) has denounced numerous cases of violent evictions.

CASE STUDY

CASE: COMMUNITY OF NUEVA ARMENIA

Defence of the Land Group
Department of Atlántida



IRREGULARITIES IN THE AREA OF LAND TENURE

In 2000, when Standard Fruit Company's licence expired, the land was returned to the municipality of Jutiapa. However no consideration was given to the Garifuna people's regarding their ancestral territory. The municipality eventually sold the land known as África to Suatlan, a company planning to grow African palm. This crop resulted in the deforestation of the area. A further issue was that the area sold had not been communal land. This meant the municipality should not have been able to sell it.³⁴ Given the lack of information about the acquisition process and the possible irregularities involved, the community of Nueva Armenia asked the National Agrarian Institute (INA) and the Public Prosecutor (Ministerio Público: MP) to investigate the sale of the land by the municipal authorities to Suatlan. With no official response, the community began a process to reclaim their lands.³⁵ However, in 2015, faced with strong pressure, they decided to abandon their action to reclaim África. To date, the authorities have not responded to any of the community's formal demands and complaints.³⁶ In 2010, in a parallel process, the president of the board of trustees, William Omar Alvarado, and the municipal authorities of Jutiapa privatized 150 blocks of land to which the National Agrarian Institute had recognised communal title in 1994.³⁷ These were given to Armando Romero, president of a community group, who earmarked them for cultivation. In reality, the land was divided between a number of private property owners, including some who were not from the community itself.³⁸ According to the community, while the board of trustees is the representative of the community, it does not have the authority to privatize community land without the backing of an assembly to endorse such a decision.³⁹ William Omar Alvarado neither informed nor consulted the community.⁴⁰

34. Meeting with the Defence of the Land Group in the Garifuna community of de Nueva Armenia,, PBI Honduras, 22 March 2016.

35. Summary of Human Rights Issues and Events in Honduras, "Shooting in Nueva Armenia", PROAH, January 2015, (latest visit 20 May 2016).

36. Meeting with the Defence of the Land Group in the Garifuna community of Nueva Armenia, PBI Honduras, 22 March 2016.

37. "Alert: The Garifuna Community of Nueva Armenia attacked by armed group", OFRANEH, 4 May 2015.

38. Meeting with the Defence of the Land Group in the Garifuna community of Nueva Armenia, PBI Honduras, 22 March 2016.

39. Meeting with Selvin López, OFRANEH board member, PBI Honduras, 23 March 2016.

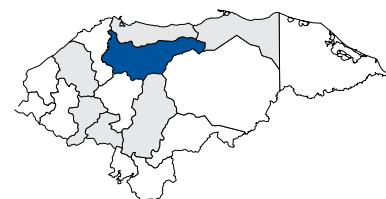
40. Meeting with the Defence of the Land Group in the Garifuna community of Nueva Armenia,, PBI Honduras, 22 March 2016.

FAILURE TO COMPLY WITH INTERNATIONAL STANDARDS IN RELATION TO EVICTIONS

The municipality would not hand back land to the community of Nueva Armenia. As a result, the community began a land reclamation process in relation to África. However, ever since then, people have been regularly evicted and pressurised to abandon the land. On the 8th of August 2014, the community was evicted by the municipal police with the collaboration of persons linked to Suatlan. During the eviction, 12 houses were set alight, crops were destroyed, and 11 people were arrested. Just two months later, in October, they returned and burned down the remaining houses.⁴¹ On the 11th of January 2015, heavily armed men burned down the houses which had been rebuilt.⁴² Since the conflict began, 72 houses belonging to the Garifuna community have been destroyed; there has also been ongoing destruction and looting of crops. As a result of intense pressure and constant harassment, the community has been forced to withdraw and abandon the territory reclaimed in África in June 2015. Armed men subsequently came and burned the last house remaining and attacked Santos Ortiz.⁴³ Actions such as these continue to take place in the 150 privatized blocks of lands in Nueva Armenia. Given the State's failure to respond, this is a situation which has caused great fear in the community.⁴⁴

CASE: AZUNOSA

National Union for Rural Workers (CNTC), El Progreso
Departamento of Yoro



IRREGULARITIES IN THE AREA OF LAND TENURE

In 2011, the National Agrarian Institute (INA) reviewed the licence agreements granted to the sugar producers, the Northern Sugar Producing Company (AZUNOSA) and the Honduras Sugar Producing Company (CAHSA) in the Valle de Sula.⁴⁵ On the basis of Article 25 of the Agrarian Reform Law,⁴⁶ the INA determined that the sugar companies were exceeding their limit of land tenure — 250 hectares — in the Valle de Sula by 5.227 hectares.⁴⁷ Because of this irregularity, the INA expropriated 3.644 hectares from AZUNOSA⁴⁸ in Agua Blanca on the 26th of March 2012 and promised to divide the land among landless rural families. In spite of the fact that AZUNOSA was to receive approximately 10 million dollars in compensation for the expropriation,⁴⁹ the company rejected this offer of damages, because they claimed the losses would amount to 83 million.⁵⁰

They appealed the INA's decisión to the National Agrarian Council (Consejo Nacional Agrario). In November, the Council overturned the original expropriation order. On the 9th of December 2013, the Supreme Court (Corte Suprema de Justicia: CSJ) also ruled in favor of the sugar company.⁵¹ AZUNOSA has defended itself against the INA expropriation in 2012, which relied on the bilateral investment treaty⁵² signed in 1993 by the United Kingdom and Honduras.⁵³ This treaty

41. "Alert: Eviction of Garifunas in Armenia", OFRANEH, 1 October 2014.
42. "Constant harassment of Garifuna Community in Nueva Armenia", OFRANEH, 13 January 2015.
43. Meeting with the Defence of the Land Group in the Garifuna community of Nueva Armenia, PBI Honduras, 22 March 2016.
44. Id.
45. "Expropriated lands returned to Azunosa", Defensores en Línea, 4 February 2014.
46. Law for Agrarian Reform (Decree No. 170 from the 30 December 1974). In Article 51 of the Law from 1992, Article 25 from the 1974 Law is upheld - this article maintains that property land titles in Valle de Sula be limited to 250 hectares.
47. "Expropriated lands returned to Azunosa", Defensores en Línea, 4 February 2014.
48. Mediarly Resolution 050-2012.
49. "AZUNOSA: Conciliation Process stalls while Criminalization continues", PROAH, 29 January 2014.
50. Id.
51. "Charges brought against Magdalena Morales", ERIC-Radio Progreso, 14 February 2014.
52. "The Struggle for Land in Agua Blanca Sur", SOA Watch, (latest visit 20 May 2016).
53. Agreement between the Government and of the United Kingdom of Great Britain and Northern Ireland and the Government of the Republic of Honduras for the Promotion and Protection of Investments.



Visit to small farmer families from Agua Blanca Sur in the Experimental Centre of Rural Training "David Funes Villatoro", 24th March 2016. Photo PBI.

Following the latest evictions on 19th June 2015, the National Agrarian Institute (NAI) offered the 1,500 evicted families the possibility to reside temporarily in one and a half of the 28 hectares occupied by the Training Centre. However, to date, there has been no official proposal backing this up and the farmers have been forbidden to cultivate the land, so that two years later only 3 of the initial 1,500 families remain in the area.

discourages the Honduran State from continuing the expropriation process against AZUNOSA by defending their illegal handling of land, to the detriment of the needs of rural families.

According to the CNTC, diplomatic pressure from the UK to revoke the INA decision was instrumental in getting the National Agrarian Council and the Supreme Court to rule in AZUNOSA's favor.⁵⁴ A process of conciliation process between the INA, AZUNOSA and the rural associations started in November 2013. To date, however, this process had not made any headway and no options have yet been offered to landless rural families.⁵⁵

FAILURE TO COMPLY WITH INTERNATIONAL STANDARDS IN RELATION TO EVICTIONS

After the expropriation carried out by the INA, the campesinos were waiting for the lands promised them to be handed over. However, four months later, the INA still had not given any response. On the 29th of July 2012, therefore, the campesinos began a process of land reclamation. Since then, the rural associations of Agua Blanca Sur have suffered violent evictions. On the first day land was reclaimed, police and army personnel demanded that they abandon the disputed territories. During the eviction, the campesinos were the object of threats and arrests.⁵⁶ In August 2012, the rural associations were violently evicted and 42 people were arrested.⁵⁷ On the 21st of March 2013, members of the army and police proceeded to carry out a further eviction which was suspended on the same day by the Supreme Court (CSJ). On the 19th of July 2013, the campesinos were finally evicted by 400 men, members of both the army and police, along with private security guards from the company. Crops and houses built on the land were destroyed.⁵⁸ According to the CNTC, the army and police have acted in favour of the company in these evictions. They subsequently took up position within the area to make sure no further land reclamation takes place. Since the last eviction in July 2013, the rural associations have attempted no more land reclamations. They continue to hope for an alternative means of guaranteeing their right to land and to food.

54. "Consejo Nacional Agrario finds in favor of Azunosa", El Heraldo, 7 April 2014.

55. Meeting with members of rural associations of Agua Blanca Sur who belong to CNTC-Progreso, PBI Honduras, 24 March 2016.

56. "Eviction of small farmers in El Progreso", Honduras Laboral, 30 July 2012.

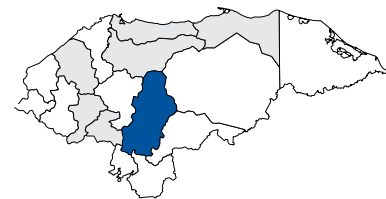
57. SOA Watch, op. cit.

58. Id.

CASE: VALLE DE SIRIA

CAVS

Department of Francisco Morazán



IRREGULARITIES IN THE AREA OF LAND TENURE

In the context of strong territorial conflict resulting from the lack of consultation and the serious problems experienced by the communities with the installation of an open-cast mine, in 2006, the Entre Mares company (now known as the Saint Martin Foundation [Fundación San Martín]), along with the Municipal Corporation of San Ignacio, promoted the setting up of an EU-funded tourism and geothermal project. The project (Conserving the Source of Los Hervideros Thermal Springs [“Conservación del Nacimiento de Aguas Termales ‘Los Hervideros’”]) plans to privatize one of the few local public water sources, which has not yet dried up. The project is to be located on land licensed to the mining company; the company, through the Foundation, is to sell this land to the Municipal Corporation of San Ignacio in order to develop the project. According to CAVS, this transaction would be illegal; this would also be true of the project itself, on the basis of what was established in a compliance contract for the San Martín Mining Project (“Contrato de Cumplimiento de Medidas de Desmitigación para la Continuación del Proyecto Minero San Martín”) signed in 1999. According to this contract, the Entre Mares company “commits to respect the land where the source of the thermal springs is located (...) so it can remain in public use”. In the latest meeting, in April 2016, between the CAVS, the CEHPRODEC and the EU Ambassador to Honduras, Ketil Karlsen, the latter confirmed the funding of the thermal springs tourism project, but claimed no knowledge whatsoever of the geothermal project.

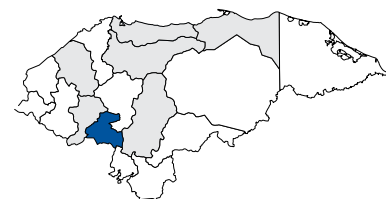
FAILURE TO COMPLY WITH INTERNATIONAL STANDARDS IN RELATION TO EVICTIONS

On the basis of what was established in the General Mining Act of 1998 (Ley General de Minería de 1998), the Entre Mares company requested that the authorities relocate the people of Palos Ralos, a community of 13 families who had lived here since 1880. The opposition of some of the inhabitants at losing their homes, lands and crops resulted in increased pressure and harassment: a warning to the displaced community that if they did not take the compensation and leave the land, state authorities would forcibly evict them, leaving them with neither land nor money. In March 2000, after pressure and threats on the part of the manager Héctor Zamora and Tim Miller⁵⁹, vice president for Central America, Glamis Gold Ltd, (the former owner of Entre Mares), the last member of the community conceded and left the area. The community was relocated⁶⁰ in an area nearby but on land worth less; in exchange, they received 73.000 Lempiras (\$3.000) in compensation but had to wait eight years to obtain the title of their new land.⁶¹

CASE: LOS ENCINOS

MILPAH

Department of La Paz



IRREGULARITIES IN THE AREA OF LAND TENURE

On the 5th of October 2011,⁶² the Honduran State granted La Aurora Investments (INVERSIONES LA AURORA II, S.A. DE C.V) a licence for a hydroelectric project in the municipality of Guajiquiro. The project, known as Los Encinos, was to be located in lands which are national in terms of legal status and which have been inhabited for over five years by indigenous Lenca people. Arnold Gustavo Castro Hernández, as Sole Administrator (Admin-

59. “Mining will not leave the country”, La Prensa, 31 January 2007.

60. Meeting with the board of CAVS, PBI Honduras, 16 May 2016.

61. Nick Middeldorp. Nick Middeldorp, op. cit.

62. Index of Decrees 2011, Congreso Nacional de la República de Honduras, 2011, (latest visit 20 May 2016).

istrador Único), signed the contract with the Secretary of Natural Resources and Energy.⁶³ He is the husband of Gladys Aurora López, a deputy since 2009, vice president of the National Congress and president of the National Party.⁶⁴ According to the Law of State Contracts (Ley de Contratación del Estado), which prohibits the contract of companies in which public servants are directly or indirectly involved, such a license is illegal.⁶⁵ In another case, the Municipal Corporation of Santa Elena sold land near the river Chinacla to Leticia Ventura Osorio⁶⁶, an aunt of the local mayor, Alexis Ventura Vásquez. The the Honduran Centre for the Promotion of Community Development (CEHPRODEC) has reported that, according to the INA, these lands are national, not common or ejidal;⁶⁷ this means that the INA is the only body with the power to sell them legally. On the 24th November 2015, CEHPRODEC presented a declaration of invalidity of the titles granted to Ventura Osorio before the Civil Court (el Juzgado de Letras) in the town hall of Santa Elena.⁶⁸ To date, there have been no developments in this case.

FAILURE TO COMPLY WITH INTERNATIONAL STANDARDS IN RELATION TO EVICTIONS

On the 3rd of September 2014, police and armed civilians arrived in the territory occupied by the Indigenous Council of James the Apostle (Consejo Indígena Santiago Apóstol). They fired a number of shots in order to intimidate the inhabitants. They burned people's belongings, destroyed their crops, and stole their farming equipment. These police and armed civilians did not produce a warrant and competent judicial authority was not present. A denunciation of this incident has been sent to the Office of the Public Prosecutor (MP).⁶⁹

63. La Gaceta N° 32843, Diario Oficial de la República de Honduras, 11 June 2012.

64. "President of the Party", Partido Nacional de Honduras, (latest visit 17 February 2016)

65. Law of State Contracts (Ley de Contratación del Estado), Decree n°74-2001, 29 June 2001.

66. Minutes number 241, folio 98-99, ordinary meeting on 15 January 2014, inscribed under number 94, 242, from the register of teh Marcala Property, La Paz.

67. In Honduras, land can – in legal terms – be national, communal or private. These designations are recognised in the 1982 Constitution of the Honduran Republic. According to the Agrarian Reform Law (Ley de Reforma Agraria), national land can be legally allocated to rural groups and indigenous people provided that it is left idle.

68. Expediente No. 240-15, Juzgado de Letras seccional de Marcala, reclamo administrativo presentado en la Alcaldía Municipal de Santa Elena, 24 November 2015.

69. Denunciation of FELIPE BENÍTEZ VÁSQUEZ, ID number 1216-1970-00064, made before the Public Prosecutor of Marcala, 5 September 2014.

PBI RECOMMENDATIONS

Given this situation, we request that, within the framework of this Review, the Committee follow through on the recommendations, and that they ensure compliance with the provisions of international conventions relating to the following:

i) To desist from using the Armed Forces and the military intelligence network in matters of public security, in particular the eviction of small farmers and indigenous communities.

ii) To apply the basic principles and directives of the UN in relation to evictions and forced removals, to desist from employing violence and to respect the dignity and the human rights of displaced people, and in particular, not to use the services of private security bodies in carrying out such activities.⁷⁰

iii) To review the relevant national legislation and adopt all the relevant measures to ensure a resolution in relation to issues of land ownership. In particular, to proceed with the National Congress' review of the proposed Integrated Land Reform Law.

iv) To collaborate more efficiently with the Inter-American Court of Human Rights (IACoHR) and with the Inter-American Commission on Human Rights (IACHR) in cases where private security firms are denounced for violations of human rights.

DRAFT BILL OF INTEGRAL LAND REFORM

On 9th April 2011, the small farmers' organisations, represented in the "National Agrarian Platform" presented a proposal to the National Congress for a Law of Agrarian Reform and Rural Integration. However, to date, this proposal has never been reviewed.^{L01}

Observation mission at the eviction of the Lenca community of Rio Lindo, 10th March 2016. Photo PBI. One member of COPINH who supported the community during the eviction, was subsequently assassinated on his return home to Peña Blanca.



70. PBI Honduras, op. cit.

L01. Reunión con la Junta Directiva de la CNTC en Tegucigalpa, 20 de marzo de 2016.

2. CONSULTATION AS A GUARANTEE OF TRANSPARENCY AND RECOGNITION

"The effective implementation of the right to consultation and free, prior and informed consent was also a recurrent demand of indigenous peoples. Several initiatives to implement the right of consultation have been brought to my attention, including a draft bill led by Dinafroh. I would stress that any such initiative should ensure the full and effective participation of all indigenous peoples through their own representative institutions and organizations."

End-of-mission statement on Honduras by the Special Rapporteur on the rights of indigenous peoples, Victoria Tauli-Corpuz

RECOMMENDATIONS CESCER 2001

The Committee expressed their concern regarding the persistent discrimination faced by indigenous people, in particular in relation to the protection of ancestral lands and traditional agriculture. At the same time, it recommended that the State recognise the economic, social and cultural rights of the indigenous "populations" as a specific minority group, and safeguard and protect them against discrimination. In the recommendations it also expresses concern about the impact of mining exploitation, the violation of environmental laws by transnational companies as well as questions relating to land ownership and small farmers and the rights of indigenous "populations". In its recommendations of 2001, the Committee made no direct reference to the right of the Garifuna peoples and those of Afro-descent to free and informed prior consultation.

ADVANCES AND SETBACKS

Prior to the Review, the Committee asked the State to indicate if there is an existing, functioning mechanism on consultation and free, prior and informed consent. It also asked them to elaborate on how it guarantees the right of indigenous people to such a consultation, aimed at ensuring free and informed decision-making processes in relation to their economic, social and cultural rights prior to any agreement. In its reply, the Honduran State referred to a proposal of a Law of Free, Prior and Informed Consultation and Agreement which during its elaboration process had been validated by the indigenous peoples and supported by the National Confederations of Native/Autochthonous Peoples (CONPAH). The proposal was presented to The Directorate of Indigenous and Afro-Honduran Peoples (DINAFROH) by CONPAH and an interdisciplinary commission was set up with representatives of the different Ministry's responsible for its dissemination.⁷¹ In parallel to this process, on the 30th March 2016, another proposal of the Law of Free, Prior and Informed Consultation (PFIC) has been prepared by the Observatory of Indigenous and Black People of Honduras (ODHPINH)

The Committee urged the State to provide examples of how they had obtained the free, prior and informed agreement in cases of concessions that had been approved, and in the execution of investment projects where concession contracts were to be issued for activities relating to exploitation of natural resources. The State has not responded to this question. However, according

71. Mid-term Report on the fulfilment of the recommendations presented to the Honduran State as part of the Universal Periodic Review, Twenty-second Session of the Human Rights Council, Ministry of State in the Offices of Justice and Human Rights , 18 March 2013.6ø

THE WATER LAW, ANOTHER EXAMPLE OF LEGISLATION WHICH VIOLATES THE RIGHTS TO CONSULTATION?

During the institutional crisis caused by the Coup, the National Congress approved the General General Water Law^{L01} which resulted in the concession to third parties of the hydro resources of the country. Due to this, in October 2011^{L02} 47 licences were approved without any prior consultation with affected communities. This decision of the National Congress was vehemently opposed by the indigenous and small farmer movements, whose economic, social and cultural rights were affected^{L03} including their human right to water.

L01. General Water Law (Decree 181-2009), 14 December 2009.

L02. Honduras: Social movements mobilize against privatization of national resources , Giorgio Trucchi, Opera Mundi, 10 November 2010.

L03. PBI Honduras, op. cit.

to information supplied to PBI by indigenous organisations, the State has not guaranteed free, prior and informed consultation to indigenous peoples and communities affected by projects of exploitation of national resources in their territory. On the contrary, the new Law of Mining, in effect since April 2013, goes against international standards on the right to consultation, which, despite the Appeals of Unconstitutionality presented by the National Coalition of Environmental Networks of Honduras (CONROA), is not binding at the exploration phase and only foresees a consultation in the municipal area directly affected by the concession⁷²

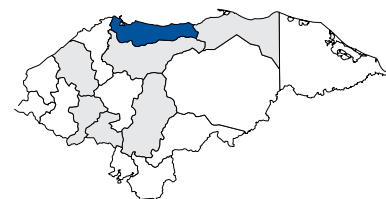
Faced with this failure to comply, different Honduran organisations, including indigenous movements, have mobilized in order to raise awareness among the communities regarding the impact of these projects, the need to carry out prior environmental impact assessments and to guarantee respect for the right of the communities to be informed and consulted. To date, 15 different municipal areas throughout the country have issued Declarations as Territories Free from Mining and in some cases also in opposition to hydro-electric projects⁷³ All of these consultations have passed unnoticed. Below, we provide detailed documentation of case studies where we have identified failure to comply with this precept.

CASE STUDY

CASE: COMMUNITY OF NUEVA ARMENIA

Defence of the Land Group
Department of Atlántida

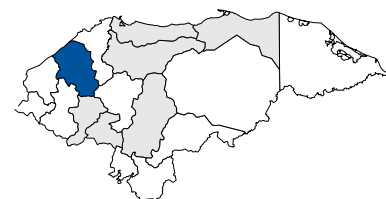
The community of Nueva Armenia has not been informed or consulted since the concession of the Standard Fruit Company came to an end and the land was returned to the Municipality of Jutiapa. The mayor neither consulted with nor reported to the community when he sold their ancestral land to the Suatlan Company and neither did the Chairman of the Council, William Omar Alvarado, who gave part of the community territory to José Armando Romero⁷⁴. According to the Black Fraternal Organization of Honduras (Organización Fraternal Negra de Honduras - OFRANEH), the same state does not recognize the Garífuna villages with the result that their rights are not recognized under the laws and international treaties that are intended to protect them. They believe that there is no willingness on behalf of the state to guarantee them their rights. Convention 169 and other international treaties are essential to these communities so that they may continue to defend their rights regarding their land and territories⁷⁵.



CASE: KEVIN RAMÍREZ

ERIC
Department of Santa Bárbara

In 2012 the town council sought, through a series of meetings, the communities' approval for the construction of a hydroelectric dam. A total of six meetings were held, through which communities voiced their rejection of the project. Despite this rejection, in 2013, the hydroelectric company Paso Viejo began to purchase land privately and commenced construction. Initially, the hydroelectric company offered to build schools and



72. Human Rights violations in extractive projects in Honduras, CONROA Shadow Report, September 2014.

73. Among these: Dulce Nombre de Culmí in Olancho, San Francisco in Atlántida, Balfate in Colón and El Porvenir in Francisco Morazán.

74. Meeting with the Group for the Defense of the Land in the Garífuna community of Nueva Armenia, PBI Honduras, 22 March 2016.

75. Meeting with Selvin López, member of the Board of Directors of OFRANEH, PBI Honduras, 23 March 2016.

health centers as well as offering to pave the communities' streets, however; when the communities demanded written confirmation of these proposals, the company would not accept this condition. Consequently, in October 2014, a representative committee for the 17 communities affected by the installation of the project went to the Municipality of Quimistán to request information about it as well as holding a public meeting. The Municipality rejected their request. A few days later, the hydroelectric company halted construction and left the land⁷⁶. Currently, along with other community leaders, he has managed to unite 27 communities that oppose the construction of hydroelectric dams in their territory⁷⁷

Accompaniment to CEHPRODEC at public assembly in the municipal area of Porvenir, Valle de Siria, on 18th April, 2015. Photo PBI.

In the Valle de Siria case, the communities were not informed or consulted prior to the installation of a mine in their territory nor had they access to the documentation so that they could ensure compliance with the contracts between the state and the company once operational. The communities of the three affected municipalities repeatedly expressed their opposition to a mining project in the area.

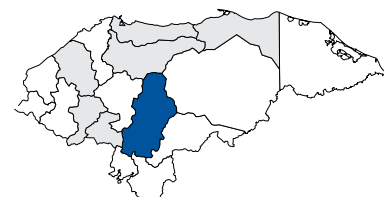


CASE: VALLE DE SIRIA

CAVS

Department of Francisco Morazán

Since that consultation, upon seeing the intentions of the Municipal Corporation of San Ignacio and the foundation for the development of the project "Conservation of the source of the thermal waters Los Hervideros", the affected communities in all three municipalities have again expressed their opposition to the project in the public thermal waters. Even without being informed or consulted, on 18 April, one of the municipalities affected, the Porvenir, held a public meeting. The mayor of the neighboring town of San Ignacio was invited and was there to formally present the project which was approved by the European Union, which had not yet been officially announced. At this meeting, the communities voiced their opposition to the tourism project. PBI had the opportunity to observe this process.



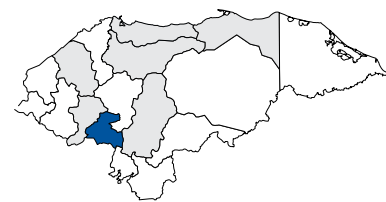
76. Meeting with Kevin Ramirez, PBI Honduras, 6 May 2016.

77. "Request for Precautionary Measures for Kevin Ramirez to the Inter-American Commission on Human Rights", ERIC-Radio Progreso, 7 September 2015.

CASE: LOS ENCINOS

MILPAH
Department of La Paz

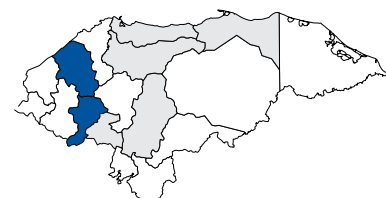
On 6 October 2014, PBI attended a public meeting organized by the Municipal Corporation of Santa Elena, during which intimidating acts were observed, as reported by some attendees, which did not correspond to international standards for free, prior and informed consultation. They were: i) the presence of the National Police and the armed forces accompanying the Municipal Corporation and taking pictures of people who oppose the hydroelectric dam; ii) the presence of representatives of the company; iii) the small venue, with room for only 400 people when, according to vice president of MILPAH Martín Gómez Vázquez, the dam would directly displace about 120 families and more than 700 people⁷⁸; iv) during the consultation, when Gómez Vázquez took the floor, as he expressed the illegality of the council, a policeman took the microphone away from him; v) the presence of people that did not belong to the affected communities. Facing this situation, the communities that opposed the hydroelectric dam left the meeting. In the minutes of the meeting it is stated that permission was approved for the company to conduct a feasibility study and on 18 October 2016, mayor Alexis Ventura Vásquez granted a permit for it⁷⁹. MILPAH members, acting on legal advice from CEHPRODEC, requested a certified copy of that section of the minutes of the meeting. The document was given to them several weeks later and it did not contain the names or identities of the people who voted either in favour of or against the dam, it only mentioned that the entire population had reached an agreement⁸⁰.



CASE: AGUA ZARCA

Civic Council of Popular and Indigenous Organizations (COPINH)
Departments of Intibucá and Santa Bárbara

On 11 April 2011, in an assembly called by the mayor of Intibucá, Martiniano Domínguez, the project was rejected. However, this agreement did not halt the signing of the contract with the company DESA. Following this meeting, the communities began to protest against the construction of the hydroelectric dam. On 7 September 2013, a group of indigenous organizations claiming to represent a dozen representatives from community organizations in the area of influence of the project, including the community of Rio Blanco in northern Intibucá and south of Santa Barbara, signed an agreement of cooperation and mutual understanding before the President of the Republic, Porfirio Lobo Sosa, in which they accepted the construction of the hydroelectric dam.⁸¹ According to information provided by members COPINH to PBI, the list of signatures that was presented did not correspond to the list of members from the affected communities who manage the indigenous organization, with the result that they considered the agreement illegal and illegitimate.



Observation in Rio Blanco during 1st anniversary of a demonstration held by the Lenca indigenous community of La Tejera against the Agua Zarca hydroelectric project. It is estimated that indigenous peoples make up between 7 and 13% of the total Honduran population, spread over nine culturally distinct peoples, namely the Pech, Nahua, Lenca, Tolupan, Garifuna, Misquito, Tawahka and Chorti Peoples.
Photo: PBI

78. "Indígenas de La Paz defienden sus bienes naturales y cultura en medio de amenazas" (Indigenous Persons of La Paz defend their natural resources and culture amidst threats), ERIC-RadioProgreso, 7 November 2014.

79. Special minutes number 234, pages 66-67 from the minutes book, Mayor's Office of Santa Elena.

80. Minutes number 05-2014, certification of minutes issued by the Municipal Secretary of the Municipal Corporation of Santa Elena from 23 January 2015.

81. "Posición de Hidroeléctrica Agua Zarca" (Position of the Hydroelectric Agua Zarca), Defensores en Línea, 25 November 2015.

RECOMMENDATIONS OF PBI

On behalf of PBI we request the Committee:

i) To urge Honduras to guarantee the effective and informed participation of civil society, with particular emphasis on the rural population, in the institutional spaces and processes of drawing up, revising and evaluating public policies. In concrete terms, the national mechanisms which guarantee the fulfilment of that which is laid out in the Convention 169 of the ILO and the Declaration of the United Nations on the rights of indigenous peoples to free, prior and informed consent processes.

ii) To make reference to, and to support and press for the effective implementation of the existing recommendations relating to the rights of indigenous people to collective property in their ancestral territories as outlined in the Inter-American Court of Human Rights (IAoCHR) ruling in October 2015.⁸²

iii) To request detailed information from the government of Honduras on how it has guaranteed free, prior and informed consultation in the case studies presented in this document.

3. IMPROVED KNOWLEDGE AND APPLICATION OF ICESCR BY THE JUDICIAL SYSTEM AND AGENTS OF PUBLIC ORDER.

The Special Rapporteur emphasises the necessity to guarantee effective measures to ensure the fulfilment of international norms relating to due process in legal cases against indigenous people in situations of social protest in demanding the rights of indigenous peoples

UN Special Rapporteur on the Rights of Indigenous Peoples, James Anaya A/HRC/27/52/Add, September 2014.

RECOMMENDATIONS OF THE COMMITTEE

In the framework of the previous Review, the Committee expressed concern regarding the lack of training in human rights issues, in particular in relation to the rights guaranteed in the Covenant and in the Constitution, among the functionaries of the judicial system and other bodies responsible for implementation of the Covenant. The Committee recommended that the Honduran State improve its training programmes in issues of human rights in order to guarantee a greater awareness, and greater knowledge and application of the Covenant and other international human rights instruments.

ADVANCES AND SETBACKS

In November 2015, the Committee asked the government of Honduras for information on specific examples of case law from National tribunals in which reference was made to the particular rights included in the Covenant and for examples of where this was directly applied as the basis of the judicial decisions. The information provided by the State indicates that some of the articles of the Covenant have been applied in three recent rulings of the Supreme Court, recognising the right to health, education and employment. These rulings make no reference to the right to self-determination nor to the right to the reform of agrarian regimen, both of which are addressed in the Covenant.

RECENT IACHR SENTENCES

The ruling of the IAoCHR enumerates the precepts of national legislation which establish recognition of collective ownership of land for indigenous people. Among these is the Law of Property of 2004, as well as the Law for the Modernization and Development of the Agricultural Sector of 1992. This last affirms that the ethnic communities who occupy lands for periods of no less than three years [8] will receive property titles of full ownership free of any charge, issued by the National Agrarian Institute within a stipulated timeframe [8] . In this same ruling, the State of Honduras was ordered to create adequate mechanisms to improve the national Register of Property, given that the current lack of clarity has resulted in duplication of land titles which could violate the communal rights in rural areas, particular those of the indigenous people.^{L01}

82. Garifuna Community Triunfo de la Cruz and its members , IDHCourt, 8 October 2015.

L01. Id.

Over the last two years PBI has confirmed that civil servants do not have an adequate knowledge of human rights, particularly those relating to the right to territories and access to land. This could be due to a partial application of the legislation, in addition to public declarations that question the defence of human rights. The Spanish-based organisation Research Group on Human Rights and Sustainability (GIDHS) made reference to this in a recent report, in which they confirmed weakness in the understanding of these rights as laid out in the provisions of the ILO's Convention 169 and in the Declaration on the Rights of Indigenous People. Arising from these shortcomings, we find a strong contrast between the speed of the judicial processes in ongoing cases against defenders and the impunity prevailing in the country, in particular in cases of aggressive actions against defenders of economic, social and cultural rights. According to the statistics from Via Campesina, in the middle of 2015, more than 5,000 small producers in Honduras, 815 of them women, had alternative sentences in lieu of prison. In the majority of these cases, these small farmers were accused of trespassing on land.⁸³ Some examples of this are included in the case studies presented in the section below.

Accompaniment on 8th January 2015 of CEHPRODEH in Santa Elena to observe the burial of Juan Francisco Martínez, a member of the Independent Indigenous Lenca Movement of La Paz, Honduras (MILPAH) who was found assassinated on the 4th January in Santa Elena. As part of the accompaniment of the Honduran Centre for the Promotion of Community Development CEHPRODEC, PBI has monitored the progress of several processes of criminalization of members of MILPAH for their opposition to the construction of mining and hydro-electric projects in their territories. His assassination has been met with impunity for the perpetrators. Photo PBI



83. Evictions, repression and criminalization against small farmer communities intensifies, Defensores en Línea, 24 de agosto de 2015.

CASE STUDY

CASE: COMMUNITY OF NUEVA ARMENIA

Defence of the Land Group
Department of Atlántida

IMPUNITY

Since 2000, on several occasions, the community of Nueva Armenia requested the INA and the MP to measure the lands belonging to the Suatlan company and to the community, as well as information on the acquisition of land by the company. In March 2016, the community, accompanied by OFRANEH, met with the Special Prosecutor for Ethnic Groups to be informed of the demands and complaints regarding harassment, destruction of houses and crops, threats and attacks – like the attack against Jesús Flores, and 82 arrest warrants against the community. However, it has not yet received a response for any of its demands.⁸⁴

JUDICIAL HARASSMENT

To date, 82 community members have been sued for trespassing; all these people have arrest warrants against them⁸⁵, forcing them to stay in hiding. Four people have been arrested and have been granted bail: Carolina Castillo, Elmer Flores, Guillermo Miralda and Santos Ortiz. The community claims that the Suatlan company is using this process of criminalization to pressure those captured to reconcile, so that they would recognize that the lands do not belong to the community⁸⁶.

CASE: AZUNOSA

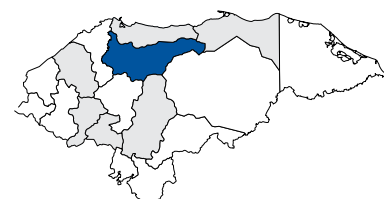
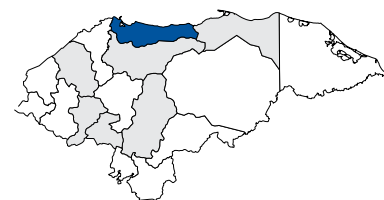
CNTC El Progreso
Department of Yoro

IMPUNITY

The CNTC reports several actions taken by the company AZUNOSA with the aim of harassing its members. The company allegedly set fire to water deposits small farmers used for domestic and agricultural consumption, forcing them to leave the land because they lack access to a source of water⁸⁷. Given this fact, the campesinos appealed to the National Commissioner of Human Rights (CONADEH) to report the situation. Notwithstanding, when they mentioned the complaint was against the transnational company, CONADEH refused to help. On the other hand, the Sector Manager of INA did not want to get involved in the case because of the pressures from AZUNOSA. The CNTC presupposes that AZUNOSA have pressured the authorities to not act against them, leaving their actions in impunity. This happens on top of the lack of response from INA to provide a solution. On 10 August 2013, Félix Korea, president of the campesino group 1º de marzo, which is part of CNTC, was killed while returning home by motorcycle from the reclaimed lands.

JUDICIAL HARASSMENT

To date, 108 people have been sued by AZUNOSA for trespassing and damages. All of whom have arrest warrants against them, including minors. The reconciliation process should allow the lifting of the charges against the campesinos who had occupied the disputed land, however, to date, no developments have been made⁸⁸. Félix Ventura Torres Meraz, one of the leaders who drove the land reclamation process, was sued and captured for trespassing in June 2013. Since then he has



84. Id.

85. "Nueva Armenia y su lucha por la vida y la soberanía" (Nueva Armenia and its fight for life and sovereign), Rel-UITA., 15 September 2015.

86. Meeting with the Group for the Defense of the Land in the Garífuna community of Nueva Armenia, PBI Honduras, 22 March 2016.

87. Meeting with the peasant companies of Agua Blanca Sur which are part of CNTC-Progreso, PBI Honduras, 24 March 2016.

88. "Sobreseimiento provisional dictan a Magdalena Morales" (Provisional dismissal issued to Magdalena Morales), ERIC-Radio Progreso, 14 February 2014.

been under house arrest⁸⁹. Another example is the case of Magdalena Morales, secretary of CNTC in the department of Yoro. Magdalena was sued for trespassing and damages by the AZUNOSA company and arrested on 26 July. After several months of on bail, on 14 February 2014, the courts issued a provisional dismissal⁹⁰. The human rights defender died on 25 March 2016 after battling cancer in the previous years while still facing criminal proceedings.

CASE: VALLE DE SIRIA

CAVS

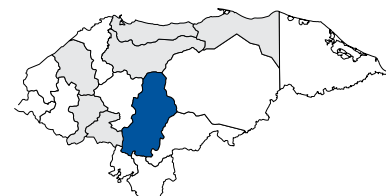
Department of Francisco Morazán

IMPUNITY

Environmental, health and social impacts are particularly severe in this case. Members of the communities near the mine suffer from serious diseases caused by exposure to contaminated water⁹¹. The company denied the water contamination⁹² and it was only as a result of complaints filed by these communities in 2007 that laboratory tests were performed on a sample of 62 people. The state withheld the results obtained. Four years later, in 2011, the results were unveiled, which confirmed that much of the population evaluated had high levels of heavy metals in their bodies⁹³. On 13 March 2012, CAVS denounced several secretaries of the state for concealing information and not acting in a timely manner⁹⁴. It also denounced the San Martin Foundation for contamination⁹⁵. To date, there have been no advances and people affected by pollution have not been provided treatment⁹⁶.

JUDICIAL HARASSMENT

In April 2010 the Urrutia family filed a complaint for the criminal offense of “Obstructing the Execution of a Management Plan” against 17 communities, three of them members of CAVS. The Urrutia family obtained a permit for a forest management plan that allowed them to deforest a nearby forest with the intention, according to the community members, of selling the deforested land to the company Entre Mares.⁹⁷ CAVS questioned the legality of that plan arguing that it had not complied with regulations under the Forestry Law, that an objective and impartial environmental impact study be carried out, requiring the suspension and possible annulment of that plan.⁹⁸ After a two-year legal process, in February 2013, they were acquitted.⁹⁹ According to social organizations this legal action was directly related to the various complaints that the CAVS has made against state institutions and the mining company.¹⁰⁰



89. PBI Honduras, op. cit.

90. ERIC-Radio Progreso, op. cit.

91. Nick Middeldorp, op. cit..

92. Id.

93. “La organización y lucha del Comité Ambientalista del Valle de Siria (CAVS) en su resistencia a la explotación minera durante el periodo 1999-2012” (The organization and struggle of the Environmental Committee of the Siria Valley – CAVS – in their resistance to mining during the final period of 1999 - 2012), CEHPRODEC, March 2014.

94. On 13 March 2012, CAVS filed a complaint against the Secretary of Health before the Public Prosecutor’s Office for Human Rights for negligence and damages to health caused by heavy minerals and failure of the state to treat the 62 who were subjected to exams, and also denounced the Mining Development Bureau (Dirección de Fomento de la Minería – DEFOMIN) and the Secretary of Natural Resources and the Environment for failing to investigate and cover up for the San Martin Foundation for damages to health.

95. Complaint number 522-2011.

96. Meeting with members of the Board of Directors of CAVS, PBI Honduras, 16 May 2016.

97. “Ministerio Público criminaliza defensa del bosque en el Valle de Siria” (Office of Public Prosecutions criminalize the defense of the forest in the Siria Valley), Defensores en Línea, 6 July 2011.

98. Id.

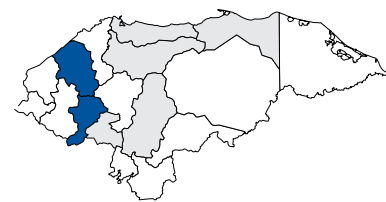
99. CEHPRODEC, op. cit.

100. Id..

CASE: AGUA ZARCA

COPINH

Departments of Intibucá and Santa Bárbara



IMPUNITY

On 15 July 2013, the army opened fire on demonstrators of the Lenca indigenous communities of Rio Blanco. The leader Tomas Garcia was shot three times and killed, and his son, Allan Garcia, was seriously wounded. According to reports, the demonstration was peaceful and was carried out under the supervision of the police and the army¹⁰¹.

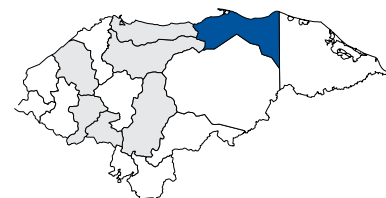
JUDICIAL HARASSMENT

On 24 May, Berta Cáceres, leader of COPINH, and Thomás Gómez Membreño, coordinator of the Guarajambala radio, COPINH's community radio, were arrested when they attempted to block the road. Officials from the Battalion of Engineers stopped and thoroughly searched the car. Following that, they requested the presence of the National Police who arrived in vehicles belonging to the company. Both were arrested for illegal possession of a weapon found in the trunk of the vehicle, according to the defense attorney, in order to incriminate them. Thomás was released on the same day, but Berta was asked to present herself before a judge, who granted her bail.¹⁰² On 2 August 2013, the Court of Intibucá presented a complaint against several leaders COPINH for coercion and damages. On 7 February 2014 both cases were dismissed.

CASE: GUADALUPE CARNEY COMMUNITY

MCA

Department of Colón (Bajo Aguán)



IMPUNITY

In 2010 several violent actions by private security guards and members of the army against the Guadalupe Carney community were recorded. On 15 November, in a new attempt to reclaim the land, they found security guards at the entrance of the community. Soon after, a contingent of soldiers arrived, who along with the guards conducted a violent attack that culminated in the death of five people and three people were seriously injured; four women suffered physical and psychological torture. The attack was reported to police and judicial authorities. However, there were flaws in the collection of essential forensic evidence at the right time and a decision on the case "Attack of The Tumbador" is still pending¹⁰³. During the period 2012-2014, 64 alleged murders of members of the campesino movement and human rights defenders were reported in the Bajo Aguán area¹⁰⁴. According to the Permanent Observatory of Human Rights in the Aguán (OPDAH), by 2014 the Unit for Violent Deaths in Lower Aguán (UMVIBA-MP) had only initiated investigations in 14 out of the 129 killings¹⁰⁵ related to the conflict in Bajo Aguán and only one provisional dismissal had been ordered against any official¹⁰⁶.

101. "Urgent Action: The Army shoots fires against demonstrators in Honduras", Amnesty International, 23 July 2014.

102. "Liberación condicionada de Berta Cáceres" (Conditional release of Berta Cáceres), COPINH, 25 May 2013, (last seen on 20 May 2016).

103. Economies of Dispossession: Women from Honduras and Guatemala in the Global Scramble for Land, Trócaire, 2015, (last seen on 23 May de 2016).

104. Honduras: Human Rights Violations in Bajo Aguán, International Mission of Verification in Bajo Aguan, July 2011.

105. Informe estadístico de muertes violentas relacionadas al conflicto de tierras en el Bajo Aguán 2008-2013, (Statistical Report on the violent deaths linked to the land disputes in Bajo Aguán 2008 - 2013) OPDHA, February 2014, (last seen on 20 May 2016).

106. Monitoring and Follow-up report on the Human Rights Situation in Bajo Aguán concerning the Agrarian Conflict, Conexihon, 31 July 2014.

JUDICIAL HARASSMENT

In Bajo Aguán more than 162 cases of campesinos prosecuted for their activities in defense of land rights have been reported. More than 80 people continue temporarily detained¹⁰⁷. On 3 August 2008 an armed confrontation took place between some campesinos from the Guadalupe Carney community and landowner Henry Osorto, in which 10 people – relations of a high ranking police officer – were killed. Following this incident, the police produced a list of suspects that contained the names of 300 peasants. The court issued arrest warrants for 32 residents of the community, including Chabelo Morales¹⁰⁸. José Isabel Morales, better known as “Chabelo”, is a member of MCA. He was detained on 17 October 2008, charged with the murder of 10 people, relatives and employees of the high-ranking police officer Henry Osorto. He remained in prison for almost seven years and was finally acquitted in October 2015. While he was detained, his 3-year-old daughter, father and grandfather died.

RECOMMENDATIONS OF PBI

In this context, we ask the Committee to make additional recommendations designed to monitor the recognition and support by the Honduran State in defence of ESCR. The following extracts from recommendations issued by several international organisations can be used as reference:¹⁰⁹

i) To make public declarations and campaigns to recognise the work of the human rights defenders, with the aim of counteracting the stigmatization to which they are subjected.

ii) To discourage and condemn any stigmatization against such activists, arising from public or private sources.

iii) Ensure that, in the framework of the review of the Penal Code, legislation referring to crimes of trespassing, , sedition¹¹⁰, and unlawful assembly¹¹¹ should be adjusted in accordance with international standards.

iv) To take all necessary steps to ensure that people who legitimately speak out for the respect and protection of human rights, not be subjected to unjust or unfounded judgements.

v) To improve and monitor the effectiveness of the training programmes in topics relating to economic, social and cultural rights, as provided for those working within the judicial system and in public order posts in particular in relation to the application of articles 1 and 11 of the Covenant.

vi) To ratify the optional protocol of the Covenant which allows for individuals to submit complaints

vii) To intensify and expand the human and material resources designated to investigate in a swift, diligent and impartial manner, any acts of violence against HRDs, including indigenous and people of indigenous and garifuna people.

107. Honduras: Human Rights Violations in Bajo Aguán, International Mission of Verification in Bajo Aguan, July 2011.

108. “Injusticia e ilegalidad: Chabelo Morales declarado culpable” (Injustice and Illegality: Chabelo Morales found guilty), Voselsoberano.com, 11 February 2014.

109. PBI Honduras, op. cit.

110. IACHR, Preliminary Observations, Visit in loco to Honduras from 1 to 5 of December 2014, 5 December 2014.

111. IACHR, Preliminary Observations, Visit in loco to Honduras from 1 to 5 of December 2014, 5 December 2014.



Accompanying CEHPRODEC during the IV Gathering of People in Resistance "Ana Miriam Romero" in Marcala city, Department of La Paz, on the 12 and 13 of February 2016. Photo by PBI.

In the case of Los Encinos, at the end of 2014, in the Los Encinos case, a public prosecutor from the Public Ministry presented an order for an arrest warrant at the "Letras Penal" Court in Marcala (La Paz). One of the accused is Rosalio Vásquez Romero who is the President of the local council and husband of Ana Miriam.

4. MECHANISMS FOR THE ADEQUATE AND SUFFICIENT PROTECTION OF DEFENCE OF ESCRS.

To date, neither the protective measures ordered by the Inter-American Commission on Human Rights, nor those recommendations reiterated by the UN experts, have been sufficient to ensure that Honduras adopts firm measures for the protection of journalists and human rights defenders ¹¹²

UN Special Rapporteurs on Freedom of Opinion and Expression, Frank La Rue, on the situation of human rights defenders, Margaret Sekaggya, April 2014.



Observation by PBI Honduras of the Lenca ceremony celebrated in Rio Blanco by the indigenous organisation COPINH, 30th may, 2016. Photo PBI.

On 3 March 2016, Berta Cáceres, leader of COPINH and winner of the 2015 Goldman Environmental Prize, was killed by gunmen in her brother's home. Berta Cáceres was a beneficiary of precautionary measures issued by the IACHR since 2009 and had reported that they had not been properly implemented. Berta Cáceres was a woman of special courage and principles. She led the resistance against the hydroelectric dam Agua Zarca in the river Gualcarque, which was allegedly being built without the consent of affected indigenous communities and threatened to disrupt their way of life and access to water.

CESCR 2001 RECOMMENDATIONS

In the previous report, there was no reference to, nor were there any specific recommendations to the Honduran State, designed to guarantee the existence and suitable application of mechanisms of protection of persons, communities and organisations working for the defence of economic, social and cultural rights. However, in November 2015, the Committee requested information from the Honduran State on the measures used to protect those working for economic, social and cultural rights from all acts of violence, harassment, threats or attacks on their lives or personal safety.

ADVANCES AND SETBACKS

In its reply to the Committee, the Honduran government pointed to the approval of the Law of Protection for Human Rights Defenders, Journalists, Social Communicators and Justice officials¹¹³ as well as the establishment of the National Council of Protection for Human Rights Defenders, as a deliberative body providing advice for the National System of Protection for Human Rights Defenders, integrated by 14 members, including representatives of diverse secretariats and human rights organisations. While the Law was approved on 16th April 2015, to date neither have the necessary regulatory documents been drawn up, nor has the law been duly applied.

112. "Impunity perpetuates violence against journalists and human rights defenders in Honduras", OHCHR, 17 April 2014

113. Legislative Decree No. 34-2015.

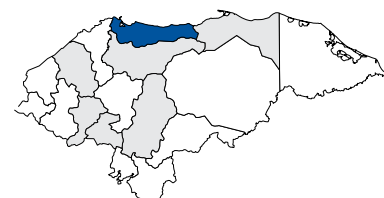
Honduras holds the world record for the most assassinations of environmental and land defenders per capita. Many of those assassinated have been awarded precautionary measures by the Inter-American Commission of Human Rights. (IACHR). As a result, during its visit in December 2014, the IACHR requested information on specific measures introduced to prevent assassinations and acts of violence against leaders and defenders of the rights of indigenous peoples. The Honduran State did not reply to this request¹¹⁴. According to the Reflection, Research and Communication Team ERIC (for its initials in Spanish), with over 426 issued, Honduras is the country with the greatest number of precautionary measures awarded. However, to date 16 of those beneficiaries have been assassinated.¹¹⁵ This situation, together with the lack of an agreed national mechanism for protection with a focus on prevention, can be seen as a serious attack on HRDs as it helps to generalise the perception that there will be no repercussion for the attackers, and indeed, that it can be beneficial to them.

CASE STUDY

CASE: COMMUNITY OF NUEVA ARMENIA

Defence of the Land Group
Department of Atlántida

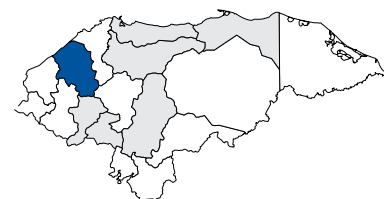
The reclamation of the territory claimed by the Nueva Armenia community has resulted in severe repression, especially against the community leaders who have actively defended the community's right to the land. The community has reported to PBI about incursions of armed actors who have made death threats and shot at members of the community. On 26 January 2015, 40 people from the community were shot at while on their way to work on the reclaimed land and Jesús Flores Satuye was wounded in the head¹¹⁶. On 8 May 2015, a group of armed men tried to kidnap Jéssica García and Carolina Castillo, members of the Defence of the Land Group¹¹⁷. This situation has forced them to abandon the reclaimed land in June 2015 after gunmen burned down the last house and assaulted a member of the community¹¹⁸. Notwithstanding, the community continues to live and work in the 150 hectares of New Armenia even though the harassment continues. Given the ongoing harassment and the lack of state response to repeated complaints, the community is highly concerned about the security of the people who remain in the 150 hectares.¹¹⁹



CASE: KEVIN RAMÍREZ

ERIC
Department of Santa Bárbara

Kevin Ramirez is 28 years old and is originally from Concepción del Listón; he is a father of two children aged four and two years old. He is part of the ecclesiastic community of the Listón sector, president of the local Water Committee, and is a member of the Popular National Resistance Front¹²⁰. On 30 September 2015, the



114. IACHR, visit in loco, December 2014.

115. Meeting held with members of ERIC, 25 of March 2016.

116. Jesús Flores has a case before the Inter-American Court of Human Rights for physical assault perpetrated against the allegedly victims by agents responsible for environmental monitoring of the island of Cayos Cochinos. Report N. 93/13, petition 1063-07, 4 November 2013.

117. "Alerta: Intento de rapto de dirigente Garifuna en Nueva Armenia" (Alert: Attempted abduction of Garifuna leader in Nueva Armenia) OFRANEH, 8 May 2015.

118. Meeting with the Defence of the Land Group in the Garifuna community of Nueva Armenia, PBI Honduras, 22 March 2016.

119. Id.

120. "Solicitud de Medidas Cautelares a favor de Kevin Ramirez a la Comisión Interamericana de Derechos Humanos", (Request for Precautionary Measures for Kevin Ramirez to the Inter-American Commission on Human Rights), ERIC-Radio Progreso, 7 September 2015.

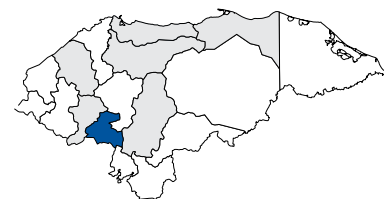
IACHR granted him precautionary measures due to attacks he suffered in retaliation to his work in the defense of human rights¹²¹. Due to the seriousness of the situation, Kevin has left his community three times. The human rights defender and his family members have been targeted with threats, attacks, harassment and persecution since 2012, when he started organizing and informing sectors of his municipality about the impact of hydroelectric concessions in the life and environment of communities. Kevin has claimed that Juan Ángel Martínez, from the National Party and responsible for the state-run programme “A Better Life”, is the perpetrator of these attacks and threats¹²². Although the IACHR granted precautionary measures to Kevin Ramirez and his family, the threats and harassment have continued. Between October and November 2015, on at least three different nights, shots were reported to have been fired outside the house. On 28 February 2016, a man named Isaías Méndez showed up with a firearm to Kevin Ramirez’s house and tried to take him to the back of the house, threatening to kill him¹²³. Because of this situation, while Kevin Ramirez was recuperating from this attack at a refuge in the mountains, his wife had an anxiety attack and a doctor diagnosed her with a partial paralysis due to accumulated stress¹²⁴.

The protective measures offered by the state of daily patrols by the National Police through the community and his home, have not been properly fulfilled. In the first three months it only occurred five times and, according to the beneficiary, in April this year, the Police of Quimistán offered to shoot the person responsible for the threats and said: “Kevin, why don’t we leave you with the gun and you kill him (...) we need a warrant for him, otherwise we cannot do anything, so the only solution is for you to kill him.” Kevin Ramirez asked for other measures such as an antenna to make calls in emergencies and improved security in his home, but these were rejected citing financial reasons. While the State also promised to make arrangements for complaints to be investigated, to date there has been no progress or response.

CASE: LOS ENCINOS

MILPAH

Department of La Paz



In January 2015 the body of Juan Francisco Martínez, an active member of MILPAH, was found with signs of torture. His son had been murdered six months earlier¹²⁵. On 22 October 2015, at dawn, a group of 20 police officers, 10 military from the Infantry Battalion and 9 civilians from El Potrero community raided three houses of the San Isidro Labrador community. During the raid, they assaulted and threatened to kill three women and beat and intimidated three children who were in one of the houses. The attackers stole the Minutes Book of the Labrador Indigenous Council of San Isidro and money that was kept in it. One of the women who was assaulted, Ana Miriam Romero, wife of the president of the Indigenous Council, had to be hospitalized because of the blows proffered against her and had to receive special care because she was pregnant. Furthermore, around 200 shots were fired in the vicinity of the community¹²⁶. On 31 October 2015, three men detained Ana Miriam Romero and her two daughters. They were locked in, intimidated and threatened with death with knives and firearms. This incident happened a day before the shooting at Rosalío Vázquez Romero sister-in-law’s house. Following these facts, the IACHR granted precautionary measures to Ana Miriam and her partner, Rosalío Vázquez Romero, as well as 12 other members of MILPAH¹²⁷. Despite the precautionary measures, on 30 January 2016, a man threatened to kill family members of Ana Miriam Romero and her children a day before assailants had set on fire the house where they took refuge. On 9 May 2016, the human rights defender and her children received death threats and were intimidated by four men in their home¹²⁸.

121. Precautionary Measures 460/15 – Kevin Donaldo Ramirez and family, Honduras.
122. “Aumentan amenazas a muerte por defensa de bienes naturales” (Increased death threats for the defense of natural resources), ERIC-Radio Progreso, 20 November 2015.
123. Meeting with Kevin Ramirez, PBI Honduras, 6 May 2016.
124. Id.
125. “¿Por qué asesinar a Juan Francisco?” (Why murder Juan Francisco?), Juan Almeyda, 7 January 2015.
126. Complaint presented before the Public Prosecutor’s Office for Human Rights, Tegucigalpa, 27 October 2015, N. 1445967805 (the complaint was also presented before the Public Prosecutor’s Office of Marcala).
127. Resolution 46/2015, Ana Miriam Romero and others about Honduras, IACHR. Precautionary Measures 589/15.
128. “Ana Miriam Romero. Status: death threats”, Front Line Defenders, 19 May 2016.

PBI RECOMMENDATIONS

We consider it necessary that the Committee places special emphasis on the protection of defenders, their communities and families during this Session. Although civil society organisations recognise certain advances, such as the establishment of the Office of the UN High Commissioner for Human Rights (OHCHR), there are reports of serious setbacks, such as those mentioned above. For this reason, we suggest that the Honduras State is urged to:

- i) Incorporate the UN Declaration on Human Rights Defenders into national legislation.
- ii) Review and strengthen the profile of the National Commission on Human Rights (CONADEH) in order to ensure the effectiveness of this independent institution in its supervision of the implementation of international human rights law, particularly in rural areas and the country's interior, where ESCR are most under threat.
- iii) Ensure that the proposed Law of Protection for Human Rights Defenders, Journalists, Social Communicators and Justice officials complies with international standards for its effective implementation and real commitment of the authorities to the objectives of that law.

Below we outline some specific recommendations which have been made by national and international organisations on the Law:

- Evaluate the possibility of reforming the relevant article to expand the number of civil society representatives participating.
 - Consider the possibility that civil society could carry out some level of monitoring.
 - Enhance the contributions of CONADEH and OHCHR.
 - Guarantee that the appointment of the two representatives from HRD organisations be through a process which is public, participative, transparent and non-discriminatory.
 - Develop protection mechanisms which are distinct, adequate and effective for each beneficiary, and which take into account his/her needs and level of risk, and above all that the beneficiary is informed and in agreement with the measures.
 - Take account of the needs of those living in rural areas, and in those cases where the aggressors are members of State security forces.
 - Develop a protocol for the investigation of offenses committed against human rights defenders
 - Identify who would be legally responsible in cases in which the Law's regulations are not complied with.
 - Ensure adequate financing for the Law's implementation.
- iv) Fulfill its obligations to grant the relevant guarantees to all those who collaborate with the Inter-American System for Human Rights¹²⁹.

Support the creation of a group of experts at the Inter-American Commission on Human Rights to investigate the cases of ESCR defenders who have been assassinated despite having precautionary measures in place

LAW OF PROTECTION FOR HUMAN RIGHTS DEFENDERS, JOURNALISTS, SOCIAL COMMUNICATORS AND JUSTICE OFFICIALS

The law was passed by Congress on 16th April 2015, one week before the Universal Periodic Review of the Honduran State at the UN Human Rights Council. Many organisations denounced this act, considering it opportunistic just so the government could clean up its image before the UPR, and questioning that the Cabinet had any real commitment to the protection of human rights^{L01}. According to experts who have analysed it, the Law has weaknesses and strengths.^{L02}

129. Article 63 of IAHCR regulations.

L01. The Protection System for human rights defenders is government make-up", Pasos de Animal Grande, 9 of July 2015.

L02. COFADEH presents the Law on human rights defender discussing challenges", Defensores en Linea, 29 of August 2015.



The spiral represents the eternal cycle of life and death and is dedicated to Margarita Murillo and other Honduran WHRDs. Margarita worked throughout her life for the rights and better conditions for small farmers. She was killed on the 27th August 2014. Not locked up and without fear. El Progreso, 29 August 2014.

PRESENTATION OF PBI

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

PBI'S MANDATE IN HONDURAS

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

INTERNATIONAL ACCOMPANIMENT

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

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

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

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

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

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

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

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



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