In the Matter of:          )
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Country conditions materials regarding the treatment of LGBT individuals and individuals living with HIV/AIDS in Honduras

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<td><strong>GOVERNMENTAL SOURCES</strong></td>
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<td>“The most significant human rights issues included... societal violence against lesbian, gay, bisexual, transgender, and intersex (LGBTI) persons”</td>
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<td>“The HNP’s Violent Crimes Task Force (VCTF) investigated crimes against high profile and particularly vulnerable victims, including judges, journalists, human rights activists, and members of the LGBTI community. As of October 2, the VCTF had remitted 25 cases to the Public Ministry, carried out 34 raids with judicial orders, executed 12 warrants for capture, detained 26 persons involved in crimes, and obtained six judicial sentences.”</td>
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“Nevertheless, social discrimination against LGBTI persons was widespread. As of October the special prosecutor for human rights was investigating nine formal complaints of discrimination by LGBTI individuals in previous years. Representatives of NGOs that focused on the right to sexual diversity alleged that the PMOP and other elements of the security forces harassed and abused LGBTI persons. As of August APUVIMEH, an NGO that works with LGBTI persons, reported eight violent deaths of LGBTI persons in the central areas of the country. The UNAH Violence Observatory reported five homicides as of August. NGOs also documented multiple instances of assaults and discrimination against LGBTI persons, leading to forced displacement of some individuals.”

“LGBTI rights groups asserted that government agencies and private employers engaged in discriminatory hiring practices. LGBTI groups continued working with the VCTF, Ministry of Security, and Office of the Special Prosecutor for Human Rights to address concerns about intimidation, fear of reprisals, and police corruption. From September 2016 through July 2017, the VCTF made arrests in four cases.”

“Transgender women were particularly vulnerable to employment and education discrimination; many could find employment only as sex workers, substantially increasing their risk of violence. Transgender individuals noted their inability to get identity documents with their chosen gender.”

“Access to employment, educational opportunities, and health services continued to be major challenges for persons with HIV/AIDS.”

“Persons with disabilities, indigenous and Afro-Honduran persons, LGBTI persons, and persons with HIV/AIDS also faced discrimination in employment and occupation [...]”

“[S]ocial discrimination against LGBTI persons was widespread.”

“Representatives of NGOs that focused on the right to sexual diversity alleged that the [Military Police for Public Order] and other elements of the security forces harassed and abused members of the community. As of August the NGO Colectivo Color Rosa reported 11 violent deaths of LGBTI persons, similar to levels in previous years.”

“In October the Public Ministry reported records of 218 cases of violent deaths of LGBTI individuals since 2009, of which 14 cases had resulted in convictions and 171 were still under investigation. NGOs also documented multiple instances of assaults and discrimination against members of the LGBTI community.”

“On June 2, prominent LGBTI activist and community leader Rene Martinez was killed. Martinez was an activist in the ruling National Party, the president of an LGBTI association in San Pedro Sula, the leader of a local community council, and a volunteer with a community-based violence prevention program.”

“LGBTI rights groups asserted that government agencies and private employers engaged in discriminatory hiring practices.”

“There were reports of forced sterilizations of women with HIV, according to the International AIDS Society.”

“One civil society organization reported that three members of the LGBTI community died of gunshot wounds after medical personnel refused to treat them because they would not submit to HIV tests.”

NONGOVERNMENTAL SOURCES

• “Violence based on gender identity or sexual orientation is a major problem in Honduras. Several UN agencies working in Honduras have noted that violence against LGBT individuals forces them into “internal displacement” or to flee the country in search of international protection.”

• “In August 2018, Honduran Congress approved several articles of a preliminary version of a new adoption law that would prohibit same-sex couples from adopting children. Final approval of the law remained pending at time of writing.”

4. **Organization of American States, IACHR Has Concluded its Visit to Honduras and Presents its Preliminary Observations (3 August 2018), available at**

   • “The IACHR has observed with concern the violence perpetrated against women in particularly vulnerable situations, such as lesbian, gay, bisexual, trans, and intersex (LGBTI) women and human rights defenders.”

   • “However, the IACHR has observed that in Honduras, LGBTI people face acts of violence and widespread discrimination that continue with impunity. According to information provided by civil society organizations, in the last five years, there have been 177 killings of LGBTI people, 21 of which have taken place this year and two during the IACHR’s visit. Investigations into 65 of these killings have been started, but none of them have led to convictions. Violence against LGBTI people is widespread in Honduras and constitutes a clear human rights violation. These cases go unpunished, which generates the impression that violence and discrimination are acceptable.”

• The bodies and processes for the investigation of attacks against lesbian, gay, bisexual, transgender and intersex persons must be strengthened. According to the non-governmental organization Cattrachas, between 1 January and 30 December, 34 lesbian, gay, bisexual, transgender and intersex persons were killed, with charges being brought in only seven of those cases. CCPR/C/HND/CO/2


   • “Women, girls and LGBTI people continued to face high levels of gender-related violence. Between January and October, 236 violent deaths of women were registered by the Centre for Women’s Rights.”

   • “According to the Lesbian Cattrachas Network, killings of LGBTI people also increased, with a total of 35 people killed. Impunity remained high in these cases, as authorities lacked sufficient capacity and resources to investigate, prosecute and punish those responsible.”


   • “Despite a downward trend in recent years, the murder rate remains among the highest in the world. Journalists, environmental activists, and lesbian, gay, bisexual, and transgender (LGBT) individuals are among those most vulnerable to violence.”

   • “Homophobic violence is a major problem in Honduras. Several UN agencies working in Honduras have noted that sexual violence against LGBT individuals forces them into ‘internal
displacement’ or to flee the country in search of international protection.”

- “In July 2017, David Valle, project coordinator of the Center for LGBTI Cooperation and Development, was stabbed by a stranger in his home in Tegucigalpa. Valle had received repeated threats in the past. He survived the attack.”


- “According to UNHCR, 88 percent of LGBTI asylum seekers and refugees from the Northern Triangle interviewed in the context of a study reported having suffered sexual and gender-based violence in their countries of origin.”

- “It has been documented that [the ‘maras’ or gangs in the Northern Triangle of Central America] are governed by highly sexist codes of conduct, and they often attack LGBTI people for real or perceived their gender identity or sexual orientation, subjecting them to acts of physical and sexual violence, as well as blackmail.”

- “According to the NGO Cattrachas Lesbian Network — which monitors violent deaths of LGBTI people on the basis of information appearing in the media — 264 murders of LGBTI people were reported in Honduras between 2009 and July 2017, of which 152 (or 58 percent) were gay men and 86 (or 32.5 percent) were trans people. Among these were a number of activists and defenders of LGBTI rights, such as René Martínez Izaguirre, President of the Sampedrana Gay Community, who was disappeared and killed in June 2016.”
• “In the countries of the Northern Triangle, where high levels of impunity are common, LGBTI people very rarely obtain justice when they report the serious attacks they have suffered.”

• “In a study conducted into impunity for such attacks, the NGO Cattrachas noted that, of the 264 violent deaths of LGBTI people recorded during the period 2008 to 2015 [in Honduras], only 13 had resulted in a conviction.”


• “The lives and safety of Lesbian, Gay, Bisexual, Transgender and Intersex people (LGBTI) from violence-ridden El Salvador, Guatemala and Honduras are at an increased risk as authorities in their countries fail to protect them, leaving them with no choice but to flee their countries and face further dangers in Mexico, Amnesty International said in a new report today.”

• “The high levels of impunity and corruption in their countries mean authorities are unlikely to punish those responsible for crimes against LGBTI people, particularly when security forces are responsible for the attacks.”

• “According to the Honduran NGO Cattrachas, 275 LGBTI people were killed in the country between 2009 and 2017. In most cases, those responsible were never brought to justice.”

• The Committee is further concerned about the discrimination experienced by lesbian, gay, bisexual, transgender and intersex persons, including with respect to the rights of same-sex couples and the identity of transgender persons (arts. 2, 3, 25, 26 and 27).

• The Committee remains extremely concerned at the acts of violence and intimidation and the persistently high murder rates among, inter alios, human rights defenders, journalists, trade unionists, environmental activists, indigenous persons and lesbian, gay, bisexual, transgender and intersex persons, and which are committed by State officials and private individuals and result in the death of persons such as Berta Cáceres who were protected under precautionary measures issued by the Inter-American Commission on Human Rights.


• “Young girls and women, as well as lesbian, gay, bisexual, transgender and intersex (LGBTI) people are subjected to a number of forms of violence.”

• “LGBTI people are also frequently targeted for abuse, intimidation and violence because of their sexual orientation and/or their gender identity. According to the NGO Cattrachas, 100 LGBTI persons were killed in Honduras since 2014: 37 of them in 2015 and 22 in 201620. As of May 2017, 15 new violent deaths had been reported. Amnesty International’s research found that transgender women, who because of patriarchal social norms are particularly stigmatized, are especially subjected to violence.”

• “Impunity has helped perpetuate violence against human rights defenders: the failure to identify, bring to trial and punish those responsible sends a
message that there are no consequences for those who commit the attack. LGBTI human rights defenders are also particularly targeted with threats and attacks.”


- “A general climate of violence forced thousands of Hondurans to flee the country. Women, migrants, internally displaced people, human rights defenders – especially lesbian, gay, bisexual, transgender and intersex (LGBTI) people as well as environmental and land activists – were particularly targeted with violence. A weak criminal justice system contributed to a climate of impunity.”

- “Widespread violence across the country forced many to flee – mostly women, children, youth and LGBTI people.”

- “According to the NGO ACI-PARTICIPA, more than 90% of all killings and abuses against human rights defenders remained unpunished. LGBTI human rights defenders were also particularly targeted with threats and attacks. René Martínez, president of the Sampedrana Gay Community in the city of San Pedro Sula, was found dead on 3 June with his body bearing signs of torture.”

- “The Worldwide Movement for Human Rights reported that members of the LGBTI rights group Asociación Arcoiris were victims of 36 security incidents between July 2015 and January 2016, including killings, threats, surveillance and harassment. The military was accused of infiltrating social movements and attacking human rights defenders. The Law to Protect Human Rights Defenders, Journalists, Social Commentators and Justice Officials had yet to be properly implemented.”

- “Women were routinely subjected to violence. Between January and June, 227 women were
murdered. During the same period, 1,498 attacks and 1,375 incidents of sexual violence against women were recorded. Attacks against women remained widely underreported.”


- “A highly qualified American Ph.D. professor of Latin American studies, Suyapa Portillo, who specializes in the LGBTQ community (lesbian, gay, bisexual, transgender, and queer—an acronym that covers the entire spectrum of homosexual and related sexual orientations) in Honduras, testified as an expert witness for the petitioner. In the last 12 years she’s visited Honduras three to four times a year to conduct research. The immigration judge qualified Dr. Portillo to testify as an expert witness regarding ‘the experience of LGBTQ people in Honduras’ and also of ‘HIV-positive people’ in that country—overlapping groups, obviously—and having been thus qualified Dr. Portillo testified that it’s very difficult for people with HIV to find employment—employers often require proof that an applicant does not have HIV.”

- “She testified that since Honduras’s 2009 coup d’état (when the Honduran Army, following orders from the Honduran Supreme Court to oust President Manuel Zelaya, sent him into exile), more than 200 LGBTQ people have been murdered according to a pattern she thought indicated an ‘LGBT cleansing,’ in which transgendered women were murdered with a single shot to the head and homosexual men tied up and mutilated. Dr. Portillo believes that the police are complicit in the murders and that laws purporting to protect LGBTQ people from assaults and murders are rarely enforced.”

- “She discussed one case in which a transgender person was assaulted, on camera, and the footage showed
police officers watching and laughing. Although the police officers involved were taken off active duty for a period of time, she does not believe they were prosecuted for any crimes.”

• “She cited an example in which two transgender people ran for public office, and a well-known church leader made a derogatory televised speech encouraging the public to vote against them. But despite evidence of discrimination against them, the two individuals had their lawsuit dismissed for lack of evidence.”

• “[…] for cultural reasons related to Hondurans’ belief about these two diseases, the medical treatment of both HIV and AIDS in Honduras is often deficient and often invasive of privacy […]”


• “The workplace is an area of substantial discrimination against LGBT individuals. Although there are no laws that allow employment discrimination on the basis of sexual orientation, there are no laws preventing such actions either. As a result, employers frequently discriminate against LGBT employees and job applicants. The main workplace anti-discrimination provision, Article 12 of the Labor Code, does not explicitly include sexual orientation as a prohibited ground of discrimination; therefore, the law is effectively ignored with respect to LGBT individuals. In addition, employers rarely face official penalties or reprisals by the victims. Other instances of workplace discrimination that specifically target lesbian women and travestí (transgender) individuals are further outlined below.”

• “Discrimination against HIV-positive individuals, a population group that often overlaps with the LGBT community, is also commonplace in Honduras.”
• Employers may also use HIV status as a proxy for sexual orientation. In addition to social prejudice, sexual minorities and people living with HIV/AIDS commonly experience discrimination in employment, housing, and basic services. For example, the Honduran NGO, Red de Hombres Gay Positivos, has alleged that some employers require job applicants to submit to blood tests. Although the employers supposedly used the tests to detect for syphilis, Red De Hombres Gay Positivos claims the true goal is to weed out HIV-positive applicants.”

MEDIA SOURCES


• “Raul Valdivia, a gay man and human rights activist who still lives in Honduras, said he understands that discrimination firsthand. "I've suffered many instances of discrimination based on my sexual orientation, but I remember the most violent came from state forces," Valdivia told ABC News. "I was abused by police while on one of my very first dates. They took me and the other guy to a dark secluded area in a park and forced us to simulate sex. They also beat us with a belt. These are police who patrol downtown Tegucigalpa and I have seen them after, but I'm unable to speak out for fear of repercussions." Valdivia said LGBT people in his country face "assassinations, political attacks, legal discrimination and targeted street violence.”

• “In July 2017, David Valle, project coordinator of the Center for LGBTI Cooperation and Development, was stabbed in his home after receiving threats, Human Rights Watch reported. He survived the attack, but it highlighted the deadly violence LGBT people face in the country.”
   - “Lorena, a 30-year-old transgender woman who had been a sex worker in Honduras, says she left because of widespread homophobia that translated into constant violence from police and clients.”
   - “According to Amnesty International, transgender women in Central America are at particularly high risk of violence and extortion by gangs and abuse by police. “In my country, [the authorities] don’t listen to you, they don’t take you seriously… because you are a homosexual,” Lorena says.”
   - “As transgender women often face further violence and discrimination in transit and destination countries, Lorena opted to join the caravan because she felt safer in a larger group. Although she expects to be detained upon reaching the United States, she believes it is worth the risk to escape the violence in Honduras.”

   - “You can be killed at any moment in this extremely violent country,” a lesbian activist told the Washington Blade during an interview with three others affiliated with Colectivo Unidad Color Rosa who identify themselves as transsexual women.”
   - “Statistics from Cattrachas, a lesbian feminist network that is based in the Honduran capital of Tegucigalpa, indicate 15 people have been reported killed in the country so far this year because of their sexual orientation or gender identity.”

• “In spite of all this progress, only 42% of HIV positive individuals in Honduras are receiving anti-retroviral treatment (CONASIDA Plan Estratégico Nacional, 2014). 58% are not receiving even the baseline anti-retroviral treatment! Among people living with HIV in Honduras, only 39% had suppressed viral loads as of 2016 (UNAIDS – Honduras, 2018). While progress has been made in mother-to-child transmission, only 51% of HIV positive mothers receive the appropriate ARV treatment to reduce the risk of passing on HIV to their child (UNAIDS – Honduras, 2018).”

• “The actual prevalence of HIV in Honduras could also be worse than what is reported. Only 12.6% of individuals between 15 and 49 have been tested for HIV and know their results (CONASIDA, 2014). Many HIV positive individuals do not know about HIV, are unsure how to get tested, or are afraid to get tested. Rural areas are extremely hard to document, census data is less reliable, and many hospitals still use handwritten documentation systems. All of these factors affect the reliability of our baseline statistics on HIV in Honduras.”

• “Stigma surrounding HIV in Honduras has led to lower rates of testing, diagnosis, and follow-up care. There are many other barriers to HIV care in Honduras—many of which our children and their families face on a daily basis. Honduras has the second highest poverty rate in the Western Hemisphere behind Haiti, high rates of crime, and political instability. Vulnerable populations have much higher rates of HIV in Honduras, including men who have sex with men (prevalence of 11.9%), sex workers (prevalence of 5.3%), transgender people (prevalence of 11.9%), the Garifuna population, and minority communities (UNAIDS – Honduras, 2018).”

• “In addition, there are still access issues—rural and impoverished areas may not have a clinic close by, individuals lack safe public transportation to get to their medical visits. Co-pays for supplemental medications are high, so individuals stop treatment
all together. Clinics and hospitals have funding to provide direct care, but often lack the resources to provide in-person social service support for HIV+ individuals who stop care due to one of these barriers.”


- “Lesbian, gay, bisexual and transgender people are being forced to leave El Salvador, Honduras and Guatemala to escape ‘epidemic levels of violence’ and threats by criminal gangs and security forces . . . .”
- “In Honduras, at least 264 LGBT people have been killed since 2009, of whom more than half were gay men, according to local rights group, Cattrachas.”
- “Last week the Inter-American Commission of Human Rights (IACHR) stressed its concern about the ‘high levels of violence against transgender people’ and their low life expectancy.”


- “A prominent Honduran LGBTI rights advocate was brutally attacked inside his home on Monday.”
- “The man who attacked Valle chased him through his home with a ‘knife-like weapon.’ Criterio reported the man beat Valle for more than 10 minutes . . . . Honduran advocates with whom the Washington Blade spoke this week said Valle suffered serious injuries to his head and other parts of his body and required dozens of stitches.”

21. Allison Tierney, Canadian Among Two Killed in Homophobic Attack in Honduras, Vice News (May 18, 2017), available at
An attack in Honduras reported to have been motivated by homophobia has left a Canadian man and his partner dead. Gerard Argiud, 80, described as a Canadian national, and his partner, a 42-year-old Honduran named Jorge Sarmiento, were attacked by multiple people on Friday, May 12 in the home they shared in Tela, Atlántida, Honduras, according to local media."

"Sarmiento has been referred to as a member of the local LGBT community, reportedly being the previous owner of a gay bar that had shut down recently in the area."


"René Martínez was president of Comunidad Gay Sampedrana, an LGBT advocacy group in San Pedro Sula, a city in northwest Honduras, in June 2016. . . . Martínez was a ‘well-known’ member of President Juan Orlando Hernández’s ruling National Party when he disappeared on June 1, 2016. Martínez’s relatives identified his body in San Pedro Sula’s morgue two days later. . . . Martínez’s murder underscores the very real risks that San Pedro Sula’s LGBT activists face in one of the world’s most dangerous cities."

"Cattrachas, an advocacy group based in the Honduran capital of Tegucigalpa, and activists with whom the Blade spoke said members of the country’s military and Policía Militar (Military Police) routinely commit human rights abuses. LGBT people are the frequent targets."

"Sometimes the worst violations that we have are with the government,’ a San Pedro Sula-based activist told the Blade during a Feb. 10 interview. The activist, who has been the target of two assassination attempts over the last year, asked the Blade not to publish their name. ‘Police officers, soldiers are the ones who violate our rights,’ said
the activist. The activist said those who publicly criticize the gangs and the police and file formal complaints against them receive threats and often go into hiding.”

- “Freddy Funez, an LGBT activist who worked closely with Martínez . . . told the Blade that police officers are responsible for ‘a great number of’ murders of LGBT people in San Pedro Sula. He cited a case in which officers cut off a gay man’s penis before they dismembered him. ‘The police can carry out more atrocities and violence than the gang members,’ said Funez.”

- Funez, Hernández and the activist with whom the Blade spoke all said the lack of employment, education and health care and poverty have made San Pedro Sula’s LGBT community particularly vulnerable to violence and discrimination from the police and gangs. Many feel as though they have no choice but to flee the country.”

- “They kill them; they assault them,’ said the activist. ‘This, therefore, forces them to migrate. We have a forced migration. They don’t do it because they want to. They are doing it because the situation in which we are living in our country is very difficult.’”

Respectfully submitted,

_____________________________
Attorney, Esq.
Counsel for Respondent
TAB 1
EXECUTIVE SUMMARY

Honduras is a constitutional, multiparty republic. The country held national and local elections in November. Voters elected Juan Orlando Hernandez of the National Party as president for a four-year term to begin in January 2018. International observers generally recognized the elections to be free, but disputed the fairness and transparency of the results.

Civilian authorities at times did not maintain effective control over the security forces.

The most significant human rights issues included alleged arbitrary and unlawful killings; a complaint of torture; harsh and life-threatening prison conditions; arbitrary arrest or detention; unlawful interference with privacy; killings of and threats to media members by criminal elements and criminalization of libel; widespread government corruption, including in the judiciary; threats and violence against indigenous and Afro-descendent communities; and societal violence against lesbian, gay, bisexual, transgender, and intersex (LGBTI) persons.

The government took steps to prosecute and punish officials who committed abuses. Impunity existed in many cases, however, as evidenced by lengthy judicial processes, few convictions of perpetrators, and failures to prosecute intellectual authors of crimes. Perpetrators in emblematic cases dating back many years, such as the 2009 killing of the antidrug czar Julian Aristides Gonzalez, continued to enjoy impunity.

Organized criminal elements, including local and transnational gangs and narcotics traffickers, were significant perpetrators of violent crimes and committed acts of murder, extortion, kidnapping, torture, human trafficking, intimidation, and other threats and violence directed against human rights defenders, judicial authorities, lawyers, the business community, journalists, bloggers, and women and other members of vulnerable populations.

Section 1. Respect for the Integrity of the Person, Including Freedom from:

a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings
There were several reports that the government or its agents committed arbitrary or unlawful killings. In general the killings took place during law enforcement operations or were linked to other criminal activity by government agents. Civilian authorities investigated and arrested members of the security forces accused of human rights abuses. Impunity, however, remained a serious problem, with delays in some prosecutions and sources alleging corruption in judicial proceedings. The Violence Observatory of the Autonomous University of Honduras (UNAH) reported 11 deaths involving security forces during the first six months of the year. These included nine deaths involving the Honduran National Police (HNP) and two involving the Military Police for Public Order (PMOP). Following the November 26 elections, protests, looting, and clashes between protesters and security forces occurred through the end of the year. Nongovernmental organizations (NGOs) claimed security forces used excessive force to break up protests and killed between 16 and 22 individuals. Additional deaths were reported not at the hands of security forces but possibly related to postelectoral violence. An improvised explosive device killed at least one police officer during the violence. Authorities publicly stated they would investigate alleged human rights abuses and hold accountable members of the security forces who committed such abuses. They were also investigating individuals not part of the security forces for acts of violence and other criminal activity.

On February 20, authorities arrested Lelis Wilfredo Aguilar Fernandez, an HNP officer assigned to the Police Intelligence Unit, for the February 20 killing of Josue Matias Deras. Witnesses claimed that Aguilar shot Matias in the back at close range during a search operation and then planted a weapon at the crime scene in an attempt to claim the killing occurred in self-defense. On February 24, a judge ordered Aguilar held in custody pending trial.

The government continued to investigate the March 2016 killing of environmental and indigenous activist Berta Caceres. On January 12, a seventh suspect was arrested in Mexico in a joint operation between Honduran and Mexican officials and returned to Honduras. On February 8, Honduran authorities arrested an eighth suspect. On June 13, a judge found sufficient evidence against the first four suspects, arrested in May 2016, to retain them in custody and continue to criminal trial. This included a suspect who was an active-duty military officer at the time of the killing. On November 20, authorities arrested one current and one former Honduran National Police officer for tampering with evidence in the case.

On February 28, a court convicted military intelligence officers Elmer Eliazar Mejia Aguilar and Jose Luis Melgar Deras, members of the Office of the Director
General for Military Intelligence (C-2), of the 2014 premeditated killings of siblings Ramon Eduardo Diaz Rodriguez and Zenia Maritza Diaz Rodriguez. A judge ordered two other suspects on trial released.

On February 13, prosecutors and investigators from the Public Ministry and its Technical Criminal Investigation Agency arrested Wilmer Samuel Alvarez Pagoada as a suspect in the 2013 killing of chief money-laundering prosecutor Orlan Arturo Chavez. Authorities also issued an arrest warrant for former police commissioner Mario Guillermo Mejia Vargas on suspicion of organizing the killing. In 2013 two men on motorcycles fatally shot Chavez. Alvarez, a lawyer and computer expert, and Luis Alejandro Castro Nunez, formerly chief of security monitoring for the Supreme Court and a member of the military, were the suspected shooters. Castro was already in prison on other charges. The Police Purge Commission removed Mejia from the police in 2016. He surrendered to foreign authorities in 2016 for drug trafficking and was on trial in a foreign country. A judge ordered Castro and Alvarez detained in a maximum-security prison pending trial.

On September 8, a court sentenced Marvin Noe Andino Mascareno to 17 years’ imprisonment for the attempted murder of Hilda Emperatriz Caldera, widow of murdered antidrug official Alfredo Landaverde. Andino was sentenced in January 2016 to 22 years in prison for Landaverde’s murder. Caldera was wounded in that attack, which occurred in 2011, but attempted murder charges against Andino were dismissed by the trial court. The Public Ministry appealed the dismissal, which the Supreme Court overturned, and the attempted murder case was returned to the lower court.

There continued to be reports of violence related to land conflicts and criminal activity in the Bajo Aguan region, but the overall level of violence in the area was far below its 2012 peak. Beginning on August 27, several agricultural worker groups occupied at least seven African palm plantations in the Bajo Aguan region. During the occupations one worker was reportedly shot and injured by a plantation security guard. Following the eviction on August 28 of a worker group from a plantation owned by the Dinant Corporation, two Dinant security guards were found dead. An agricultural worker was found killed on September 20. Two security guards were detained for possible involvement in the killing but were released following forensic tests. Authorities carried out several peaceful evictions of agricultural workers in August and September. As of September 25, authorities continued to investigate the new killings. Denis Ramon Mejia Castillo was arrested in September for the killings of Manuel Milla Ruiz and Allan Reynery.
Perez in 2016. No members of the security forces were reported to have been responsible for deaths related to the land conflict.

Organized criminal elements, including drug traffickers and local and transnational gangs such as MS-13 and the 18th Street gang, committed killings, extortion, kidnappings, human trafficking, and intimidation of police, prosecutors, journalists, women, and human rights defenders. Major urban centers and drug trafficking routes experienced disproportionate rates of violence. The UNAH Violence Observatory reported that as of September, 84 individuals working in the transportation sector had been killed during the year, often for failing to make extortion payments. This represented a 52 percent reduction from 2016.

According to the UNAH Violence Observatory, as of September there was a significant reduction in the overall annual homicide rate compared with 2016, dropping from approximately 60 per 100,000 to an estimated 46.5 per 100,000. Reports linked many of these homicides to organized crime and gangs.

As of November the Public Ministry’s Bajo Aguan Task Force (created in 2014 to investigate cold homicide cases related to land conflicts), had obtained five convictions and four new arrest warrants, made five arrests, and referred six new cases for prosecution. The task force performed 20 exhumations. Since its inception, the task force obtained 44 arrest warrants, made 23 arrests for homicides related to the land conflict, and secured 11 homicide convictions.

b. Disappearance

There were no reports of disappearances by or on behalf of government authorities.

The government continued to make significant advances in combatting kidnappings by criminals. On September 23, authorities rescued journalist and opposition Liberal Party political candidate Victor Manuel Pineda, whose family reported him kidnapped on September 4. The HNP reported 22 kidnappings in 2016, a 45-percent decrease from 2015 and 76-percent decrease from 2013. The HNP reported that in 2016 it rescued 18 victims of the 22 kidnapped. Three more were freed through negotiations, and one was killed while a hostage. The HNP estimated that it prevented more than 56 million lempiras ($2.37 million) in ransom payments to kidnappers in 2016.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment
Although the constitution and law prohibit such practices, government officials received complaints and investigated alleged abuse by members of the security forces on the streets and in detention centers. As of September the NGO Center for the Prevention, Treatment, and Rehabilitation of Victims of Torture and their Families (CPTRT) reported one complaint against security forces for torture.

Prison and Detention Center Conditions

Prison conditions were harsh and sometimes life threatening due to pervasive gang-related violence and the government’s failure to control criminal activity within the prisons. Prisoners suffered from overcrowding, insufficient access to food and water, violence, and abuse by prison officials.

Physical Conditions: Prisoners suffered from severe overcrowding, malnutrition, lack of adequate sanitation and medical care, and, in some prisons, lack of adequate ventilation and lighting. The Ministry of Human Rights, Justice, Governance, and Decentralization reported that, as of August 21, the total prison population was 18,950 in 27 prisons, a 10-percent increase over August 2016. According to the ministry, the system had designed capacity for approximately 10,600 inmates. This included two prisons that were opened in late 2016 with capacity for 1,600 inmates. In October and November, the government closed the San Pedro Sula prison and the Santa Barbara prison, two of the most overcrowded facilities and both located in city centers, and transferred the inmates to other facilities. Family members and NGOs complained that transfer to prisons farther away increased cost of visits and made it more difficult for prisoners to maintain family relationships. Local authorities were concerned about additional overcrowding and limited rehabilitation resources.

The National Prison Institute (INP) reported that as of August 28, 23 male inmates had died in prison, 16 from natural causes, and seven from violence. The INP reported no deaths involving prison officials. In contrast, the quasi-governmental National Committee for the Prevention of Torture, Cruel, Inhuman, or Degrading Treatment (CONAPREV) reported that 19 prisoners died in altercations between inmates, three committed suicide, and four died from illness. In August and September, authorities discovered clandestine graveyards in the Tamara prison in areas controlled by MS-13 gang members following the transfer of gang leaders to a new high-security prison. Forensic authorities reported that some of the bodies had been buried more than four years.
As of August the Ministry of Human Rights, Justice, Governance, and Decentralization reported that the country’s four pretrial detention centers held 49 individuals. Three of these centers were on military installations, and the other was located at the HNP’s Special Operations Command (known as COBRAS). The government used pretrial detention centers to hold high-profile suspects and those in need of additional security. The military provided some support services to the three detention centers located on military bases, but neither administered them nor provided guards for the facilities. Instead, the INP oversaw them, as it did other prisons.

Due to overcrowding and lack of adequate training for prison staff, prisoners were subjected to serious abuse. Prisons lacked trained personnel to safeguard the psychological and physical well-being of inmates, and some prisons lacked sufficient security personnel.

There was pervasive gang-related violence, and the government failed to control criminal activity within the prisons. Many prisoners had access to weapons and other contraband, inmates attacked other inmates with impunity, escapes were frequent, and inmates and their associates outside prison threatened prison officials and their families. These conditions contributed to an unstable, dangerous environment in the penitentiary system. Media reported multiple prison riots and violent confrontations between gang members in prisons throughout the year.

The government took steps to control violence by transferring the highest-security detainees--primarily gang members and violent convicts--to two newer maximum-security prisons. High-security detainees complained that authorities confined them to their cells for long periods and restricted their access to family members and legal representation.

The government held approximately one-half of its estimated 355 female prisoners at a facility for mothers with young children and pregnant women. Others were housed in separate areas of men’s prisons. In the San Pedro Sula prison, for instance, approximately 70 women resided in their own wing of the prison but shared communal space with upwards of 2,900 men. Children up to age three could stay with their mothers in prison.

Authorities did not segregate those with tuberculosis or other infectious diseases from the general prison population; there was only limited support for persons with mental illnesses or disabilities. On September 21, officials reported that 201 prisoners were being treated for tuberculosis, including three inmates with drug-
resistant tuberculosis under treatment at the national cardio-pulmonology institute. The officials also stated that tuberculosis-positive inmates received a monthly stipend to pay for special food. CONAPREV reported that every prison had a functioning health clinic with at least one medical professional, except for the National Penitentiary in Francisco Morazan Department. Basic medical supplies and medicines, particularly antibiotics, were in short supply throughout the prison system. In most prisons only inmates who purchased bottled water or had water filters in their cells had access to potable water.

As of August the NGO Casa Alianza reported there were 574 minors (506 boys and 68 girls) in five juvenile detention centers, segregated by gender. This represented a 16-percent increase from 2016. NGOs expressed their concern that 45 minors, all of whom were gang members, were housed in the HNP COBRAS pretrial detention center. Casa Alianza reported 259 youths benefited from alternative sentencing outside the juvenile detention system (see section 6, Institutionalized Children). On June 1, one youth died due to injuries from a fire following a riot on May 23. On July 3, a 23-year-old prisoner was killed by fellow inmates after passing himself off as a minor. Civil society reported difficulty accessing some youth detention centers due to confrontations between inmates and authorities.

**Administration:** Prisoners could submit complaints to judicial authorities without censorship and could submit requests for the investigation of inhuman conditions to the director of the prison in which they were incarcerated. Directors could then transfer the complaints to the INP director. Prisoners also could file complaints with the INP’s Human Rights Protection Unit, the Public Ministry’s Office of the Special Prosecutor for Human Rights, and the Ministry of Human Rights, Justice, Governance, and Decentralization. The National Human Rights Commission (CONADEH) also accepted complaints and conducted investigations. The results of investigations by NGOs and government officials were available to the public. As of August the INP reported receiving no formal complaints for mistreatment of detainees. The Public Ministry reported receiving 22 complaints of excessive force, two for mistreatment, and four for torture by prison officials. The ministry conducted 36 investigations in 2016 and 16 as of September. CONAPREV reported there were three complaints of torture and mistreatment in detention centers as of September. NGOs reported that some prisoners were reluctant to file official complaints because they did not trust the authorities and there was no effective system for witness protection (see also section 1.c.).
Independent Monitoring: The government generally permitted prison visits by independent local and international human rights observers, including the International Committee of the Red Cross. CONAPREV made more than a dozen visits to juvenile detention facilities as of the end of August. The judicial system was legally responsible for monitoring prison conditions and guaranteeing the rights of prisoners.

Improvements: In January the congress passed legal reforms to the INP in an effort to professionalize the prison guard system. On September 27, the congress passed a law to allow some nonviolent pretrial detainees to use electronic monitoring systems to reduce the overcrowding of prisons. The government reported refurbishing six existing penal facilities, including maintenance and improvements to kitchens, libraries, workshops, and administrative facilities.

During the year the government improved health services for prisoners. As of August the government had 18 general practitioners, seven specialists, 49 nurses, and a budget of 54 million lempiras ($2.29 million) to provide health services in prisons. In addition CONAPREV reported an increase in technical personnel, including public defenders, psychologists, and social workers, available to assist prisoners.

d. Arbitrary Arrest or Detention

The constitution and law prohibit arbitrary arrest and detention and provide for the right of any person to challenge the lawfulness of his/her arrest or detention in court. Human rights NGOs reported that authorities at times failed to enforce these requirements effectively and used a policy of arbitrary detentions or arrests to inhibit protest. CONADEH reported 12 cases of arbitrary arrest as of September. The Committee of Relatives of the Disappeared in Honduras reported 23 illegal or arbitrary arrests: five by the PMOP, 13 by the HNP, and five by municipal police.

Role of the Police and Security Apparatus

The HNP maintains internal security and reports to the Secretariat of Security. The Technical Agency for Criminal Investigations at the Public Ministry (Attorney General’s Office) has legal authority to investigate 21 types of crimes and make arrests. The armed forces, which report to the Secretariat of Defense, are responsible for external security but also exercise some domestic security responsibilities. Some larger cities have independent police forces that supplement the HNP and report to municipal authorities. The PMOP reports to military
authorities but conducts operations sanctioned by civilian security officials as well as by military leaders. As of August the PMOP had approximately 4,000 personnel organized into eight of 10 planned battalions and was present in all 18 departments. The National Interinstitutional Security Force (FUSINA) coordinates the overlapping responsibilities of the HNP, PMOP, National Intelligence Directorate, Public Ministry, and national court system. FUSINA reports to the National Security and Defense Council. The president chairs the council, which includes representatives of the Supreme Court, National Congress, Public Ministry, and Secretariats of Security and Defense.

Civilian authorities at times did not maintain effective control over the security forces. The government took steps to investigate and punish abuses, but corruption and inefficiency resulted in impunity in many cases. The armed forces surrendered members accused of human rights violations to civilian authorities. The armed forces sometimes dishonorably discharged such individuals, even before a criminal trial. The Public Ministry, primarily through the Office of the Special Prosecutor for Crimes against Life, is responsible for investigating cases in which a government agent is allegedly responsible for killing a civilian. Prosecutors try such cases in civilian courts. Prosecutors and judges attached to FUSINA prosecute and hear cases related to FUSINA operations. A unit within the Office of the Special Prosecutor for Crimes against Life manages some cases of homicides committed by members of the security forces and government officials. The human rights office of the joint staff of the armed forces investigated allegations of human rights abuses by members of the armed forces.

The human rights office of the joint staff of the armed forces reported that in 2016 more than 7,000 members of the armed forces, including army, navy, air force, PMOP, and others, received training on human rights and use of force. More than 3,000 received gender training. The armed forces and various NGOs provided the training. As of August the Vice Ministry of Human Rights and Justice had trained more than 3,500 members of the armed forces on human rights.

Corruption and impunity remained serious problems within the security forces. Some members of the HNP committed crimes, including crimes linked to local and international criminal organizations. As of August the CPTRT reported 55 cases of corruption linked to members of the security forces, including 33 prison officials.
As of November 30, the Police Purge Commission reported that, since its creation in April 2016, it had reviewed the conduct of approximately 14,000 HNP officers and removed 4,445.

Arrest Procedures and Treatment of Detainees

The law provides that police may make arrests only with a warrant, unless they make the arrest during the commission of a crime, there is strong suspicion that a person has committed a crime and might otherwise evade criminal prosecution, they catch a person in possession of evidence related to a crime, or a prosecutor has ordered the arrest. The law requires police to inform persons of the grounds for their arrest and bring detainees before a competent judicial authority within 24 hours. It stipulates that a prosecutor then has 24 additional hours to decide if there is probable cause for indictment, whereupon a judge has 24 more hours to decide whether to issue a temporary detention order. Such an order may be effective for up to six days, after which the judge must hold a pretrial hearing to examine whether there is probable cause to continue pretrial detention. The law allows persons charged with some felonies to avail themselves of bail and gives prisoners a right of prompt access to family members. The law allows the release of other suspects pending formal charges, on the condition that they periodically report to authorities. The government generally respected these provisions. Persons suspected of any of 22 specific felonies must remain in custody, pending the conclusion of judicial proceedings against them. Some judges, however, ruled that such suspects may be released on the condition that they continue to report periodically to authorities. The law grants prisoners the right to prompt access to a lawyer of their choice and, if indigent, to government-provided counsel, although authorities did not always abide by these requirements.

Arbitrary Arrest: The Public Ministry reported 35 cases of illegal detention or arbitrary arrest as of October.

Pretrial Detention: Judicial inefficiency, corruption, and insufficient resources delayed proceedings in the criminal justice system, and lengthy pretrial detention was a serious problem. According to the UNAH’s Violence Observatory, as of July, 55 percent of the prison population had not been convicted. For crimes with minimum sentences if convicted of six years’ imprisonment, the law authorizes pretrial detention of up to two years. The prosecution may request an additional six-month extension, but many detainees remained in pretrial detention much longer, including for more time than the maximum period of incarceration for their alleged crime. Pretrial detainees were often held with convicted prisoners. The
law does not authorize pretrial detention for crimes with a maximum sentence of five years or less. The law mandates that authorities release detainees whose cases have not yet come to trial and whose time in pretrial detention already exceeds the maximum prison sentence for their alleged crime. Even so, many prisoners remained in custody after completing their full sentences, and sometimes even after an acquittal, because officials failed to process their releases expeditiously.

e. Denial of Fair Public Trial

The constitution and law provide for an independent judiciary, but the justice system was poorly funded and staffed, inadequately equipped, often ineffective, and subject to intimidation, corruption, politicization, and patronage. Low salaries and a lack of internal controls rendered judicial officials susceptible to bribery. Powerful special interests, including organized criminal groups, exercised influence on the outcomes of some court proceedings. The Supreme Court approved a National Plan to Eradicate Judicial Delay, aimed at reducing wait times for court cases. As part of that plan, the court established three new mobile justices of the peace in July and inaugurated new courts: one in July, two in August, and two in October.

On June 30, Teodoro Bonilla, former vice president of the Judicial Council, was found guilty of influence peddling for using his position in the judiciary to obtain dismissal of charges against two relatives facing criminal prosecution for engaging in organized criminal activities. On September 11, Bonilla was sentenced to serve six years in prison and to pay a fine of 200,000 lempiras ($8,470), the first ever conviction for influence peddling by a government official. The Public Ministry had requested the maximum sentence of nine years’ imprisonment and a fine of 300,000 lempiras ($12,700).

Trial Procedures

The law provides for the right to a fair and public trial; however, the judiciary did not always enforce this right.

The law presumes an accused person is innocent. The accused has the right to an initial hearing before a judge, to ask for bail, consult with legal counsel in a timely manner, have a lawyer provided by the state if necessary, and request an appeal. Defendants can receive free assistance of an interpreter, and the Supreme Court created a new public registry of interpreters in November to ensure that defendants had access to free interpretation. The law permits defendants to confront witnesses.
against them and offer witnesses and evidence in their defense. Authorities generally respected these rights.

Credible observers noted problems in trial procedures such as a lack of admissible evidence, judicial corruption, widespread public distrust of the legal system, witness intimidation, and an ineffective witness protection program.

**Political Prisoners and Detainees**

There were no reports of political prisoners or detainees.

**Civil Judicial Procedures and Remedies**

The law establishes an independent and impartial judiciary in civil matters, including access to a court to seek damages for human rights violations. Litigants may sue a criminal defendant for damages if authorized by a criminal court. Individuals and organizations may appeal adverse domestic decisions to the Inter-American Human Rights system.

**f. Arbitrary or Unlawful Interference with Privacy, Family, Home, or Correspondence**

Although the constitution and law generally prohibit such actions, a legal exception allows government authorities to enter a private residence to prevent a crime or in case of other emergency. There were credible complaints that police occasionally failed to obtain the required authorization before entering private homes. As of June the judicial system reported three convictions in 10 alleged cases of illegal entry by government officials. The CPTRT reported five cases of illegal entry into homes by members of the security forces as of August. There were also complaints that security forces entered private homes without the required authorization during a 10-day state of emergency and curfew imposed in December.

Ethnic minority rights leaders and farmworker organizations continued to claim that the government failed to redress actions taken by the security forces, government agencies, and private individuals and businesses to dislodge farmers and indigenous peoples from lands over which they claimed ownership based on land reform laws or ancestral land titles (see section 6, Indigenous People).

**Section 2. Respect for Civil Liberties, Including:**
a. Freedom of Expression, Including for the Press

The constitution and laws provide for freedom of expression, including for the press, with some restrictions, and the government generally respected this right. A small number of powerful business magnates with intersecting commercial, political, and family ties owned most of the major news media.

Freedom of Expression: The penal code includes a provision to punish persons who directly, or through public media, incite discrimination, hate, contempt, repression, or violence against a person, group, or organization for reasons of gender, age, sexual orientation, gender identity, political opinion or affiliation, marital status, race or national origin, language, nationality, religion, family affiliation, family or economic situation, disability, health, physical appearance, or any other characteristic that would offend the victim’s human dignity.

Media associations and NGOs expressed concerns about revisions to the penal code in January that criminalize certain speech, including on social media, regarding terrorism.

Violence and Harassment: There were continued reports of harassment and threats against journalists and social communicators (including social and political commentators, talk-show hosts, and bloggers). Reports linked most of these instances of harassment and threats to organized criminal elements and gangs.

Government officials at all levels publicly denounced violence and threats of violence against members of the media and social communicators. UNAH’s Violence Observatory reported two killings of journalists and social communicators during the first six months of the year. For example, on January 17, journalist Igor Abisai Padilla Chavez was shot and killed. There were also many reports of intimidation and threats against members of the media and their families, including from members of the security forces and from organized crime. It was usually unclear whether violence and threats against journalists were linked to their work or were products of generalized violence.

Human rights defenders, including indigenous and environmental rights activists, political activists, labor activists, and representatives of civil society working to combat corruption, reported threats and acts of violence. Civil society organizations, including students, agricultural workers groups, and indigenous rights groups, criticized the government and its officials for allegedly criminalizing
and stigmatizing social protest (see section 2.b.). Several senior state officials made public comments that local and international civil society organizations interpreted as threatening towards their members. This included the minister of environment, who in January suggested police should arrest members of international NGOs reporting on corrupt activities, and the chief justice of the Supreme Court at the midterm review of the Universal Periodic Review in Geneva, who stated domestic and international civil society acted in their own interests and presented false information that indirectly incited violence. Members of the Police Purge Commission, National Anti-Corruption Council, and Organization of American States’ Mission against Corruption and Impunity in Honduras (MACCIH) reported receiving threats. Among others, Olivia and Berta Zuniga, the daughters of killed activist Berta Caceres, reported being targets of multiple threatening incidents. The AFL-CIO’s International Solidarity Center reported threats against several labor leaders, including public sector union leaders (also see section 7.a.). On April 13, melon-sector union leader Moises Sanchez Gomez reported being attacked by several individuals who warned him to cease his union activities. His brother Hermes Misael Sanchez Gomez was injured by a machete in the attack.

The Ministry of Human Rights, Justice, Governance, and Decentralization continued to strengthen implementation of the 2015 Law for the Protection of Human Rights Defenders, Journalists, Social Communicators, and Justice Operators. A key part of this law was the creation of a national mechanism for the protection of human rights defenders and others protected by law. Some NGOs continued to express concern about weak implementation of the law and limited resources available for the protection of human rights defenders. Civil society organizations continued to criticize the government’s failure to investigate threats against activists and journalists adequately.

The government allocated a budget of 10 million lempiras ($424,000) in 2016, and 15.2 million lempiras ($644,000) in 2017--10 million lempiras ($424,000) from the National Budget for the operation of the mechanism, and an additional 5 million lempiras ($212,000) for protective measures from the Security Tax for the protection mechanism. By June 30, it had 27 permanent and contract staff. As of June 30, the mechanism had received 81 new requests for protection, of which 62 met the requirements of the law and were accepted. This increased the total requests for protection since the law’s approval in 2015 to 168. Of these, it had accepted 118, and from these, 14 cases were closed because the beneficiaries had left the country or had rejected the protection measures. The remaining 104 cases included 73 human rights defenders, 19 journalists, three social communicators,
and nine justice-sector workers. Of these requests, 17 were from persons who were already beneficiaries of protection measures mandated by the Inter-American Commission on Human Rights (IACHR) that the Human Rights Office of the Ministry of Security continued to implement. As of June 30, the Ministry of Security had transferred eight cases to the protection mechanism of 66 outstanding IACHR orders for protection in the country.

The HNP’s Violent Crimes Task Force (VCTF) investigated crimes against high-profile and particularly vulnerable victims, including judges, journalists, human rights activists, and members of the LGBTI community. As of October 2, the VCTF had remitted 25 cases to the Public Ministry, carried out 34 raids with judicial orders, executed 12 warrants for capture, detained 26 persons involved in crimes, and obtained six judicial sentences.

Censorship or Content Restrictions: Members of media and NGOs said the press self-censored due to fear of retaliation from organized crime or corrupt government officials.

Libel/Slander Laws: Citizens, including public officials, can initiate criminal proceedings for libel and slander. On September 7, indigenous Garifuna community activist Miriam Miranda issued an alert that police were attempting to arrest her following charges of slander brought by international businessmen over land disputes between the businessmen and Garifuna communities.

A health ministry official charged a union activist with slander after the activist filed charges with the Public Ministry that the official had paid to have him killed following his public statements about corrupt activities in a regional hospital. The Public Ministry conducted an investigation and brought charges against the official, but a judge found insufficient evidence to continue to trial. The official subsequently brought charges of slander against the union leader. A judge dismissed a request by the union leader to dismiss the charges and ordered the case to proceed to trial.

National Security: Reporters without Borders and other civil society organizations continued to express concerns about potential abuse of the law for the Classification of Public Documents Related to Defense and National Security. Beginning in the third quarter of 2015, the government made available to the public some information about activities that the security tax and other trust funds support, and it incorporated trust fund numbers into the current budget. In June
MACCIH issued a report detailing the necessity of changing the law to effectively combat corruption.

Nongovernmental Impact: Some journalists and other members of civil society reported threats from members of organized crime. It was unclear how many of these threats were related to the victims’ professions or activism. Several anonymous social media sites, possibly linked to political parties, criticized activists, civil society organizations, and journalists who were critical of the government or opposition party policies.

Internet Freedom

The government did not restrict or disrupt access to the internet or censor online content, but there were credible reports that the government monitored private online communications. According to the International Telecommunication Union, in 2016 approximately 30 percent of the population used the internet.

Academic Freedom and Cultural Events

There were no government restrictions on academic freedom or cultural events.

b. Freedoms of Peaceful Assembly and Association

Freedom of Peaceful Assembly

The constitution and law provide for freedom of peaceful assembly, and the government generally respected this right. The law requires a judge to issue an eviction order for individuals occupying public and private property if security forces had not evicted the individuals within a specified period of the occupation. Some local and international civil society organizations, including students, agricultural workers groups, political parties, and indigenous rights groups, alleged that members of the security forces used excessive force to break up peaceful demonstrations. As results were delayed in the close presidential election, protests related to perceived fraud and manipulation of results broke out in late November and early December. Human rights organizations alleged that members of the security forces used excessive force in postelection violence and killed between 16 and 22 individuals. Some protesters were violent, attacking security forces and members of the media with weapons such as rocks and Molotov cocktails, killing at least one member of the security forces in December, damaging public and private property, and limiting access to public and private facilities. On several
occasions police used tear gas and water cannons to disperse violent protesters. Authorities temporarily detained protesters wielding rocks, machetes, and other dangerous items and would sometimes press charges.

On August 15, during a protest over a hydroelectric project in the community of Pajuiles, police used tear gas to disperse the protesters and arrested five individuals for instigating violence. Protesters claimed they became violent only after police arrested the peaceful protest leaders and allegedly assaulted a pregnant woman in the process.

Many civil society leaders and organizations condemned a decision by UNAH leaders authorizing police to evict protesters on September 8 from the Tegucigalpa UNAH campus. During the eviction civil society organizations criticized police for excessive use of force against a group of students and human rights activists. The students claimed university security personnel locked them in a campus building when police ordered everyone to leave the campus. Police attempted to detain the students after they escaped from the locked building, at which point they locked themselves in a vehicle with human rights defenders who claimed they had arrived to monitor the situation. A video surfaced showing police pepper-spraying the group as they left the vehicle. Several of the individuals required medical attention, and police reportedly failed to provide it. The police claimed they used appropriate force and only acted following aggressive actions by some of the students. The Police Purge Commission called for the police officers involved to be suspended and the launch of a formal investigation. On September 26, a judge upheld charges of trespassing against the students and charges of attacking state security for three human rights activists.

Law enforcement evictions of protesters, land rights activists, and others were generally conducted peacefully, although injuries were occasionally reported. As with the UNAH students, the government charged some individuals with trespassing after they occupied disputed land or public buildings and required them to present themselves to judicial authorities periodically while legal proceedings against them were pending. Civil society organizations claimed that by doing so, the government was criminalizing social protest and favoring powerful business and political elites that had acquired resources through corruption and other criminal activity.

Freedom of Association
The constitution and law provide for freedom of association, and the government generally respected this right. The penal code prohibits illicit association, defined as gatherings by persons bearing arms, explosive devices, or dangerous objects with the purpose of committing a crime, and prescribes prison terms of two to four years and a fine of 30,000 to 60,000 lempiras ($1,270 to $2,540) for anyone who convokes or directs an illicit meeting or demonstration. There were no reports of such cases during the year, although authorities charged some protesters with sedition. Public sector unions expressed concern over some officials refusing to honor existing bargaining agreements and firing union leaders. The law prohibits police from unionizing (see section 7.a.).

c. Freedom of Religion

See the Department of State’s International Religious Freedom Report at www.state.gov/religiousfreedomreport/.

d. Freedom of Movement

The law provides for freedom of internal movement, foreign travel, emigration, and repatriation, and the government generally respected these rights.

The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations to provide protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

Abuse of Migrants, Refugees, and Stateless Persons: Transiting migrants were vulnerable to abuse by criminal organizations.

In-country Movement: In practical terms there were areas where authorities could not assure freedom of movement because of criminal activity and a lack of significant government presence.

Internally Displaced Persons (IDPs)

In 2016 UNHCR estimated there were approximately 174,000 IDPs in the country. In 2016 CONADEH identified 87 new cases of forced displacement and 370 cases of individuals at risk of forced displacement. The CPTRT reported 166 new cases of forced displacement as of September. Internal displacement was generally caused by violence, national and transnational gang activity, human trafficking,
and migrant smuggling. Official data on forced internal displacement was limited in part because gangs controlled many of the neighborhoods that were sources of internal displacement (see section 6, Displaced Children).

The government maintained an interinstitutional commission to address the problem of persons displaced by violence, which focused on policy development to address IDPs. In 2016 the commission presented a draft law to the cabinet for the prevention of internal displacement and protection of internally displaced persons that would clarify the role and presence of the commission and the types of government assistance provided to IDPs. In 2016 CONADEH also created a Forced Internal Displacement Unit (UDFI), in cooperation with UNHCR. The UFDI responded to claims of forced displacement with a focus on humanitarian assistance to victims and documentation of incidents and trends. Observers criticized the government for focusing on IDPs from a security standpoint, and not protection, and noted the commission and government response were hampered by limited budgetary resources, which prevented the law’s passage or the development or implementation of a holistic government response to internal displacement. On September 12, the government authorized the creation of an independent Secretariat for Human Rights effective January 1, 2018. The secretariat is to have a directorate to address IDP rights. The government hosted the Comprehensive Refugee Response Framework conference in October and volunteered to be part of a UNHCR pilot program to respond to displacement.

Protection of Refugees

The government cooperated with UNHCR and other humanitarian organizations to provide protection and assistance to refugees and other persons of concern.

Access to Asylum: The law allows for the granting of asylum or refugee status. The government has established a system to provide protection to refugees, but at times there were significant delays in processing provisional permits for asylum applicants. As of April authorities had received 14 applications for asylum, of which they approved three and continued to process the remainder.

Section 3. Freedom to Participate in the Political Process

The constitution and law provide citizens the right to choose their government in free and fair periodic elections held by secret ballot and based on nearly universal and equal suffrage. The law does not permit active members of the military or the
civilian security forces to vote. The constitution prohibits practicing clergy from running for office or participating in political campaigns.

Elections and Political Participation

Recent Elections: In December, Juan Orlando Hernandez of the National Party was declared the winner in the November 26 elections. International observers generally agreed the elections were free but disputed the fairness and transparency of the results. The Organization of American States (OAS) and the European Union (EU) both fielded observer teams for the November 26 elections, and agreed that the margin of victory separating incumbent President Hernandez from challenger Salvador Nasralla was extremely close. The OAS mission found that this small margin, combined with numerous irregularities in vote processing, left it unable to say with certainty who won the presidential election. The EU electoral observation mission agreed that there were serious irregularities in the process, but concluded that the safeguards built into the system, including posting of voting results forms on a public website, helped ensure transparency. NGOs reported irregularities, including problems with voter rolls, the buying and selling of electoral workers’ credentials, and lack of transparency in campaign financing.

Political Parties and Political Participation: Civil society and opposition parties accused officials of using government resources to attract voters. A new law passed in January aims to help address this issue (see section 4, Financial Disclosure).

Participation of Women and Minorities: No laws limit the participation of women and/or members of minorities in the political process, and they did participate. Women, however, suffered political violence, which ranged from harassment for voting against party lines to receiving death threats for their political participation.

Section 4. Corruption and Lack of Transparency in Government

The law provides for criminal penalties for corruption by officials, but authorities did not implement the law effectively, and officials frequently engaged in corrupt practices with impunity. There were numerous reports of government corruption during the year. The government took steps to address corruption at high levels in government agencies, including arresting and charging members of congress, judges, prosecutors, current and former senior officials, mayors and other local authorities, and police officers. The quasi-governmental National Anticorruption Council had an investigative unit of 15 persons. The council receives government
funding, which obliges it to disclose the names of its investigators, making them vulnerable to reprisals. Council staff reported credible personal threats and attempts at intimidation. NGOs said that some individuals who reported public corruption also received threats.

The MACCIH began operations in the country in April 2016 with a mandate to prevent and combat corruption, reform the criminal justice system, reform aspects of the political and elections legal framework, and improve public security.

**Corruption:** Prosecutions of public-sector corruption predominantly targeted low-level officials and focused on charges of abuse of authority and misconduct in public office, which were easier to prove but carried lower penalties than illicit enrichment, fraud, and money laundering. There were reports that the government’s anticorruption institutions did not take sufficient steps to contain high-level corruption and were unwilling or lacked the professional capacity and resources to investigate, arrest, and prosecute those involved. On September 11, new anticorruption courts staffed with 11 judges and magistrates began operating in Tegucigalpa and San Pedro Sula. In May 2016 the Supreme Court ordered the creation of these special courts in order to investigate crimes including corruption, bribery, misuse of public office, misappropriation of public funds, and falsification of documents. Funded by the security tax, the courts were initially provided an approximately 6.5 million lempira ($275,000) budget, and in January judges were selected by a commission that included representatives from the NGO Association for a Better Society and the MACCIH.

On June 19, a tribunal of judges returned guilty verdicts against five former public officials for using shell companies to divert more than 290 million lempiras ($12.3 million) from the Social Security Institute. The tribunal also found defendant Mario Zelaya Rojas, the former director of the institute, guilty on charges of abuse of authority and fraud, and defendants Jose Ramon Bertetty and Vivian Melissa Juarez Fiallos guilty of violation of duties of public officials and fraud. This was the fourth conviction obtained by the Public Ministry against Zelaya and brought total convictions obtained in the case to 15. One of the convictions against Zelaya resulted in a sentence of 15 years’ imprisonment, the longest on corruption charges for a former public official in the history of the country.

On July 13, the MACCIH announced the start of an investigation into the private energy company Desarrollos Energeticos, SA (DESA), partially owned by the Atala family. Civil society long maintained that DESA, parent company of the controversial Agua Zarca hydroelectric plant, had ties to the killing of
environmental activist Berta Caceres and that government corruption contributed to the climate of impunity surrounding her death. One DESA employee and one former DESA employee were among eight suspects being prosecuted for her killing.

Financial Disclosure: Public officials are subject to financial disclosure laws but did not always comply. The law mandates that the Supreme Auditing Tribunal monitor and verify disclosures. The tribunal published its reports on its website and published the names of public officials who did not comply with disclosure laws. In January the congress passed a Campaign Finance Law that created a Financing, Transparency, and Accountability Unit to improve political campaign fiscal transparency. On May 30, the congress elected and swore in three magistrates to oversee the unit, which falls under the purview of the Supreme Electoral Tribunal. The new law and unit require political candidates and parties to open bank accounts and report all expenditures in an effort to increase transparency for elected government officials.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Abuses of Human Rights

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were somewhat cooperative and responsive to their views. Human rights organizations criticized government officials for lack of access and responsiveness. Some human rights organizations claimed that government officials made statements about activists and organizations that constituted threats or harassment (see sections 2.a. and 2.b.).

The United Nations or Other International Bodies: Some civil society organizations criticized the government for failing to comply with, or inadequately complying with, rulings by the Inter-American Human Rights Court and protection measures ordered by the court and the IACHR.

rights abuses by government officials. The congress had a Human Rights Committee. The Ministries of Security and Defense both had human rights offices.

The government continued to implement 37 recommendations from a Truth and Reconciliation Commission created after the 2009 political crisis.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

Women

Rape and Domestic Violence: The law criminalizes all forms of rape of men or women, including spousal rape. The government considers rape a crime of public concern, and the state prosecutes rapists even if victims do not press charges. The penalties for rape range from three to nine years’ imprisonment, and the courts enforced these penalties.

The law provides penalties of up to four years in prison for domestic violence; however, if a victim’s physical injuries do not reach the severity required to categorize the violence as a criminal act, the only legal penalty for a first offense is a sentence of one to three months of community service. Female victims of domestic violence are entitled to certain protective measures. Abusers caught in the act may be detained for up to 24 hours as a preventive measure. The law provides a maximum sentence of three years in prison for disobeying a restraining order connected with the crime of intrafamilial violence.

In cooperation with the UN Development Program, the government operated consolidated reporting centers in Tegucigalpa and San Pedro Sula where women could report crimes, seek medical and psychological attention, and receive other services. These reporting centers were in addition to the 298 government-operated women’s offices--one in each municipality--that provided a wide array of services to women, focusing on education, personal finance, health, social and political participation, environmental stewardship, and prevention of gender-based violence.

Sexual Harassment: Both the penal and labor codes criminalize various forms of sexual harassment. Violators face penalties of one to three years in prison and possible suspension of their professional licenses, but the government did not effectively enforce the law.

Coercion in Population Control: There were no reports of coerced abortion, involuntary sterilization, or other coercive population control methods. Estimates
on maternal mortality and contraceptive prevalence are available at:  
www.who.int/reproductivehealth/publications/monitoring/maternal-mortality-
2015/en/.

Discrimination: Although the law accords women and men the same legal rights 
and status, including property rights in divorce cases, many women did not fully 
enjoy such rights. Most women in the workforce engaged in lower-status and 
lower-paying informal occupations, such as domestic service, without the benefit 
of legal protections. By law women have equal access to educational 
opportunities.

Children

Birth Registration: Children derive citizenship by birth in the country, from the 
citizenship of their parents, or by naturalization. Although birth registration was 
widely available in 2015, UNICEF reported that, according to the National 
Population and Housing Census of 2013, an estimated 65,000 children did not have 
birth registration documents. The largest numbers of unregistered children were in 
indigenous and Afro-Honduran communities.

Education: Education is tuition-free, compulsory, and universal through the 12th 
grade, although high school students had to pay fees.

Child Abuse: Child abuse remained a serious problem. The law establishes prison 
sentences of up to three years for child abuse.

The Violence Observatory reported the homicides of 326 children as of August. 
As of July Casa Alianza reported there were no arrests in 80 percent of homicide 
cases of individuals age 23 and under. While there were some improvements in 
the overall security situation, there were reports that police committed acts of 
violence against poor youths.

For additional information, see Appendix C.

Early and Forced Marriage: On July 12, the congress amended the law to raise the 
minimum legal age of marriage for both boys and girls to 18 with parental consent. 
It was previously 16 for girls with parental consent. According to government 
statistics, 10 percent of women married before age 15 and 37 percent before age 
18.
Sexual Exploitation of Children: The commercial sexual exploitation of children, especially in sex trafficking, continued to be a problem. The country was a destination for child sex tourism. The legal age of consent is 18. There is no statutory rape law, but the penalty for rape of a minor under age 12 is 15 to 20 years in prison, or nine to 13 years in prison if the victim is age 13 or older. Penalties for facilitating child sex trafficking are 10 to 15 years in prison, with fines ranging from one million to 2.5 million lempiras ($42,400 to $106,000). The law prohibits the use of children under 18 for exhibitions or performances of a sexual nature or in the production of pornography.

Displaced Children: Many children lived on the streets. Casa Alianza estimated 15,000 children were homeless and living on the streets, primarily in major cities. Casa Alianza assisted 596 street children as of August.

One civil society organization reported that common causes of forced displacement for youth included death threats for failure to pay extortion, attempted recruitment by gangs, witnessing criminal activity by gangs or organized crime, domestic violence, attempted kidnappings, family members’ involvement in drug dealing, victimization by traffickers, discrimination based on sexual orientation, sexual harassment, and discrimination for having a chronic illness.

Institutionalized Children: Between January 2015 and September 2016, at least 10 juveniles were killed while in detention in government facilities, nine of them in the Renaciendo juvenile detention center. CONAPREV reported four incidents at Renaciendo as of August, including violence between members of the 18th Street gang and another gang, Los Chirizos, resulting in the deaths of two minors affiliated with Los Chirizos and injuries to 11 other detainees.


Anti-Semitism

The Jewish community, located primarily in San Pedro Sula, numbered several hundred. Leaders of the Jewish community reported frequent expressions of anti-Semitism in political discourse and events, ranging from swastikas spray painted on public buildings to hate speech in political speeches and on social media.
HONDURAS

Trafficking in Persons

See the Department of State’s Trafficking in Persons Report at www.state.gov/j/tip/rls/tiprpt/.

Persons with Disabilities

The law prohibits discrimination against persons with physical, sensory, intellectual, and mental disabilities. The Public Ministry is responsible for prosecuting violations. The law requires that persons with disabilities have access to buildings, but few buildings were accessible, and the national government did not effectively implement laws or programs to provide such access.

The government had a disabilities unit in the Ministry of Development and Social Inclusion.

Indigenous People

In the 2013 census, approximately 8.5 percent of the population identified themselves as members of indigenous communities, but other estimates were higher. Indigenous groups included the Miskito, Tawahkas, Pech, Tolupans, Lencas, Maya-Chortis, Nahual, Bay Islanders, and Garifunas. They had limited representation in the national government and consequently little direct input into decisions affecting their lands, cultures, traditions, and the allocation of natural resources.

Indigenous communities continued to report threats and acts of violence against them and against community and environmental activists. Violence was often rooted in a broader context of conflict over land and natural resources, extensive corruption, lack of transparency and community consultation, other criminal activity, and limited state ability to protect the rights of vulnerable communities.

Communal ownership was the norm for most indigenous land, providing land-use rights for individual members of the community. Documents dating to the mid-19th century defined indigenous land titles poorly. Communities complained of lost, stolen, illegally sold, and otherwise contested historical titles. The government continued its efforts to recognize indigenous titles. Lack of clear land titles provoked land use conflicts with nonindigenous agricultural laborers, businesses, and government entities interested in developing lands that indigenous and other ethnic minority communities traditionally occupied or used.
Persons from indigenous and Afro-descendent communities continued to experience discrimination in employment, education, housing, and health services.

Acts of Violence, Discrimination, and Other Abuses Based on Sexual Orientation and Gender Identity

The law states that sexual orientation and gender identity characteristics merit special protection from discrimination and includes these characteristics in a hate crimes amendment to the penal code. Nevertheless, social discrimination against LGBTI persons was widespread. As of October the special prosecutor for human rights was investigating nine formal complaints of discrimination by LGBTI individuals in previous years. Representatives of NGOs that focused on the right to sexual diversity alleged that the PMOP and other elements of the security forces harassed and abused LGBTI persons. As of August APUVIMEH, an NGO that works with LGBTI persons, reported eight violent deaths of LGBTI persons in the central areas of the country. The UNAH Violence Observatory reported five homicides as of August. NGOs also documented multiple instances of assaults and discrimination against LGBTI persons, leading to forced displacement of some individuals.

LGBTI rights groups asserted that government agencies and private employers engaged in discriminatory hiring practices. LGBTI groups continued working with the VCTF, Ministry of Security, and Office of the Special Prosecutor for Human Rights to address concerns about intimidation, fear of reprisals, and police corruption. From September 2016 through July 2017, the VCTF made arrests in four cases.

Transgender women were particularly vulnerable to employment and education discrimination; many could find employment only as sex workers, substantially increasing their risk of violence. Transgender individuals noted their inability to get identity documents with their chosen gender.

HIV and AIDS Social Stigma

Access to employment, educational opportunities, and health services continued to be major challenges for persons with HIV/AIDS. The law provides persons with HIV the right to have access to, and remain in, employment and the education system. The law also defines administrative, civil, and criminal liability and
penalties for any violation of the law, which includes denial or delay in care for persons with HIV.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The law grants workers the right to form and join unions of their choice, bargain collectively, and strike. It prohibits employer retribution against employees for engaging in trade union activities. The law places a number of restrictions on these rights, such as requiring that a recognized trade union represent at least 30 workers, prohibiting foreign nationals from holding union offices, and requiring that union officials work in the same substantive area of the business as the workers they represent. In 2016 the STSS administratively ruled that seasonal workers could not hold leadership positions in a union. Labor unions criticized this decision, saying it violated labor rights and international standards. The law prohibits members of the armed forces and police, as well as certain other public employees, from forming labor unions.

The law requires an employer to begin collective bargaining once workers establish a union, and it specifies that if more than one union exists at a company the employer must negotiate with the largest.

The law allows only local unions to call strikes, prohibits labor federations and confederations from calling strikes, and requires that a two-thirds majority of both union and nonunion employees at an enterprise approve a strike. The law prohibits workers from legally striking until after they have attempted and failed to come to agreement with their employer, and it requires workers and employers to participate in a mediation and conciliation process. Additionally, the law prohibits strikes in a wide range of economic activities that the government has designated as essential services or that it considers would affect the rights of individuals in the larger community to security, health, education, and economic and social well-being.

The law prohibits certain public service employees from striking. The law permits workers in public health care, social security, staple food production, and public utilities (municipal sanitation, water, electricity, and telecommunications) to strike as long as they continue to provide basic services. The law also requires that public-sector workers involved in the refining, transportation, and distribution of petroleum products submit their grievances to the STSS before striking.
International Labor Organization (ILO) expressed concerns that restricting strikes in so many sectors was excessive. The law permits strikes by workers in export processing zones and free zones for companies that provide services to industrial parks, but it requires that strikes not impede the operations of other factories in such parks.

The STSS has the power to declare a work stoppage illegal, and employers may discipline employees consistent with their internal regulations, including firing strikers, if the STSS rules that a work stoppage is illegal. The ILO expressed concerns about the government’s authority to end disputes in several sectors, including oil production and transport, because such authority is vulnerable to abuse.

The government did not effectively enforce the law. A new law passed during the year substantially increases fines for labor law violations and updates the authorities of Ministry of Labor inspectors. Under the new law, the STSS can fine companies that violate the right to freedom of association. The law permits a fine of 300,000 lempiras ($12,700) per violation. If a company unlawfully dismisses founding union members or union leaders, the law stipulates that employers must also pay a fine equivalent to six months of the dismissed leaders’ salaries to the union itself. As of October 13, every fine imposed under the new law was under appeal, and no case had been resolved. The new law streamlines the process so that when the STSS imposes fines, inspectors no longer have to clear them through the Central Office of the Inspector General, a requirement that added a year or more to the time between an inspection and a fine. Both the STSS and the courts may order a company to reinstate workers, but the STSS lacked the means to ensure compliance. The reinstatement process in the courts was unduly long, lasting from six months to more than five years.

Workers had difficulty exercising the rights to form and join unions and to engage in collective bargaining, and the government failed to enforce applicable laws effectively. Public-sector trade unionists raised concerns about government interference in trade union activities, including its suspension or ignoring of collective agreements and its dismissals of union members and leaders.

Although there is no legal requirement that they do so, STSS inspectors generally accompanied workers when they notified their employer of their intent to form a union. In some cases STSS inspectors, rather than workers, directly notified employers of workers’ intent to organize. Workers reported that the presence and
participation of the STSS reduced the risk that employers would dismiss the union’s founders and later claim they were unaware of efforts to unionize.

Civil servants frequently engaged in illegal work stoppages without experiencing reprisals. Medical professionals and others continued to hold strikes throughout the year to protest arrears in salary and overtime.

Some employers either refused to engage in collective bargaining or made it very difficult to do so. Some companies also delayed appointing or failed to appoint representatives for required STSS-led mediation, a practice that prolonged the mediation process and impeded the right to strike. There were allegations that companies used collective pacts, which are collective contracts with nonunionized workers, to prevent unionization and collective bargaining because only one collective contract can exist in each workplace. Unions also raised concerns about the use of temporary contracts and part-time employment, suggesting that employers used these mechanisms to prevent unionization and avoid providing full benefits. A Supreme Court ruling requires that both unions and employers notify the STSS of new collective agreements before they go into effect. There were some complaints that employers delayed making such notifications.

Antiunion discrimination continued to be a serious problem. The three major union federations and several civil society groups noted that many companies paid the fines that government authorities imposed but continued to violate the law. Some failed to remedy violations despite multiple visits by STSS inspectors. Employers often threatened to close unionized factories and harassed or dismissed workers seeking to unionize. Local unions, the AFL-CIO’s International Solidarity Center, and other organizations reported that some employers dismissed union leaders in attempts to undermine union operations. Civil society organizations regularly raised concerns about practices by agricultural companies, particularly in the south. As of August the Solidarity Center reported that it was aware of 25 cases of individuals fired for union activism. In 2015 the STSS levied 650,000 lempiras ($27,500) in fines on 134 companies for labor rights violations. As part of a bilateral Monitoring and Action Plan signed by the minister of labor in 2015, in March the government increased fines for violations of labor laws through the new labor inspection law.

Employers often failed to comply with STSS orders requiring them to reinstate workers fired for engaging in union activities. The International Solidarity Center reported threats against several labor leaders, including public-sector labor union leaders. Civil society groups reported three labor activists or union leaders had
been violently attacked as of August. As of September NGOs documented eight cases of threats or violence against union leaders during the year, including leaders in the agricultural and public sectors.

There was credible evidence that some employers in the manufacturing industry continued to blacklist employees who sought to form unions. Labor activists highlighted one export factory, Petralex, that allegedly closed operations in response to unionization and reopened under a new name, blacklisting former union members. Some companies in other sectors, including the banana industry, established employer-controlled unions that prevented the formation of independent unions because of legal restrictions on the number of unions and collective bargaining agreements allowed per company.

Several companies in export processing zones had solidarity associations that functioned similarly to company unions for the purposes of setting wages and negotiating working conditions.

b. Prohibition of Forced or Compulsory Labor

The law prohibits all forms of forced labor, but the government did not effectively implement or enforce these laws. Administrative penalties of up to 100,000 lempiras ($4,240) were insufficient to deter violations and were rarely enforced. Penalties for forced labor under antitrafficking laws range from 10 to 15 years’ imprisonment, but authorities often did not enforce them. The government investigated several cases of labor trafficking, including forced begging and domestic service.

Forced labor occurred in street vending, domestic service, the transport of drugs and other illicit goods, and other criminal activity. Victims were primarily impoverished men, women, and children in both rural and urban areas (also see section 7.c.). The 2015 prison labor law requiring prisoners to work at least five hours a day, six days a week, took effect in January 2016. Regulations for implementing the law were still under development as of September. The Ministry of Human Rights, Justice, Governance, and Decentralization said it was taking every precaution to protect prisoners’ rights and assure that the work provided opportunities for prisoners to develop skills they could use in legal economic activities after their release.

Also see the Department of State’s Trafficking in Persons Report at www.state.gov/j/tip/rls/tiprpt/.
c. Prohibition of Child Labor and Minimum Age for Employment

The law regulates child labor, sets the minimum age for employment at 14, and regulates the hours and types of work that minors up to age 18 may perform. By law all minors between 14 and 18 must receive special permission from the STSS to work, and the STSS must perform a home study to verify that there is an economic need for the child to work and that the child will not work outside the country or in hazardous conditions, including in offshore fishing. The STSS approved 132 such authorizations between 2014 and August. The vast majority of children who worked did so without STSS permits. If the STSS grants permission, children between 14 and 16 may work a maximum of four hours a day, and those between 16 and 18 may work up to six hours a day. The law prohibits night work and overtime for minors under the age of 18, but the STSS can grant special permission for minors ages 16 to 18 to work in the evening if such employment does not adversely affect their education.

The law requires that individuals and companies that employ more than 20 school-age children at their facilities provide a location for a school.

The government did not devote adequate resources or sufficient inspectors to monitor compliance with child labor laws or to prevent or pursue violations. Fines for child labor are 100,000 lempiras ($4,240) for a first violation, and as high as 228,000 lempiras ($9,660) for repeat violations. These fines are higher than those for other violations of the labor code. The law also imposes prison sentences of three to five years for child labor violations that endanger the life or morality of a child. The STSS did not effectively enforce child labor laws, except in the apparel assembly sector, and there were frequent violations. The STSS issued 35 fines in 2015 for child labor violations. As of September the STSS had identified 14 small businesses that employed children and fined seven of them.

Estimates of the number of children under age 18 in the country’s workforce ranged from 370,000 to 510,000. Children often worked on melon, coffee, okra, and sugarcane plantations as well as in other agricultural production; rummaged at garbage dumps; worked in the forestry, hunting, and fishing sectors; worked as domestic servants; peddled goods such as fruit; begged; washed cars; hauled goods; and labored in limestone quarrying and lime production. Most child labor occurred in rural areas. Children often worked alongside family members in agriculture and other work, such as fishing, construction, transportation, and small businesses. Some of the worst forms of child labor occurred, including
commercial sexual exploitation of children, and NGOs reported that gangs often forced children to commit crimes, including murder (see section 6, Children).

Also see the Department of Labor’s *Findings on the Worst Forms of Child Labor* at [www.dol.gov/ilab/reports/child-labor/findings/](http://www.dol.gov/ilab/reports/child-labor/findings/).

d. Discrimination with Respect to Employment and Occupation

The law prohibits discrimination based on gender, age, sexual orientation, gender identity, political opinion or affiliation, marital status, race or national origin, language, nationality, religion, family affiliation, family or economic situation, disability, health, physical appearance, or any other characteristic that would offend the victim’s human dignity. Penalties include prison sentences of up to five years and monetary fines. The law prohibits employers from requiring pregnancy tests as a prerequisite for employment; violators are subject to a 5,000 lempira ($212) fine. The government did not effectively enforce these laws and regulations.

Many employers discriminated against women. According to a 2013 study by the National Institute for Women, employers paid women an average of 16 percent less than they paid men for comparable work. Female workers in some export-oriented industries and the agricultural sector continued to report being required to take pregnancy tests as a condition of employment. Persons with disabilities, indigenous and Afro-Honduran persons, LGBTI persons, and persons with HIV/AIDS also faced discrimination in employment and occupation (also see section 6, Children). As of August the STSS reported that it had received no formal complaints of work discrimination. The International Solidarity Center reported that the STSS had received 12 complaints of discrimination based on disability.

e. Acceptable Conditions of Work

There are 42 categories of monthly minimum wages, based on the industry and the size of a company’s workforce; the minimums range from 5,869 lempiras ($250) to 10,168 lempiras ($430). The law does not cover domestic workers.

The law applies equally to citizens and foreigners, regardless of gender, and prescribes a maximum eight-hour shift per day for most workers, a 44-hour workweek, and at least one 24-hour rest period for every six days of work. It also provides for paid national holidays and annual leave. The law requires overtime
pay, bans excessive compulsory overtime, limits overtime to four hours a day for a maximum workday of 12 hours, and prohibits the practice of requiring workers to complete work quotas before leaving their place of employment. The law does not protect domestic workers effectively.

In 2015 the government approved a new social security law. As part of the new law, employers must deposit at least 50 percent of the severance pay to which an employee is entitled into a bank account in the employee’s name. This provision, however, remained suspended as of September, pending the resolution of several court cases and further clarification of how the law will be implemented.

Occupational safety and health standards were current but not enforced. By law workers may remove themselves from situations that endanger their health or safety without jeopardizing continued employment. Under the new inspection law, the STSS has the authority temporarily to shut down workplaces where there is an imminent danger of fatalities.

The STSS is responsible for enforcing the national minimum wage, hours of work, and occupational health and safety laws, but it did so inconsistently and ineffectively. An inspection law (see 7.a., Freedom of Association and the Right to Collective Bargaining) was passed by the congress, and was in force, but at year’s end the implementing regulations had not been finalized. The new law permits fines of up to 25 percent of the economic damage suffered by workers, 1,000 lempiras ($42) for failing to pay the minimum wage or other economic violations, and 100,000 lempiras ($4,240) for violating occupational safety or health regulations and other labor code violations. As part of the Monitoring and Action Plan, the government nearly doubled the budget for inspectors, from 31.1 million lempiras ($1.32 million) to 59.5 million lempiras ($2.52 million). As of August inspectors had conducted 11,494 inspections, including 3,163 at work sites and 8,331 at STSS offices. As of December the STSS had 148 labor inspectors.

Because labor inspectors continued to be concentrated in Tegucigalpa and San Pedro Sula, full labor inspections and follow-up visits to confirm compliance were far less frequent in other parts of the country. Many inspectors asked workers to provide them with transportation so that they could conduct inspections, since the STSS did not have sufficient resources to pay for travel to worksites. Credible allegations of corruption among labor inspectors continued. Inspectors reportedly failed to respond to requests for inspections to address alleged violations of labor laws, conduct adequate investigations, impose or collect fines when they discovered violations, or otherwise abide by legal requirements.
Authorities did not effectively enforce worker safety standards, particularly in the construction, garment assembly, and agricultural sectors, as well as in the informal economy. The STSS conducted 31 reinspections of companies identified as labor rights violators under a Dominican Republic-Central America Free Trade Agreement complaint filed in 2012 by labor unions. Employers rarely paid the minimum wage in the agricultural sector and paid it inconsistently in other sectors. Employers frequently penalized agricultural workers for taking legally authorized days off.

There were reports of violations of overtime limits, with agricultural workers allegedly working seven days a week for many months. There were credible allegations of compulsory overtime at apparel assembly factories—particularly for women, who made up approximately 65 percent of the sector’s workforce—as well as in the private security sector and among domestic workers. Employers frequently denied workers mandatory benefits, including vacation pay and 13th- and 14th-month bonuses. As of August the STSS had recovered 26.9 million lempiras ($1.14 million) in unpaid severance from four companies and was working with an additional three companies to complete collection of outstanding severance payments from them. There were reports that both public- and private-sector employers failed to pay into the social security system.

Human rights organizations continued to report that workers in the private security and domestic sectors were typically obliged to work more than 60 hours a week, but were paid for only 44. Domestic workers often lacked contracts and received salaries below a living wage. Since many lived in on-site quarters, their work hours varied largely based on the will of individual employers. Private security guards also often worked for salaries below the minimum wage. Many guards worked every two days on 24-hour shifts, in violation of the law. Civil society organizations also reported that employers often forced workers in cleaning services and the fast food industry to work shifts of 12 hours or more, violating the legal limit. The STSS regularly received complaints of failure to pay agreed overtime, especially in the security and cleaning service sectors. As of August the STSS had received 85 formal complaints of failure to pay overtime and fined 57 companies for not doing so. The STSS estimated that more than 60 percent of workers were employed in the informal economy.

There continued to be reports of violations of occupational health and safety laws affecting the approximately 3,000 persons who made a living by diving for seafood such as lobster, conch, and sea cucumber, most from the Miskito indigenous
community and other ethnic minority groups in Gracias a Dios Department. These violations included lack of access to appropriate safety equipment. In 2014 the UN Committee on the Elimination of Racial Discrimination raised similar concerns, calling the working conditions “deplorable.” Civil society groups reported that most dive boats held more than twice the craft’s capacity for divers and that many boat captains sold their divers marijuana and crack cocaine to help them complete an average of 12 dives a day, to depths of more than 100 feet. In 2014 the government banned compressed air diving for sea cucumbers because of deaths in the dive fisheries. The STSS inspected 45 fishing boats at the opening of the season. As of September 20, the Honduran Miskito Association of Crippled Divers (AMHBLI) reported five deaths and 15 injuries. AMHBLI reported the deaths of 455 divers and the crippling of 1,750 others since 1988.
TAB 2
HONDURAS 2016 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

Honduras is a constitutional, multiparty republic. The country held national and local elections in November 2013. Voters elected Juan Orlando Hernandez of the National Party as president for a four-year term that began in January 2014. International observers generally recognized the elections as transparent, credible, and reflecting the will of the electorate. The National Congress elected a new 15-member Supreme Court for a seven-year term in February.

Civilian authorities at times did not maintain effective control over the security forces.

Pervasive societal violence persisted, although the state made efforts to reduce it. The March murder of environmental and indigenous rights activist Berta Caceres underscored state institutions’ lack of effective measures to protect activists. Violence and land-rights disputes involving indigenous people, agricultural workers, landowners, the extractive industry, and development projects continued in rural areas, including the Bajo Aguan region. Organized criminal elements, including local and transnational gangs and narcotics traffickers, were significant perpetrators of violent crimes and committed acts of murder, extortion, kidnapping, torture, human trafficking, and intimidation of journalists, women, and human rights defenders.

Other serious human rights problems were widespread impunity due to corruption and institutional weaknesses in the investigative, prosecutorial, and judicial systems, and excessive use of force and criminal actions by members of the security forces. Additional, human rights problems included harsh and at times life-threatening prison conditions; lengthy pretrial detention and failure to provide due process of law; threats and violence by criminals directed against human rights defenders, judicial authorities, lawyers, the business community, journalists, bloggers, and members of vulnerable populations; violence against and harassment of women; child abuse; trafficking in persons, including child prostitution; human smuggling, including of unaccompanied children; failure to conduct free and informed consultations with indigenous communities prior to the authorization of development projects; discrimination against indigenous and Afro-descendent communities; violence against and harassment of lesbian, gay, bisexual, transgender, and intersex (LGBTI) persons; ineffective enforcement of labor laws; and child labor.
The government took steps to prosecute and punish officials who committed abuses, including arresting and prosecuting members of congress, judges, prosecutors, police officers, mayors, and other local authorities. Civilian authorities arrested and investigated members of the security forces alleged to have committed human rights abuses. Some prosecutions of military and police officials charged with human rights violations moved too slowly or failed to convict the responsible parties.

Section 1. Respect for the Integrity of the Person, Including Freedom from:

a. Arbitrary Deprivation of Life and other Unlawful or Politically Motivated Killings

There were multiple reports that the government or its agents committed arbitrary or unlawful killings.

Civilian authorities investigated and arrested members of the security forces accused of human rights abuses. Impunity, however, remained a serious problem, with delays in some prosecutions and sources alleging corruption in judicial proceedings.

On March 3, environmental and indigenous activist, Berta Caceres, was killed in her home in Intibuca Department (see also section 6, Indigenous People). In early May the Public Ministry arrested five individuals implicated in her killing, including an active duty Honduran Special Forces officer and a manager at a hydroelectric project that Caceres had actively opposed. Law enforcement authorities arrested a sixth suspect in September. As of November a judge had remanded all six to custody pending trial, and their defense lawyer had submitted a request for dismissal of the charges, which was still pending. The Public Ministry continued its investigation into whether others were involved in planning the crime. The Honduran Armed Forces dishonorably discharged the Special Forces officer implicated in Caceres’ death.

Also in March local and international media reported that corrupt senior police officials working for drug traffickers were responsible for the killings of senior antinarcotics officials Julian Gonzalez in 2009 and Alfredo Landaverde in 2011, and the murder of senior anti-money-laundering prosecutor Orlan Chavez in 2013. According to media reports, other senior police and Ministry of Security officials covered up the crimes or failed to take action to bring those responsible to justice.
Subsequently, the government passed legislative decree 21-2016, which created the Special Commission in Charge of Purging and Restructuring the Honduran National Police (HNP), comprising the minister of security, a former president of the Supreme Court, and two prominent members of civil society, to review systematically the performance and integrity of all police officials. As of December 19, the commission had reviewed the personnel files of 3,004 officials and dismissed 1,835 officers, while allowing 256 officers to retire voluntarily, for a total of 2,091 police officers dismissed from the HNP. In February a three-judge tribunal acquitted all senior military officials previously accused of covering up the 2012 killing of 15-year-old Ebed Jassiel Yanes Caceres.

On May 19, Military Police for Public Order (PMOP) soldier, Jose Alonzo Miranda Almendarez, shot and killed Alexis Alberto Avila Ramirez when Avila and his brother fled from the PMOP squad executing arrest warrants against them in the city of Danli, El Paraiso Department. A judge ruled there was sufficient evidence to hold Miranda on a charge of abuse of authority and manslaughter pending a trial; his defense requested a dismissal of the charges, and an appeals court was reviewing the appeal as of October. Miranda’s PMOP patrol was participating in a joint operation directed by the National Interinstitutional Security Force (FUSINA), but it reported to the 110th Infantry Brigade.

In August the trial of four armed forces intelligence personnel implicated in the 2014 killings of siblings Ramon Eduardo Diaz Rodriguez and Zenia Maritza Diaz Rodriguez was scheduled to begin in February 2017.

In February a judge issued a warrant for the arrest of PMOP members involved in the shooting of 11-year-old Yoslin Isaac Martinez Rivera in November 2015. As of October the individuals had not been arrested.

Authorities arrested HNP officer, Donis Joel Figueroa Reyes, for the November 2015 torture of three detainees and murder of detainee Jose Armando Gomez Sanchez. The three individuals had been detained for public intoxication but allegedly attempted to escape detention, after which they were handcuffed to the ceiling in the police station and beaten by Figueroa, resulting in Gomez’s death. Figueroa was originally detained in November 2015 but had escaped from custody.

There continued to be reports of violence related to land conflicts and criminal activity in the Bajo Aguan region, but the overall level of violence in the area was far below its 2012 peak. On October 18, Jose Angel Flores, president of the Unified Farm Workers Movement of the Aguan (MUCA) and his colleague Silmer
Dionicio George, were killed after leaving a meeting of MUCA leaders. On November 21, the Public Ministry announced arrest warrants for two individuals—Osvin Nahun Caballero and Wilmer Giovanni Fuentes—believed to be involved in the October 18 attack; the ministry stated that the murders appeared to be related to the continuing land conflict. No members of the security forces or private security guards were reported to have been responsible for deaths related to the land conflict. One private security guard of an agricultural company, however, was reportedly killed due to land conflict, and agricultural workers reported at least one other violent encounter between private security guards and agricultural workers as of August.

Organized criminal elements, including narcotics traffickers and local and transnational gangs such as MS-13 and the 18th Street gang, committed murders, extortion, kidnappings, human trafficking, and acts of intimidation against police, prosecutors, journalists, women, and human rights defenders. Major urban centers and drug trafficking routes experienced disproportionate rates of violence. Media reported that as of September 7, 176 individuals working in the transportation sector had been killed during the year, often for failing to make extortion payments. The Violence Observatory of the National Autonomous University of Honduras (UNAH) reported that 290 workers from the transportation sector were killed in 2015, a 40 percent increase from 2014.

On May 27, the UN special rapporteur on extrajudicial, summary, or arbitrary executions recognized that the government had taken steps to reduce the homicide rate, but urged authorities to do more to protect the right to life and reduce violence. According to the UNAH Violence Observatory, there was no significant change in the overall annual homicide rate in the first six months of the year compared with 2015, which remained at approximately 60 per 100,000 after several years of steep decline. Reports linked many of these homicides to organized crime and gangs.

b. Disappearance

The HNP reported 40 kidnappings in 2015, a 48 percent decrease from 2014. As of October the HNP projected a further 65 percent decrease in kidnappings during the year. The HNP reported that in 2015 it rescued 28 victims. Nine more were freed through negotiations and partial payment. Kidnappers killed three others. As of October the HNP had rescued 16 victims. The HNP estimated that it prevented 80 million lempiras ($3.2 million) in ransom payments to criminals in 2015. Court cases took on average two years. In one case from 2014, the HNP
rescued the victim within 24 hours and arrested a suspect. Further investigation led to two additional arrests. On July 21, all three were sentenced to 20 years in prison.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

Although the constitution and law prohibit such practices, human rights nongovernmental organizations (NGOs) received complaints of abuse by members of the security forces on the streets and in detention centers. On August 10, the UN Committee Against Torture expressed concern over numerous reports of human rights violations, including torture, by members of the security forces. As of September the National Human Rights Commission (CONADEH) reported 221 complaints implicating members of the security forces or other government officials in torture or other cruel or inhuman treatment, whereas the quasi-governmental National Committee for the Prevention of Torture, Cruel, Inhuman, or Degrading Treatment (CONAPREV) reported 70 complaints against government officials for human rights violations, the majority relating to detention conditions. The Public Ministry had 49 active torture cases against members of police and military as of October.

In April agents from the Public Ministry’s Technical Agency for Criminal Investigations arrested nine prison guards in Danli, El Paraiso Department, for allegedly torturing an inmate. Media reported that the alleged victim, Carlos Lenin Meza Navas, had lodged a complaint against a guard on February 6 for not permitting him to make an authorized telephone call. The guard and eight of his colleagues subsequently assaulted Navas in his cell, beating him unconscious. There were reports that criminal gangs tortured individuals.

Prison and Detention Center Conditions

Prison conditions were harsh and sometimes life threatening because of pervasive gang-related violence and the government’s failure to control criminal activity within the prisons. Prisoners suffered from overcrowding, insufficient access to food and water, violence, and abuse by prison officials.

Following a 2014 fire in the Comayagua prison that killed 361 inmates, the National Congress approved the National Prison System Act in 2015, which modified the organization of prisons and mandated the professionalization of
police charged with prison administration. In February the Inter-American Commission on Human Rights (IACHR) reported that the country’s prisons still suffered from many of the same problems that contributed to the 2014 Comayagua tragedy. These problems included the delegation of internal controls to prisoners themselves and a corresponding lack of responsible management by prison authorities; overcrowding and deplorable incarceration conditions; and a failure to segregate men and women fully in most prisons.

Physical Conditions: Prisoners suffered from severe overcrowding, malnutrition, lack of adequate sanitation and medical care, and, in some prisons, lack of adequate ventilation and lighting. The Ministry of Human Rights, Justice, Governance, and Decentralization reported that as of August the total prison population was 17,253 in 27 prisons, an 8 percent increase over September 2015. According to the ministry, the system had designed capacity for approximately 10,600 inmates.

The National Prison Institute (INP) reported that as of August 12, 16 inmates had died in prison, 14 from natural causes and two from suicide. Seven inmates were killed outside prison while receiving medical care or on conditional home release. In contrast, CONAPREV reported that 19 prisoners died in altercations between inmates, three committed suicide, and four died from illness.

As of August the Ministry of Human Rights, Justice, Governance, and Decentralization reported that the country’s four pretrial detention centers held 75 individuals. Three of these centers were on military installations, and the other was located on the installations of the HNP’s Special Operations Command (known as COBRAS). The government used pretrial detention centers to hold high-profile suspects and those in need of additional security. The military provided some support services to the three detention centers located on military bases; however, the military neither administered them nor provided guards for the facilities. Instead, the INP oversaw them, as it did other prisons.

Due to overcrowding and lack of adequate training for prison staff, prisoners were subjected to serious abuses, including rape by other inmates. Prisons lacked trained personnel to safeguard the psychological and physical wellbeing of inmates, and some prisons lacked sufficient security personnel.

Many prisoners had access to weapons and other contraband, inmates attacked other inmates with impunity, escapes were frequent, and inmates and their associates outside prison threatened prison officials and their families. These
conditions contributed to an unstable, dangerous environment in the penitentiary system. Media reported multiple prison riots and violent confrontations between gang members in prisons throughout the year. Inmates killed several prison guards, including the deputy director of the San Pedro Sula prison, either inside prison facilities or by giving orders that criminal associates on the outside carried out on their behalf.

There were credible reports from human rights organizations that, in addition to subjecting prisoners to isolation and threats, prison officials used excessive force, such as beatings, to control prisoners.

The government held approximately one-half of its female prisoners at a facility for mothers with young children and pregnant women. Others were housed in separate areas of men’s prisons. In the San Pedro Sula prison, for instance, approximately 70 women resided in their own wing of the prison but shared communal space with upwards of 2,900 men. Children up to the age of three could stay with their mothers in prison. Authorities often held pretrial detainees together with convicted prisoners.

Authorities did not segregate those with tuberculosis or other infectious diseases from the general prison population; there was only limited support for persons with mental illnesses or disabilities. CONAPREV reported that every prison had a functioning health clinic with at least one medical professional, except for the National Penitentiary in Francisco Morazan Department. Basic medical supplies and medicines, particularly antibiotics, were in short supply throughout the prison system. In most prisons only inmates who purchased bottled water or had water filters in their cells had access to potable water.

As of August the NGO Casa Alianza said juvenile detention staff reported there were 438 minors (394 boys and 44 girls) in five juvenile detention centers, segregated by gender. CONAPREV, however, reported that 542 boys resided in two juvenile detention centers and the COBRAS pretrial detention center as of August. According to the Directorate of Childhood and Family, 304 youths benefited from alternative sentencing outside the juvenile detention system between January 2015 and August (see section 6, Institutionalized Children).

Administration: The INP, an autonomous agency, managed the country’s adult prisons. The minister of human rights, justice, governance, and decentralization, together with the minister of security, an NGO representative, and a representative of the National Municipal Association formed a committee that supervised the
INP. Public defenders and judges sought alternatives to incarceration for nonviolent offenders as a means to alleviate prison overcrowding. Flawed recordkeeping procedures meant that some inmates served more time in prison than their sentences specified.

Prisoners could submit complaints to judicial authorities without censorship and could submit requests for the investigation of inhuman conditions directly to the director of the prison in which they were incarcerated. Directors could then transfer the complaints to the INP director. Prisoners also could file complaints with the INP’s Human Rights Protection Unit, the Public Ministry’s Office of the Special Prosecutor for Human Rights, and the Ministry of Human Rights, Justice, Governance, and Decentralization. CONADEH also took complaints and conducted investigations. The results of investigations by NGOs and government officials were available to the public. CONAPREV reported there were three complaints of torture and mistreatment in detention centers as of September. NGOs reported that some prisoners were reluctant to file official complaints because they did not trust the authorities and there was no effective system for witness protection (also see section 1.c.).

The 2015 Law of Obligatory Labor for Prisoners stipulates that prison populations must engage in at least 400 hours of community service per individual. Officials had not implemented the law, however, with the exception of some minor farming initiatives at the Comayagua prison (also see section 7.b.).

Independent Monitoring: The government generally permitted prison visits by independent local and international human rights observers, including the International Committee of the Red Cross. Faith-based organizations such as the San Pedro Sula-based Roman Catholic Penitentiary Pastoral engaged in small-scale rehabilitation and vocational programs with willing inmates. The Ministry of Human Rights, Justice, Governance, and Decentralization made inspection visits to pretrial detention centers. The Human Rights Protection Unit of the INP made routine inspections of prison facilities and pretrial detention centers. CONAPREV made more than a dozen visits to juvenile detention facilities as of the end of August.

Improvements: In late 2015 the government launched an initiative to reduce prison overcrowding. After reviewing a list of cases recommended by prison administrators, at the end of 2015, the government released approximately 2,000 inmates who had completed their sentences or had already been in pretrial
detention for longer than the maximum sentences for their alleged crimes. The government opened two new prisons, with a capacity of 2,300 prisoners.

The Ministry of Human Rights, Justice, Governance, and Decentralization reported that as of July, it had trained 1,100 prisoners in five prisons on human rights, a culture of peace, and their responsibilities under the 2015 National Prison System Act. The Human Rights Protection Unit trained an additional 600 prisoners on their human rights and national and international standards applicable to prisoners.

The INP trained 250 staff members on human rights for prisoners; nondiscrimination; the prevention of torture and other cruel, inhuman, or degrading treatment or punishment; minimum standards for treatment of prisoners; national and international standards applicable to prisoners; and the appropriate use of lethal and nonlethal force.

Antiretroviral treatment programs expanded significantly throughout the prison system, and many HIV-positive patients who were not previously receiving treatment began a course of medication. Testing programs for HIV/AIDS, tuberculosis, and diabetes improved. On April 27, the Ministry of Human Rights, Justice, Governance, and Decentralization and INP signed an agreement with the Ministry of Health to improve prison health services. As of August the government had hired 18 doctors to staff prisons. CONAPREV reported an increase in technical personnel available to assist prisoners, including public defenders, psychologists, and social workers.

d. Arbitrary Arrest or Detention

The constitution and law prohibit arbitrary arrest and detention, but human rights NGOs reported that authorities at times failed to enforce these prohibitions effectively. CONADEH reported 12 cases of arbitrary arrest as of September. The Committee of Relatives of the Disappeared in Honduras reported 23 illegal or arbitrary arrests: five by the PMOP, 13 by the HNP, and five by municipal police.

Role of the Police and Security Apparatus

The HNP maintains internal security and reports to the Secretariat of Security. The Technical Agency for Criminal Investigations at the Public Ministry (Attorney General’s Office) has legal authority to investigate 21 types of crimes and make arrests. The armed forces, which report to the Secretariat of Defense, are responsible for external security but also exercise some domestic security
responsibilities. The PMOP reports to military authorities but conducts operations sanctioned by civilian security officials as well as by military leaders. As of August the PMOP had approximately 3,000 personnel organized into six battalions and was present in all 18 departments. In 2015 a total of 2,400 members of the PMOP received human rights training. FUSINA coordinates the overlapping responsibilities of the HNP, PMOP, National Intelligence Directorate, Public Ministry, and national court system. FUSINA reports to the National Security and Defense Council. The president chairs the council, which includes representatives of the Supreme Court, National Congress, Public Ministry, and Secretariats of Security and Defense.

The armed forces surrendered members accused of human rights violations to civilian authorities. The armed forces sometimes dishonorably discharged such individuals, even before a criminal trial. The Public Ministry, primarily through the Office of the Special Prosecutor for Crimes against Life, is responsible for investigating cases in which a government agent is allegedly responsible for killing a civilian. Prosecutors try such cases in civilian courts. Prosecutors and judges attached to FUSINA prosecute and hear cases related to FUSINA operations. A unit within the Office of the Special Prosecutor for Crimes against Life manages some cases of homicides committed by members of the security forces and government officials. The human rights office of the joint staff of the armed forces investigated allegations of human rights abuses by members of the armed forces.

Corruption and impunity remained serious problems within the security forces. Some members of police committed crimes, including crimes linked to local and international criminal organizations.

On April 11, in response to media reports that high-ranking HNP officers had ordered the killing of senior antinarcotics and anti-money-laundering officials in 2009, 2011, and 2013, the president approved a decree creating the Special Commission in Charge of Purging and Restructuring the HNP. The minister of security heads the commission and oversees the work of three prominent members of civil society and a small group of advisors. The commission has authority to: determine the suitability of HNP officials and dismiss officers without cause, implement a mechanism to follow-up and supervise the evaluation and dismissal processes, pass the personnel records of dismissed police officers suspected of criminal activity to the Public Ministry and the Supreme Auditing Tribunal for review and possible prosecution, and report progress to the president and National Congress on a quarterly basis.
As of mid-December the commission reported that it had evaluated 3,004 HNP officers. The commission recommended that 887 of these be retained, 1,835 dismissed, 256 voluntarily retired, 15 suspended pending further review, and another 11 retained pending further evaluation; many of those dismissed were high-ranking officers. The commission referred 23 of these officers to the Public Ministry for possible criminal prosecution. At the commission’s request, the attorney general formed a special unit to investigate cases that the commission referred to it. The process has led to more dismissals than the previous five efforts undertaken since 1998 combined. The commission still needed to evaluate rank-and-file members of the HNP. The commission said the personnel it recommended for retention remained subject to continued suitability evaluations.

The Human Rights Office of the Honduran Armed Forces reported that as of August, more than 4,500 service members had received human rights training. The Honduran Armed Forces and various NGOs provided the training. The Honduran Armed Forces Cadet Leadership Development course trained approximately 220 cadets on human rights in 2015-16.

**Arrest Procedures and Treatment of Detainees**

The law provides that police may make arrests only with a warrant, unless they make the arrest during the commission of a crime, there is strong suspicion that a person has committed a crime and might otherwise evade criminal prosecution, they catch a person in possession of evidence related to a crime, or a prosecutor has ordered the arrest. The law requires police to inform persons of the grounds for their arrest and bring detainees before a competent judicial authority within 24 hours. It stipulates that a prosecutor then has 24 additional hours to decide if there is probable cause for indictment, whereupon a judge has 24 more hours to decide whether to issue a temporary detention order. Such an order may be effective for up to six days, after which the judge must hold a pretrial hearing to examine whether there is probable cause to continue pretrial detention. The law allows persons charged with some felonies to avail themselves of bail and gives prisoners a right of prompt access to family members. The law allows the release of other suspects pending formal charges, on the condition that they periodically report to authorities. The government generally respected these provisions. Persons suspected of any of 22 felonies must remain in custody, pending the conclusion of judicial proceedings against them; however, the Constitutional Chamber of the Supreme Court ruled during the year that when a trial is delayed excessively, prisoners may be released on the condition that they continue to report periodically to authorities. The law grants prisoners the right to prompt access to a lawyer of
their choice and, if indigent, to government-provided counsel, although authorities did not always abide by these requirements.

**Arbitrary Arrest:** The Public Ministry reported 35 cases of illegal detention or arbitrary arrest as of October.

**Pretrial Detention:** Judicial inefficiency, corruption, and insufficient resources delayed proceedings in the criminal justice system, and lengthy pretrial detention was a serious problem. As of August according to the UNAH’s Institute for Democracy, Peace, and Security, 53 percent of the country’s prison population had not been convicted. For crimes with minimum sentences of six years, the law authorizes pretrial detention of up to two years. The prosecution may request an additional six-month extension, but many detainees remained in pretrial detention much longer, including for more time than the maximum period of incarceration for their alleged crime. The law does not authorize pretrial detention for crimes with a maximum sentence of five years or less. The law mandates that authorities release detainees whose cases have not yet come to trial and whose time in pretrial detention already exceeds the maximum prison sentence for their alleged crime. Even so, many prisoners remained in custody after completing their full sentences, and sometimes even after an acquittal, because officials failed to process their releases expeditiously.

**Detainee’s Ability to Challenge Lawfulness of Detention before a Court:** Persons are entitled to challenge the legal basis or assert the arbitrary nature of their arrest or detention. Judicial inefficiency, corruption, and insufficient resources delayed proceedings, however, and excessively protracted legal processes were a serious problem.

**e. Denial of Fair Public Trial**

The constitution and law provide for an independent judiciary, but the justice system was poorly funded and staffed, inadequately equipped, often ineffective, and subject to intimidation, corruption, politicization, and patronage. Low salaries and a lack of internal controls rendered judicial officials susceptible to bribery. Powerful special interests, including organized criminal groups, exercised influence on the outcomes of some court proceedings.

In March the president of the Supreme Court disbanded the National Judicial Council, created in 2013 to implement an evaluation system for judges, for corruption and incompetence. The council had allegedly committed contracting
irregularities, nepotism, overvalued travel expenses, and other irregular acts. Prosecutors had already charged the vice president of the council with influence peddling for pressuring a judge to drop money-laundering charges against his cousin. He and other members of the council resigned before the president of the Supreme Court formally disbanded the council.

**Trial Procedures**

The law presumes an accused person is innocent. The accused has the right to an initial hearing before a judge, to ask for bail, to consult with legal counsel in a timely manner, to have a lawyer provided by the state if necessary, and to request an appeal. Defendants can receive free interpretation as necessary from the moment charged through all appeals. The law grants the right to a fair public trial, permits defendants to confront witnesses against them and offer witnesses and evidence in their defense, and grants defendants access to government evidence relevant to their case. Authorities generally respected these rights.

Credible observers noted problems in trial procedures such as a lack of admissible evidence, judicial corruption, widespread public distrust of the legal system, and an ineffective witness protection program (some protected witnesses were killed during the year).

**Political Prisoners and Detainees**

There were no reports of political prisoners or detainees.

**Civil Judicial Procedures and Remedies**

The law establishes an independent and impartial judiciary in civil matters, including access to a court to seek damages for human rights violations. Litigants may sue a criminal defendant for damages if authorized by a criminal court. Individuals and organizations may appeal adverse domestic decisions to the Inter-American Human Rights system.

**f. Arbitrary or Unlawful Interference with Privacy, Family, Home, or Correspondence**

Although the constitution and law generally prohibit such actions, a legal exception allows government authorities to enter a private residence to prevent a crime or in case of other emergency. There were credible complaints that police
occasionally failed to obtain the required authorization before entering private homes. As of June the judicial system reported three convictions in 10 alleged cases of illegal entry by government officials.

Ethnic minority rights leaders and farmworker organizations continued to claim that the government failed to redress actions taken by the security forces, government agencies, and private individuals and businesses to dislodge farmers and indigenous people from lands over which they claimed ownership based on land reform laws or ancestral land titles (see section 6, Indigenous People).

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The constitution and laws provide for freedom of speech and press, with some restrictions, and the government generally respected these rights. A small number of powerful business magnates with intersecting commercial, political, and family ties owned most of the major news media.

Freedom of Speech and Expression: The penal code includes a provision to punish persons who directly, or through public media, incite discrimination, hate, contempt, repression, or violence against a person, group, or organization for reasons of gender, age, sexual orientation, gender identity, political opinion or affiliation, marital status, race or national origin, language, nationality, religion, family affiliation, family or economic situation, disability, health, physical appearance, or any other characteristic that would offend the victim’s human dignity.

CONADEH reported that the government closed 21 media outlets that failed to renew their operating licenses, including major opposition channel Globo TV. Some of these channels were already defunct, while others were attempting to renew their broadcast licenses. Many of the affected journalists continued their reporting at other media outlets. Civil society organizations expressed concerns about the allegedly arbitrary nature of the closures.

Violence and Harassment: There were continued reports of harassment and threats against journalists and social communicators (defined as persons not employed as journalists who served as bloggers or conducted public outreach for NGOs). Reports linked most of these instances of harassment and threats to organized criminal elements and gangs.
Government officials at all levels denounced violence and threats of violence against members of the media and social communicators. UNAH’s Violence Observatory reported no killings of journalists during the first six months of the year, unlike in the previous year, when nine journalists and social communicators were killed. CONADEH, which used a broader definition than UNAH, reported that 64 journalists, social commentators, and owners and employees of media outlets were killed between 2014 and August. Perpetrators were convicted in three of these cases, and 10 cases were being prosecuted. There were many reports of intimidation and threats against members of the media and their families, including from members of the security forces and from organized crime. It was usually unclear whether violence and threats against journalists were linked to their work or were simply products of generalized violence. For example, reporter Felix Molina was shot and wounded in the second of two apparent attempts to rob him on May 2.

Human rights defenders, including indigenous and environmental rights activists, political activists, labor activists, and representatives of civil society working to combat corruption, reported threats and acts of violence. The killing of Berta Caceres in March (see section 1.a.) was the most emblematic of these cases. Other organizations, including the Indigenous Lenca Movement of La Paz, as well as civil society members of the Special Commission reviewing the HNP, and the leadership of the National Anticorruption Council, reported threats linked to their activities. The AFL-CIO’s International Solidarity Center reported threats against several labor leaders, including public-sector labor union leaders (also see section 7.a.).

The Ministry of Human Rights, Justice, Governance, and Decentralization worked to implement the May 2015 Law for the Protection of Human Rights Defenders, Journalists, Social Communicators, and Justice Operators but was hampered by weaknesses in the new protection mechanism, including a lack of staff and other resources. On July 11, the UN Committee on Economic, Social, and Cultural Rights (CESCR) expressed concern that some of the new law’s provisions did not assure effective protection for human rights defenders, and that the resources allocated to the protection mechanism were insufficient to ensure the law’s effective implementation. NGOs generally criticized the measures as ineffective, based on the small number of persons protected, an overreliance on protective measures provided by police (who many protected persons did not trust), and the limited resources provided to protected persons. Civil society also criticized the government’s failure to investigate threats against activists adequately.
The HNP’s Human Rights Office continued to implement protective measures for journalists, social communicators, human rights defenders, labor leaders, and other activists receiving threats. On July 19, the government announced it would allocate an additional 10 million lempiras ($434,000) for protection services, essentially doubling the current budget. During the first six months of the year, the government worked with NGO Freedom House to develop and strengthen implementation of the law. As of July 29, the Ministry of Human Rights, Justice, Governance, and Decentralization had received 39 requests for protection since the law’s approval in April 2015 and accepted 30, which were being processed. The other nine requests were from persons who were already beneficiaries of IACHR-mandated protection measures that the Human Rights Office of the Ministry of Security continued to implement. The Ministry of Security planned to transfer these cases to the protection mechanism once the government established a formal protocol for doing so. The IACHR had 66 outstanding orders for protection in the country. According to NGO ACI Participa, 49 orders between 2006 and 2015 benefited 426 individuals, including 59 indigenous persons, 27 members of the LGBTI community, 28 environmentalists, and 72 journalists.

The HNP’s Violent Crimes Task Force (VCTF) investigated crimes against high-profile and particularly vulnerable victims, including judges, journalists, human rights activists, and members of the LGBTI community. In 2015-16, the VCTF investigated the killings of seven journalists and arrested three suspects in these cases. It also arrested a suspect for the death of a journalist in a prior year, helped bring two other cases to trial, and secured one conviction for the murder of a journalist.

Civil society organizations, including agricultural workers groups and indigenous rights groups, criticized the government and its officials for allegedly criminalizing and stigmatizing social protest. The government charged some members of these groups with trespassing after they occupied disputed land and required them to present themselves to judicial authorities periodically while legal proceedings against them were pending.

Censorship or Content Restrictions: Members of media and NGOs said the press self-censored due to fear of retaliation from organized crime or corrupt government officials.

Libel/Slander Laws: Citizens, including public officials, can initiate criminal proceedings for libel and slander. As of November 3, journalists Julio Ernesto
Alvarado and David Romero Ellner remained free and continued to practice their profession, despite being convicted of slander in 2015 and ordered to stop practicing journalism temporarily. Alvarado paid a fine to avoid jail time; in December 2015 to comply with a 2014 order from the IACHR, the government rescinded the order that he stop practicing journalism. Romero Ellner received a 10-year prison sentence in March, and the Constitutional Chamber of the Supreme Court denied his final appeal on August 19.

**National Security:** Reporters without Borders and other civil society organizations continued to express concerns about potential abuse of the law for the Classification of Public Documents Related to Defense and National Security. Beginning in the third quarter of 2015, the government made available to the public some information about activities that the security tax and other trust funds support, and it incorporated trust fund numbers into the current budget. In August the Organization of American States’ Mission Against Corruption and Impunity in Honduras (MACCIH) and the semiautonomous Institute for Access to Public Information (IAIP) called for the law’s revision.

**Nongovernmental Impact:** Some journalists and other members of civil society reported threats from members of organized crime. It was unclear how many of these threats were related to the victims’ professions or activism.

**Internet Freedom**

The government did not restrict or disrupt access to the internet or censor online content, but there were credible reports that the government monitored private online communications. According to estimates compiled by the International Telecommunication Union, in 2015 approximately 20 percent of the population used the internet.

**Academic Freedom and Cultural Events**

There were no government restrictions on academic freedom or cultural events.

**b. Freedom of Peaceful Assembly and Association.**

**Freedom of Assembly**

The constitution and law provide for freedom of assembly, and the government generally respected this right. Some local and international civil society
organizations, including the Civil Council of Popular and Indigenous Organizations of Honduras (COPINH), alleged that members of the security forces used excessive force to break up demonstrations. On several occasions police used tear gas and water cannons to disperse violent protesters. Authorities temporarily detained protesters wielding rocks, machetes, and other dangerous items but usually released them without pressing charges. Many civil society leaders and organizations condemned a decision by UNAH leaders authorizing police to break up a two-month student sit-in in July. Police briefly detained approximately two dozen protest leaders, and university officials then brought criminal charges against them. As of early December, student protesters and UNAH leadership remained in discussions to address the concerns of all parties, including the judicial proceedings and administrative actions that university officials took against protest leaders.

**Freedom of Association**

The constitution and law provide for freedom of association, and the government generally respected this right. The penal code prohibits illicit association, defined as gatherings by persons bearing arms, explosive devices, or dangerous objects with the purpose of committing a crime, and prescribes prison terms of two to four years and a fine of 30,000 to 60,000 lempiras ($1,300 to $2,600) for anyone who convokes or directs an illicit meeting or demonstration. There were no reports of such cases during the year.

c. **Freedom of Religion**

See the Department of State’s *International Religious Freedom Report* at [www.state.gov/religiousfreedomreport/](http://www.state.gov/religiousfreedomreport/).

d. **Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons**

The constitution and law provide for freedom of internal movement, foreign travel, emigration, and repatriation, and the government generally respected these rights. In practical terms there were areas where authorities could not assure freedom of movement because of criminal activity and a lack of significant government presence.

The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations to provide protection
and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern. UNHCR reported that as of August approximately 280 indigenous persons displaced from Nicaragua remained along the international border in Gracias a Dios Department. The government provided some assistance to this community.

Internally Displaced Persons

On April 5, the special rapporteur on the human rights of internally displaced persons welcomed the government’s recognition that internal displacement existed in the country and its acknowledgement that the challenges it presents require research and concerted action to tackle its root causes. UNHCR remained concerned about forced displacement caused by high levels of violence, national and transnational gang activity, human trafficking, and migrant smuggling. The government maintained an interinstitutional commission to address the problem of persons displaced by violence. UNHCR reported that it collaborated extensively with the commission, which monitored displacement and developed policies and programs to prevent displacement and to provide protection to displaced persons, focusing on the most vulnerable persons affected by organized crime and other situations of violence. A 2015 UNHCR report estimated there were between 174,000 and 182,000 internally displaced persons in the country. There were no official numbers for forced displacement in the country, in part because gangs controlled many of the neighborhoods that were sources of internal displacement (see section 6, Displaced Children). Media reported in March that gangs ordered residents of two communities, one in San Pedro Sula and one in Tegucigalpa, to vacate their homes; the government responded by increasing law enforcement operations and presence in the affected neighborhoods. Several communities along the border with El Salvador reported that gangs displaced them by moving into their communities, following increased police action in El Salvador. On July 10, authorities lifted a one-month curfew in the town of Mapulaca, in Lempira Department near the border with El Salvador, after increasing security force activities in the area.

Protection of Refugees

The government cooperated with UNHCR and other humanitarian organizations to provide protection and assistance to refugees and other persons of concern.

Access to Asylum: The law allows for the granting of asylum or refugee status. The government has established a system to provide protection to refugees, but at
times there were significant delays in processing provisional permits for asylum applicants.

**Section 3. Freedom to Participate in the Political Process**

The constitution and law provide citizens the right to choose their government in free and fair periodic elections held by secret ballot and based on nearly universal and equal suffrage. The law does not permit active members of the military or the civilian security forces to vote. The constitution prohibits practicing clergy from running for office or participating in political campaigns.

**Elections and Political Participation**

**Recent Elections:** In 2013 Juan Orlando Hernandez of the National Party won a four-year presidential term in elections that were generally transparent and credible. Some NGOs reported irregularities, including the distribution of cards offering retail discounts issued near voting stations operated by the National Party, in addition to problems with voter rolls, the buying and selling of electoral workers’ credentials, and lack of transparency in campaign financing. International observers acknowledged some of these problems but reported that they were not systematic or widespread enough to affect the outcome of the election. Observers noted several significant improvements in the election’s transparency, including electronic scanning and transmission of vote tally sheets and the distribution of national identification cards by the National Registry of Persons rather than by political parties.

In February, Congress elected a new 15-member Supreme Court for a seven-year term. Observers generally recognized the court’s election as the most thorough and transparent such process to date.

**Participation of Women and Minorities:** No laws limit the participation of women and members of minorities in the political process, and women and minorities participated. The law requires a gender balance among each party’s candidates running for congress. The National Congress had one representative from the Miskito community. There were no indigenous or Afro-Honduran cabinet members.

**Section 4. Corruption and Lack of Transparency in Government**
The law provides for criminal penalties on public officials for corruption, but authorities did not implement the law effectively. Government institutions were subject to corruption and political influence, and some officials engaged in corrupt practices with impunity. Insufficient internal controls and lack of training in public resource management contributed to the corruption and lack of transparency. The government took steps to address corruption at high levels in government agencies, including arresting and charging members of congress, judges, prosecutors, current and former senior officials, including presidential staffers from previous administrations, mayors and other local authorities, and police officers.

Following large-scale public protests in the spring of 2015 against government corruption, in January the government signed an agreement with the Organization of American States to install the MACCIH. The MACCIH began operations in the country on April 19, with an initial focus on police reform, electoral reform, and emblematic cases of public sector corruption networks.

Former president Rafael Leonardo Callejas Romero (1990-94) was among 16 persons accused of corruption in 2015 for actions related to the International Federation of Association Football scandal. Callejas surrendered to foreign authorities in December 2015, and on March 28, he pled guilty in a foreign court to eight charges of organized crime, fraud, money laundering, and conspiracy to commit money laundering.

Corruption: Prosecutions of public-sector corruption predominantly targeted low-level officials and focused on charges of abuse of authority and misconduct in public office, which were easier to prove but carried lower penalties than illicit enrichment, fraud, and money laundering. Since the 2014 indictment of the entire board of directors of the Social Security Institute (IHSS), however, there was an increase in indictments of higher-level officials. Since 2014 prosecutors had filed charges against 54 persons in the IHSS scandal, including former ministers, business executives, and labor leaders; prosecutors charged many in multiple cases. As of December 20, there had been five convictions related to the IHSS scandal, including prominent business executive Jose Bertetty. Courts issued three of these convictions during the year. Many cases were in the appeals stage (a case can be appealed before it goes to trial). In June 2015 the government brought charges against public officials at the Ministry of Health and employees of the private company Astropharma, including then vice president of the National Congress, Lena Gutierrez, and three members of her family. In August the court of appeals ruled that the case could continue to trial. On August 8, the Financial Crimes Task Force executed a search warrant at LAIN (International Labs) and
seized evidence to support a new line of investigation in the Astropharma case. Trial court judges were selected on September 7. On December 16, former IHSS director Mario Zelaya was convicted on firearms charges; he faced trial on seven additional charges including bribery and money laundering.

There were reports that the government’s anticorruption institutions did not take sufficient steps to contain high-level corruption and were unwilling or lacked the professional capacity and resources to investigate, arrest, and prosecute those involved. The civil society organization National Anticorruption Council has an investigative unit of 15 persons. The council receives government funding, which obliges it to disclose the names of its investigators, making them more vulnerable to reprisals. NGOs reported that some individuals who reported public corruption received threats.

In August the domestic NGO (and chapter of Transparency-International), Association for a More Just Society (ASJ) published a report reviewing public corruption in the country for the seven years prior to 2015. The report revealed that during those years the Public Ministry received 3,471 complaints about public corruption and issued 283 indictments. The ASJ tried to review the case files of 165 of the indictments, but it was unable to find 55 case files in the court system. Of the cases it reviewed, nine had resulted in convictions, 29 were resolved without a conviction, and 14 had been open for more than three years without resolution, which the ASJ defined as impunity. In 2015 there were 28 convictions for public-sector corruption, and as of August, there had been 19 such convictions. Among those convicted during the year were two members of Congress, a former government minister, a judge, current and former mayors, and two individuals associated with the IHSS scandal.

Financial Disclosure: Public officials are subject to financial disclosure laws but did not always comply. The law mandates that the Supreme Auditing Tribunal monitor and verify disclosures. The tribunal published its reports on its website and published the names of public officials who did not comply with disclosure laws.

Public Access to Information: The law provides for public access to government information, and the government generally implemented this law effectively. In 2014, however, the National Congress passed a controversial law giving the National Security and Defense Council the authority to classify information that puts national security or defense at risk. NGOs and some members of Congress criticized both the breadth of the law and the manner in which it was approved.
All institutions receiving public funding are required to disclose their expenditures and present an annual report of their activities in the prior year to the National Congress 40 days after the end of the fiscal year. IAIP operated a website through which citizens could request information from government agencies. IAIP is responsible for verifying that government institutions comply with transparency rules and practices for access to public information. In June IAIP reviewed 133 government entities, to include municipalities, on their compliance with transparency regulations. IAIP rated 35 percent of these entities “excellent,” 10 percent “good,” 12 percent “bad,” and 48 percent received its lowest rating of “deficient.” IAIP reported that it sanctioned the entities deemed deficient with fines of up to five minimum salaries ($2,000). In July, IAIP also asked the government to suspend 10 officials without pay for five days whose organizations received deficient ratings, including nine mayors, and the Minister of Education, Marlon Escoto, due to his role as rector of the National Agricultural University.

If a government agency denies a request for public information, the denied party can submit a claim to IAIP, which has the authority to fine entities for failing to comply with legitimate requests.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A wide variety of domestic and international human rights groups operated in the country, investigating and publishing their findings on human rights cases. Government officials met with domestic and international NGOs and convened meetings to obtain their views on different issues. Although attentive to NGO views, officials often were not responsive to their recommendations. Some NGOs claimed that some government officials made statements about NGOs that constituted threats or harassment. Citizens may file complaints of human rights violations with the IACHR.

Government Human Rights Bodies: In 2014, as part of a complete restructuring of executive branch agencies, the president combined several ministries to create the Ministry of Human Rights, Justice, Governance, and Decentralization.

As of December the government was implementing 37 recommendations from the 2010 Truth and Reconciliation Commission created after the 2009 political crisis. The recommendations included measures to amend the constitution, increase respect for human rights, and advance efforts to combat corruption.
In 2013 the Council of Ministers approved the government’s first Public Policy and National Action Plan for Human Rights, which provides a roadmap for each government ministry to integrate promotion of and respect for human rights into its planning and budget. The administration that took office in 2014 committed to implement the plan. The Ministry of Human Rights, Justice, Governance, and Decentralization reported that as of August, the government had implemented nine of the plan’s actions, after implementing 14 actions in 2015. The ministry had provided human rights training to 7,760 persons as of August, including civilian police, members of the armed forces, health- and emergency-service personnel, other government officials, students, businesspersons, and convicts.

The Public Ministry’s Office of the Special Prosecutor for Human Rights handled cases involving charges of misconduct by members of the security forces, as well as crimes against communities of special concern. CONADEH performed the functions of an ombudsman and investigated complaints of human rights abuses.

At the invitation of the government, the UN Office of the High Commissioner for Human Rights opened an office in March 2015, but the head of the office did not arrive until October 2016.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

Women

Rape and Domestic Violence: Violence against women and impunity for perpetrators continued to be a serious problem. The UNAH Violence Observatory reported 222 violent deaths of women in the first six months of the year, compared with 478 violent deaths of women during 2015.

Rape was a serious and pervasive societal problem. The law criminalizes all forms of rape, including spousal rape. The government considers rape a crime of public concern, and the state prosecutes rapists even if victims do not press charges. Prosecutors treat accusations of spousal rape somewhat differently, however, and evaluate such charges on a case-by-case basis. The penalties for rape range from three to nine years’ imprisonment, and the courts enforced these penalties. Rape continued to be underreported, however, due to fear of stigma, retribution, and further violence. The Center for Women’s Rights (CDM) reported that 2,774 women and girls reported sexual crimes to the Public Ministry in 2015. As of October the Public Ministry’s Office of Crimes Against Women had received
1,172 formal complaints of domestic violence and provided 2,989 legal consultations. The CDM also reported that the Public Ministry’s General Directorate for Forensic Medicine conducted 3,022 examinations of sexual violence survivors in 2015, a 40 percent increase over 2014. According to reports from victims, 73 percent of attackers were family members or other individuals the victims knew.

Violence between domestic and intimate partners continued to be widespread. The law provides penalties of up to four years in prison for domestic violence; however, if a victim’s physical injuries do not reach the severity required to categorize the violence as a criminal act, the only legal penalty for a first offense is a sentence of one to three months of community service. Female victims of domestic violence are entitled to certain protective measures. Abusers caught in the act may be detained for up to 24 hours as a preventive measure. The law provides a maximum sentence of three years in prison for disobeying a restraining order connected with the crime of intra-familial violence. In many cases victims were reluctant to press charges against their abusers because of economic dependence on their male partners, their roles in caring for children, and a lack of domestic violence shelters. The CDM reported that 18,070 women filed complaints of domestic violence in special domestic violence courts in 2015.

The government provided services to victims of domestic violence in hospitals and health centers. The national government provided space through September for an NGO in Tegucigalpa to run a shelter, and provided police protection. Local governments, in cooperation with NGOs, operated domestic violence shelters in San Pedro Sula, Choluteca, La Ceiba, and Juticalpa; they also had an office in Comayagua. NGOs operated their own small shelters in Santa Rosa de Copan and Comayagua. The government did not provide enough financial and other resources for these facilities to operate effectively.

In cooperation with the UN Development Program, the government operated consolidated reporting centers in Tegucigalpa and San Pedro Sula where women could report crimes, seek medical and psychological attention, and receive other services. These reporting centers were in addition to the 298 government-operated women’s offices--one in each municipality--that provided a wide array of services to women, focusing on education, personal finance, health, social and political participation, environmental stewardship, and prevention of gender-based violence. The quantity and quality of services that these offices provided was uneven. CONADEH reported that in 2015, 37 percent of the 3,372 complaints it received for violations of women’s rights were for domestic violence, 22 percent were for
lack of access to justice and due process, and 41 percent were for alleged violations of economic, social, and cultural rights.

In March 2015 the UN special rapporteur on violence against women expressed concern that most women in the country remained marginalized, discriminated against, and at high risk of being subjected to human rights violations, including violence and violations of their sexual and reproductive rights. UN Women reported in 2015 that violent deaths of women and girls, domestic violence, and sexual violence in all forms increased steadily from 2005 to 2014, but UNAH’s Violence Observatory reported a drop in violent deaths of women between 2013 (636 deaths) and the first six months of the year (222 deaths).

Sexual Harassment: Both the penal and labor codes criminalize various forms of sexual harassment. Violators face penalties of one to three years in prison and possible suspension of their professional licenses, but the government did not effectively enforce the law. Sexual harassment was a serious societal problem but was underreported because of fear of stigma and reprisal. The CDM reported that 94 women filed complaints of sexual harassment in the workplace in 2015. The Supreme Court reported receiving only two cases of sexual harassment in 2015 and none in the first six months of the year. In that time one case was brought to trial, four cases were dismissed, two provisionally dismissed, and one case resolved through mediation.

Reproductive Rights: Generally, couples and individuals have the right to decide freely the number, spacing, and timing of their children; manage their reproductive health; and have access to the information and means to do so, free from discrimination, coercion, or violence. According to UN estimates, maternal mortality was approximately 129 deaths per 100,000 live births in 2015, and the lifetime risk of maternal death was 1 in 300. Although 83 percent of births were attended by skilled health personnel, the UN Population Fund (UNFPA) reported that there were significant gaps in emergency obstetric care.

The Ministry of Health also worked to expand the provision of family planning services in rural and low-income areas. UNFPA estimated in 2015 that 64 percent of women between the ages of 15 and 49 used a modern contraceptive method, and 11 percent of women had an unmet family planning need. Family planning supplies continued to be limited by shortages and insufficient funding.

There were reports of forced sterilizations of women with HIV, according to the International AIDS Society.
NGOs criticized a 2009 prohibition on emergency contraception medication, which they claimed abridged a woman’s right to make family planning decisions. According to the Guttmacher Institute, selling, distributing, or using emergency contraception carried the same punishments as performing or obtaining abortion, for which the Center for Reproductive Rights reported that women can be sentenced to three to six years in prison; no cases of enforcement were known to be reported.

**Discrimination:** Although the law accords women and men the same legal rights and status, including property rights in divorce cases, many women did not fully enjoy such rights. On July 11, the CESCR expressed concern that women living in rural areas, indigenous women, and women of African descent continued to be victims of multiple and cross-sectoral forms of discrimination, as reflected in their high rates of poverty. Most women in the workforce engaged in lower-status and lower-paying informal occupations, such as domestic service, without the benefit of legal protections. Women participated in small numbers in most professions, but cultural attitudes limited their career opportunities. Women participated in the formal labor force at approximately one-half the rate of men. By law women have equal access to educational opportunities. The law requires that employers pay women equal wages for equal work, but often classified women’s jobs as less demanding than those of men to justify women’s lower salaries. Job seekers older than age 30, particularly women, faced age discrimination.

**Children**

**Birth Registration:** Children derive citizenship by birth in the country, from the citizenship of their parents, or by naturalization. Although birth registration was widely available in 2015, the UN Children’s Fund (UNICEF) reported that, according to the National Population and Housing Census of 2013, an estimated 65,000 children did not have birth registration documents. The largest numbers of unregistered children were in indigenous and Afro-Honduran communities. UNICEF assisted the government in extending civil registries to indigenous and remote communities, and, as of 2015, the government had 217 automated registration offices. Only seven registration offices lacked automation, all of them located in isolated areas that lacked electricity.

**Education:** Education is free, compulsory, and universal through the 12th grade, although high school students had to pay fees. There was a shortage of middle schools and adequately prepared teachers. According to 2013 census data, girls
generally attended at a higher rate than boys did, a gap that widened after age 12. By age 15 there were 6 percent fewer boys in school than girls.

Child Abuse: Child abuse remained a serious problem. The UNAH Violence Observatory reported 412 cases of mistreatment and abandonment of children in 2015. The law establishes prison sentences of up to three years for child abuse.

The Violence Observatory reported the homicides of 570 children—88 girls and 482 boys—in 2015, a 9 percent decrease from 2014. NGOs stated that these figures probably underestimated the number of crimes against children. As of July the children’s rights organization, Casa Alianza, reported the homicides and violent deaths of 147 children; there were no arrests in 80 percent of these cases. The Violence Observatory reported 117 such homicides, a more than 50 percent decrease from 2015. Casa Alianza said the homicides often involved torture, strangulation, and dumping bodies in remote areas. While there were some improvements in the overall security situation, there were reports that police committed acts of violence against poor youths. Human rights groups continued to allege that private citizens and individual members of the security forces used unwarranted lethal force against youths.

Because the country’s antigang legislation specifies lower penalties for minors, gangs continued to employ underage youth in their operations. Children from eight to 12 years old frequently worked as lookouts and collected “war taxes” (that is, extortion payments). Consequently, rival gangs often disputed recruiting areas around schools.

Five street children between the ages of 13 and 16, who were working without authorization to collect and recycle garbage, were killed on February 11 in Tegucigalpa. Media reported that gang members were presumed responsible for the deaths.

Early and Forced Marriage: The minimum legal age for marriage is 21, although with parental consent boys may marry at 18 and girls at 16. According to government statistics, 10 percent of women marry before age 15 and 37 percent before age 18.

Sexual Exploitation of Children: The commercial sexual exploitation of children, especially in prostitution, continued to be a problem. The country was a destination for child sex tourism. The legal age of consent is 18. There is no statutory rape law, but the penalty for rape of a minor under age 12 is 15 to 20
years in prison. The penalty is nine to 13 years in prison if the victim is age 13 or older. Penalties for facilitating child prostitution are 10 to 15 years in prison, with fines ranging from one million to 2.5 million lempiras ($44,000 to $110,000). The law prohibits the use of children under 18 for exhibitions or performances of a sexual nature or in the production of pornography.

Displaced Children: Many children lived on the streets. Casa Alianza estimated there were more than 8,800 street children in major cities. Between September 2015 and August, Casa Alianza assisted 256 street children, 38 more than in the previous 12 months. During the same period, the organization assisted 400 children in its shelters and helped 75 children reintegrate with their families.

Polling indicated that lack of economic and educational opportunities, fear of violence, and the desire for family reunification motivated children to seek to emigrate. One civil society organization reported that common causes of forced displacement for youth included death threats for failure to pay extortion, attempted recruitment by gangs, witnessing criminal activity by gangs or organized crime, domestic violence, attempted kidnappings, family members’ involvement in drug dealing, victimization by traffickers, discrimination based on sexual orientation, sexual harassment, and discrimination for having a chronic illness. Casa Alianza reported that as of July 4, the Belen migrant attention center in San Pedro Sula had processed 417 youths deported from Mexico. Casa Alianza identified 261 of these youths as persons displaced by violence.

Institutionalized Children: Between January 2015 and September 2016, at least 10 juveniles were killed while in detention in government facilities, nine of them in the Renaciendo center. CONAPREV reported four incidents at Renaciendo as of August, including violence between members of MS-18 and another gang, Los Chirizos, resulting in the deaths of two minors affiliated with Los Chirizos and injuries to 11 other detainees.


Anti-Semitism

The Jewish community, located primarily in San Pedro Sula, numbered several hundred. There were no known reports of anti-Semitic acts.
Trafficking in Persons

See the Department of State’s *Trafficking in Persons Report* at [www.state.gov/j/tip/rls/tiprpt/](http://www.state.gov/j/tip/rls/tiprpt/).

Persons with Disabilities

The law prohibits discrimination against persons with physical, sensory, intellectual, and mental disabilities in employment, education, air travel and other transportation, access to health care, access to the judicial system, or the provision of other state services. Enforcement in the area of employment is the responsibility of the Secretariat of State for Labor and Social Security (STSS), but was not effective due to the STSS’s limited resources and its focus on workplace safety and pay. The Public Ministry is responsible for prosecuting violations. The law requires that persons with disabilities have access to buildings, but few buildings were accessible, and the national government did not effectively implement laws or programs to provide such access.

The law includes provisions for inclusive education of students with disabilities. In June the Ministry of Education reported that there were 63,148 students with disabilities in the school system. Also in June the National Federation of Parents of Individuals with Disabilities in Honduras signed an agreement with the ministry to work together to monitor and evaluate the ministry’s Institutional Management Plan for Universal Access to Educational Facilities. The ministry agreed to devote one-third of new teaching positions to facilities that have children with disabilities. In July the ministry announced that more than 6,000 educational centers had conducted analyses of access for children with disabilities and that it would use these analyses to assign necessary staff in 2017. An additional 1,725 educational centers in seven departments had conducted accessibility studies and created accessibility plans. On August 26, the ministry announced it had filled 349 staff positions, including more than 200 new technical assistant positions, in schools having children with disabilities and in indigenous communities. Some parents filed complaints against schools that allegedly refused to register students with disabilities. In 2014 CONADEH estimated that 27 percent of economically active individuals with disabilities had no education and 56 percent had only a primary education.
The government continued to struggle to implement its policy on persons with disabilities. The government had a disabilities unit in the Ministry of Development and Social Inclusion.

**National /Racial/Ethnic Minorities**

In the 2013 census, approximately 8.5 percent of the population identified themselves as members of indigenous communities, but other estimates were higher. Indigenous groups including the Miskito, Tawahkas, Pech, Tolupans, Lencas, Maya-Chortis, Nahual, Bay Islanders, and Garifunas had limited representation in the national government and consequently little direct input into decisions affecting their lands, cultures, traditions, and the allocation of natural resources.

According to government data, 89 percent of indigenous and Afro-descendent children lived in poverty, 78 percent of them in extreme poverty. In 2014 the UN Committee on the Elimination of Racial Discrimination expressed concerns about persistent poverty among indigenous peoples and Afro-descendent communities, as well as their social exclusion. It noted in particular that women in Afro-Honduran and indigenous communities faced multiple forms of discrimination in all aspects of social, political, and economic life. On April 11, the government adopted a Policy against Racism and Racial Discrimination for the Comprehensive Development of the Indigenous and African-Honduran Populations.

The 2013 census reported that 15 percent of male and 17.5 percent of female indigenous persons 10 years and older had no education. The National Institute of Statistics estimated in 2015 that 21 percent of the general population was illiterate, with an illiteracy rate of 36 percent among those ages 60 and over. Illiteracy rates were more than double that in rural areas. Sixty percent of indigenous respondents above the age of 10 reported having a sixth-grade education or less. The Directorate General for Intercultural Multilingual Education began operating in 2013 with a mission to expand educational opportunities in both Spanish and local languages. In 2015 the Ministry of Education increased by 48,000, to 119,000, the number of students educated in bilingual schools that teach in both Spanish and a local language.

**Indigenous People**

On July 21, the UN special rapporteur on the rights of indigenous peoples categorized the situation of the indigenous peoples of the country as critical. She
stated that their rights over their lands, territories, and natural resources were not protected, that they faced acts of violence when claiming their rights in a general environment of violence and impunity, and that they lacked access to justice. Additionally, they suffered from inequality, poverty, and a lack of basic social services such as education and healthcare.

On March 3, indigenous and environmental rights activist Berta Caceres was killed in her home. At the time of her death, Caceres was leading opposition to the Agua Zarca hydroelectric project in Intibuca Department. She was granted protective measures from the IACHR and some protective services from the government. In May the government arrested four individuals for involvement in her death. Subsequently, authorities arrested two additional suspects. As of December 20, all six remained in custody pending trial following initial evidentiary hearings. As of December human rights groups, indigenous groups, and members of the Caceres family continued to press authorities to identify and arrest those that ordered her murder, whom they suspected were still at large.

Two of those arrested had links to Desarrollos Energeticos, SA (DESA), the company constructing the dam. Some local community members, including Caceres, opposed the project and claimed that the government had failed to consult appropriately with the indigenous Lenca community as required under International Labor Organization (ILO) Convention 169; they also criticized DESA for failing to consult with the indigenous community. Other community members, however, supported the project as a source of local employment and development. Although the country has no law defining how to implement ILO 169, in August the Public Ministry began criminal proceedings against the former vice minister of the environment who awarded the concession for the project and against the mayor of the town where it was set to be built. The Public Ministry accused them of abuse of authority and failure to abide by the international obligations of ILO 169. In November a judge ordered another former vice minister of the environment held without bail pending trial for abuse of authority and failure to abide by the international obligations of ILO 169 when authorizing changes to the Agua Zarca hydroelectric project.

Other indigenous and environmental rights activists also reported threats and acts of violence against them. Ana Mirian Romero of the Indigenous Lenca Movement of La Paz reported receiving death threats and said someone burned her house down. Caceres’ organization, COPINH, reported threats and violence against other members as well. The government took some steps to investigate and arrest those responsible for the violence.
As of September the government was in discussions with indigenous communities over a bill that would regulate prior consultation under ILO 169. As of early November, COPINH and Garifuna indigenous organization OFRANEH decided not to participate in the discussions and instead supported a separate bill presented in Congress earlier in the year. On July 11, CESCR expressed concerns about reports that the government had failed to respect indigenous peoples’ right to prior consultation. CESCR insisted that such consultations were necessary to obtain these communities’ input on decisions that could affect them, including when negotiating concessions for the exploitation of natural resources or other development projects.

Communal ownership was the norm for most indigenous land, providing land-use rights for individual members of the community. Documents dating to the mid-19th century defined indigenous land titles poorly. The government continued its efforts to recognize indigenous titles. Lack of clear land titles provoked land use conflicts with nonindigenous agricultural laborers, businesses, and government entities interested in developing coastlines, forests, areas rich in mineral resources, and other lands that indigenous and other ethnic minority communities traditionally occupied or used. Indigenous communities criticized the government’s alleged complicity in the exploitation of timber and other natural resources on these lands. Indigenous leaders continued to allege that indigenous and nonindigenous groups smuggled drugs and other contraband through their lands and illegally appropriated vast areas of their communal lands.

In October 2015 the Inter-American Court of Human Rights ruled in favor of two Garifuna communities that had accused the government of violating their rights by failing to protect their communities’ land from exploitation. As of December, the government was working to create a mechanism to address the ramifications of these rulings.

The government formally recognized nine indigenous and Afro-descendent communities and continued efforts to address indigenous land rights problems. In April the government completed the transfer of land titles to the 12 Miskito territorial councils, including two titles to land in the Rio Platano biosphere. Since 2012 the territorial councils received titles to more than 5,400 square miles, 12 percent of the country’s territory. NGOs helped indigenous communities negotiate with the government and establish their juridical identities.
Persons from indigenous and Afro-descendent communities continued to experience discrimination in employment, education, housing, and health services.

**Acts of Violence, Discrimination, and Other Abuses Based on Sexual Orientation and Gender Identity**

The law states that sexual orientation and gender identity characteristics merit special protection from discrimination and includes these characteristics in a hate crimes amendment to the penal code. Nevertheless, social discrimination against LGBTI persons was widespread. As of October the special prosecutor for human rights was investigating nine formal complaints of discrimination by members of the LGBTI community in previous years. Representatives of NGOs that focused on the right to sexual diversity alleged that the PMOP and other elements of the security forces harassed and abused members of the community. As of August the NGO Colectivo Color Rosa reported 11 violent deaths of LGBTI persons, similar to levels in previous years. In October the Public Ministry reported records of 218 cases of violent deaths of LGBTI individuals since 2009, of which 14 cases had resulted in convictions and 171 were still under investigation. NGOs also documented multiple instances of assaults and discrimination against members of the LGBTI community.

On June 2, prominent LGBTI activist and community leader Rene Martinez was killed. Martinez was an activist in the ruling National Party, the president of an LGBTI association in San Pedro Sula, the leader of a local community council, and a volunteer with a community-based violence prevention program. As of early August, the VCTF continued to investigate the case. It was uncertain whether his death was related to his LGBTI status or political activities.

LGBTI rights groups asserted that government agencies and private employers engaged in discriminatory hiring practices. LGBTI groups continued working with the VCTF, the Ministry of Security, and the Office of the Special Prosecutor for Human Rights to address concerns about intimidation, fear of reprisals, and police corruption.

In April the HNP assigned 30 new agents to the VCTF, bringing the total to 41 VCTF investigators. As of September the new investigators were going through a training and mentorship phase, after which the HNP would assign them either in Tegucigalpa or San Pedro Sula. As of September the VCTF was investigating 17 homicides of members of the LGBTI community. The VCTF arrested two
suspects from cases initiated during the year and one suspect from a case initiated in 2015.

The HNP took steps to educate personnel to respond more effectively to cases of gender-based violence and violence against LGBTI persons. The Criminal Investigations School (EIC) designed two new police education modules, one on gender-based violence awareness and the other on LGBTI violence reduction. These modules were included in all EIC courses for recruits beginning on August 22.

**HIV and AIDS Social Stigma**

Access to employment, educational opportunities, and health services continued to be major challenges for persons with HIV/AIDS. One civil society organization reported that three members of the LGBTI community died of gunshot wounds after medical personnel refused to treat them because they would not submit to HIV tests. Community members reported that transgender women were particularly vulnerable to discrimination, and that many could find employment only as sex workers.

**Section 7. Worker Rights**

**a. Freedom of Association and the Right to Collective Bargaining**

The law grants workers the right to form and join unions of their choice, bargain collectively, and strike. It prohibits employer retribution against employees for engaging in trade union activities. The law places a number of restrictions on these rights, such as requiring that a recognized trade union represent at least 30 workers, prohibiting foreign nationals from holding union offices, and requiring that union officials work in the same substantive area of the business as the workers they represent. Following an employer’s appeal of the findings of a 2015 labor inspection, in October the STSS administratively ruled that seasonal workers could not hold leadership positions in a union. Labor unions filed an appeal of this decision in October, saying it violated labor rights and international standards. The law prohibits members of the armed forces and police, as well as certain other public employees, from forming labor unions.

The law requires an employer to begin collective bargaining once workers establish a union, and specifies that if more than one union exists at a company the employer must negotiate with the largest.
The law allows only local unions to call strikes, prohibits labor federations and confederations from calling strikes, and requires that a two-thirds majority of both union and nonunion employees at an enterprise approve a strike. The law prohibits workers from legally striking until after they have attempted and failed to come to agreement with their employer, and it requires workers and employers to participate in a mediation and conciliation process. Additionally, the law prohibits strikes in a wide range of economic activities that the government has designated as essential services or that it considers would affect the rights of individuals in the larger community to security, health, education, and economic and social well-being.

The law prohibits certain public service employees from striking. The law permits workers in public health care, social security, staple food production, and public utilities (municipal sanitation, water, electricity, and telecommunications) to strike, as long as they continue to provide basic services. The law also requires that public-sector workers involved in the refining, transportation, and distribution of petroleum products submit their grievances to the STSS before striking. The ILO expressed concerns that restricting strikes in so many sectors was excessive. The law permits strikes by workers in export processing zones and free zones for companies that provide services to industrial parks, but it requires that strikes not impede the operations of other factories in such parks.

The STSS has the power to declare a work stoppage illegal, and employers may discipline employees consistent with their internal regulations, including firing strikers, if the STSS rules that a strike is illegal. The ILO expressed concerns about the government’s authority to end disputes in several sectors, including oil production and transport, because such authority is vulnerable to abuse.

The government did not effectively enforce the law. The STSS can fine companies that violate the right to freedom of association. The law permits fines of between 200 and 10,000 lempiras ($9 to $440) per violation. If a company unlawfully dismisses founding union members or union leaders, the law stipulates that employers must also pay a fine equivalent to six months of the dismissed leaders’ salaries to the union itself. Civil society, international organizations, and the STSS complained that such small fines failed to deter violations. In practice the STSS rarely imposed or collected fines for violations. When the STSS imposed fines, inspectors had to clear them through the Central Office of the Inspector General, a requirement that added a year or more to the time between an inspection and a fine. Both the STSS and the courts may order a company to reinstate workers, but the
STSS lacks the means to ensure compliance. The reinstatement process in the courts was unduly long, lasting from six months to more than five years.

Workers had difficulty exercising the rights to form and join unions and to engage in collective bargaining, and the government failed to enforce applicable laws effectively. Public-sector trade unionists raised concerns about government interference in trade union activities, including its suspension or ignoring of collective agreements and its dismissals of union members and leaders.

Due to suspicions that employees at the STSS’s registry office alerted companies when workers were attempting to unionize—thereby facilitating the dismissal of union organizers before they gained additional legal protections—some unions delayed providing lists of members to the STSS until after the union formally notified the employer of its formation. Although there is no legal requirement that they do so, STSS inspectors generally accompanied workers when they notified their employer of their intent to form a union. In some cases STSS inspectors, rather than workers, directly notified employers of workers’ intent to organize. Workers reported that the presence and participation of the STSS reduced the risk that employers would dismiss the union’s founders and later claim they were unaware of efforts to unionize.

Civil servants frequently engaged in illegal work stoppages without experiencing reprisals, but there were also reports that government employees, including sanitation workers and police officers, lost their jobs or were subjected to discipline for striking over working conditions. Medical professionals and others continued to hold strikes throughout the year to protest arrears in salary and overtime.

Some employers either refused to engage in collective bargaining or made it very difficult to do so. Some companies also delayed appointing or failed to appoint representatives for required STSS-led mediation, a practice that prolonged the mediation process and impeded the right to strike. There were allegations that companies used collective pacts, which are collective contracts with nonunionized workers, to prevent unionization and collective bargaining because only one collective contract can exist in each workplace. Unions also raised concerns about the use of temporary contracts and part-time employment, suggesting that employers used these mechanisms to prevent unionization and avoid providing full benefits. A Supreme Court ruling requires that both unions and employers notify the STSS of new collective agreements before they go into effect. There were some complaints that employers delayed making such notifications.
Antiunion discrimination continued to be a serious problem. The three major union federations and several civil society groups noted that many companies paid the fines that government authorities imposed but continued to violate the law. Some failed to remedy violations despite multiple visits by STSS inspectors. Employers often threatened to close unionized factories and harassed or dismissed workers seeking to unionize. Local unions, the AFL-CIO’s International Solidarity Center, and other organizations reported that some employers dismissed union leaders in attempts to undermine union operations. As of August the Solidarity Center reported that it was aware of 25 cases of individuals fired for union activism. In 2015 the STSS levied 650,000 lempiras ($28,500) in fines against 134 companies for labor rights violations. As part of a bilateral Monitoring and Action Plan signed by the minister of labor in December 2015, the government agreed to increase fines for violations of labor laws through a new labor inspection law. The International Solidarity Center reported threats against several labor leaders, including public-sector labor union leaders.

Employers often further complicated matters by barring STSS inspectors from entering company premises to serve union protection documents. STSS inspectors rarely called on police to help them gain entry to a factory. Employers often failed to comply with STSS orders requiring them to reinstate workers fired for engaging in union activities. As of September NGOs documented eight cases of threats or violence against union leaders during the year, including leaders in the agricultural and public sectors.

There was credible evidence that some employers in the manufacturing industry continued to blacklist employees who sought to form unions. Some companies in other sectors, including the banana industry, established employer-controlled unions that prevented the formation of independent unions because of legal restrictions on the number of unions and collective bargaining agreements allowed per company.

Several companies in export processing zones had solidarity associations that functioned similarly to company unions for the purposes of setting wages and negotiating working conditions.

b. Prohibition of Forced or Compulsory Labor

The law prohibits all forms of forced labor, but the government did not effectively implement or enforce these laws. Administrative penalties of up to 5,000 lempiras
($220) were insufficient to deter violations and were rarely enforced. Penalties for forced labor under antitrafficking laws range from 10 to 15 years’ imprisonment, but authorities often did not enforce them. As of August the government was investigating two cases of labor trafficking, one of street children forced to work as beggars and another involving domestic service.

Forced labor occurred in street vending, domestic service, the transport of drugs and other illicit goods, and other criminal activity. Victims were primarily impoverished men, women, and children in both rural and urban areas (also see section 7.c.). The 2015 prison labor law requiring prisoners to work at least five hours a day, six days a week, took effect in January. Regulations for implementing the law were still under development as of December 20. The Ministry of Human Rights, Justice, Governance, and Decentralization said it was taking every precaution to protect prisoners’ rights and assure that the work provided opportunities for prisoners to develop skills they could use in legal economic activities after their release.

Also see the Department of State’s Trafficking in Persons Report at www.state.gov/j/tip/rls/tiprpt/.

c. Prohibition of Child Labor and Minimum Age for Employment

The law regulates child labor, sets the minimum age for employment at 14, and regulates the hours and types of work that minors up to age 18 may perform. By law all minors between 14 and 18 years old must receive special permission from the STSS to work, and the STSS must perform a home study to verify that there is an economic need for the child to work and that the child will not work outside the country or in hazardous conditions, including in offshore fishing. The STSS approved 132 such authorizations between 2014 and August. The vast majority of children who worked did so without STSS permits. If the STSS grants permission, children between 14 and 16 years old may work a maximum of four hours a day, and those between 16 and 18 years old may work up to six hours a day. The law prohibits night work and overtime for minors under the age of 18, but the STSS can grant special permission for minors ages 16 to 18 to work in the evening if such employment does not adversely affect their education.

The law requires that individuals and companies that employ more than 20 school-age children at their facilities provide a location for a school.
The government did not devote adequate resources or sufficient inspectors to monitor compliance with child labor laws or to prevent or pursue violations. Fines for child labor are between 5,000 lempiras ($220) and 25,000 lempiras ($1,100) for a first violation, and as high as 50,000 lempiras ($2,200) for repeat violations. These fines are higher than those for other violations of the labor code. The law also imposes prison sentences of three to five years for child labor violations that endanger the life or morality of a child. The STSS did not effectively enforce child labor laws, except in the apparel assembly sector, and there were frequent violations. The STSS issued 35 fines in 2015 for child labor violations. As of September the STSS had identified 14 small businesses that employed children, and fined seven of them.

Estimates of the number of children under age 18 in the country’s workforce range from 370,000 to 510,000. During the year the Ministry of Education reported that 32,719 students in grades one through 12 were working. Children often worked on coffee, okra, and sugarcane plantations; rummaged at garbage dumps; worked in the forestry, hunting, and fishing sectors; worked as domestic servants; peddled goods such as fruit; begged; washed cars; hauled goods; and labored in limestone quarrying and lime production. Most child labor occurred in rural areas. Children often worked alongside family members in agriculture and other work, such as fishing, construction, transportation, and small businesses. Some of the worst forms of child labor occurred, including commercial sexual exploitation of children, and NGOs reported that gangs often forced children to commit crimes, including murder (see section 6, Children).

Also see the Department of Labor’s Findings on the Worst Forms of Child Labor at www.dol.gov/ilab/reports/child-labor/findings/.

d. Discrimination with Respect to Employment and Occupation

The law prohibits discrimination based on gender, age, sexual orientation, gender identity, political opinion or affiliation, marital status, race or national origin, language, nationality, religion, family affiliation, family or economic situation, disability, health, physical appearance, or any other characteristic that would offend the victim’s human dignity. Penalties include prison sentences of up to five years and monetary fines. The law prohibits employers from requiring pregnancy tests as a prerequisite for employment; violators are subject to a 5,000 lempira ($220) fine. The government did not effectively enforce these laws and regulations.
Many employers discriminated against women. According to a 2013 study by the National Institute for Women, employers paid women an average of 16 percent less than they paid men for comparable work. Female workers in the textile export industry continued to report being required to take pregnancy tests as a condition of employment. Persons with disabilities, indigenous and Afro-Honduran persons, LGBTI persons, and persons with HIV/AIDS also faced discrimination in employment and occupation (also see section 6, Children). As of August the STSS reported that it had received no formal complaints of work discrimination. The International Solidarity Center reported that the STSS had received 12 complaints of discrimination based on disability.

e. Acceptable Conditions of Work

There are 42 categories of monthly minimum wages, based on the industry and the size of a company’s workforce; the minimums range from 5,682 lempiras ($250) to 9,593 lempiras ($420). The law does not cover domestic workers.

The law applies equally to citizens and foreigners, regardless of gender, and prescribes a maximum eight-hour shift per day for most workers, a 44-hour workweek, and at least one 24-hour rest period for every six days of work. It also provides for paid national holidays and annual leave. The law requires overtime pay, bans excessive compulsory overtime, limits overtime to four hours a day for a maximum workday of 12 hours, and prohibits the practice of requiring workers to complete work quotas before leaving their place of employment. The law does not protect domestic workers effectively.

In 2015 the government approved a new social security law. As part of the new law, employers must deposit at least 50 percent of the severance pay to which an employee is entitled into a bank account in the employee’s name. This provision, however, remained suspended as of December 20, pending the resolution of several court cases and further clarification of how the law will be implemented.

Occupational safety and health standards were current but not enforced. By law workers may remove themselves from situations that endanger their health or safety without jeopardizing continued employment.

The STSS is responsible for enforcing the national minimum wage, hours of work, and occupational health and safety laws, but it did so inconsistently and ineffectively. The law permits fines of up to 1,000 lempiras ($45) for failing to pay the minimum wage, 500 lempiras ($22) for violating occupational safety or
health regulations, and 5,000 lempiras ($220) for other labor code violations. As part of the Monitoring and Action Plan, the government nearly doubled the budget for inspectors, from 31.127 million lempiras ($1.4 million) to 59.54 million lempiras ($2.6 million). As of August inspectors had conducted 11,494 inspections, including 3,163 at work sites and 8,331 at STSS offices. As of August the STSS had 136 labor inspectors.

Because labor inspectors continued to be concentrated in Tegucigalpa and San Pedro Sula, full labor inspections and follow-up visits to confirm compliance were far less frequent in other parts of the country. Many inspectors asked workers to provide them with transportation so that they could conduct inspections, since the STSS did not have sufficient resources to pay for travel to worksites. Credible allegations of corruption among labor inspectors continued. Inspectors repeatedly failed to respond to requests for inspections to address alleged violations of labor laws, did not impose or collect fines when they discovered violations, and did not ensure enforcement of remediation orders.

Authorities did not effectively enforce worker safety standards, particularly in the construction, garment assembly, and agricultural sectors, as well as in the informal economy. The STSS conducted 31 reinspections of companies identified as labor rights violators under a Dominican Republic-Central America Free Trade Agreement (CAFTA-DR) complaint filed in 2012 by labor unions. Employers rarely paid the minimum wage in the agricultural sector and paid it inconsistently in other sectors. Employers frequently penalized agricultural workers for taking legally established days off.

There were reports of violations of overtime limits, with agricultural workers allegedly working seven days a week for many months. There were credible allegations of compulsory overtime at apparel assembly factories--particularly for women, who made up approximately 65 percent of the sector’s workforce--as well as in the private security sector and among domestic workers. Employers frequently denied workers mandatory benefits, including vacation pay and 13th- and 14th-month bonuses. As of August the STSS had recovered 26.91 million lempiras ($1.2 million) in unpaid severance from four companies and was working with an additional three companies to complete collection of outstanding severance payments from them. There were reports that both public- and private-sector employers failed to pay into the social security system.

Human rights organizations continued to report that workers in the private security and domestic sectors were typically obliged to work more than 60 hours a week,
but were paid for only 44. Domestic workers often lacked contracts and received salaries below a living wage. Since many lived in on-site quarters, their work hours varied widely based on the will of individual employers. Private security guards also often worked for salaries below the minimum wage. Many guards worked every two days on 24-hour shifts, in violation of the law. Civil society organizations also reported that employers often forced workers in cleaning services and the fast food industry to work shifts of 12 hours or more. The STSS regularly received complaints of failure to pay agreed overtime, especially in the security and cleaning service sectors. As of August the STSS had received 85 formal complaints of failure to pay overtime and fined 57 companies for not doing so. The STSS estimated that more than 60 percent of workers were employed in the informal economy.

There continued to be reports of violations of occupational health and safety laws affecting the approximately 3,000 persons who made a living by diving for seafood such as lobster, conch, and sea cucumber, most from the Miskito indigenous community and other ethnic minority groups in Gracias a Dios Department. These violations included lack of access to appropriate safety equipment. In 2014 the UN Committee on the Elimination of Racial Discrimination raised similar concerns, calling the working conditions “deplorable.” Civil society groups reported that most dive boats held more than twice the craft’s capacity for divers and that many boat captains sold their divers marijuana and crack cocaine to help them complete an average of 12 dives a day, to depths of more than 100 feet. In 2014 the government banned compressed air diving for sea cucumbers because of deaths in the dive fisheries. The STSS inspected 45 fishing boats at the opening of the season. As of September 20, the Honduran Miskito Association of Crippled Divers (AMHBLI) reported five deaths and 15 injuries. AMHBLI reported the deaths of 455 divers and the crippling of 1,750 others since 1988.
Violent crime is rampant in Honduras. Despite a downward trend in recent years, the murder rate remains among the highest in the world. A crackdown on protests following the November 2017 national elections resulted in the death of at least 22 civilians and one police officer, and in more than 1,300 detentions. Journalists, environmental activists, and lesbian, gay, bisexual, and transgender (LGBT) individuals are vulnerable to violence. Efforts to reform the institutions responsible for providing public security have made little progress. Marred by corruption and abuse, the judiciary and police remain largely ineffective. Impunity for crime and human rights abuses is the norm.

The Mission to Support the Fight against Corruption and Impunity in Honduras (MACCIH), established in 2016 through an agreement between the government and the Organization of American States (OAS), advanced investigations in a small number of cases regarding corruption by senior officials.
Police Abuse and Corruption

In January 2018, President Juan Orlando Hernández announced that the Special Commission for Police Reform Restructuring would extend its mandate through January 2019. As of April 2018, more than 5,000 of the more than 10,000 police officers evaluated by the commission had been removed, and in June, the commission presented the Attorney General’s Office with more than 1,300 case files of removed officers for further investigation into alleged criminal activities. However, the commission has been criticized for its opacity and came under fire in October 2018, when an officer whom the commission had promoted to deputy police commissioner, and who later became head of police, was arrested for illicit association and money laundering.

Eight former police officers faced prosecution or were convicted in the United States for involvement in organized crime.

Judicial Independence

Judges have faced interference from the executive branch and others, including private actors with connections in government. In June 2017, the former vice-president of the defunct Judiciary Council, Teodoro Bonilla, was found guilty of influence peddling.

In October 2018, the judiciary reinstated judges Tirza Flores Lanza and Guillermo López Lone. In 2015, the Inter-American Court on Human Rights determined that they had been fired arbitrarily after the 2009 coup in Honduras.

Crackdown on Protests

Following reports from both international observers and national actors of irregularities in the November 2017 national elections, protests erupted and authorities decreed a state of emergency, which the Office of the UN High Commissioner on Human Rights (OHCHR) and the Inter-American Commission on Human Rights (IACHR) criticized for its lack of compliance with international human rights standards.

According to the UN High Commissioner’s Office, at least 22 civilians were killed during the protests, of whom at least 16 were shot by security forces. A police officer was also killed after being hit by a Molotov cocktail filled with shrapnel. More than 1,300 people were detained, many of them in military detention centers. The UN High Commissioner’s Office documented “credible and consistent testimonies” that detainees had been subject to ill-treatment and said that security forces had indiscriminately opened fire on protesters on several occasions.
Freedom of Expression, Association, and Assembly

Journalists are targets of threats and violence. During the protests following Honduras’ elections, discussed above, the OHCHR documented physical attacks on at least six journalists, threats against journalists who were covering the protests, and the interruption of broadcasts critical of the government.

According to a 2016 report from the human rights ombudsman, CONADEH, 25 journalists were murdered between 2014 and 2016. Ninety-one percent of killings of journalists since 2001 remain unpunished.

In April 2018, Congress approved a preliminary version of a cybersecurity bill that would severely harm free speech by compelling companies providing internet services to censor content. At time of writing, the bill, which was criticized by the OAS’ special rapporteur for freedom of expression, faced another round of discussion and voting before it could become law.

In February 2017, Congress approved a new penal code making it a criminal offense—punishable by four to eight years in prison—for individuals or media outlets to engage in the “apology, glorification, [or] justification” of terrorism. The new code also contained a vague and broad definition of terrorism that could conceivably be used to bar peaceful protests and group meetings as terrorism. Following criticism from the OHCHR in Honduras and the IACHR, Congress repealed the provision on “apology, glorification, [or] justification” of terrorism in June 2018. But the broad definition of terrorism remained in force.

Attacks on Lawyers, Human Rights Defenders, and Environmental Activists

Lawyers, human rights defenders, and environmental activists suffer threats, attacks, and killings. In 2016, CONADEH registered 16 violent attacks against lawyers, including 13 killings. The IACHR described Honduras in August 2016 as one of the “most hostile and dangerous countries for human rights defenders” in the Americas.

At time of writing, nine men had been charged with the murder in March 2016 of environmental and indigenous rights activist Berta Cáceres, including an army major and the president, as well as the former environment manager of Desarrollo Energético S.A. (DESA), the company behind the Agua Zarca dam project that Cáceres was campaigning against at the time of her assassination. When the trial against eight of the suspects started in September 2018, the Cáceres family lawyers filed legal appeals questioning the proceedings and seeking a new panel of judges. In October, the existing panel started the trial while the appeals remained pending.
Local activists criticized the Mechanism for the Protection of Journalists, Human Rights Defenders and Operators of Justice, created in 2015, for lacking uniform criteria in awarding protection measures. Activists also claimed the measures are not always effective.

**Sexual Orientation and Gender Identity**

Violence based on gender identity or sexual orientation is a major problem in Honduras. Several UN agencies working in Honduras have noted that violence against LGBT individuals forces them into “internal displacement” or to flee the country in search of international protection.

In August 2018, Honduran Congress approved several articles of a preliminary version of a new adoption law that would prohibit same-sex couples from adopting children. Final approval of the law remained pending at time of writing.

**Women’s Sexual and Reproductive Rights**

Under the criminal code, abortion is illegal without any exceptions in Honduras, and women and girls who terminate pregnancies can face prison sentences of up to six years. Emergency contraception is also prohibited. In May 2017, Congress voted against modifying the existing criminal code to allow abortion in cases of rape, grave risks to the life and health of the woman, or fetal complications incompatible with life outside the womb. The law that remains in force also sanctions abortion providers and those who assist with procedures.

**Children’s Rights**

In July 2017, the Honduran Congress unanimously passed a bill making all child marriage illegal. The new bill replaces legislation that previously allowed for girls to marry at 16 with permission from family. According to UNICEF, a third of Honduran girls marry before 18.

In May 2017, President Hernández created a commission to revise the criminal code to allow children as young 12 to be prosecuted as adults, rather than through the existing juvenile justice system, in violation of international standards. However, at time of writing no proposal had been put forward.
Prison Conditions

Inhumane conditions, including overcrowding, inadequate nutrition, and poor sanitation, are endemic in Honduran prisons. Designed to hold up to 10,600 inmates, the country’s penal institutions held almost 20,500 in August 2018, according to news reports.

Key International Actors

The Mission to Support the Fight against Corruption and Impunity in Honduras (MACCIH), has been active in the country since April 2016. It has assisted in the creation of an anti-corruption jurisdiction in the country and in the approval of the Law on Clean Politics, which aims to prevent organized crime from contributing to political campaigns and hold parties and candidates accountable for financing their campaigns illegally. It also contributed to several anti-corruption investigations, together with the Attorney General’s Office.

Amongst these is a case regarding fraud in the country’s social security office (IHSS) for which, at time of writing, 14 people had been convicted—including the institute’s former director and three former deputy ministers. Five members of Congress of three different opposition parties were being investigated for the alleged embezzlement of HNL 8.3 million (US$ 345,000), as was a former first lady, for the alleged embezzlement of HNL 16 million (US$ 680,000).

However, in January 2018, a month after MACCIH and UFECIC indicted the members of Congress, the legislature passed legal reforms that established that the country’s court of auditors was the only entity allowed to audit public funds, effectively halting the investigation. In May 2018, the Constitutional Court ruled that although MACCIH was constitutional, elements of the anti-corruption prosecutorial unit (UFECIC) might not be, potentially undermining its work.

In February 2018, MACCIH head Juan Jiménez stepped down, citing a lack of support from the OAS secretary general. After the appointment of his replacement was held up for several months by the Honduran government, Luiz Antonio Guimarães Marrey started his work in June 2018.

In May 2018, the Committee on Enforced Disappearances recommended Honduras bring its legislation regarding disappearances in line with international law and improve search efforts, including for those who disappeared in the 1980s and 1990s.

Press Release

IACHR Has Concluded its Visit to Honduras and Presents its Preliminary Observations

August 3, 2018

Tegucigalpa - The Inter-American Commission on Human Rights (IACHR) has completed its on-site visit to Honduras, which took place between July 30 and August 3, 2018. The aim of the visit was to observe the human rights situation in the country on the ground.

The delegation was led by the first vice-president of the IACHR, Esmeralda Arosemena de Troitiño; and also included the second vice-president, Luis Ernesto Vargas Silva; commissioners Flávia Piovesan and Antonia Urrejola, and commissioner Joel Hernández García, the IACHR rapporteur for Honduras. Among the other members of the delegation were the executive secretary of the IACHR, Paulo Abrão; the assistant executive secretary, María Claudia Pulido; the chief of staff of the executive secretariat, Marisol Blanchard Vera, the special rapporteur for freedom of expression, Edison Lanza; the special rapporteur on economic, social, cultural, and environmental rights (ESCER), Soledad García Muñoz, and experts from the executive secretariat.

The IACHR met with government authorities, civil society organizations and representatives, human rights defenders, indigenous authorities, international organizations, and other bodies representing academia, the media, and the private sector. It also gathered testimonies from victims of human rights violations and their families. The IACHR carried out unrestricted visits to different regions of Honduras, including Tegucigalpa, San Pedro Sula, Tela, Puerto Lempira, and Bajo Aguán; and it visited various state-run institutions, including prisons and military bases.

The IACHR wishes to thank President Juan Orlando Hernández and his government for their openness to international scrutiny, which took the form of the invitation to carry out this visit and led to a frank, constructive dialogue at the highest levels of government. The IACHR is grateful for the information provided by the government and civil society organizations. It would also like to acknowledge the efforts made by victims of human rights violations and their families to present testimonies, petitions, and messages. Likewise, the IACHR values the support provided by the Organization of American States' Honduras office, the office of the Office of the United Nations High Commissioner for Human Rights, and the United Nations Development Programme.

The IACHR has been following the human rights situation in Honduras closely. It has observed structural issues around justice, security, inequality, and discrimination, which have been affecting the human rights of the country’s inhabitants for decades. The grave human rights violations that followed the 2009 coup d’état have seriously affected the Honduran people, and this episode continues to have repercussions today.

The IACHR acknowledges the Honduran government’s creation of the State Secretariat at the Office of Human Rights. This began to function in January 2018 and seeks to promote and implement the Public Policy and National Action Plan on Human Rights.

For there to be full enjoyment of human rights in the country, it is essential that Honduras make progress on the process of democratic institution-building, guarantee a true separation of powers, and strengthen the rule of law.

Given the impunity and violence that Honduras has historically faced, the state must step up its efforts to guarantee the population’s rights so that Hondurans can rebuild their trust in state institutions.

Serious challenges continue to face democratic institutions and the rule of law. Widespread structural impunity and corruption have eroded trust in public institutions. The recent process to elect a new public prosecutor revealed the weakness of current standards and the need to better regulate these. Another matter of concern is the lack of balance between the public powers that would allow the rule of law to function optimally.

Inequality and a lack of development for some sectors of the population are rooted in a system that benefits an elite minority that has connections with the upper echelons of political and private power. The resulting structural inequality in the country has a
With specific regard to the enjoyment of the right to food, the IACHR is concerned over reports of limited access to sources of food opportunities, natural assets such as land, and means of survival.

The IACHR noted that the right to freedom of expression in Honduras was fraught with complexity. The persistence of high levels of electoral fraud and the violence that took place during the subsequent protests. The IACHR believes that this crisis demands a democratic, inclusive, and participatory solution. In this sense, it is urging all relevant political sectors to take part in this dialogue, which it sees as a major step toward national reconciliation.

Likewise, the IACHR has analyzed the current state of affairs for citizen security. There has been a reduction in the homicide rate, although this remains nonetheless high. There has also been an increase in the use of military forces in multiple areas and roles relating to public security. The IACHR has received alarming information regarding the involvement of military agents in killings, executions, kidnapping, and the arbitrary detention and forced displacement of civilians. It has also compiled information on the lack of control mechanisms for illegal firearms and the proliferation of private security firms.

The Preliminary Observations from the visit include evaluations on the current state of affairs for citizen security. There has been a disproportionate effect on vulnerable groups. With regard to the postelectoral conflict, the IACHR observed that the political climate remains polarized. Public perceptions around the lack of legitimacy of the elections gave rise to protests that were repressed through an indiscriminate and disproportionate use of force. The armed forces also took part in this repression, which contravenes intra-American standards. In any democratic system, it is essential that there be a clear and specific separation between domestic security, which is the role of the police force, and national defense, which is the role of the armed forces. As a result of the state response to the demonstrations, at least 22 people were murdered; hundreds of people were injured, including members of the security forces; and over a thousand people were arrested, many of whom reported having been mistreated during their detainment and subsequent deprivation of freedom. It was also reported that the security forces carried out illegal raids on houses. Given the irreversible nature of the consequences that the use of force can lead to, the IACHR considers that it should only be used as a last resort to prevent a more serious incident than the one caused by the state’s reaction itself. In this sense, the use of force should be exceptional and should comply with the principles of legality, absolute necessity, and proportionality.

The IACHR was informed by the state that in order to determine the truth behind the killings that took place, it had created an investigative panel, which is made up of the Special Prosecutor’s Department, the Office of the Special Prosecutor for Crimes against Life, the Fiscal Unit Assigned to the Military Police for Public Order, and the Police Investigations Department. Despite this, the IACHR has not received further information on the progress or development of the investigations in question. Likewise, families are not being informed about these. The IACHR urges the state to make headway on these investigations by carrying out the necessary due diligence in order to identify those responsible for these crimes, prosecute them, and sanction them as appropriate. Over eight months after the events took place, victims and their family members continue to report on the lack of access to information regarding these investigations and concrete outcomes in which justice is served.

At present, attempts are being made to start a political dialogue in order to move beyond the political crisis that was sparked by reports of electoral fraud and the violence that took place during the subsequent protests. The IACHR believes that this crisis demands a democratic, inclusive, and participatory solution. In this sense, it is urging all relevant political sectors to take part in this dialogue, which it sees as a major step toward national reconciliation.

The IACHR will monitor investigations into the deaths that took place in this context and the reports of mistreatment during the arrest and detainment of people by the military and national police forces. The IACHR notes that to date, no charges have been pressed against any member of the security forces over their alleged involvement in the killings and injuries that took place in this context.

During its visit, the IACHR received multiple testimonies regarding the excessive and abusive use of force to disperse public demonstrations in other contexts. This is evidence of the government perceiving protests as a risk to state security and governance. Based on these perceptions, the state is prioritizing repression over violence. Student protests, political demonstrations, land claims, and protests against development projects are suppressed using force and those taking part in them are subject to stigmatization, arrest, and criminal proceedings. This contravenes the fundamental principles of international human rights law.

The Preliminary Observations from the visit include evaluations on the current state of affairs for citizen security. There has been a reduction in the homicide rate, although this remains nonetheless high. There has also been an increase in the use of military forces in multiple areas and roles relating to public security. The IACHR has received alarming information regarding the involvement of military agents in killings, executions, kidnapping, and the arbitrary detention and forced displacement of civilians. It has also compiled information on the lack of control mechanisms for illegal firearms and the proliferation of private security firms.

Likewise, the IACHR has analyzed the current state of affairs around the administration of justice and found that the structural problems that were identified in 2014 persist, weakening the guarantees of independence and impartiality and contributing to the structural impunity in the country today. The IACHR noted the profound lack of public trust in the legal system, which was also acknowledged by some government officials. Restoring this is of paramount importance. Likewise, the IACHR wishes to draw attention to the importance of the work of the Department of Forensic Medicine of Honduras. It is essential that this body be able to go about its duties unimpeded, as it provides the Public Prosecutor’s Office with information that is crucial to being able to carry out an effective investigation.

Since the Judiciary Council was declared unconstitutional, judges have been subject to disciplinary control by the Judicial Professional Council, which is not an autonomous body that is independent of the Supreme Court. Furthermore, judges and public prosecutors with “national jurisdiction” continue to operate—these have been assigned by the National Defense and Security Council (CNDS). The IACHR wishes to stress how important it is that the regulations underlying this regime be reviewed, given that authorities from the executive and judicial branches of government take part in the Judicial Professional Council, which calls into question its independence and impartiality when it comes to investigating and sanctioning the cases in question.

The IACHR observed that the right to freedom of expression in Honduras was fraught with complexity. The persistence of high levels of violence against journalists and the impunity around most of these crimes continues to be a serious issue. On top of this structural factor, the legislative branch of government appears to have decided to maintain the crimes of slander, libel, and other legal concepts that affect freedom of expression during the recent comprehensive reform of the country’s Criminal Code and the presentation of a bill to regulate social media. During the postelectoral crisis there were incidents of serious aggression on the part of government and nongovernment players toward journalists and members of the media. This included threats, stigmatization, and social media attacks on journalists from both sides of the political and social chasm that has divided the country. Another facet was the pressure put on publishers, editors, and journalists to influence their coverage of the elections and the events that followed.

The Preliminary Observations also analyze the persistence of high levels of inequality and social exclusion that are affecting large swathes of the population. Specifically, there continue to be serious difficulties and challenges around access to basic goods, employment opportunities, natural assets such as land, and means of survival.

With specific regard to the enjoyment of the right to food, the IACHR is concerned over reports of limited access to sources of food
production that benefit transnational agribusiness firms and legislative threats to restrict the use, storage, and exchange of traditional seeds by indigenous and peasant communities.

With regard to the right to health, the IACHR is particularly concerned over the difficulties facing the most disadvantaged sectors of the population in accessing medicines and essential treatments. With regard to the right to sexual and reproductive health, the IACHR condemns the fact that the state still criminalizes abortion outright and prohibits the distribution of emergency oral contraception. In Miskito territory, it was found that there were insufficient medical staff and supplies at health centers. This was particularly evident at Puerto Lempira Hospital, which covers the entire population of Gracias a Dios Department and which is suffering from serious shortages of supplies, electricity, and medical specialists. The IACHR observed that the Panamá and Garífuna communities were experiencing similar shortages.

With regard to the right to education, in addition to the unmet demand for bilingual, intercultural education, there are constant complaints about the lack of basic infrastructure and teaching staff, as well as labor and trade union rights.

The Preliminary Observations document contains a detailed analysis of the specific situation of groups that are of particular concern: women; girls, boys, and adolescents; lesbian, gay, bisexual, trans, and intersex people; human rights defenders; people in state custody, including those deprived of freedom and in the custody of the juvenile justice system; indigenous peoples and people of African descent; internally displaced people; and migrants, people in need of international protection, and returnees. This document presents a summary of the observations concerning each of these groups.

Women

The IACHR reiterates its concern around the serious violence being perpetrated against women in Honduras, the different ways in which this is expressed, and the high levels of impunity around this. In 90% of cases, femicides continue to go unpunished, thus facilitating gender-based violence and discrimination. Likewise, the IACHR has observed with concern the violence perpetrated against women in particularly vulnerable situations, such as lesbian, gay, bisexual, trans, and intersex (LGBTI) women and human rights defenders.

The IACHR wishes to stress once more that these acts of violence are not isolated, but are instead symptomatic of a pattern of structural discrimination against women. The machismo and gender stereotypes that are deep-rooted in Honduran society increase the risks that women are exposed to and prevent them from fully exercising their right to live a life free of violence. Likewise, the IACHR expresses its concern over the interconnected nature of the threats women face based on factors such as sexual orientation and gender identity, disability, ethnicity, or race. The IACHR calls particular attention to violations of the rights of women of African descent and Garífuna women. Being a migrant or human rights defender may increase a woman’s risk of being killed or victimized.

With regard to the sexual and reproductive rights of women, girls, and adolescents, the blanket criminalization of abortion continues, even when the pregnancy puts the woman’s life in danger. Honduras is one of only five countries in the world not to contemplate abortion on any ground at all. This is compounded by the Supreme Court of Justice’s ruling prohibiting emergency contraception pills. The promotion, use, sale, distribution, and purchase of such medication carries the same penalties as abortion itself, even when used to treat or assist rape victims. With regard to access to sexual education services, the IACHR has been informed of the lack of comprehensive plans to promote prevention and provide education and access to information on sexual and reproductive health, including family planning methods.

Girls, Boys, and Adolescents

One area of particular concern is the impact that the current socio-economic situation is having on the rights, well-being, and development opportunities of girls, boys, adolescents, and young people. Child poverty rates in Honduras are worse than anywhere else in Latin America. The country is home to less than 4 million children but 435,000 of these boys and girls currently work. Over a million boys, girls, and adolescents between the ages of 3 and 17 do not regularly attend school or are not enrolled in the education system at all. These figures are even more overwhelming among children from indigenous communities or those of African descent, and those with disabilities. Particular attention needs to be paid to including returnee migrant children and those displaced by violence in the education system.

The IACHR wishes to repeat its concern over the Guardians of the Homeland Plan, which introduces the armed forces and the police into the educational sphere in order to control the presence of gangs and maras and the sale and consumption of drugs in schools. This program promotes a military culture that is at odds with the notion of a peaceful society and also stigmatizes and endangers boys and girls from certain social sectors.

Furthermore, the climate of insecurity and violence that reigns in the country is particularly detrimental to boys, girls, and teenagers. Children who live in neighborhoods where maras and gangs are particularly well established are among those whose rights are most affected. The IACHR warns that girls, boys, and adolescents are exposed to pressure, threats, violence, and deception by gangs, who use and abuse them for their own ends. They are also stigmatized, discriminated against, and mistreated by security agents, who see them as potential delinquents. With regard to girls and boys who live on the streets, the IACHR is concerned over their extreme vulnerability to so-called social cleansing operations. This violence is the reason that many girls, boys, and adolescents and their families opt for migration or internal displacement.

Furthermore, the IACHR wishes to express its concern over the high number of teenage pregnancies and the levels of sexual violence experienced by girls and teenagers. Honduras has the second-highest teenage pregnancy rate in Latin America: 24% among 15- to 19-year-olds, on average. It is alarming that a very high percentage of these pregnancies—around 50%—are the consequence of rapes. The sexual abuse of children is cause for deep concern and demands urgent priority action on the part of the state to include a strategy to modify social gender stereotypes, empower and educate girls and adolescents around their rights, and provide access to services such as free 24-hour telephone helplines. During its visit, the IACHR was informed of the progress that the state of Honduras made in 2017 when it modified its legislation to prohibit boys, girls, and teenagers from marrying before the age of 18. To prevent teenage pregnancies, the IACHR urges the state to include sexual and reproductive education in the school curriculum.
The IACHR acknowledges different measures that the state has taken in connection with juvenile justice such as the 2013 reform seeking to make juvenile justice more focused and bring it in line with international standards. Another such measure is the establishment of the National Institute for the Care of Juvenile Offenders (INAMI), which is responsible for overseeing operations at detention centers for adolescents who have been processed by the criminal justice system. However, the IACHR warns that children and adolescents who are deprived of their freedom experience substandard incarceration conditions, excessive use of pretrial detention, and a limited supply of social rehabilitation programs. It also draws attention to the need for more legal authorities who specialize in this age group.

According to the information that the IACHR has at its disposal, juvenile detention centers generally have substandard, unsanitary facilities and no socio-educational programs to help young offenders to reintegrate effectively into society. They are largely unsafe and authorities find them hard to run properly due to the power gangs wield within them. On top of the poor conditions that mark prison facilities in general, the IACHR observed during its visit to the Renaciendo Juvenile Detention Center that schooling is only provided up to sixth grade. In addition, despite the agriculture-related activities that were to begin in the following weeks, the IACHR found that no educational or recreational activities were being offered at this center to guarantee effective social reintegration for adolescents deprived of their freedom. Consequently, the IACHR observes that detention conditions there contravene international juvenile justice standards, as they do not provide treatment that shows respect for human dignity nor are they clearly aimed at the effective, constructive reintegration of detainees into society.

Lesbian, Gay, Bisexual, Trans, and Intersex (LGBTI) People

The IACHR welcomes the human rights education plan initiative, which prioritizes the teaching of gender issues and sexual diversity in schools. Human rights education plays a transformational role, bringing about cultural change to eliminate structural prejudices, long-standing discrimination, stereotypes, and misconceptions about LGBTI people.

However, the IACHR has observed that in Honduras, LGBTI people face acts of violence and widespread discrimination that continue with impunity. According to information provided by civil society organizations, in the last five years, there have been 177 killings of LGBTI people, 21 of which have taken place this year and two during the IACHR’s visit. Investigations into 65 of these killings have been started, but none of them have led to convictions. Violence against LGBTI people is widespread in Honduras and constitutes a clear human rights violation. These cases go unpunished, which generates the impression that violence and discrimination are acceptable.

The IACHR also became aware of a ruling from the Public Prosecutor’s Office in the context of a marriage-related initiative that is unconstitutional according to the principles of equality and nondiscrimination, which mentioned the possibility of granting LGBTI people “unequal” treatment. The IACHR believes that this statement may constitute an act of institutional discrimination in and of itself. The right to equality and nondiscrimination is a fundamental principle that obliges the state of Honduras to provide the same levels of protection to all people under its jurisdiction and to adopt measures to eliminate and combat discriminatory practices.

Human Rights Defenders

Significant progress has been made in relation to the institutional framework for human rights defenders. This includes the passing of the Law on the Protection of Human Rights Defenders, Journalists, Social Communicators, and Legal Workers, which establishes the National Protection Mechanism, and the creation of a Special Prosecutor’s Office for the Protection of Human Rights Defenders, Journalists, Social Communicators, and Legal Workers.

Despite this progress, the IACHR observes that the state of affairs for human rights defenders continues to be one of extreme risk due to the constant violence, criminalization, and slander they are exposed to. Although the IACHR notes that the numbers of human rights defenders that are killed in the country have decreased significantly, the overall number of acts of aggression in recent years is worrying.

The IACHR wishes to stress that the state of Honduras has a duty to fight impunity around attacks against human rights defenders, which implies carrying out serious, independent, transparent investigations to identify those responsible for planning and perpetrating these crimes, bringing them to trial, and guaranteeing appropriate compensation. The IACHR notes that the new Special Public Prosecutor’s Office for the Protection of Human Rights Defenders will play a major role in this area. Consequently, the IACHR calls on the state of Honduras to provide funding for this unit as soon as possible and to make headway on drafting specialized protocols for investigating crimes against human rights defenders that will support the work of this new office.

Similarly, the IACHR wishes to express its concern over the practice of criminalizing human rights defenders. At meetings with representatives from civil society and human rights defenders in Bajo Aguán, San Pedro Sula, Tegucigalpa, and Tela, the IACHR received numerous testimonies concerning the use of criminal offenses such as usurpation, libel and slander, attacks, and threats in order to file civil lawsuits against them as a way of interfering with the defense of human rights. For example, during its visit to the Panamá peasant community in Bajo Aguán, in Colón Department, the IACHR observed with great concern how, in a context of extreme violence due to the agricultural conflict in the region, human rights defenders are subject to lengthy legal proceedings, alternative measures, and arrest warrants. The IACHR received testimonies from peasant leaders accused of seizing land, even when they had not been involved in land recovery processes or did not even live in the region at the time. It was observed in these cases that these processes are widely used as a form of judicial harassment seeking to forcibly evict farmers and silence local resistance.

The IACHR observes that involving human rights defenders in lengthy criminal proceedings, in which alternative measures may also be applied, has a multiplying effect on these intimidation tactics which extend to those who are defending similar causes. The IACHR wishes to reiterate that the state of Honduras must prevent authorities or others from manipulating the punitive power of the state and its judicial bodies to harass human rights defenders. In this sense, the state must take all necessary measures to prevent human rights defenders from being subjected to unfair or unfounded trials as a consequence of legal investigations.

People Deprived of Freedom

The IACHR values the measures that have been taken by the state of Honduras to guarantee the rights of people deprived of freedom.
The most notable of these have been the budget increase of 2017, new measures to identify people eligible for prerelease privileges, and the use of electronic surveillance as an alternative to pretrial detention.

Despite this, the IACHR wishes to call attention to the notable increase in overcrowding rates in recent years. The IACHR observes that pretrial detention is one of the most serious problems facing people deprived of freedom in the state of Honduras, as it applies to more than half of the prison population. The IACHR observes that these figures reflect that pretrial detention is not being used as the exceptional measure as which it is intended and that it is used disproportionately among women. The significant increase in the number of prosecutions is mainly due to the reform of the Criminal Procedure Code in 2013, which eliminated the use of alternative measures for 21 offenses. The obligatory use of pretrial detention based on the type of crime runs counter to the American Convention and constitutes an interference on the part of the legislature in the discretionary powers vested in the judiciary. The use of pretrial detention should be based on the right to the presumption of innocence and should be applied in accordance with the principles of exceptionality, legality, necessity, and proportionality.

In recent years, the state has built three “mega-prisons” based on a maximum-security model. These seek to crack down on criminal activity originating from within detention centers. In this regard, the IACHR notes that by establishing this type of prison and applying maximum-security regimes, the state is privileging the security model over a model based on guaranteeing the human rights of people deprived of their freedom and their families.

Despite the fact that the legislation in force prohibits the presence of military forces within the penitentiary system, and despite the state’s claim that it is transforming this into a civil institution, it is still marked by noticeable involvement on the part of the armed forces. Military training is not appropriate for controlling and running detention centers, as this can lead to particular human rights violations, such as the excessive use of force during guard duties and overly strict regimes for controlling the prison population.

Furthermore, the IACHR is especially concerned over the poor conditions of detention it observed at the Honduran prisons that it visited. These have alarming levels of overcrowding, substandard infrastructure, no separation between the accused and convicts, unsanitary conditions, a lack of proper reintegration programs, poor medical care, inadequate nutrition, and insufficient access to clean water.

Indigenous Peoples, People of African Descent, and Garífuna Communities

The IACHR acknowledges that the state of Honduras recognizes the ancestral lands of indigenous peoples and people of African descent. Honduras also informed the Commission that the National Agrarian Institute has begun work on the Mapping of Indigenous Land Deeds project to identify the lands and territories that are claimed by indigenous communities, and that it is drafting a bill to restore land to them. However, the IACHR received reports on the lack of demarcations, land titling, and redistribution or return of lands to indigenous peoples and people of African descent. It has also received worrying reports that public institutions and legal authorities have been issuing private title deeds to third parties within the disputed area.

The IACHR expresses its concern over the hurdles that indigenous people face to being able to enjoy their lands, territories, and natural resources. This issue was confirmed during the visit to the Garífuna community in San Juan, where the Commission was informed that many community members have been forced to move due to pressure on their territories by third parties. The IACHR stresses that indigenous peoples have a right to communal ownership of the land that they have traditionally used and occupied. States have the obligation to prevent the invasion or colonization of indigenous lands by third parties.

The IACHR also received reports on different mining exploration activities and tourism-related or hydro-electrical projects within the territories of indigenous peoples and people of African descent without prior, free, and informed consultation. The state reported that a bill on prior consultation as a safeguard for the rights of indigenous peoples and people of African descent is currently being considered by Congress.

However, the IACHR has also noted information on the lack of involvement of some civil society organizations, indigenous peoples, and people of African descent in drafting the bill in question.

With regard to the status of the Miskito people in La Moskitia, Gracias a Dios Department, the IACHR values the fact that the state has issued title deeds for more than 95% of community lands. The state also reported on the implementation of the Alliance for the Development of La Moskitia, which seeks to improve the population’s access to education, healthcare, and nutrition. However, the IACHR shares the concern of the Miskito people around the occupation of their lands by third parties. The IACHR urges the state to consult on and pass a land restitution law, in accordance with Convention 169 and inter-American standards on the issue.

In its visit to La Moskitia, the IACHR observed a pattern of poverty, unemployment, and a lack of healthcare and energy services, clean water, and sanitation. Likewise, the IACHR received multiple testimonies regarding shortfalls in the implementation of a culturally appropriate bilingual education program. It also documented the multiple health problems that continue to affect Miskito divers who engage in underwater fishing activities.

The IACHR wishes to point out that states have the obligation to adopt measures to guarantee true equality and combat the historical discrimination suffered by vulnerable groups. Furthermore, it wishes to underline states’ obligation to minimize occupational accidents and diseases in both public and private firms.

Internally Displaced People

The IACHR wishes to stress that, according to the information provided by the state, progress is being made on updating and expanding the “Study on the Status of Internal Displacement in Honduras,” to improve the evidence available on the scale and impact of internal displacement in the country. The state needs to move forward promptly and without delay in order to better implement existing measures and adopt additional institutional and financial approaches so as to be able to effectively guarantee the human rights of internally displaced persons. To achieve this, it needs to provide sufficient budgetary resources for the Interinstitutional Commission for the Protection of People Displaced by Violence.
During the IACHR’s visit, it gathered testimonies from people who claimed they had been forced to relocate within the country as a consequence of different forms of violence, including gang- and mara-related violence; gender and intra-family violence; balance based on sexual orientation and diverse gender identity; violence by government forces following the elections; extractive industries setting up operations; and natural disasters.

The IACHR reminds states that they have the obligation to respect and guarantee the right to freedom of movement and residence to all people under their jurisdiction, which includes the prohibition of arbitrary displacement. This right may be violated when a person falls victim to threats or harassment and the state does not provide the necessary guarantees for them to move freely and reside in the territory in question. Likewise, the lack of effective investigation into violent incidents and widespread impunity may undermine victims’ trust in the legal system and contribute to generating conditions of insecurity. Such impunity may lead to or perpetuate forced displacement or even exile. Internal displacement is a multiple and continuous human rights violation, one that endures until people can return to their places of origin safely, voluntarily, and with dignity, or until they are voluntarily resettled in another part of the country. The IACHR wishes to point out that states are obliged to prevent displacement, protect and assist the displaced, provide and facilitate humanitarian aid, and facilitate the safe return, resettlement, and reintegration of those who have been internally displaced.

Migrants, People Needing International Protection, and Returnees

In Honduras, despite the need for protection that many Hondurans who emigrate abroad have, the IACHR notes that the number of people being deported is on the rise due to the tightening of immigration policies in Mexico and the United States.

The state of Honduras has also informed the IACHR of numerous migration-related measures it has implemented, such as the creation of a Migrant Assistance Task Force, the purpose of which is to coordinate responses from Honduran government institutions to guarantee respect for the human rights of migrants, provide appropriate assistance and protection abroad, and design a strategy to provide assistance and foster reintegration for Hondurans who return to the country. The state also stressed the significance of its having created the Undersecretariat of Consular and Migratory Affairs to guarantee greater emphasis on protection and assistance for migrants and returnees. The IACHR was also informed of the Honduran Migrant Solidarity Fund (FOSMIH), which was created by the Law for the Protection of Honduran Migrants and Their Families.

With regard to assisting migrants who are deported back to the country, the state indicated that three Returning Migrant Assistance Centers (CAMRs) have been established and refurbished. At the CAMRs, the state provides meals, immediate medical attention, psychological care (which is compulsory for children and families), accommodation for 48 hours for those who cannot return to their places of origin, and transportation. A socio-economic case file is started on each Honduran returnee to follow up on them as they reintegrate into their communities of origin. During its visit, the IACHR visited the Assistance Center for Migrant Children and Families in Belén, San Pedro Sula, where it found evidence of a substantial improvement in the conditions and services provided to returnee girls, boys, and families in comparison with what it had found during its visit in 2014.

With regard to migrants who have gone missing en route and investigations into crimes against them and violations of their rights, the IACHR was informed by civil society organizations of the challenges that the families of missing migrants still face when attempting to find and identify their loved ones. In this regard, the state reported that from 2012 to the most recent visit, a total of 440 Hondurans have been reported as missing and DNA samples have been taken from 974 of these individuals’ family members. It also explained that a Committee on Missing Migrants has been established, which is made up of government institutions, civil society organizations, and the Argentine Forensic Anthropology Team (EAAF).

Finally, with regard to the reintegration of returnee migrants, the state claimed that since 2017 it has been implementing the Municipal Centers for the Assistance of Returnees (UMAR) in 16 of the municipalities from which the greatest number of migrants leave. The IACHR was also informed that since 2017 the state has been working on an interinstitutional committee to design and draft a migration policy for Honduras that includes return and reintegration into the country.

With regard to returnee migrants, the IACHR believes the state should guarantee reintegration programs for migrants who are returned to Honduras. To guarantee effective, human rights–centered reintegration, the state must, among other measures, ensure the provision of economic, sociocultural, and psychosocial support for returning migrants and for their communities of origin before, during, and after they return.

Recommendations

Based on its preliminary observations from the visit, the IACHR is putting forward the following preliminary recommendations to the state of Honduras:

1. Work diligently and impartially to advance investigations to identify and sanction those responsible for the acts of violence, deaths, and mistreatment that took place around the protests that followed the most recent elections.

2. Guarantee due process and ensure that all people detained in the aftermath of the recent elections have broad access to legal counsel, in accordance with inter-American human rights standards.

3. Strengthen the capacities of the police force to make headway on the plan for gradually replacing the armed forces in public security tasks, in accordance with inter-American human rights standards.

4. Develop a plan around access to justice to guarantee that victims, their families, and human rights defenders have broad access to investigations and legal proceedings into human rights violations in order to strengthen an independent, impartial justice system.

5. Review national legislation to eliminate criminal or legal offenses that may restrict or prevent journalists from going about their work and people from exercising their right to freedom of expression.
6. Strengthen the Office of the Special Prosecutor for Crimes against Life by providing it with protocols, sufficient staff, and a high enough budget to combat the impunity of crimes against human rights defenders and journalists, with a focus on diversity and a gender perspective.

7. Adopt legislation and public policies that focus on building fiscal policies seeking to eradicate extreme poverty and reduce social inequality.

8. Develop a national plan to address private companies and human rights.


10. Make it a priority to investigate, prosecute, and sanction human rights violations from a gender perspective, with a particular focus on femicides against trans women.

11. Adopt plans, policies, and legislation to guarantee and overcome all obstacles to the full exercise of the sexual and reproductive rights of girls, adolescents, and women.

12. Ensure that the National Policy on Children responds to children’s need for protection and is based on a realistic, participatory assessment that includes all rights, identifies particularly vulnerable groups, and includes indicators that allow the success and effectiveness of the policy to be monitored.

13. Review and build a national strategy for the prevention of violence against children that addresses the structural causes that make them more vulnerable to criminal groups. To achieve this, the state must prioritize the prevention and eradication of sexual violence and ensure that a broad range of boys, girls, and adolescents and civil society organizations participate in this process.

14. Refrain from including regulations that are discriminatory or have discriminatory effects against LGBTI people into the legal system.

15. Take urgent measures to prevent the legal harassment of human rights defenders, such as implementing protocols and providing training for legal workers to prevent human rights defenders from being subjected to unfair or unfounded prosecutions as a consequence of legal investigations.

16. Ensure the immediate, appropriate, and effective implementation of all precautionary measures authorized by the IACHR. The state must guarantee that the measures taken are appropriate and effective. Likewise, the IACHR urges the state to investigate further into the sources of risk that underlie these precautionary measures so as to mitigate them.

17. Strengthen the Mechanism of Protection such that it can handle the increased demand for protective measures and ensure that these are implemented effectively.

18. Adopt the necessary judicial, legislative, administrative, and other measures needed to bring the use of pretrial detention in the country in line with international standards. The state must promote, regulate, and apply alternative measures to pretrial detention and must repeal the provisions ordering the mandatory application of pretrial detention in connection with a particular type of crime, particularly article 184 of the Code of Criminal Procedure.

19. Guarantee regular visits to prisoners. In particular, the state needs to reform article 10 of the National Penitentiary System visiting regulations to ensure that these only seek to comply with those requirements that are essential to guaranteeing security inside prisons and do not entail excessive expense for people living in poverty or with limited resources.

20. Take the necessary measures to mark out, provide title deeds for, and return lands and territories claimed by indigenous peoples, as appropriate.

21. Begin culturally appropriate proceedings to implement the right to free, prior, and informed consultation and consent, incorporating the provisions of Convention 169 and international standards on the matter.

22. Implement public policies to address the needs of the people living in La Moskitia, particularly to address socio-economic marginalization through effective measures to combat poverty and improve education, employment, and healthcare.

23. Develop and implement public policies and a specific law that aim to prevent internal displacement and guarantee protection, humanitarian aid, and lasting solutions for internally displaced people, in accordance with the Guiding Principles on Internal Displacement and the international human rights obligations that the state of Honduras is party to.

24. Adopt a public policy that aims to guarantee an effective, human rights–centered reintegration process for returnee migrants, especially those in vulnerable situations and/or with a particular need for protection, such as children, victims of human trafficking, people with disabilities, LGBTI people, and people with medical needs.

25. Implement a special monitoring mechanism with the IACHR to follow up on the implementation of the recommendations made as part of its recent visit to Honduras and the report on this.

A principal, autonomous body of the Organization of American States (OAS), the IACHR derives its mandate from the OAS Charter and the American Convention on Human Rights. The Inter-American Commission has a mandate to promote respect for and to defend human rights in the region and acts as a consultative body to the OAS in this area. The Commission is composed of seven independent members who are elected in an individual capacity by the OAS General Assembly and who do not represent their countries of origin or residence.
Human Rights Council
Thirty-seventh session
26 February–23 March 2018
Agenda item 2
Annual report of the United Nations High Commissioner
for Human Rights and reports of the Office of the
High Commissioner and the Secretary-General

Annual report of the United Nations High Commissioner for Human Rights on the situation of human rights in Honduras*

Note by the Secretariat

In the present report, the United Nations High Commissioner for Human Rights describes the situation of human rights in Honduras from 1 January to 31 December 2017, with a focus on economic and social rights, notably land and labour rights, security, access to justice, the fight against impunity, democratic space and the situation of human rights defenders, journalists, indigenous peoples and women. The report also highlights some of the activities of the Office of the United Nations High Commissioner for Human Rights in Honduras and concludes with recommendations.

* The present report was submitted after the deadline in order to reflect recent developments.
Annual report of the United Nations High Commissioner for Human Rights on the situation of human rights in Honduras

I. Introduction

1. On 4 May 2015, the United Nations High Commissioner for Human Rights signed an agreement with the Government of Honduras to establish a country office. The Office of the United Nations High Commissioner for Human Rights (OHCHR) in Honduras monitors the situation of human rights and provides capacity-building and technical assistance to State institutions and civil society organizations, with the overall goal of enhancing the promotion and protection of human rights in the country.

2. In April 2017, the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people conducted a technical assistance mission to Honduras. In July 2017, the Assistant Secretary-General for Human Rights visited Honduras and met with high-level State officials, civil society organizations, human rights defenders and representatives of the international community.

II. Context

3. On 26 November 2017, presidential, legislative and municipal elections were held. After significant delays in the processing of electoral results, amid widespread claims of electoral fraud and nationwide protests, on 17 December 2017, the Supreme Electoral Court announced that President Juan Orlando Hernández Alvarado had been re-elected for a second four-year term and would be sworn in on 27 January 2018. His re-election was made possible by the striking down, by the Supreme Court of Justice, of the constitutional clause limiting the number of presidential mandates to one. In July 2017, the Human Rights Committee expressed concern that, despite the single-term limit, the current president was standing for re-election and called for the eligibility criteria established by the Constitution to be respected, particularly the presidential term limit.  

4. While there were no major incidents on polling day, international observers expressed their concern vis-à-vis the counting of votes and the transmission and delayed publication of results. In its final report, the Electoral Observation Mission of the Organization of American States indicated that the irregularities, errors and systematic problems surrounding the election, combined with the narrow margin of victory, gave rise to uncertainty regarding the electoral results.  

5. Amidst widespread allegations of fraud, protests erupted on 29 November, which included demonstrations, mass meetings in front of State institutions and roadblocks. In some cases, discontent led to looting and damage to private and public property. The Government responded by imposing a state of emergency, which remained in force for 10 days, and by using increased force to disperse protests. On 1 December, Executive Decree No. 084 of 2017 established a 12-hour nationwide curfew, authorizing the detention of individuals breaking that restriction and providing for the dispersal of protesters from roads, bridges and public spaces. The Decree required that a register be kept at each police or military facility, implying the possibility of the transfer of detainees to military facilities. Between 1 and 5 December, 1,351 persons were detained for violating the curfew. OHCHR collected complaints of ill-treatment from individuals who had been held in San Pedro Sula, at facilities of the 105th Brigade that are under the responsibility of the National Inter-institutional Security Force. OHCHR observed that elements of the security forces, especially the Public Order Military

** Circulated in the language of submission and Spanish only.
1 See CCPR/C/HND/CO/2, paras. 44–45.
3 See www.presidencia.gob.hn/index.php/seguridad/3390-en-tres-dias-mas-de-1-350-personas-detenidas-por-por-incumplimiento-del-toque-de-queda (Spanish only).
Police, used excessive force to disperse protests, resulting in violations of the right to life and physical integrity. Violence broke out at some of the protests and, on 22 December, a police officer died as a result of injuries inflicted by a petrol bomb.

6. The protests that erupted in reaction to the perceived lack of fairness in the presidential elections find their roots in the unresolved legacy of the 2009 military coup d'état and the ensuing social and political polarization and institutional weaknesses. Following his re-election, President Hernández Alvarado called for an inclusive national dialogue to overcome the ongoing crisis and consolidate social peace. OHCHR considers that human rights must feature prominently in any such dialogue if sustainable progress towards social peace, development and democracy is to be achieved. The Office recalls that the 2011 report of the Truth and Reconciliation Commission contained 84 recommendations on addressing institutional weakness and ensuring progress towards national reconciliation. The report of the Government on the situation of human rights in Honduras for the period 2016–2017 indicates that, as at 2013, 37 recommendations had been implemented, 32 were being processed and 15 were still pending. Many of those recommendations remain pertinent, including those calling for the reform of the electoral system, the strengthening of the independence of the Supreme Electoral Court and the reform of the process by which its judges are selected. The follow-up unit of the Truth and Reconciliation Commission was disbanded after the presentation of its 2013 report.

III. Poverty and economic and social issues

7. Honduras is marked by high levels of entrenched poverty, affecting more than 60 per cent of the population, 38 per cent of whom live in extreme poverty. Moreover, due to population growth, the number of poor families has increased by 63 per cent, from 786,529 in 2001 to 1,207,999 in 2016, namely about 5.3 million persons out of a total population of 8.7 million. The country is one of the most unequal in Central America.

8. While the Constitution and laws of Honduras provide a framework that is generally aligned with international human rights norms and standards, the protection derived from them is unevenly implemented across the country. Enjoyment of human rights is conditioned by sex, social strata, ethnicity and geographic area, with marginalized sectors of the population suffering the most from violence, displacement and lack of access to security, justice, health care, education and other services. According to the Economic Commission for Latin America and the Caribbean, 47 per cent of Afro-Honduran women aged between 15 and 29 years are out of work and not in education. The rural divide persists: over 7 per cent of children of primary school age in rural areas do not attend school, mainly due to issues of accessibility and adaptability of education. Inequality and discrimination have an impact not only on socioeconomic, but also on civil and political, rights. The results of the elections illustrate the barriers that women and marginalized groups, such as indigenous peoples, continue to face to participation in political life. Women’s representation in the National Congress decreased from 25.7 to 21.8 per cent, with women elected to only 28 of the 128 seats. Although indigenous peoples are estimated to represent about 10 per cent of the overall population, there is only one indigenous person sitting in the National Congress.

9. The human rights and development challenges faced by the State party are deeply entrenched. Importantly, Honduras is a party to the main human rights treaties (with several optional protocols pending ratification) and it has committed to achieving the Sustainable Development Goals and the Sustainable Development Agenda.

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Development Goals. Recognition of the strong link between violence, insecurity and high levels of poverty, inequality and exclusion, together with the placing of equality and non-discrimination at the centre of national efforts are essential if Honduras is to make concrete progress concerning the protection of human rights and sustainable development.

A. Access to, use of and control over land

10. Access to, use of and control over land in Honduras are cross-cutting issues involving a source of livelihood and directly affecting the enjoyment of other human rights. These issues are central to economic rights, including the right to food, particularly in view of the high cost of the basic food basket. Land distribution in Honduras is highly unequal. In 2016, the Committee on Economic, Social and Cultural Rights expressed its concern at the impact of land-grabbing and the hoarding of natural resources in the country. Moreover, security of land tenure is challenged by ambiguity surrounding ownership, despite the ongoing titling programmes. Small plot holders are most affected by tenure insecurity, as many of them lack official titles to their land. They also suffer the highest poverty rate, as their activities are limited to small-scale subsistence farming. Women continue to face discrimination in access to and control of land, as they make up only 4 per cent of beneficiaries of a 30-year agrarian reform process and 22 per cent of beneficiaries of the land title programme.

11. Restricted access to land and insecurity of land tenure are key drivers of conflict and human rights violations. At times, landless rural dwellers seeking access to land encroach on privately owned plots, from which they are, in turn, forcibly evicted. Between 2016 and 2017, at least 1,100 rural families were made homeless in 73 evictions, according to the national centre for agricultural workers. These conflicts generate violence and insecurity: between 2016 and 2017, over 2,000 rural dwellers, including women and children, were prosecuted on criminal charges connected to land encroachment. Forced evictions are often carried out jointly by the police and the military and sometimes involve the use of excessive force. For instance, in January and October, security forces used tear gas against inhabitants of San Pedro de Tutule who were protesting against evictions affecting children and older persons. During evictions, houses and crops are often destroyed and set on fire by security forces, worsening poverty levels among the communities affected. Evictions should not result in individuals being rendered homeless. OHCHR has not been able to identify any instances in which the Honduran authorities designed and implemented a plan to prevent and identify alternatives to homelessness. According to the national centre for agricultural workers, over 200 evictions orders were pending execution as at October, raising concerns regarding the need to improve existing eviction procedures, in line with the guidance provided by human rights mechanisms and OHCHR.

12. OHCHR observes that, despite the number of land titles issued by the National Agrarian Institute, and bearing in mind the 20,000 titling applications that are pending, there is a need to urgently shift focus away from criminalization of land encroachment and towards the socioeconomic conditions underlying the issue, such as poverty and the lack of food security.

13. Lessons should be drawn from the continuing land conflict in the Bajo Aguán region, which has been marked by cycles of encroachments and evictions following land sales in the 1990s. In 2017, at least three men and one child were killed: allegedly for reasons connected to the land conflict. An investigation into these killings was ongoing as at December and at least 85 rural dwellers had been charged with trespassing and/or illegal occupation. The killing of two leaders of the unified rural dwellers’ movement of the Aguán, in October 2016, remained unpunished and a number of arrest warrants unexecuted. The plan to turn large-scale commercial agriculture into a driving engine of the Honduran economy, at a time when

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10 See E/C.12/HND/CO/2, para. 41.
11 See www.fao.org/docrep/v9650e/v9650e06.htm.
12 See A/HRC/4/18, annex I.
protection of access to land is weak, risks pushing small holder farmers and rural dwellers off their land and out of production, exacerbating the levels of poverty.

B. Labour rights

14. Various forms of violations of rights persist in the labour market and remain unpunished, such as the non-payment of the minimum wage and working conditions that do not meet international standards, including those on occupational safety and health. An important obstacle to the enforcement of labour legislation and, therefore, to the protection of labour rights, is the labour inspectorate’s lack of capacity regarding the monitoring of employment and related safety and security conditions. OHCHR welcomes the adoption, in May, of a new law on labour inspections, as well as the increase in the budget of the Ministry of Labour and Social Security, which has enabled the recruitment of additional inspectors and has led to an increased number of inspections. Between June and November, 12,000 inspections were conducted, about 60 per cent of which identified breaches of laws, rules and regulations.14

15. Concerns related to the employment, safety and security conditions of workers in the underwater fishing industry in La Mosquitia persist despite being brought to the attention of the Inter-American Commission on Human Rights in 200915 and despite the development of relevant programmes by the inter-institutional commission on underwater fishing. In 2017, at least 39 divers were admitted to hospital suffering from decompression sickness, the majority of whom consequently developed some type of disability. The labour inspectorate conducted only one inspection of fishing vessels on the high seas in 2017, which appears insufficient considering that at least 2,000 persons are estimated to be engaged in underwater fishing, the principal source of work for the inhabitants of La Mosquitia.16 Ensuring adequate protection for agricultural workers is another important challenge, which has become more pressing due to increased investment in large-scale agricultural projects, stimulated by the opening up of Honduras to global commerce through the signing of investment and free trade agreements.

C. Business and human rights

16. OHCHR has observed socioenvironmental conflicts related to the implementation of energy projects and the limited capacity of institutions to address those conflicts promptly and in accordance with international human rights norms and standards. OHCHR has supported dialogues between communities, the State and business, such as in Atlántida and Choluteca Departments, assisting in the conclusion and monitoring of agreements and raising awareness of international standards.

17. The Government has not adopted formal guidance for businesses on their human rights responsibilities. OHCHR considers that there is a need for a public policy or national action plan to define the legal framework for businesses regarding respect for human rights.
IV. Security

A. Violence and insecurity

18. Official data indicate that the homicide rate continued to decrease, reaching 42.76/100,000 in 2017,\(^\text{17}\) in line with the downward trend observed since 2012, compared to a peak of 86.47/100,000 in 2011. However, the rate remains one of the highest in the world.

19. In 2017, the Government continued to pursue a hard-line security approach, focused on the repression of crime, including the intervention of the military in public security. The number of Public Order Military Police officers was further increased, to 4,000 in 2017, with the force participating in activities such as forced evictions, policing of demonstrations and anti-organized crime operations. Human rights mechanisms have repeatedly expressed concern about the disproportionate role of the military in public security functions. In July 2017, the Human Rights Committee warned against the militarization of law enforcement and called upon Honduras to strengthen the national police force, with a view to enabling it to take over law enforcement functions from the armed forces.\(^\text{18}\) In 2016, the United Nations High Commissioner for Human Rights called on Honduras to ensure that the deployment of military forces to perform civil security duties should take place only under exceptional circumstances, be limited in time and be under strict civilian control.\(^\text{19}\)

20. No official information has been provided by the Government in relation to the overall estimated number of persons killed or injured during the post-electoral protests. At the time of finalizing the present report, OHCHR confirmed that, between 29 November and 22 December, at least 22 persons were killed in the context of the protests, including 21 civilians and one police officer. OHCHR has received credible reports that at least 13 persons, including 2 women and 2 children, were killed by members of the Honduran security forces who were dispersing protests, removing roadblocks or pursuing suspects and that at least 55 persons were injured, over half by firearms. Notwithstanding the fact that certain security operations took place in contexts where violence occurred, OHCHR observed that the security forces used excessive force to disperse protests. OHCHR considers that at least 12 of the 13 killings are credibly attributable to the Public Order Military Police and most of the injuries and 1 killing to the national police. OHCHR considers that this evidence further strengthens the merit of the consistent recommendations formulated by human rights mechanisms to refrain from deploying military forces in civil security duties. Some of the above-mentioned allegations are currently being investigated by the Office of the Attorney General.

21. In February, the National Congress adopted a law strengthening public security, which unduly expands the notion of “terrorism” to include criminal acts generally committed by gangs and organized criminal groups. In September the National Congress adopted title XXXI of the new Penal Code on “terrorism”, which pursues the same approach. While OHCHR urges the State to exercise its duty to protect all individuals under its jurisdiction from violence, it observes that United Nations human rights mechanisms have made coherent proposals for the definition of “terrorist” offences and have warned against the undue extension of the notion to cover other criminal conducts. In October 2016, the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism brought to the attention of the Government of Honduras his concerns related to the undue extension of the notion of terrorism envisaged in the context of the reform of the Penal Code.\(^\text{20}\) In January, OHCHR reiterated the advice of the Special Rapporteur and encouraged the State to implement his recommendations.


\(^\text{18}\) See CCPR/C/HND/CO/2, paras. 20–21.

\(^\text{19}\) See A/HRC/34/3/Add.2, para. 12.

\(^\text{20}\) See https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=22802, in Spanish.
22. Given that organized crime and insecurity are widespread, OHCHR encourages the State party to take steps to ensure full compliance with the United Nations Convention against Transnational Organized Crime, as ratified by Honduras in 2003.\(^{21}\) The adoption of the law on effective cooperation, supported by the Organization of American States Mission to Support the Fight against Corruption and Impunity in Honduras, which provides for immunity from prosecution or reduction of sentences in exchange for information that assists in the prosecution of serious crimes, has been pending for several months before the executive and the National Congress. With over 75 per cent of violent deaths resulting from firearms, OHCHR encourages the National Congress to adopt the framework required to exercise effective control over the possession and use of firearms and reduce the number of weapons in circulation.\(^{22}\) Legislation on the use of force is also urgently required. According to data from the Ministry of Security, 719 registered private security companies handle an arsenal of 32,266 weapons and employ 32,341 security guards. OHCHR has called on the National Congress to adopt legislation to regulate private security companies, to exclude them from performing public order functions and to control their access to small arms.

23. OHCHR welcomes the adoption of the organic law on the police, in May 2017, and of the law on the police force, in September 2017, which are aimed at improving the police force, and provide for, inter alia, ongoing training on human rights and new internal monitoring mechanisms to combat corruption within the institution. The special commission on police corruption\(^{23}\) continued its work, and, by the end of the year, it had screened 10,206 officials and dismissed 4,925. In view of the lack of concrete progress regarding the investigation of the 144 criminal cases involving at least 455 police officers referred to the Office of the Attorney General by the special commission, OHCHR is concerned at the lack of progress in the fight against impunity.

B. Prevention of violence

24. OHCHR is concerned that results achieved in the reduction of violence and insecurity may not be sustainable unless security policies fully integrate a prevention and rehabilitation element and address the structural causes of violence. Investment in security needs to be accompanied by adequate investment in the justice sector. In 2017, about 6 per cent of the national budget was allocated to the security sector, while 1.7 per cent was allocated to the judiciary and the Office of the Attorney General.\(^{24}\)

25. Despite the establishment of a violence prevention department within the Ministry of Security and the implementation of the national policy on public security for the period 2011–2022, prevention gaps remained, especially at the local level. As at October, the Ministry of Security had only certified local plans for coexistence and public security for 9 out of 298 municipalities. This certification is required if funds collected through the security tax are to be disbursed. While Decree No. 105 of 2011 requires that 30 per cent of the funds collected through this tax be allocated to prevention, OHCHR has not been able to obtain access to data on security tax funding effectively allocated to municipalities because such information is classified.\(^{25}\) OHCHR reiterates that access to information is a fundamental right and that access to information of public interest helps prevent corruption and promote transparency. Any limitations to this right should be exceptional and be aimed at preventing a real and imminent danger to national security. Therefore, OHCHR encourages the State to revisit the decision to classify as confidential public information on budget allocations.


\(^{22}\) See CCPR/C/HND/CO/2, para. 21.

\(^{23}\) See A/HRC/34/3/Add. 2, paras. 5 and 13.


\(^{25}\) Decree No. 418 of 2013.
C. Children in conflict with the law

26. Some children, particularly those from poor families and marginalized urban areas, are stigmatized and often linked to gangs as a part of public discourse. In May, based on the claim that children were increasingly involved in “high impact” crimes, the executive launched an initiative to reform the Children and Adolescent Code, exploring the possibility of adopting measures such as the reduction of the age of criminal responsibility and the increase of the length of detention for children in conflict with the law up to 20 years. After consulting with the Office of the Attorney General, the judiciary and human rights and child protection actors, the executive abandoned this proposal. Nevertheless, serious concerns persist regarding the handling of the situation of children in conflict with the law, as it remains based on punishment, rather than on a human rights-based approach that promotes the child’s sense of dignity and worth and reintegration.

27. Despite the fact that, in 2015, the Government recognized that the situation of children deprived of their liberty constituted a national emergency, conditions in detention centres have remained substandard, with limited investment in rehabilitation and obstacles to the enjoyment of the rights to health and education, physical integrity and freedom from torture and other cruel, inhuman or degrading treatment or punishment, and to the implementation of the core principle of the best interests of the child. In November, 572 children, including 67 girls, were deprived of their liberty in five centres, all run on a total monthly budget of about $450,000. It is evident that this budget is wholly inadequate, as it is supposed to cover the salaries of personnel, the maintenance of the centres, the upkeep of the children and their rehabilitation and the administration of non-detention measures.

D. Individuals deprived of their liberty

28. Between 2016 and 2017, the number of inmates participating in rehabilitation and education programmes increased by 20 per cent, reaching about 23 per cent of the total prison population. By September 2017, the number of incarcerated adults had reached 19,000 (including 1,050 women) compared to 17,510 in October 2016. The number of persons in pretrial detention as a percentage of the total prison population also increased, from 24 per cent in 2016 to 58 per cent in 2017. The new detention facilities of Ilama and Moroceli became operational and maximum security modules were set up in the Támara, El Porvenir and Naco penitentiaries.

29. Overall, the situation regarding conditions in the penitentiary system remains similar to that of 2016, including in terms of overcrowding, poor infrastructure and gaps in meeting the education, health and food needs of detainees.

V. Rule of law

A. Impunity and access to justice

30. In the course of 2017, the Government took steps to reduce levels of impunity. Efforts in that regard included: the establishment of a specialized jurisdiction to combat corruption and extortion; the recruitment of 126 prosecutors and the launch, in August, of a competitive process for the selection of 191 judges; the establishment of new courts in rural areas, such

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26 Code of Penal Procedure, art. 184.
28 Committee on the Rights of the Child, general comment No. 7 (2005) on implementing child rights in early childhood.
29 According to the Supreme Court of Justice, 509 non-detention measures were ordered in 2016 and 169 were ordered in 2015.
31 Ibid.
as Nacaome, Ocotepeque and Yoro; and the implementation of a plan to reduce delays in judicial proceedings by promoting compliance with judicial deadlines.

31. Impunity remains a structural problem that affects the full enjoyment of human rights, including economic, social and cultural rights. The ongoing investment in the strengthening of the prosecution services has not yet resulted in an increase in the number of charges filed, which has remained stable at about 14,000 per year.\(^{32}\) Only 1 out of 4 cases reaches the trial phase, with 75 per cent being dismissed or dropped during the preliminary hearings. On average, 3,600 cases per year are heard by the courts.\(^{33}\) The persisting backlog of criminal cases is of concern and OHCHR welcomes efforts to reduce delays in judicial proceedings. To date, however, such efforts have not had a significant impact on the length of first instance trials, which continue to last for about 20 months, and have not contributed to the reduction of the rate of pretrial detention.

32. Based on its analysis of official data, OHCHR has observed that, on average, the judiciary hands down verdicts in about 50 per cent of all cases. This implies that, despite ongoing efforts, more resources are required to effectively address the backlog. Delays also hamper the effective exercise by the Supreme Court of Justice of its constitutionally mandated human rights protection function.\(^{34}\) Habeas corpus procedures before the Supreme Court are, on average, resolved within 45 days, lessening the protective impact of the procedure. Appeals to the Constitutional Chamber of the Supreme Court of Justice can take several years, as illustrated in the case brought against the law on mining by the national coalition of environmental networks and organizations, which was filed in October 2014 and resolved in June 2017. Furthermore, the rulings of the Court are often implemented with delays, or only partially, as occurred, for example, with its decisions on substandard conditions, torture and ill-treatment in juvenile detention centres.\(^{35}\)

33. Access to justice remained problematic, especially for women in rural areas and for specific groups, such as indigenous peoples and Afro-Hondurans. Although the law establishes the right to free legal aid for economically disadvantaged persons, including in civil matters, such aid is not regulated, its actual use is extremely limited and it only makes up 11 per cent of all legal aid extended.\(^{36}\) The national rate of three legal aid lawyers per 100,000 persons is insufficient to ensure proper legal assistance and representation. The rate is even lower in departments such as Intibucá, Lempira and Gracias a Dios, which present high poverty rates and a high concentration of indigenous peoples.

B. **Strengthening the justice system, including its independence**

34. OHCHR reiterates the importance of making prompt progress in the establishment of an independent governance structure for the judiciary, in order to allay concerns over the concentration of disciplinary and administrative functions in the hands of the President of the Supreme Court of Justice.\(^{37}\) OHCHR welcomes the announcement by the President of the Supreme Court of Justice that a proposal to this effect is being developed.\(^{38}\)

35. In October 2016, the President of the Supreme Court of Justice announced the launch of a vetting process for the judiciary. However, the announcement has not yet been followed by any concrete action. OHCHR stresses that, if pursued, such efforts should be fully compliant with the guarantees of judicial independence. The regulation of appointments and the judicial career path is urgently required to promote merit-based selection, transparency and the independence of the judiciary. The ongoing practice of interim appointment raises

33 Ibid.
34 Constitution, Decree No. 131 of 11 January 1982.
35 The Office of the Special Prosecutor for Children filed three habeas corpus petitions respectively in 2005, 2015 and 2017: the Supreme Court of Justice granted the first two petitions and a decision on the third pending by December 2017.
36 Official communication from the Honduran legal aid service.
37 See A/HRC/34/3/Add.2, para. 23.
concerns, as it takes place outside any competitive examination process. OHCHR considers that the Organization of American States Mission to Support the Fight against Corruption and Impunity in Honduras, a special mechanism established for the selection and appointment of prosecutors and judges to the anti-corruption circuit, constitutes a model of good practice that could be adopted for other jurisdictions.

36. In addition to ensuring adequate funding and an independent governance structure for the judiciary, it is essential to take the above-mentioned measures, which would substantially boost efforts to build trust in a justice system that, according to social research studies, the general population continues to perceive as being unfair and corrupt.39

C. Prosecution of human rights violations

37. At the level of the Office of the Attorney General, the task of investigating and prosecuting human rights violations is divided up among various units and offices, with no clear lead being attributed to the Office of the Special Prosecutor for Human Rights. OHCHR considers that the way that competences are currently distributed should be reviewed and that the institutional structure, procedures and capacity of the specialized human rights office should be strengthened.

38. Strengthening the accountability of members of the security sector should be a priority. According to official data provided by the Ministry of Security, no disciplinary actions were taken against police officers in 2017, when 52 police officers were under investigation for homicide and 39 for torture.40 The Office of the Attorney General did not disclose to OHCHR any information on investigations launched concerning members of the Public Order Military Police during 2017 by the specialized unit established under Decree No. 168 of 2013. At the time of finalizing the present report, no member of the Public Order Military Police or the national police had been charged in relation to the killings and injuries they were allegedly responsible for in the context of the December electoral protests and none had been suspended pending investigation.

VI. Democratic space

39. During 2017, a range of sectors engaged in social protests at the national and local levels. In addition to the protests against the perceived unfairness of the November presidential results, demonstrations were held against the reform of the health sector, the establishment of a toll system on main routes and development projects, such as the construction of a hydroelectric dam in Pajuiles, Atlántida Department and a solar power plant in Choluteca Department. There were also calls for the cancellation of the currently suspended Agua Zarca project in the territory of the indigenous Lenca people.

40. The conflict between the authorities at the National Autonomous University of Honduras and students’ movements continued for most of the year, with a breakdown in dialogue due to non-fulfilment of the commitments made in 2016, the imposition of disciplinary measures and the launch of criminal proceedings against students involved in protests. OHCHR called for respect for peaceful on-campus protest and for the university leadership to honour agreements reached with students in 2016.

41. Protests continued in Bajo Aguán. In October, the Ministry of Human Rights, Justice, Governance and Decentralization undertook to take the lead in establishing space for dialogue on the ongoing land conflict with the sectors concerned, but no concrete action had been taken at December 2017. Peaceful social protests are a legitimate means to demand respect for human rights and constitute an important form of participation in political and public life that can be an opportunity to reorient State policies. OHCHR encourages authorities at the central and local levels to pay attention to social demands and to create

national and local dialogue processes with diverse sectors, including rural and marginalized groups.

42. In February, the National Congress adopted articles 335 and 335 (b) of the Penal Code, which respectively define the criminal offences of terrorism and of incitement to terrorism. OHCHR and the Inter-American Commission on Human Rights and its Special Rapporteur for Freedom of Expression expressed concern regarding the reforms, indicating that the excessively broad notions they introduced and the ambiguity surrounding the conducts to be punished might be used to sanction social demands and movements and the work of human rights defenders. 41

43. On 1 December, the executive adopted Executive Decree No. 84 of 2017, which imposed a 10-day curfew and restricted the rights to liberty of the person and freedom of movement and assembly, citing the need to guarantee the security of the population and maintain public order and the rule of law, which were ostensibly threatened by the violence and vandalism which had been taking place in parts of the country since 29 November. On 5 December, Executive Decree No. 85 of 2017 was adopted, which reaffirmed the above-mentioned restriction of rights, while reducing the duration of the curfew and its geographical coverage. OHCHR found that both decrees were imprecise, as they stated that the curfew could be applied in all or parts of the national territory, raising questions regarding the principle of legality. OHCHR considers that the decrees failed to clearly demonstrate that the situation amounted to a public emergency that threatened the life of the nation and that the restrictions ordered, including the curfew, were absolutely necessary. 42 OHCHR and the Inter-American Commission for Human Rights underlined the sensitivity of adopting such measures in the context of an electoral process, 43 given their impact on the freedom of assembly and participation in public and political life.

A. Human rights defenders

44. In 2017, OHCHR documented violence, intimidation and threats, both individual and collective, targeting human rights defenders, including infringements of the rights to privacy and property, such as surveillance, including the taking of photographs, computer theft and assault.

45. Violations against human rights defenders occurred primarily in the context of land conflicts and mainly targeted indigenous and Afro-Honduran activists. 44 Other attacks targeted the legal representatives of well-known human rights defenders, such as the lawyers working on the killing of Berta Cáceres. Social leaders were also targeted, often through defamation campaigns and intimidation, such as in the case of the Jesuit priest and head of the analysis, investigation and communication team, Ismael Moreno, and the head of the committee of relatives of disappeared detainees in Honduras, Bertha Oliva. Since the post-electoral protests, OHCHR has also documented the intensification of a campaign of intimidation against human rights defenders active in the northern regions, where the protests were most intense. Pamphlets containing attacks on human rights defenders were circulated among the general public and a number of those targeted have reported threatening calls and surveillance.

46. These attacks took place in a continued context of stigmatization of the work of human rights defenders, including by high-level government representatives. In July, the Human Rights Committee expressed concern at the disparaging statements made by senior Government officials about members of the delegation of Honduran non-governmental organizations with regard to whom precautionary measures were adopted.

42 Human Rights Committee, general comment No. 29 (2001) on derogations from provisions of the Covenant during a state of emergency.
44 Fourteen persons (12 men and 2 women) with regard to whom precautionary measures were adopted following requests by the Inter-American Commission for Human Rights have been killed since 2012, the most recent victim being a man killed in 2017 in Atlántida. Ten of the victims were working on land issues and six were indigenous persons.
organizations (NGOs) that attended the second review of Honduras. In September, the Secretary-General identified Honduras as one of 29 countries where persons cooperating with the United Nations human rights system had faced intimidation and reprisals.

47. The national mechanism for the protection of human rights defenders, journalists, media workers and justice system actors of the Ministry for Human Rights, Justice, Governance and Decentralization is currently operational. Between January and September, the national mechanism granted protection measures to 55 human rights defenders, 20 journalists, 6 media workers and 5 justice system actors. By December, the national mechanism had examined 230 protection requests, dismissing 65 and ruling that 165 fell within its purview. Currently, 143 cases are being handled and 22 have been closed. Risk analysis was conducted for 91 cases. In September, OHCHR requested access to the risk assessments of individual cases generated by the technical committee of the national mechanism. This request was denied on the grounds of confidentiality. The decision limits the ability of OHCHR to provide technical assistance to the State party and to share good practices from protection mechanisms in other countries in the region. Furthermore, OHCHR continued to observe deficiencies in the coordination between the mechanism and the national police regarding the implementation of protection measures. In January, a lawyer and husband of a human rights defender was killed in an armed attack in La Ceiba. The mechanism had granted him a police escort but it was not made available. OHCHR observed that the national council of the mechanism did not adequately perform its decision-making and advisory role and that State institutions tasked with key protection functions, such as the Office of the Attorney General and the judiciary, were often absent from meetings with the national council of the mechanism or were represented by low-level officials who were unable to follow up and make decisions on behalf of their institutions.

48. OHCHR welcomes the preliminary efforts by the Office of the Attorney General to develop a protocol for the investigation of crimes against human rights defenders, as recommended by the Inter-American Commission on Human Rights. OHCHR reaffirms the need to prioritize the investigation of attacks against human rights defenders and to enhance the analysis of patterns and institutional coordination in the Office of the Special Prosecutor for Human Rights. Regarding the emblematic case of the killing, in March 2016, of human rights defender Ms. Cáceres, eight individuals have been charged with homicide or attempted homicide to date and are currently being detained. However, since September 2016, the trial has been postponed on more than eight occasions, at times at the request of the victims’ lawyers, invoking the failure of the Office of the Attorney General to disclose evidence. It is hoped that the announced involvement of the Organization of American States Mission to Support the Fight Against Corruption and Impunity in Honduras in the investigation of the allegations of corruption, abuse of authority, fraud and money-laundering surrounding the Agua Zarca concession will contribute to the identification of the persons who ordered the killing of Ms. Cáceres.

49. Legal actions for defamation and slander continued to be used against human rights and land defenders, such as in the case of Garifuna leaders Miriam Miranda and Suyapa Martínez.

50. At least 5 journalists and media workers were killed in 2017, a figure that represents a decrease when compared to the peak of 21 killings registered between 2014 and 2015. Only 6 out of the 68 cases of registered attacks against journalists that occurred between 2001 and 2016 have been heard in court and the alleged perpetrators sentenced.

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45 See CCPR/C/HND/CO/2, para. 42.
46 See A/HRC/36/31.
47 The national council is one of the organs of the national mechanism, pursuant to Decree No. 34 of 2015, article 19 (2).
49 Information prepared by the Observatories System of Penal Justice of the Mission to Support the Fight Against Corruption and Impunity in Honduras of the Organization of American States based on data supplied by the Office of the National Commissioner for Human Rights.
VII. Rights of indigenous peoples

51. Lack or insecurity of land tenure disproportionally affects indigenous peoples and Afro-Hondurans. Under the agrarian law, indigenous peoples who can prove occupation of ancestral lands can obtain community titling from the National Agrarian Institute. Between 1993 and 2017, just under 1.5 million hectares of land were titled to indigenous peoples.  

52. OHCHR has observed that private titles and concessions over indigenous land continued to be issued, without the indigenous peoples concerned being consulted with a view to obtaining their free, prior and informed consent. Legal protection from third parties’ interference is weak. In June, charges for abuse of authority brought by the Office of the Special Prosecutor for Ethnic Groups and Cultural Heritage against the national registry for private titles over inalienable ancestral land of the Garifuna community of Guadalupe were dismissed. In La Mosquitia, titles have been issued in favour of territorial councils, but their enjoyment is challenged by the presence of mestizo small holders and large-scale ranchers who have either illegally bought inalienable land or encroached on it.

53. Government-led efforts to adopt a law on the right to free, prior and informed consent and consultation continued, following steps initiated in 2015. To strengthen this process, the Government invited the Special Rapporteur on the rights of indigenous peoples to visit Honduras. The Special Rapporteur provided technical assistance through written observations and during a visit she conducted in April. She identified weaknesses in relation to the content of the draft law and the accompanying consultation process. Besides highlighting gaps in the protection extended by the draft law when compared with international standards, she encouraged the adoption of steps to ensure the effective participation of indigenous persons in the elaboration of the legislative proposal. The Human Rights Committee formulated similar observations in July.

54. The implementation of the decisions of the Inter-American Court of Human Rights involving the Garifuna communities of Triunfo de la Cruz and Punta Piedra has faced significant delays, linked to key issues such as the status of the Izopo natural park and land titling. In December, in order to promote progress, the interinstitutional commission tasked with coordinating the implementation of the decisions, to which OHCHR provides technical assistance, developed a two-year work plan. It is important that the affected communities be consulted about this plan.

VIII. Violence against women and gender-based violence

55. Violence against women and girls in all its forms remained widespread. In 2017, at least 236 women were killed nationwide and, in Tegucigalpa alone, over 400 sought medical attention as survivors of sexual violence. Since 2013, the Office of the Attorney General has opened only 59 cases of femicide and only 20 sentences have been handed down. Complaints of sexual violence and domestic violence represented 20 per cent of all complaints filed with the national police in 2017. In 2016, 19,000 cases of domestic violence were brought before the courts, an increase of 5 per cent compared to 2015.

56. OHCHR welcomes the strengthening of the Office of the Special Prosecutor for Femicide since its establishment in 2015, with 10 prosecutors and 30 investigators posted in its two offices in Tegucigalpa and San Pedro Sula, and the establishment of mechanisms

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50 See www.ina.hn/userfiles/Titulaci%C3%B3n%20tierras%20sectores%201975%20-2017%20actualizado%20de%20febrero%20%2018.pdf.
51 See http://unsr.vtaulicorpuz.org/site/images/docs/special/2017-06-09-honduras-unsr-additional-observations.pdf.
52 See http://hn.one.un.org/content/unct/honduras/es/home/presscenter/comunicado-de-la-relatora-especial-sobre-los-derechos-de-los-pue.html.
53 See CCPR/C/HND/CO/2, para. 47.
54 See www.corteidh.or.cr/docs/casos/articulos/seriec_304_esp.pdf; and www.corteidh.or.cr/docs/casos/articulos/seriec_305_esp.pdf.
55 Executive Decree No. 01 of 2016.
promoting the participation of women’s organizations in dialogues with the institutions in charge of investigation and prosecution. At the same time, OHCHR underscores the need for the State party to deepen gender analysis in relation to gender-based killings, given the low level of understanding of femicide and the infrequency with which that crime is invoked before the courts. The response of the State party to this specific type of violence requires targeted interventions that recognize the multiple and intersecting forms of discrimination and inequalities that women and girls face and acknowledge the intrinsic link between femicide and their social and economic situation.

57. The continued prosecution of women who have undergone an abortion in itself constitutes a human rights violation. International human rights mechanisms have consistently reiterated that the continued criminalization of abortion in Honduras contravenes international human rights norms and standards. In 2017, in Tegucigalpa alone, three women were charged with undergoing an abortion, one of whom was held in pretrial detention for six days.

58. The bodies and processes for the investigation of attacks against lesbian, gay, bisexual, transgender and intersex persons must be strengthened. According to the non-governmental organization Cattrachas, between 1 January and 30 December, 34 lesbian, gay, bisexual, transgender and intersex persons were killed, with charges being brought in only seven of those cases.

IX. OHCHR activities and cooperation with Government and State institutions

59. OHCHR carried out 56 missions, during which it met with civil representatives, indigenous communities, human rights defenders and their families and victims and witnesses of human rights violations.

60. In the context of the elections and the post-electoral protests, OHCHR carried out multiple missions to five departments besides Tegucigalpa, monitoring demonstrations and marches and visiting health-care centres and detention facilities. It interviewed more than 200 persons, including victims, witnesses and other sources, and sought information from a range of civil and military authorities.

61. OHCHR provided technical assistance to the National Congress in harmonizing draft bills with international standards, including bills on strengthening public security, the Penal Code, on the protection of the rights of persons with disabilities, on weapons and on private security companies.

62. In cooperation with the Special Prosecutor for Ethnic Groups and Cultural Heritage, OHCHR delivered a series of training courses on indigenous peoples’ rights for law enforcement personnel. It also provided capacity-building for State officials on economic and social rights and women’s rights, including on the prosecution of violence against women and femicide.

63. OHCHR organized the following events: a national symposium on human rights and criminal law, in February; a conference on the penitentiary system, in March; a workshop for women human rights defenders, in cooperation with the Centre for Justice and International Law, in August; a workshop on strategic litigation before the Inter-American system; and a workshop on the right to peaceful assembly and reunion, which was attended by representatives of civil and military institutions.

64. OHCHR provided technical assistance to the Office of the Attorney General in the development of a protocol on the investigation of attacks against human rights defenders.

65. OHCHR prepared a study on the impact of the integration of human rights education into the curriculum of the national police.

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56 See CCPR/C/HND/CO/2, paras. 16–17.
66. In coordination with the School of Judicial Studies and the OHCHR Women’s Human Rights and Gender Section, OHCHR presented a toolkit for incorporating a human rights and gender-based approach into prosecutions and judgments related to femicide and other forms of violence against women.

67. OHCHR collaborated closely with the Office of the National Commissioner for Human Rights. It also interacted regularly with the National Committee for the Prevention of Torture, organizing joint events to share information on relevant issues and providing technical advice.

68. OHCHR maintained close contact with the Ministry of Human Rights, Justice, Governance and Development and its different directorates, alerting them to situations of concern and providing advice and technical cooperation and capacity building, including to the Directorate General of the Protection System. OHCHR supported the participation of the staff of the Ministry in OHCHR-led international training programmes, as well as in national events.

69. At the request of the parties, OHCHR continued to participate as an observer in dialogues between civil society organizations and the Government on overseeing the implementation of the public policy and national action plan on human rights for the period 2013–2022.

70. OHCHR continued to promote the national human rights debate through interviews, press releases, press conferences, meetings with journalists and the presentation of its annual report.

X. Recommendations

Post-electoral context

71. While reiterating previous recommendations, the United Nations High Commissioner for Human Rights urges the Government and/or institutions to:

(a) Conduct prompt, effective, independent and transparent investigations into the allegations of human rights violations by members of the security forces in the context of the post-electoral protests and to ensure accountability and effective remedy and reparation for victims;

(b) Urgently undertake an assessment of the rules of engagement and ensure that all use of force be carried out in compliance with international legal standards, including open fire regulations, and ensure that any disproportionate use of lethal force be accompanied by full public accountability;

(c) Engage in a participative national dialogue on reforms that promote development, human rights and reconciliation, also taking into due consideration the recommendations of the Truth and Reconciliation Commission formulated in its 2011 report.

Poverty and economic and social issues

72. While reiterating previous recommendations, the United Nations High Commissioner for Human Rights urges the Government and/or institutions to:

(a) Step up efforts to fight poverty, especially extreme poverty, paying due attention to differences and gaps between urban and rural areas, and ensure adequate funding for the realization of economic and social rights;

(b) Take the necessary steps to ensure fair access to land and natural resources, including the safeguarding of the land-use rights of smallholders in particular, paying due attention to eliminating discrimination against women and indigenous peoples, and adopt effective measures to avoid forced evictions and, when unavoidable, to mitigate their impact, and review related procedures for compliance with human rights standards;
Ensure that the Ministry of Labour and Social Security fully exercises its mandate to monitor employment conditions and imposes sanctions where labour rights are infringed, in coordination with the judiciary;

Adopt a policy or plan to guide business enterprises concerning their human rights responsibilities, in order to ensure that the private sector exercises due diligence and assesses the impact of business activities on human rights.

Security and justice

73. While reiterating previous recommendations, the United Nations High Commissioner for Human Rights urges the Government and/or institutions to:

(a) Design and implement a security plan that provides for rapid progress towards the demilitarization of public order functions, strengthens transparency in relation to defence and security matters, including in budgetary terms, and guarantees the development of a professional and accountable civilian police force that is properly vetted and trained;

(b) Ensure that domestic legislation is adopted or revised in line with human rights and other international law standards, prioritizing areas such as the use of force, organized crime, the control of firearms and ammunition and the regulation of private security companies, and reform terrorism-related legislation and abrogate articles 335 and 335 (b) of the Penal Code;

(c) Prioritize interventions that prevent violence and address its structural causes, including in relation to children in conflict with the law, favour the use of non-detention measures, increase resources dedicated to the juvenile justice system and improve conditions in centres where children are deprived of their liberty;

(d) Bring prison conditions into line with international norms and promote policies and programmes that favour the rehabilitation and reintegration of persons deprived of their liberty;

(e) Design programmes that effectively combat impunity and promote access to justice, with specific focus on women, persons living in poverty, indigenous peoples and other marginalized groups, step up legal aid programmes and ensure that legal assistance is immediately available, in particular for persons deprived of their liberty;

(f) Revise the investigative competencies and responsibilities of State offices, including the specialized unit responsible for the Public Order Military Police and the Office of the Special Prosecutor for Human Rights and promote the accountability of the security and law enforcement sector;

(g) Draw up a comprehensive plan designed to reform the justice sector and its structural problems, starting with strengthening the sector’s independence and career structure.

Democratic space

74. While reiterating previous recommendations, the United Nations High Commissioner for Human Rights urges the Government and/or institutions to recognize the role of human rights defenders and the importance of their work, take concrete steps to improve the investigation and prosecution of crimes against human rights defenders and strengthen the national protection mechanism.

Indigenous peoples

75. While reiterating previous recommendations, the United Nations High Commissioner for Human Rights urges the Government and/or institutions to reform or adopt legal frameworks and develop adequate policies to protect the rights of indigenous peoples, prioritize the right to consultation and to free, prior and informed consent and redouble efforts to delimit, demarcate, register, expand and upgrade indigenous land.
Violence against women and gender-based violence

76. While reiterating previous recommendations, the United Nations High Commissioner for Human Rights urges the Government and/or institutions to take concrete steps towards eliminating discrimination based on sexual orientation and gender identity, including by tackling violence, and to ensure the prompt and effective investigation and prosecution of crimes committed against women and lesbian, gay, bisexual, transgender and intersex persons.
TAB 6
RIGHTS OF LESBIAN, GAY, BISEXUAL, TRANSGENDER AND INTERSEX PEOPLE

The Senate supported bills which discriminated against LGBTI people; they were pending approval by the Chamber of Deputies at the end of the year. In July, the Senate voted for certificates to be issued which would vouch for an individual’s “good moral” standing and from which anyone deemed to be “homosexual” would be excluded. In August, it approved a law making same-sex marriage and public support or advocacy for “homosexuality” illegal.

HUMAN RIGHTS DEFENDERS

Human rights defenders David Boniface and Juders Ysemé reported fearing for their lives following the sudden death in March of their colleague Nissage Martyr. He died a day after the three men filed a lawsuit in the USA against Jean Morose Viliena – former Mayor of Les Irois, their hometown in Haiti – for grave human rights violations. Jean Morose Viliena had fled to the USA from Haiti in 2009. The men said that they had been subjected to repeated death threats and to violent attacks by or on behalf of the former Mayor since 2007. However, the authorities did not implement adequate protection measures, although the Inter-American Commission on Human Rights granted them precautionary measures to ensure their safety in 2015.2

Sanièce Petit Phat reported that she had received death threats because of her work in defence of the rights of women and girls.3

RIGHT TO EDUCATION

In June, the UN Economic and Social Council Ad Hoc Advisory Group on Haiti criticized inefficiency in the education sector. It noted that most schools were privately managed, “making education an expensive, profit-based system” too expensive for many Haitian families. Illiteracy among over-15s was over 50%.

HONDURAS

Republic of Honduras
Head of state and government: Juan Orlando Hernández Alvarado

The level of insecurity and violence remained high. Widespread impunity continued to undermine public trust in the authorities and the justice system. Protests in the aftermath of the presidential election were brutally repressed by security forces. Honduras remained one of the most dangerous countries in the Americas region for human rights defenders, especially for those working to protect land, territory and the environment. The government announced the creation of a Ministry for Human Rights and Justice, to become operational in 2018.

EXCESSIVE USE OF FORCE

Mass protests, which began on 29 November around the country to denounce the lack of transparency around the presidential election, were brutally repressed by security forces. Hundreds of people were arrested or detained and a 10-day curfew was implemented in December. Security forces used excessive force against protesters, including with lethal weapons. At least 31 people were killed, and multiple cases of people being injured by firearms or brutally beaten by security forces were also reported, as well as cases that could amount to torture and other cruel, inhuman and degrading treatment.

HUMAN RIGHTS DEFENDERS

Human rights defenders, particularly environmental and land activists, continued to be at risk of human rights abuses. They

1. Following political crisis Haiti must urgently advance human rights agenda (AMR 36/5899/2017)
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were subjected to smear campaigns by both state and non-state actors to discredit their work, and were regularly targeted with intimidation, threats, and attacks. In June, three members of the Civic Council of Popular and Indigenous Organizations of Honduras (COPINH) were attacked by armed assailants while they were in a car, returning from a meeting. Local NGOs said that the justice system continued to be misused to harass and discourage human rights defenders. Unnecessary and excessive use of force by security forces during peaceful protests was also reported.

The vast majority of attacks registered against human rights defenders remained unpunished, as a result of multiple obstacles hindering investigations and trials. There was little progress in the investigation into the killing in March 2016 of Berta Cáceres, the Indigenous environmental defender and co-founder of COPINH. The public hearings of eight suspects detained in relation to the case were postponed on multiple occasions. Independent experts revealed a lack of due diligence in the investigations, including a lack of prosecution of other individuals potentially involved in the crime. There was no information about any progress made by the Public Prosecutor in identifying those responsible for planning her killing.

Although some progress was made to protect human rights defenders through the National Mechanism to Protect Human Rights Defenders, Journalists, Social Commentators and Justice Officials, efforts to ensure their comprehensive protection remained insufficient.

New provisions of the Criminal Code on terrorism and related criminal offences approved by Congress in February and September were defined in an overly broad and vague manner, contrary to the principle of legality. The provisions could lead to the arbitrary and inadequate application of the Code against peaceful protesters and human rights defenders, which could further criminalize their work and obstruct social movements.

**INDIGENOUS PEOPLES’ RIGHTS**

Several Indigenous Peoples continued to claim that their rights to consultation and to free, prior and informed consent were violated in the context of projects to explore and exploit natural resources in their territories. Killings, aggressions and cases of misuse of the justice system against those defending Indigenous Peoples were reported.

The Draft Framework Law on Free, Prior and Informed Consultation of Indigenous Peoples faced criticism, including of the insufficient participation of Indigenous and Garifuna (Afro-descendant) communities in the process.

Reparation measures ordered in 2015 by the Inter-American Court of Human Rights in two cases where Honduras had violated the collective land rights of the Garifuna communities had yet to be implemented.

**LAND DISPUTES**

Conflicts persisted due to the lack of secure land tenure. High levels of violence were reported in the Aguán Valley where long-standing land disputes remained unresolved. According to the Unified Campesino Movement of the Aguán, precautionary measures granted by the Inter-American Commission on Human Rights to protect the life and integrity of leaders in the Aguán Valley were not adequately implemented.

**GENDER-RELATED VIOLENCE**

Women, girls and LGBTI people continued to face high levels of gender-related violence. Between January and October, 236 violent deaths of women were registered by the Centre for Women’s Rights. According to the Lesbian Cattrachas Network, killings of LGBTI people also increased, with a total of 35 people killed. Impunity remained high in these cases, as authorities lacked sufficient capacity and resources to investigate, prosecute and punish those responsible.

**SEXUAL AND REPRODUCTIVE RIGHTS**

The failure to protect women’s and girls’ rights and guarantee access to safe and legal abortion in any circumstances continued.
Despite recommendations from international human rights bodies and mechanisms, in April Congress decided to maintain the prohibition of abortion in all circumstances in the new Criminal Code.

**REFUGEES AND ASYLUM-SEEKERS**

Widespread violence across Honduras remained a key factor of forced migration from the country. According to UNHCR, the UN refugee agency, between January and October, 14,735 Hondurans sought asylum worldwide, mostly in Mexico and the USA. However, large numbers of Hondurans also continued to be forcibly returned from these countries to the same life-threatening situations which initially pushed them to escape. To date, there was no comprehensive mechanism or protocol to detect and address in a systematic manner the protection needs of deportees.

**HUNGARY**

**Head of state:** János Áder  
**Head of government:** Viktor Orbán

The systematic crackdown on the rights of refugees and migrants continued. Foreign-funded universities and NGOs faced restrictions under new legislation.

**BACKGROUND**

The government faced domestic protests and increased international scrutiny for its continued rollback on human rights and non-compliance with EU law. The European Commission launched and moved forward with four formal infringement proceedings following the introduction of legislation deemed incompatible with EU freedoms, and in May the European Parliament adopted a comprehensive resolution expressing alarm at the situation of human rights in the country. More than a quarter of the population remained at risk of poverty and social exclusion and 16% were severely materially deprived.

**REFUGEES AND ASYLUM-SEEKERS**

Hungary continued to severely restrict access to the country for refugees and asylum-seekers, limiting admission to its two operational border “transit zones” in which only 10 new asylum applications could be submitted per working day. Consequently, between 6,000 and 8,000 people were left in inadequate conditions in Serbia, in substandard camps and at risk of homelessness and of refoulement further south to Macedonia and Bulgaria.

In March, the European Court of Human Rights ruled in *Ilias and Ahmed v. Hungary* that the confinement of asylum-seekers in “transit zones”, essentially heavily guarded container camps at Hungary’s external land borders, amounted to arbitrary deprivation of liberty. The Court also found that, due to the poor conditions in which asylum-seekers were held for weeks and the lack of judicial remedies available against this form of detention, Hungary had failed to provide adequate protection against a real risk of inhuman and degrading treatment.

The same month, a package of amendments to five laws on migration and asylum was passed in the National Assembly, enabling the automatic detention, without judicial review, of all asylum-seekers in border “transit zones”, including unaccompanied minors of 14-18 years of age. These amendments also allowed for the detention of asylum-seekers for the whole duration of their asylum processes, including any appeals, and for the summary expulsion of all irregular migrants found on Hungarian territory to the external side of Hungary’s extensive border fences.

Consequently, most asylum-seekers in Hungary either absconded from the procedure or were detained in the border “transit zones” indefinitely. By the end of the year, almost 500 asylum-seekers were unlawfully detained at the border. The Hungarian authorities denied or provided extremely limited access to human rights monitors and NGOs providing legal aid. These draconian measures were originally supposed to apply during a “crisis situation
Honduras

Events of 2017

Violent crime is rampant in Honduras. Despite a downward trend in recent years, the murder rate remains among the highest in the world. Journalists, environmental activists, and lesbian, gay, bisexual, and transgender (LGBT) individuals are among those most vulnerable to violence. Efforts to reform the institutions responsible for providing public security have made little progress. Marred by corruption and abuse, the judiciary and police remain largely ineffective. Impunity for crime and human rights abuses is the norm.

The Mission to Support the Fight against Corruption and Impunity in Honduras (MACCIH), established in 2016 through an agreement between the government and the Organization of American States (OAS), has successfully promoted the passage of legislation aimed at curbing illegal funding for political campaigns.
Police Abuse and Corruption

In January 2017, President Juan Orlando Hernández announced that the Special Commission for Police Reform Restructuring will extend its mandate until 2018. As of May, nearly 4,000 of the more than 9,000 police officers evaluated by the commission had been removed, including many for alleged involvement in corruption or criminal acts. However, none of the police officers expelled upon orders of the commission has been convicted to date for alleged involvement in criminal activities including human rights abuses.

Judicial Independence

Judges face interference from the executive branch and others, including private actors with connections in government. On June 30, the former vice-president of the defunct Judiciary Council, Teodoro Bonilla, was found guilty of influence peddling. Using his authority as a senior official of the judicial oversight body, Bonilla pressured two judges into favoring relatives of his who were charged with illegal weapons possession and money laundering.

Attacks on Journalists and Restrictions on Freedom of Expression, Association, and Assembly

Twenty-five journalists were murdered between 2014 and 2016 according to the human rights ombudsman, CONADEH, which also revealed in its 2016 report that 91 percent of killings of journalists since 2001 remain unpunished. Most recently, journalist Carlos William Flores was shot and killed by unidentified gunmen on a motorcycle in Cortes, near the Guatemalan border. Flores directed a television program, “Sin Pelos en la Lengua,” which was critical of major agribusiness enterprises linked to deforestation in the area.

In February 2017, Congress approved a new penal code making it a criminal offense—punishable by a four to eight-year prison sentence—for individuals or media outlets to engage in the “apology, glorification, [or] justification” of terrorism. The new legislation also defines as terrorist offenses any form of “illegal association” and acts “causing fear, putting in grave risk, or systematically and indiscriminately affecting the fundamental rights of the population or a part of it, the internal security of the State or the economic stability of the country.” These vague and unreasonably broad provisions could conceivably be used to bar peaceful protests and association meetings as terrorism.
The Inter-American Commission for Human Rights (IACHR) and the Office of the UN High Commissioner for Human Rights (OHCHR) both expressed concern about the ambiguous formulation of the law and its potential to arbitrarily restrict freedom of expression and of the press.

**Attacks on Lawyers, Human Rights Defenders, and Environmental Activists**

Lawyers and human rights defenders suffer threats, attacks, and killings. In 2016, CONADEH registered 16 violent attacks against lawyers, including 13 killings. The IACHR described Honduras in August 2016 as one of the “most hostile and dangerous countries for human rights defenders” in the Americas.

To date, eight men have been charged with the murder in March 2016 of environmental and indigenous rights activist Berta Cáceres, including an army major and the former environment manager of Desarrollo Energético S.A. (DESA), the company behind the Agua Zarca dam project that Cáceres was campaigning against at the time of her death.

The Mechanism for the Protection of Journalists, Human Rights Defenders and Operators of Justice, created in 2015, suffered from a lack of adequate resources and staffing, according to local activists.

**Sexual Orientation and Gender Identity**

Homophobic violence is a major problem in Honduras. Several UN agencies working in Honduras have noted that sexual violence against LGBT individuals forces them into “internal displacement” or to flee the country in search of international protection.

In July 2017, David Valle, project coordinator of the Center for LGBTI Cooperation and Development, was stabbed by a stranger in his home in Tegucigalpa. Valle had received repeated threats in the past. He survived the attack.

**Women’s Sexual and Reproductive Rights**

Under the criminal code, abortion is illegal without any exceptions in Honduras, and women and girls who terminate pregnancies can face prison sentences of up to six years. On May 5, 2017, the National Congress of Honduras voted against modifying the existing criminal code to allow
abortion in cases of rape, grave fetal malformations and grave risks to the health of the woman. The law that remains in force also sanctions abortion providers and those who assist with procedures.

Rights of the Child

In July 2017, the Honduran Congress unanimously passed a bill making all child marriage illegal. The new bill replaces legislation that previously allowed for girls to marry at 16 with permission from family. According to UNICEF, a third of Honduran girls are married before 18.

In May 2017, President Juan Orlando Hernández launched an initiative to revise the criminal code to allow children as young 12 to be prosecuted as adults, rather than through the existing juvenile justice system, in violation of international standards.

Prison Conditions

Inhumane conditions, including overcrowding, inadequate nutrition, and poor sanitation, are endemic to Honduran prisons. Designed to hold up to 8,000 inmates, the country’s penal institutions held more than 17,500 in 2016, the last year for which reliable figures were available. Prison guards at many facilities have effectively relinquished control over the prison grounds to the inmates.

Key International Actors

At the behest of the Mission to Support the Fight against Corruption and Impunity in Honduras (MACCIH), Congress passed the Law on Clean Politics, which came into force in March 2017. The law created a framework to prevent organized crime from contributing to political campaigns and to hold parties and candidates accountable for financing their campaigns illegally. In July 2017, the MACCIH announced that it would investigate the funding and government concession granted to DESA for the Agua Zarca Dam project for possible corruption and money laundering.

For fiscal year 2017, the US Congress allotted US$95.3 million in bilateral aid to Honduras. Members of Congress reintroduced the “Berta Caceres Human Rights in Honduras Act” (H.R. 1299) on March 2, 2017. The bill would suspend US funding for the country’s police and military operations until the Honduras government prosecutes and convicts those who ordered and carried out the murder of Cáceres, in addition to other killings and attacks against other activists; investigate and prosecute members of military and police forces who have allegedly violated human rights; withdraw the military from domestic policing; establish effective protections for human rights defenders; and strengthen rule of law.
In May 2016, after prosecutors filed murder charges against an employee of DESA, the Dutch development bank, FMO, and the Finnish Fund for Industrial Cooperation, Finnfund, announced they would suspend payments of their loans to the Agua Zarca Dam. In June 2017, both funders told the Guardian that they would withdraw completely from the Agua Zarca project. The third and largest investor in the project, the Central American Bank of Economic Integration (CABEI), also announced that it would no longer fund the project.
The lives and safety of lesbian, gay, bisexual, transgender and intersex people (LGBTI) from violence-ridden El Salvador, Guatemala and Honduras are at an increased risk as authorities in their countries fail to protect them, leaving them with no choice but to flee their countries and face further dangers in Mexico, Amnesty International said in a new report today.

No Safe Place uncovers the treacherous journey faced by gay men and trans women refugees fleeing rocketing levels of discrimination and gender-based violence in El Salvador, Guatemala and Honduras from criminal gangs and members of security forces. It also accuses Mexican authorities of failing to protect them from violations and abuses while travelling through the country, and highlights unbearable experiences during prolonged and systematic immigration detention in the U.S.
“People are facing vicious discrimination in Central America due to their gender identities, and have absolutely nowhere to run for safety,” said Erika Guevara-Rosas, Americas Director at Amnesty International.

“Terrorized at home, and abused while trying to seek sanctuary abroad, they are now some of the most vulnerable refugees in the Americas. The fact that Mexico and the USA are willing to watch on as they suffer extreme violence is, simply, criminal.”

El Salvador, Guatemala and Honduras have some of the highest murder rates on earth – 81.2 per 100,000 inhabitants in El Salvador, 58.9 in Honduras and 27.3 in Guatemala, according to official figures.

Most refugees and asylum-seekers who spoke to Amnesty International said constant discrimination and the levels of violence they suffered in their countries – including physical attacks and financial extortion at the hands of criminal gangs and killings – made them feel they had no choice but to flee.

The high levels of impunity and corruption in their countries mean authorities are unlikely to punish those responsible for crimes against LGBTI people, particularly when security forces are responsible for the attacks.

According to the Honduran NGO Cattrachas, 264 LGBTI people were killed in the country between 2009 and 2017. In most cases, those responsible were never brought to justice.

Carlos, from Honduras, was forced to flee to Mexico after he was violently attacked and threatened with death by a criminal gang for being gay.
He told Amnesty International, “I never tried reporting [the abuse] because of what happened to some friends. As soon as a friend of mine reported the abuse, those who had committed it went to his house to get him. That’s why he ran away to Mexico. Another friend was killed right after he reported what had happened to him.”

**A frightening journey**

Amnesty International found in the cases documented that the brutality suffered by gay men and trans women in Central America does not end after they leave their countries.

Most of the people interviewed for the report said they suffered further discrimination and violence, including at the hands of public officials, in Mexico, where high levels of violence against LGBTI people in general are reported. Many also said they didn’t feel safe in the country as many of the criminal gangs who threatened them back home operate across the southern Mexican border.

According to a study by the United Nations High Commissioner for Refugees, two thirds of the LGBTI refugees from Central America they spoke to in 2016 and 2017 had suffered sexual and gender-based violence in Mexico.

Several gay men and trans women also told to Amnesty International that they were never properly informed about their rights to seek asylum in Mexico, despite the extreme danger they would face if sent back home. They also complained that Mexican authorities did not inform them of any progress regarding investigations after they reported having suffered human rights abuses there.
Carlos told Amnesty International that, while in Mexico, immigration officials tried to discourage him from filing an asylum request. He eventually applied for asylum regardless and is still awaiting a decision.

A number of trans women who managed to survive the dangerous journey across Mexico and crossed the border to the U.S. complained of the treatment they received in detention. Others were deported from the U.S. and Mexico and sent back to their countries, to the nightmare they were desperately trying to escape from.

Cristel, a 25-year-old trans woman from El Salvador, told Amnesty International she was held in solitary confinement in US immigration facilities as soon as she crossed the Mexican US border to the USA in April 2017.

After a week, she was put in a small cell with eight men. Cristel eventually failed to secure asylum and was returned to El Salvador, where criminal gangs continue to threaten her.

“I don’t want to be illegal. I just want to live and be safe,” Cristel told Amnesty International.

“The more authorities in El Salvador, Honduras, Guatemala, Mexico and the USA fail to take action to protect some of the most vulnerable people in the Americas, the more blood they will have on their hands,” said Erika Guevara-Rosas.

“These governments must urgently take decisive action to tackle the epidemic levels of violence against LGBTI people in the region and improve their policies and practices to ensure that all those who are in need of international protection can access it.”
TAB 9
The lives and safety of Lesbian, Gay, Bisexual, Transgender and Intersex people (LGBTI) from violence-ridden El Salvador, Guatemala and Honduras are at an increased risk as authorities in their countries fail to protect them, leaving them with no choice but to flee their countries and face further dangers in Mexico, Amnesty International said in a new report today.

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After a week, she was put in a small cell with eight men. Cristel eventually failed to secure asylum and was returned to El Salvador, where criminal gangs continue to threaten her.

“I don’t want to be illegal. I just want to live and be safe,” Cristel told Amnesty International.

“Cristel’s treatment in US immigration facilities is not unusual. Many trans women who try to escape the violence in El Salvador, Honduras, Guatemala, Mexico and the USA are subjected to inhumane treatment in detention centers,” said Erika Guevara-Rosas, Americas Director at Amnesty International.

“The more authorities in El Salvador, Honduras, Guatemala, Mexico and the USA fail to take action to protect some of the most vulnerable people in the Americas, the more blood they will have on their hands,” said Erika Guevara-Rosas.

“These governments must urgently take decisive action to tackle the epidemic levels of violence against LGBTI people in the region and improve their policies and practices to ensure that all those who are in need of international protection can access it.”

“ The more authorities in El Salvador, Honduras, Guatemala, Mexico and the USA fail to take action to protect some of the most vulnerable people in the Americas, the more blood they will have on their hands ”

Erika Guevara-Rosas, Americas Director at Amnesty International
No Safe Place: Salvadorans, Guatemalans and Hondurans seeking asylum in Mexico based on their sexual orientation and/or gender identity (Report, 27 November 2017)

USA-Mexico: Trump’s border crackdown pushes refugees into dangerous limbo (News/Report, 15 June 2017)

Home sweet home? “If I stay, I’ll be killed” (Feature, 14 October 2016)

Home Sweet Home?: Honduras, Guatemala and El Salvador’s role in a deepening refugee crisis (Report, 14 October 2016)

Topics

AMERICAS          MEXICO          EL SALVADOR          GUATEMALA          HONDURAS
NICARAGUA          UNITED STATES OF AMERICA          LGBTI RIGHTS          REFUGEES
ECONOMIC, SOCIAL AND CULTURAL RIGHTS          DETENTION
TAB 10
Human Rights Committee

Concluding observations on the second periodic report of Honduras

1. The Committee considered the second periodic report of Honduras (CCPR/C/HND/2) at its 3378th and 3379th meetings (see CCPR/C/SR.3378 and 3379), held on 5 and 6 July 2017. At its 3404th meeting, held on 24 July 2017, it adopted the present concluding observations.

A. Introduction

2. The Committee welcomes the submission of the second periodic report of Honduras and the information presented therein. It regrets, however, that the report was submitted five years late. It expresses appreciation for the opportunity to renew its constructive dialogue with the State party’s high-level and large delegation on the measures taken during the reporting period to implement the provisions of the Covenant. The Committee is grateful to the State party for its written replies (CCPR/C/HND/Q/2/Add.1) to the list of issues (CCPR/C/HND/Q/2), which were supplemented by the oral responses provided by the delegation and for the supplementary information provided to it in writing.

B. Positive aspects

3. The Committee welcomes the legislative and institutional measures taken by the State party during the period under review in the area of civil and political rights, including the establishment and adoption of:

   (a) The Mission to Support the Fight against Corruption and Impunity in Honduras, in 2016, and, in particular in connection with its work, the Special Prosecution Unit to Combat Impunity for Corruption, in 2017, and the Act on Political Party Financing, Transparency and Oversight (“Clean Politics Act”), in 2016;

   (b) The Strategic Plan against Commercial Sexual Exploitation and Trafficking in Persons, 2016-2022;

   (c) The Public Policy and National Plan of Action on Human Rights, 2013-2022;

   (d) The Inter-Institutional Commission for the Protection of Persons Displaced by Violence, 2013;

   (e) The Trafficking in Persons Act, 2012;

   (f) The National Policy on Women and the Second Gender Equality and Equity Plan, 2010-2022;

* Adopted by the Committee at its 120th session (3-28 July 2017).
4. The Committee welcomes the ratification by the State party of the following international instruments:

(b) The Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, in 2008;

5. The Committee welcomes the signing of an agreement to open a country office of the United Nations High Commissioner for Human Rights, in 2016.

C. Principal matters of concern and recommendations

National human rights institution

6. The Committee, while acknowledging the important work of the Office of the National Commissioner for Human Rights, regrets that its status has been downgraded to “B” by the Subcommittee on Accreditation of the Global Alliance of National Human Rights Institutions. The Committee is also concerned about issues relating to the alleged lack of transparency in the selection process of the Ombudsman and lack of adequate financial resources to enable the Office of the Ombudsman to function effectively (art. 2).

7. The State party should ensure that the Office of the National Commissioner is able to carry out its mandate effectively and independently, and in full conformity with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles), including by continuing to increase the resources allocated to it.

Truth and Reconciliation Commission and Amnesty Decree

8. The Committee is concerned about the fact that a substantial number of recommendations made by the Truth and Reconciliation Commission in 2011 relating to violations that took place during the 2009 coup have yet to be fully implemented and about obstacles hindering the investigation and prosecution of alleged human rights violations (art. 2).

9. The State party should implement the recommendations contained in the report of the Truth and Reconciliation Commission and report publicly on their implementation. It should also ensure that the investigation and prosecution of alleged human rights violations committed during the coup are conducted promptly, thoroughly and effectively through independent and impartial bodies.

Non-discrimination

10. The Committee is concerned about the discrimination experienced by women, the Afro-Honduran community, indigenous peoples and persons living in rural areas. The Committee is also concerned that too few indigenous peoples and Afro-Hondurans are part of representative political bodies or the Government. The Committee is further concerned about the discrimination experienced by lesbian, gay, bisexual, transgender and intersex persons, including with respect to the rights of same-sex couples and the identity of transgender persons (arts. 2, 3, 25, 26 and 27).

11. The State party should ensure comprehensive protection against discrimination, including discrimination against women, the Afro-Honduran community and indigenous peoples and discrimination on grounds of sexual orientation and gender identity. The State party should strengthen the National Institute for Women, in particular through an increase in its budget and the effective implementation of the
Second Gender Equality and Equity Plan, 2010-2022. It should also ensure that the equality of same-sex couples and the identity of transgender persons are fully recognized and that lesbian, gay, bisexual, transgender and intersex persons are fully protected against hate crimes. The State party should adopt measures to increase the number of indigenous persons and Afro-Hondurans in public and political life.

Equal rights between men and women

12. The Committee is concerned at the limited participation of women in political and public life and, in particular, at the regulations for the implementation of the principle of parity and the mechanism for alternation in the political participation of women and men in electoral processes, which fails to ensure effective alternation in elective office (arts. 2, 3, 25 and 26).

13. The State party should intensify its efforts to increase the participation of women in political and public life, including by adopting, where necessary, temporary special measures in order to give full effect to the provisions of the Covenant and amending the regulations for the implementation of the principle of parity.

Violence against women

14. The Committee is concerned at the high rates of violence against women, including domestic violence, and in particular at the hundreds of femicides each year, and at violence against sex workers. The Committee is equally concerned about the extremely low number of prosecutions and convictions for this type of violence, which leads to impunity for the perpetrators (arts. 2, 3, 6, 7 and 26).

15. The State party should redouble its efforts to prevent and combat all acts of violence against women, to punish those responsible and to provide assistance and protection to victims, including through the adoption of a comprehensive law on violence against women. In addition, the State party should make it easier for victims to report cases; ensure that all cases of violence are investigated in a prompt, thorough and impartial manner, that perpetrators are tried and punished and that victims are able to receive assistance, protection and full reparation.

Voluntary termination of pregnancy and reproductive rights

16. While the Committee notes the State party’s efforts to combat maternal mortality in general, it is concerned about the fact that all voluntary terminations of pregnancy are unlawful and incur up to 10 years’ imprisonment, leading to a high death rate from unsafe abortions; the complete ban on emergency contraceptives, including in cases of rape and incest; and the high rate of unwanted pregnancy among adolescents (arts. 3, 6, 7, 17 and 26).

17. The State party should, as a matter of urgency, amend its legislation to help women prevent unwanted pregnancies and to ensure that they do not have to seek clandestine abortions that could endanger their lives and health. In this connection, the State party should ensure access to safe, legal abortions, particularly in cases where the woman’s life or health is in danger and in cases of rape, incest or fetal unviability due to an abnormality, and consider decriminalizing abortion. The State party should lift the ban on the emergency contraceptive pill. It should also keep precise statistics regarding the impact of restrictions on abortion and the emergency contraceptive pill on the life and health of women and girls and increase the number of programmes designed to provide full access to sexual and reproductive health services and contraceptives and raise awareness of sexual and reproductive health among men, women and children throughout the country.

Right to life and security of person

18. The Committee notes the decline in the homicide rate in the State party. However, it remains concerned at the extremely high rates of homicide, physical assault, property damage and recruitment of children for criminal activities by gangs (maras) and at the very high rate of impunity with regard to these types of offences (arts. 6, 9 and 24).
19. The State party should step up its efforts to investigate all violent crimes and other serious offences in a prompt, thorough and impartial manner, to prosecute and punish those responsible and to ensure that victims receive full reparation. Furthermore, the State party should enhance programmes for the protection of children and youth who refuse to join criminal gangs, including by ensuring the effective implementation of the System for the Promotion and Comprehensive Protection of the Rights of the Child, with sufficient funding for the fulfilment of its objectives.

20. The Committee is concerned at the militarization of law enforcement and the insufficient regulation and oversight of private security companies. Although the Committee notes the State party’s efforts to reduce the number of weapons licences, it regrets that the possession and use of weapons are inadequately controlled (arts. 2, 6 and 9).

21. The State party should continue to strengthen the national police with a view to enabling it to take over law enforcement functions from the armed forces. The State party should also pursue the certification process for members of the national police, ensuring that it is carried out in a transparent and impartial manner. In addition, the State party should adopt a legislative framework that guarantees that private security companies operate in keeping with the Covenant; improve State oversight of the activities of these companies; and boost the supervisory function of the Private Security Company Oversight Unit and increase its budget. The State party should exercise effective control over the possession and use of firearms and reduce the number of weapons in circulation, including by adopting relevant laws.

Extrajudicial execution, enforced disappearance and torture

22. The Committee is concerned at reports that “social cleansing” and other forms of extrajudicial execution involving the security forces still occur. The Committee notes that enforced disappearance has been made an offence; however, it is concerned by information received about the large number of enforced disappearances that remain unsolved. The Committee is further concerned that these offences are committed with impunity and that this impunity is reportedly linked to corruption in law enforcement (arts. 2, 6 and 7).

23. The State party should intensify its efforts to ensure that all cases of alleged extrajudicial execution and enforced disappearance are investigated promptly, thoroughly and impartially and that those responsible are tried and punished. It should search for disappeared persons and ensure that victims receive full reparation.

24. The Committee is concerned about complaints and reports of torture, ill-treatment and excessive use of force by the police, armed forces and other public officials. The Committee is also concerned about the lack of objective criteria to determine the penalty for acts of torture (arts. 2, 7 and 10).

25. The State party should:

(a) Ensure that all allegations of torture and other cruel, inhuman or degrading treatment are investigated promptly, thoroughly and impartially, that the perpetrators are tried and, if found guilty, are given appropriate penalties and that victims receive full reparation;

(b) Strengthen the independence and investigative capacity of the Office of the Special Prosecutor for Human Rights so that cases of torture and other cruel, inhuman or degrading treatment are investigated and prosecuted appropriately in keeping with the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol);

(c) Ensure that pending legislation on the use of force is in accordance with the Covenant and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials; that all training materials are in line with the Covenant and the Basic Principles; and enhance human rights training, particularly on the eradication of torture and ill-treatment and the appropriate use of force, for law enforcement officers and military personnel;
(d) Ensure that criminal law includes objective criteria for determining appropriate penalties that are commensurate with the seriousness of acts of torture.

26. Although the Committee notes that the budget of the Office of the Special Prosecutor for Human Rights and the national torture prevention mechanism has been increased, it remains concerned at the significant shortfall in the financial and human resources needed to fulfil their mandates properly (art. 14).

27. The State party should provide the Office of the Special Prosecutor for Human Rights and the national torture prevention mechanism with the financial and human resources needed to fulfil their duties effectively.

Internally displaced persons

28. The Committee is concerned at the high number of internally displaced persons resulting from the violence in the State party and, in particular, at the vulnerable situation of families with children, unaccompanied migrant children and women victims of domestic and sexual violence who flee because of the impunity of their aggressors. The Committee acknowledges the efforts of the Inter-Institutional Commission for the Protection of Persons Displaced by Violence, despite its limited capacity and mandate (arts. 2, 12 and 26).

29. The State party should step up its efforts to prevent internal displacements; ensure that victims receive care, assistance and full reparation, with particular consideration for the needs of women and girls; and ensure secure and viable options for return, local integration or resettlement elsewhere in the country. In addition, the State party should strengthen the mandate and capacity of the Inter-Institutional Commission and provide it with the resources necessary for it to operate effectively.

Persons deprived of their liberty and detention conditions

30. While it notes the State party’s efforts to increase the budget of the National Prison Institute, improve prisons and build new detention centres, the Committee is concerned at the persistently high rates of overcrowding and inadequate sanitation; the large number of pretrial detainees, who represent over half of the inmate population; the lack of separation between pretrial detainees and convicted offenders and of separate facilities for women in some mixed centres; the lack of attention paid to the specific needs of women deprived of their liberty; the use of military facilities for the pretrial detention of persons accused of ordinary crimes; and the large number of deaths in detention and of incidents like the fire at Comayagua prison (arts. 6, 7 and 10).

31. The State party should redouble its efforts to improve detention conditions by adopting practical measures to reduce overcrowding, in particular through the promotion of alternatives to detention, and by ensuring that pretrial detention is an exception, reasonable, necessary in all the circumstances and as short as possible. It should also safeguard the right of inmates to be treated with humanity and dignity, end the practice of detaining civilians in military facilities and ensure that detention conditions in all prisons meet the Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules). In addition, the State party should investigate all inmate deaths promptly and thoroughly, prosecute and, where appropriate, punish those responsible and grant full reparation to victims’ families.

Access to justice

32. The Committee notes the increase in the number of public defenders in courts and police stations; however, it regrets that this remains insufficient and that persons are not necessarily informed of their right to legal counsel and related rights at the start of their detention. The Committee is concerned at the lack of access to detention registers and at how difficult it is for persons in police custody to be examined by an independent doctor (arts. 9 and 14).

33. The State party should ensure that persons deprived of their liberty enjoy fundamental legal safeguards in practice, including the right to be informed of their rights from the outset of detention, the right to immediate legal assistance and the
right to an independent medical examination. The State party should also ensure appropriate access to registers of detained persons.

Independence of the judiciary

34. The Committee is concerned at the lack of effective protection to guarantee the independence and impartiality of the judiciary, including the absence of effective protection and security measures for members of the judiciary who are threatened or harassed in the exercise of their duties; the insufficient judicial and due process safeguards in disciplinary proceedings against judges; and the lack of a law on the judicial service and the Judicial Council guaranteeing the total independence of the judiciary. The Committee regrets that the State party has not acted on the judgment of the Inter-American Court of Human Rights in López Lone et al. v. Honduras with regard to the reinstatement of judges Adán Guillermo López Lone and Tirza del Carmen Flores Lanza in positions similar to those they held at the time of their dismissal (arts. 14 and 17).

35. The State party should take immediate steps to protect the autonomy, independence, impartiality and security of judges; ensure that judges are free to operate without pressure or influence of any kind; and ensure that all judicial and due process safeguards are upheld during disciplinary proceedings. Furthermore, the State party should adopt and implement a law regulating the judicial service and the Judicial Council that guarantees their full independence. The State party should reinstate judges Adán Guillermo López Lone and Tirza del Carmen Flores Lanza.

Prohibition of slavery, forced labour and trafficking in persons

36. The Committee welcomes the measures adopted by the State party to combat contemporary forms of slavery, forced labour and trafficking in persons. Nevertheless, the Committee notes with concern reports that these practices persist, especially in the maquila industry, domestic work and dive fishing, and that they primarily involve persons in vulnerable situations, such as women, children, Afro-Hondurans, indigenous peoples and persons living in rural communities. In addition, the Committee is concerned by trafficking in persons, for instance for the purpose of sexual exploitation, in particular among children (art. 8).

37. The State party should continue and intensify its efforts to prevent, combat and punish contemporary forms of slavery, forced labour and trafficking in persons and to punish those responsible, as well as to identify victims and provide them with full reparation and appropriate protection and assistance. In this connection, the State party should strengthen the capacity and increase the budget of the Labour Inspectorate and adopt legislation on trafficking in persons in keeping with the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (Palermo Protocol).

Privacy and surveillance

38. The Committee is concerned at reports of the frequent recourse to the Special Act on Interception of Private Communications, which entails extensive monitoring of private communications. In addition, the Committee regrets the lack of sufficient information on the grounds and evidence needed to obtain judicial authorization for surveillance operations, the absence of appropriate oversight mechanisms to continuously monitor the application of the Special Act, and the difficulties of victims of unlawful surveillance to obtain legal redress.

39. The State party should take all necessary measures to ensure that its surveillance activities are in keeping with its obligations under the Covenant, especially article 17, and that any interference with the right to privacy is in line with the principles of legality, necessity and proportionality. The State party should also ensure that the application of the Special Act on Interception of Private Communications is subject to continuous and appropriate monitoring through an
independent oversight mechanism and that it provides victims with appropriate remedies.

**Freedom of expression, freedom of association and violence against human rights defenders**

40. The Committee remains extremely concerned at the acts of violence and intimidation and the persistently high murder rates among, inter alios, human rights defenders, journalists, trade unionists, environmental activists, indigenous persons and lesbian, gay, bisexual, transgender and intersex persons, and which are committed by State officials and private individuals and result in the death of persons such as Berta Cáceres who were protected under precautionary measures issued by the Inter-American Commission on Human Rights. The Committee is also concerned about the excessive recourse to provisions on defamation and other criminal offences against persons exercising their rights to freedom of expression, freedom of assembly and freedom of association and about the continued stigmatization of such persons by government officials. The Committee is further concerned by the conviction on 7 June 2017 of three students of the National Autonomous University of Honduras and by the criticism that members of the Government, among others, levelled at the Office of the United Nations High Commissioner for Human Rights (OHCHR) and the Office of the National Commissioner for Human Rights in relation to their work promoting respect for the right to peaceful protest. While the Committee notes the adoption of the Act on the Protection of Human Rights Defenders, Journalists, Social Communicators and Justice Officials, it regrets that it has not been adequately implemented. The Committee also notes the fact that defamation, libel and insult do not carry a prison sentence (arts. 6, 7, 19, 21 and 22).

41. The State party should, as a matter of urgency, take practical steps to:

(a) Provide effective protection to, inter alios, human rights defenders, journalists, trade unionists, environmental activists, indigenous persons and lesbian, gay, bisexual, transgender and intersex persons who are subjected to acts of violence and intimidation;

(b) Increase training and education programmes on the importance of freedom of expression, freedom of association and freedom of assembly for law enforcement officers, military personnel, staff of private security companies, judges and prosecutors;

(c) Ensure that all allegations concerning intimidation, threats and assault are investigated promptly, thoroughly, independently and impartially, that the perpetrators are brought to justice and duly punished in accordance with the gravity of the offence and that victims receive full reparation;

(d) Set up a mechanism to ensure that acts of violence and threats against human rights defenders are properly investigated and are not treated as ordinary offences; consider introducing a protocol for the Attorney General’s Office on the investigation of such offences; and extend the jurisdiction of the Unit for the Protection of Human Rights Defenders to include offences committed by private individuals;

(e) Consider the decriminalization of defamation and, in any case, the application of the criminal law should only be countenanced in the most serious cases, and imprisonment is never an appropriate penalty;

(f) Collect disaggregated data on assaults and murders among human rights defenders, journalists, trade unionists, environmental activists, indigenous persons and lesbian, gay, bisexual, transgender and intersex persons.

Disparaging statements about members of civil society organizations who have contributed to the work of the Committee

42. The Committee is concerned at reports that senior government officials have made disparaging statements in the media about individuals and civil society organizations who contributed to its work in connection with the consideration of the second periodic report of
the State party. The Committee draws particular attention to paragraph 8 of General Assembly resolution 68/268, of 9 April 2014, in which the Assembly “strongly condemns all acts of intimidation and reprisals against individuals and groups for their contribution to the work of the human rights treaty bodies, and urges States to take all appropriate action … to prevent and eliminate such human rights violations”, and to the Guidelines against Intimidation or Reprisals (San José Guidelines) (arts. 19, 21 and 22).

43. The State party should take all necessary steps to protect those persons who have contributed to the work of the Committee and to ensure that public officials cease to make disparaging statements about them. In addition, the State party should inform the Committee of the measures taken in this regard.

Participation in public affairs and presidential re-election

44. The Committee is concerned at reports of irregularities during the 2013 general election, including vote buying, shortcomings in updates of the electoral roll, the lack of transparency in campaign financing and the possibility that there might have been fraud in the transmission of the polling station records to the Supreme Electoral Court. It is also concerned at the murder of more than a dozen opposition activists and candidates during the last electoral campaign. The Committee is further concerned that, despite the constitutional limit on presidential terms, the current president is standing for re-election (arts. 6 and 25).

45. In the light of the Committee’s general comment No. 25 (1996) on participation in public affairs and the right to vote, the State party should adopt the necessary measures to:

(a) Ensure that the next elections are free and fair; that the effective exercise of voting rights is guaranteed; and that persons with the right to vote, as well as activists and candidates, are protected from violence, threats, compulsion or manipulative interference of any kind;

(b) Ensure a fair and impartial electoral process and ensure transparency in campaign financing;

(c) Guarantee the security of ballot boxes and that votes are counted in the presence of the candidates or their agents. There should be independent scrutiny of the voting and counting process and access to judicial review or other equivalent process;

(d) Respect the eligibility criteria set forth in the Constitution, in particular the presidential term limit.

Rights of persons belonging to minorities

46. The Committee is concerned that the draft framework law on the free, prior and informed consent of indigenous peoples and Afro-Hondurans is not fully in line with international standards on the rights of indigenous peoples and that steps were not taken to ensure fully representative participation of indigenous peoples in the preparation of the draft law. The Committee is further concerned about cases of forced eviction of indigenous peoples from their ancestral lands and the consequent loss of protection of their rights. In this connection, the Committee regrets that the judgments of the Inter-American Court of Human Rights regarding the Garífuna communities of Punta Piedra and Triunfo de la Cruz have not been implemented (arts. 2, 26 and 27).

47. The State party should expedite the passage of national legislation under which consultations must be held with indigenous and Afro-Honduran peoples with a view to obtaining their free and informed consent prior to the adoption and application of any measure that may have a substantial impact on their way of life and culture, and ensure that the law is fully in keeping with the Covenant and other relevant international standards. In addition, the State party should provide effective protection for indigenous peoples against all acts of violence and ensure that they can fully enjoy their rights, including land rights. In this connection, the State party should strengthen the capacity of the Office of the Special Prosecutor for Ethnic
Groups and provide training on indigenous rights to law enforcement officers, military personnel, staff of private security companies, judges and prosecutors. The State party should provide full reparation for the communities of Punta Piedra and Triunfo de la Cruz.

D. Dissemination and follow-up

48. The State party should widely disseminate the Covenant and its two optional protocols, its second periodic report, the written replies to the list of issues prepared by the Committee and the present concluding observations with a view to raising awareness of the rights enshrined in the Covenant among the judicial, legislative and administrative authorities, civil society, NGOs operating in the country and the general public, including members of minority communities and indigenous peoples.

49. In accordance with rule 71 (5) of the Committee’s rules of procedure, the State party should provide, within one year following the adoption of the present concluding observations, relevant information on its implementation of the Committee’s recommendations made in paragraphs 17 (voluntary termination of pregnancy), 21 (right to life), 41 (freedom of expression and human rights defenders) and 47 (rights of minorities and indigenous peoples).

50. The Committee requests the State party to submit its next periodic report, including information on the implementation of the present concluding observations, by 28 July 2021. The Committee also requests the State party, when preparing its next periodic report, to consult widely with civil society and NGOs operating in the country. In accordance with General Assembly resolution 68/268, the word limit for the report is 21,200 words. Alternatively, the Committee invites the State party to agree, by 28 July 2018, to use its simplified reporting procedure, whereby the Committee transmits a list of issues to the State party prior to the submission of its periodic report. The State party’s response to this list of issues will then constitute its next periodic report to be submitted under article 40 of the Covenant.
HONDURAS

SUBMISSION TO THE UNITED NATIONS HUMAN RIGHTS COMMITTEE

120TH SESSION, 3-27 JULY 2017
Amnesty International is a global movement of more than 7 million people who campaign for a world where human rights are enjoyed by all.

Our vision is for every person to enjoy all the rights enshrined in the Universal Declaration of Human Rights and other international human rights standards.

We are independent of any government, political ideology, economic interest or religion and are funded mainly by our membership and public donations.
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1. INTRODUCTION

Amnesty International submits this document to the United Nations (UN) Human Rights Committee (the Committee) ahead of its review of Honduras’ second periodic report on the implementation of the International Covenant on Civil and Political Rights (the Covenant). The submission highlights Amnesty International’s concerns in relation to a number of questions on the Committee’s List of Issues with specific focus on violence against women, right to life, the prohibition of torture and other cruel, inhuman or degrading treatment (other ill-treatment), sexual and reproductive rights, the right to privacy, freedom of expression and opinion and freedom of assembly and association.
2. RIGHT TO LIFE AND SECURITY OF PERSON AND PROHIBITION OF TORTURE AND CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT (ARTS. 2, 6, 7, 9 AND 24, LOI PARAS. 8 AND 9)

2.1 RIGHT TO LIFE AND SECURITY OF PERSON

Although homicide rates have declined over the last few years,\(^1\) insecurity and violence continue to be major concerns in Honduras. In addition, the level of impunity is alarming and represents one of the determinant factors in the upward spiral of continued violence. Widespread impunity also undermines public trust in local authorities and the justice system.\(^2\)

Young people are particularly affected by violence. From January to September 2016, 1905 persons aged between 15 and 29 were killed.\(^3\) The vast majority of victims is male.\(^4\) Young men

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Amnesty International’s research shows that violence is a key push factor of migration from Honduras, where levels of violence and an increase in the amount of territory controlled by gangs affect the enjoyment by people of their rights to life, physical integrity, education and free movement. As a consequence of the lack of protection and access to justice, many Hondurans have no choice but to flee the country to save their lives. The number of asylum applications from Hondurans worldwide has increased over the last years. Between 2013 and 2015, asylum applications received in Mexico rose by 187 %. The surge in asylum applications by Hondurans and of unaccompanied Honduran minors arriving at the United States southern border until the beginning of fiscal year 2017 also reflects the increasing number of people fleeing the country and seeking protection. Of the nearly 69,000 unaccompanied children apprehended at the US border in 2014, 34,495 were from Honduras. In a statement of April 2016, UNHCR considered the situation in the Northern Triangle of Central America (comprised by Honduras, Guatemala and El Salvador) to be a protection crisis: “We are particularly concerned about the rising numbers of unaccompanied children and women on the run who face forced recruitment into criminal gangs, sexual and gender-based violence and murder.”

The magnitude of people deported back to Honduras and information received by Amnesty suggest that people fleeing violence do not always receive adequate international protection in Mexico and the United States, and are even exposed to violations of the principle of non-refoulement. Despite some efforts to improve the immediate reception and welcome process for deportees, Amnesty International has seen that this support ends the moment the deportees leave the reception centres, and most of them are sent back to the same conditions they had initially fled, leaving many of them exposed to serious risks to their life and personal integrity.

Anecdotal information gathered by the organization and news coverage suggest that new episodes of violence, including murder of deported migrants, are not uncommon.

10 Although the figures from February 2017 onwards show an overall drop of apprehensions at the US border, Amnesty International considers it is too early to point to definitive reasons for these changes in flows. In addition, experts have noted that each time the government adopts new immigration enforcement measures the numbers fall, only to rebound, in some cases higher than before. See quote from Faye Hipsman, a policy analyst at the Migration Policy Institute, a nonpartisan think tank based in Washington, D.C http://www.latimes.com/nation/la-na-border-apprehensions-20170309-story.html
Amnesty International calls on the Honduran authorities to:

- Improve coordination between consular services abroad and national reception centres to identify cases of deported people in need of protection;
- Assume central responsibility for the protection of deportees using the resources required given the demand caused by the increase in numbers of deportees, and when needed relocate deportees in danger to different communities and provide them with housing, education and work possibilities in the new communities;
- Ensure that all reception, reintegration and protection programmes for deported migrants take into consideration the rights and specific protection issues relating to groups such as women, indigenous people, LGBTI people and unaccompanied children.

2.2 GENDER-BASED VIOLENCE (ARTS. 3, 6 AND 7, LOI, PARA 7)

Young girls and women, as well as lesbian, gay, bisexual, transgender and intersex (LGBTI) people are subjected to a number of forms of violence.15 The Committee on the Elimination of Discrimination against Women (CEDAW) found, in November 2016, that violence against women, including sexual violence, abduction, disappearance and murder, as well as femicide remains a serious concern in the country.16 The female murder rate increased by 37% between 2008 and 2015 in Honduras.17 Between 2005 and 2015, 25,044 medical evaluations for sexual crimes were requested by the Public Prosecutor’s Office, more than 87% of these were performed on women victims.18 However, these numbers are believed to be far higher as these attacks are generally underreported. In addition, the vast majority of crimes reported against women remains unpunished, with an estimated 95% impunity rate.19

LGBTI people are also frequently targeted for abuse, intimidation and violence because of their sexual orientation and/or their gender identity. According to the NGO Cattrachas, 100 LGBTI persons were killed in Honduras since 2014: 37 of them in 2015 and 22 in 2016.20 As of May 2017, 15 new violent deaths had been reported.21 Amnesty International’s research found that transgender women, who because of patriarchal social norms are particularly stigmatized, are especially subjected to violence.

Amnesty International calls on the Honduran authorities to:

- Implement effective and coordinated measures to prevent gender-based violence;
- Strengthen efforts to carry out prompt, impartial and effective investigations into all forms of gender-based violence and to bring those responsible to justice.
2.3 SEXUAL AND REPRODUCTIVE RIGHTS (ARTS. 6, 7-LOI PARA. 9)

According to a study published by the NGO Center for Women’s Rights (Centro de Derecho de las Mujeres) in 2015, available data suggest that 5 per cent of maternal deaths are related to unsafe abortions.

However, Honduras missed an historic opportunity to protect women’s rights and guarantee access to safe and legal abortion for women in April 2017. Despite recommendations from international human rights bodies and mechanisms, the Honduran Congress decided to maintain the absolute prohibition of abortion in the new criminal code. Abortion remains a crime in all cases, including when the life and health of a woman are at risk, or when the pregnancy is a result of sexual violence. Honduras is among the nine countries worldwide that still prohibits all forms of abortion. Between January and September 2016, 28 cases of illegal abortion, two against girls, were opened by the prosecution services.

Amnesty International calls on the Honduran State to:

- decriminalize abortion in all circumstances, and ensure access to abortion in law and in practice as a minimum in cases where the pregnancy poses a risk to the life or health of the woman, where the foetus suffers from severe malformation or is not viable, or where the pregnancy is the result of rape or incest.


3. RIGHT TO FREEDOM OF EXPRESSION, ASSOCIATION AND PEACEFUL ASSEMBLY (ARTS. 9, 19, 21, 22 AND 25, LOI PARA. 20)

Honduras remains one of the most dangerous countries in Latin America for human rights defenders, especially for environmental and land activists. According to a report published in January 2017 by the NGO Global Witness, Honduras had the highest number per capita of killings of human rights defenders working on issues related to land, territory and the environment in the world.\(^{25}\) Amnesty International’s research confirmed that the vast majority of those responsible for threats and attacks against this group of human rights defenders are not brought to justice. Impunity has helped perpetuate violence against human rights defenders: the failure to identify, bring to trial and punish those responsible sends a message that there are no consequences for those who commit the attack. LGBTI human rights defenders are also particularly targeted with threats and attacks.\(^{26}\)

LAW TO PROTECT HUMAN RIGHTS DEFENDERS, JOURNALISTS, SOCIAL COMMUNICATORS AND JUSTICE OFFICIALS

Amnesty International welcomes the entry into force of the Law to Protect Human Rights Defenders, Journalists, Social Commentators and Justice Officials (Protection Law), adopted on 15 May 2015. This was a positive step towards ensuring the safety and protection of human rights defenders. However, two years after its adoption, several challenges still need to be addressed in order to ensure its adequate implementation and effective protection of human rights defenders.

For instance, Amnesty International’s research has confirmed that most of the protection measures implemented by the Protection Mechanism established by the Protection Law are police measures, such as police patrols or perimeter security, when more structural measures are


\(^{26}\) René Martínez, president of the Sampedrana Gay Community in the city of San Pedro Sula, was found dead on 3 June with his body bearing signs of torture. The Worldwide Movement for Human Rights reported that members of the LGBTI rights group Asociación Arcoiris were victims of 36 security incidents between July 2015 and January 2016, including killings, threats, surveillance and harassment. The military was accused of infiltrating social movements and attacking human rights defenders. See Amnesty International, Annual report 2016, Honduras. Available at https://www.amnesty.org/en/countries/americas/honduras/report-honduras/
needed to create an environment favourable to the defence of human rights (i.e. impartial, thorough and prompt investigations into attacks on defenders, or the implementation of public campaigns aimed at recognizing the legitimacy of their work). In addition, the authorities have not developed a specific protocol for granting collective measures for groups or communities at risk, which becomes particularly relevant for human rights defenders working on issues related to land, territory and the environment.

Coordination with the Public Prosecutor’s Office also needs to be strengthened. The representatives of the Public Prosecutor’s Office to the Mechanism do not consistently attend the meetings of the National Council. Moreover, the Human Rights’ Prosecutor, who is the representative of this institution on the Protection Mechanism’s Technical Committee only has jurisdiction over the attacks perpetrated by authorities, but not over those committed by non-state actors. This constitutes a serious limitation in a context where impunity remains a major concern in relation to attacks suffered by human rights defenders.27

Additionally, the effective participation of civil society throughout the different stages of decision-making in relation to protection provided to human rights defenders has not been effectively guaranteed. The Protection Law created a National System for the Protection of Human Rights Defenders, Journalists, Social Commentators and Justice Officials (Protection System) composed of several bodies,28 all of them under control of the Secretary of State in the Ministry of Human Rights, Justice, the Interior and Decentralization. The Protection Council, which is the only body which allows for the participation of civil society and representatives from professional bodies of justice officials and journalists, has very limited powers. Of the 14 seats on this body, two are designated to representatives of human rights organizations that must be accredited by the National Human Rights Commission; a representative of the Honduran Bar Association; two representatives of journalists and the press, and a representative of judges and magistrates. On the other hand, the Protection Mechanism Technical Committee, which carries out expert risk analysis and decides which protection measures should be adopted, is made up solely of State institutions and does not allow for the participation of civil society.29

Amnesty International also notes that human rights defenders continue to report a lack of information and consultation regarding the National Protection System.30

To date, a major challenge for the National Protection System is the transition to the implementation of the precautionary and provisional measures31 granted by the Inter-American Commission and Court of Human Rights respectively, which were previously implemented by the Ministry of Security. Some human rights defenders who had been granted precautionary measures expressed concerns to Amnesty International that the progress achieved in the implementation of their measures by the Ministry of Security would be at stake during the transition. As of February 2017, the Ministry of Interior was overseeing the implementation of nine precautionary measures already underway.

28 The Protection System is composed of the National Council for Protection, the Protection System General Directorate, the Protection Mechanism Technical Committee and the Human Rights Department of the Secretary of State in the Ministry of Security.
29 Amnesty International, We are defending the land with our blood: Defenders of the land, territory and environment in Honduras and Guatemala. 1 September 2016, AMR 01/4562/2016 Available at https://www.amnesty.org/en/documents/amr01/4562/2016/en/
31 Precautionary measures and provisional measures are protection mechanisms for serious and urgent situations creating a risk of irreparable harm to a person or a group of people, granted by the Inter-American Commission on Human Rights and the Inter American Court of Human Rights, respectively.
SAFE AND ENABLING ENVIRONMENT

In 2009, the Inter-American Court of Human Rights condemned Honduras for the killing in 1995 of the environmental defender Blanca Jeanette Kawas Fernández. The IACHR ordered that a monument be erected in her memory and a park be named after her. In addition, the Court declared that “the State shall have a period of two years to carry out a national awareness and sensitivity campaign regarding the importance of the work performed by environmentalists in Honduras and their contribution to the defense of human rights, in accordance with paragraph 214 of this Judgment.” To date, the state has not implemented such a campaign.

The implementation of this campaign is vital in a context of increasing stigmatization and discrediting of human rights defenders. For instance, after José Angel Flores, President of the Unified Campesino Movement of the Aguán (MUCA) and Silmer Dionisio George, member of MUCA were killed in October 2016, a statement entitled “Who is protecting the Bajo Aguan hitmen?” and a poster entitled “NGOs protecting hitmen in Bajo Aguán” began to circulate. In both documents, the two defenders who were killed were presented as high profile criminals and several other defenders, including Bertha Oliva from the NGO Committee of Relatives of the Disappeared in Honduras (Comité de Familiares de Detenidos Desaparecidos en Honduras - COFADEH), were being accused of defending them.

On 25 January 2017, for the first time, the National Council for Protection issued a public declaration recognizing the important and legitimate role of women human rights defenders. This was an important step forward to implement non-police measures targeting the structural causes of the violence against human rights defenders, and defenders generally. Unfortunately, just a few days after this public declaration of recognition, several civil society organizations and movements were subjected to a smear campaign, driven by both state and non-state actors. There were no declarations from authorities recognizing the important work human rights defenders do to counteract the hostile environment created around them.

Amnesty International is particularly concerned about new criminal provisions approved by Congress in February 2017, including a reform to article 335 of the penal code, which delineates the criminal offence of “terrorism”, and adds article 335 B which outlines the criminal offence of “apology and incitation of terrorism acts”. These new provisions are couched in an overly broad and vague manner, contrary to the principle of legality, and could lead to arbitrary and inadequate application in the context of peaceful protests and other human rights work, which may criminalize human rights defenders, and obstruct social movements.

ACCESS TO JUSTICE

Amnesty International’s research confirms the lack of progress in investigations into killings, physical attacks, threats and harassment targeting human rights defenders, particularly those involved in environmental work...
working on issues related to land territory and the environment. This has allowed those responsible to evade justice and sends a message that their acts are tolerated by the authorities.

Investigations into the killing of Berta Cáceres are ongoing. At the beginning, the investigation did not take into account the possibility that the killing could have been linked to her human rights work. Initially, the authorities were speculating that the killing might have occurred during a robbery, and a few hours after the crime, a former partner of the human rights defender who was also a member of COPINH was detained, suggesting that the Public Prosecutor's Office was pursuing the hypothesis that the killing was the result of a ‘crime of passion’. In the following days, Bertha Cáceres’ colleagues in COPINH were repeatedly questioned. On 7 March, a few days after the killing, the Attorney General’s Office told Amnesty International that all lines of investigation were being considered, including her personal life and background. At the end of March, the Public Prosecutor’s Office issued a statement indicating that the possibility that the killing was in connection to her work as a human rights defender was also being considered as part of the investigation. Currently, eight men have been accused and detained: one was a manager of the Honduran company owner of the Agua Zarca’s project (Desarollos Energeticos S.A., also known as “DESA”); another a military, and a third, a former military soldier, who provided security to the Agua Zarca’s project.39

The Preliminary Hearing, that will prepare the case for trial, was originally scheduled for April, 2017. However, it was postponed twice this same month at the request of the lawyers of the accused and the legal representatives of the defender’s family, on the grounds that the public prosecutor had not shared/made all the evidence for the prosecution available before the hearing. The hearing scheduled for May 24, 2017 was also postponed, since the evidence was not shared until May 19, 2017, making it impossible for the lawyers to review such a large amount of information and prepare adequately for the hearing in the few days available. The hearing has now been rescheduled for June 7, 201740.

In addition to concerns about due process and the right to justice, truth and reparation for the family of Berta Cáceres, there is uncertainty about whether the Honduran Public Prosecutor has made any progress in identifying the brains behind the operation of the killing; about whom Amnesty International has repeatedly inquired. On 18 May 2017, the Inter-American Human Rights Commission convened a working meeting in Tegucigalpa to review compliance with the precautionary measures granted to the family of Berta Cáceres and the Civic Council of Popular and Indigenous Organizations of Honduras (Consejo Cívico de Organizaciones Populares e Indígenas de Honduras – COPINH). However, representatives of the public prosecutor, which is in charge of the investigation into the assassination of Ms Cáceres and attacks against several COPINH members, which provided the grounds for the precautionary measures, did not attend this meeting.

As a consequence, to date, the identification, prosecution and judgment against those responsible for planning and paying for the murder, remains at risk.

39 Amnesty International, We are defending the land with our blood: Defenders of the land, territory and environment in Honduras and Guatemala.
CHARGES FOR ILLEGAL OCCUPATION OF LAND

There are numerous judicial proceedings against human rights defenders who work to defend and promote the rights to territory, the environment and those linked to access to land in Honduras. The representative of the National Confederation of Farmworkers (Central Nacional de Trabajadores del Campo) told Amnesty International that there are about 800 people, including Indigenous people affiliated to campesino organizations, subject to judicial proceedings in the Department of La Paz alone. The NGO COFADEH estimates that about 3,000 campesinos face unfounded criminal procedures, 700 of them in Bajo Agüan.

In the municipality of Santa Elena, several members of the Independent Lenca Indigenous Movement of La Paz (Movimiento Indígena Lenca Independiente de La Paz, MILPAH) have complained to the Public Prosecutor’s Office that they have been arbitrarily detained for hours or days, sometimes without a judicial warrant, as well as being subjected to beatings and other ill-treatment by police. Similarly, MILPAH reported that at least 30 people were subject to judicial proceedings, some of them accused of the crime of land usurpation. Approximately 15 people who are being prosecuted have had non-custodial restrictions imposed on them requiring them to sign in before a judge: some every eight days; others every 15 or 30 days.

Legal proceedings against members of social movements and human rights organizations impose a significant burden on defenders, their families and the organizations to which they belong. This is particularly acute when the individual is a community or rural leader, because of the very limited financial resources available. Most organizations and community and rural movements do not have lawyers among their members. This means they have to approach other human rights organizations to get legal advice, but there are not enough of these to cover the large number of human rights defenders facing criminal charges in Honduras.

Bail conditions imposed on human rights defenders that are released pending trial also have a direct impact on their work. Having to go to sign a register in court involves incurring transport costs or, in those cases where the journey can be made by foot, walking for hours to get to the court. These human rights defenders commonly work in areas of entrenched poverty where the main source of income for families is agriculture. These long journeys create huge demands on the families’ meagre resources and also mean the loss of one or several days of work. The economic situation and food security of the household are seriously compromised when the person is required to sign in every eight days.

Amnesty International has heard from several of those on whom these non-custodial measures have been imposed that have been warned by the authorities not to approach human rights organizations or the “ringleaders” of organizations and avoid meetings or social movements. Alternative bail conditions, whether conveyed in writing or verbally, that order an individual not to make contact with human rights organizations are violations of the right to defend human rights, as well as to the rights to freedom of association and expression. 41

Amnesty International calls on the Honduran authorities to:

- Recognize, publicly and at the highest levels of local and national authorities, the legitimate work of human rights defenders and implement a public awareness campaign throughout the country about the importance of their work;
- Ensure comprehensive protection for human rights defenders that incorporates preventive, collective and gender-sensitive approaches in their protection strategies;
- Initiate timely, independent and impartial investigations into attacks, threats and assaults against human rights defenders and bring to justice those responsible;

41 Amnesty International, We are defending the land with our blood: Defenders of the land, territory and environment in Honduras and Guatemala.
• Refrain from misusing the justice system to intimidate, harass and discredit human rights defenders, and initiate prompt, thorough and impartial disciplinary and criminal investigations against authorities that misuse the justice system to criminalize human rights defenders.
AMNESTY INTERNATIONAL IS A GLOBAL MOVEMENT FOR HUMAN RIGHTS. WHEN INJUSTICE HAPPENS TO ONE PERSON, IT MATTERS TO US ALL.
HONDURAS

SUBMISSION TO THE UNITED NATIONS HUMAN RIGHTS COMMITTEE
(120TH SESSION, 3-27 JULY 2017)

Amnesty International submits this document to the United Nations (UN) Human Rights Committee (the Committee) ahead of its review of Honduras second periodic report on the implementation of the International Covenant on Civil and Political Rights (the Covenant). The submission highlights Amnesty International’s concerns in relation to a number of questions on the Committee’s List of Issues with specific focus on violence against women, right to life, the prohibition of torture and other cruel, inhuman or degrading treatment (other ill-treatment), sexual and reproductive rights, the right to privacy, freedom of expression and opinion and freedom of assembly and association.
TAB 12
outbreak. The UN continued to deny all attempts by victims to gain access to legal remedies.

**RIGHTS OF LESBIAN, GAY, BISEXUAL, TRANSGENDER AND INTERSEX PEOPLE**

In September, public threats, including by several parliamentarians, were made against individuals and NGOs who were planning an LGBTI Film Festival event. In September, the Public Prosecutor of Port-au-Prince ordered its cancellation for security reasons. In the following days, there was a marked increase in reports of homophobic attacks.

**IMPUNITY**

No progress was made in the investigation into alleged crimes against humanity committed by former President Jean-Claude Duvalier and his collaborators.³

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1. Haiti: Internal displacement, forced evictions, statelessness – the catalogue to violations continue (AMR 36/4658/2016)

2. “Where are we going to live?”: Migration and statelessness in Dominican Republic and Haiti (AMR 36/4105/2016)

3. Haiti: Move ahead with ex-dictator case (AMR 36/3478/2016)

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**HONDURAS**

**Republic of Honduras**

Head of state and government: Juan Orlando Hernández Alvarado

A general climate of violence forced thousands of Hondurans to flee the country. Women, migrants, internally displaced people, human rights defenders – especially lesbian, gay, bisexual, transgender and intersex (LGBTI) people as well as environmental and land activists – were particularly targeted with violence. A weak criminal justice system contributed to a climate of impunity.

**BACKGROUND**

The government assigned several public security tasks to units made up of officers with military training in an attempt to tackle violence, corruption and organized crime. The Inter-American Commission on Human Rights (IACHR) raised concerns about the military carrying out public security operations, including use of excessive force. The presence of military corps on Indigenous territories contributed to social unrest. Over 100 high-ranking police officers were dismissed in a move to purge security forces accused of being infiltrated by organized crime.

**REFUGEES’ AND MIGRANTS’ RIGHTS**

Widespread violence across the country forced many to flee – mostly women, children, youth and LGBTI people. People perceived by criminal gangs to have refused to comply with their authority or who had witnessed a crime were routinely harassed, attacked and extorted; young people in particular were forced to join criminal gangs.

Deportees forcibly returned from Mexico and the USA continued to face the same life-threatening situations which initially pushed them to leave. In July, an asylum-seeker who had been forcibly returned from Mexico after the rejection of his asylum application was murdered less than three weeks after his return.¹

**HUMAN RIGHTS DEFENDERS**

Honduras remained one of the most dangerous countries in Latin America for human rights defenders, especially for environmental and land activists. According to the NGO Global Witness, Honduras had the highest number per capita of killings of environmental and land activists in the world.² Berta Cáceres, leader and co-founder of the Civil Council of Popular and Indigenous Organizations of Honduras (COPINH), was shot dead in her home on 2 March. The Inter-American Commission on Human Rights had granted her precautionary measures since 2009, but the authorities failed to implement effective measures to protect her. Along with other COPINH members who protested against the construction of the Agua Zarca dam in the community of Río Blanco, she suffered
continued harassment, threats and attacks by state and non-state actors before her death.

On 18 October, José Ángel Flores and Silmer Dionisio George of the Unified Campesino Movement of the Aguán were murdered. Both human rights defenders were shot dead after attending a meeting with several campesino (peasant farmer) people in the Bajo Aguán region, northeastern Honduras. In November, Bertha Oliva, co-ordinator of the Committee of Relatives of the Disappeared in Honduras (COFADEH) was subjected to a smear campaign, aimed at linking her with drug cartels and discrediting her human rights work. COFADEH has a long history of promoting human rights of campesino people in the Bajo Aguán region.

According to the NGO ACI-PARTICIPA, more than 90% of all killings and abuses against human rights defenders remained unpunished.

LGBTI human rights defenders were also particularly targeted with threats and attacks. René Martínez, president of the Sampedrana Gay Community in the city of San Pedro Sula, was found dead on 3 June with his body bearing signs of torture. The Worldwide Movement for Human Rights reported that members of the LGBTI rights group Asociación Arcoiris were victims of 36 security incidents between July 2015 and January 2016, including killings, threats, surveillance and harassment. The military was accused of infiltrating social movements and attacking human rights defenders.

The Law to Protect Human Rights Defenders, Journalists, Social Commentators and Justice Officials had yet to be properly implemented.

WOMEN’S RIGHTS
Women were routinely subjected to violence. Between January and June, 227 women were murdered. During the same period, 1,498 attacks and 1,375 incidents of sexual violence against women were recorded. Attacks against women remained widely underreported. The country continued to lack specific mechanisms for collection and disaggregation of data related to the killings of women. Abortion remained a crime in all cases, including when the life and health of a woman were at risk, or when the pregnancy was a result of sexual violence. Emergency contraception continued to be banned.

JUSTICE SYSTEM
In February, the National Congress elected 15 new members of the Supreme Court of Justice for the next seven years. Several civil society organizations raised concerns about the selection process, which they said failed to comply with international standards of impartiality, independence and transparency.

Honduras had not yet complied with the resolution of October 2015 of the Inter-American Court of Human Rights in which it found that the rights of four judges dismissed for opposing a coup in 2009 were violated. The judges had yet to be reinstated, and other measures of reparation were still pending.

1. Home sweet home? Honduras, Guatemala and El Salvador’s role in a deepening refugee crisis (AMR 01/4856/2016)
2. We are defending the land with our blood: Defenders of the land, territory and environment in Honduras and Guatemala (AMR 01/4562/2016)
TAB 13
POSNER, Circuit Judge. The petitioner, a citizen of Honduras, entered the United States in 2005—without being authorized to do so—when he was 38 years old. He is now 49, still living in this country, still not authorized to live here. In 2014 the Department of Homeland Security began proceedings in the Immigration Court to have him removed from this country (i.e., deported) to Honduras. He applied for withholding of removal and also for protection under the
Convention Against Torture, on the ground that he is highly likely to be persecuted if returned to Honduras. The immigration judge denied both applications and ordered him removed. The Board of Immigration Appeals affirmed summarily, and he appeals to us.

In 2007 he discovered that he was HIV positive. HIV, short for human immunodeficiency virus, is treatable, but often progresses to AIDS—acquired immunodeficiency syndrome—a very serious, and though treatable often fatal, condition. In the Immigration Court the petitioner argued (and in our court continues to argue) that he is entitled to remain in the United States because of acute danger that he faces if returned to Honduras, danger resulting from the fact that a great many Hondurans believe that AIDS is an affliction of homosexuals (often it is, but not always, as so many Hondurans believe), and also that any man with HIV is also a homosexual. Most important, a great many Hondurans are hostile—often violently so—to persons they believe to be homosexual. And for cultural reasons related to Hondurans’ belief about these two diseases, the medical treatment of both HIV and AIDS in Honduras is often deficient and often invasive of privacy, though poor medical service is not itself a form of persecution.

The petitioner testified without contradiction that “straight” Hondurans tend not only to despise homosexuals but also to perceive them as weaklings, and on both accounts to attack them physically. He presented evidence that many suspected homosexuals have been killed in Honduras out of sheer hatred and that the police often are complicit in, or refuse to investigate, these crimes. He testified that he’s not himself a homosexual but he reminds us (as we noted in
the previous paragraph) that most Hondurans believe that any man who has either AIDS or HIV is homosexual. He fears that if returned to Honduras, as soon as he goes to a hospital for treatment of his HIV he will be “outed” as a presumed homosexual. And this is true, so far as appears, whether it is a private or a government-funded hospital—if the latter, the “outing” of him by the hospital might well be deemed explicit governmental persecution of presumed homosexuals.

He points out that persecution that does not result in death or serious bodily harm is still grounds for withholding of removal. E.g., Stanojkova v. Holder, 645 F.3d 943, 948 (7th Cir. 2011); Koval v. Gonzales, 418 F.3d 798, 805–06 (7th Cir. 2005). As we explained in Stanojkova,

Persecution involves ... the use of significant physical force against a person’s body, or the infliction of comparable physical harm without direct application of force (locking a person in a cell and starving him would be an example), or nonphysical harm of equal gravity—that last qualification is important because refusing to allow a person to practice his religion is a common form of persecution even though the only harm it causes is psychological. Another example of persecution that does not involve actual physical contact is a credible threat to inflict grave physical harm, as in pointing a gun at a person’s head and pulling the trigger but unbeknownst to the victim the gun is not loaded. The line between harassment and persecution is the line between the nasty and the barbaric, or alternatively between wishing you were living in another country and being so desperate that you flee without any assurance of being given refuge in any other country.
Suspicion of the petitioner’s being homosexual will be enhanced because, though now in his late forties, he has never married. There has always been suspicion, even in the United States, that a man who never marries may be homosexual or at least bisexual, meaning he’s sexually or romantically attracted to both men and women. The suspicion does not extend to heterosexual men who have such huge sexual appetites that they are unwilling to tie themselves to one woman, in marriage, but that is not our petitioner.

There is no suggestion that as a resident of the United States all these years, albeit an unauthorized resident, the petitioner has engaged in serious criminal conduct—his entire criminal record appears to be limited to a couple of minor offenses that resulted in his being jailed for 15 days—or has posed or poses any kind of threat to the nation’s health or welfare. He is, in short, harmless, and we can’t understand the immigration judge’s failure to take that into account in deciding whether to grant withholding of removal—also her failure to take into account the alarming and pertinent fact that Honduras has the highest crime rate in the western hemisphere. In fact, according to the U.N. Office on Drugs and Crime, Honduras has the highest homicide rate in the world—90.4 homicides per 100,000 people; the international average is 6.2 homicides per 100,000 people. U.N. Office on Drugs and Crime, Global Study on Homicide 2013, pp. 12, 24 fig.1.5, www.unodc.org/documents/gsh/pdfs/2014_GLOBAL_HOMICIDE_BOOK_web.pdf. This is a fact the immigration judge and Board of Immigration Appeals should have noted; neither did.

In fact the immigration judge made a hash of the record. A highly qualified American Ph.D. professor of Latin Amer-
ican studies, Suyapa Portillo, who specializes in the LGBTQ community (lesbian, gay, bisexual, transgender, and queer—an acronym that covers the entire spectrum of homosexual and related sexual orientations) in Honduras, testified as an expert witness for the petitioner. In the last 12 years she’s visited Honduras three to four times a year to conduct research. The immigration judge qualified Dr. Portillo to testify as an expert witness regarding “the experience of LGBTQ people in Honduras” and also of “HIV-positive people” in that country—overlapping groups, obviously—and having been thus qualified Dr. Portillo testified that it’s very difficult for people with HIV to find employment—employers often require proof that an applicant does not have HIV. She testified that since Honduras’s 2009 coup d’état (when the Honduran Army, following orders from the Honduran Supreme Court to oust President Manuel Zelaya, sent him into exile), more than 200 LGBTQ people have been murdered according to a pattern she thought indicated an “LGBT cleansing,” in which transgendered women were murdered with a single shot to the head and homosexual men tied up and mutilated. Dr. Portillo believes that the police are complicit in the murders and that laws purporting to protect LGBTQ people from assaults and murders are rarely enforced.

The immigration judge did not question the accuracy of Dr. Portillo’s testimony in the slightest, yet deemed it irrelevant because it was “general”—it was about the LGBTQ community and about the typical experiences of Hondurans who have HIV rather than about the petitioner specifically. But realistically the evidence is specific to the petitioner because he fits the description of Hondurans who are at risk of persecution as a result of being believed (accurately or not)
to be homosexual. The immigration judge demanded evidence that he would be persecuted if returned to Honduras, but failed to consider the feasibility of her demand. The petitioner left Honduras more than a decade ago; he’s hardly in a position, living in the United States, to assess the particular risk to him if he’s deported, as compared to the average HIV sufferer in Honduras or even the average HIV sufferer in Honduras who is middle-aged yet has never married. See 8 U.S.C. §§ 1231(b)(3); 1158(b)(1)(B)(ii).

No matter; to be a member of a group that faces a high probability of persecution in a foreign country is enough to establish that he’s at risk of persecution if deported to that country.

[I]n evaluating whether it is more likely than not that the applicant’s life or freedom would be threatened in a particular country on account of race, religion, nationality, membership in a particular social group, or political opinion, the asylum officer or immigration judge shall not require the applicant to provide evidence that he or she would be singled out individually for such persecution if: (i) The applicant establishes that in that country there is a pattern or practice of persecution of a group of persons similarly situated to the applicant on account of race, religion, nationality, membership in a particular social group, or political opinion; and (ii) The applicant establishes his or her own inclusion in and identification with such group of persons such that it is more likely than not that his or her life or freedom would be threatened upon return to that country.

8 C.F.R. § 1208.16(b)(2). That is an accurate description of this case.
It’s often said that an immigrant seeking withholding of removal must prove that he or she is more likely than not to suffer persecution if deported, see, e.g., *INS v. Stevic*, 467 U.S. 407, 424 (1984), and that belief may have informed the immigration judge’s insistence on proof that the petitioner will be persecuted if removed to Honduras. But in recent opinions we’ve explained that the “more likely than not test” should not be taken literally, for so taken it would mean that an applicant for withholding of removal who had a 50.1 percent probability of being persecuted (killed, let’s say) if deported would be entitled to withholding of removal, but not one who had only a 50 percent probability of being killed if deported. Not only is this an absurd example of line drawing, but it assumes unrealistically that such statistics can be computed. In fact “all that can be said responsibly on the basis of actually obtainable information is that there is, or is not, a substantial risk that a given alien will be tortured if removed from the United States.” *Rodriguez-Molinero v. Lynch*, 808 F.3d 1134, 1135–36 (7th Cir. 2015). And therefore it should be enough to entitle the applicant to withholding of removal if there is a substantial, albeit unquantifiable, probability that if deported he will be persecuted. And that is Velasquez-Banegas’s situation, given Dr. Portillo’s testimony—testimony accepted in toto, we emphasize, by the immigration judge. In the appendix to this opinion, we reprint, with slight editing, pages 5 to 7 of the immigration judge’s opinion, which is where she summarizes Dr. Portillo’s testimony—which, to repeat, she accepted in its entirety.

She accepted the petitioner’s evidence as well as Dr. Portillo’s, stating that “Having reviewed the [petitioner’s] testimony and documentary submissions, I find the [petitioner] credible. His testimony is internally consistent and con-
sistent with his written statement. His testimony is also consistent with the other corroborative evidence in the record, including medical records and affidavits in support of his application.” What more could be required to justify granting withholding of removal?

Dr. Portillo testified without contradiction that “people with HIV are generally considered to be LGBTQ” and that the petitioner would not “be able to hide his HIV status due to a lack of confidentiality in hospitals and the likelihood that [he] would run into someone he knew while seeking treatment.” The immigration judge noted that other affidavits in the record (one by a native citizen of Honduras and another by a sociology professor who lived in Honduras for two years), stated that it is a “common belief in Honduras” that those with HIV are gay or lesbian, but this was not good enough for her because the affidavits had “cite[d] no data, reports, or examples.” But Dr. Portillo’s testimony that the immigration judge had accepted as truthful was uncontradicted evidence, from a qualified expert witness, that the petitioner will in all likelihood be unable to hide his HIV status and as such will be believed to be a homosexual and persecuted accordingly. Indeed he could hide it only by not seeking medical care for it, which would endanger his life.

In any event it was error for the immigration judge to suggest that the petitioner would be safe if he kept secret his HIV status. The law does not require people to hide characteristics like religion or sexual orientation, and medical conditions, such as being HIV positive. E.g., Muhur v. Ashcroft, 355 F.3d 958, 960–61 (7th Cir. 2004). The immigration judge implies that the petitioner would be thought to be homosexual and for that reason persecuted unless he evaded his po-
tential tormentors by pretending to be a very different person from what he actually is—a middle-aged HIV positive bachelor in a culture in which, should those characteristics be revealed, he would be in serious danger. The immigration judge would have sized up the danger to Velasquez-Banegas differently had she assumed the petitioner would live openly. Suppose a person if removed to his country of origin would be sure to be persecuted unless, by living in a cave, he avoided all contact with other persons. The next step would be to rule that no one can have a real fear of persecution because if persecution looms he can avoid it by committing suicide.

It’s true, as emphasized by the immigration judge, that the petitioner if deported will be returning to the region (Comayagua, also the name of the major city in the region) where his parents and siblings live. The immigration judge thought this would protect him from the heavy crime activity in the region, because he would be associating mainly with people who had known him all his life and would know he was not a homosexual. But they and others would know that he was HIV positive, which Hondurans consider a badge of homosexuality; and they might conclude that he had become a homosexual after leaving Honduras for the United States, for Hondurans also tend to believe that homosexuality is a lifestyle choice rather than a person’s genetic destiny.

The immigration judge failed even to mention the petitioner’s testimony that an imputation of homosexuality to him is made more likely by his being middle-aged yet never married. This omission takes on a special irony given the judge’s criticism of petitioner’s evidence as being too gen-
eral. Now maybe he could conceal his bachelor status, along with his HIV status, but in *Muhur v. Ashcroft*, *supra*, 355 F.3d at 960–61, we rejected the related proposition that “one is not entitled to claim asylum on the basis of religious persecution if (a big if, by the way) one can escape the notice of the persecutors by concealing one’s religion.” We noted that “Christians living in the Roman Empire before Constantine made Christianity the empire’s official religion faced little risk of being thrown to the lions if they practiced their religion in secret; it doesn’t follow that Rome didn’t persecute Christians, or that a Christian who failed to conceal his faith would be punished for acting ‘unreasonably.’” *Id.* The law does not take a life of stealth as its starting point.

The immigration judge thought the most severe harm that could befall Velasquez-Banegas in Honduras would be inability to receive adequate medical care. But that proposition was inconsistent with her crediting Dr. Portillo’s testimony (as she did), as was the judge’s further statement that Velasquez-Banegas “[had] not established that it [was] more likely than not that people [would] perceive him as LGBTQ”—though she had acknowledged that Dr. Portillo had “testified and stated in her affidavit that people with HIV are generally considered to be LGBTQ, which she attributes to a lack of information available to the public. She also testified that she does not believe that the petitioner would be able to hide his HIV status due to a lack of confidentiality in hospitals and the likelihood that the petitioner would run into someone he knew while seeking treatment. She also discussed a personal experience where she was extorted by police officers while on her way to a gay bar with friends who were members of the LGBTQ community. Three other affidavits in the record state generally that it is a common belief
in Honduras that those with HIV are gay or lesbian, but cite no data, reports, or examples. ... However, this evidence is insufficient to establish that the petitioner will likely have homosexuality imputed to him in Honduras, as it [this evidence] is general in nature, lacks objective data, and is not specific to the [petitioner].” What can the immigration judge have meant by that last sentence? The evidence, which certainly supports the proposition that Velasquez-Banegas is likely to have homosexuality imputed to him in Honduras if he’s deported, is “general” because there is more than one person in Honduras with HIV, and is specific to the petitioner because he fits the description of Hondurans at risk of persecution because believed (accurately or not) to be homosexual. The judge also said, contradicting her crediting Dr. Portillo’s testimony (see Appendix below), that Portillo’s testimony that people in Honduras are uninformed and therefore tend to link homosexuality to HIV was not based on any report or evidence. It was based on her testimony, which was evidence—uncontradicted evidence!

We have noted repeatedly that remand may be warranted when the agency overlooks key aspects of an asylum-seeker’s claim and might reach a different conclusion after fuller evaluation of the record. See Chen v. Holder, 604 F.3d 324, 330 (7th Cir. 2010); Gomes v. Gonzales, 473 F.3d 746, 752 (7th Cir. 2007); Chitay–Pirir v. INS, 169 F.3d 1079, 1081 (7th Cir. 1999). This is such a case. We therefore vacate the decisions of the Board and the immigration judge and remand the case for reconsideration in light of the analysis in this opinion.
Dr. Portillo testified that people with HIV, like the petitioner, are particularly vulnerable in Honduras. It is very difficult for such people to gain employment, because employers, particularly in the factory industry, require potential employees to present proof of a negative HIV test before being hired. Although this is illegal in Honduras, many private companies continue the practice with impunity.

Honduras has a socialized health care system, but those with money often use private doctors because of their superior quality and efficiency. She believes that private market care in Honduras is very expensive. She testified that hospitals often run out of medications, including HIV medication, which forces people to resort to self-medication or buying those medications in the private sector. She believes that the public health system’s problems stem from a military coup in 2009, which led to increased debt and corruption for the country. She testified that there are major hospitals and non-profit organizations who give medical care in the big cities in Honduras, but those who live in rural areas have to take a bus trip, often four to five hours long, to the city, where they must wait hours at the clinic for care. Also, the buses often do not run at night because of safety concerns. Dr. Portillo is not familiar with the particular medications that HIV patients take, and she has not studied or worked with doctors who treat patients with HIV.

She described her research regarding HIV testing in San Pedro Sula, Honduras, in 2006. She first went to a Red Cross clinic to be tested for the virus, which cost five hundred Lempira, and took two weeks to get results. She returned two weeks after her test to receive her results, and the nurses at the clinic gave her the results in front of everyone in the waiting room. She took a second HIV test at an Evangelical Church organization. The intake form there asked about sexual orientation, and she identified herself as bi-

APPENDIX (QUOTED FROM THE IMMIGRATION JUDGE’S OPINION)
sexual. While she was waiting for the results of the test, the clinic displayed videos and pamphlets about God and abstinence outside of marriage. After receiving her results, she was counseled on God and family. She received no information about prevention or what to do if she was HIV-positive. Finally, she went to a LGBTQ organization for testing, which she described as the "best experience." But such organizations are not funded on an ongoing basis and she does not know whether the organization still exists. After she received her results from all three clinics, she was given a card displaying her results, presumably to present to potential employers. She has not updated her research regarding current tests or procedures for HIV testing in Honduras since 2006.

Dr. Portillo remained in San Pedro Sula, Honduras, for two months after completing her HIV testing research before traveling to other parts of the country. She was not physically harmed or threatened during this time, though she did take daily precautions. However, five months later, she returned to San Pedro Sula and went out to a gay bar with friends who were members of the LGBTQ community. They were stopped by police for a driving violation and harassed because of their gender identity. Dr. Portillo told the police officers that she was a US citizen and that this behavior was inappropriate, which led to the police taking one of her friends and telling the rest of the group to follow them. The police led them to a dark area in the city, and demanded money in exchange for releasing her friend, to which Dr. Portillo agreed. She believes that she was extorted because of her claim to U.S. citizenship and the assumption that as such she carried money on her.

She testified that many Hondurans directly link the HIV virus to the LGBTQ community. She believes that this is the result of a dearth of education both in the public school system and the public generally. Most HIV-positive people she has interviewed in Honduras are afraid to come out because they fear the reaction of their family, friends, and community, and because they fear losing
their jobs. She testified that she does not believe it is possible for people to hide their HIV status in Honduras successfully because the confidentiality laws for medical providers are different from what they are in the United States, the cities are small, they may run into people they know, and many are required to seek help from LGBTQ organizations and may be seen there.

Dr. Portillo also discussed the homophobic nature of Honduran society. Since 2009, more than 200 LGBTQ people have been murdered, often in a particularly gruesome manner that she believes indicates they were targeted due to their gender identity. She testified that people defecated in front of the building of a LGBTQ organization where she worked, and they also spray-painted the building. Those who work for such organizations take precautions daily to avoid harassment. She also witnessed a large protest in Honduras regarding the government’s granting “non-profit status” to a LGBTQ group, which Ms. Portillo described as the largest protest she has ever seen. She also believes the police are complicit in the harassment, assault, and murder of members of the LGBTQ community, and that they rarely conduct fair investigations of such crimes. She discussed one case in which a transgender person was assaulted, on camera, and the footage showed police officers watching and laughing. Although the police officers involved were taken off active duty for a period of time, she does not believe they were prosecuted for any crimes.

According to Dr. Portillo, the Honduran constitution and criminal code have provisions intended to protect members of the LGBTQ community, but in practice these provisions are not used to protect members of the LGBTQ community or to prosecute those who discriminate or even physically assault or kill members of the community. She cited an example in which two transgender people ran for public office, and a well-known church leader made a derogatory televised speech encouraging the public to vote against them. But despite evidence of discrimination against
them, the two individuals had their lawsuit dismissed for lack of evidence.
RIPPLE, Circuit Judge, dissenting. I sincerely regret that I cannot join my esteemed colleagues in their disposition of this petition.

I cannot accept my colleagues’ view that the immigration judge “made a hash of the record.” Majority Op. at 4. The record in this case contains evidence supportive of the position of Mr. Velasquez-Banegas and evidence supportive of the position of the Government. The immigration judge carefully evaluated the entire record and determined that Mr. Velasquez-Banegas had not carried his burden of demonstrating, by a preponderance of the evidence, that he would be subject to persecution or torture if he returns to his homeland. Under well-established principles of law, our role in reviewing the immigration judge’s decision is limited. We review legal conclusions de novo; however, we review factual determinations under “the deferential substantial evidence standard.” Khan v. Holder, 766 F.3d 689, 695 (7th Cir. 2014); Mozdzen v. Holder, 622 F.3d 680, 683 (7th Cir. 2010). We reverse “the agency’s findings only if, viewing the record as a whole, a reasonable factfinder would be compelled to reach a contrary conclusion.” Darinchuluun v. Lynch, 804 F.3d 1208, 1214 (7th Cir. 2015) (citing 8 U.S.C. § 1252(b)(4)(B); see also I.N.S. v. Elias-Zacarias, 502 U.S. 478, 481 (1992). Once we have determined that this deferential standard has been met, we have reached the limit of our authority. It is not within our ken to order a new trial because we believe that the evidence better supports a different conclusion.

Here, the substantial evidence test clearly has been met. Following a hearing, the immigration judge denied relief, re-
jecting both Mr. Velasquez-Banegas’s claim that he faced persecution based on his imputed sexual orientation and his claim that he would be persecuted because of his HIV status.

A.

The immigration judge first concluded that Mr. Velasquez-Banegas had not established that he was an imputed member of the LGBTQ community and therefore would suffer the mistreatment frequently accorded to members of that group. To support this conclusion, the immigration judge pointed to five factors that undercut Mr. Velasquez-Banegas’s claim: (1) Mr. Velasquez-Banegas was not gay and did not plan to associate with the LGBTQ community in Honduras; (2) Mr. Velasquez-Banegas “testified that none of the three people he knew with HIV in Honduras were homosexual, and that neither he nor anyone else believed them to be”\(^1\); (3) Mr. Velasquez-Banegas likely would seek HIV treatment at a hospital located four hours away in Tegucigalpa, reducing the possibility that he would see someone he knew while receiving treatment;\(^2\) (4) Mr. Velasquez-Banegas would be returning to his hometown where he lived for thirty-eight years and many people who knew him before would still be living there; and (5) neither the provided articles nor the country conditions report stated that individuals who are

\(^1\) A.R. at 114. The Government concedes that this was an inaccurate portrayal of Mr. Velasquez-Banegas’s testimony. Government’s Br. 14 n.4. Mr. Velasquez-Banegas testified that he did not think these three people were homosexual, but he was not aware of what others thought. A.R. at 170–74.

\(^2\) Id. at 114.
HIV-positive are assumed to be gay, although those documents did discuss access to HIV healthcare, the stigma associated with being HIV-positive, and the violence experienced by members of the LGBTQ community.

Next, the immigration judge addressed Mr. Velasquez-Banegas’s claim that his HIV status was a protected social group. The immigration judge determined that the social group was cognizable and that Mr. Velasquez-Banegas was a member of this group. However, the immigration judge denied relief because Mr. Velasquez-Banegas had not demonstrated that it was more likely than not that his “life or freedom would be threatened” on account of his HIV status. The “most severe harm” that Mr. Velasquez-Banegas would face, according to the immigration judge, was his inability to receive medical care in Honduras. However, the immigration judge concluded, and my colleagues do not challenge, that the problem of inadequate medical care is not specific to those with HIV.

Regarding relief under the Convention Against Torture, the immigration judge found that Mr. Velasquez-Banegas had not established that it was more likely than not that he would be perceived as gay, although the judge recognized that the record reflects that LGBTQ people in Honduras experience persecution and “possibly torture.” The immigration judge added that lack of access to medical care and employment did

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3 Id. at 115.
4 Id. at 116.
5 Id. at 116–17.
not constitute torture. Based on these findings, the immigration judge denied Mr. Velasquez-Banegas’s petition.  

Mr. Velasquez-Banegas first asks us to review the determination that his HIV status would not cause him to be perceived as gay. He claims that the Board disregarded relevant evidence and also impermissibly reasoned that others would not perceive Mr. Velasquez-Banegas as gay so long as he did not disclose his HIV status.  

There can be no doubt that Mr. Velasquez-Banegas presented significant evidence that gay men in Honduras face abuse, violence, and even death at the hands of the general  

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6 Mr. Velasquez-Banegas appealed this decision to the Board of Immigration Appeals (“the Board”). There, he argued that the immigration judge erred in (1) finding that he would not be perceived as gay; (2) improperly concluding that Mr. Velasquez-Banegas could hide his HIV status; and (3) discounting evidence as too generalized to support his claims. Finally, he alleged that he had met his burden of proof for protection under the Convention Against Torture.

On July 1, 2015, the Board adopted and affirmed the immigration judge’s decision. Because the Board summarily affirmed the immigration judge’s opinion, we base our review on the immigration judge’s analysis. Balogun v. Ashcroft, 374 F.3d 492, 498 (7th Cir. 2004).

7 The Board has recognized explicitly that homosexuality qualifies as a “particular social group.” Moab v. Gonzales, 500 F.3d 656, 661 n.2 (7th Cir. 2007). The immigration judge noted that imputation may or may not apply to claims of membership in particular social groups. A.R. at 114. Assuming without deciding this issue, the immigration judge proceeded under the assumption that relief could be granted on this ground. Id. We have held that a petitioner can state an imputed claim where he shows that others will attribute a political opinion to him and will persecute him on that basis. See Chen v. Holder, 604 F.3d 324, 332 (7th Cir. 2010).
public, as well as at the hands of the police force.\(^8\) Indeed, the immigration judge concluded that “LGBTQ individuals in Honduras may face persecution, and possibly torture.”\(^9\) However, the immigration judge also found that Mr. Velasquez-Banegas had not shown that he would be perceived as gay based on his HIV-positive status.

Mr. Velasquez-Banegas submits that the immigration judge erred by discounting evidence merely because it was general in nature. Specifically, he claims that the immigration judge “faulted the testimony and affidavits in the record for only ‘generally’ stating that there is a ‘common belief in Honduras that those with HIV are gay or lesbian,’ and for citing ‘no data, reports, or examples.’”\(^10\) The relevant part of the immigration judge’s opinion states:

The record also contains some evidence that those with HIV are at times assumed to be a member of the LGBTQ community, and the respondent expressed this fear in his testimony. See Ex. 3. The respondent’s expert witness, Ms. Portillo, testified and stated in her affidavit that people with HIV are generally considered to be LGBTQ, which she attributes to a lack of information available to the public. She also testified that she does not believe that the respondent would be able to hide his HIV status due to a lack of confidentiality in hospitals and the

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\(^9\) Id. at 117.

\(^10\) Pet’r’s Br. 17 (quoting A.R. at 17).
likelihood that the respondent would run into someone he knew while seeking treatment. She also discussed a personal experience where she was extorted by police officers while on her way to a gay bar with friends who were members of the LGBTQ community. Three other affidavits in the record state generally that it is a common belief in Honduras that those with HIV are gay or lesbian, but cite no data, reports, or examples. See Ex. 3, Tabs B, E, and F.

However, this evidence is insufficient to establish that the respondent will likely have homosexuality imputed to him in Honduras, as it is general in nature, lacks objective data, and is not specific to the respondent.\[11\]

First, it is important to note that the immigration judge considered the entire record, including “general” evidence. The judge found the general evidence to be unpersuasive and did not give very much weight to it. While Ms. Portillo, petitioner’s expert, had testified that people in Honduras are uninformed and therefore tend to link homosexuality to HIV, the judge noted that this statement was not based on any report or evidence. Instead, the expert could only support a related point; namely, that “there is considerable overlap between the two groups.”\[12\] Similarly, the country report only

\[11\] A.R. at 114.

\[12\] Id. at 398 (“Exhibit D”) (“To be precise, in 2005 UNAIDS estimated that 13% of men who have sex with men were living with AIDS. SHADOW REPORT at page 5.”). The other evidence fell short for the same reason.
supported the notion that the HIV/AIDS epidemic “is still concentrated in high-risk groups such as commercial sex workers and their clients, men who have sex with men, [and] prisoners ... .” It did not expand on whether Hondurans likely would assume that all HIV-positive men shared a particular sexual orientation. Indeed, the report could be interpreted as cutting against this view. It listed “Vulnerable Groups” as including “Men who Have Sex with Men,” as well as “Sex workers,” “Prisoners,” “Women,” “Vulnerable Youth,” “Orphans,” “Military,” “Migrant Groups and Mobile Populations in Affected Regions,” and “Indigenous Groups and Descendants of African Origin.”

Exhibit E states “[p]ersecution extends to those individuals who are perceived as gay due to their HIV/AIDS status. The epidemic is concentrated within gay men. As a result, HIV/AIDS is perceived to be a disease ‘caused’ by LGBT individuals. Heterosexual males who have HIV/AIDS are often believed to be gay, and thus face the same risks of harm as gay individuals. In turn, LGBT individuals are often thought to have HIV/AIDS. As such, LGBT individuals and those with HIV/AIDS face persecution based on both homophobia and AIDS-phobia.” Id. at 415. The exhibit, however, cites no support for this conclusion. Similarly, Exhibit F states “[t]he common myth surrounding those infected with HIV is that the person is gay or they engaged in some homosexual activity,” but again does not support this conclusion. Id. at 431. Most unpersuasively, Exhibit B states “[i]n Honduras, there are a lot of people who link HIV to being gay. I know that the two are not necessarily connected because I know that Miguel was not gay, and I know that Rigoberto is not gay. But in my country, a lot of people assume that the two things are linked together,” immediately after discussing a heterosexual man dying from AIDS and rumors that he had infected another woman. Id. at 390.

13 Id. at 303.

14 Id. at 310–12.
try report, all of these groups face an increased risk of exposure. It certainly was well within the discretion of the immigration judge to determine the weight that ought to be given to particular evidence. See 8 U.S.C. § 1158(b)(1)(B)(ii).

My colleagues also suggest that the immigration judge committed legal error in requiring evidence more specific to Mr. Velasquez-Banegas. They take the view that it is enough to be a member of a cognizable group that faces a high probability of persecution. Majority Op. at 6 (citing 8 C.F.R. § 1208.16(b)(2)). It is true that the general rule is that membership in a cognizable social group whose members are exposed to a high probability of persecution is sufficient to make out a case for withholding of removal. But that general rule assumes that it has been established that the applicant is in fact a member of the group. See 8 C.F.R. § 1208.16(b)(2)(ii). Here, no one maintains that Mr. Velasquez-Banegas is gay; in fact, he vigorously denies that he is and has stated that he has no plans to associate with the gay community, given his antipathy toward the group. His inclusion in the group therefore depends on establishing an imputed identification with that group, and, on that question, we already have acknowledged the necessity to examine the surrounding circumstances that might establish such an imputation, including the circumstances of the particular case. See Chen v. Holder, 604 F.3d 324, 332–33 (7th Cir. 2010).

Mr. Velasquez-Banegas seems to recognize the appropriateness of weighing evidence specific to him because he also contends that the immigration judge erred in failing to con-
sider “one of the most important pieces of particularized evidence he offered.” Mr. Velasquez-Banegas explained that, in addition to being HIV-positive, he has “never gotten married,” and currently is middle-aged and single. He asserts that this increases the particularized risk that others will assume he is gay once they learn he has HIV. He claims that because the immigration judge did not cite specifically this evidence in her opinion, her entire determination is void.

As I have noted earlier, the immigration judge did consider particularized evidence about Mr. Velasquez-Banegas, including that:

the respondent will be returning to a country, and region, that he has lived in for thirty-eight out of his forty-seven years of life. His parents and siblings live in Comayagua, where he plans to return, and it is likely that many people who knew him before his departure from Honduras are still living there, ... Thus, the respondent will likely be living with people who have known him for the majority of his life and are unlikely to impute homosexuality to him, should they find out he is HIV-positive.

While the immigration judge’s opinion may have been clearer if it had stated that these findings directly overcame other “particularized” evidence about Mr. Velasquez-Banegas, including his age and marital status, that inference reasonably

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15 Pet’r’s Br. 24–25 (emphasis in original).
16 A.R. at 174.
17 Id. at 114–15.
can be made from the record, and hardly warrants upsetting the immigration judge’s determination. Immigration judges need only consider those issues presented and say enough for us to conclude “that [they] ha[ve] heard and thought and not merely reacted.” *Solis-Chavez v. Holder*, 662 F.3d 462, 469 (7th Cir. 2011) (internal quotation marks omitted).

Finally, Mr. Velasquez-Banegas also contends that the immigration judge impermissibly reasoned that others would not perceive him as gay so long as he did not disclose his HIV status. He argues that he has a right to be open about his condition.\(^{18}\) This is not an accurate characterization of the immigration judge’s opinion. The immigration judge concluded that, because Mr. Velasquez-Banegas likely would seek HIV treatment at a hospital located four hours away from his hometown, this “significantly decreases the odds that he would run into someone he knows while seeking treatment.”\(^{19}\) Even if Mr. Velasquez-Banegas chooses to be open about his HIV status, he has not established that his HIV status will cause him to be perceived as gay. The fact that he may choose to share his status does not alter this outcome.

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\(^{18}\) See *Stanojkova v. Holder*, 645 F.3d 943, 948 (7th Cir. 2011) (describing the inability to be open about membership in a protected group—their religion—as a “common form of persecution”); *Muhur v. Ashcroft*, 355 F.3d 958, 960 (7th Cir. 2004) (rejecting argument that applicant should avoid persecution by practicing religion covertly).

\(^{19}\) A.R. at 114.
B.

The immigration judge also determined that Mr. Velasquez-Banegas had established his membership in the particular social group of HIV-positive men living in Honduras. However, she then concluded that (1) he could not show a nexus between any harm he may suffer through his membership in this group; and (2) the alleged economic and social harm, including difficulty in procuring medical treatment and obtaining employment, did not rise to the level of persecution.

Although the statute governing withholding of removal does not define “persecution,” we have said that it “must rise above mere harassment.” Ciorba v. Ashcroft, 323 F.3d 539, 545 (7th Cir. 2003). More to the point, we have described persecution as including “detention, arrest, interrogation, prosecution, imprisonment, illegal searches, confiscation of property, surveillance, beatings, or torture,” Toptchev v. I.N.S., 295 F.3d 714, 720 (7th Cir. 2002), behavior that threatens the same, and “non-life-threatening behavior such as torture and economic deprivation if the resulting conditions are sufficiently severe,” Capric v. Ashcroft, 355 F.3d 1075, 1084 (7th Cir. 2004) (citing Sayaxing v. I.N.S., 179 F.3d 515, 519 (7th Cir. 1999)). However, “generalized conditions of hardship which affect entire populations do not rise to the level of persecution.” Id.; see also Musabelli v. Gonzales, 442 F.3d 991, 994 (7th Cir. 2006) (“Asylum is not a form of unemployment compensation.”).20

20 Mr. Velasquez-Banegas repeatedly cites reports showing that police officers and private citizens have targeted LGBTQ individuals in Honduras.
Mr. Velasquez-Banegas claims that the immigration judge ignored evidence related to the poor medical care and economic deprivation that HIV-positive individuals face. Mr. Velasquez-Banegas also claims the immigration judge gave too much weight to the fact that the Honduran government has enacted laws prohibiting the discriminatory practices which Mr. Velasquez-Banegas fears.

Regarding potential economic deprivation, the immigration judge acknowledged:

The record shows that the respondent will face some harm in Honduras on account of his HIV-positive status, including employment discrimination, welfare discrimination, social stigma, and difficulty obtaining medical treatment for HIV. See Ex. 3, Tabs G–O. The respondent’s expert witness, Ms. Portillo, testified that those with HIV in Honduras are frequently denied employment opportunities, particularly in the factory industry, as they are required to provide proof that they do not have the virus before being hired.[21]

Despite this evidence, the immigration judge determined that Mr. Velasquez-Banegas had not met his burden of establishing economically based persecution. The judge cited specific evidence in making this finding, including that the Honduran

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21 Id. at 115.
government has prohibited companies from denying or terminating employment due to HIV status. Additionally, the immigration judge noted that Mr. Velasquez-Banegas’s expert, Ms. Portillo, only testified that the factory industry still conducted HIV tests and “was not aware of other industries in the country that refuse employment due to HIV status.” The immigration judge found these deficiencies significant because Mr. Velasquez-Banegas did not have a history of factory work. He had grown up on a ranch in Honduras, worked on a horse ranch in Kentucky, and also worked on a tobacco farm. The immigration judge therefore concluded that Mr. Velasquez-Banegas did not establish that he would be unable to secure the type of employment that he would be most likely to seek in Honduras.

Finally, the immigration judge determined that, although Mr. Velasquez-Banegas may experience difficulty obtaining HIV treatment and medication, this difficulty was due to general country conditions that make it difficult for all Hondur-

22 Id. at 116.
23 Id. at 377–79.
24 Id. at 382.
25 See, e.g., Medhin v. Ashcroft, 350 F.3d 685, 689 (7th Cir. 2003) (petitioner’s alleged loss of one job due to his ethnicity was at most, discrimination but not persecution); Zalega v. I.N.S., 916 F.2d 1257, 1260 (7th Cir. 1990) (“Although [the petitioner] complained that he could not get a government job commensurate with his education and training and that he could not obtain additional land to expand his fox farm, the economic disadvantage [the petitioner] suffered was minor.”).
rans to receive proper medical care. Additionally, the immigration judge noted “that the Honduran Government has passed legislation that establishes the right to medical care for people with HIV.” Honduras also has a socialized medical system, low-cost hospital care for those with HIV (in cities), and “at least thirty[‐]seven” HIV treatment centers in the country. The immigration judge was certainly entitled to credit this evidence and come to the conclusion that any economic deprivation that Mr. Velasquez-Banegas might encounter would not rise to the level of persecution. I do not understand my colleagues to disagree with that determination.

Immigration cases always pose a special burden on United States judges. As Jacques Maritain so eloquently put it: “We are all wounded souls.” See Jacques Maritain, Réflexions sur l’Amerique 87–91 (1958). Every American, including every United States judge, has a family memory that includes ancestors who came from some place where life was not as good as it is here. The DNA of our national character makes it very difficult to tell an individual that he cannot enjoy the same liberty, safety, and security that we enjoy. When the individual suffers from a medical condition that cannot be treated as well in the country to which he is returned, basic humanitarian values make the task even more difficult. No doubt, those who must make necessary policy choices and those who must enforce those choices feel, or should feel, that same angst. But immigration must be regulated, and, in this Country, national policy is set by Congress and enforced by the Executive. Our

\[26\] A.R. at 116.

\[27\] Id.
own task as judges is limited. Because the immigration judge’s determinations were supported by substantial evidence, I respectfully dissent.
TAB 14
ACKNOWLEDGEMENTS

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CATTRACHAS

Comunidad Gay Sampendrana

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Global Rights

Grupo KUKULCAN

Grupo Arcoiris

International Gay and Lesbian Human Rights Commission
Introduction

The University of Virginia International Human Rights Law Clinic is honored to have the opportunity to participate in the writing of this shadow report on the status of lesbian, gay, bisexual and transgender (LGBT) individuals in Honduras. Working in cooperation with Global Rights and their contacts in Honduras, we gathered the information in this report with the hope that it would serve as a starting point for advocacy of greater protection and promotion of the rights of LGBT persons in Honduras.¹

The Human Rights Committee regularly reviews submissions from every state party to the International Covenant on Civil and Political Rights (ICCPR). Honduras ratified the ICCPR on August 25, 1997 and will present their regular report to the UN Committee that monitors the ICCPR on October 16-17, 2006. Non-governmental organizations may submit “shadow reports,” which serve as an additional source of information for UN Committee members. In the shadow reports, NGOs generally offer their own evaluation of the state’s compliance with the treaty.

We hope that the findings in this report will be useful to the Human Rights Committee, as well as serve as a catalyst for future advocacy efforts.

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Executive Summary

Article 60 of the Honduras Constitution states that all individuals are equal before the law, and that “discrimination on the basis of sex, race, class, and any other basis harmful to human dignity shall be punishable.” Yet despite this seemingly inclusive provision, LGBT individuals face serious human rights violations because of their sexual orientation and gender identity.

Underlying all of the human rights violations outlined in this report is a generalized discriminatory culture with respect to LGBT individuals and their communities. Actions fueled by this sort of animus against LGBT individuals were held to violate Articles 2(1), 17 and 26 of the ICCPR in Toonen v. Australia.2 Although that case specifically concerned the criminalization of private sexual activity by consenting same-sex adults, the Human Rights Committee in Toonen clearly stated that sexual orientation is included in the reference to sex in the ICCPR. Therefore, Articles 2(1) and 26 prohibit discrimination based on sexual orientation.

Despite numerous instances of discrimination against Honduran LGBT individuals and organizations, such as those described in this report, and the fact that the ICCPR prohibits such acts, the periodic report submitted by the Honduran government made no mention of a need to protect LGBT rights.3 Yet, many incidents have transpired that seriously impact the rights of LGBT individuals, and the Honduran government has an obligation under the ICCPR to address them.

This shadow report was made possible through the work of numerous Honduran LGBT activists and NGOs, who shared information and reports with us.

Substantive Violations of the Convention

Articles 2(1) and 26 (Non-discrimination)

Articles 2(1) and Article 26 of the ICCPR set out the non-discrimination standards to which signatories will be held. Under Article 2(1), state parties “undertake to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.” Article 26 recognizes that “all persons are equal before the law and are entitled without any discrimination to the equal protection of the law”, prohibits “any discrimination”, and “guarantee[s] to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.” In Toonen v. Australia, the Human Rights Committee clearly stated that sexual

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orientation is included in the reference to sex in the ICCPR.\(^4\) Therefore, Articles 2(1) and 26 prohibit discrimination based on sexual orientation.

For over two decades, there have been reports of direct and indirect government discrimination and other human rights violations towards LGBT individuals in Honduras. A 1996 report published by the International Lesbian and Gay Association (ILGA) traces such violations, which began to emerge in 1985 when the first cases of HIV in Honduras were reported.\(^5\) The first reported cases of HIV in Honduras involved gay men, and as a result, a significant amount of animus was directed against the gay community. Since then, the atmosphere in Honduras has been one of hostility towards LGBT individuals, resulting in pervasive discrimination and various human rights violations.

Despite the rise of LGBT advocacy associations, the Honduran government still engages in widespread discrimination against the LGBT community. For example, in 2002, the government passed the “Ley de Policía y de Convivencia Social” (The Police and Citizen Coexistence Law, hereinafter “Coexistence Law”), which granted substantial power and discretion to police forces to take action for the preservation of public morality and decency.\(^6\) Despite the fact that Article 2 of the Law expressly states that its application shall be consistent with the principles, rights and guarantees of the Honduran Constitution, international treaties and conventions, Elkyn Suárez Mejía, a well-known Honduran LGBT activist, has noted that the Coexistence Law is often used to give force to the anti-gay movement, since the government views the rights of sexual minorities as being in conflict with public decency and morals.\(^7\) As a result of the Law, the LGBT community has faced increasing levels of public and private discrimination, as this report highlights.

The workplace is an area of substantial discrimination against LGBT individuals. Although there are no laws that allow employment discrimination on the basis of sexual orientation, there are no laws preventing such actions either. As a result, employers frequently discriminate against LGBT employees and job applicants.\(^8\) The main workplace anti-discrimination provision, Article 12 of the Labor Code, does not explicitly include sexual orientation as a prohibited ground of discrimination;\(^9\) therefore, the law is effectively ignored with respect to LGBT individuals. In

\(^4\) Toonen v. Australia.
\(^6\) Ley de Policía y de Convivencia Social, Decreto 226-2001, gaceta no. 29,726, 7 March 2002, available at: http://www.glin.gov/view.do?documentID=89222&summaryLang=en&fromSearch=true. Article 1 cites the function of the police is, among other things, “to safeguard the fulfillment of the laws and regulations that aim to protect the life, honor, well-being and beliefs of the people; maintain public order...; restore domestic order...; [and] preserve public morality [and] health as well as historical and cultural heritage...” See also, Article 5 (5).
\(^9\) Código del trabajo y sus reformas, Decreto 189-59, gaceta no. 16,827, 15 July 1959 (“Se prohíbe la discriminación por motivos de raza, religión, credos políticos y situación económica, en los establecimientos de
addition, employers rarely face official penalties or reprisals by the victims. Other instances of workplace discrimination that specifically target lesbian women and *travesti* (transgender) individuals are further outlined below.

Discrimination against HIV-positive individuals, a population group that often overlaps with the LGBT community, is also commonplace in Honduras. According to UNAIDS, in 2005, 13% of men who have sex with men were living with AIDS. Although Honduras accounts for only 17 percent of Central America’s population, the nation has 60 percent of AIDS cases in the region. San Pedro Sula is the AIDS capital of Central America, and is home to 60 percent of Hondurans with AIDS. LGBT individuals, particularly sex workers, are especially at risk for contracting HIV and AIDS.

Employers may also use HIV status as a proxy for sexual orientation. In addition to social prejudice, sexual minorities and people living with HIV/AIDS commonly experience discrimination in employment, housing, and basic services. For example, the Honduran NGO, Red de Hombres Gay Positivos, has alleged that some employers require job applicants to submit to blood tests. Although the employers supposedly used the tests to detect for syphilis, Red De Hombres Gay Positivos claims the true goal is to weed out HIV-positive applicants.

There is currently no legislation in Honduras addressing the rights of people living with HIV/AIDS. As a result, LGBT groups that do HIV and AIDS work are often discriminated against.

**Article 3 (Gender Equality)**
The U.N. Special Rapporteur on Violence Against Women considered in her 2005 report the extent to which sexual orientation is a ground of inequality that specifically affects women. Lesbians and other women who live outside of heterosexual norms are often subjected to violence, rape, and other forms of discrimination and harassment. Thus, sexual orientation often compounds the human rights abuses suffered by lesbian women.

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10 UNAIDS County Situation Analysis.
13 See State Department Report on Honduras.
14 ILGA, *Cleaning up the Streets*. See also, State Department Report on Honduras.
15 State Department Report on Honduras.
Lesbians often endure a double dose of workplace discrimination, as they may face prejudice based on their gender, their sexual orientation or both. A recent report written by a group of Latin American NGOs documented instances of job discrimination against lesbians. Interviews with Honduran lesbians showed various levels of workplace discrimination. The women interviewed described being passed over for promotion, denied employment due to masculine style of dress, harassed by co-workers both in and outside the workplace, and stalked by male co-workers. In order to avoid these discriminatory actions, which were usually tolerated and supported by the management staff, the women were forced to hide their lesbian relationships. Doing so over long periods of time had negative effects on their mental and physical health.

In the workplace, transgender individuals, transvestites and other “effeminate” gay men are often marginalized into menial, stereotypical jobs such as hairdressing, floristry, and seamstressmg, as well as the sex trade. Men who are perceived as homosexuals also frequently encounter discrimination in housing. Thus, some groups of men and transgender women (or travestis) are also subjected to human rights violations based on their gender, which is compounded by the discrimination they already face due to their sexual orientation.

Article 6 (Right to Life)
Extrajudicial killings based on the victim’s sexual orientation by either state or non-state actors violate Article 6 of the ICCPR. Following her visit to Honduras in August 2001, the U.N. Special Rapporteur on Extrajudicial, Summary, or Arbitrary Executions reported on death threats directed at and killings of members of sexual minorities. Her report noted NGO allegations that approximately 200 gay and transgender sex workers were murdered between 1991-2001. The Honduran government’s reaction to these homicides has been almost nonexistent, as few of the cases were officially registered and even fewer have been formally investigated. What follows are a sample of the many crimes.

On September 3, 1998, a travestí sex worker, Israel Reyes, also called Sanyi, was shot to death. Police suspect that she was murdered by a client who didn’t want to pay for his services. A transgender sex worker who worked with Sanyi was quoted in a newspaper report on the murder.

17 International Gay and Lesbian Human Rights Commission (IGLHRC), “Unnatural, Unsuitable, Unemployed: Lesbians and workplace discrimination in Bolivia, Brazil, Colombia, Honduras and Mexico” (2005), original on file with IGLHRC.
18 Id., at 105.
20 In Spanish, the term travesti is often used to refer to transgender, transsexual or transvestite individuals. However, travesti does not literally translate into English. It instead refers to a Latin American group of people who have a separate identity from those who in English would be known as a transgender or transvestite individual. Therefore, we have chosen to retain use of the term travesti whenever it is used in a Spanish-language source.
23 Id. Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, p. 23, para. 68.
that crimes against homosexuals are a regular occurrence and generally remain unsolved and unpunished.  

Perhaps one of the most infamous cases of homicide motivated by sexual orientation or gender identity was the death of Ericka David Yañéz on July 15, 2003. Yañéz was a nineteen year old sex worker, who was also a *travesti* member of Comunidad Gay Sampedrana, an LGBT rights NGO based in San Pedro Sula. According to witnesses, two San Pedro Sula policemen driving an official police car were looking for the services of a prostitute. They got into an argument with Yañéz when they realized she was a transgender person. Their altercation escalated as the officers attacked Yañéz, ending when one shot Yañéz with his service weapon.

Although the Yañéz killing is tragic in and of itself, the aftermath of her murder highlights other human rights violations, in particular, the failure to prosecute crimes against LGBT victims and threats to human rights defenders. After Yañéz was killed, Elkyn Suárez Mejía, also a *travesti* member of Comunidad Gay Sampedrana, reported vital information regarding the murder to the authorities. Mejía’s testimony resulted in the arrest of the two police officers. After their arrests, however, Mejía began to receive death threats. The most serious of these threats came from one of the officers charged with Yañéz’s murder. The officer confronted Mejía on the street where she was working and told her that if she did not withdraw the case within 24 hours, she would be killed. Mejía reported these threats and asked for police protection. Her request was granted, but only for a limited period, and she remained without protection when one of the officers escaped from police custody. As a result of the lack of any significant protection from the government and the growing numbers of threats sent to her and to the offices of Comunidad Gay Sampedrana, Mejía fled Honduras in September, 2003. Although the initial investigation and police protection offered to Mejía is commendable, the Honduran government cannot abandon an investigation or tolerate threats to a key witness in a crime motivated by the victim’s sexual orientation.

In addition to the murders of over 200 transgender persons and sex workers, other killings have resulted from the animus to the LGBT community. Like the Yañéz murder, many of the other killings remain unreported and uninvestigated by authorities. For example:

On July 15, 2004, the body of Victor Manuel Garcia Baquedano, a gay man, was found hanging by a sweater tied around his neck from a bridge in Comayauela. The police found it suspicious that Victor’s hands were gripping the sweater around his neck, as if he had resisted dying in that manner, suspended 10 meters above the ground, and expressed doubt regarding whether the death was a suicide or a murder.

Oscar Orlando Murillo Zelaya, a *travesti* sex worker also known as Leonela, was severely beaten by agents of the Policía Preventiva (station number 4) in Comayagüela on August 15, 2004. She had been taken to the station, and was detained until late the same day, without being permitted

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26 *Id.*, p. 3.
27 Amnesty International, Transgender women, p.
to communicate with anyone, or be seen by a doctor. As a result of the assault, she developed clots and swelling on the legs, face, back and arms, fever and headaches. Leonela was then fatally stabbed on September 6 2004, allegedly by a group of homophobic persons.29

Recently, on August 15, 2006, Javier Enrique Hernandez, a gay man and member of Comunidad Gay Sampedrana, was found dead in his apartment in San Pedro Sula. He was found lying face down in a pool of blood, with his hands and feet tied. A tee shirt was tied around his neck, and wire was wrapped around the tee shirt. There was evidence that Hernandez had been tortured before his death. The police classified the case as a robbery because the apartment was in disarray and some valuables were missing.30

Article 7 (Freedom from Torture and Cruel, Inhuman and Degrading Treatment or Punishment)
Due to recent events worldwide, human rights defenders have paid significant attention to violations of Article 7. In a 2001 report, the UN Special Rapporteur on the Question of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment addressed in part the issue of torture of LGBT individuals.31 The report concluded that sexual minorities everywhere are disproportionately subjected to harassment, humiliation and other violations affecting their fundamental human dignity.32 Such acts by state officials clearly violate Article 7 of the ICCPR.

Police brutality towards members of the LGBT community has been documented since the early days of the Honduran anti-gay movement during the 1980s. Although levels of overt violence have lessened since the mid-1980s, there are still many instances of cruel, unusual or degrading punishment by state actors that are motivated by the victims’ sexual orientation or gender identity. As previously noted, in May 2002, when Honduran President Ricardo Maduro signed the Coexistence Law, the police were permitted to restrict the movement or presence of individuals in public areas in order to preserve morality and decency and to protect public safety. In reality, police use the Coexistence Law to target LGBT individuals for harassment, intimidation, and physical and emotional abuse.

In June 2003, Santos Rafael Zuniga, a transgender sex worker, was detained at police station no. 4 in Comayagüela by two police officers who demanded sex. When she refused them, they began to torture her. They hit her in the face and all over her body with their batons, kicked and pulled her hair, and sexually abused her. These officers were active agents of the Policía Nacional Preventiva.33

Some of the worst abuses are suffered by gay and transgender sex workers. Sex workers regularly face harassment, arrest and abuse by police. One night in February 2004, Edwin Oliver

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30 ”Atado de pies y manos hallan muerto al contador ‘Comunidad Gay Sampedrana’”, La Tribuna, August 15, 2006.
31 Report of the UN Special Rapporteur on the Question of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Nigel Rodley, p. 6-7 (UN Doc. A/56/156, July 3, 2001).
32 Id., p. 6, para. 19.
33 Report of Special Rapporteur on VAW, p. 49, para. 174
Alonzo G., a *travesti* also known as Marijose, was working on Calle Real de Comayagüela when two police officers approached her and demanded she have sex with them in exchange for them allowing her to keep working. She refused, and they proceeded to beat her, hitting her in the face and kicking her when she fell to the floor. They tore at her clothing, yelling obscenities while spraying tear gas in her face. They beat her with the butts of their guns on the back and on the legs. She was detained for 12 hours without access to a lawyer or a doctor, also a violation of Articles 9 and 10. As a result of the beatings, Marijose suffered bruising and swelling of the legs, face, and back, cuts and scrapes on his arms, as well as emotional and psychological trauma. The police officers involved were both active agents of the Policía Preventива.  

On August 15, 2004, Paulina Lat Martinez Lara, a transgender sex worker, was among a group of sex workers on Calle Real de Comayagüela. Around 11:30 a.m., a group of police officers approached the group and began to harass and abuse them. Three of them suffered brutal beatings, including being struck with the butts of the officers’ guns while police shouted obscenities at them. They were then arrested and taken to the police station.

NGOs have documented other cases where LGBT individuals were subjected to torture and cruel, inhuman or degrading treatment or punishment.

**Article 9 (Right to Liberty and Security of Person)**

Many of the human rights abuses already discussed in this report are also violations of the right to liberty and security of person, as the right to liberty under the ICCPR prohibits arbitrary and unlawful arrests and unjustified detentions. Thus, instances of police violence against detained transgender individuals, transvestites, sex workers, and other members of the LGBT community can also be construed as violations of Article 9.

As noted above, the Coexistence Law contains various articles that give police broad discretion. Article 54 allows the police to limit or restrict the movement or presence of individuals in public places. Article 100 establishes that a person who appears suspicious and fails to give a reason for his or her presence in an area may be taken the police station in order to be identified and subjected to surveillance in order to protect the public. Articles 128 and 141, in defining the penalties under the law, allow police to take “corrective measures”, from issuing of tickets, confiscation of property, obligatory community service to temporary detention. A number of documented incidents indicate violations of Articles 10 (treatment of individuals deprived of their liberty), 7 (freedom from torture, and cruel, inhuman or degrading treatment or punishment), and in some cases, 6 (right to life).

A *travesti* and sex-worker, J.L.C., was severely beaten by members of the M1-19 patrol of the Policía Preventiva on March 26, 2003. During [her] detention, she was not permitted to communicate with her lawyer or anyone else. This case was presented to the National Human Rights Commission, and submitted to the internal affairs department of the police. Concluding that excessive force resulting in injuries was used by police, the Commission remanded the case.

34 *Id.*, p 50, para. 175.
35 *Id.*, p. 50, para. 178.
36 For example, Cattrachas has compiled several more cases of police brutality towards detained individuals. See *Id.* Pp 49-50.

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to the Office of the Public Prosecutor of Human rights in 2003 July. However, the public
prosecutor assigned to the case was transferred and the process became practically paralyzed,
supposedly due to the failure of the Office of the Public Prosecutor to carry out the investigation.
After his case against the police was presented J.L.C. became the target of threats by members of
the police force. 37

On January 5, 2004, three members of the NGO Comunidad Gay Sampedrana, Erick Orellana,
Javier Tejada and Ramón Valladares, were arrested by police in the San Pedro Sula
neighborhood of Colonia Planeta. The three men were returning home from a friend’s house
close to the police headquarters. As they passed the police station, some policemen asked them
where they were going and they explained that they were returning home. The police told them
that they were being arrested under article 54 of the Coexistence Law. Fortunately, the men were
released three hours later, following the intervention of a respected individual in the community
who stood up for their character. Upon their release, the men were told that they had been
detained for their own safety, since the police station was safer than Colonia Planeta. This
incident is also a violation of Article 23, the right to freedom of association. 38

M.M.M., a 20 year old travesti, also a commercial sex worker, was assaulted by police agents of
Manchen, in Tegucigalpa, on March 19, 2004, while looking for work in the Zona Hotel
Honduras Maya in Tegucigalpa. The agents tried to get her to have sex with them in exchange
for being allowed to work. They also tried to take all the money that she had on her. When she
refused, they beat her on the face and violently kicked her. They ripped her clothing, insulting
and threatening her with the butts of their guns. A few days later, a few police agents dressed in
civilian clothing shot her in the face. She was immediately admitted to the Hospital School of
Tegucigalpa with bullet lodged in her trota. No formal charges were brought against the police
she feared retaliation. 39

On April 16, 2004, J.R.F.R, a 25 year old travesti and sex worker, was harassed and beaten, hit
with the butt of a rifle, and threatened by security agents of the Estado Mayor Conjunto (Joint
Chief of Staff) in Comayagüela. Subsequently, she was detained. As a result of these beatings,
she suffered bruising and swelling of her face, back and arms. 40

O.A.Z, a 34 year old travesti and sex worker was beaten, including being hit with the butt of a
gun, by agents of the Policía Preventiva of Comayagüela on August 15, 2004. She was then
taken to the police station where she was held for hours, denied medical care or any
communication with the outside world. She suffered bruising and swelling of her legs, face,
back, and arms, a fever, and head pain. Later that year, on September 6, 2004, O.A.Z. was found
stabbed to death. The murder was apparently motivated by homophobia. 41

37 Id., p. 49, para. 173.
38 Amnesty International, “Honduras: Human Rights Violations Against LGBT (Update II),” AMR 37/001/2004,
(Feb. 14, 2004), available at:
http://action.web.ca/home/lgbt/alerts.shtml?x=52759&AA_EX_Session=30c054b3d8d7a103ce52433edef808e6.
40 Id., p. 50, para. 177.
41 Id., p. 50, para. 179
Forced displacement is also a common occurrence that negatively impacts LGBT rights in Honduras. Such relocations are usually committed against sex workers, many of whom are transvestites or transgender persons, and often involve detention, during which they are subjected to verbal and physical abuse by both state and non-state actors.42

A particularly egregious instance of forced relocation of members of the LGBT community involved the displacement of approximately 100 sex workers in San Pedro Sula, the nation’s second largest city and industrial center. The sex workers, who had been working for several years along the Boulevard Morazán, were not committing a crime, as prostitution is not a crime under the Honduran Penal Code.43 In 2002, however, San Pedro Sula authorities decided to convert the street into a tourist attraction. In order to “clean” the area so it would be more attractive to tourists, the local government unilaterally chose to relocate the workers to El Tamarindo, an area near the railways.44 After the decision was made public, affected individuals and other members of the LGBT community objected; their objections were met with violence from state and non-state parties. This government-mandated deportation resulted in the loss of the sex workers’ liberty, as they could no longer exercise independent choice regarding their day-to-day life and activities. The sex workers were forcibly moved from one area to another without their consent, such that they were deprived of their liberty through an arbitrary procedure that was not established by Honduran law.

In addition, selective and discriminatory enforcement of laws and ordinances against LGBT individuals often results in a violation of Article 9. As noted above, several Honduran laws lend themselves to arbitrary enforcement against the LGBT community. In particular, the Coexistence Law effectively gives police officers the authority to selectively arrest and harass transsexual and other effeminate-looking individuals.

LGBT individuals who are in need of protection are commonly neglected by the government. As the lack of serious investigations on the Yañéz and Hernandez murders, among others, illustrate, members of the LGBT community are often placed in harm’s way with few if any avenues of recourse available due to government insufficient government action.

**Article 10 (Treatment of Individuals Deprived of Their Liberty)**

As already discussed, LGBT individuals are routinely victims of police brutality. Despite the rationales for their arrest or detention—usually unwarranted—LGBT detainees and prisoners are routinely harassed and abused by state agents. The violations enumerated under Article 7 also violate this Article, where they involve abusive treatment of prisoners by guards, police officers and other state officials. For example, many of the reports compiled by Cattrachas document cases where LGBT individuals who were detained for arbitrary and discriminatory reasons in and of themselves were then subjected to beatings and abuse by police officers and prison guards.

42 Id., pp. 49 – 50.
44 Id.
Article 22 (Freedom of Association)

In Honduras, any NGO must go through a “registration” process in order to be granted legal status. This process requires that the NGO submit an application of registration to the Ministry of the Interior.\(^{45}\) The NGO can also submit letters of support for other NGOs or government departments. If the NGO’s application is approved, then it is granted legal status as a recognized member of civil society. As a result, a registered NGO can acquire and own property, pay salaries, and take part in legal disputes. Registration “also gives such organizations (and their constituencies) a place and face in society as a whole; it gives their membership the power to enjoy their full status as citizens, their full belonging in their communities.”\(^{46}\) LGBT organizations first began applying for legal registration in the early 1990s, but their applications were systematically denied by the Ministry of Interior until three organizations were registered in 2004. The constant denials negatively impacted the ability of these organizations to effectively address human rights issues important to the LGBT community. In addition, the government’s refusal to grant legal status to these groups represents a violation of the right of homosexual and transgender persons to freedom of association and assembly. These communities were forced to seek protection as individuals rather than as an organized group, making them more vulnerable and lessening their ability to advocate with government.

On April 4, 2000, the LGBT organization Grupo Prisma submitted a request for official registration and approval of the statutes of the organization to the Ministry of the Interior and Justice, as required by law. On August 2, 2000 a decision was issued, denying the application. The official reason was that “the Statutes [of the organization] breach morality, public order, and proper behavior.”\(^{47}\)

In 2004 the Ministry of the Interior and Justice granted official registration to three LGBT groups in San Pedro Sula: Comunidad Gay Sampedrana para la Salud Integral, Kukulcan, and Colectivo Violeta. The recognition of these groups is an important step forward, but does not appear to have signaled a policy change.

What’s more, there has been significant backlash in response. The decision to grant registration was strongly condemned by those who see LGBT activists as a danger to society. Discrimination against them continues with little or no acknowledgement of their positive work on behalf of human rights. MP Ramon Villeda Bermudez submitted a request to require the Minister of the Interior and Justice, Ramon Hernandez Alcerro, to provide Parliament with an explanation for the grant of legal registration to the three groups, which Villeda Bermudez said were against the law, public order, and good customs.\(^{48}\) Hernandez Alcerro defended the decision to grant legal recognition. He emphasized that the groups had met all of the requirements for legal status, that the right to freedom of association gives them the right to be


\(^{47}\) Amnesty Int’l Honduras Report 2003, p.4

\(^{48}\) IGLHRC, Support Legal Registration
legally recognized, and that the groups do important work in the fight against AIDS. In response, religious organizations and other groups sponsored demonstrations and began a campaign against homosexual marriage. As discussed below, this led to a Constitutional amendment banning same-sex marriage and adoption by same-sex couples.

In addition, in January 2004, invoking Article 54 of the Coexistence Law, the mayor of San Pedro Sula authorized a raid on Boyz, the city’s only gay bar. Twelve people, including Jorge Flores and several staff members from Comunidad Gay Sampedrana were arrested and held for 24 hours before being released. The bar was closed down, and it has not reopened.

**Article 23 (Family Life)**
The status of same-sex couples under the ICCPR is not completely clear. In *Joslin v. New Zealand*, the Human Rights Committee found that the refusal of a state to allow same-sex couples to marry did not violate Article 23. Two Committee members, however, argued that such a denial could form the basis for a discrimination claim under Article 26. In *Young v. Australia* the failure to grant *de facto* same-sex couples benefits that were available to *de facto* opposite-sex couples has been considered a violation of Article 26. Within this context, this decision may have implications relating to the protection of family life under Article 23.

In 2004, members of Honduran evangelical groups responded vehemently to the government’s formal registration of the three LGBT associations. Although some members of the government defended the registrations, others aligned with the growing fundamentalist movement. This led to Congressman Jose Celin Discua sponsoring a proposed amendment to the Honduran Constitution that would ban marriage and adoption by same-sex couples. This amendment passed unanimously, and the Constitution was officially amended in January 2005. This amendment is particularly detrimental for LGBT individuals, as it could in fact promote different treatment between unmarried same-sex and opposite-sex couples.

**Article 24 (Special Protection of Children)**
Discrimination and other offenses against LGBT youth can result in violations of multiple Articles of the ICCPR. For example, Pedro Humberto Romero, a 15 year old *travesti* known as “la Macarena”, was found dead on July 8, 2004 in San Pedro Sula. He had been shot 23 times. His hands and feet were tied with shoelaces and he had third degree burns over 90% of his body. There was no serious investigation of Romero’s murder. His death illustrates the Honduran government’s failure to protect LGBT youth under Article 24, as well as a violation of Article 6 in this specific case.

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49 *Id.*
50 *Id.*
51 Communication No. 901/1999.
52 In this case, the Human Rights Committee held that the government may not refuse to grant specific pension benefits to homosexual couples when the same benefits were authorized for heterosexual couples. Communication No. 941/2000.
Concluding Notes

- LGBT individuals face discrimination in the workplace, where there are no non-discrimination laws to protect them. They are often denied employment or promotion, and are subjected to harassment by employers and coworkers. Because the non-discrimination laws do not include sexual orientation or gender identity as a prohibited basis, LGBT victims generally lack redress for the wrongs suffered in the workplace.

- Those with HIV/AIDS are often particularly victimized by discrimination in access to employment, education, and health care.

- The criminal justice system discriminates against the LGBT community and fails to protect LGBT persons in the country. The deaths of LGBT individuals often go uninvestigated and usually remain unsolved. The perpetrators of such crimes go unpunished.

- The repeated violations of the human rights of members of the LGBT community by the Honduran police must be addressed. Police officers regularly target LGBT individuals for arrest and abuse. The police officers involved in such abuses must be identified, and once identified, must be brought to justice.

- LGBT organizations are stigmatized by religious organizations and politicians who consider them a danger to society and ignore their valuable contribution to human rights work. This hostile environment also creates a permissive social framework within which human rights abuses are tolerated if not actually encouraged by local officials.

- The hostility directed against the LGBT community following the legal recognition of three LGBT NGOs has resulted in laws which discriminate on the basis of sexual orientation and gender identity, either de jure or de facto. The amendment to the constitution banning gay marriage and adoption by same sex couples discriminates on its face against LGBT individuals. The Coexistence Law, while not discriminatory on its face, is used to target people identified as homosexual or transvestite.

Proposed Questions for the Government Delegation

- Why has the government failed to include any mention of the numerous documented cases of murders directed at individuals based on their sexual orientation and gender identity in its periodic report? In particular, why did the government fail to respond to the cases raised by the UN Special Rapporteur on Extrajudicial Executions in her 2001 visit to Honduras, in which she raised concerns about death threats and killings directed at sexual minorities?

- How does the government intend to secure the rights of LGBT individuals and communities against discrimination and severe abuses in compliance with the Covenant?
• What redress will the government provide to those individuals whose rights have been abused by the police?

• Why has the government refrained from engaging in a thorough and complete investigation and prosecution of crimes committed against LGBT individuals?

• How will the government assure that the Coexistence Law is not discriminatorily used to target LGBT individuals for harassment and abuse?

• How does the government intend to address the issue of discrimination faced by gay, lesbian and transgender individuals, in particular in the field of employment and occupation?

• What steps are being taken in the fight against HIV and AIDS, particularly with respect to the gay community, where the epidemic is especially prevalent?

• How will the Government ensure that the marriage amendment to the Honduran constitution will not cause difference in treatment between *de facto* same-sex and opposite-sex couples?

• How will the government ensure that minors, the most vulnerable members of the LGBT community, are protected against unwarranted abuse and discrimination?
TAB 15
A group of LGBT migrants was among the first members of the so-called caravan to arrive in Tijuana this week, seeking asylum from some of the most violent countries in the world where gay and trans people are particularly targeted, according to Amnesty International.

"We came with the caravan, and the caravan continues," Cesar Mejia told reporters in Tijuana earlier this week.
Mejia said their group included about 80 people, including children, from Honduras, Nicaragua, El Salvador and Guatemala. As the week continued, hundreds of more migrants arrived in Tijuana, the Associated Press reported, although the majority of the caravan still appears to be more than 1,000 miles away.
A greater threat of violence

From the outside, many don't understand why people -- including families with small children -- would risk their lives to get to a country that has explicitly said it will not let them in. Secretary of State Mike Pompeo has said that people in the caravan will not be able to enter the U.S. illegally "no matter what," and many members of the Trump administration, including the president himself, have accused members of the caravan of being terrorists or gang members.

(MORE: Central American migrants in caravan respond to President Trump calling them criminals: 'This is all propaganda')
Many migrants have said that what spurs them on are the terrible conditions at home: Central America is wracked with violence and poverty, corruption and impunity.

But for LGBT migrants, the threat of violence is, in many cases, even greater, a 2017 Amnesty International report found, and "gay men and trans women are exposed to gender-based violence at every point on their journey in search of protection." Amnesty listed Mexico and Honduras among seven countries it finds as being deadly and discriminatory for LGBT people.

(MORE: Reporter's Notebook: Poverty, not politics, spurs migrants on)

Mejia, 23, told reporters in Tijuana that the LGBT members of the caravan gravitated toward one another in search of support. For his part, Mejia was easy to find in the crowd. When ABC News spoke to him last month in the tiny town of Huixtla, Mexico, he was wearing a rainbow flag around his shoulders.
"At first I was afraid to wear the flag. I didn't know how people would react," Mejia told ABC News in Spanish. "In Guatemala, people were asking me what country the flag was and I told them it was the flag of the world."

(MORE: 'God will have the last say': Migrants explain their decision to flee in their own words)

But in his hometown of San Pedro Sula, Honduras, it was not viewed that way, he said.

"I was discriminated and beat up so it was time to go," Mejia explained.

He chose to join the caravan of thousands of other people, the majority of whom were also from Honduras, making their way to the U.S. border in the hopes of a better life.

Mejia said if he is able to make it to the border, he could make the case for political asylum.

"If I had the opportunity to make it to the border, I could show my representation of the community and ask for asylum, because [in the U.S.], there is a lot less discrimination than Honduras," he said.
Unable to speak out

Raul Valdivia, a gay man and human rights activist who still lives in Honduras, said he understands that discrimination firsthand.

"I've suffered many instances of discrimination based on my sexual orientation, but I remember the most violent came from state forces," Valdivia told ABC News. "I was abused by police while on one of my very first dates. They took me and the other guy to a dark secluded area in a park and forced us to simulate sex. They also beat us with a belt. These are police who patrol downtown Tegucigalpa and I have seen them after, but I'm unable to speak out for fear of repercussions."

Valdivia said LGBT people in his country face "assassinations, political attacks, legal discrimination and targeted street violence."

(MORE: Humanitarian concerns grow over exodus of Central Americans)

The country also has one of the highest homicide rates in the world outside of a war zone, according to the Overseas Security Advisory Council (OSAC). Authorities sometimes use gang violence as a cover for political and gender-based violence.

Nearly two thirds of Hondurans live in poverty, according to the World Bank. Corruption is a major issue, prompting the government to establish the Mission to Support the Fight against Corruption and Impunity in Honduras (MACCIH) in 2016 through an agreement with the Organization of American States, but much remains to be done.

"Marred by corruption and abuse, the judiciary and police remain largely ineffective. Impunity for crime and human rights abuses is the norm," a 2018 Human Rights Watch report found.

Those who choose to speak out face harsh reprisals. In 2016, U.N. experts called it "one of the most hostile and dangerous countries for human rights defenders." Human rights defenders routinely "suffer threats, attacks, and killings," Human Rights Watch found.

(MORE: 3 days after election, 2 men declare themselves Honduran president amid rising tensions)

No change at the ballot box

In November 2017, the country held a presidential election with widespread reports of fraud and violence. Thousands took to the streets to protest the re-election of Juan Orlando Hernandez, who changed the constitution to allow himself to run again.
The government's "response to the post-electoral protests led to serious human rights violations," according to the U.N., and dozens were killed and more than 1,000 were arrested.

(MORE: Democracy 'lost': Rights groups warn of more violence in Honduras as US recognizes president)

Unable to change their country at the ballot box, many Hondurans chose to flee. And experts say that although the size of this caravan has grabbed headlines, many more Hondurans quietly flee the country every year, leaving conditions that have dramatically worsened since the 2009 military coup, especially for LGBTQ people, journalists and human rights activists.

In 2009, gay human rights activist Walter Trochez, 25, was killed in Tegucigalpa after trying to draw attention to anti-LGBT violence by security forces.

In July 2017, David Valle, project coordinator of the Center for LGBTI Cooperation and Development, was stabbed in his home after receiving threats, Human Rights Watch reported. He survived the attack, but it highlighted the deadly violence LGBT people face in the country.
It is this environment that has prompted Hondurans to risk their lives on the journey north, both in caravans and on their own, experts say.

"As impressive in size as this caravan may be, it still represents a minute proportion of Central Americans -- today primarily Hondurans -- that are fleeing their communities," Alex Main, the director of international policy at the Center for Economic and Policy Research, told ABC News.

**Policies spurring an exodus north**

But LGBT migrants and asylum seekers face dangers along the way, the Amnesty International report found, and often face discrimination and neglect in detention facilities as well. In May, Roxana Hernandez, a 33-year-old trans woman from Honduras, died while in ICE custody in New Mexico, the Associated Press reported.
But even facing extreme dangers along the way and an uncertain future in a country whose president says it does not want them, people have continued to flee Honduras. That will continue until there are real policy changes, Main said.

"This mass exodus will only abate when the rampant violence in Hondurans abates, and when real economic development begins to take hold. This will require a profound revision of current economic models promoted by the U.S. and multilateral financial institutions and the displacement of a corrupt economic elite that retains power through repression and electoral shenanigans," Main added.
(MORE: My family is Honduran and I understand why people are fleeing: COLUMN)

Until then, migrants, including those in the LGBT community, will continue to trek to the U.S., as this recent caravan has.

More than 2,600 migrants made it Tijuana Saturday, according to the Associated Press.

Mejía said he hopes his group's early arrival will give them an advantage with border officials.

"We wanted to avoid what always happens, which is that if we arrive last, the LGBT community is always the last to be taken into account in everything," he said at a press conference Sunday. "So what we wanted to do is change that, and to be among the first, God willing, and request asylum."
TAB 16
‘It breaks my heart, but I have to keep going’: The Honduran women forced to leave their homeland

Hondurans comprise the majority of the first caravan to reach Mexico City en route to the United States

A woman and her son at the shelter for the Migrant Caravan. (Sergio Ortiz/Amnesty International)
After 23 days of harsh travel through pouring rain and tropical heat Suyapa takes a much-needed break at a sprawling shelter for members of the Central American migrant and refugee caravan in a sports complex in Mexico’s capital.

“It’s been really heavy going, especially for them,” she says, pointing to her two youngest sons, aged 7 and 10. “One of them got sick but thank God he’s better now. We’ve walked a lot. They get exhausted, they’ve lost the skin on their feet and had to walk barefoot at times.”

Like many of the thousands of people traveling in a series of caravans from Honduras, El Salvador, Guatemala and
Nicaragua, Suyapa left home out of necessity rather than choice.

While President Trump has called the caravan members “criminals” and deployed over 5,000 soldiers to prevent them from crossing the United States-Mexico border, a great many of them are women and children simply searching for a safe place to rebuild their lives.

According to Mexico City authorities, children accounted for 1,726 of the 4,841 people registered at the shelter as of Nov. 8, including 310 infants under 5 years old. About 30 percent of those registered were women.
Suyapa fled the Honduran city of San Pedro Sula after members of violent criminal networks known as *maras* extorted her modest food business, demanding all her weekly earnings, and then forced her eldest son to join them.

“He had no choice. I tried to stop it and they told me that if I stayed in the country they’d kill my family,” says Suyapa.

“These aren’t idle threats, they follow through with them.”

The gang gave her three days to leave and never come back.

“What did I do? Leave my home, leave everything, just grab my kids and hide the others who would stay, because I had no other option.”

Suyapa says she was unaware of the caravan when she left home but soon heard about it and decided to join.

Hondurans comprise the majority of the first caravan to reach Mexico City en route to the United States. Many cite the endemic violence and lack of state protection as
reasons for leaving a country with limited opportunities and widespread poverty.

The Migrant Caravan in Mexico City. (Sergio Ortiz/Amnesty International)

Strewn with tents, strollers and clothes hung out to dry, Mexico City’s makeshift shelter is a relative haven for the caravan, with government workers and volunteers providing medical and dental care and three meals a day. Volunteer barbers give free haircuts and clowns entertain young children, while teenagers enjoy games of soccer. There are even shamans on hand to offer spiritual healing.

Sat on a swing, Claudia, 28, watches her three young children play. They are all wafer thin and the youngest is sick. Doctors at the shelter have looked at him but say he
will need further clinical tests when they arrive at their destination.

Claudia’s family have traveled over a thousand miles, with one child in a pushchair and the others walking. They were forced to leave Honduras after a gang threatened them for failing to make “war tax” payments on her husband’s small business.

“We’d like to return there,” she says, “but we can’t.”

As Amnesty International documented last year, the extortions or “war taxes” that maras demand from businesses are commonplace in Central America, but refusing to comply puts one’s life at risk.
Before leaving, Claudia’s family closed their business and lived in daily fear of the gangs.

“The police have no authority there,” she says of why her family could not approach the authorities for help. If you report the gangs, she says, they will find out and “they will f--- you up”.

Now, Claudia says her priority is finding a safe place where her children can go to school.

She starts to cry as she describes how her kids ask when they are going home. “It breaks my heart, but I have to keep going.”

The Migrant Caravan in Mexico City. (Sergio Ortiz/Amnesty International)
The Mexico City shelter represents a rare opportunity for those in the caravan to receive emotional support.

“It’s not easy for them to abandon their country. They’re having to deal with feelings of pain,” says Marlen Nava of the Mexican Institute for Emergency Psychology, one of several volunteer groups aiding members of the caravan.

“We’re seeing a lot of anxiety, a lot of stress, many physiological reactions, and a lot of reactive attachment disorder in children. If they’re separated from their parents they react with fear, crying or even regressions, like when a 9 or 10-year-old child suddenly starts talking like a baby again.”

The support that Nava and her colleagues can offer fleeting visitors is limited, and she is particularly concerned by what she describes as the “dehumanization” of those traveling in the caravan.

“Unfortunately, there’s a lot of stigma and they’re treated like criminals. Most of them are families, they’re women and single mothers who came with their children or on their own because they left their families behind to find a way of supporting them,” she says.
“We’re all human beings. I think everyone [should have] the opportunity to find what’s best for their family. We must respect their reasons for deciding to leave their countries.”

Lorena, a 30-year-old transgender woman who had been a sex worker in Honduras, says she left because of widespread homophobia that translated into constant violence from police and clients.

According to Amnesty International, transgender women in Central America are at particularly high risk of violence and extortion by gangs and abuse by police.
“In my country, [the authorities] don’t listen to you, they don’t take you seriously... because you are a homosexual,” Lorena says.

As transgender women often face further violence and discrimination in transit and destination countries, Lorena opted to join the caravan because she felt safer in a larger group. Although she expects to be detained upon reaching the United States, she believes it is worth the risk to escape the violence in Honduras.

Even with Trump sending troops to the border, she says, “he can’t kill women and children.”

Although more difficult times lie ahead as the caravan weaves its way through northern Mexico, where temperatures are more extreme, infrastructure more sparse and organized crime more prevalent, most members of the caravan are undeterred.

Suyapa remains determined to reach the United States so she can raise her sons in safety.
“My dream is to get to the other side and be able to bring my children and have a better life, above all so that they can study in peace,” she says.

But it is a dream born of necessity and the unbearable circumstances in her homeland.

“Do you think I wanted to come here with my children? Never. I’d never have wanted to leave my country if life was different.”

Editor’s note: The names of some of the women quoted in this piece have been changed to protect their identity.

Duncan Tucker and Louise Tillotson are based in Mexico City with Amnesty International.

Duncan Tucker and Louise Tillotson

Recommended by The Lily

WORLD

Trump canceled his trip to Denmark over
SAN PEDRO SULA, Honduras — Members of Colectivo Unidad Color Rosa, an LGBTI advocacy group in the Honduran city of San Pedro Sula, on July 11 were sewing a transgender Pride flag for an upcoming march. On the wall behind them were the pictures of 19 local activists and community members who have been killed over the last decade.

“You can be killed at any moment in this extremely violent country,” a lesbian activist told the Washington Blade during an interview with three others affiliated with Colectivo Unidad Color Rosa who identify themselves as transsexual women.

Honduras has one of the world’s highest per capita murder rates because of violence that is frequently associated with gangs and drug traffickers. Violence and discrimination based on gender identity and sexual orientation remains commonplace in the Central American country that borders Guatemala, El Salvador and Nicaragua.

One of the activists with whom the Blade spoke at Colectivo Unidad Color Rosa has previously received death threats.

She and her three colleagues asked the Blade not to publish their names or take their pictures because of concerns over their personal safety. One of activists — a trans woman...
Violence, discrimination prompts LGBTI Hondurans to migrate

— said “nothing has changed” in San Pedro Sula since the Blade last reported from the city in February 2017.

“What has increased and has changed is migration,” she said. “There are more trans girls migrating from the country.”

Trans women ‘always have poverty, insecurity’

The activists spoke with the Blade against lingering outrage over President Trump’s “zero tolerance” immigration policy, which included the separation of migrant children from their parents once they entered the U.S.

Homeland Security Secretary Kirstjen Nielsen last week met with the foreign ministers of Honduras, El Salvador, Guatemala and Mexico in Guatemala City. She announced the creation of an office within her agency that will advise their governments about the reunification of migrant children who have been separated from their parents.

The activists with whom the Blade spoke said violence and a lack of economic opportunities are the primary reasons that prompt lesbian, gay, bisexual, intersex and especially trans Hondurans to leave the country.

Statistics from Cattrachas, a lesbian feminist network that is based in the Honduran capital of Tegucigalpa, indicate 15 people have been reported killed in the country so far this year because of their sexual orientation or gender identity.

A gay Honduran man seeking asylum in Mexico told the Blade on Tuesday during an interview outside a refugee center in Mexico City that he fled San Pedro Sula earlier this year after gang members attacked him. The man said the gang members also raped his friend before they killed her in front of him.

“The situation therefore never changes for the community,” said the trans activist in San Pedro Sula who has previously received death threats. “We always have poverty, insecurity for trans girls. This is the main reason for migrating.”

Trans woman who died in ICE custody ‘represented a struggle’

The death of Roxana Hernández — a trans Honduran woman with HIV who died at a New Mexico hospital on May 25 while in ICE custody — sparked outrage among advocates in Honduras and in the U.S.

Hernández, who was from the Honduran capital of Tegucigalpa, was in San Pedro Sula before she joined a 300-person caravan that traveled to the U.S. border. U.S. Customs and Border Protection took her into custody on May 9 when she asked for asylum at the San Ysidro Port of Entry near San Diego.

Hernández’s picture is among the 19 that are on the wall at Colectivo Unidad Color Rosa’s offices. The four activists with whom the Blade spoke were quick to point out other trans Hondurans have also been killed after leaving the country.
Violence, discrimination prompts LGBTI Hondurans to migrate

“Roxana’s case is being politicized at the moment,” said the lesbian activist. “It is being politicized in the sense that she represented a struggle when we were looking for martyred colleagues.”

“Roxana became a colleague as a result,” she added. “There are many other colleagues as well.”

Activist: Honduras government has no socio-economic plan

Honduran first lady Ana Garcia earlier this month visited a detention center in McAllen, Texas, after Trump issued an executive order that ended the separation of migrant children from their parents. CNN reported Garcia urged Hondurans to remain in the country and “let’s look for solutions to support you.”

Garcia on June 19 made a similar plea on her Twitter page.

“Don’t migrate, don’t risk the lives of your children on that route,” she said. “Avoid traumas because with the U.S. ‘zero tolerance’ policy, you will be separated from your little ones when you arrive illegally.”

More than 30 people died in violent protests that took place across the country after President Juan Orlando Hernández’s disputed re-election last November. The activists in San Pedro Sula with whom the Blade spoke said it is possible the Honduran government has not explicitly criticized Trump’s immigration policy because it does not want to lose U.S. aid.

The U.S. Agency for International Development reports Honduras received $127,506,634 in U.S. foreign aid in fiscal year 2016. Full figures from fiscal years 2017 and 2018 are not yet available.
The lesbian activist with whom the Blade spoke said the Honduran government has not implemented a socio-economic plan “to benefit the population.”

She said the government has increased funding of the country’s Military and National Police, which have been accused of human rights violations. The lesbian activist also told the Blade a lack of legal protections for trans Hondurans and their inability to legally change the name and gender on their ID cards has also made them increasingly vulnerable to discrimination and violence.

One of the trans activists noted the Honduran government “does not have a plan” to help LGBTI migrants. U.S. Rep. David Cicilline (D-R.I.) last month told the Blade after he and other members of Congress traveled to South Texas there are no policies in place that specifically address the needs of LGBTI migrant children who the Trump administration separated from their parents.

All four of the activists with whom the Blade spoke said they have no plans to leave Honduras in spite of the rampant violence and discrimination that exists in their country.

One of the trans activists told the Blade she traveled to Mexico City three years ago to undergo cosmetic surgery. She said she returned to Honduras because her experience in the Mexican capital was “very ugly.”

The lesbian activist said she will stay in Honduras because she has “stability.”

“I would think about leaving, about migrating, if I didn’t have the stability that I have,” she added.

Michael K. Lavers
Michael K. Lavers is the international news editor of the Washington Blade.
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The Changing Needs of Children, Youth, and Families Affected by HIV in Honduras

By Morgan Brown, Executive Director, Montaña de Luz.

This is the first installment of a series of blog posts entitled “Building a Future.” We will highlight the role of Montaña de Luz in building a better future for families affected by HIV in Honduras.
In the year 2000, leaders of 191 nations met at the United Nations in New York and agreed upon eight ambitious “Millennium Development Goals,” with the vision of setting a standard for human rights and greatly enhancing the well-being of individuals throughout the world by 2015.

Every UN member state agreed, under Millennium Development Goal number six, to combat HIV/AIDS—specifically, to achieve universal access to treatment for HIV/AIDS for all those who need it by 2010, and to halt and begin to reverse the spread of HIV/AIDS by 2015.

In the year 2000, HIV/AIDS was still a death sentence for millions of people around the world. There simply was not a strong enough infrastructure in many countries to combat the spread of HIV. Millions of people suffered agonizing deaths from AIDS, the most severe phase of HIV infection. Access to anti-retroviral treatment, or ART— the medication needed to suppress the HIV virus and stop the progression of HIV disease—was extremely limited in many countries around the world.

Montaña de Luz formed in 1998 as a refuge for children living with HIV/AIDS in Honduras. At the time, over 60 percent of new HIV infections in Central America were reported in Honduras, despite the country only containing 17 percent of the region’s population. Mother-to-child transmission of HIV was extremely high compared with other countries, and stigma of the disease was rampant. Montaña de Luz began as a respite care facility. It was a place for...
kids were able to go to school, to run, to play, to dream like any other child. The same happened incrementally throughout developing countries that had previously lacked access to ARV treatment.

Thanks to the hardworking nurses of Montaña de Luz, our children attended doctor visits, took their anti-retroviral medication, and learned to manage their care. Globally, by June 2014, an estimated 13.6 million people living with HIV were receiving antiretroviral therapy (ART), an increase from 800,000 in 2003 (UN Development Goals, 2018). In Honduras, a new HIV law and better coordination between the Ministry of Health, hospitals, and clinics led to reduced rates of HIV transmission—down 29 percent since 2010. There have been pronounced reductions in mother-to-child transmission in Honduras. Each pregnant mother served in a clinic or hospital must now have an HIV test, leading to more focused care.

We are on the precipice of a new era, both at Montaña de Luz and in broader HIV/AIDS care. Treatments are improving, allowing us to manage HIV as a chronic condition. The CDC just announced that when the viral load of an HIV positive individual is “undetectable,” (this generally happens when an individual takes his or her ARV therapy according to plan), there is 0% chance of passing HIV on to another individual. Just twenty years ago, this milestone would have been unimaginable. In the United States, we are pioneering HIV prevention medication, called pre-exposure prophylaxis, or PrEP. It is a way for people who do not have HIV but who are at substantial risk of getting it to
Among people living with HIV in Honduras, only 39% had suppressed viral loads as of 2016 (UNAIDS – Honduras, 2018). While progress has been made in mother-to-child transmission, only 51% of HIV positive mothers receive the appropriate ARV treatment to reduce the risk of passing on HIV to their child (UNAIDS – Honduras, 2018).

The actual prevalence of HIV in Honduras could also be worse than what is reported. Only 12.6% of individuals between 15 and 49 have been tested for HIV and know their results (CONASIDA, 2014). Many HIV positive individuals do not know about HIV, are unsure how to get tested, or are afraid to get tested. Rural areas are extremely hard to document, census data is less reliable, and many hospitals still use handwritten documentation systems. All of these factors affect the reliability of our baseline statistics on HIV in Honduras.

There are reasons why HIV has remained so difficult to eradicate in Honduras. There are many “barriers to care” which lead to lower rates of testing, diagnosis, treatment, and adherence, despite commendable efforts from the government.

The biggest barrier to care is the stigma that still surrounds HIV in Honduras. Many people in the country still believe you can contract HIV by kissing or eating from the same plate as someone who is HIV positive. This is categorically false. HIV positive individuals are often cruelly termed “sidosos,” roughly translating to “AIDS-ridden,” and are persecuted in school or the workplace. Children from Montaña de Luz, just from being associated with MdL, have been bullied in school. Adults living with HIV have lost their jobs,
diagnosis, and follow-up care. At Montaña de Luz, we are actively working to break down stigma through our “Charla Luz” or “Light Talks” program in which our youth ambassadors go out and teach communities about HIV. Our mission is currently expanding to serve families “off the mountain” through home visiting, with the objective of reducing stigma within families. We want to help more individuals get tested. We want families to easily locate and access HIV resources within the healthcare system. Ultimately, we want to greatly enhance adherence to ART and lower incidence of HIV within vulnerable communities. Our caregivers and interdisciplinary staff have over 16 years of experience breaking down this stigma within the extended families of our children. We want to utilize this knowledge and skillset, go beyond our walls, and change the perceptions of HIV for entire communities.

There are many other barriers to HIV care in Honduras—many of which our children and their families face on a daily basis. Honduras has the second highest poverty rate in the Western Hemisphere behind Haiti, high rates of crime, and political instability. Vulnerable populations have much higher rates of HIV in Honduras, including men who have sex with men (prevalence of 11.9%), sex workers (prevalence of 5.3%), transgender people (prevalence of 11.9%), the Garifuna population, and minority communities (UNAIDS – Honduras, 2018).

In addition, there are still access issues—rural and impoverished areas may not have a clinic close by, individuals lack safe public transportation to get to their medical visits. Co-pays for supplemental medications are high, so individuals stop treatment all together. Clinics and hospitals have funding to provide direct care, but often lack the resources to provide in-person social service support for HIV+ individuals who stop care due to one of these barriers.
In the coming years, Montaña de Luz hopes to meet children, youth, and families where they are and address their individual barriers to care. We want to go beyond our walls and be something greater— to walk the path of Jesus Christ, to reach out to the most vulnerable, who have been left behind or thrown out by society—even if this is not the most popular or surest path. We want to become a coordinated care provider— the “glue” between vulnerable children, youth, and families affected by HIV and the public health system. This is the gap in services—it is what the country needs.

HIV care has advanced so much in the past twenty years, and it will continue to do so in Honduras in the years to come. The focus will shift from the ART medicines themselves— they will become even more accessible and effective — to reducing stigma, improving access, and adherence to care. At MdL, we want to be at the forefront of this change and shift the paradigm in HIV care. We want to put the focus on individuals and families, giving them a voice in their care and sowing the seeds of deeper change.
TAB 19
BOGOTA (Thomson Reuters Foundation) - Killings and violence against LGBT people in Central America are driving hundreds to flee their homes each year, but they have no safe sanctuary to run to, Amnesty International said on Monday.

Lesbian, gay, bisexual and transgender people are being forced to leave El Salvador, Honduras and Guatemala to escape “epidemic levels of violence” and threats by criminal gangs and security forces, the rights group said in a report.

“People are facing vicious discrimination in Central America due to their gender identities, and have absolutely nowhere to run for safety,” Erika Guevara-Rosas, Americas director at Amnesty International said in a statement.

“Terrorized at home, and abused while trying to seek sanctuary abroad, they are now some of the most vulnerable refugees in the Americas.”
El Salvador and Honduras have some of the world’s highest murder rates, and LGBT people are particularly vulnerable to macho, powerful gangs who control entire city neighborhoods.

At least 136 LGBT people in El Salvador have fled the country since 2012 and most crimes go unpunished, according to local rights group COMCAVIS.

Cristel, a transgender woman, said she was forced to flee El Salvador in 2014 after receiving death threats from a gang. They told her to leave within 24 hours or they would kill her.

“I was forced to leave my country .. just because I was transsexual, just because I wasn’t a biological woman,” 25-year-old Cristel is quoted as saying in the Amnesty report.

In Honduras, at least 264 LGBT people have been killed since 2009, of whom more than half were gay men, according to local rights group, Cattrachas.

Last week the Inter-American Commission of Human Rights (IACHR) stressed its concern about the “high levels of violence against transgender people” and their low life expectancy.

Under the U.N. 1951 refugee convention, LGBT people who have experienced persecution and hate crimes because of their sexual orientation and or gender identity are eligible to claim
According to a study by the U.N.’s refugee agency, UNHCR, nearly 90 percent of LGBT asylum seekers and refugees from Central America it interviewed in 2016 said they had suffered sexual and gender-based violence in their countries of origin.

Most LGBT people from Central America seek refuge in Mexico and the United States, having made dangerous overland journeys north during which they are often attacked by gangs.

But few claim asylum because authorities in Central America and Mexico fail to inform them about their rights, Amnesty said.

Reporting by Anastasia Moloney @anastasiabogota, Editing by Ros Russell; Please credit the Thomson Reuters Foundation, the charitable arm of Thomson Reuters, that covers humanitarian news, women’s rights, trafficking, property rights, climate change and resilience. Visit http://news.trust.org

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Prominent Honduran LGBT rights advocate was brutally attacked inside his home on Monday

Criterio, a Honduran newspaper, reported a man rang the doorbell of David Valle’s home in the Honduran capital of Tegucigalpa at around 10 p.m. local time.

Valle, who is with the Center for LGBT Development and Cooperation, an advocacy group known by the acronym SOMOS-CDC, opened the door and the man immediately smashed his head against a wall.

Criterio reported Valle tried to use his feet to shut the door.

The man who attacked Valle chased him through his home with a “knife-like weapon.” Criterio reported the man beat Valle for more than 10 minutes before he left with his cell phone and the keys to his home and car.

Valle’s roommate found him roughly three hours later when he arrived home.

Personnel at the Honduran Institute of Social Security — a government agency that provides health care — treated Valle before his transfer to a private hospital on Tuesday.
Honduran advocates with whom the Washington Blade spoke this week said Valle suffered serious injuries to his head and other parts of his body and required dozens of stitches. They said he was brought to a safe house after the hospital discharged him.

“He fought for his life,” SOMOS-CDC Executive Director Alex Sorto told the Blade on Thursday during a WhatsApp interview from Tegucigalpa.

Valle was expected to attend a meeting of Honduran LGBTI advocacy groups in the city of San Pedro Sula on Monday that the U.S. Agency for International Development has organized.

Valle, who ran for office in 2011, has participated in Gay and Lesbian Victory Institute-sponsored meetings and conferences in Honduras, the U.S. and the Dominican Republic. SOMOS-CDC has also received funding from a European Union program that seeks to bolster Honduras’ judicial system and improve access to it.

The Blade has reached out to U.S. officials for comment on the attack against Valle.

**Honduran LGBTI, human rights advocates frequently targeted**

Violence against LGBT and human rights advocates remains commonplace in Honduras, which has one of the world’s highest per capita murder rates.

René Martínez, a prominent activist from San Pedro Sula who was a member of Honduran President Juan Orlando Hernández’s ruling National Party, was strangled to death in June 2016.

The body of Sherlyn Montoya, a volunteer for Grupo de Mujeres Transexuales (Muñecas Arcoíris), a transgender advocacy group, was found in an alley in a Tegucigalpa neighborhood on April 4.

Paola Barraza, Erick Martínez Ávila and Walter Tróchez are among the other LGBT and intersex rights advocates who have been killed since the 2009 coup that toppled then-President Manuel Zelaya. The 2016 murder of Berta Cácares, a prominent environmental and indigenous rights advocate, sparked outrage across Honduras and around the world.

The motive behind the attack against Valle remains unclear, but he and Sorto on April 27 petitioned Honduran authorities to provide them with protection because their advocacy efforts had prompted threats. Sorto told the Blade on Thursday that he and Valle only received “some response” in order to “keep our mouths shut or to satisfy us.”

The Honduran National Police has yet to respond to the Blade’s request for comment.
“Honduran human rights advocates are on the frontlines risking their lives to fight for equality and better the lives of fellow citizens,” Gay and Lesbian Victory Institute Director of International Programs Luis Abolafia Anguita told the Blade on Friday in a statement. “Honduras has already lost too many to violence — including Berta Cáceres in her fight for the environment and indigenous rights, and Rene Martínez in his fight for LGBTQ equality.”

“This vicious attack on David is a reminder of the courage of these activists, and it is essential the government step-up its efforts to protect human rights activists exercising their democratic rights,” he added. “We will continue working with our partners on-the-ground to increase LGBTQ political participation, so that our community has a voice at the table and can work to end the intolerance and violence LGBTQ Hondurans regularly face.”

Michael K. Lavers

Michael K. Lavers is the international news editor of the Washington Blade. Follow Michael
TAB 21
Canadian Among Two Killed in Homophobic Attack in Honduras

According to local reports, the couple was attacked in their home.

By Allison Tierney
May 18 2017, 12:18pm
An attack in Honduras reported to have been motivated by homophobia has left a Canadian man and his partner dead. Gerard Argiud, 80, described as a Canadian national, and his partner, a 42-year-old Honduran named Jorge Sarmiento, were attacked by multiple people on Friday, May 12 in the home they shared in Tela, Atlántida, Honduras, according to local media.

Sarmiento has been referred to as a member of the local LGBT community, reportedly being the previous owner of a gay bar that had shut down recently in the area. According to news reports, Sarmiento died on the scene from being shot, while Canadian Argiud was taken to a nearby hospital after suffering multiple injuries. Argiud died within hours following the attack. Honduran media outlet La Tribuna claims that "strangers" attacked the couple, stabbing and shooting at them.

Tela, the area where Argiud and Sarmiento were killed, is a dominantly Catholic beach town located on the Caribbean coast that has a population of just over 99,000.

The murder of Argiud and his partner has led Atlantis Travel Group to issue the following warning:

"Reports indicate the couple were attacked by several people because of their sexual orientation and position as prominent members of the lesbian, gay, bisexual and transgender (LGBT) community."

VICE reached out to Global Affairs Canada for comment on the attack, which replied saying it had "received no formal reports with regard to the recent death of a Canadian citizen in Honduras."
SAN PEDRO SULA, Honduras — René Martínez was president of Comunidad Gay Sampedrana, an LGBT advocacy group in San Pedro Sula, a city in northwest Honduras, in June 2016. He was also running an outreach center in the city's Chamelecón neighborhood through Youth Alliance Honduras, an organization that is part of an anti-violence program the U.S. Agency for International Development helped to develop.

Martínez was a “well-known” member of President Juan Orlando Hernández's ruling National Party when he disappeared on June 1, 2016. Martínez's relatives identified his body in San Pedro Sula's morgue two days later.

“We worked a lot together,” Allysson Hernández, a transgender rights activist who lives outside of San Pedro Sula, told the Washington Blade on Friday during a telephone interview. “He gave me the space to work on my projects.”

Martínez's murder underscores the very real risks that San Pedro Sula's LGBT activists face in one of the world's most dangerous cities.

San Pedro Sula in 2015 had 171.2 murders per 100,000 people, which made it the most dangerous city in the world that it is not in a war zone. This figure dropped to 111.03 murders per 100,000 people in 2016.
San Pedro Sula is Honduras’ second-largest city with 719,064 people, according to the country’s 2013 Census. The city generates more than 60 percent of the country’s gross domestic product.

Honduras — which borders Guatemala, El Salvador and Nicaragua — is among the most violent countries in the world.

The State Department’s Bureau of Diplomatic Security notes the Central American nation in 2011 had 86.5 murders per 100,000 people in 2011. The Honduran government indicates this figure dropped to 66.4 murders per 100,000 people in 2014, but advocates have questioned these statistics.

Activists: Police are more of a threat than gangs

Maras and pandillas (street gangs) and drug traffickers are largely responsible for the violence that is concentrated in Chamelecón and other poor neighborhoods in San Pedro Sula. Cattrachas, an advocacy group based in the Honduran capital of Tegucigalpa, and activists with whom the Blade spoke said members of the country’s military and Policía Militar (Military Police) routinely commit human rights abuses.

LGBT people are the frequent targets.

“Sometimes the worst violations that we have are with the government,” a San Pedro Sula-based activist told the Blade during a Feb. 10 interview.

The activist, who has been the target of two assassination attempts over the last year, asked the Blade not to publish their name.

“Police officers, soldiers are the ones who violate our rights,” said the activist.

The activist said police officers frequently target trans sex workers for extortion and violence. The activist told the Blade that gangs also force them to pay “daily or weekly rent to do their work on the street” and force them to sell drugs.

The activist said those who publicly criticize the gangs and the police and file formal complaints against them receive threats and often go into hiding. Freddy Funez, an LGBT activist who worked closely with Martínez, largely echoed these accounts.

Funez told the Blade on Feb. 10 during an interview at his office in San Pedro Sula that police officers often extort money from LGBT sex workers in order to allow them to work. He said they also extort money from their clients in exchange for not detaining them and telling their families.

“We are much more afraid of the police,” said Funez.

Funez told the Blade that police officers are responsible for “a great number of” murders of LGBT people in San Pedro Sula. He cited a case in which officers cut off a gay man’s penis before they dismembered him.

“The police can carry out more atrocities and violence than the gang members,” said Funez.

The Blade has reached out to the Honduran government for comment.

‘We have a forced migration’

Funez, Hernández and the activist with whom the Blade spoke all said the lack of employment, education and health care and poverty have made San Pedro Sula’s LGBT community particularly vulnerable to violence and discrimination from the police and gangs. Many feel as though they have no choice but to flee the country.

“They kill them; they assault them,” said the activist. “This, therefore, forces them to migrate. We have a forced migration. They don’t do it because they want to. They are doing it because the situation in which we are living in our country is very difficult.”

Many trans women who migrate to Mexico with the hope of entering the U.S. do so with the assistance of coyotes (smugglers) who frequently force them into prostitution or target them for human trafficking. Gangs that operate along the Mexico-U.S. border also force them into sex work and drug smuggling.

“They are a great danger for them,” said the activist.
Funez told the Blade that eight out of 10 LGBT people in San Pedro Sula still want to migrate to the U.S., in spite of the risks.

“I am in this country; I am LGBT; I don't have employment opportunities; I don't have a quality education that I am going to migrate,” he said, speaking hypothetically. “For us and for the community in Honduras in general and for the LGBT community, it has always seen the United States as the best, as the safest country, as the country that respects human rights a lot.”

“For someone in the community to say I am going to go to the United States and not return to this country is common,” added Funez.


Funez spoke with the Blade 15 days after President Trump signed an executive order that spurs construction of a wall along the U.S.-Mexico border.

Agents with U.S. Immigration and Customs Enforcement have detained hundreds of undocumented immigrants in raids across the country. The White House on Friday denied an Associated Press report that said it planned to mobilize as many as 100,000 National Guard troops to roundup undocumented immigrants in 11 states.

Mara Salvatrucha other street gangs that are responsible for the majority of the violence in San Pedro Sula and across Honduras and in neighboring El Salvador can trace their roots to Los Angeles.

The U.S. in the 1990s began to deport large numbers of foreign-born criminals. Many of them were gang members who ended up in Honduras, El Salvador and Guatemala.

Funez told the Blade that many people “don't understand” why Trump wants to build the wall. He also noted remittances from the U.S. account for a fifth of Honduras’ gross national product.

“For the majority of LGBT Hondurans who have gone, they are people who have dignified work in the United States,” said Funez. “They are feeling productive in the United States.”

The activist who asked the Blade to remain anonymous said LGBT migrants “are going to face more risk” because of the wall.

‘My work is here’ in San Pedro Sula

In spite of pervasive violence and discrimination, San Pedro Sula's LGBT activists insist they have seen progress.

Claudia Spellman, a trans woman who directed an HIV/AIDS service organization in San Pedro Sula, and Josué Hernández, an openly gay man from the Cortés Department in which
the city is located, ran for the Honduran Congress in 2012.

Spellman resettled in the D.C. area with her now wife after she received death threats. Erick Martínez, a prominent gay activist in Tegucigalpa, is running for Congress as a candidate from the left-leaning Liberty and Refoundation and Anti-Corruption Parties.

Trans advocacy groups and their supporters organized a march to the Congress on May 17, 2016 — the International Day Against Homophobia an Transphobia — in support of a bill that would allow trans Hondurans to legally change their names on legal documents. The Honduran government a few weeks later condemned the massacre at the Pulse nightclub in Orlando, Fla., that left 49 people dead and more than 50 others injured.

The massacre took place less than two weeks after René Martínez's murder.

“There has been a very big opening in this country in the political arena,” Funez told the Blade, noting San Pedro Sula is Honduras’ most LGBT tolerant city.

Hernández was equally as optimistic, if not defiant.

“I am going to continue this fight,” Hernández told the Blade.

The activist with whom the Blade spoke on Feb. 10 said emphatically they have no plans to leave San Pedro Sula.

“MY work is here,” said the activist. “When I go to another country, my fight ends.”

“I want to keep fighting until it is possible that there is a gender law, until trans women don’t face human rights violations,” they added.