



# General Assembly

Distr.: General  
11 January 2019  
English  
Original: Spanish

## Human Rights Council

### Fortieth session

25 February–22 March 2019

Agenda item 3

**Promotion and protection of all human rights, civil,  
political, economic, social and cultural rights,  
including the right to development**

## Visit to Honduras

### Report of the Special Rapporteur on the situation of human rights defenders\*, \*\*

#### *Summary*

The Special Rapporteur on the situation of human rights defenders, Mr. Michel Forst, visited Honduras from 29 April to 12 May 2018. The main objective of his visit was to assess the situation of human rights defenders in the country and to determine how it may have changed since his predecessor, Ms. Margaret Sekaggya, visited the country in 2012. That assessment was conducted in the light of the obligations and commitments assumed by the State under international human rights law, including the Declaration on Human Rights Defenders.

He analyses the legal and institutional framework for the protection of human rights defenders and the environment in which they are working. He finds that human rights defenders in Honduras are operating in a civic space that is under siege and subject to serious violations and restrictions of civil and political rights. He also finds that rights defenders are attacked with total impunity and are criminalized, delegitimized and disparaged because of the work they do in promoting and defending human rights.

The Special Rapporteur recognizes the existence of specific groups of human rights defenders who are at risk, including persons who are defending civil and political rights, the human rights of lesbian, gay, transgender, bisexual and intersex persons and indigenous peoples, the land and environment, the human rights of journalists, students and legal professionals, and migrants.

\* The summary of this report is being circulated in all official languages. The report itself, which is annexed to this document, is being issued in the language of submission (Spanish) and English only.

\*\* This report is being issued after its scheduled date of issuance owing to circumstances beyond the author's control.



He concludes that, despite the efforts being made and, in particular, the establishment of a national protection mechanism, the vast majority of human rights defenders in Honduras are unable to work in a safe, supportive environment. In closing, the Special Rapporteur makes a series of recommendations designed to assist the Government and other relevant actors in their efforts to create a safe, supportive environment in which human rights defenders can promote and protect human rights safely and effectively.

## Annex

### Report of the Special Rapporteur on the situation of human rights defenders on his visit to Honduras

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## I. Introduction

1. The Special Rapporteur on the situation of human rights defenders conducted an official visit to Honduras from 30 April to 12 May 2018 at the invitation of the Government. The main objective of his visit was to assess the situation of human rights defenders in the country and to evaluate how it may have changed since the visit of his predecessor, Ms. Margaret Sekaggya, in 2012. That assessment was conducted in the light of the State's obligations and commitments under international human rights law and under the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (Declaration on Human Rights Defenders).

2. The Special Rapporteur visited the capital, Tegucigalpa, and various locations in the departments of La Paz, Atlántida, Intibucá, Santa Bárbara, San Pedro Sula, Yoro, Colón and Choluteca. During his visit, the Special Rapporteur met with the President of the Republic and high-level officials from the Ministry of Human Rights, the Ministry of Security, the Ministry of National Defence, the Ministry of Foreign Affairs, the Public Prosecution Service, the Office of the Counsel General of the Republic and the Supreme Court. He also met with commissioners from the Public Information Institute and officials representing the Government, the Public Prosecution Service and the National Police Force at the departmental and municipal levels. In addition, the Special Rapporteur held talks with the Office of the National Commissioner for Human Rights (CONADEH) and the National System for the Protection of Human Rights Defenders, Journalists, Media Professionals and Justice Officials.

3. The Special Rapporteur met with more than 400 human rights defenders – 40 per cent of them women – drawn from various sectors of civil society who are working in a number of fields; they included lawyers, journalists and representatives of non-governmental organizations and indigenous communities.

4. During his visit, the Special Rapporteur participated in a public event organized by the Centre for Justice and International Law and the Office of the United Nations High Commissioner for Human Rights (OHCHR) on comprehensive action to protect rights defenders in Honduras and issued a joint statement with the National Council for the Protection of Human Rights Defenders, Journalists, Media Professionals and Justice Officials.<sup>1</sup>

5. The Special Rapporteur wishes to express his gratitude to the Government for its invitation and for its cooperation before and during his visit. He extends his thanks to the State, departmental and municipal authorities who met with him and to the OHCHR office in Honduras for its invaluable support in connection with his visit. He is also grateful to all those who met with him and shared their experiences and insights.

## II. The legal and institutional framework for the protection of human rights defenders

6. The Constitution of 1982 states that Honduras is a free, democratic and independent republic and guarantees the fundamental rights and freedoms that ensure the existence of ample civic space, the participation of citizens in public and political life and the involvement of civil society in the promotion and defence of human rights.<sup>2</sup> The constitutional framework is reinforced by the international and regional treaties ratified by Honduras, which form part of the domestic legal order immediately upon entering into

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<sup>1</sup> <https://www.ohchr.org/Documents/Issues/Defenders/JointStatementConsejoNacionalProteccionDefensores.pdf>.

<sup>2</sup> The Constitution recognizes freedom of opinion (art. 72), freedom of thought (art. 77), freedom of assembly and association (arts. 78 and 79), the right to political participation (arts. 2 and 37) and the principle of non-discrimination. See also articles 65, 68, 69, 84, 98, 182 and 183.

force and take precedence if they conflict with domestic law. Honduras has ratified nine key international human rights treaties,<sup>3</sup> the core regional human rights treaties<sup>4</sup> and International Labour Organization (ILO) Indigenous and Tribal Peoples Convention, 1989 (No. 169) and voted in favour of the United Nations Declaration on the Rights of Indigenous Peoples.

7. In recent years, Honduras has made significant efforts to improve its legal, public policy and institutional framework with a view to facilitating a safe and supportive environment for the defence and promotion of human rights.

8. In 2013, Honduras adopted the first Public Policy and National Action Plan on Human Rights (2013–2022), which includes a chapter on rights defenders.<sup>5</sup> Two years later, Congress passed the Act on the Protection of Human Rights Defenders, Journalists, Media Professionals and Justice Officials, which established a national protection mechanism.<sup>6</sup> The adoption of the associated regulations in 2016 was a significant step forward in the Act's implementation. The passage of the Act and the establishment of the mechanism are both milestones in the effort to protect human rights defenders in Honduras and reflect one of the key recommendations made by the previous Special Rapporteur.<sup>7</sup> Despite these significant steps, however, the Government has not adopted a comprehensive public policy or an adequate budget for the protection of human rights defenders.

9. Access to justice and accountability remain major challenges, particularly in relation to cases in which human rights defenders have been threatened, attacked or killed. In recent years, Honduras has established a competitive selection process for the appointment of 191 judges, created new courts in rural areas and developed a plan to reduce delays in court proceedings. Since 2012, and with support from the Government of the United States of America, the number of prosecutors and the budget of the Attorney General's Office have doubled. Furthermore, 11 special prosecutor's offices have been created, including the Office of the Special Prosecutor for the Protection of Human Rights Defenders, Journalists, Media Professionals and Justice Officials, which was established in March 2018. Despite these efforts, impunity remains widespread. To date, the budget of US\$ 830,000 pledged for the new Attorney General's Office has not been made available, and the adoption of a special protocol for the investigation of offences against rights defenders remains pending. The Special Rapporteur regrets the irregularities observed in the selection process for the post of Attorney General.

10. Following an investigation and a drive to clean up the country's law enforcement agencies, 4,925 police officers have been dismissed for alleged misconduct or as part of an administrative reorganization process. The progress made in this regard is diminished, however, by the involvement of the armed forces in carrying out police functions and maintaining public order since 2011. There is no indication that this "temporary" measure will be lifted in the near future; on the contrary, it appears set to continue.

11. The opening of the OHCHR office in Honduras in 2015 was an important step in supporting human rights and protecting rights defenders. Also noteworthy is the implementation of the Honduran Recommendations Monitoring System (SIMOREH), which compiles the recommendations made to the Government by the various international and regional human rights mechanisms.

12. The Ministry of Human Rights, which was elevated to ministerial level in January 2018, has recently requested support from OHCHR in drafting a national plan on business and human rights. Although this is a positive development, since it involves the participation of society and indigenous and campesino groups, it is being seriously undermined by other government initiatives. On 17 August 2018, the Government renewed

<sup>3</sup> [https://tbinternet.ohchr.org/\\_layouts/TreatyBodyExternal/Treaty.aspx?CountryID=76&Lang=SP](https://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Treaty.aspx?CountryID=76&Lang=SP).

<sup>4</sup> [www.poderjudicial.gob.hn/transparencia/regulacion/Documents/Tratados/PrincipalesTratadosInternacional.pdf](http://www.poderjudicial.gob.hn/transparencia/regulacion/Documents/Tratados/PrincipalesTratadosInternacional.pdf).

<sup>5</sup> [https://www.ohchr.org/Documents/Issues/NHRA/Honduras2\\_sp.pdf](https://www.ohchr.org/Documents/Issues/NHRA/Honduras2_sp.pdf).

<sup>6</sup> Legislative Decree No. 34-2015 of 16 April 2015. Article 19 establishes the National Protection System, commonly known as the national protection mechanism.

<sup>7</sup> A/HRC/22/47/Add.1, paras. 124 and 132.

a ministerial agreement that, if approved by the Public Information Institute, would ensure that the content of environmental permits granted to companies and extractive industries would remain classified for five years.<sup>8</sup> Information on the type and location of approved concessions or projects would not be available to the public, leaving those affected by them legally defenceless and hindering the work of journalists and advocates.

13. The potentially adverse effects of this agreement would be exacerbated by the absence of an adequate legal framework for upholding the right of indigenous peoples to free, prior and informed consent. The Special Rapporteur is concerned at the prospect of the passage of the new draft framework legislation on free, prior and informed consultation with indigenous and Afro-Honduran peoples presented in May 2018. According to the information received, there was an insufficient degree of consultation with indigenous peoples on the legislation, which suffers from even greater shortcomings, both in methodology and in substance, than the previous draft and conflicts with the international legal framework in force, in particular ILO Convention No. 169 and the United Nations Declaration on the Rights of Indigenous Peoples.

### III. Situation of human rights defenders

14. During his visit, the Special Rapporteur assessed the presence or absence of the basic elements of a safe and supportive environment for human rights defenders, namely a supportive legal and institutional framework, access to justice, a robust and independent national human rights institution, effective, gender-sensitive policies and protection mechanisms specifically focusing on at-risk groups, non-State actors who respect and support the work of human rights defenders and a strong, dynamic community of human rights defenders. His ultimate aim was to determine whether rights defenders in Honduras are safe and empowered.

#### A. Civic space under attack, against a backdrop of serious violations and restrictions of civil and political rights

15. The Special Rapporteur's visit took place three months after President Juan Orlando Hernández took office in January 2018 following the presidential elections of 26 November 2017. The constitutionality of the current President's candidacy, the electoral process and the result of the elections was questioned by much of society. Many people took to the streets across the country, availing themselves of their civil and political rights to protest what they perceive as electoral fraud and to challenge the results of the election.

16. The State's response to the demonstrations and protests that followed the elections gave rise to serious human rights violations that severely restricted the populace's civic space.<sup>9</sup> That response was marked by the excessive use of force, mass arbitrary arrests,<sup>10</sup> ill-treatment and the filing of criminal charges against hundreds of people in connection with their participation in the demonstrations.<sup>11</sup> A total of 23 people, including 1 police officer, were killed and 166 wounded during operations to disperse and pursue protestors; at least 16 shooting deaths and 30 gunshot injuries are thought to have been caused by State security forces.<sup>12</sup> Journalists and rights defenders, particularly those who organized and participated in protests, were also subjected to violence, intimidation, threats, surveillance, monitoring and stigmatization. In addition, the newly elected President declared a state of emergency, which led to violations and restrictions of the rights of assembly, political

<sup>8</sup> See Ministerial Agreement No. 1402-2018 of 17 August 2018.

<sup>9</sup> ACI Participa, *Honduras: represión y criminalización frente a la protesta social*, 2017.

<sup>10</sup> Office of the National Commissioner for Human Rights (CONADEH), *Informe Anual 2017*, paras. 69–71. CONADEH documented the arrest of at least 1,675 people for violating the curfew between 1 and 5 December.

<sup>11</sup> Office of the United Nations High Commissioner for Human Rights (OHCHR), "Human rights violations in the context of the 2017 elections in Honduras", 2018, paras. 46–52 and 72–77.

<sup>12</sup> *Ibid.*

participation and freedom of expression and movement. CONADEH recommended that rights defenders should be exempt from the curfew; its recommendation was not taken up.

17. When the Special Rapporteur arrived in Honduras in April 2018, the streets appeared calm. However, the prevailing tensions and the polarization of society were evident. The members of civil society remained fearful. The Government should urgently clarify what happened, identify the responsible parties, make sure that they are held accountable for their actions and ensure that law enforcement personnel are upholding the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. To date, one police officer is being held in pretrial detention for the alleged murder of a minor during a post-election demonstration, and 18 indictments have been filed against national and military police officers, mostly for abuse of authority, unlawful raids of private homes and making threats. By contrast, 114 people have been charged in connection with offences allegedly committed following the elections, of whom 81 are awaiting trial and 3 have been deprived of their liberty.<sup>13</sup>

18. Beyond the application of concrete measures to address the recent post-election crisis, the Government should implement comprehensive legislative, political and other reforms based on a new approach that ensures the existence of a broad civic space in which citizens can participate in public affairs, take part in demonstrations and express grievances and dissent. Only then will rights defenders be able to promote and defend human rights in an effective and safe manner.

19. In this context, certain existing legislative initiatives and legal frameworks should be reviewed. In January 2018, Congress adopted a new Criminal Code which has not yet entered into force and has not been made public. The Special Rapporteur has seen what is understood to be the most recent text and is concerned that the enforcement of some of the criminal offences delineated in the new Code could lead to the imposition of undue restrictions on freedom of assembly and expression and the right to participation and, hence, on the civic space.

20. The offence of unlawful occupation of a premises, as defined in the new Criminal Code, could result in the criminalization of individuals who are exercising their right to peaceful assembly if it is applied in the context of peaceful demonstrations or evictions even when the persons concerned have no intention of taking possession of the premises in question.<sup>14</sup> Similarly, the new broadly defined offences of unlawful assembly and unlawful demonstration could result in the criminalization of rights defenders and have a deterrent effect on them. While, under the new Code, defamation is no longer a criminal offence,<sup>15</sup> the offences of libel and slander, which are punishable by deprivation of liberty and fines, respectively, are retained. In the area of terrorism, while the recent repeal of the controversial article 335 B of the 1983 Criminal Code is a positive step, the offence of association for purposes of engaging in terrorism contained in the new Code has an excessively broad scope that could permit the criminalization of other forms of conduct and could be used against rights defenders. If it is passed, the bill on cybersecurity and measures to protect against acts of hatred and discrimination on the Internet and social networks could be used to silence rights defenders and journalists who publish content on the Internet and social media platforms, thereby constraining the digital civic space in Honduras.<sup>16</sup>

21. The Special Rapporteur has also received worrying information which indicates that the role being played by the National Council for Defence and Security in certain areas is impacting negatively on the civic space and revealing a growing concentration of power in the executive branch and increasing interference by it in the legislative and judicial branches. The Council is the highest body responsible for the development, design and

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<sup>13</sup> Information provided by the Office of the United Nations High Commissioner for Human Rights (OHCHR).

<sup>14</sup> Article 378 of the new Criminal Code.

<sup>15</sup> Human Rights Committee, general comment No. 34 on article 19: freedoms of opinion and expression, para. 47. See also articles 229 and 230 of the new Criminal Code.

<sup>16</sup> <https://www.ohchr.org/Documents/Issues/Opinion/Legislation/OL.HND.07.06.18.pdf>.

oversight of general policies on security, national defence and intelligence. Through the adoption of the Act on the Classification of Public Documents relating to Security and National Defence of 2014, the Council has designated the documents of at least 16 public institutions as classified. The Act not only runs counter to national legislation and international standards in the areas of anti-corruption measures and access to information, but also deals a serious blow to the progress made by the Public Information Institute in opening up access to such information.<sup>17</sup>

## **B. Widespread attacks on rights defenders committed with total impunity**

22. Organized crime, drug trafficking, gang violence and corruption are the root causes of the high rates of violence in Honduras. Concerted efforts have halved the murder rate in the last six years.<sup>18</sup> However, the level of violence, threats and extortion remains alarmingly high and has an impact on human rights defenders operating in this difficult environment. Around 95 per cent of femicides and 97 per cent of homicides go unpunished.<sup>19</sup> The Global Impunity Index ranks Honduras among the 13 countries with the highest levels of impunity in the world.<sup>20</sup>

23. Honduras remains one of the most dangerous countries in Latin America for human rights defenders. The Special Rapporteur regrets that there are no official statistics on cases in which rights defenders have been attacked or killed. According to information from OHCHR, between 2015 and October 2018 at least 43 rights defenders were killed, with 6 of those murders being committed since 2017. The number of rights defenders killed in the last two years represents a significant decrease that is in line with the overall drop in the homicide rate; however, 16 demonstrators were also shot to death by law enforcement officers following the election.<sup>21</sup> At least 76 journalists were murdered between 2001 and 2017,<sup>22</sup> at least 11 defenders of the rights of lesbian, gay, bisexual, transgender and intersex persons were killed between 2008 and the beginning of 2018,<sup>23</sup> more than 120 land rights defenders were killed between 2010 and 2017<sup>24</sup> and, in the last two years, there have been 2,137 attacks on female rights defenders, 6 of whom have been murdered.<sup>25</sup>

24. Rights defenders are also the target of threats, harassment, intimidation and beatings, as well as being stigmatized and portrayed as criminals in media smear campaigns. The Special Rapporteur was told that, while such attacks are perpetrated by members of the national police and the army, hired assassins and unidentified persons, they are instigated by corrupt public officials and corrupt members of the business sector and of the security forces who collude for profit.

25. The vast majority of murders and attacks targeting rights defenders go unpunished; if investigations are launched at all, they are inconclusive. The case of the human rights defender Berta Cáceres could become the first exception if – in addition to the conviction of her murderers – progress is made in holding the individuals who ordered and funded the killing accountable by ensuring that they are identified, investigated, prosecuted and punished. The Special Rapporteur has requested the Honduran authorities to provide information on the extent of impunity existing in relation to attacks and other forms of violence directed at defenders and journalists; to date, none has been received. Impunity perpetuates violence against defenders and sends the message that there are no consequences for attacking them.

<sup>17</sup> In recent years, the Institute has established a national system and a network of information officers.

<sup>18</sup> <https://www.insightcrime.org/news/analysis/7-keys-understanding-honduras-declining-homicide-rate/>.

<sup>19</sup> Information from the Centre for Women's Rights and the Department of Security, Honduras.

<sup>20</sup> [https://www.udlap.mx/cesij/files/IGI-2017\\_esp.pdf](https://www.udlap.mx/cesij/files/IGI-2017_esp.pdf).

<sup>21</sup> See footnote 11.

<sup>22</sup> Office of the National Commissioner for Human Rights (CONADEH), *Informe Anual 2017*.

<sup>23</sup> Cattrachas Lesbian Network, Media Monitoring Centre, April 2018.

<sup>24</sup> Global Witness, *Honduras, The Deadliest Country in the World for Environmental Activism*, January 2017.

<sup>25</sup> National Network of Women Human Rights Defenders in Honduras, report on the situation of women rights defenders 2016–2017, *Defender para vivir*, Tegucigalpa, 2018.

26. The work done by the Mission to Support the Fight against Corruption and Impunity in Honduras to support and strengthen Honduran institutions and assist them to prevent, investigate and punish acts of corruption is a fundamental part of the efforts being made to combat impunity. The Special Rapporteur commends the Mission and the Organization of American States on their decision to launch an investigation into allegations of corruption in the Berta Cáceres case and is following with concern the possible negative impact of the Supreme Court's ruling in the case known as the "Network of Deputies", notwithstanding its recognition of the constitutionality of the agreement establishing the Mission.<sup>26</sup>

### **C. Criminalizing, undermining and discrediting of rights defenders and their work**

27. Defenders and journalists in Honduras face criminal charges for carrying out their work. The practice of criminalizing the defence of human rights or threatening to do so is widespread, affecting in particular those who defend land, environmental and civil and political rights and those who report irregularities in State or business operations or violations committed by the Government or companies.

28. Defenders are criminalized primarily through the intentional misuse of criminal legislation. The offences of unlawful occupation of a premises and coercion, as defined in the Criminal Code in force, are the charges most often used against persons organizing or participating in demonstrations or sit-ins or setting up encampments in private or public spaces, including campesinos, indigenous persons and students.<sup>27</sup> Although the penalty for such offences is imprisonment, in practice persons convicted of these charges are often given alternative penalties, such as the obligation to appear before the judicial or police authorities once a week or a ban on travelling outside the country or returning to the location of a protest. These measures have a major financial impact, especially for campesino and indigenous defenders, and make it difficult for female rights defenders to manage the additional burden of caring for their dependants and shielding their children from criticism and taunting.

29. According to OHCHR, during the protests that followed the elections, 1,352 demonstrators were arrested for breaking the curfew established by Executive Decree No. PCM-084/2017.<sup>28</sup> The Special Rapporteur deplores the criminalization of demonstrators arrested on that charge. Without prejudice to the presumption of the innocence of the 80 individuals who remain accused of having committed offences during the protests,<sup>29</sup> these accusations cannot and should not be used to undermine the peaceful exercise of civil rights by thousands of people.

30. The Special Rapporteur is also concerned about the use of the offences of slander, libel and defamation, as defined in the existing Criminal Code, against journalists and defenders, and he fears that this may continue under the new Criminal Code.<sup>30</sup> In 2016, the journalist Ariel D'Vicente was sentenced to three years in prison and barred from exercising his profession as a result of a complaint filed against him for reporting corrupt practices involving Mr. Mejía Tinoco, then the Chief of Police in Choluteca. Two years later, Mr. Mejía Tinoco, who had since become Police Commissioner and been a member of the protection mechanism until 10 October 2018, was arrested on charges of money-

<sup>26</sup> <https://dplfblog.com/2018/06/12/el-fallo-de-sala-constitucional-de-la-corte-suprema-hondurena-sobre-la-maccih-si-pero-no/>.

<sup>27</sup> See articles 206 and 227 to 230 of the Criminal Code now in force.

<sup>28</sup> During the same period, the Office of the National Commissioner for Human Rights (CONADEH) recorded 1,675 cases and the national police 1,150 cases.

<sup>29</sup> The charges laid include criminal property damage, arson, manufacture and possession of explosive material, theft, unlawful possession of weapons, conspiracy, infliction of serious bodily harm and murder.

<sup>30</sup> Human Rights Committee, general comment No. 34, para. 47.

laundering. During his visit, the Special Rapporteur met with at least one other defender also accused of libel: Miriam Miranda, a defender of the Garifuna people's land rights.<sup>31</sup>

31. The practice of criminalizing journalists' professional activities and the activities of rights defenders or threatening to do so is used as a deterrent that is intended to stop people from investigating abuses, irregularities or human rights violations. Its impact is severe. In addition to the consequences of the penalties imposed on rights defenders, there is a widespread belief in Honduran society that they are criminals who are breaking the law, when in fact they are exercising their rights and addressing structural problems linked to poverty, inequality and discrimination.

32. In this context of criminalization, politicians, the media and non-State actors, such as companies or religious groups, conduct smear campaigns targeting defenders and journalists that often incite hatred and brand them as political opponents, terrorists, anti-progress groups, anti-nationalists or traitors. One example of this is the successive campaigns that have been waged to defame and undermine Father Ismael Moreno and the journalists and social commentators working at Radio Progreso.<sup>32</sup>

## D. Specific groups of human rights defenders who are at risk

### 1. Defenders of civil and political rights

33. During his visit, the Special Rapporteur spoke with ordinary people, members of the opposition and opposition voters, students, and men and women of different ages, ethnicities and occupations from different parts of the country who had organized and/or attended protests to express their rejection of the electoral process and their desire for free and fair elections. The Special Rapporteur was struck by the accounts of beatings, threats and raids of the homes of protest organizers, by the fear they felt because of these experiences and the militarization of the country and by the heart-rending stories of persons who had lost children or spouses and of young men and fathers who had been disabled by a bullet wound or injuries caused by the tear gas used during the protests.

34. Despite the crackdown, protesters continued to gather in the streets and to take part in *cacerolazos*<sup>33</sup> or sit-ins, among other activities, not only in order to exercise their rights but also in an effort to defend and promote civil and political rights and preserve the civic space.<sup>34</sup> In the Special Rapporteur's view, the people who did so peacefully, especially those who organized campaigns or protests, were acting as defenders of civil and political rights regardless of whether or not they desisted after the social protests died down.

35. The Government recorded 897 protests between 29 November and 28 January, while civil society organizations had recorded 1,155 by the end of December, most of which were peaceful.<sup>35</sup> The Special Rapporteur wishes to stress that "[a]cts of sporadic violence or other punishable acts committed by others do not deprive peaceful individuals of their right to freedom of peaceful assembly"<sup>36</sup> and to make it clear that the organizers of peaceful protests should never be considered responsible for the illegal behaviour of others.<sup>37</sup>

36. The journalists covering events following the election and the human rights defenders monitoring the situation who organized and participated in protests were prime

<sup>31</sup> <http://www.pasosdeanimalgrande.com/index.php/en/contexto/item/2138-miriam-miranda-un-legado-de-lucha-y-sacrificio-por-el-pueblo-garifuna>.

<sup>32</sup> See the press release issued by the Office of the United Nations High Commissioner for Human Rights in September 2018.

<sup>33</sup> Marches where participants bang on pots and pans; this form of protest is also conducted in private homes after curfew.

<sup>34</sup> The national human rights network *Coalición contra la Impunidad* recorded at least 50 reports of protest organizers and participants being threatened, surveilled or followed between mid-December 2017 and 27 January 2018.

<sup>35</sup> OHCHR (see footnote 11 *supra*), paras. 79 to 81.

<sup>36</sup> A/HRC/23/39, para. 49.

<sup>37</sup> A/HRC/20/27, para. 31 and A/HRC/23/39, para. 78.

targets of actions, assaults and rights violations that prevented them from doing their work.<sup>38</sup> The national protection mechanism has dealt with 30 cases related to the post-election situation since 26 November 2017 involving 15 human rights defenders, 9 media professionals and 6 journalists.<sup>39</sup> The Special Rapporteur heard statements and collected documentation concerning journalists and professionals from national and international media outlets who had been held at gunpoint, assaulted or arrested by the security forces for covering the post-election situation.<sup>40</sup> One of the transmission towers of the community radio station Radio Progreso was sabotaged during the post-election riots, and five members of its analysis, investigation and communication team were attacked.

## 2. Defenders of the rights of lesbian, gay, bisexual, transgender and intersex persons

37. Defenders of the rights of lesbian, gay, bisexual, transgender and intersex persons and members of that community in Honduras are often victims of generalized violence. They lack appropriate protection from the State, and attacks against them occur in a context of total impunity and discrimination. According to the lesbian network Cattrachas, between 2008 and November 2018, at least 304 members of that community were murdered, including 11 human rights defenders.<sup>41</sup> To date, there has not been a single conviction, despite the establishment of a special unit on violent deaths among that community.<sup>42</sup>

38. During his visit, the Special Rapporteur heard from many defenders of the rights of lesbian, gay, bisexual, transgender and intersex persons who decried the role of the media and new communications technologies in spreading messages vindicating hate speech directed at this group and its defenders in a climate of total impunity.

39. While the Special Rapporteur was in the country, the decision of the Supreme Court to hear the *amparo* application that had been filed in an effort to obtain the recognition of same-sex marriages or civil unions and allow name and gender changes for members of this community<sup>43</sup> was made public. The Special Rapporteur observed how various national television and print media either produced or conveyed hate speech, discriminatory messages and threats online and on social media directed at lesbian, gay, bisexual, transgender and intersex persons and their defenders. The Special Rapporteur notes that lesbian activists face additional challenges, including attempts by other defenders of sectors of this community to undermine and marginalize them.

40. The Special Rapporteur also received reports from defenders with whom he met during his visit, including members of the organizations Muñecas de Arcoiris (Rainbow Dolls) and the Centro para el Desarrollo y la Cooperación LGBTI (“Somos CDC”), who had been victims of attempted murder, harassment, assault, death threats and sexual offences.

## 3. Land rights defenders and environmental activists

41. Honduras has become one of the most dangerous places in the world for land rights defenders and environmental activists. According to Global Witness, between 2010 and January 2017, over 120 people were murdered for defending the land and the environment.<sup>44</sup> Since then, at least two more activists have been killed and many have received death threats.

<sup>38</sup> OHCHR (see footnote 11 supra), paras. 87 to 98.

<sup>39</sup> Ibid., para. 98.

<sup>40</sup> Office of the National Commissioner for Human Rights (CONADEH), *Informe: violaciones de los derechos humanos en el contexto de las protestas antifraude en Honduras* (Report on human rights violations in the context of anti-fraud demonstrations in Honduras), 2018.

<sup>41</sup> See footnote 23 supra.

<sup>42</sup> Information provided by the Office of the National Commissioner for Human Rights (CONADEH).

<sup>43</sup> The *amparo* application was filed by Indyra Mendoza, a defender of the rights of lesbians, gays, bisexuals and transgender and intersex persons, with the Constitutional Chamber of the Supreme Court.

<sup>44</sup> See footnote 24 supra.

42. The murder of indigenous leader Berta Cáceres for her human rights work in defence of the Guacarque River and in opposition to the Agua Zarca project is known to all. During her life, Berta Cáceres was prosecuted for trespassing, coercion and causing property damage in connection with her activism. The Special Rapporteur met with Ms. Cáceres's family and members of the Consejo Cívico de Organizaciones Populares e Indígenas de Honduras (Civic Council of People's and Indigenous Organizations of Honduras) during his visit. At the time of writing, seven people had been convicted for Ms. Cáceres's murder on 29 November 2018. Although the Special Rapporteur sees this as a positive step, he wishes to stress the importance of investigating, trying and convicting the persons who ordered and paid for her murder. To date, Mr. Castillo, the chief executive of the construction company DESA, is the only person accused of planning the crime (and the fourth to have ties to the armed forces). The Special Rapporteur is concerned at reports of serious irregularities and breaches of due process, in particular reports that access to evidence was denied and that DESA ran smear campaigns targeting the lawyers handling the case and members of Consejo Cívico. Two years after the murder, similar situations, in which the rights of the population groups concerned are disregarded by the sponsors of corporate projects and where activists who oppose the projects are attacked, can be found throughout the country.

43. The recurring issue of land rights remains unresolved, and the leaders of the campesino movement who advocate for land restitution are harshly repressed. Between 2008 and October 2013, 90 campesino deaths<sup>45</sup> were recorded in Bajo Aguán alone, and a further 17 have been recorded since the establishment of a special unit for the investigation and prosecution of violent deaths in Bajo Aguán in 2014.<sup>46</sup> To date, there have been only 12 convictions in connection with these deaths.<sup>47</sup> Yet attacks, forced evictions, harassment and the prosecution of land rights defenders and environmental activists are routine. At least 7,000 campesinos, indigenous persons and Garifuna have been prosecuted for their efforts to defend their land rights.<sup>48</sup>

44. In Pajuiles, the Special Rapporteur heard about the prosecution of community leaders who had taken part in the Campamento Digno por el Agua y la Vida (Dignity Camp for Water and Life), which had been set up in permanent locations at both entrances to Hidrocep in protest against the firm's operations and its pollution of the Mezapa River. The Special Rapporteur wishes to emphasize that the right to peaceful assembly can take the form of a sit-in or gathering whose purpose is to express complaints or desires, and he emphatically opposes the practice of charging activists with trespassing.

#### 4. Indigenous rights defenders

45. The threats made against indigenous peoples are essentially linked to their efforts to defend their land and natural resources, fight racism and discrimination and claim their economic, social and cultural rights and their right to access to justice. Indigenous activists of the Lenca, Maya, Tolupán, Garifuna, Nahua, Pech Tawahka and Miskito peoples frequently face death, prosecution, stigmatization, judicial harassment and discrimination for fighting for the rights of their peoples.

46. The Special Rapporteur heard numerous stories of indigenous persons from various parts of the country taking on national and international companies to defend their ancestral lands and natural resources and protect them from serious damage at the hands of corporate enterprises. In addition, he notes with concern the link between social conflict and a failure to comply with the duty to consult with indigenous peoples, coupled with collusion between public officials, businesses and landowners.

<sup>45</sup> Observatorio Permanente de Derechos Humanos del Aguán (Aguán Permanent Observatory for Human Rights), *Informe estadístico de muertes violentas relacionadas al conflicto de tierras en el Bajo Aguán 2008–2013* (Statistical report on violent deaths in connection with land disputes in Bajo Aguán 2008–2013), 2014.

<sup>46</sup> Information provided by the special unit for the investigation of violent deaths in Bajo Aguán.

<sup>47</sup> Ibid.

<sup>48</sup> Information provided by Vía Campesina.

47. In Santa Bárbara, Lenca indigenous leaders from the departments of Santa Bárbara and Cortés exposed, among others, the case of the El Tornillito hydraulic project, the second biggest in Honduras. The Honduran construction company Hidrovolcan S.A. obtained an environmental permit to build a dam on the Ulúa River and signed an agreement with the Government for the provision of energy in 2012<sup>49</sup> without prior consultation with the communities concerned, of which five could be flooded out of their settlements.<sup>50</sup> These communities recounted their opposition to the project, which they placed on record at a town hall meeting held on 23 February 2017. In addition, they denounced the pressure exerted by the company in collusion with the municipal authorities of San Antonio de Cortés and the national police, as well as the adverse impact of the dam on the livelihoods (farming, livestock and fisheries) of the area's inhabitants.

48. The cases of the Garifuna indigenous communities of Punta Piedra and Triunfo de la Cruz illustrate the challenges faced by Afro-Honduran indigenous land rights defenders in gaining access to justice and effective remedies. Following a long domestic legal battle, these communities, with support from the Organización Fraternal Negra Hondureña (Fraternal Black Association of Honduras), obtained two favourable judgments from the Inter-American Court of Human Rights.<sup>51</sup> The judgments establish the violations committed by the Government, the rights of both communities, including the right to collective property ownership, rights in relation to third parties and with regard to tourism and mining projects conducted by Canadian firms in Triunfo de la Cruz and Punta Piedra, and the appropriate reparations. Three years on, the judgments remain largely unimplemented.<sup>52</sup> On 8 October 2018, the National Agrarian Institute began the process of appraising and demarcating the land in Triunfo de la Cruz.<sup>53</sup>

## 5. Female rights defenders

49. Women activists in Honduras play a very important role in the promotion of human rights, democracy and justice. However, this makes them the target of attacks and serious violations of their rights. In 2016 and 2017, a total of 2,137 assaults were recorded, including serious attacks on life or physical integrity, as well as a large number of campaigns to discredit, undermine or prosecute women activists and numerous threats and acts of intimidation.<sup>54</sup> The documented assaults also include attacks on women defenders of civil and political rights in the aftermath of the elections. According to the same source, 45 per cent of the assailants identified by women activists were police officers, military personnel or other State officials.<sup>55</sup>

50. The Special Rapporteur has identified women land activists and defenders of the rights of indigenous peoples, the rights of lesbians, gays, bisexuals and transgender and intersex persons, and the rights of women as the persons who are the most likely to be attacked and at the highest risk in Honduras. In the last three years alone, 29 attempted murders of such women have been recorded, and 6 women have been killed. The death of indigenous activist Berta Cáceres – a devastating blow to the indigenous movement and to women activists – was followed by the murder of another indigenous land activist, Lesbia Urquía, and by threats directed at other activists in which reference has been made to Berta Cáceres. Since early 2016, at least four women defenders of the rights of lesbians, gays, bisexuals and transgender and intersex persons have been murdered. The violence and fury

<sup>49</sup> Legislative Decree No. 26-2012.

<sup>50</sup> Statements by the Movimiento Ambientalista Santa Barbarens (Santa Bárbara Environmental Association) and Asociación Comunidades Unidas en Pro del Desarrollo Social de la Biosfera del Río Ulúa (Association of Allied Communities for the Social Development of the Ulúa River Biosphere).

<sup>51</sup> Inter-American Court of Human Rights, *Garifuna Punta Piedra Community and its Members v. Honduras*, decision of 8 October 2015, series C No. 304; and *Garifuna Triunfo de la Cruz Community and its Members v. Honduras*, decision of 8 October 2015, series C No. 305.

<sup>52</sup> To date, Honduras has complied with 6 of the 19 reparation measures ordered by the Inter-American Court of Human Rights, decision of 16 September 2016.

<sup>53</sup> <https://ofraneh.wordpress.com/2018/10/16/trtres-anos-despues-de-emision-sentencia-corte-idh-del-caso-triunfo-inician-remedicion/>.

<sup>54</sup> *Defender para vivir* (see footnote 25 supra).

<sup>55</sup> *Ibid.*, p. 25 ff.

unleashed on their bodies are in themselves a message of hate and a further threat to the community.

51. The Special Rapporteur was struck by the statements of female defenders of women's rights who, while helping victims of domestic violence work their way through the corresponding complaint and judicial procedures, were threatened with death and sexual violence and were treated in a chauvinistic, intimidating manner by police officers. Honduras has one of the highest rates of femicide and violence against women in the world.<sup>56</sup> Furthermore, in 2017 the number of attacks against women defenders of sexual and reproductive rights increased as they lobbied for the decriminalization of abortion in the new Criminal Code under three sets of circumstances. The statements made by *Ecuménicas por el Derecho a Decidir* (Ecumenical Groups for the Right to Choose) refer to stigmatization by leaders of the Catholic Church of Honduras, online threats, physical assaults, insults and censorship of the content of their Facebook page.

52. In addition to the risks faced by their male peers, women activists are also the object of gender-specific threats and attacks. Cases of sexual violence and harassment against women activists are rarely reported because of such factors as social stigmatization and fear. The persons who commit these attacks include State officials and strangers but also neighbours, colleagues and even community leaders.<sup>57</sup> Campaigns to discredit and undermine women activists also have a gender component inasmuch as they include attacks on their role as women and their sexuality and are conducted in the domestic, family and community spheres so as to have an impact as "close to home" as possible.

## 6. Journalists, students, law professionals and defenders of migrants

53. Journalists in Honduras are murdered and are the targets of threats, intimidation, attacks, smear campaigns and prosecution in response to their critical analyses of the political situation and in retaliation for exposing human rights violations, their perpetrators and cases of corruption. According to the annual report of CONADEH, at least 75 journalists and media professionals were murdered between 2001 and 2017.<sup>58</sup> In 91 per cent of these cases, there have been no convictions and no suspects have been brought to trial. Women journalists also reported being sexually assaulted. The Special Rapporteur is concerned by the cancellation of the television programme *El Informador*, moderated by journalist Jairo López, who has availed himself of the services of the national mechanism for the protection of defenders and has been the object of death threats, attacks and multiple smear campaigns in which he has been accused of being a terrorist.

54. University students are key actors and promoters of social movements in Honduras. Their calls, through peaceful means, for improvements in the university's workings and management and for greater student participation have been met with criminal charges, administrative penalties, violence and arbitrary detention in the past and especially in recent months. According to information provided to the Special Rapporteur, on 7 September 2017, at least eight students and four human rights defenders, including woman activist Hemde Castro, were violently ejected while documenting and taking part in a peaceful student protest at the National Autonomous University of Honduras. On 1 June, the three high-level officials who had been accused of torture, illegal detention, infliction of bodily harm and breach of official duty for ordering their removal and for the attacks were acquitted. The Special Rapporteur regrets the restriction and violation of student rights in a context of impunity.

55. Between 2010 and 2016, 117 law professionals died violent deaths. Those working on cases of corruption, organized crime, drug trafficking and violence against women are at particular risk. The Special Rapporteur heard the shocking account from the former mayor of Arizona, whose life is in danger, of the murder of a former prosecutor who was acting as his defence lawyer, Carlos Hernández, on 10 April 2018. Mr. Hernández was defending the

<sup>56</sup> The National Violence Observatory has documented a total of 987 cases of women whose deaths were attributable to external causes.

<sup>57</sup> *Defender para vivir* (see footnote 25 supra), p. 75 ff.

<sup>58</sup> See footnote 22 supra.

former mayor, who stood accused, as was Mr. Hernández himself, of trespassing in connection with alleged activities conducted while protesting against the construction by the company Generación Eléctrica (INGELSA) of a hydroelectric dam on the Jalamito River (Atlántida).

56. The defence of the human rights of disappeared migrants is mostly shouldered by female relatives (mothers, wives, aunts, sisters) who have scant financial resources and little schooling. These women defenders have to contend with national institutions' failure to take appropriate action in order to investigate their relatives' disappearance and determine their whereabouts, as is also true of the institutions of countries of transit and destination, and are calling for CONADEH to get involved. Regarding the migrant caravan that left San Pedro Sula on 13 October 2018 for the United States of America, the Special Rapporteur is concerned at the prosecution of migrant rights defenders, who have been accused of setting up the caravan for political gain.

#### **IV. The national mechanism for the protection of human rights defenders**

57. The adoption of the Act on the Protection of Human Rights Defenders, Journalists, Media Professionals and Justice Officials and the launch of the national protection mechanism in 2015 represent significant advances in the protection of rights defenders. The mere existence of the mechanism is an affirmation of these persons' important role in society and the Government's obligation to protect them as they carry out their work. The Special Rapporteur welcomes the fact that civil society is represented on, and participates in, the National Council for the Protection of Human Rights Defenders (the deliberative body set up to advise the mechanism) but calls for greater participation in the other bodies that make up the mechanism.<sup>59</sup>

58. Since its establishment, the mechanism's internal structure, working methods and operations have been strengthened. Nevertheless, the high turnover of State officials working in the various bodies that make up the mechanism interferes with its coordination and effective operation, which detracts from the protection that it can provide to rights defenders. Also, the mechanism is not sufficiently well known outside Tegucigalpa, and coordination with the authorities at the municipal and departmental levels is very weak.

59. Although the mechanism processed only 9 cases in 2015, the year in which it was established, it dealt with 143 cases in 2017 and 140 cases (30 of which related to the post-election period) between 1 January 2018 and 30 September 2018.<sup>60</sup> This significant rise in requests for protection reveals that defenders are placing increased trust in the mechanism, although, as will be seen below, that observation must be qualified. From its inception until the time of the visit, the system granted 1,121 protection measures to 211 persons, the vast majority of whom are defenders, and accepted 221 of the 293 requests for protection measures that it received. The mechanism is currently dealing with 206 requests for protection, of which 127 correspond to defenders, 37 to journalists, 27 to media professionals and 20 to justice officials.

60. Although the annual budget of the national protection mechanism has been increased by 60 per cent, it represents only 15 per cent of the budget of the Ministry of Human Rights and does not appear to be sufficient to address the real needs of defenders in Honduras.

61. In response to the demands of beneficiaries and civil society, the mechanism has broadened the range of protection measures that it offers. In addition to those provided for in the regulations, which primarily relate to police procedures,<sup>61</sup> it now offers preventive,<sup>62</sup> economic,<sup>63</sup> psychological and social assistance as well as measures related to technology

<sup>59</sup> Representatives of civil society occupy 2 of the 14 seats on the Council.

<sup>60</sup> Information provided by the Government.

<sup>61</sup> See article 54.

<sup>62</sup> For example, training in self-defence.

<sup>63</sup> A subsidy for transportation and communication.

and infrastructure. Police intervention, however, still takes precedence over preventive and other measures, a situation that is strongly criticized by defenders.

62. A significant number of the over 400 rights defenders with whom the Special Rapporteur met expressed a deep distrust of the national protection mechanism and, in particular, the police protection measures mentioned above. Defenders continue to identify the national police, the military police and the armed forces as the main perpetrators of human rights violations and attacks against defenders. It is therefore difficult for them to trust officers from these institutions to protect them by availing themselves of the measures provided for under the national mechanism.

## V. National human rights institutions

63. The Office of the National Commissioner for Human Rights (CONADEH) is the national human rights institution in Honduras. It has a clear mandate to protect and promote human rights, including by taking legal action, following up on complaints of human rights violations and conducting promotional and training activities. It has 3 units and 6 national offices in Tegucigalpa, 7 regional offices, 14 departmental offices and a budget that, according to the Commissioner, is still not sufficient to enable the institution to fulfil its objectives and role.<sup>64</sup>

64. In 2011, the Subcommittee on Accreditation of the Global Alliance of National Human Rights Institutions downgraded CONADEH to B status for failing to comply with the Paris Principles.

65. Since 2014, CONADEH has established local networks for vulnerable defenders at the municipal level. From 2015 to 2018, it dealt with a total of 9,629 complaints or reports of alleged human rights violations, of which only a small percentage concerned rights defenders. The Special Rapporteur was told by many different people that they did not trust the institution, particularly in relation to its political independence. Although, in recent years, CONADEH has taken a public position in support of rights defenders, its weak public stance on human rights violations and assaults on civic space in the wake of the elections has generated greater distrust among defenders and civil society.

66. The Special Rapporteur welcomes the Commissioner's initiative to develop an intersectional strategy in collaboration with human rights defenders as a follow-up to the initial recommendations made in the Rapporteur's end-of-mission statement.<sup>65</sup> He urges the Commissioner to ensure that representatives of the most at-risk defenders are included in the process of drafting the strategy and that the strategy is incorporated into the institution's programme of work for the coming years as a matter of priority.

## VI. Role of non-State actors

67. The Special Rapporteur received a great deal of information about the harmful repercussions of corporate operations, in particular those related to the mining, energy, agricultural, forestry, tourism and security sectors throughout the country, and such enterprises' involvement in threats, attacks and abuse directed at human rights defenders, in some cases by security staff. The State should investigate and prosecute the perpetrators and instigators of such violations.

68. During the mission, the Special Rapporteur received information on plans for the construction of the Los Prados solar power plant that were drawn up by the Norwegian company Scatec Solar ASA and by Norfund and may receive funding from the Norwegian Guarantee Institute for Export Credits and the Central American Bank for Economic

<sup>64</sup> Office of the National Commissioner for Human Rights (CONADEH), *Informe Anual 2016*, Tegucigalpa, 2017, p. 19.

<sup>65</sup> Letter from the Commissioner to the Special Rapporteur, dated 15 June 2018, official letter DC-063/2018.

Integration.<sup>66</sup> According to that information, this plan was initiated without proper consultation with the inhabitants of the affected communities and will result in a loss of biodiversity and adversely affect water sources and the environment.<sup>67</sup> On the basis of false testimony, at least 17 inhabitants of the area have been convicted of coercion against company employees and given non-custodial sentences.<sup>68</sup> Inhabitants of the area and demonstrators at the encampments have reported that security guards working for the company Energías Solares S.A. have attacked and intimidated them. The project is proceeding, and the neighbouring communities are reporting that the companies concerned are using strategies aimed at creating divisions among them.

69. Cases have been documented in which members of Catholic and evangelical church authorities have made public statements in various media, including social media, which seem intended to whip up an atmosphere marked by exclusion, harassment and even hatred and discrimination against lesbian, gay, transgender, bisexual and intersex persons and defenders of sexual and reproductive rights. Religious groups have also reportedly carried out attacks about which church authorities have remained silent. The Special Rapporteur urges church authorities to play a positive role in proactively condemning and discouraging violence, discrimination and smears against lesbian, gay, transgender, bisexual and intersex persons and defenders of women's sexual and reproductive rights.

## VII. Community of human rights defenders

70. The meetings that the Special Rapporteur held with over 400 human rights defenders confirmed that civil society is diverse and strong in Honduras. State repression of defenders and public protests, the lack of any response to their demands and the impunity that has prevailed for years have caused the community of defenders to harbour strong feelings of distrust, hostility and rejection towards the Government and public authorities in general. It is necessary for the State and the Government to change the way that they respond to demands and their relations with civil society, which, in turn, needs to be more open to engaging in a constructive dialogue with the authorities on the promotion of human rights.

71. The human rights movement in Honduras could play a role in supporting equality and the eradication of violence against women if it joined forces with rights defenders and these groups worked together to champion respect for women's rights and zero tolerance of gender-based violence within social and human rights movements, as in other spheres. It is important to claim a place for women human rights defenders and their causes on the human rights agenda. The Special Rapporteur reiterates that the formal and informal networks of defenders should be institutionalized and that the various movements and organizations should strengthen and support each other.

## VIII. Conclusions and recommendations

**72. Having examined the information received from the Government, civil society and other stakeholders, the Special Rapporteur has concluded that, despite the efforts made and, in particular, the establishment of a national protection mechanism, the vast majority of human rights defenders in Honduras are not working in a safe, supportive environment. In most of the country, they are in danger, as they face numerous attacks and threats, their activities are criminalized and undermined, and the civic space in which they operate is under attack.**

<sup>66</sup> Scatec Solar and Norfund own 70 per cent and 30 per cent of the plant, respectively, and operate through five local companies: Energías Solares S.A., Fotovoltaica Sureña, Generación Energética, Fotovoltaica Los Prados and Foto Sol.

<sup>67</sup> Residents of the communities of Rancherías, Costa Azul, Guamerú, Prados 1 and 2, El Obraje and El Chagüitón.

<sup>68</sup> <http://www.conexihon.hn/index.php/investigaciones/593-cronica-del-despojo-fotovoltaica-los-prados-segunda-parte>.

73. The human rights violations and the dramatic curtailment of civic space witnessed during the post-election period have aggravated the situation. Although the peak of the crisis has passed, it has not been overcome. The return to the status quo brings a return to a situation in which civil society is subject to restrictions on the right of assembly, freedom of opinion and expression and participation in public affairs against a backdrop of poverty and profound inequality in Honduras.

74. Defenders are individuals who, in their daily struggle to expand the civic space while fending off attacks upon it, confront violations of the civil, economic, political, social and cultural rights of persons who are marginalized, excluded and discriminated against in a context of corruption, violence and impunity.

75. The State has an obligation to protect them, place priority on their human rights agenda and adopt the measures needed to guarantee them a safe, supportive environment, without prejudice to the important battle against drug trafficking being waged by the current Government. The success of the fight against impunity will depend on the existence of the political will to carry out that fight and to overcome the challenges posed by corruption, organized crime and the militarization of public security.

76. In order to facilitate this process, the Special Rapporteur is offering the Government the opportunity to engage in technical cooperation and is putting forward a series of recommendations that should be taken into account by the relevant actors.

77. The Special Rapporteur recommends that the Government:

(a) Refrain from penalizing human rights defenders for their work and ensure that prosecutors and judges promptly receive appropriate training concerning the important role played by rights defenders in society;

(b) Publicly recognize the pivotal role played by rights defenders in society and condemn violations of their human rights and attempts to discredit them;

(c) Ensure prompt and impartial investigations into cases involving threats and violence against rights defenders, bring to justice the authorities and accomplices guilty of perpetrating such offences and provide redress to the victims;

(d) Review, and avoid adopting, legislation that restricts the civic space and the rights to freedom of expression, peaceful assembly and participation in public affairs, together with any legislation that introduces or contains ambiguous definitions, including the relevant sections of the new Criminal Code cited in the report and the law on cyberspace;

(e) Amend the Secrets Act to allow appropriate access to public information in accordance with international standards and the recommendations of the Public Information Institute, the Mission to Support the Fight against Corruption and Impunity in Honduras, and the Inter-American Commission on Human Rights, among other bodies;

(f) Develop a legislative framework for the protection of whistle-blowers;

(g) Ratify the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict and the Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean;

(h) Relaunch an inclusive, appropriate dialogue and consultation process with the broadest possible range of organizations of indigenous peoples in order to adopt, with their consent, a regulatory framework on the right to free, prior and informed consultation of indigenous peoples in the country in accordance with the International Labour Organization (ILO) Indigenous and Tribal Peoples Convention, 1989 (No. 169) and the United Nations Declaration on the Rights of Indigenous

Peoples and implement the recommendations of the Special Rapporteur on the rights of indigenous peoples in this regard. It is also recommended that the new bill on consultation of May 2018 be withdrawn and that the procedure for the approval of Ministerial Agreement No. 1402-2018 be halted;

(i) Adopt a comprehensive public policy on the protection of rights defenders that incorporates intercultural, community and gender perspectives and allocate the budget necessary for its effective implementation in line with the jurisprudence of the Inter-American Court of Human Rights and the judgments handed down in the cases of *Luna López v. Honduras* and *Escaleras Mejía et al. v. Honduras*;

(j) Ensure that the responses to people's needs for protection are differentiated, that they incorporate a gender perspective, are based on culturally appropriate and differentiated assessments of the particular risks facing each defender and are suited to the specific situation of each person, including the nature of his or her work and whether he or she belongs to an indigenous people or to the lesbian, gay, bisexual, transgender and intersex community. These responses should also take into account each person's vulnerability or exposure to forms of violence within his or her family and/or community and should be tailored to the rural, remote or urban setting in question;

(k) Ensure that communities outside Tegucigalpa are made aware of the mechanism and receive training in that regard and strengthen cooperation and coordination at the municipal and departmental levels with a view to providing effective responses and protection throughout the national territory;

(l) Take the necessary measures to ensure that State institutions in all parts of the country are able to recognize and understand the role of defenders, their important function and the work of the national mechanism;

(m) Prioritize the drafting of regulations governing the protection of journalists, media professionals and justice officials in accordance with article 66 of the relevant law;

(n) Prioritize the fight against the impunity of perpetrators of murders, attacks and threats against rights defenders, support the work of the Office of the Attorney General, set up the Office of the Special Prosecutor for the Protection of Human Rights Defenders, Journalists, Media Professionals and Justice Officials and provide it, and all other special prosecutors' offices and specialized units, with adequate financial support and the human resources needed to investigate violations against defenders;

(o) Help to further the important work of the Mission to Support the Fight against Corruption and Impunity in Honduras and ensure its continuity;

(p) Ensure effective coordination and cooperation between the new Office of the Special Prosecutor for the Protection of Human Rights Defenders, the existing Office of the Special Prosecutor for Human Rights, Office of the Special Prosecutor for Crimes against Life, Special Unit for the Investigation of Violent Deaths in Bajo Aguán and Office of the Special Prosecutor for Ethnic Groups;

(q) Adopt a specialized protocol for investigating crimes against rights defenders, taking into account the agreement signed in the case of *Escaleras Mejía et al. v. Honduras*, and ensure the prior participation of civil society.

78. The Special Rapporteur recommends that the Commissioner and the Office of the National Commissioner for Human Rights (CONADEH):

(a) Guide and advise the Government on its human rights obligations, particularly the obligation to ensure ample civic space for civil society in which the rights of peaceful assembly, freedom of expression and political participation are respected and rights defenders enjoy a safe, supportive environment;

(b) Include specific activities in its programme of work related to the promotion and protection of rights defenders, such as monitoring and collecting statistics on attacks against defenders and journalists and on levels of impunity, follow-up on complaints filed by defenders and public recognition of their work.

79. The Special Rapporteur recommends that organizations and agencies belonging to the United Nations system:

(a) Support rights defenders, designate a focal point in the country team to receive their complaints and maintain an ongoing dialogue with defenders and civil society;

(b) Support and promote the expansion of the Office of the United Nations High Commissioner for Human Rights into other parts of the country in order to provide greater protection for human rights defenders;

(c) Provide the staff of their organizations with training concerning the Declaration on Human Rights Defenders, the definition of human rights defenders and their important role in society.

80. The Special Rapporteur recommends that companies and other non-State actors:

(a) Respect human rights, particularly those of rights defenders, and internationally accepted principles relating to business and human rights, including the Guiding Principles on Business and Human Rights;

(b) Conduct assessments, in conjunction with civil society and rights defenders, of the human rights impact of the projects that they carry out;

(c) Hold effective prior consultations before undertaking projects that affect indigenous peoples and ensure that their decisions are respected in accordance with applicable international norms and principles;

(d) Refrain from stigmatizing rights defenders verbally or intimidating them by means of legal proceedings or physical aggression, whether initiated directly or through private security companies.

81. The Special Rapporteur recommends that the international community:

(a) Step up its efforts to apply national and international guidelines on the protection of rights defenders, including through the observation of their trials and the provision of political or financial support to at-risk defenders;

(b) Meet periodically with rights defenders, especially those who are located in rural and remote areas;

(c) Publicly condemn violations of the human rights of defenders and promote and raise awareness of their positive role in society.

82. The Special Rapporteur recommends that religious groups refrain from stigmatizing human rights defenders, particularly those defending the sexual and reproductive rights of women and girls and the lesbian, gay, bisexual, transgender and intersex community, and recognize the important role of faith-based defenders.

83. The Special Rapporteur recommends that civil society:

(a) Ensure that self-defence measures are strengthened and made available to rights defenders facing specific risks or in remote locations;

(b) Address the issue of discrimination against women and lesbian, gay, bisexual, transgender and intersex defenders within the framework of broader human rights movements;

(c) Strengthen its strategy for lobbying the Government and State agencies and promoting dialogue between different actors.