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INTER-AMERICAN COMMISSION ON HUMAN RIGHTS

Situation of Human Rights
in Honduras

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EXECUTIVE SUMMARY

# EXECUTIVE SUMMARY

1. This report addresses the human rights situation in Honduras and offers recommendations intended to assist the State in strengthening its efforts to protect and uphold human rights in the country.
2. Violence and insecurity are serious problems facing Honduran society, with major repercussions on the effective enjoyment and currency of human rights in the country. In 2013, the murder rate in Honduras was the highest in the world, with 79 homicides per hundred thousand inhabitants, according to figures published by the National Violence Observatory of the University of Honduras (UNAH). For 2014, the State reported that based on the UNAH’s figures, the murder rate in Honduras had fallen to 66.4, whereas the UNAH published a figure of 68. Despite the discrepancy in the figures, the IACHR welcomes the decrease. However, the homicide rate remains one of the highest in the region and the world, and it particularly affects youth.

1. The IACHR notes that the levels of violence recorded—and the particular impact on defenders, indigenous peoples, women, children, adolescents and young people, LGBT people, migrants, *campesinos* from the Bajo Aguán, journalists and media workers, and justice operators—are the result of several factors, including the increased presence of organized crime and drug traffickers, the recruitment of children and adolescents, and an inadequate judicial response that fuels impunity, corruption, and high levels of poverty and inequality. In addition, according to the information received, part of that insecurity comes from the National Police, the Military Police, and the Army, through their illegitimate use of force, in some cases in complicity with organized crime. It is of particular concern to the IACHR that these rates of violence and insecurity are exacerbated by the lack of public and other policies to address the inequality and social exclusion that affect large segments of the population. Such is the situation of groups that are vulnerable due to historical discrimination, examined in this report; they face persistent obstacles to the full enjoyment of their rights and a lack of access to justice.
2. During the visit in December 2014, the Commission observed the serious situation faced by human rights defenders, who are targeted in attacks by individuals who have been identified as the perpetrators of human rights violations or, alternatively, by sectors and groups whose interests run contrary to their causes. In addition it noted that as a result of the risk of death or injury they face, a large number of human rights defenders in Honduras are covered by protective measures granted by the Commission, and that those measures require effective implementation by the Honduran State.
3. During the visit, civil society organizations presented the Commission with information on what they describe as repression and political persecution against human rights defenders throughout the country and, most particularly, among defenders of indigenous communities working to protect land rights. The defenders of LGBT people also face a pattern of violence, which is heightened by stereotyped and discriminatory attitudes toward members of that group.
4. The Commission also noted with concern that the situation of widespread violence in the country over recent years has led to a significant increase in the numbers of refugees and asylum seekers in other countries of the region, including unaccompanied children and adolescents and young people who are unaccompanied by or have been separated from their families.
5. The IACHR was also able to observe the grave situation of insecurity related to freedom of expression faced by journalists and other media workers, which makes them a particularly vulnerable segment of the population.
6. The high levels of violence that persist in the country have led to increased demands for justice which, in that they have not received an effective response from the State, have led to a situation of structural impunity. Official figures published in 2013 indicate that 80% of murders committed in Honduras go unpunished due to a lack of capacity on the part of the investigation agencies. During the visit, civil society organizations with which the Commission spoke claimed that the prevailing levels of impunity in Honduras were even higher.
7. Due to its failure to respond effectively and to allegations of corruption and ties with organized crime, the National Police has lost the public’s trust. The State has therefore focused its efforts on legal and institutional reforms, whereby the armed forces have gradually become involved in tasks that do not necessarily correspond to their functions, in the area of regular citizen security, for example. Several stakeholders interviewed during the visit spoke of a process of growing militarization to deal with insecurity and consequently, of an increased military presence in the areas of greatest conflict and of an “open struggle against organized crime,” without a clear process for strengthening the National Police. In this context, a Military Police force was created as well as a group of judges and prosecutors with jurisdiction over the entire nation, with a mandate to accompany the Military Police to ensure that their duties are framed within the law. These judges and prosecutors do not have sufficient guarantees of independence and impartiality to analyze human rights violations perpetrated by the members of said Police. Based on its analysis, the IACHR has identified a series of concerns among others that military forces carry out activities not related to the country’s defense, but to law enforcement, matters that should correspond to the police.
8. The IACHR welcomes the Honduran State’s openness toward international scrutiny and the measures the State has taken to address the situation described in the report. In particular, it commends the enactment of the Law on the Protection of Human Rights Defenders, Journalists, Media Workers, and Justice Operators, which was passed unanimously by the National Congress on April 15, 2015. In addition, the IACHR applauds the government’s decision to invite an enhanced presence in the country by the United Nations Office of the High Commissioner for Human Rights. The Headquarters agreement was signed  on May 4, 2015. The IACHR also notes the Collaboration and Good Faith Agreement for the Promotion of Transparency, the Fight against Corruption, and the Strengthening of Integrity Systems, signed by the Government of Honduras and Transparency International on October 6, 2014. The Commission also acknowledges that a step forward has been taken with the Public Policy and National Action Plan for Human Rights that is currently being implemented and the National Plan Against Violence against Women 2014-2022.
9. The Commission also notes the progress that has been made on the legislative front in recent years in the area of human rights, such as the adjustment of criminal legislation to international standards; the Law against Trafficking in Persons; the National Policy on Women and the II Plan on Gender Equality and Equity of Honduras; and the creation of the National Migration Institute and the Task Force on Migrant Children. Also in terms of access to justice, the Commission welcomes initiatives such as the Violent Death Unit of Bajo Aguán and the creation of criminal investigation agencies so as to centralize investigative efforts, even though in practice, according to information the Commission received, there may be a need for greater coordination and transfer of capacity between existing units. The IACHR also welcomes government initiatives to strengthen and improve the various entities that participate in the administration of justice. However, it takes note of some objections to certain aspects of the methodology. In addition, the IACHR notes that the creation of the Secretariat of Human Rights, Justice, Interior, and Decentralization (“Secretariat of Human Rights”) has demonstrated the capacity for effective coordination among institutions, and the Commission hopes that this agency is given sufficient funding to carry out its mandate effectively.
10. Regarding the administration of justice, during the visit the Commission received information on measures adopted in order to rebuild the public’s trust in the justice system, to bolster efforts against organized crime, and to reduce corruption. Nevertheless, the IACHR points out that important challenges to the effectiveness of the measures adopted remain in place. Several of those challenges arise from the regulatory framework deployed by the State to regulate the selection and disciplinary processes applicable to justice operators. Specifically, the Commission noted with concern the functioning of the Judicature Council: according to the information received, its procedures—in particular, its selection and appointment processes—are not being conducted transparently, nor are justice operators being guaranteed access under conditions of equality and in accordance with their merit. The IACHR also received information regarding the clean-up process in the judiciary and the administration of trustworthiness tests to several public officials—including justice operators—which reveals possible threats to the independence of judges and prosecutors.
11. At the same time, during the visit the Commission noted the continued existence of high levels of inequality and social exclusion affecting large sectors of the population. Specifically it observed the serious difficulties and challenges in their access to basic needs, employment opportunities, natural resources, including land, and means of subsistence. Women, indigenous peoples and Afro-descendants are some of the most vulnerable segments of the population as a result of discrimination and persistent economic and social exclusion, which in turn translates into violations of their human rights. In particular, the IACHR received testimony on the grave situation faced by women employed at transnational textile companies and by Miskito divers.
12. As regards people deprived of their liberty, the IACHR has examined some of what it considers to be the most serious problems within the Honduran prison system such as internal control of security and internal matters and the associated lack of effective control by the authorities; overcrowding and deplorable detention conditions; and the failure to classify detainees, including the failure to separate men from women at some detention facilities and to separate convicted persons from those awaiting or standing trial, as well as major problems in the area of juvenile justice.
13. The Commission hopes that this report will assist the Honduran State in breaking the prevailing cycle of impunity and in adjusting the mechanisms it has created in recent years, in order to ensure the effective prevention and investigation of human rights violations and the prosecution and punishment of those responsible. Accordingly, the IACHR offers a series of recommendations to the State of Honduras.

CHAPTER 2
CITIZEN SECURITY

# CITIZEN SECURITY

## Violence and citizen insecurity

1. Violence and insecurity are serious problems that face Honduran society, with major implications for the enjoyment and effective exercise of human rights in the country.[[1]](#footnote-1) The homicide rate in Honduras is one of the highest in the region. According to a study by the United Nations Office on Drugs and Crime (UNODC), in Honduras the homicide rate per 100,000 inhabitants increased from 50.9 in 2000 to 81.8 in 2010, 91.4 in 2011, and 90.4 in 2012.[[2]](#footnote-2) Regarding the number of homicides registered in 2012, the rector of the National University of Honduras (UNAH), using a different methodology from that of UNODC, stated that the rate was 85.6, and not 90.4 as UNODC had stated.[[3]](#footnote-3)
2. In 2013, the homicide rate in Honduras was the highest in the world, with a rate of 79 per 100,000 inhabitants, according to figures released by the Observatory of Violence at UNAH.[[4]](#footnote-4) By 2014 the State indicated that, based on figures from UNAH, the homicide rate in Honduras had dropped to 66.4, while UNAH published the figure of 68.[[5]](#footnote-5) Despite the discrepancy in the figures, the IACHR welcomes the decrease. However, observes that the homicide rate remains one of the highest in the region and the world.[[6]](#footnote-6)
3. By 2015, official figures reported in the media from the Online Police Statistical System (SEPOL) and the National Interagency Security Force (FUSINA) indicated that the total number of violent deaths recorded through October 31 amounted to 4,266 homicides.[[7]](#footnote-7) That figure was a reduction of 480 cases compared to the same period in 2014.[[8]](#footnote-8)
4. In its response to the draft of this report, the State of Honduras noted that one constant throughout the draft report of the IACHR is the grave situation of violence in Honduras, which has a greater impact on groups in a situation of vulnerability. The State indicated that as part of its new structure, it has therefore decided to create the Cabinet on Prevention, Peace, and Coexistence, which will be responsible for coming up with actions to combat insecurity, taking a comprehensive approach that empowers citizens to exercise their rights in a culture of peace and respect.
5. According to UNODC and civil society organizations, these levels of violence that have been recorded are the result of several factors among which are: the increase of organized crime and drug trafficking following the coup, due to ineffective maintenance of law and order[[9]](#footnote-9); the phenomenon of gangs; a poor legal response leading to impunity; corruption; and high levels of poverty and inequality. Also, according to civil society organizations, the atmosphere of insecurity is partly caused by the police force, military police, and armed forces themselves, through their illegitimate use of force and sometimes in collusion with organized crime. In this regard, during the visit several organizations made reference to a growing militarization of the country and therefore a greater military presence in the areas experiencing the most conflict.
6. In fact, during its visit the Commission noted that one of the central pillars of the State’s response to the serious structural problems of violence, impunity, corruption, and organized crime in the country is the intervention of the Armed Forces in many spheres and functions. The Army actively participates in citizen security responsibilities through specialized forces such as “military police,” despite international standards indicating that citizen security should be the exclusive jurisdiction of a civilian police force, one that is respectful of human rights. The Honduran Army is also said to have an influence on the investigation and punishment of crimes involving organized crime,[[10]](#footnote-10) through the National Defense and Security Council. This has led to the creation, in point of fact, of a proceeding with characteristics that resemble a special jurisdiction for members of the military police.
7. The Armed Forces are also involved in matters related to the civic education and training of children at “social risk,” through the “Guardians of the Nation” program. The Commission expressed its concern regarding the risks involved in the fact that children and young people between 5 and 23 years of age are being trained at military installations and are using militarized plazas, parks, and soccer fields. The Army also plays a role in the prison system, and is sent to carry out security tasks in areas where there are agrarian and land conflicts, such as in Bajo Aguán.
8. Over time, the high level of violence in Honduras has generated a situation of insecurity among the population; this is of such a magnitude that it has resulted in the widespread possession and carrying of firearms, a right that is protected under existing law. Indeed, the Law on Control of Firearms, Ammunition, Explosives, and other Similar, allows anyone to request one or more licenses for the possession and carrying of firearms, and to register up to five firearms[[11]](#footnote-11). It is estimated that in Honduras there are between 800,000 and 1,000,000 firearms in circulation, of which only 282,000 are registered.[[12]](#footnote-12) In this sense, it is imperative that legislation on the use and possession of firearms be reviewed with the goal of regulating their sale, use, and carry permitting.
9. In this context, according to the report on the mission to Honduras of the Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination, private security companies dominate and control the security sector in Honduras. The above-mentioned report refers to the existence of 60,000 private guards, many of which are illegal and unregistered, compared with 14,000 police officers.[[13]](#footnote-13) On the basis of that report, structural and institutional weaknesses, together with the climate of violence and insecurity in the country and the fact that the State cannot guarantee security, have created an environment in which these companies have acquired power and are working without proper supervision and control, and hence with impunity.[[14]](#footnote-14)
10. The high level of violence, and the lack of results of the State’s efforts to combat it, has led in recent years to serious harm against people engaged in different sectors of society, in particular those affected by poverty and social exclusion. As an example, the level of violence against children would have increased in the country and therefore has put children at a greater situation for vulnerability. Also, the situation of violence against the legal profession in the country is quite serious. According to information published by the media, as of December 2014 approximately 84 lawyers had been killed in the preceding five years. In this context, in early 2015 Honduran lawyers reported receiving death threats almost daily. In January 2015, 15 lawyers were murdered for practicing their profession.[[15]](#footnote-15)

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### Indigenous Peoples and Afro-descendants

#### Violence

1. The Commission has previously expressed concern about the challenges faced by indigenous peoples, mainly relating to: (i) the high levels of insecurity and violence arising from the imposition of project and investment plans and natural resource mining concessions on their ancestral territories; (ii) forced evictions through the excessive use of force and (iii) the persecution and criminalization of indigenous leaders for reasons related to the defense of their ancestral territories.[[16]](#footnote-16) Violence against indigenous peoples to a large extent grows out of the struggle for land and territory, which is exacerbated by the conditions of inequality and discrimination faced by these groups and the attendant barriers to their access to justice.
2. During its visit, the Commission received alarming information about murders, violence and death threats against indigenous and Afro-descendants leaders, particularly those who defend their territories and natural resources in the context of mega-projects carried out without prior and informed consultation with the objective of obtaining consent.[[17]](#footnote-17) Among these killings, the IACHR was informed of the murder of the Lenca indigenous leader Tomas Garcia in July 2013, community leader and active member of the Civic Council of Popular and Indigenous Organizations of Honduras (COPINH) who received several bullet wounds allegedly from members of the Honduran Army, while participating in a peaceful sit-in at Achotal, Río Blanco, Department of Intibucá.[[18]](#footnote-18) Concerning threats, the IACHR received information on an alleged incident against María Santos Domínguez, an indigenous defender and coordinator of the Indigenous Council of Río Blanco and Northern Intibucá Sector and member of COPINH. On March 5, 2015, when returning home, María Santos Domínguez was surrounded by seven individuals who attacked her with sticks, stones and a machete. Her husband and son came to her rescue and were also attacked; her son lost an ear.[[19]](#footnote-19) A female defender of indigenous rights in La Ceiba informed the Commission: "[as] they told me, they will kill me. I'm not afraid. I am exposed, waiting for death”.
3. As the Commission has mentioned, many of the attacks against the life and personal integrity of indigenous leaders and defenders are intended to reduce territorial and natural resource defense and protection activities, as well as the defense of the right to autonomy and cultural identity. According to information received, as of October 2014, there have been 27 leaders prosecuted for crimes such as theft of land, damage to the environment and private property, among others.[[20]](#footnote-20) According to the Commission, the acts of aggression, attacks and harassment of leaders, while severely altering cultural integrity, can also contribute to the breakdown of community cohesion around the defense of their rights.[[21]](#footnote-21)
4. Among some of the serious cases of which the Commission is aware is the situation of the Tolupan people, on whose ancestral territory several mining exploitation and hydroelectric dam projects are being developed without consultation. In 2013, three indigenous Tolupanes were allegedly killed because of their struggle in defense of the natural resources in their community, San Francisco Locomapa, Yoro.[[22]](#footnote-22) In this context, on December 19, 2013, the Commission requested the adoption of precautionary measures for the members of the Wide Movement for Dignity and Justice (MADJ) and their families after they received a series of threats, harassment and violence, because of their work in defense of the natural resources of indigenous peoples in this area. [[23]](#footnote-23) Although the precautionary measures are in force, the information received indicates that the violence against this community and against the beneficiaries of the measures has not stopped. In April 2015, Marcia Luis Reyes, husband of Vilma Consuelo Soto, a beneficiary of the measures, was stabbed to death. [[24]](#footnote-24) According to published information, on May 22, 2015, Vilma Consuelo Soto was the victim of an attempt on her life when a neighbor came to her home and fired three shots.[[25]](#footnote-25)
5. The situation of indigenous and Afro-descendant peoples is aggravated by conflicts over territory, whether because of mining or tourism projects or other projects aimed at developing natural resources. Civil society organizations reported that there are 837 potential mining projects, which in territorial terms would account for almost 35% of the nation's territory.[[26]](#footnote-26) Civil society pointed out to the IACHR that there are 98 mining concessions in the departments of Lempira and Santa Bárbara. It also reported that there are 76 hydropower projects with completed feasibility studies and/or operating contracts approved in 14 of the country's 18 departments (Atlántida, Colón, Comayagua, Copán, Cortés Francisco Morazán, Intibuca, La Paz, Lempira, Ocotepeque, Olancho, Patuca, Santa Bárbara, and Yoro).
6. The situation of the Garifuna community of Barra Vieja, which the IACHR visited, is an example of a land-related conflict associated with tourism investment. The members of this community, in the city of Tela, were reportedly victims of orders evicting them from their lands to clear the way for tourism investment projects.[[27]](#footnote-27) The Garifuna people, the product of cultural syncretism between indigenous and African peoples, have asserted their rights in Honduras as an indigenous people. [[28]](#footnote-28) In 2013, the first hotel resort complex opened, and threats, intimidation and persecution of leaders and the population in general continued. [[29]](#footnote-29) Approximately 400 individuals were victims of eviction on September 30, 2014, with the participation of the armed forces and police.[[30]](#footnote-30) This eviction order issued by the First Court of Appeals of La Ceiba, had been the result of an alleged irregular appropriation of part of Garifuna territory in the Bahía de Tela area by the Honduran National Port Authority, which in 2006 had granted 25 hectares of expropriated land from the Miami community with a community title. Later, these lands were illegally sold on to San Pedro Sula businessmen.[[31]](#footnote-31)
7. Regarding the corporations that are implementing these projects, a member of the indigenous people in La Ceiba stated in a meeting with the IACHR that: “they do not want to respect our culture, they do not want to respect our traditions, even worse they mislead us by telling us there will be jobs and that is a bad joke.” Regarding this, the IACHR was informed that megaprojects would be implemented on the land of the indigenous peoples, using their natural resources, without any prior, free, and informed consultation. As for the megaprojects developed on indigenous territory, "We do not want anything that is not ours,” said a member of the Garifuna People in La Ceiba.[[32]](#footnote-32) “What we want is to retrieve what is ours, what they have stolen from us. Our parents, our grandparents, our great-grandparents taught us what is ours," he said. "Before we had coconuts, now we have to go and buy them. And there is no land to plant cassava. Neither is there any source of employment. Here we have young people who have graduated from school, young people who've studied, but there are no jobs,” said a woman over 60 years old who was born and raised there.
8. Out of fear of becoming the victims of violence and due to the threats because of their work opposing several mining projects, some indigenous leaders have had to leave their communities. One example is the case of eight leaders of the Nueva Esperanza and the “Patronato Regional” of the Sector Florida communities, in the municipality of Tela, Department of Atlántida who are the beneficiaries of precautionary measures from the IACHR.[[33]](#footnote-33)
9. The situation of the Independent Indigenous Movement Lenca de la Paz-Honduras (MILPAH) vis-a-vis the construction of hydroelectric projects on its territory has been the subject of concern to various civil society organizations. According to the information received, since November 2013 there has been death threats recorded against some community members.[[34]](#footnote-34)
10. Similarly, in a communication dated July 24, 2014, under the provisions of Article 41 of the American Convention on Human Rights, the Commission requested information from the State of Honduras regarding the situation of the members of the COPINH and other members of the Lenca indigenous community. This was due to the alleged murders, assaults and threats against the community that occurred between May and June 2014. [[35]](#footnote-35) It also requested information concerning the criminal proceedings initiated against 36 leaders of the Lenca indigenous community for the alleged crimes of "sedition prejudicial to the internal security of the State of Honduras and usurpation of functions". These charges related to the alleged seizure of the City Hall building by the above community after rejecting the results of the November 2013 elections, where Mr. Socorro Sanchez was the winner. In response to that request, the State indicated that on July 22, 2014, at the preliminary hearing, the public prosecutor and the defense requested the provisional acquittal of the accused for the offense of sedition, since the elected authorities had taken up their position without interference with the free exercise of their authority. On July 23, 2014, following the preliminary hearing, the First Court of the Intibucá Department ordered a final dismissal of the case for the offense of usurpation of functions due to a lack of evidence that the offense had been committed, and a provisional acquittal with regard to the offense of sedition.[[36]](#footnote-36) In its response, the State did not provide any information about the other acts of violence and threats.
11. Furthermore, the IACHR received information that indicates that on September 3, 2014, members of the police and armed civilians arrived at the premises of the Indigenous Council of Santiago Apóstol firing shots into the air, burning belongings, destroying crops, and stealing agricultural implements. On November 3, 2014, the indigenous rights defender, Calixto Vasquez, was arbitrarily arrested while participating in a peaceful march. It has been reported that since that day, the municipality, its surroundings and the territory where the company has started its work, has been highly militarized.[[37]](#footnote-37)
12. The Commission considers that the initiation of baseless criminal proceedings against defenders may entail a violation of the right to personal integrity when the harassment caused by these actions affects the normal course of daily life and causes great and worrying disruption to the person subject to legal proceedings and his family.[[38]](#footnote-38) Such severity is confirmed by the constant uncertainty about their future.[[39]](#footnote-39) The State must ensure the existence of safeguards to prevent that authorities or third parties manipulate the punitive power of the State and its organs of justice to harass those who are engaged in legitimate activities such as human rights defenders.[[40]](#footnote-40) In this regard the State should also adopt measures to respond to evidence of abuse or manipulation of authorities and third parties.
13. It is important to note that violence against indigenous peoples in Honduras has been exacerbated by the presence of organized crime. Information from certain organizations indicates that in the need to secure drug trafficking routes, violent incursions onto indigenous lands have occurred. Some allegedly drug gangs have forcibly occupied indigenous territories to construct clandestine airstrips. On July 17, 2014, members of the Garifuna community in northeastern Honduras, including the human rights activist Miriam Miranda, were kidnapped by armed men, because in a previous visit to the area they had discovered an illegal landing strip used by drug traffickers. Although at first they were told that they were going to be killed, they were subsequently released.[[41]](#footnote-41) Members of the Tolupan Community of San Francisco de Locomapa in the Yoro department have denounced the threats and systematic persecution perpetrated by armed groups linked to organized crime and mining companies.[[42]](#footnote-42)
14. The Commission considers particularly serious the information that police officers take part directly in acts of harassment, intimidation and violence against indigenous communities and their members. In this regard, it urges the Honduran government to put an end to these acts and to ensure that any activities carried out by the security forces where the defense of indigenous peoples and communities’ ancestral territories are concerned, are consistent with the fundamental role of protecting individuals’ rights to life, liberty and security.
15. On the other hand, the Commission recalls that indigenous peoples have the right to be protected by the State from attacks by third parties, especially when they occur in the context of conflicts over ancestral territory.[[43]](#footnote-43) In such cases, when the State knows or should know about the risk, state authorities are obliged to adopt reasonable measures to prevent the occurrence of such conflicts, protect indigenous communities from violent attacks, and effectively investigate and punish those responsible.[[44]](#footnote-44)
16. The Commission recommends that the State investigate and punish those responsible for the threats, harassment, violence, intimidation and damage done to the property of members of indigenous communities, and in particular to their leaders and authorities. It should also adopt an effective and simple remedy to protect the right of indigenous peoples of Honduras to assert and access their traditional territories and to allow them to protect these lands from actions by the State or others who violate their property rights.[[45]](#footnote-45)

#### Impunity

1. According to information presented by the Observatorio de Derechos Humanos de los Pueblos Indígenas y Negros de Honduras [Human Rights Observatory of the Indigenous and Black Peoples of Honduras], in its Alternative Report for the Committee on the Elimination of Racial Discrimination, even though there is an Office of the Special Prosecutor for Ethnic Groups and Cultural Heritage, complaints filed by indigenous peoples or communities of African descent are not investigated or, in cases in which officials do initiate a process, no orders to prosecute are issued.[[46]](#footnote-46) These organizations believe that one of the main problems faced by indigenous peoples in Honduras has to do with the crisis in the administration of justice, given the lack of independence by the branches of government.
2. The Committee on the Elimination of Racial Discrimination (CERD) indicated that between 2002 and 2013 the Office of the Special Prosecutor for Ethnic Groups and Cultural Heritage received 55 complaints for discrimination offenses, of which 31 are under investigation, 17 were dismissed, 4 were brought to trial, and 3 resolved by other means. Apparently no penalties have been imposed for this offense. The CERD expressed particular concern over the small number of complaints filed with the Special Prosecutor’s Office, as well as the disproportionality between the number of complaints dismissed and those brought to trial.[[47]](#footnote-47)
3. The State, in its response to the draft of this report, indicated that in the context of its area of responsibility, the Office of the Special Prosecutor for Ethnic Groups and Cultural Heritage has taken cognizance of complaints filed for the crime of discrimination in which the complainants have been indigenous women; these have been prosecuted in cases where there has been relevant evidence. Likewise, to raise justice operators’ awareness regarding this issue, the Office of the Special Prosecutor held training sessions in 2013 for indigenous organizations and prosecutors from the Public Prosecutor’s Office. In this context, men and women leaders were given training regarding their rights and access to justice and the responsibilities of the justice institutions to which they should turn to ensure recognition of those rights.[[48]](#footnote-48)
4. The State also indicated that a manual has been drafted for the investigation of violations of the rights of indigenous peoples and Afro-Hondurans—it is still pending publication—in order to provide training regarding crimes committed against indigenous peoples, and specifically the crime of discrimination.[[49]](#footnote-49) The State reported that the manual covers the application of international standards regarding the rights of indigenous peoples, including the obligation of justice operators to offer translation services in criminal proceedings both when members of indigenous or Afro-descendant peoples are complainants and defendants, so as to ensure due process.
5. The State also made reference to the fact that on December 10, 2015, the Office of the Special Prosecutor for Ethnic Groups and Cultural Heritage obtained a conviction in the respective court against members of the Army for the homicide of indigenous leader Lenca Tomás García Domínguez.[[50]](#footnote-50)
6. The IACHR considers it necessary to strengthen the Office of the Special Prosecutor for Ethnic Groups and Cultural Heritage and for this office to be provided with adequate financial and human resources so that it can function properly.

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CHAPTER 3

STATE’S RESPONSE

# STATE’S RESPONSE

## State Strategies to Deal with the Violence

1. In a context of great insecurity, where the national police has lost the confidence of the public due to a lack of effective response, allegations of corruption and links to organized crime, the State has focused its efforts on legal and institutional reforms, with the increased participation of the Armed Forces in functions that do not necessarily suit their natural role, relating, for example, to regular citizen security tasks. Various actors interviewed during the Commission’s visit referred to the existence of a process of militarization to address insecurity and an "open fight against organized crime" without a clear process for strengthening the national police. In what follows, the Commission will point out some of the major measures adopted by the State in this area.
2. As the Commission already indicated, one of the central pillars of the State’s response to the serious structural problems of violence, impunity, corruption, and organized crime in the country is the intervention of the Armed Forces in many different spheres and functions. The Army actively participates in citizen security responsibilities through specialized forces such as “military police,” despite international standards indicating that citizen security should be the exclusive jurisdiction of a civilian police force, one that is respectful of human rights. The Armed Forces are also involved in matters related to the civic education and training of children at “social risk,” through the “Guardians of the Nation” program.
3. From the previous government and continuing into the current government, which began in January 2014, a series of laws have been enacted regularizing the intervention of the Armed Forces in internal security tasks. On December 3, 2011, a decree interpreting Article 274 of the Constitution was approved, according to which the Armed Forces can perform specific functions of the police when a State of Emergency in Public Security is exceptionally declared through the issue of an Executive Order approved by the President of the Republic in Council of the Secretaries of State. [[51]](#footnote-51) On December 5, 2011, the first exceptional state of emergency in national security was declared, and this was extended three times.[[52]](#footnote-52)
4. In that same year, the National Defense and Security Council was created, with the participation of: the President of the Supreme Court; the Attorney General; the Secretary of State for Security; the Secretary of State for National Defense; and chaired by the President of the Republic, with the purpose of "guiding, designing, and overseeing general public policies" in the areas of security, national defense and intelligence, as well "harmonizing" actions to improve the performance of the entities involved.
5. April 2013 saw the creation of the National Bureau of Investigation and Intelligence, attached to the National Defense and Security Council, as an independent structure from other ministries and institutions, with the aim of collecting and providing accurate and confidential information to members of the executive, legislative and judicial powers before taking decisions in the area of the fight against crime. Civil society organizations expressed their concern to the IACHR about this Council due to the lack of control over the information gathered in view of the fact that its director - who reports directly to the President – has discretionary powers over its use. [[53]](#footnote-53) Similarly, they also indicated that this structure diminishes transparency, credibility, and legal certainty vis-a-vis official public prosecutions since it may intermingle with criminal investigations, within the competence of the Public Ministry.[[54]](#footnote-54)
6. Furthermore, in 2014, the Inter-Agency Security Force (FUSINA) was created, with a permanent presence in the 18 departments of the country with the "aim of reducing the incidence of violence".[[55]](#footnote-55) The FUSINA objective "is to work and run police and military-style security operations aimed at achieving a strategic goal: achieving peace and security for the Honduran citizen." [[56]](#footnote-56) FUSINA is composed of the National Police, the Armed Forces of Honduras, the Public Ministry, the Supreme Court of Justice and the National Bureau of Investigation and Intelligence (DNII).[[57]](#footnote-57)
7. According to the State, since its inception, it has undertaken 27,153 saturation operations; 64,238 foot patrols; 117,278 mobile patrols; 198,045 fixed checkpoints; 55,025 mobile checkpoints and 455 raids. In addition, from January 28, 2014 to March 2015, 2,661 arrest warrants were executed; there were 57,010 preventive detentions for public order offenses; 3,079 people arrested for domestic violence; the capture of 943 criminal gangs amounting to 2,862 people arrested for various crimes and 7 captures of the most wanted by extradition request.[[58]](#footnote-58)
8. In particular, the Commission notes that in recent years there has been an increase in military spending. World Bank figures show that from military spending of 1% of GDP in 2012, it rose to 1.3% for 2014.[[59]](#footnote-59) Similarly, according to information received, members of the military occupy high government positions, such as in Civil Aviation, the Merchant Navy, Immigration and the telephone company.[[60]](#footnote-60)

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## Violence and access to justice

1. The effective observance of the rule of law is achieved, to a large extent, by ensuring an administration of justice that does not tolerate impunity. Society must perceive that the judicial branch applies the law equally and ensures all inhabitants the effective enjoyment of their rights. The Inter-American Commission has maintained that impunity is one of the serious problems related to the administration of justice in the hemisphere, and one of the obstacles to the definitive strengthening of the rule of law in a number of States of the region.
2. In Honduras, the IACHR notes with concern that the high rate of violence that persists in the country has been correlated with a high demand for justice, which has not been met with an effective response by the State and has created a situation of structural impunity. In this regard, the IACHR has made previous reference to the weaknesses in the administration of justice associated with high rates of violence and impunity in the country.[[61]](#footnote-61) Figures made public in 2013 by then-Attorney General Luis Alberto Rubí indicated that 80% of the homicides committed in Honduras went unpunished because of the lack of capacity of the investigative bodies. [[62]](#footnote-62) Civil society organizations interviewed believe that rates of ongoing impunity in Honduras range between 95 and 98%.[[63]](#footnote-63)
3. The Commission received the testimony of Wilfredo Yáñez, whose son was killed in May 2012, allegedly by a military patrol, while he was riding his own motorcycle.[[64]](#footnote-64) Even though a complaint was filed with the Public Prosecutor’s Office because “I didn’t want this to remain a statistic…,”[[65]](#footnote-65) and despite the existence of witnesses and evidence, the case has not gone to trial. “It hasn’t been easy to become one of the 3% of crimes that end up being tried in this country,” he said.[[66]](#footnote-66) The IACHR also received the testimony of Aurora Rodríguez de Pineda, whose son Carlos David was reportedly killed by eight police officers; more than three years after this occurred, there has not been justice. In the words of Mrs. Rodríguez:

I’ve been battling this for three years. My loved ones deserve justice. The right to justice is not guaranteed, and for the few of us who end up having ‘access to justice,’ they end up involving us in ‘intrigues and manipulations,’ in addition to re-victimizing us…. The biggest problem in the investigations is the manipulation of evidence on the part of the Public Prosecutor’s Office.[[67]](#footnote-67)

1. Various civil society organizations told the Commission that the possibility of attaining justice is thwarted beginning with the first steps in the investigation. They pointed to the poor management of crime scenes, the failure to take key witness statements in a timely fashion, and irregularities in the handling of evidence, among other problems. In addition, the Commission was informed that there is a general state of “disorder,” in which actions are implemented, transfers and organizational changes made, commissions created, personnel removed, and special security taxes imposed, and even a new military police force established,[[68]](#footnote-68) and that these have not solved the problems in investigations and access to justice.
2. In a country such as Honduras, where there is high turnover of personnel and duties, the State needs to invest in the permanent training of its personnel on their specific responsibilities depending on their role in the investigation of acts of violence. Honduras needs to strengthen its institutional capacity and its procedures designed to respond to violence, including assigning additional human and material resources to the Public Prosecutors’ Offices and other bodies responsible for addressing and suppressing these violations of rights.
3. For some civil society organizations, the proliferation of institutions created with the authority to investigate crimes has led to confusion among the authorities themselves as to what their duties are, as there is apparently no coordination among them. Thus, for example, there is the National Bureau of Criminal Investigation (2008), whose purpose is to investigate ordinary crimes, identify those responsible, and provide the necessary elements for prosecution; at the same time, there is the National Bureau of Special Investigative Services (2008), whose purpose is to address matters related to the investigation of special crimes such as contraband, fraud, and tax evasion, among others. As it was pointed out, there is also the “TIGRES” Strategy (2013), whose duties include “safeguarding the public order [and] preventing and investigating crime…” or the Technical Agency for Criminal Investigation (ATIC) (2014), which investigates serious crimes with a significant social impact; this office is responsible for investigating the crimes specified in Article 184 of the Criminal Procedure Code, that is those that do not allow substitute measures to be imposed. Similarly, the ATIC has the powers that the Criminal Procedure Code assigns to the National Bureau of Criminal Investigation. There is also the military police; while this body has specific duties related to the investigation of organized crime, it also has the authority to carry out its own investigations, under orders from the National Defense and Security Council.
4. A similar situation can apparently be seen in the Public Prosecutor’s Office. Currently, the General Office of Public Prosecutors is divided as follows[[69]](#footnote-69): (a) Offices of Special Prosecutors—against Organized Crime; for Transparency and Combatting Public Corruption; for Human Rights; for Women; for Minors; for the Environment; for Consumer Protection and Senior Citizens; for Ethnic Groups and Cultural Heritage; for the Defense of the Constitution; for Appeals; for Civil Matters; for Prosecution of Officials and Civil Servants of the Public Prosecutor’s Office; and for Crimes against Life; (b) Office of the Public Prosecutor for Common Crime; and (c) Offices of Regional Public Prosecutors.
5. Specifically, the Commission received information regarding the role of the Office of the Special Prosecutor for Crimes against Life, in which all investigations affecting the right to life in Honduras are apparently centralized, including investigations that require a specialization. For example, gender-motivated killings of women, which previously were investigated by the Office of the Special Prosecutor for Women, are now investigated by this Special Prosecutor’s Office. According to some individuals interviewed, this separation of the investigation has not been accompanied by coordination between these two units, nor has there been a transfer of capacities, a situation which could affect the gender analysis in cases in which women are killed because of their gender.
6. This duplication of offices, and in some cases functions, can create confusion with regard to each entity’s obligations, which in turn could have repercussions in terms of an effective and timely State response. The procedures for investigating, as well as the entity in charge, should be clearly defined and should not give rise to confusion. Thus it is essential for the State to adopt all necessary measures to ensure that all civil servants at the institutions involved in investigating a crime have specialized capacity, knowledge and experience, understand the procedures established for each type of crime, as well as the entities and authorities responsible and their obligations under the established rules.
7. The State informed the Commission that the Law on the Public Prosecutor’s Office was amended to create the ATIC, so as to ensure effectiveness in the collection of evidence in the context of the law, to be able to substantiate a criminal accusation.[[70]](#footnote-70) According to the State, in 2013 the Office of the Special Prosecutor for Human Rights received 1,141 complaints; issued 73 orders to prosecute; obtained 29 indictments, 17 convictions, and 8 acquittals; and proceeded with the administrative closure of 179 cases. As of December 2014, 367 complaints were reported; 12 orders to prosecute were issued; 7 cases were tried; 6 convictions were obtained, as well as 1 acquittal; and 432 cases were closed administratively.[[71]](#footnote-71)
8. For its part, the Office of the Special Prosecutor for Crimes against Life received 2,379 complaints in 2013; 177 orders to prosecute were issued, 115 cases were tried, and 53 convictions and 22 acquittals were handed down. In 2104, the Office of the Special Prosecutor for Crimes against Life received 1,079 complaints, issued 294 orders to prosecute, and obtained 188 indictments, 106 convictions, and 32 acquittals. In addition, the Office of the Special Prosecutor against Corruption attended to a total of 829 complaints, issued 10 orders to prosecute, tried 11 cases, and obtained 13 convictions and 11 acquittals.[[72]](#footnote-72)
9. For the Commission, impunity frustrates the expectations of justice for the direct victims of attacks and forces them to limit its situations and plans in the context of violence in which it is immersed. Both the Inter-American Commission and Court have condemned the impunity of violations of fundamental rights, as impunity facilitates the continuing repetition of human rights violations and the total defenselessness of victims and their families.[[73]](#footnote-73) The adequate and effective administration of justice on the part of the judicial branch and, to an appropriate extent, of disciplinary entities, has a fundamental role not only in terms of reparations but also in terms of the lessening of the risk and the scope of violence.[[74]](#footnote-74)
10. On another matter, the Commission noted that as of 2015, the human rights violations perpetrated during the coup d’état appears to remain in impunity. The authorities responsible for investigating, prosecuting, and punishing the human rights violations are said to continue to systematically deny the existence of the violations committed, which has resulted in inaction, tolerance, and even dismissal of any charges against those who carried out the coup and the aforementioned violations.[[75]](#footnote-75)

## Access to justice and judicial independence

1. Within the Inter-American system, the right of access to justice follows from articles 8 and 25 of the American Convention, which set out the state obligations necessary to ensure that any person can seek protection and justice for acts that violate his or her rights. From those state obligations follow certain guarantees that States must afford to the justice operators so as to ensure their independence; with that, the State fulfills its obligation to afford persons access to justice. The Inter-American Court has written that unlike other public officials, judges have certain guarantees due to the independence that the judicial power must have for the sake of those on trial or parties to litigation, which the Court has understood as “essential for the exercise of the judicial function.”[[76]](#footnote-76) Those guarantees are a corollary of the right of access to justice that every person enjoys and, in the case of judges, are “reinforced guarantees” of tenure so as to thereby ensure the necessary independence of the Judicial Branch.[[77]](#footnote-77)
2. The IACHR highlights that it is also important to have a system that contains mechanisms to ensure the professional responsibility of the judges and prosecutors, as well as the compliance of their duties. These mechanisms, according to the Inter-American Court “implies that the disciplinary proceedings and sentencing proceedings in cases involving judges must necessarily respect the guarantees of due process and shall offer those affected an effective remedy.”[[78]](#footnote-78)
3. The Commission has closely followed the reconstruction of the democratic order in Honduras following the coup d’état and has observed that justice operators have faced a number of challenges over the course of these years so that they can administer justice independently. This in turn has affected the confidence of the Honduran population in the institutions of justice.
4. Despite the fact that in various meetings with the State, the Commission received information concerning measures adopted for the purpose of restoring the confidence of society in the institutions responsible for the administration of justice,[[79]](#footnote-79) the Commission notes that key challenges remain. A number of these challenges stem from the legal framework provided by the State to regulate the administration of justice—for example, the concept of prosecutors and judges of “national jurisdiction,” already addressed in this report; judicial independence; and the situation of the Public Prosecutor’s Office. In the next section, the Commission will focus on the following issues of greatest concern: judicial independence and the situation of the Public Prosecutor’s Office.

### Judicial Independence

1. The principle of the independence of the Judiciary has been recognized as “international custom and general principle of law” and has been established in numerous international treaties. The independence of any body or organ that performs jurisdictional functions is a condition sine qua non for the observance of the standards of due process as a human right. The lack of such independence affects exercise of the right of access to justice and creates mistrust and even fear of the courts, which discourages those who would otherwise turn to the courts for justice.[[80]](#footnote-80)
2. The Inter-American Commission has established that the guarantees necessary to ensure the correct and independent operation of the judicial branch include the mechanisms whereby judges are appointed, the stability they enjoy in their appointments, and their proper professional training. In addition, the courts must also be independent of the other branches of government—that is, free of all influence, threats, or interference, irrespective of their origin[[81]](#footnote-81). These guarantees do not mean that judges will not exercise their duties according to law and to an adequate accountability. It means that any questioning to their work cannot be motivated on other interests and that the applicable processes must respect due guarantees.
3. The Commission calls to mind that even though States may establish different procedures for the appointment of justice operators,[[82]](#footnote-82) not just any procedure satisfies the conditions demanded by the American Convention for the adequate implementation of a truly independent regime.[[83]](#footnote-83) Only an appointment process that is transparent, one that is based on objective criteria and guarantees the equality of opportunity for candidates, is a fundamental guarantee for judicial independence.[[84]](#footnote-84) Thus States must publish in advance the vacancy announcements and procedures for applying, the qualifications required, the criteria, and the deadlines, so that any person who believes he or she meets the requirements can have the opportunity to apply for a post as a prosecutor, a judge, or a public defender.[[85]](#footnote-85)
4. In Honduras, the Commission has identified some challenges in the design and structure of the Judiciary. In this section the IACHR will focus on aspects related to the functioning of the Council of the Judiciary, specifically with regard to selection and appointment procedures, the process of judicial purging, and the application of trust test. Also, in the framework of access to justice, it will address aspects related to the Public Prosecutor’s Office.

#### Council of the Judiciary

1. The Commission has consistently stressed the importance for due process to be observed in cases involving the punishment of judges, so as to ensure their independence and thus guarantee due process in the cases they try. Having learned, in June 2009, about the arbitrary dismissal from office of a number of magistrates and judges in the context of the coup d’état,[[86]](#footnote-86) and in 2012 about the summary dismissal of four Supreme Court justices,[[87]](#footnote-87) the Commission believes it is necessary to pay special attention to the results obtained by the Council of the Judiciary in conducting disciplinary proceedings of judges during the more than one year since it began operations.
2. The Council of the Judiciary was created in November 2011. The law creating it establishes that the Council’s functions include appointing and removing magistrates on Courts of Appeals, judges, and other judicial and administrative personnel.[[88]](#footnote-88) The members of the Council of the Judiciary were appointed in 2013, and since then that body has reportedly embarked on a purge of the Honduran judicial system which will continue for the next five years, as one of its members stated publicly.[[89]](#footnote-89)
3. The Commission stresses, first of all, that the creation of the Council of the Judiciary is in principle an important step to differentiate the functions involved in imparting justice from those involved in managing and governing the judiciary.[[90]](#footnote-90) The IACHR also observes that, unlike the previous system, the current legal framework does not obstruct the filing of appeals to challenge decisions, whether through an action seeking constitutional relief (*amparo*) or through a contentious-administrative proceeding. Nevertheless, throughout its visit the Commission noted with concern that a number of justice operators expressed to the IACHR their fear over the Council’s lack of proper investigative proceedings, and over the possibility for its actions to be motivated by political interests without respecting the independence of judges.[[91]](#footnote-91)

#### Selection and Appointment Procedures

1. With regard to procedures for selecting and appointing judges, the IACHR was informed that in March 2014, the Council of the Judiciary had appointed 23 judges to substitute those who had been removed or suspended, but through a process that allegedly lacked transparency, as those named on an interim basis—pending the administration of trust tests—had reportedly gone through a “selective process” and had also been “promoted.”[[92]](#footnote-92)
2. In fact, the report on the first year of the Council of the Judiciary and the Judicial Career Service specifies that in September 2013 an internal process was begun to select personnel from several cities in the country.[[93]](#footnote-93) The report also indicates that 75 public servants in the judiciary participated and that the performance evaluation part was done by the members of the Council when in a selection process the evaluation should be done by a Selection Tribunal.[[94]](#footnote-94) Moreover, a National Jurisdiction Judge on Anti-Tax Evasion was reportedly named without there being any information about a selection process for this post.
3. The Commission notes that while the creation of the Council of the Judiciary represents a positive aspect in the sense of having an autonomous, specialized agency that can take charge of the selection and appointment of judges, the information received raises concerns about whether in practice such procedures may not be carried out with transparency or may not ensure that candidates have access to public service in conditions of equality and based on merit.[[95]](#footnote-95) In this regard, the Commission urges the State to ensure that such procedures meet international standards, not only in law but in practice.[[96]](#footnote-96)

#### Process of Judicial Purging and the Application of Trust Tests

1. The Commission received information during the visit indicating that, beginning in November 2013, the Council had undertaken an intense “purging” of the judiciary. Twenty-nine judges were removed, 28 were suspended, and 18 were suspended but have already served their punishment.[[97]](#footnote-97) According to the information received, judicial aides had also been suspended and/or dismissed.[[98]](#footnote-98) A number of the suspended judges reportedly filed *amparo* actions, and the IACHR was informed about four judgments granting *amparo* relief to the sanctioned judges.[[99]](#footnote-99) Some judges expressed concern that some members of the bench who rule on these appeals could fear being subject to disciplinary proceedings. According to information in the news media, in 2014 some 161 judicial officials were suspended in Honduras.[[100]](#footnote-100)
2. The IACHR appreciates the State’s initiatives to strengthen and improve the various entities that participate in the administration of justice. However, it takes note of some objections to certain aspects of the methodology.
3. A number of civil society organizations reported that this purging got underway quickly, with no law in place establishing the grounds for discipline and the penalties to be applied, based solely on a circular issued by the members of the Council themselves.[[101]](#footnote-101) This situation produced uncertainty and intimidation among judges. According to civil society, “the independence of judges has been weakened as a result of their fear at being sanctioned by the Council if their rulings turn out to be ‘uncomfortable.’”[[102]](#footnote-102)
4. Meanwhile, in February 2014 various articles of the Law on the Council of the Judiciary and the Judicial Career Service were amended, modifying and expanding the jurisdiction of the Council of the Judiciary. Among the changes is the authority to have “magistrates of Courts of Appeals, judges, officials, and administrative, judicial, and technical personnel from the judicial branch, generally or selectively take trust tests such as toxicological, psychometric, or psychological tests or polygraphs, studies and investigations of assets, performance evaluation, and compliance with legal terms….”[[103]](#footnote-103)
5. The Association of Judges for Democracy (AJD) filed an *amparo* action against the implementation of trust tests such as polygraphs, arguing that these violate justice operators’ right against self-incrimination, the right to psychological and moral integrity, and the right to honor and recognition of dignity.[[104]](#footnote-104) The Constitutional Chamber of the Supreme Court, in a judgment of December 9, 2014, denied the appeal, arguing that polygraph tests are taken voluntarily. It also indicated that if someone does not submit voluntarily, such a test is not binding for imposition of sanctions, but it is when taken in conjunction with other tests that must be analyzed.[[105]](#footnote-105)
6. Along these lines, the Regulations to the Law on the Council of the Judiciary and Judicial Career Service were published in the Gaceta Oficial [Official Gazette] on September 17, 2014. The Regulations establish grounds for separation from employment and penalties. Chapter XII regulates the trust tests, which should be administered to all employees and officials of the judicial branch.[[106]](#footnote-106) Its Article 81 establishes that in those cases in which officials or employees of the judicial career service do not submit to trust tests having been summoned to do so without just cause, they shall be removed from the judicial career service “with no institutional liability.”[[107]](#footnote-107) This, in spite of the fact that the same article establishes that the failure to pass a polygraph and psychometric test shall not, in and of itself, be justified grounds for dismissal, nor for keeping someone out of the judicial career service.[[108]](#footnote-108)
7. Even though the Constitutional Chamber of the Supreme Court determined that polygraphs are done on a voluntary basis, according to the provisions of the Regulations to the Law on the Council of the Judiciary and the Judicial Career Service, justice operators are “compelled to submit to this test, regardless of their nonconformity or disagreement with it.”[[109]](#footnote-109)
8. It is of interest to the Commission that the aforementioned Regulations establish that trust tests “shall be done with the assistance” of the following institutions: the Office of the Inspector General of Judicial Agencies; Office of Forensic Medicine of the Public Prosecutor’s Office; the National Bureau of Investigation and Intelligence; the National Commission on Banks and Insurance Companies; the Property Institute; the Superior Court of Accounts, and other agencies that may be required.[[110]](#footnote-110) Specifically, it calls the attention of the Commission that institutions external to the organs of justice, including the National Bureau of Investigation and Intelligence – described in this Chapter - should have the authority to administer tests to judicial employees.[[111]](#footnote-111)
9. According to information received from civil society, approximately 96 justice operators, including magistrates and judges, have had to take polygraphs. According to testimony obtained from these individuals, the “mere manner in which these tests are performed is an affront to the dignity of justice operators, as it generates anxiety and stress, and at times, moreover, some of the questions asked of them are particularly invasive, as they have to do with aspects of their private life.”[[112]](#footnote-112)
10. The impact of the administration of the polygraph as an element of the trust tests is of concern to the Commission. According to some judges’ testimony, sometimes justice operators who must submit to polygraphs are not given the results, and the test becomes a factor of insecurity for judges in case they “do not behave themselves.”
11. According to civil society organizations, in light of the regulations an appeal was lodged challenging the application of disciplinary sanctions based on regulations and not on the law itself, in contravention of Article 317 of the Constitution, which establishes that judges and magistrates may not be separated, suspended, transferred, demoted, or retired except for cause and with the guarantees provided for under the Law.[[113]](#footnote-113) As of the date this report was approved, this appeal was said to be pending.
12. Meanwhile, the Commission received information regarding other possible ways the work of justice operators comes under pressure. During the visit, a number of justice operators reported that prosecutors had used the criminal charge of “prevarication” to intimidate judges for issuing decisions against their interests. In fact, under Decree 56-2013,[[114]](#footnote-114) the Code of Criminal Procedure was amended to establish mandatory pretrial detention as an assurance measure for a catalog of 21 crimes, among them the crime of “prevarication.” This means that the deprivation of liberty of someone accused of committing one of these crimes will depend solely on the classification of the crime made by the prosecutor’s office. The Commission notes with concern that several judges expressed their fear of being the target of this type of criminal prosecution.[[115]](#footnote-115)
13. During the visit, the Commission also heard concerns regarding threats made to frame judges through sham disciplinary proceedings, for the purpose of frightening them and manipulating their decisions. As an example of this, a trial attorney in San Pedro Sula said that when he told a judge that he was going to present a psychiatric expert to seek changes to the pretrial detention regime being requested by the Public Prosecutor’s Office, the judge answered, “Let me be clear. As a criminal court judge, if I dismiss the case against that girl, I’ll be fired the next day.”
14. In light of these findings, the Commission observes with concern that justice operators are apparently still being separated from their posts without observance of the due process guarantees that States are called on to observe in proceedings to impose punishment. In fact, the Commission notes that through the purging process, justice operators reportedly find themselves the target of reprisals or intimidation as a result of the decisions they make in the cases before them.
15. The Commission reiterates that justice operators have “reinforced guarantees” of tenure so as to ensure that they are able to act independently. These guarantees mean that justice operators should not be subject to removal as a result of lawful decisions they make in the course of their work. The State must ensure adherence to the law in procedures meant to sanction them, but must also ensure that justice operators can be penalized only after a procedure in which the guarantees of due process are provided and they have had recourse against any possible violations of their rights.
16. The Commission urges the State to ensure that “purges” and the application of the criminal charge of “prevarication” are not used as an instrument of reprisal against justice operators for acting independently. It also calls to mind that, in accordance with international law, the grounds for any sanctions imposed on justice operators “should never be the legal judgment developed in a decision.”[[116]](#footnote-116)

## Public Prosecutor’s Office

1. With regard to the Public Prosecutor’s Office, the IACHR received information regarding the recent reform of the Law on the Public Prosecutor’s Office, which gives the Attorney General’s Office the authority to rotate prosecutors without their having the right to file an appeal challenging these decisions.[[117]](#footnote-117) As a result, rotations are reportedly being used as a means to intimidate prosecutors. These reforms also establish expressly that prosecutors may not give public statements concerning cases they are handling. On this point, despite the principle of secrecy of investigations that already exists in the Criminal Procedure Code, for some justice operators the Commission interviewed, this legislative change sends a message of intimidation in the work done by prosecutors, who now do not know whether or not they should publicly denounce human rights violations—including those directed against them—for fear of being penalized and losing their jobs. The IACHR recognizes that, in principle, these objectives aim to combat impunity. However, according to the information it has received, some of these reforms would seem to go beyond the desired objective, and while they may well constitute legitimate aims, they could also be applied arbitrarily.
2. Moreover, during the visit the Commission was informed that on April 17, 2013, an Intervening Commission was named because of existing complaints of alleged illegal enrichment by some prosecutors. As of December 2014, these complaints had not led to an assertion of responsibility. The State indicated that the Office of the Special Prosecutor for Prosecution of Officials and Civil Servants of the Public Prosecutor’s Office has tried 12 cases against prosecutorial officials who have been implicated in irregular activities.[[118]](#footnote-118) According to information received by some justice operators, the establishment of the Intervening Commission has resulted in prosecutors being placed and removed without due process and those with a specialization not being assigned to the appropriate Special Prosecutor’s Office. In addition, competitions are reportedly not being held for promotions, in contravention of the prosecutorial career service and the Law on the Public Prosecutor’s Office. It is important to note that justice operators from the Public Prosecutor’s Office have also had to submit to trust tests.
3. The IACHR calls to mind that given the essential role the Public Prosecutor’s Office plays in moving criminal investigations forward, the independence, impartiality, and suitability of its officials must be guaranteed to ensure that their work is effective and to help eliminate the factors of impunity in cases involving human rights violations.[[119]](#footnote-119) International law has underscored how important it is that investigations and, on a broader level, any activities associated with the prosecution of crime, be independent and impartial so that crime victims are assured access to justice. The Inter-American Court has emphasized that investigations into human rights violations must be immediate and thorough, but they must be independent and impartial as well. The United Nations Special Rapporteur has stressed how important it is that prosecutors are able to conduct their own functions independently, autonomously, and impartially.[[120]](#footnote-120) The IACHR emphasizes that the lack of institutional autonomy can erode the credibility of the prosecutorial authority and undermine public confidence in the justice system.[[121]](#footnote-121)
4. In this regard, the Commission cautions with great concern that the appointment of prosecutors by the Intervening Commission without clear and transparent parameters may mean that those selected are not suitable or do not have the necessary capacity to carry out their work independently. Moreover, the lack of due process for the removal of prosecutors by the Intervening Commission may not only violate the rights of the civil servants involved, but may also lead to a situation in which they are unable to defend themselves against that body’s decisions. This lack of job security jeopardizes prosecutors’ independence as a result of their fear of being removed from their positions in reprisal for their actions. In this regard, the IACHR urges the State to guarantee that prosecutors are selected and appointed based on applicable standards of international law[[122]](#footnote-122) and that they are not targeted for separation from their jobs without a process that offers them due process guarantees and the opportunity to have recourse for protecting their rights in the case of violations that could be committed against them in such procedures. Along these lines, the IACHR urges the State to revise the reforms to the Law on the Public Prosecutor’s Office in accordance with applicable international human rights standards, in particular with respect to the independence, impartiality, and suitability of the work of prosecutors and with respect to the right to a fair trial and to judicial protection.

[…]

1. Communication from the State of Honduras, Note No. SG/064/MHOEA/2015, Observations of the State of Honduras to the 2015 Draft Report on Honduras of the Inter-American Commission on Human Rights, December 14, 2015. Available at: <http://www.oas.org/es/cidh/docs/anual/2015/doc-es/HO-Observaciones2015.pdf> [↑](#footnote-ref-1)
2. UNODC. Global Study on Homicide 2013, Trends, Contexts, Data. Available at: [http://www.unodc.org/–documents/data-and-analysis/statistics/GSH2013/2014\_GLOBAL\_HOMICIDE\_BOOK\_web.pdf](http://www.unodc.org/%E2%80%93documents/data-and-analysis/statistics/GSH2013/2014_GLOBAL_HOMICIDE_BOOK_web.pdf). [↑](#footnote-ref-2)
3. UNAH. *Honduras no registró tasa de homicidios de 90.4 por cada 100,000 habitantes en 2012*, April 22, 2014. Available at: <https://presencia.unah.edu.hn/seguridad/articulo/honduras-no-registro-tasa-de-homicidios-de-90-4-por-cada-100-000-habitantes-en-2012>. [↑](#footnote-ref-3)
4. *Observatorio de la Violencia*, Boletín Enero-Diciembre 2013, 32nd Ed., February 2014. Available at: <http://iudpas.org/pdf/Boletines/Nacional/NEd32EneDic2013.pdf> . [↑](#footnote-ref-4)
5. Government of Honduras. Information provided by the State of Honduras to the IACHR during its on-site visit held December 1-5, 2014, Document SSDH-093-2015 of March 24, 2015. See also: Observatorio de la Violencia, Boletín Enero-Diciembre 2011, 24th Ed., March 2012. Available at: [http://iudpas.org/–pdf/Boletines/Nacional/NEd24EneDic2011.pdf](http://iudpas.org/%E2%80%93pdf/Boletines/Nacional/NEd24EneDic2011.pdf). [↑](#footnote-ref-5)
6. The State, in its response to the draft of this report, indicated that CONADEH has recommended taking comprehensive measures to ensure citizen security for Hondurans, with the aim of preventing the high rate of homicides. Specifically, it indicated that CONADEH has recommended the implementation of urgent measures to attack the structural causes of violence and impunity, as well as to protect the population in view of this situation. Communication from the State of Honduras, Note No. SG/064/MHOEA/2015, [Observations of the State of Honduras to the 2015 Draft Report on Honduras of the Inter-American Commission on Human Rights](http://www.oas.org/es/cidh/docs/anual/2015/doc-es/HO-Observaciones2015.pdf), December 14, 2015. [↑](#footnote-ref-6)
7. Secretariat of Security of Honduras, *Sistema Estadístico Policial en Línea: Histórico Acumulado de Homicidios (Mensual).* Available at: <https://www.sepol.hn/sepol-estadisticas-honduras.php?id=136>. [↑](#footnote-ref-7)
8. Secretariat of Security of Honduras, *Sistema Estadístico Policial en Línea: Histórico Acumulado de Homicidios (Mensual).* Available at: <https://www.sepol.hn/sepol-estadisticas-honduras.php?id=136>. [↑](#footnote-ref-8)
9. United Nations. *Report of the Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination*, Mission to Honduras (18–22 February 2013), A/HRC/24/45/Add.1, August 5, 2013, para. 12. Available at: [http://daccess-dds-ny.un.org/doc/–UN–DOC/GEN/G13/160/95/PDF/G1316095.pdf?OpenElement](http://daccess-dds-ny.un.org/doc/%E2%80%93UN%E2%80%93DOC/GEN/G13/160/95/PDF/G1316095.pdf?OpenElement). [↑](#footnote-ref-9)
10. In its response to the draft of this report, the State of Honduras indicated that the Armed Forces of Honduras have no influence on the investigation and punishment of crimes involving organized crime. Communication from the State of Honduras, Note No. SG/064/MHOEA/2015, Observations of the State of Honduras to the 2015 Draft Report on Honduras of the Inter-American Commission on Human Rights, December 14, 2015. [↑](#footnote-ref-10)
11. Law on control of firearms, ammunition, explosives and others, issued on June 19, 2000. [↑](#footnote-ref-11)
12. Casa Alianza*. Violencia, niñez y juventud en Honduras: Un acercamiento a las principales manifestaciones de la violencia contra niñas, niños y jóvenes*, July, 2014; Foro de Mujeres por la Vida- Convergencia por los Derechos Humanos, San Pedro Sula, December 3, 2014. A business known as “La Armería” of the Armed Forces is the only one responsible for importing and selling firearms in the country. [↑](#footnote-ref-12)
13. United Nations. *Report of the Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination*, Mission to Honduras (18–22 February 2013), A/HRC/24/45/Add.1, August 5, 2013, para. 14. Available at: [http://daccess-dds-ny.un.org/doc/UND–OC/GEN/G13/160/95/PDF/G1316095.pdf?OpenElement](http://daccess-dds-ny.un.org/doc/UND%E2%80%93OC/GEN/G13/160/95/PDF/G1316095.pdf?OpenElement). [↑](#footnote-ref-13)
14. United Nations. *Report of the Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination*, Mission to Honduras (18–22 February 2013), A/HRC/24/45/Add.1, August 5, 2013. Available at: [http://daccess-dds-ny.un.org/doc/UNDOC/GEN/–G13/160/95/PDF/G1316095.pdf?OpenElement](http://daccess-dds-ny.un.org/doc/UNDOC/GEN/%E2%80%93G13/160/95/PDF/G1316095.pdf?OpenElement). [↑](#footnote-ref-14)
15. La Prensa, 2015. *Asesinan a abogado a pocas cuadras del parque de San Pedro Sula*, March 14, 2015. Available at: [http://www.laprensa.hn/sucesos/822362-410/asesinan-a-abogado-a-pocas-cuadras-del-par–q–ue-desan-pedro-sula](http://www.laprensa.hn/sucesos/822362-410/asesinan-a-abogado-a-pocas-cuadras-del-par%E2%80%93q%E2%80%93ue-desan-pedro-sula). [↑](#footnote-ref-15)
16. IACHR, *Annual Report 2013*. See section Ch. IV B. 2013. [↑](#footnote-ref-16)
17. On January 21, 2014, the remains the Lenca indigenous leader Justo Sorto were found on a farm at the Yance community in the Municipality of Jesús de Otoro, Department of Intibucá, Western Honduras. Justo Sorto was a member of COPINH. Front Line Defenders, *Honduras: Killing of human rights and defend Lenca Indigenous leader Mr Justo Soto*, January 24, 2014. Available at: [https://www.frontlinedefenders.org/–node/24742](https://www.frontlinedefenders.org/%E2%80%93node/24742). On October 29, 2014, Maycol Ariel Garcia –a 15 year-old Lenca boy of the Rio Blanco community— was found, murdered; he was a member of COPINH and a defender of Río Gualcarque and his territory. International Work Group for Indigenous Affairs, *The Indigenous World* 2015, April 2015, p. 92. Available at: [http://www.iwgia.org/iwgia\_files\_publications\_files/0716\_THE\_INDIGENOUS\_ORLD\_2015\_eb–.pdf](http://www.iwgia.org/iwgia_files_publications_files/0716_THE_INDIGENOUS_ORLD_2015_eb%E2%80%93.pdf) According to the Honduran Promotion Center for Community Development (CEHPRODEC), in the first week of May 2015 the body of Silvestre Manueles Gómez –a neighbor of the Gualinga Community in the municipality of Santa Elena— was found at the banks of the river Chinacla. According to information received, there had been be a conflict between indigenous leaders and a company regarding the construction of a hydroelectric project on their lands. CEHPRODEC, *Complaint before the Prosecutor for Ethnic Groups regarding the brutal murder of indigenous person on the banks of the River Chinacla*, June 8, 2015. Available at: <http://www.cehprodec.org/index.php/noticias/40-denuncia-en-la-fiscalia-de-las-etnias-el-brutal-asesinato-de-indigena-en-las-riberas-del-rio-chinacla>. In that same month, on May 20, 2015, Moisés Durón Sánchez –an indigenous leader and member of COPINH, who led the recovery of lands for the community of Somolagua, San Juan, Municipality of Ceguaca, Department of Santa Bárbara— was murdered. COPINH, *Moisés Durón Sánchez murdered*, a COPINH community leader in *Santa Bárbara*! May 20, 2015. Available at: [http://www.copinh.org/article/asesinan-al-companero-moises-duron-sanchez -leader-c/](http://www.copinh.org/article/asesinan-al-companero-moises-duron-sanchez%20-leader-c/); Project Counselling Service, *Honduras gunmen kill community leader*, May 25, 2015. Available at: <http://www.pcslatin.org/portal/index.php/component/content/article/152-sala-de-prensa/3072-honduras-sicarios-asesinan-a-lider-comunitario?temid=508%20>; Protection International, *Honduras: Assassination of indigenous community leader Moses Duron Sanchez*, May 22, 2015. Available at: <http://protect–ionline.org/es/2015/05/22/honduras-asesinato-de-lider-comunitario-indigena-moises-duron-sanchez/>. On January 5, 2015, the body of indigenous human rights defender Juan Francisco Martínez was found in the community of Tapuyman, Municipality of Santa Elena de La Paz, with his hands bound, signs of torture and multiple stab wounds. Juan Francisco Martínez was a member of MILPAH and worked for the rights of water, land and territory of the Lenca indigenous community. Front Line Defenders, Honduras - *Torture and killing of human rights advocate Juan Francisco Martínez*, January 16, 2015. Available at: <https://www.frontline–defenders.org/node/27936>, p. 18. [↑](#footnote-ref-17)
18. IACHR *Condemns Murder of Lenca indigenous leader and injury to a child in Honduras operational Army*, Press Release No. 19-2013. Available at: [www.oas.org/en/iachr/](http://www.oas.org/en/iachr/). [↑](#footnote-ref-18)
19. Front Line Defenders, Honduras: *Attempted killing of human rights advocate Ms. María Santos Domínguez*, March 7, 2015. Available at: <https://www.frontlinedefenders.org/node/25313>. [↑](#footnote-ref-19)
20. Peace Brigades International – Honduras Project, *Bulletin PBI Honduras 2,* January 2015, p. 28. Available at: <http://www.pbi-honduras.org/fileadmin/user_files/projects/honduras/Publications/B02-16-SPA-rev.pdf>. [↑](#footnote-ref-20)
21. IACHR. *Second Report on the Situation of Human Rights Defenders in the Americas.* OEA/Ser.L/V/II. Doc. 66. December 31, 2011, para. 298. [↑](#footnote-ref-21)
22. The individuals murdered were María Enriqueta Matute, Ricardo Soto Fúnez and Armando Fúnez Medina See: “OFRANEH Press Communiqué, Masacre of Indigenous Tolupanes and the lack of prior free and informed consent” dated August 27, 2013. [↑](#footnote-ref-22)
23. IACHR, Precautionary Measure No. 416-13, December 19, 2013. Available at: [www.oas.org](http://www.oas.org)/en/iachr [↑](#footnote-ref-23)
24. *El Heraldo* Newspaper, *Indigenous Tolupan killed in Yoro*, *El Heraldo*, April 6, 2015. Available at: [http://www.elheraldo.hn/vida/828446-332/matan-a-ind%C3%ADgena-tolup%C3%A1n-en-yoro?kw=Tolup%–C–3%A1n%20asesinado](http://www.elheraldo.hn/vida/828446-332/matan-a-ind%C3%ADgena-tolup%C3%A1n-en-yoro?kw=Tolup%25–C–3%A1n%20asesinado); *El Tiempo* Newspaper, *Indigenous person killed in Honduras in clashes with minors*, *El Tiempo*, April 6, 2015. Available at: [http://tiempo.hn/nacion/item/25902-asesinan-a-indigena-en-hond–uras-en-medio-de-conflicto-con-mineras](http://tiempo.hn/nacion/item/25902-asesinan-a-indigena-en-hond%E2%80%93uras-en-medio-de-conflicto-con-mineras); [↑](#footnote-ref-24)
25. *Radio Progreso*, *Threats continue against Tribu leaders in Francisco in Locomapa, Yoro*, *Radio Progreso*, May 29, 2015. Available at: [http://radioprogresohn.net/index.php/comunicaciones/noticias/item/2098-contin–%C3%BAan-amenazas-a-l%C3%ADderes-de-tribu-francisco-en-locomapa-yoro](http://radioprogresohn.net/index.php/comunicaciones/noticias/item/2098-contin%E2%80%93%C3%BAan-amenazas-a-l%C3%ADderes-de-tribu-francisco-en-locomapa-yoro). [↑](#footnote-ref-25)
26. Information provided by civil society during on-site visit to Honduras. [↑](#footnote-ref-26)
27. CIPRODEH, *Informe de la Situación de los Pueblos Afrohondureños, Caso Barra Vieja*, Information received during the Inter-American Commission’s on-site visit to Honduras. La Ceiba, December 2, 2014. [↑](#footnote-ref-27)
28. IACHR, *Garifuna Community of “Triunfo de la Cruz” and its Members (Honduras)*, Case 12.548, Report No. 76/12, November 7, 2012, para. 190. [↑](#footnote-ref-28)
29. CIPRODEH, *Report on the Situation of Afro-Honduran Peoples*, *Case of Barra Vieja*, Information received during the Inter-American Commission’s on-site visit to Honduras. La Ceiba, December 2, 2014. [↑](#footnote-ref-29)
30. Peace Brigades International – Honduras Project, *Bulletin PBI Honduras 02,* January 2015, p. 29. Available at: <http://www.pbi-honduras.org/fileadmin/user_files/projects/honduras/Publications/B02-16-SPA-rev.pdf>. CIPRODEH, *Report on the Situation of Afro-Honduran Peoples,* *Case of Barra Vieja*, Information received during the Inter-American Commission’s on-site visit to Honduras. La Ceiba, December 2, 2014. [↑](#footnote-ref-30)
31. CIPRODEH, *Report on the Situation of Afro-Honduran Peoples,* *Case of Barra Vieja*, Information received during the Inter-American Commission’s on-site visit to Honduras. La Ceiba, December 2, 2014. [↑](#footnote-ref-31)
32. 86 IACHR, Case 12.761, *Garífuna Community Punta Piedra and its members, Honduras*, submitted to Court on 1 July 2013; IACHR, Case 12.548, *Garífuna Community of Triunfo de la Cruz and its Members*, Honduras, submitted to Court on 21 February 2013. [↑](#footnote-ref-32)
33. On December 24, 2013, the IACHR requested the adoption of precautionary measures on behalf of Adonis Romero and several community leaders and human rights defenders due to the alleged situation of risk developing in the area. According to the information received, eight leaders were displaced from their communities because of violent threats against their lives. IACHR, Precautionary Measure No. 195-13, Leaders and Human Rights Defenders of the Nueva Esperanza Community and the Regional Board of Sector Florida, Honduras, December 24, 2013 Available at: [www.oas.org/en/iachr/](http://www.oas.org/en/iachr/). [↑](#footnote-ref-33)
34. Martín Gómez Vázquez, Félix de Benítez, Pedro Amaya, Calixto Vázquez, Juan Bautista and July González received death threats from supporters of the hydroelectric dam, in order to deter the opposition. Their homes are under surveillance. Peace Brigades International – Honduras Project, *On International Human Rights Day PBI Honduras urges the International Community to Monitor the Security Situation of Small Scale Farmers and Indigenous Peoples in the Municipality of Santa Elena, Department of La Paz, Honduras*, December 2014. Available at: [http://www.pbi-honduras.org/fileadmin/user\_files/projects/honduras/–Publi–cations/Pbi\_Honduras\_briefing\_Santa\_Elena\_10\_December\_2014\_\_EN.pdf](http://www.pbi-honduras.org/fileadmin/user_files/projects/honduras/%E2%80%93Publi%E2%80%93cations/Pbi_Honduras_briefing_Santa_Elena_10_December_2014__EN.pdf). [↑](#footnote-ref-34)
35. According to publicly available information on May 24, 2014, William Jacobo Rodríguez –a defender from Rio Gualcarque who opposed the development of the hydroelectric project Agua Zarca— was murdered in Rio Blanco. Local organizations reported that the same night the Police force based in Río Blanco engaged in a special operation allegedly directed against the Lenca people. During the course of this operation, they arbitrarily and violently arrested Lindolfo Benitez and Salvador Sanchez, both COPINH members, who were allegedly tortured. It was also alleged that the President of the Indigenous Council of Río Blanco and member of the General Coordination of COPINH, Francisco Javier Sanchez, and some children received death threats from the Police. Also, according to information received, on May 25, 2014, in the municipality of San Francisco de Opalaca, Intibucá, Irene Meza and Plutarco Bonilla, members of COPINH, were shot by three men allegedly employed by the Mayor of the Municipality. On their way to hospital, they were intercepted again by a group of gunmen who shot at them, killing Mr. Meza. [↑](#footnote-ref-35)
36. State of Honduras. Note No. 1277-DGPE/DPM-14, November 3, 2014. [↑](#footnote-ref-36)
37. Peace Brigades International – Honduras Project, *On International Human Rights Day PBI Honduras urges the International Community to Monitor the Security Situation of Small Scale Farmers and Indigenous Peoples in the Municipality of Santa Elena, Department of La Paz, Honduras*, December 2014. Available at: [http:–//www.pbi-honduras.org/fileadmin/user\_files/projects/honduras/Publications/Pbi\_Honduras\_briefing–\_Sa–nta\_Elena\_10\_December\_2014\_\_EN.pdf](http://www.pbi-honduras.org/fileadmin/user_files/projects/honduras/Publications/Pbi_Honduras_briefing%E2%80%93_Santa_Elena_10_December_2014__EN.pdf) [↑](#footnote-ref-37)
38. IACHR, *Second Report on the Situation of Human Rights Defenders in the Americas*, OEA/Ser.L/V/II. Doc. 66, December 31, 2011, para. 120. Available at: [http://www.oas.org/en/iachr/defenders/docs/pdf/defe–nders2011.pdf](http://www.oas.org/en/iachr/defenders/docs/pdf/defe%E2%80%93nders2011.pdf) IACHR, Report on the Merits No. 43/96, Case 11.430, *José Francisco Gallardo (Mexico*), October 15, 1996, para. 79. [↑](#footnote-ref-38)
39. IACHR, *Second Report on the Situation of Human Rights Defenders in the Americas*, OEA/Ser.L/V/II. Doc. 66, December 31, 2011, para. 120. Available at: [http://www.oas.org/en/iachr/defenders/docs/pdf/defen–ders2011.pdf](http://www.oas.org/en/iachr/defenders/docs/pdf/defen%E2%80%93ders2011.pdf) IACHR, Report on the Merits No. 43/96, Case 11.430, *José Francisco Gallardo (Mexico*), October 15, 1996, para. 79. [↑](#footnote-ref-39)
40. IACHR, *Report on the Situation of Human Rights Defenders in the Americas,* recommendation 11. [↑](#footnote-ref-40)
41. Global Witness, *¿Cuántos más? El medio ambiente mortal de 2014: intimidación and asesinato de activistas ambientales and de la tierra, con Honduras en primer plano*, p. 19. Available at: <https://www.global–witness.org/campaigns/environmental-activists/cuantos-mas/>. In regard to Miriam Miranda on September 16, 2011, the IACHR granted precautionary measures on her behalf. The request for precautionary measure alleges that Miriam Miranda has been subjected to threats and harassment because of her work defending the rights of Garifuna communities in Honduras, MC 322-11. [↑](#footnote-ref-41)
42. International Work Group for Indigenous Affairs, *The Indigenous World 2015*, April 2015, p. 92. Available at: <http://www.iwgia.org/iwgia_files_publications_files/0716_THE_INDIGENOUS_ORLD_2015_eb.pdf> [↑](#footnote-ref-42)
43. IACHR. *Third Report on the Human Rights situation in Colombia*. Doc. OEA/Ser.L/V/II.102, Doc. 9 rev. 1, February 26, 1999, Chapter X, Recommendation 3. [↑](#footnote-ref-43)
44. IACHR. *Democracy and Human Rights in Venezuela*. Doc. OEA/Ser.L/V/II, Doc. 54, December 30, 2009, paras. 1062-1066; 1071; 1137 – Recommendations 1-4. [↑](#footnote-ref-44)
45. The remedies should take into account their particularities, social and economic characteristics, their customary law, values, practices and traditions. They should also be effective in solving their territorial claim, ensuring the right of the community and the people to be heard with due guarantees and within a reasonable time to guarantee their rights and obligations. [↑](#footnote-ref-45)
46. *Observatorio de Derechos Humanos de los Pueblos Indígenas y Negros de Honduras*. *Informe Alternativo de Honduras. Convención sobre la Eliminación de Toda Forma de Discriminación Racial*, January 7, 2014, p. 15. Available at: [http://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/HND/INT\_CERD\_NGO\_HND–\_16234\_S.pdf](http://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/HND/INT_CERD_NGO_HND%E2%80%93_16234_S.pdf). [↑](#footnote-ref-46)
47. United Nations. Committee on the Elimination of Racial Discrimination, [*Concluding observations on the combined initial and second to fifth periodic reports of Honduras*](http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPRiCAqhKb7yhsryCSwE1zhGSy1dtWJQsJlik1gpqmnyLICP%2FutRXTNi6763I%2BdHDNLfWrDwvKupc%2BIpYbkdS6LX6rtzZuTmgPCijyKck8fzHzoam232JZK5L), CERD/C/HND/CO/1-5, March 13, 2014, para. 16. [↑](#footnote-ref-47)
48. Communication from the State of Honduras, Note No. SG/064/MHOEA/2015, Observations of the State of Honduras to the 2015 Draft Report on Honduras of the Inter-American Commission on Human Rights, December 14, 2015. [↑](#footnote-ref-48)
49. Communication from the State of Honduras, Note No. SG/064/MHOEA/2015, Observations of the State of Honduras to the 2015 Draft Report on Honduras of the Inter-American Commission on Human Rights, December 14, 2015. [↑](#footnote-ref-49)
50. Communication from the State of Honduras, Note No. SG/064/MHOEA/2015, Observations of the State of Honduras to the 2015 Draft Report on Honduras of the Inter-American Commission on Human Rights, December 14, 2015. [↑](#footnote-ref-50)
51. IACHR, Public Hearing, *Situation of the Democratic Rule of Law in Honduras*, 150th Ordinary Period of Sessions, March 25, 2014. Available at: [www.oas.org/en/iachr/](http://www.oas.org/en/iachr/) [↑](#footnote-ref-51)
52. PCM-075-2011 of December 5, 2011 (90 days); PCM-009-2012 of April 19, 2012 (90 days); PCM-020-2012 of June 26, 2012 (90 days); and PCM-037-2012 of September 25, 2012 (180 days). [↑](#footnote-ref-52)
53. IACHR, Public Hearing, *Situation of the Democratic Rule of Law in Honduras*, 150th Ordinary Period of Sessions, March 25, 2014. Available at: [www.oas.org/en/iachr](http://www.oas.org/en/iachr). [↑](#footnote-ref-53)
54. IACHR, Public Hearing, *Situation of the Democratic Rule of Law in Honduras*, 150th Ordinary Period of Sessions, March 25, 2014. Available at: [www.oas.org/en/iachr](http://www.oas.org/en/iachr). [↑](#footnote-ref-54)
55. Government of Honduras. Information presented by the State of Honduras to the IACHR subsequent to the on-site visit made between December 1 and 5, 2014. Request SSDHJ-090-2015 of March 20, 2015; Government of Honduras. Information presented by the State of Honduras to the IACHR subsequent to the on-site visit made between December 1 and 5, 2014, Request SSDH-093-2015 of March 24, 2015. [↑](#footnote-ref-55)
56. Government of Honduras. Information presented by the State of Honduras to the IACHR subsequent to the on-site visit made between December 1 and 5, 2014, Request SSDH-093-2015 of March 24, 2015. [↑](#footnote-ref-56)
57. Government of Honduras. Information presented by the State of Honduras to the IACHR subsequent to the on-site visit made between December 1 and 5, 2014. Request SSDHJ-090-2015 of March 20, 2015; Government of Honduras. Information presented by the State of Honduras to the IACHR subsequent to the on-site visit made between December 1 and 5, 2014, Request SSDH-093-2015 of March 24, 2015. [↑](#footnote-ref-57)
58. Also, as an integral part of the security strategy of human rights, they have developed prevention programs, social development and attention to vulnerable groups in areas affected by organized crime. In January 2014, the Under-Secretariat for Security and Prevention was created, which is working on the development of a Public Policy for Prevention of Violence, in the context its strategic plan ‘Plan for All for a Better Life’, Government of Honduras. Information presented by the State of Honduras to the IACHR subsequent to the on-site visit made between December 1 and 5, 2014. Request SSDHJ-090-2015 of March 20, 2015. [↑](#footnote-ref-58)
59. World Bank Indicators. Available at: <http://datos.bancomundial.org/indicador/MS.MIL.XPND.GD.ZS> [↑](#footnote-ref-59)
60. La Prensa Newspaper, *Honduras goes backwards with militarization of public institutions*, December 3, 2014. Available at: <http://www.laprensa.hn/honduras/773467-410/honduras-retrocede-con-militarizaci%C3%B3n-de-instituciones-p%C3%BAblicas>. [↑](#footnote-ref-60)
61. IACHR. *Annual Report 2013*, Chapter IV.B, Honduras. [↑](#footnote-ref-61)
62. In 2013, as part of a process of accountability and measurement of outcomes in the judicial system, Attorney General Luis Alberto Rubí appeared before the National Congress and stated publicly that 80% of homicides committed in Honduras remained unpunished due to the lack of capacity of the investigative bodies. [↑](#footnote-ref-62)
63. Meetings with civil society during the on-site visit. [↑](#footnote-ref-63)
64. According to the account provided, the military patrol shot the son in the back when he did not heed a command to stop. [↑](#footnote-ref-64)
65. Meeting with civil society organizations on children’s issues, during the Commission’s on-site visit to Honduras, December 4, 2014. [↑](#footnote-ref-65)
66. Meeting with civil society organizations on children’s issues, during the Commission’s on-site visit to Honduras, December 4, 2014. In its response to the draft of this report, the State indicated that a conviction was obtained in the case, but that an appeal (*recurso de casación*) is still pending resolution. Communication from the State of Honduras, Note No. SG/064/MHOEA/2015, Observations of the State of Honduras to the 2015 Draft Report on Honduras of the Inter-American Commission on Human Rights, December 14, 2015. [↑](#footnote-ref-66)
67. Meeting with civil society organizations on children’s issues, during the Commission’s on-site visit to Honduras, December 4, 2014. In its response to the draft of this report, the State reported that a conviction was obtained in the case, but that an appeal (*recurso de casación*) is still pending resolution. Communication from the State of Honduras, Note No. SG/064/MHOEA/2015, Observations of the State of Honduras to the 2015 Draft Report on Honduras of the Inter-American Commission on Human Rights, December 14, 2015. [↑](#footnote-ref-67)
68. Centro de Derechos de Mujeres. *Acceso a la justicia en casos de muertes violentas y femicidios*, December 2014. [↑](#footnote-ref-68)
69. Information from the website of the Public Prosecutor’s Office of Honduras. [↑](#footnote-ref-69)
70. Government of Honduras. Information received on December 4, 2014. [↑](#footnote-ref-70)
71. Government of Honduras. Information received on December 4, 2014. [↑](#footnote-ref-71)
72. Government of Honduras. Information received on December 4, 2014. The State, in its response to the draft of this report, presented different statistics for 2014: 679 complaints, 40 orders to prosecute issued and 32 indictments obtained, 16 convictions, 8 acquittals, and 97 cases closed. The State reported that as of September 2015, 421 complaints had been received, 41 orders to prosecute issued, 18 indictments, 14 convictions, and 8 acquittals obtained, and 167 complaints closed. Communication from the State of Honduras, Note No. SG/064/MHOEA/2015, Observations of the State of Honduras to the 2015 Draft Report on Honduras of the Inter-American Commission on Human Rights, December 14, 2015. [↑](#footnote-ref-72)
73. IACHR. [*Report on Citizen Security and Human Rights*](http://www.oas.org/en/iachr/docs/pdf/CitizenSec.pdf), December 31, 2009, para. 36. Available at: <http://–www.oas.org/en/iachr/docs/pdf/CitizenSec.pdf>. [↑](#footnote-ref-73)
74. IACHR. [*Report on Citizen Security and Human Rights*](http://www.oas.org/en/iachr/docs/pdf/CitizenSec.pdf), December 31, 2009, para. 36. Available at: [http:–//www.oas.org/en/iachr/docs/pdf/CitizenSec.pdf](http://www.oas.org/en/iachr/docs/pdf/CitizenSec.pdf). [↑](#footnote-ref-74)
75. IACHR. *Preliminary Observations of the Inter-American Commission on Human Rights on its Visit to Honduras*, May 15 to 18, 2010. Available at: [http://www.cidh.org/countryrep/Honduras10eng/IACHRPreliminaryObs–ervationsHondurasVisitMay2010.pdf](http://www.cidh.org/countryrep/Honduras10eng/IACHRPreliminaryObs%E2%80%93ervationsHondurasVisitMay2010.pdf). [↑](#footnote-ref-75)
76. IACHR, *Guarantees for the Independence of Justice Operators*. *Towards Strengthening Access to Justice and the Rule of Law in the Americas*. OEA/Ser.L/V/II. Doc. 44. 5 December 2013, para. 24. [↑](#footnote-ref-76)
77. IACHR, *Guarantees for the Independence of Justice Operators*. *Towards Strengthening Access to Justice and the Rule of Law in the Americas*. OEA/Ser.L/V/II. Doc. 44. 5 December 2013, para. 24. [↑](#footnote-ref-77)
78. I/A Court H.R., *Apitz-Barbera et al. (“First Court of Adminstrative Disputes”) v. Venezuela Case*. Preliminary Objection, Merits, Reparations and Costs. Judgment of August 5, 2008. Series C No. 182, para. 147. [↑](#footnote-ref-78)
79. The State pointed to some measures to strengthen the judicial branch: In a qualitative follow-up of judicial cases with a social impact involving human rights violations, the Human Rights Department of the judiciary has identified 45 cases of possible violations of human rights. In addition, in order to facilitate access to justice, support has been given to the National Service for Judicial Facilitators, which currently has a staff of 864. The Office of the Inspector General of the Courts in 2013 received 821 complaints, 307 of which were found to have merit, with the respective disciplinary process begun; 394 were found to be without merit; and 120 are being investigated. Of the complaints investigated, 24 were sent to the Office of the Public Prosecutor because they appeared to constitute criminal acts. Meanwhile, in order to help reduce the judicial backlog, a “purging of case files” was carried out, and 12,298 files out of a total 40,660 reviewed were voided. In addition, the Center for Non-Formal Justice has resolved 267 reconciliations, provided 1,147 consultations, and benefited 9,818 men and 10,024 women. Government of Honduras. Information presented on December 4, 2014. [↑](#footnote-ref-79)
80. IACHR, *Guarantees for the Independence of Justice Operators. Towards Strengthening Access to Justice and the Rule of Law in the Americas*. OEA/Ser.L/V//II. Doc. 44, 5 December 2013, para.30. [↑](#footnote-ref-80)
81. IACHR. *Democracy and Human Rights in Venezuela*. OEA/Ser.L/V/II. Doc. 54, 30 December 2009, para. 185. [↑](#footnote-ref-81)
82. I/A Court H.R., *Case of Reverón Trujillo v. Venezuela*. Preliminary Objection, Merits, Reparations, and Costs. Judgment of June 30, 2009. Series C No. 197, para. 74. [↑](#footnote-ref-82)
83. I/A Court H.R., *Case of Reverón Trujillo v. Venezuela*. Preliminary Objection, Merits, Reparations, and Costs. Judgment of June 30, 2009. Series C No. 197, para. 74. [↑](#footnote-ref-83)
84. IACHR. *Democracy and Human Rights in Venezuela*. OEA/Ser.L/V/II. Doc. 54, December 30, 2009, para. 187. Available at: <http://www.cidh.org/pdf%20files/VENEZUELA%202009%20ENG.pdf>. [↑](#footnote-ref-84)
85. IACHR. [*Guarantees for the independence of justice operators: Towards strengthening access to justice and the rule of law in the Americas*](http://www.oas.org/es/cidh/defensores/docs/pdf/Justice-Operators-2013.pdf). OEA/Ser.L/V/II. Doc. 44, December 5, 2014, para. 79. Available at: <http://–www.oas.org/es/cidh/defensores/docs/pdf/Justice-Operators-2013.pdf>. [↑](#footnote-ref-85)
86. See Case 12.816, *Adán Guillermo López Lone et al*. Date of submission to the Court: March 17, 2014. Available at: <http://www.oas.org/en/iachr/decisions/cases.asp>. [↑](#footnote-ref-86)
87. By way of background to this second event, the information available indicates that on November 27, 2012, the Constitutional Chamber ruled that Legislative Decree No. 89-2012, which contained the so-called “Police Purge Law,” was unconstitutional. On December 12, 2012, the National Congress decided to remove the following Supreme Court justices from office: Rosalinda Cruz Sequeira, José Francisco Ruiz Gaekel, Gustavo Enrique Bustillo Palma, and José Antonio Gutiérrez Navas. That same day, Congress appointed and swore in the new justices to serve on the Constitutional Chamber’s bench. See IACHR, Annual Report 2013, Chapter IV(B). [↑](#footnote-ref-87)
88. Legislative Decree 219-2011. Law on the National Council of the Judiciary. Available at: <http://www–.tsc.gob.hn/biblioteca/index.php/leyes/280-ley-del-consejo-de-la-judicatura-y-la-carrera-judicial>. [↑](#footnote-ref-88)
89. La Prensa, [*Depuración del Poder Judicial de Honduras durará 5 años*](http://www.laprensa.hn/honduras/tegucigalpa/476423-98/depuracion-del-poder-judicial-de-honduras-durara-5-anos), February 18, 2014. [↑](#footnote-ref-89)
90. The National Council of the Judiciary was created on November 17, 2011, by means of Decree 219-2011, Law on the Council of the Judiciary. Available at: <http://www.tsc.gob.hn/biblioteca/index.php/leyes/280-ley-del-consejo-de-la-judicatura-y-la-carrera-judicial>. [↑](#footnote-ref-90)
91. Radio Progreso. [Clima de intimidación genera proceso de depuración judicial](http://www.radioprogresohn.net/index.php/comunicaciones/noticias/item/958-clima-de-intimidaci%C3%B3n-genera-proceso-de-depuraci%C3%B3n-judicial), May 23, 2014. Meeting with civil society organizations during the on-site visit to Honduras. Meeting in Tegucigalpa. [↑](#footnote-ref-91)
92. AJD. *Actualización de Información sobre Seguridad y Justicia en Honduras*. On-site Visit to Honduras, San Pedro Sula, December 3, 2014. [↑](#footnote-ref-92)
93. Judiciary of Honduras. Council of the Judiciary and the Judicial Career Service. *Informe Primer Año. Rendición de Cuentas*. October 11, 2014, p. 8. [↑](#footnote-ref-93)
94. According to the provisions of Article 33 of the Law on the Council of the Judiciary, “The selection process shall be conducted by a Selection Tribunal appointed by the Council for each job posting.” [↑](#footnote-ref-94)
95. AJD. *Actualización de Información sobre Seguridad y Justicia en Honduras*. On-site Visit to Honduras, San Pedro Sula, December 3, 2014. [↑](#footnote-ref-95)
96. IACHR. *Guarantees for the independence of justice operators: Towards strengthening access to justice and the rule of law in the Americas*. OEA/Ser.L/V/II. Doc. 44, December 5, 2014, paras. 56 and ff. Available at: <http://www.oas.org/es/cidh/defensores/docs/pdf/Justice-Operators-2013.pdf>. [↑](#footnote-ref-96)
97. Judiciary of Honduras. Council of the Judiciary and the Judicial Career Service. *Informe Primer Año. Rendición de Cuentas*. October 11, 2014, p. 10. According to information received, a number of the judges who were suspended filed *amparo* actions. The IACHR was informed of four judgments granting *amparo* relief. [↑](#footnote-ref-97)
98. IACHR, Public Hearing, *Situation of the Democratic Rule of Law in Honduras*, March 25, 2014. [↑](#footnote-ref-98)
99. AJD. *Actualización de Información sobre Seguridad y Justicia en Honduras*. On-site Visit to Honduras, San Pedro Sula, December 3, 2014. [↑](#footnote-ref-99)
100. El Heraldo. [*Más de 100 suspendidos ha dejado depuración judicial de Honduras*](http://www.elheraldo.hn/inicio/757841-331/m%C3%A1s-de-100-suspendidos-ha-dejado-depuraci%C3%B3n-judicial-de-honduras). October 14, 2014. [↑](#footnote-ref-100)
101. General Secretariat of the Council of the Judiciary and the Judicial Career Service. Circular No. 5. Document No. 216-SCJYCJ-2013. Available at: [http://www.poderjudicial.gob.hn/transparencia/regulacion/Decretos–Ci–rcularesAcuerdosPoderJudicial/Documents/Circulares%20Diciembre%20de%202013.pdf](http://www.poderjudicial.gob.hn/transparencia/regulacion/Decretos%E2%80%93Ci%E2%80%93rcularesAcuerdosPoderJudicial/Documents/Circulares%20Diciembre%20de%202013.pdf) [↑](#footnote-ref-101)
102. AJD. *Actualización de Información sobre Seguridad y Justicia en Honduras*. On-site Visit to Honduras, San Pedro Sula, December 3, 2014. [↑](#footnote-ref-102)
103. Decree No. 291-2013. Amendments to the Law on the Council of the Judiciary and the Judicial Career Service, February 19, 2014. See Article 3. Available at: [http://www.poderjudicial.gob.hn/transparencia/–re–gulacion/Documents/Decreto%20291-2013%20Reforma%20a%20la%20Ley%20del%20Consejo%20de%–20l–a%20Judicatura%20y%20la%20Carrera%20Judicial%20(4,2mb).pdf](http://www.poderjudicial.gob.hn/transparencia/%E2%80%93re%E2%80%93gulacion/Documents/Decreto%20291-2013%20Reforma%20a%20la%20Ley%20del%20Consejo%20de%25%E2%80%9320l%E2%80%93a%20Judicatura%20y%20la%20Carrera%20Judicial%20%284%2C2mb%29.pdf). [↑](#footnote-ref-103)
104. AJD. *Actualización de Información sobre Seguridad y Justicia en Honduras*. On-site Visit to Honduras, San Pedro Sula, December 3, 2014; AJD, CEJIL. *Aplicación de pruebas de polígrafo a operadores y operadoras de justicia en Honduras*, April 22, 2015. According to civil society organizations, despite the *amparo* actions filed, members of the National Council of the Judiciary and the Judicial Career Service submitted to trust tests to “set an example.” [↑](#footnote-ref-104)
105. Supreme Court, Constitutional Chamber. AA 236-2014. Judgment of December 9, 2014. [↑](#footnote-ref-105)
106. Regulations to the Law on the Council of the Judiciary and the Judicial Career Service. September 2, 2014. Published in La Gaceta on September 17, 2014. Article 79. Available at: [http://www.poderjudicial.gob.hn/–CEDIJ/Leyes/Documents/Acuerdo%20N.5%202014%20Reglamento%20de%20la%20Ley%20del%20Consejo%20de%20la%20Judicatura%20(8.70%20MB).pdf](http://www.poderjudicial.gob.hn/%E2%80%93CEDIJ/Leyes/Documents/Acuerdo%20N.5%202014%20Reglamento%20de%20la%20Ley%20del%20Consejo%20de%20la%20Judicatura%20%288.70%20MB%29.pdf). [↑](#footnote-ref-106)
107. Regulations to the Law on the Council of the Judiciary and the Judicial Career Service. September 2, 2014. Published in La Gaceta on September 17, 2014. Article 81. Available at: [http://www.poderjudicial.gob.hn/–CEDIJ/Leyes/Documents/Acuerdo%20N.5%202014%20Reglamento%20de%20la%20Ley%20del%20Consejo%20de%20la%20Judicatura%20(8.70%20MB).pdf](http://www.poderjudicial.gob.hn/%E2%80%93CEDIJ/Leyes/Documents/Acuerdo%20N.5%202014%20Reglamento%20de%20la%20Ley%20del%20Consejo%20de%20la%20Judicatura%20%288.70%20MB%29.pdf). [↑](#footnote-ref-107)
108. Regulations to the Law on the Council of the Judiciary and the Judicial Career Service. September 2, 2014. Published in La Gaceta on September 17, 2014. Article 81. Available at: [http://www.poderjudicial.gob.hn/–CEDIJ/Leyes/Documents/Acuerdo%20N.5%202014%20Reglamento%20de%20la%20Ley%20del%20Consejo%20de%20la%20Judicatura%20(8.70%20MB).pdf](http://www.poderjudicial.gob.hn/%E2%80%93CEDIJ/Leyes/Documents/Acuerdo%20N.5%202014%20Reglamento%20de%20la%20Ley%20del%20Consejo%20de%20la%20Judicatura%20%288.70%20MB%29.pdf). [↑](#footnote-ref-108)
109. AJD, CEJIL. *Aplicación de pruebas de polígrafo a operadores y operadoras de justicia en Honduras*, April 22, 2015. [↑](#footnote-ref-109)
110. This provision is in compliance with the General Law of Superintendence for the Application of Trust Assessment Tests, a supplemental law that applies to the tests administered to judicial employees. Regulations to the Law on the Council of the Judiciary and the Judicial Career Service. September 2, 2014. Published in La Gaceta on September 17, 2014. Article 80. Available at: [http://www.poderjudicial.gob.hn/–CEDIJ/Leyes/Documents/Acuerdo%20N.5%202014%20Reglamento%20de%20la%20Ley%20del%20Consejo%20de%20la%20Judicatura%20(8.70%20MB).pdf](http://www.poderjudicial.gob.hn/%E2%80%93CEDIJ/Leyes/Documents/Acuerdo%20N.5%202014%20Reglamento%20de%20la%20Ley%20del%20Consejo%20de%20la%20Judicatura%20%288.70%20MB%29.pdf). [↑](#footnote-ref-110)
111. According to information received, on March 9, 2015, the AJD filed an *amparo* action challenging the decision to administer the polygraph test. The appeal was admitted but the challenged practice has reportedly not been suspended. [↑](#footnote-ref-111)
112. *Aplicación de pruebas de polígrafo a operadores y operadoras de justicia en Honduras*. Document presented to the by CEJIL and the Asociación de Jueces por la Democracia on April 22, 2015. [↑](#footnote-ref-112)
113. Article 317 of the Constitution of Honduras. [↑](#footnote-ref-113)
114. This decree, dated April 25, 2013, entered into force on May 17, 2013. [↑](#footnote-ref-114)
115. The IACHR was informed that Decree 56-2013 had been challenged on grounds of unconstitutionality through an appeal filed by the AJD on May 27, 2014. As of the date of this report, this appeal had not been resolved. [↑](#footnote-ref-115)
116. IACHR*.* [*Second Report on the Situation of Human Rights Defenders in the Americas*](http://www.oas.org/en/iachr/defenders/docs/pdf/defenders2011.pdf). OEA/Ser.L/V/II. Doc. 66, December 31, 2011, para. 376. Along these same lines, see the Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa, adopted as part of the report of activities of the African Commission at the Second Summit and Meeting of Heads of State of the African Union, held in Maputo July 4-12, 2003, Principle A (4)(n). The Commission calls to mind that even in cases in which there may be an inexcusable judicial error, the disciplinary authority has an irrevocable duty to provide grounds for the seriousness of the conduct and the proportionality of the penalty, so as to ensure that a serious sanction can be imposed only when the competent authority has properly established that the justice operator’s suitability for the job has been compromised. See Inter-American Court. *Case of Apitz Barbera et al. (“First Court of Administrative Disputes”) v. Venezuela*. Preliminary Objection, Merits, Reparations and Costs. Judgment of August 5, 2008. Series C No. 182, para. 90. [↑](#footnote-ref-116)
117. Article 24 of Decree 110-2014. The State, in its response to the draft of this report, indicated that paragraph 23 of Article 24 of Decree 110-2014 does not deny a prosecutor the right to file an appeal of the Attorney General’s decisions in cases involving internal movement or rotation. Communication from the State of Honduras, Note No. SG/064/MHOEA/2015, Observations of the State of Honduras to the 2015 Draft Report on Honduras of the Inter-American Commission on Human Rights, December 14, 2015. [↑](#footnote-ref-117)
118. Government of Honduras. Information provided by the State of Honduras during the on-site visit. *Informe Final de la Visita*, December 4, 2015. [↑](#footnote-ref-118)
119. IACHR. *Access to Justice and Social Inclusion: The Road towards Strengthening Democracy in Bolivia.* Available at: <http://cidh.org/pdf%20files/BOLIVIA.07.ENG.pdf>. [↑](#footnote-ref-119)
120. IACHR. *Guarantees for the independence of justice operators: Towards strengthening access to justice and the rule of law in the Americas*. OEA/Ser.L/V/II. Doc. 44, December 5, 2014, para. 36. Available at: [http:–//www.oas.org/es/cidh/defensores/docs/pdf/Justice-Operators-2013.pdf](http://www.oas.org/es/cidh/defensores/docs/pdf/Justice-Operators-2013.pdf). [↑](#footnote-ref-120)
121. IACHR. *Guarantees for the independence of justice operators: Towards strengthening access to justice and the rule of law in the Americas*. OEA/Ser.L/V/II. Doc. 44, December 5, 2014, para. 44. Available at: <http://–www.oas.org/es/cidh/defensores/docs/pdf/Justice-Operators-2013.pdf>. [↑](#footnote-ref-121)
122. IACHR. *Guarantees for the independence of justice operators: Towards strengthening access to justice and the rule of law in the Americas*. OEA/Ser.L/V/II. Doc. 44, December 5, 2014, para. 56 and ff. Available at: <http://www.oas.org/es/cidh/defensores/docs/pdf/Justice-Operators-2013.pdf>. [↑](#footnote-ref-122)