



The Republic of Honduras
NGO Submission to the UN Universal
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CIVICUS: World Alliance for Citizen Participation
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1. (A) Introduction

1.1 CIVICUS: World Alliance for Citizen Participation is an international movement with members in more than 100 countries worldwide. Established in 1993, CIVICUS nurtures the foundation, growth and protection of citizen action throughout the world, especially in areas where participatory democracy and citizens' freedom of association are threatened.

1.2 In this document, CIVICUS outlines concerns related to the environment in which civil society activists and human rights defenders operate in Honduras and discusses threats faced in the exercise of freedoms of expression, association and assembly.

1.3 CIVICUS is concerned by legislative and extra-legal measures taken by the Republic of Honduras which curb civil society activism and threaten the freedom of association.

1.4 CIVICUS is greatly alarmed by undue and arbitrary restrictions on freedom of expression and independence of the media.

1.5 CIVICUS is concerned by the ongoing legal and policy restrictions on the freedom of assembly as well as use of excessive force and the practice of carrying out arbitrary arrests to disperse and discourage nonviolent demonstrations.

- In section B, CIVICUS highlights concerns related to the freedom of association and restrictions on civil society activities.
- In section C, CIVICUS expresses concerns involving harassment and arbitrary detention of human rights defenders.
- In section D, CIVICUS highlights concerns relating to the freedom of expression and independence of the media.
- In section E, CIVICUS highlights concerns regarding the freedom of assembly.
- In section F, CIVICUS makes a number of recommendations to address the concerns listed.

2. (B) Restrictions on freedom of association and impediments to civil society activities

2.1 Article 78 of the Constitution of the Republic of Honduras guarantees the right to freedom of association stating that, “Freedom of association and assembly is guaranteed provided its exercise is not contrary to the public policy or to good morals.” Article 308 of the Constitution further acknowledges this right as it states “For the exclusive purposes of ensuring the improvement and development of the communities, citizens shall have the right to freely associate themselves in civic associations, to establish federations or confederations.”¹ Article 22 of the International Covenant on Civil and Political Rights (ICCPR), to which Honduras is a state party, also guarantees the freedom of peaceful association. Despite the aforementioned legal guarantees, the Decree No: 120-2013 and the Law for Employment and Economic Development Zones (ZEDE) allow authorities to implement their own legal and policy frameworks at the local level, which make civil society activists working on land rights and environmental issues in particular vulnerable to lack of protection for their work.

2.2 Provisions concerning civil society are dispersed in Honduran jurisprudence which primarily are the Constitution, the Civil Code, the Administrative Procedures Code, and the Executive Accord 65-2013. The Law for Neighborhood Boards, the Special Law for Non-Governmental Development Organizations (the “NGO-D Law”), the Law for Non-Governmental Financial Development Organizations and the Community Waterboard Law also affect civil society operations to different degrees. The aforementioned laws are generally accepted to be in line with international standards set forth in the ICCPR. However, since its initial review under the 9th Session of the UPR, CSOs in Honduras reported that there are undue and arbitrary restrictions on freedom of association, which are primarily due to problems in implementation of the existing legal framework. The Unit for Registering and Monitoring Civil Associations (URSAC), the government agency primarily responsible for CSOs, exercises undue authority within the scope of its mandate.

2.3 Of critical concern are the provisions found in the Executive Accord 65-2013 which place a number of unwarranted bureaucratic obstacles for civil society operations. The Executive Accord 65-2013 requires CSOs to provide the Minister of Interior and Population with detailed annual executive and financial reports. They face threat of closure or risk being issued heavy penalties if the reports do not fully comply with the law. The Ministry of Interior and Population have routinely and arbitrarily used this legal provision to keep CSOs in check, in contravention to international best practices.² In

¹ La Constitución de Honduras, http://www.oas.org/dil/esp/Constitucion_de_Honduras.pdf

² Cancelarán más de 6,000 ONG en Honduras, El Heraldo, 13 July 2013, www.elheraldo.hn/csp/mediapool/sites/ElHeraldo/Pais/story.csp?cid=582196&sid=299&fid=214

February 2014, the Ministry of Interior and Population, through Executive Order 2196-A-2013, canceled the legal personalities of more than 5,429 CSOs for not providing annual reports of their financial statements.³ URSAC issued heavy financial penalties to organizations failing to file and document activities. The cancelations and penalties were later retracted after most organizations demonstrated that they already complied with the requirements of the existing legal framework.

3. (C) Concerns involving harassment, intimidation and attacks against human rights defenders and civil society activists

3.1 Article 12 of the UN Declaration on Human Rights Defenders mandates States to take necessary measures to ensure protection to human rights defenders. The ICCPR guarantees the freedoms of expression, association and assembly. It is a matter of deep concern that in Honduras human rights defenders engaged in legitimate activities are being subjected to reprisals by state officials. Since Honduras' first UPR examination, dozens of human rights defenders, especially those working on LGBTI, child, women's rights and environmental issues, have been systematically targeted by state authorities.

3.2 On 22 September 2012, prominent human rights lawyer Antonio Trejo Cabrera who advocated peasant and land rights, was shot and murdered in Tegucigalpa.⁴ On July 5 2012 Donny Reyes, the coordinator of LGBTI organization Rainbow Association (Asociación Arcoiris), was chased by an armed man on a motorbike.⁵ Despite an order from the Inter-American Commission on Human Rights (IACHR), Honduran authorities failed to provide him any protection. On 23 October 2012, Karla Zelaya, prominent land rights activist and a journalist with the Unified Campesino Movement of Aguán (Movimiento Unificado Campesino del Aguán, MUCA), was abducted and tortured in Tegucigalpa.⁶ Karla was released after three hours but was threatened saying that if she carried out her human rights work, she and other members of MUCA would be murdered. On 22 January 2013, LGBTI activist, Patricio Vindel, the executive director of La Ceiba's Pro-Union Organization (Organización Pro-Unión Ceibeña, OPRUCE) received a death threat which was spray painted outside his office wall.⁷ In all aforementioned

³ Poder Ejecutivo ordena el cierre del Comité por la Libre Expresión C-Libre, C-Libre, 7 March 2014, <http://clibrehonduras.com/main/noticias/poder-ejecutivo-ordena-el-cierre-del-comit%C3%A9-por-la-libre-expresi%C3%B3n-c-libre>

⁴ Frente a iglesia ultiman a apoderado legal de los campesinos del Aguán, La Tribuna, 24 September 2014, <http://www.latribuna.hn/2012/09/24/ultiman-al-representante-legal-de-campesinos-del-marca/>

⁵ UNHCR ACNUR, Honduras, http://www.acnur.org/t3/uploads/media/2865_-_informe_CIDH_Honduras_2012.pdf?view=1

⁶ Voices in Danger: In Honduras, they come after your family too, The Independent, 10 June 2013, <http://www.independent.co.uk/voices/comment/voices-in-danger-in-honduras-they-come-after-your-family-too-8652478.html>

⁷ Amenaza de muerte contra un activista Hondureño, 12 February 2013, <http://www.felgtb.org/temas/internacional/noticias/i/3044/324/amenaza-de-muerte-contra-un-activista-hondureno>

cases, police forces either failed to provide a robust and impartial investigation, or immediate protection for human rights defenders at risk. National Human Rights Commission (CONADEH) has also been unproductive in responding to immediate threats to human rights defenders and providing effective remedies to their cases. The inefficiency of the Honduran government to warrant protection to human rights defenders, and the failure to investigate and prosecute perpetrators is of critical concern.

3.3 On 25 July 2013, two humanitarian workers, French national Orlane Vidal and Swiss national Daniel Langmeier who were assisting the Honduras Accompaniment Project (Proyecto de Acompañamiento en Honduras – PROAH), an organization advocating land rights with respect to mining projects, were abducted at gunpoint.⁸ Since 2012 numerous members of PROAH have reportedly been threatened and harassed and the authorities failed to effectively investigate these attacks which aimed at destabilizing and preventing their legitimate land rights activism.

3.4 After releasing a report demonstrating that 270 children and young people have been killed in the first three months of 2014, on 8 May 2014, the Director of Casa Alianza, an organization working with street children, Jose Guadalupe Ruelas García was brutally beaten by the Honduran police in front of the Presidential Palace in Tegucigalpa.⁹ After being held in the intensive care unit for 2 days, Garcia was released from the hospital on 10 May and the Honduran authorities claimed the “injuries were the result of a traffic collision”.¹⁰ Perpetrators of police brutality against the prominent activists were not held accountable for their actions.

3.5 Despite escalation of threats and deaths of human rights defenders and the government’s commitment to take prompt and effective steps to protect them from violent attacks, Honduras failed to implement a national protection programme specifically addressing risks and threats against human rights defenders. The lack of protection for human rights defenders at risk not only disabled authorities to effectively and impartially undertake investigations and fight impunity, but also increased HRDs vulnerability to outside threats.

⁸ Public Clarification of the Circumstances Surrounding the Abduction of Two Observers from PROAH in La Nueva Esperanza, Honduras Accompaniment Project, 15 November 2013, <https://hondurasaccompanimentproject.wordpress.com/2013/11/>

⁹ Acción Urgente Cofadeh, 9 May 2014, http://www.defensoresenlinea.com/cms/index.php?option=com_content&view=article&id=3113:accion-urgente-cofadeh&catid=71:def&Itemid=166

¹⁰ Beating and arbitrary detention of children’s rights defender Mr José Guadalupe Ruelas, Honduras Accompaniment project, 15 May 2014, <http://hondurasaccompanimentproject.wordpress.com/2014/05/15/beating-and-arbitrary-detention-of-childrens-rights-defender-mr-jose-guadalupe-ruelas/>

3.6 On 8 March 2014 Marlen Cruz Licona, prominent human rights defender working on land rights and the eviction of campesino communities, from CODEH, was arrested with alleged charges of instructing a group of campesinos to attack police forces. Marlen is still detained despite lack of substantiate evidence to back up the authorities' claims, and is prevented from carrying out her human rights work.¹¹

3.7 Members of Civic Council of Popular and Indigenous Organisations of Honduras (Consejo Civico de Organizaciones Populares e Indígenas de Honduras – COPINH), systematically targeted due to their advocacy defending a local river that is the proposed site for the construction of a highly profitable hydro-electric dam. The general coordinator of COPINH, Berta Cáceres, was arrested on 24 May 2013 based on “illegal possession of a firearm endangering the security of the Honduran”.¹² Although Berta was released on 10 February 2014 at the Court of First Instance in Santa Barbara, authorities used judicial harassment to intimidate her and COPINH. On 8 November 2013, two human rights defenders working with CONIPH, Aureliano Molina Villanueva and Victor Fernández, were both followed by a vehicle which persistently flashed its lights attempting to distract the driver and possibly cause an accident. There are serious concerns that authorities are using means of judicial harassment and intimidation to prevent CONIPH from carrying out their valid human rights work.

4. (D) Concerns regarding freedom of expression and access to information

4.1 Article 72 of the Honduran Constitution affirms the right to freedom of expression and thought stating “Expression of thought shall be free, and may be expressed through any means of dissemination, without prior censorship.” Article 74 of the Constitution protects freedom of expression from indirect restrictions by stating “The right to freedom of thought and expression may not be restricted by indirect means, such as the abuse of government or private controls over newsprint, radio broadcasting frequencies, or equipment used in the dissemination of information”. Article 19 of the ICCPR, to which Honduras is a state party, also guarantees freedom of expression and opinion. However, despite these protections, the government continues to invoke restrictive and overbroad legislation to limit access to information. The Law for Classification of Public Documents and the Decree No 418-2013 is in contravention of Honduras' Transparency and Access to Information Law and the Tshwane and Johannesburg Principles on national security, freedom of expression and access to information.

4.2 Press freedom in Honduras remains subverted by violence and intimidation as

¹¹ Summary of Human Rights Issues and Events in Honduras, PROAH, March 2014, <http://proah.files.wordpress.com/2014/04/2014march.pdf>

¹² Auto de prisión para dirigente Berta Cáceres, El Heraldo, 20 September 2013, <http://www.elheraldo.hn/tag/388385-214/auto-de-prisi%C3%B3n-para-dirigente-bera-c%C3%A1ceres>

journalists working on sensitive issues such as drug trafficking, land rights and corruption operate at great risk. Since the coup of 2009, dozens of journalists have reportedly been murdered in Honduras. On 20 April 2014, Héctor Longino Becerra, journalist and executive director of the NGO Freedom of Expression Committee (Comité por la Libre Expresión, C-Libre), was given a death threat over the phone.¹³ On 7 May 2014, the body of Erick Martínez Ávila, journalist and spokesperson for LGBTI organization Kukulcán, an organization that defends LGBT rights, was found by a road outside Tegucigalpa.¹⁴ On 24 June 2014, GLOBO TV talk show host and journalist Anibal Barrow was kidnapped and several days after was found to be murdered in Villanueva, northern Honduras.¹⁵ On 20 May 2013, Ramon Maldonado, the host of "Noticias con Café" (News with Coffee) and cameraman Daniel Sánchez were fired at by an unidentified gunman.¹⁶ In all aforementioned cases of murder, physical abuse and intimidation Honduran authorities failed to both provide immediate protection to journalists at risk, and robust and effective investigation into their cases.

4.4 On 9 December 2013, journalist Julio Ernesto Alvarado was sentenced to 16 months in prison for criminal defamation, on charges of harming the reputation of the head of a local university, raising serious concerns regarding the impartiality of the judicial system.¹⁷

5 (E) Concerns regarding freedom of assembly

5.1 Article 79 of the Constitution of the Republic of Honduras protects the right to assembly and demonstration stating that "Everyone has the right of peaceful assembly, without arms, in a public demonstration or temporary assembly, in connection with their common interests of whatever nature, without the need of notice or special permission. However, the article also makes assemblies of a political nature subject to prior permission in contravention of international best practice as it states "Outdoor meetings and those of a political character may be subject to a regime of special permission, with the sole purpose of ensuring public order. Furthermore, article 21 of the ICCPR, to which

¹³ Committee for Free Expression Director Héctor Becerra Threatened, Honduras Weekly, <http://www.hondurasweekly.com/national/item/16728-committee-for-free-expression-director-h%C3%A9ctor-becerra-threatened>

¹⁴ Missing Honduran journalist Erick Martinez found dead, BBC News, 8 May 2012, <http://www.bbc.co.uk/news/world-latin-america-17990638>

¹⁵ Honduras: Restos son de periodista raptado Anibal Barrow, La Nacion, 11 July 2013, http://www.nacion.com/mundo/centroamerica/Honduras-Restos-periodista-Anibal-Barrow_0_1353064701.html

¹⁶ Periodista ceibeño sufre atentado, La Tribuna, 20 May 2013, <http://www.latribuna.hn/2013/05/20/periodista-sobrevive-a-ataque/>

¹⁷ El escándalo que tiene al borde de prisión al periodista Julio Ernesto Alvarado, Conexihon, 2 May 2014, http://conexihon.info/site/noticia/libertad-de-expresi%C3%B3n/el-esc%C3%A1ndalo-que-tiene-al-borde-de-presi%C3%B3n-al-periodista-julio-ernesto?utm_source=Bolet%C3%ADn+de+Noticias+Conexihon+6+febrero%2C+2014&utm_campaign=Bolet%C3%ADn+3&utm_medium=email

Honduras is a state party, guarantees the right to freedom of peaceful assembly. However, despite these legal guarantees, there are a number of stringent limitations to this right.

5.2 Of critical concern are the provision found in the Penal Code, which place a number of unwarranted obstacles that prohibit illicit assemblies. Article 331 of the Penal Code prescribes prison sentences from two to four years and a fine of 30,000 to 60,000 lempiras (\$1,500 to \$3,000) for anyone who organizes an illicit demonstration.

5.4 During May 2014 the government of Honduras violently suppressed a number of peaceful protests which addressed contentious issues such as land rights or high levels of crime. On 13 May 2013 the police brutally attacked peaceful opposition legislators and activists demanding that the Congress should debate high levels of crime and violence in Honduras.¹⁸ On 23 May 2014, the police and army violently suppressed a peaceful demonstration in Colon, where 800 people belonging to the local community protested forced evictions. It is reported that tear gas was fired into a kindergarten and private homes of individuals, hospitalizing 6 children.

5.5. On July 15 2014 the Honduran army opened fire at protestors from COPINH and killed the organizations' member Thomas Garcia.¹⁹ COPINH has been carrying out non-violent assemblies to protest the construction of a hydroelectric dam on a local river and have met with excessive and even deadly violence by the Honduran army.

6 (F) Recommendations to the Government of the Republic of Honduras

CIVICUS calls on the Government of Honduras to create an enabling environment for civil society to operate in accordance with the rights enshrined in the ICCPR and the UN Declaration on Human Rights Defenders. At a minimum, the following conditions should be ensured: freedom of association, freedom of expression, the right to operate free from unwarranted state interference, the right to communicate and cooperate, the right to seek and secure funding and the state's duty to protect. In light of this, the following specific recommendations are made.

6.1 Regarding restrictions on freedom of association:

- The Special Law for Non-Governmental Development Organizations (the "NGO-D Law") and the Executive Accord 65-2013 should be amended to create an

¹⁸ Diputados de Libre Presentan Denuncia por Violacion A Derechos Humanos, Radio Progreso y el Eric, 15 May 2014, <http://radioprogresohn.net/index.php/comunicaciones/noticias/item/924-diputados-de-libre-presentan-denuncia-por-violaci%C3%B3n-a-derechos-humanos>

¹⁹ Honduran Army Kills Indigenous Leader of Coping who resisted dam in Rio Blanco, IC Magazine, 16 July 2014, <https://intercontinentalcry.org/honduran-army-kills-indigenous-leader-of-copin-h-who-resisted-dam-in-rio-blanco/>

enabling environment for civil society organizations and to remove unwarranted bureaucratic obstacles for the operation of civil society.

- The Unit for Registering and Monitoring Civil Associations (URSAC) must be allocated adequate resources to assist CSOs operating at the local level outside of Tegucigalpa.

6.2 Regarding the arbitrary detention and harassment of civil society activists

- The Government should adopt a holistic state policy to provide a conducive environment for human rights defenders and to ensure their security as outlined in recommendations set forth by the UPR mechanism, Special Procedures, Treaty Bodies and the Inter-American System, as well as those provided by the Commission on Truth and Reconciliation.
- The state should ensure that National Human Rights Commission (CONADEH) can carry out its legitimate work independently. CONADEH should promptly and impartially investigate cases referred to it without fear of reprisals.
- All due process guarantees in accordance with article 14 of the ICCPR should be ensured for all detained persons. All human rights defenders and civil society activists detained for exercising their freedom of assembly, association, or expression should be unconditionally and immediately released. Their cases should be reviewed to prevent further harassment.

6.3 Regarding restrictions on freedom of expression and access to information, and intimidation, harassment and attacks on journalists

- An impartial and independent complaint mechanism should be established to investigate widespread threats against journalists working on contentious issues. The security personnel should provide immediate and effective protection to journalists at risk. The state should provide impartial and timely investigation into the homicide cases of journalists.
- National legislation should be revised to ensure freedom of expression and access to information is guaranteed in accordance to the ICCPR

6.4 Regarding restrictions on freedom of assembly

- Best practices on freedom of peaceful assembly should be adopted, as put forward by the UN Special Rapporteur on the Right to Peaceful Assembly and Association in his annual report (2012) which calls for simple notification rather than explicit permission to assemble.
- An impartial and independent complaint mechanism should be established to combat widespread excessive state violence against peaceful protestors.
- Recourse for judicial review and effective remedy should be provided, including

compensation, in cases of unlawful denial of the right to freedom of assembly by state authorities.

- Security forces in charge of crowd control should be equipped with non-lethal weapons and provided training across the board on humane means of crowd control as well as on the UN Basic Principles on the Use of Force and Firearms.

6.5 Regarding access to UN Special Procedures mandate holders

- A standing invitation should be extended to the UN Special Procedures, particularly to the Special Rapporteur on Freedom of Expression and the Special Rapporteur on Freedom of Peaceful Assembly.