



International Covenant on Civil and Political Rights

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Human Rights Committee

Concluding observations on the second periodic report of Honduras*

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

A. Introduction

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

B. Positive aspects

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

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

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

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

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

(e) The Trafficking in Persons Act, 2012;

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

* Adopted by the Committee at its 120th session (3-28 July 2017).



(g) The Act on the Protection of Human Rights Defenders, Journalists, Social Communicators and Justice Officials, 2015, and the implementation of the National Protection System.

4. The Committee welcomes the ratification by the State party of the following international instruments:

(a) The Convention on the Rights of Persons with Disabilities, in 2008;

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

(c) The International Convention for the Protection of All Persons from Enforced Disappearance, in 2008.

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

C. Principal matters of concern and recommendations

National human rights institution

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

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

Truth and Reconciliation Commission and Amnesty Decree

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

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

Non-discrimination

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

11. The State party should ensure comprehensive protection against discrimination, including discrimination against women, the Afro-Honduran community and indigenous peoples and discrimination on grounds of sexual orientation and gender identity. The State party should strengthen the National Institute for Women, in particular through an increase in its budget and the effective implementation of the

Second Gender Equality and Equity Plan, 2010-2022. It should also ensure that the equality of same-sex couples and the identity of transgender persons are fully recognized and that lesbian, gay, bisexual, transgender and intersex persons are fully protected against hate crimes. The State party should adopt measures to increase the number of indigenous persons and Afro-Hondurans in public and political life.

Equal rights between men and women

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

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

Violence against women

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

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

Voluntary termination of pregnancy and reproductive rights

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

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

Right to life and security of person

18. The Committee notes the decline in the homicide rate in the State party. However, it remains concerned at the extremely high rates of homicide, physical assault, property damage and recruitment of children for criminal activities by gangs (*maras*) and at the very high rate of impunity with regard to these types of offences (arts. 6, 9 and 24).

19. **The State party should step up its efforts to investigate all violent crimes and other serious offences in a prompt, thorough and impartial manner, to prosecute and punish those responsible and to ensure that victims receive full reparation. Furthermore, the State party should enhance programmes for the protection of children and youth who refuse to join criminal gangs, including by ensuring the effective implementation of the System for the Promotion and Comprehensive Protection of the Rights of the Child, with sufficient funding for the fulfilment of its objectives.**

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

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

Extrajudicial execution, enforced disappearance and torture

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

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

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

25. **The State party should:**

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

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

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

(d) Ensure that criminal law includes objective criteria for determining appropriate penalties that are commensurate with the seriousness of acts of torture.

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

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

Internally displaced persons

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

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

Persons deprived of their liberty and detention conditions

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

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

Access to justice

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

33. The State party should ensure that persons deprived of their liberty enjoy fundamental legal safeguards in practice, including the right to be informed of their rights from the outset of detention, the right to immediate legal assistance and the

right to an independent medical examination. The State party should also ensure appropriate access to registers of detained persons.

Independence of the judiciary

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

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

Prohibition of slavery, forced labour and trafficking in persons

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

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

Privacy and surveillance

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

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

independent oversight mechanism and that it provides victims with appropriate remedies.

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

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

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

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

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

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

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

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

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

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

42. The Committee is concerned at reports that senior government officials have made disparaging statements in the media about individuals and civil society organizations who contributed to its work in connection with the consideration of the second periodic report of

the State party. The Committee draws particular attention to paragraph 8 of General Assembly resolution 68/268, of 9 April 2014, in which the Assembly “*strongly condemns* all acts of intimidation and reprisals against individuals and groups for their contribution to the work of the human rights treaty bodies, and urges States to take all appropriate action ... to prevent and eliminate such human rights violations”, and to the Guidelines against Intimidation or Reprisals (San José Guidelines) (arts. 19, 21 and 22).

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

Participation in public affairs and presidential re-election

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

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

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

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

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

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

Rights of persons belonging to minorities

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

47. The State party should expedite the passage of national legislation under which consultations must be held with indigenous and Afro-Honduran peoples with a view to obtaining their free and informed consent prior to the adoption and application of any measure that may have a substantial impact on their way of life and culture, and ensure that the law is fully in keeping with the Covenant and other relevant international standards. In addition, the State party should provide effective protection for indigenous peoples against all acts of violence and ensure that they can fully enjoy their rights, including land rights. In this connection, the State party should strengthen the capacity of the Office of the Special Prosecutor for Ethnic

Groups and provide training on indigenous rights to law enforcement officers, military personnel, staff of private security companies, judges and prosecutors. The State party should provide full reparation for the communities of Punta Piedra and Triunfo de la Cruz.

D. Dissemination and follow-up

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

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

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