



ARTICLE 19 and C-Libre

Joint Submission to the UN Universal Periodic Review of Honduras

For consideration at the 21st Session of the UN working group in April 2015

12 September 2014

Executive Summary

1. ARTICLE 19 and C-Libre welcome the opportunity to contribute to the second cycle of the Universal Periodic Review (UPR) of Honduras. The submission focuses on Honduras's compliance with its international obligations to respect, promote and protect rights to freedom of expression and freedom of peaceful assembly. It also reviews steps taken by Honduras to comply with the recommendations made during the first UPR cycle in 2010.
2. Since the first UPR review, Honduras initially took some positive steps to improve the protection of the rights to freedom of expression (including freedom of the press) and freedom of assembly. In particular, it has expressed a willingness to receive technical assistance from the international community in implementing the recommendations and in this respect, has commenced consultations with civil society organisations to discuss reforms.
3. Notwithstanding these positive steps, this submission identifies the following concerns:
 - a. Prevailing impunity for human rights violations related to the 2009 *coupe d'état*;
 - b. Violence against journalists and human rights defenders and related impunity;
 - c. Failure to reform the legal framework to better protect journalists and human rights defenders;
 - d. Attempts to silence journalists, human rights defenders and other critical voices through legal measures;
 - e. Problematic regulation of the media sector;
 - f. Restrictions to the right to access information.

Impunity for human rights violations in relation to the 2009 *coupe d'état*

4. Human rights violations in relation to the *coup d'etat* are well documented. For example, the report of the Human Rights Platform of Honduras (November 2012) revealed 5,418 cases of violations, including illegal arrests, harassment, repression of peaceful demonstrations, attacks against journalists, human rights defenders, members of the opposition and media, physical and psychological torture and the killing of one journalist. The "systematic obstruction" of the investigations has been identified as one of key problems; including "altering crime scenes and official documents" (see the report of the Truth and Reconciliation Commission). The perpetrators and instigators of these acts have not been punished. In particular, it is disconcerting to note that the case of the El Libertador photographer, Delmer Membreno, who was kidnapped and tortured following the 2009 crisis, has not been resolved.

Violence against journalists and human rights defenders and related impunity

5. Violence against journalists and human rights defenders remains an issue of concern. Since 2003, 47 journalists and media workers have died in violent or suspicious circumstances, of which 91% remain unpunished. According to the report of C-Libre, state agents continue to be the most recurrent perpetrators of attacks, including institutions such as the National Police, the Army, officials of the Municipal governments and Entities and Decentralized Central Government; since 25% of perpetrators are "unknown," it is possible that the actual number is higher.
6. Women human rights defenders are particularly vulnerable to attacks; for example, the 2012 report of the Mesoamerican Initiative of Women Rights Defenders documented 119 attacks against human rights defenders from which 95 were directed against women participating in social movements concerning land and the environment. The majority of these attacks have not yet been investigated. The case of the journalist and human rights defender, Dina Meza, is an example of such an attack. In 2012, she was forced to leave Honduras due to threats. She returned in 2013, but the threats have continued and have recently been increasing. She has not yet received a satisfactory response regarding the investigation into these threats from the authorities.
7. Supporters of the land movement and the defence of the environment are particularly susceptible to abuses, including judicial harassment, stigmatization and other threats to their psychological and physical integrity. For example, in the Bajo Aguán region, where land disputes cost the lives of at least 112 peasants during the last four years, harassment and threats against the community leaders have been documented. Although a Special Prosecution Office was created in 2014 to investigate human rights violations against the members of the Bajo Aguán community no charges have been filed against the perpetrators or the instigators of such acts. Meanwhile, the National Police continue to conduct forced evictions through the disproportionate use of force, harassment and threats against more than 300 families living in the region.

Failure to reform the legal framework to better protect journalists and human rights defenders

8. The legal framework of Honduras contains a number of laws that fail to meet international freedom of expression standards and are used to silence critical voices:
 - Defamation remains a criminal offence in Honduras (Articles 155-161 of the Penal Code);
 - Article 415 of Penal Code imposes sanctions of imprisonment from 60-90 days and a fine of 800-1000 lempiras (43-53 US dollars) for dissemination of "false news" which may put in danger public order or damage the State's interests or reputation;"
 - The Law against the Finance of Terrorism (Decree 241/2010) contains a number of vague and overly broad terms that can be used to restrict the financing of civil society organisations by the international community and private foundations.
 - The 1958 Thought Manifestation Law (amended in 1971) imposes penalties for the broadcasting or publishing of defamatory content including in its commercial interests. This includes vague and broad terms such as "attack without evidence against commercial and industrial, domestic or foreign enterprises, for the simple urge to avenge wrongs or discredit individuals or institutions; blackmail advertising in all its manifestations." The Law also prohibits the circulation or promotion of "dissolving doctrines" that endanger the "foundations of the State" (Article 6). The vagueness of the

law makes it susceptible to misuse and has had a chilling effect in investigative reporting and in the independent exercise of journalism.

9. Honduras has also failed to reform its legal framework on telecommunications. In August of 2013, President Porfirio Lobo submitted to the Congress a new Telecommunications Bill which included many of the international human rights standards and recommendations of the UN Special Rapporteur on freedom of expression, for example the legal recognition of community broadcasters, transparency in the allocation of frequencies and avoidance of media monopolies. The Bill has not yet been adopted and the amendments adopted during the parliamentary debate ignore the recommendations of the civil society.

Attempts to silence journalists, human rights defenders and other critical voices through legal measures

10. During 2014, various forms of intimidation and harassment of journalists, human rights defenders and other dissenters have been on the increase, including surveillance of houses and offices, interception of private communications and legal proceedings against them. For example:
 - In June 2014, Albertina Manueles Pérez, correspondent for Radio Progreso, was charged with a crime of sedition for broadcasting a communiqué in which an indigenous community refused to recognize a mayor whose election they claimed was fraudulent. The charges were brought against her by the General Prosecutor Office despite the precautionary measures granted by the Inter-American Commission in 2009, 2010 and 2011.
 - Journalists from GloboTV have been specially affected by the application of criminal defamation. For example, Julio Ernesto Alvarado, a TV presenter, was sentenced by the Supreme Court to 16 months of imprisonment and the lifetime ban on working as a journalist in February of 2014 (the sentence was eventually reduced to a fine but the ban remains). In August of 2014, criminal charges against four other journalists of GloboTV were filed.

Regulation of media sector

11. In July 2013, the National Commission of Telecommunications (CONATEL), a regulatory body, released a new regulation policy for community and social broadcasters. The regulation imposes a number of restrictions that repress rather than facilitate the operation and growth of this sector, including restricting the power of the transmission of community broadcasters (80-100 Watts) and prohibiting the access and use of A.M. waves. Furthermore, the regulation does not contemplate the allocation of sufficient space in the electromagnetic spectrum to promote and guarantee diversity of media outlets, content and voices. It also explicitly forbids the social sector of the media from broadcasting political issues.
12. This regulation has had a detrimental effect on community and social broadcasters, especially those from minority groups. A vast number of community radios in Honduras are operated by indigenous communities as such, the overly restrictive regulation is obstructing the full exercise of the right of such groups to access and manage media outlets in their own language. These community broadcasters were already disadvantaged, for example, out of 160 broadcasting licenses granted by the CONATEL between July 2013 to September 2014, only 20 were allocated to community broadcasters out of the 45 applications submitted.

Access to information

13. In 2006, Honduras adopted the Transparency and Access to Public Information Law, a positive step to provide stronger protection to the right to information. However, this positive trend was reverted in January 2014, when the Congress passed the Official Secret Law which imposes an obligation of all citizens, including the press, not to reveal information considered a secret by the government (Article 11). Standards for classification of “state secrets” and the Law contain vague terms, such as “national security” or “threat to the national security” (Article 4). There is no clarity over the process of declassification of information and there are no safeguards for revealing information in the public interest, such as on human rights violations or cases of corruption.

Recommendations

14. In response to these concerns, ARTICLE 19 and C-Libre call upon UN Member States to put forward specific and strong recommendations to address the on-going restrictions on the right to freedom of expression and assembly in Honduras, namely to:
 - Adopt effective measures to protect journalists, human rights defenders and other social communicators from attacks aimed at silencing them. Where such attacks do take place, effective remedies in the form of investigations should be undertaken to identify and punish those responsible. Honduras should also effectively implement the precautionary measures, adopted by the Inter-American Commission of Human Rights in respective cases;
 - Create a special mechanism to protect journalists, media workers and human rights defenders, who are facing imminent risk, including measures to protect women human rights defenders;
 - Human rights violations which occurred during the 2009 *coup d'état* should be effectively investigated and perpetrators and instigators should be brought to justice. In particular, Honduras should address the recommendations made by the independent Truth Commission;
 - The telecommunications law should be amended and CONATEL, the regulatory body, should be given full autonomy and independence. A fair and transparent licensing process, based on clear and pre-established public interest considerations, including diversity, should be put in place;
 - The restrictive regulation of the CONATEL against community and social broadcasters should be revoked and community broadcasters should be explicitly recognised. The CONATEL should adopt a global plan for allocating broadcasting frequencies to all three types of broadcasters – public, private and community. Effective measures should also be put in place to limit concentration of media ownership and to facilitate the allocation of frequencies and the operation of community broadcasters;
 - Bring all the legislation in compliance with international standards, in particular repeal Articles 155-161 of the Penal Code, and Article 6 from Thought Manifestation Law of 1958;
 - Reform the State Secrets Law in order to comply with the international standards, in particular ensure that it does not undermine the mandate of the Access to Information and Transparency Law.