

HONDURAS:

OPEN LETTER TO THE
PRESIDENTIAL
CANDIDATES IN THE
REPUBLIC OF HONDURAS.

AMNESTY
INTERNATIONAL





Open Letter to the Presidential Candidates in the Republic of Honduras¹

With one month to go until the presidential elections, Amnesty International is writing to you as candidates for the presidency of the Republic of Honduras to draw your attention to the organization's main concerns regarding human rights in the country. Amnesty International urges you to publicly acknowledge that human rights, and the situation of those who defend human rights, are your priority, by ensuring that your manifesto addresses the issues and recommendations set out in this letter.

These elections represent an extraordinary opportunity to change the direction in which the country is heading. In this regard, Amnesty International considers it essential that, as presidential candidates, you establish a constructive dialogue with the public on the main human rights challenges facing Honduras and the measures you plan to take to overcome them.

The human rights challenges facing the country are many and varied. An important indication of the gravity of the situation in the country are the high levels of serious abuses and attacks being suffered by human rights defenders in Honduras. The environment in which human rights defenders carry out their work is one of serious inequality, impunity and insecurity, which affects the ability of all people to enjoy the full protection of their human rights, particularly those in a vulnerable situation due, for example, to their gender, sexual identity, ethnic origin, geographic location or socio-economic conditions.

You have made an important gesture by committing to the Human Rights Public Policy and National Plan of Action drawn up by the outgoing government. In addition, it is essential and necessary that prior to election day on 24 November, your manifesto makes human rights a priority and addresses the following issues and recommendations:

1. Human rights defenders

A high number of human rights defenders in Honduras, including Indigenous leaders, peasant leaders, sexual diversity activists, justice officials and journalists, have been the target of abuse and human rights violations in recent years. Human rights defenders in Honduras have suffered phone tapping, searches, surveillance of themselves and their families, death threats, threats of sexual violence, improper use of the justice system, physical violence, kidnapping and murder.

¹ Ahead of presidential elections in Honduras on 24 November 2013, Amnesty International sent this letter (AI Index AMR 37/014/2013) to all presidential candidates on 24 October 2013.

On 29 July 2013, for example, Amnesty International publicly and emphatically condemned the murder of three human rights defenders within the space of less than two weeks in different parts of the country. All of these people were defending justice, equality and human rights: Judge Mireya Efigenia Mendoza Peña, murdered on 24 July in El Progreso, Yoro department; transsexual activist Herwin Alexis Ramirez Chamorro, also known as "Africa Noxema Howell", whose body was found on the banks of the López Bonito River in La Ceiba, Atlántida department, on 21 July; and Tomás García, an Indigenous leader and prominent member of the *Consejo Cívico de Organizaciones Populares e Indígenas de Honduras* (Civic Council of Popular and Indigenous Organizations in Honduras - COPINH), who was shot dead by the army during a peaceful protest in Río Blanco, Intibucá department, on 15 July.²

In December 2012, Amnesty International published the report "Transforming Pain into Hope: Human Rights Defenders in the Americas"³. This report details dozens of cases of human rights violations and abuses committed against human rights defenders between 2010 and 2012 in 15 countries of the American continent. Due to the number and severity of its cases, Honduras is mentioned several times. In all cases monitored by Amnesty International, both prior and subsequent to this publication, those responsible for the abuses have still not been brought to justice and nor have the victims received any reparation.

No-one should lose their life, suffer undue criminal prosecution or be the target of any other violence, intimidation or reprisals as a consequence of carrying out their legitimate work protecting human rights. Defending human rights is a right protected by international human rights law and upholding this right is an essential condition for the effective enjoyment of human rights for all in Honduras. The United Nations (UN) Declaration on Human Rights Defenders, adopted by consensus by the UN General Assembly in 1998, expressly recognizes this right. Moreover, the Declaration contains and develops provisions set out in instruments that are legally binding upon Honduras, such as the UN International Covenant of Political and Civil Rights which enshrines, among other rights, the rights to freedom of expression, assembly and association, all of which are a necessary precondition for the effective enjoyment of the right to defend human rights.

Given the worrying situation of human rights defenders, and the fact that actions to defend human rights, whatever their form or content or the right they are seeking to protect, contribute to the advancement of human rights for all, it is essential that your manifesto explicitly includes a commitment to:

- a. Protect those promoting and protecting human rights by establishing a state mechanism for protecting journalists and human rights defenders. It is essential that this is done with the active participation and support of journalists and human rights defenders, along with the legal support and human and financial resources necessary for its effective operation.
- b. Adopt procedural safeguards within the criminal justice system that prevent its improper use against human rights defenders. This includes safeguards that prevent the admission of dubious evidence, unjustified investigations or procedural delays which place an undue burden, limit or put an end to the ability of human rights defenders to carry out their legitimate work.⁴

² AMR 37/007/2013. Statement can be found at: <http://amnesty.org/en/library/info/AMR37/007/2013/en>

³ AMR 01/006/2012. Available at <http://www.amnesty.org/en/library/info/AMR01/006/2012/en>

⁴ A/HRC/RES/22/6*.

- c. Ensure that investigations into attacks and threats against human rights defenders result in the punishment of the perpetrators and reparation for damages caused. Serious attacks on human rights defenders often occur in the wake of other security incidents in which the perpetrators have not been brought to justice.
- d. Comply with the recommendations of the UN Special Rapporteur on the situation of human rights defenders with regard to Honduras, following her visit to the country in 2012.⁵

2. Public security

People living in Honduras are extremely concerned at the high levels of violence, corruption, common criminality, organized crime, and the proliferation of firearms, all of which is fed and accompanied by growing inequality and high levels of impunity.

During Amnesty International's visit to the country in May of this year, there was a palpable sense of insecurity and fear among the general public. People want to live free from such fear and for this reason cases such as that of Ebed Yáñez cannot be allowed to be repeated or go unpunished. Those responsible for this crime must be brought to account and reparation provided within a human rights framework; the material and intellectual authors of the crime must be brought to justice, along with those who covered up the crime. Late in the evening of 26 May 2012, Ebed Yáñez, 15 years of age, left his home to go and meet a girl, without telling anyone; but he never returned. At great personal risk, his father, Wilfredo Yáñez, managed to ascertain that his son had been shot for failing to stop at an army checkpoint.

A way of showing true commitment to the present and future of the country would be establishing a public security force that is respectful of, and protects, human rights. Amnesty International has been closely watching the "police purge" of recent months, the creation of special groups such as the TIGRES (Investigation Troop and Security Special Response Group) Unit and the Public Order Military Police (*Policía Militar de Orden Público*), and the growing militarization of the country.

Amnesty International understands that other forces are being called upon in order to guarantee public security, above all given the institutional weakness of the National Police Force, the widespread corruption that has been identified within it and its complete lack of credibility among the general public and even other state institutions. However, it must not be forgotten that, during the *coup d'état* and in other cases and contexts, both police officers and members of the armed forces have committed human rights violations that have yet to be investigated and punished.

The army and the police have to win back the trust of the Honduran people and this will only be possible with actions that are respectful of human rights. A way must be found to make the police force an effective institution. The army or mixed groups being in charge of policing functions must be a temporary measure and must be strictly regulated within a framework of respect for human rights. On no account must the police be allowed to become a military police force again, as it was previously; this would constitute a serious step backwards for Honduras.

⁵ A/HRC/22/47/Add.1

Given the widespread insecurity, and lack of institutional capacity to respond to this effectively, the country has experienced a proliferation of private security companies (PSC). However, far from being a solution to the problem, these have in some cases become yet another aggravating factor. It is with concern that Amnesty International has received several reports of human rights abuses committed by people providing these private security services.

Following a visit to Honduras in February 2013, the UN 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 published a report in which it highlighted the fact that there was a large under-registration of private security companies, no effective control over them, no legal or regulatory framework in this regard, and that in many cases private security companies were acting improperly, with the permission or participation of the police and the army, and that "...These shortcomings, coupled with the prevailing violence and insecurity in the country and the lack of guarantee of security by the state, breed an environment in which PSCs exercise de facto control in the security sector and act with complete impunity."⁶

According to figures from the UN, the murder rate in Honduras in 2011 was one of the highest in the world, at 92 per 100,000, and 83% of murders committed in Honduras in 2010 involved the use of firearms.⁷ The widespread insecurity and violence in the country is partly linked to the massive proliferation of weapons in the country, many of them firearms. In fact, any person can legally apply for a licence to possess and carry up to five firearms.

The right to life must be a priority for you and there is an urgent need to combat impunity in cases of human rights violations and abuses, as this impunity exacerbates the country's public security crisis; in this regard, it is essential that your manifesto explicitly includes a commitment to:

- a. Guarantee that all complaints of human rights violations or abuses committed by the police, armed forces or members of private security companies are promptly and independently, exhaustively and impartially investigated. The victims of these human rights violations or abuses must be given comprehensive reparation;
- b. Guarantee effective measures to prevent human rights abuses or violations from being committed and to professionalize and modernize the armed forces and police, in a context of respect for and rigorous training in human rights, and provide the necessary resources for this;
- c. Take effective measures to reduce and control the proliferation of arms in the country;
- d. Comply with the public security recommendations made both by United Nations and Organisation of American States in recent years.

⁶ A/HRC/24/45/Add.1. Paragraph 53.

⁷ UNODC Homicide Statistics, available from: www.unodc.org/unodc/en/data-and-analysis/homicide.html

3. Impunity

Impunity is endemic in Honduras. In the vast majority of cases of human rights violations or abuses committed in Honduras that have come to Amnesty International's attention in recent years, no-one has been convicted. In April of this year, the then Attorney General explained to National Congress that the Public Prosecution Service only had the capacity to investigate 20% of the country's murders.⁸

The lack of credibility on the part of the institutions and the widespread climate of impunity and corruption in the country, as various people noted to Amnesty International during its last visit to the country this year, have meant that people do not turn to the authorities to report crimes, either for fear of possible reprisals or because of the ineffectiveness of the justice system.

The National Police should play a crucial role in criminal investigation, given that they are the first to be called upon to gather and protect evidence of a crime. As previously noted, however, there have been various cases in which police officers themselves have been involved in organized crime or human rights violations.

In addition, it is clear that the Attorney General's Office, in particular the Human Rights Division and its unit for cases involving human rights defenders, needs to be strengthened. The weakness of this office is even greater at a regional level. The high levels of violence and crime in the country mean that this institution is overwhelmed and lacks the necessary resources to do its job. In some cases, moreover, there are internal obstacles to moving investigations forward and in others, even the prosecutors themselves have been afraid of taking action.

In recent months, Amnesty International has been closely following the extraordinary measures taken by the Congress of the Republic in relation to the Attorney General's Office, which have included, among other things, the suspension and subsequent removal of the Attorney General and his deputy, the establishment of an Intervention Commission and the subsequent election of new officials to these posts. In relation to this last point, Amnesty International notes with concern that despite the insistent request of various organizations, there were irregularities in the appointment of the Attorney General and Deputy Attorney General. The Coalition against Impunity, an alliance comprising more than 20 of the country's human rights organizations, described this election as unconstitutional, biased and lacking in transparency.

It is crucial in this regard that any steps taken to reform or strengthen the country's justice system must adhere to the Constitution, human rights laws and standards. In no case, can the ends justify the means. A strengthening of the rule of law and respect for legal standards is essential, otherwise the serious problems facing the country will merely be exacerbated, along with the very culture of violence and impunity that you are trying to overcome.

Institutions such as the Higher Council of the Judiciary (*Consejo Superior de la Judicatura*) must also be able to function, and do so in a way that demonstrates transparency and impartiality. Removals from office such as those that took place in December 2012 cannot be repeated. At that time, the National Congress decided to remove four of the five judges that make up the Constitutional Division of the Supreme Court of Justice from office. These judges had previously issued rulings that blocked draft Congressional laws aimed at facilitating a clean-up of the police force and the creation of "Model Towns". The judges considered that

⁸ Information available at:

<http://www.laprensa.hn/csp/mediapool/sites/LaPrensa/Honduras/Tegucigalpa/story.csp?cid=332220&sid=275&fid=98#panel1-2>

some aspects of these laws were unconstitutional. The Inter-American Commission on Human Rights criticised these controversial dismissals and urged the government to respect and guarantee the independence of the judiciary.

Events such as those that took place on 4 February 2012 in the Comayagua National Prison, in which 362 people died in a fire, cannot be allowed to be repeated, and the structural deficiencies that led to this tragedy must be rapidly addressed. The president elect must take concrete measures to comply with the recommendations of the Inter-American Commission on Human Rights in this regard, including the effective and transparent implementation of the new Law on the Prison System and the provision of all support and resources necessary to the National Torture Prevention Mechanism (CONAPREV) to ensure its effective functioning.⁹

An explicit commitment to fight impunity in Honduras is vital, within a framework of human rights and respect for Honduran constitutional and legal standards. It is essential in this regard that your manifesto explicitly includes a commitment to:

- a. Strengthen the rule of law and separation of powers;
- b. Adopt and promote guarantees that prevent dismissals or irregular appointments such as those that have arisen in the judicial system from being repeated;
- c. Strengthen and guarantee the autonomy, independence and impartiality of the judiciary and all its institutions, including the Higher Council of the Judiciary and the Supreme Court of Justice;
- d. Strengthen the prison system, through transparent and objective measures, including the necessary support and resources for CONAPREV, and the effective and transparent implementation of the new Law on the Prison System;
- e. Strengthen and guarantee effective and fair access to the justice system for all, without discrimination, adopting protocols and measures enabling equal access to people in particularly vulnerable situations.

4. **Groups, sectors and individuals in a special situation of vulnerability**

Honduras is one of the poorest countries on the American continent. More than 60 per cent of its population lives in poverty and almost 40% in extreme poverty, according to 2010 figures from the National Institute for Statistics. Poverty and extreme poverty continue to undermine the protection of the human rights of large sectors of Honduran society.

The **Indigenous peoples and Garífuna (Afro-descendant) communities** in Honduras suffer from discrimination and inequality, for example, in relation to the right to land, housing, water, health and education. Economic and development projects are being implemented on their lands without the free, prior and informed consent of the affected communities. Indigenous leaders have even faced unwarranted criminal prosecution in retaliation for their work in

⁹ OEA/Ser.L/V/II.147, Doc. 6.

defence of human rights. Leaders of the Garífuna communities have also been the target of violence and other forms of intimidation under similar circumstances.

These abuses need to end and it is therefore essential that your manifesto explicitly includes a commitment to:

- a. Take measures to guarantee the human rights, both individual and collective, of Indigenous peoples and Garífuna communities, including the effective access of these peoples and communities to health, education, housing and other basic services, ensuring the participation of all their members, particularly women, when formulating appropriate policies and practices;
- b. Take measures to prevent and ensure that human rights abuses and violations committed against Indigenous peoples, Garífuna communities and their leaders are investigated and punished, with reparation provided to the victims, whether the crimes were perpetrated by state or non-state actors;
- c. Guarantee the right to free, prior and informed consultation and consent for Indigenous peoples and Garífuna communities when projects affect their ancestral lands or territories, as established in international human rights law, and ensure that these projects are not implemented unless this requirement is fulfilled.

The needs and obstacles facing the country's **peasant communities** also require urgently addressing. The underlying causes of the high levels of violence facing these communities and the criminalization of their leaders, such as for example in the region of Bajo Aguán or Zacate Grande, must be tackled urgently. During Amnesty International's visit to Tocoa in May of this year, it was clear that levels of violence, insecurity, impunity and fear in Bajo Aguán were running very high. It is essential in this regard that your manifesto includes an explicit commitment to:

- a. Guarantee fulfilment of the commitments made previously by the Honduran authorities with regard to land redistribution;
- b. Take measure to prevent and ensure that human rights abuses and violations committed in this context, either by state or non-state actors, are investigated, punished and reparation provided;
- c. Take measures to fairly redistribute land, ensuring that people in a particularly vulnerable or disadvantaged situation, such as rural women, are able to participate under equal conditions.

Violence against **women and girls** remains widespread. As the Organization of American States noted in Chapter IV of its annual report 2012: "...Another development observed is the significant increase in the number of femicides in the country. According to the available statistics, the number of cases of femicide in Honduras went from 161 in 2005, to 407 in 2009 and 351 in 2010..."¹⁰ In addition, the authorities have an unfulfilled commitment with regard to the sexual and reproductive rights of women in Honduras, as the legality of the Emergency Contraceptive Pill should have been re-established months ago but this has still not

¹⁰ Paragraph 183. Available at: <http://www.oas.org/en/iachr/docs/annual/2012/TOC.asp>

happened. Re-establishing the legality of this form of contraception represents a fundamental step forward in terms of respect for and protection of the reproductive rights of Honduran women, and the rehabilitation and protection of victims of sexual violence. It is essential in this regard that your manifesto includes an explicit commitment to:

- a. Address the high levels of violence against women and girls in Honduras as a priority;
- b. Guarantee safe access to appropriate sexual and reproductive health services, including legal and effective access to emergency contraception;
- c. Move forward with the design and strengthening of special protocols for addressing the problem of violence against women and girls in all its different forms;
- d. Guarantee effective access to justice and the protection of women victims of violence, including adequate investigations which incorporate a gender perspective and the punishment of those responsible;
- e. Ratify the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).

Lesbian, gay, bisexual, transgender and intersex (LGBTI) people in Honduras remain a target for discrimination and violence in the country. Any crime against the LGBTI community must be investigated, punished and effective reparation provided. The recent reform of the Criminal Code, which enabled the punishment of these crimes, or hate crimes, must be promoted and protected so that the reform of this regulation can be maintained and effectively implemented. Recently, there have been attempts and proposals to undo the recently amended Article 321 of the Criminal Code. This article must be protected because, as it stands, it represents a step in the right direction in terms of protecting the right to equality and non-discrimination, which is an essential condition for the effective enjoyment of all other human rights. It is essential in this regard that your manifesto includes an explicit commitment to:

- a. Strengthen and protect the institutional progress already made with regard to investigating and punishing these crimes and ensure that reparation is provided;
- b. Promote, guarantee and implement differentiated protocols that enable fair and impartial access to the justice system both at the investigative stage and during prosecution and punishment of hate crimes;
- c. Promote and protect Article 321 of the Criminal Code, which currently recognizes and sanctions hate crimes.

Respect, promotion, protection and effective enjoyment of human rights for all are the cornerstone of the rule of law. They are also fundamental tools that states have at their disposal in order to ensure that all people under their jurisdiction can live in dignity and free from discrimination, regardless of their gender, race, ethnic origin or any other condition. Hence the importance of all presidential candidates to demonstrate their commitment to creating and consolidating a more just society, along with the mechanisms necessary for guaranteeing the effective enjoyment of each and every one of the human rights recognized in the Universal Declaration of Human Rights, and the international human rights instruments resulting from this.

Amnesty International is looking forward to your strong commitment to each of the above points before election day. Amnesty International trusts that human rights will be a priority in all your proposals.