

ON INTERNATIONAL HUMAN RIGHTS DAY, PBI RECALLS THE IMPORTANCE OF GUARANTEEING SPACE FOR ACTION AND MONITORING THE SECURITY SITUATION OF DEFENDERS OF LAND, ENVIRONMENT, AND INDIGENOUS TERRITORIES IN HONDURAS

Greetings from Peace Brigades International (PBI) in Honduras.

The humanitarian crisis caused by the COVID pandemic and worsened by hurricanes Eta and Iota is taking a heavy toll on Honduras. With the majority of its citizens living in rural areas, and with a marked inequality in land ownership,[1] the defence of land, territory, and the environment is key within the current context.

The defence of forests, water sources, and access to land as a source of livelihood all contribute to the responsible governance of land distribution on a community level, the prevention of natural disasters like Eta and Iota, and the global fight against climate change.

This work must be recognised and supported, not subject to attacks, criminalisation and violent evictions. Honduras is considered the most dangerous country in the world for those who defend these rights, when measured in homicides per capita. The situation is even more serious for women human rights defenders.

The objective of this document is to provide information on the recently-approved regulatory and legislative framework relating to agriculture,[2] and its impacts on the defence of these rights, with particular attention to women human rights defenders.

Agriculture Development Programme of Honduras (PDAH), PCM-052-2019

The relationship between civil society and the military in rural Honduras

The Programme aims to increase agricultural productivity and profitability, and is assigned to the Secretary of State in the National Defence Office (SEDNA). To fund its implementation, the decree earmarked over four billion Lempiras (later reduced to one billion, according to the

1. According to FAO data, the availability of land for use in Honduras is low. Peasant groups only work 20% of agricultural land. 71.1% of the rural population lives in conditions of extreme vulnerability (FAO, 2014).

2. Inter-American Commission for Human Rights (IACHR) report, 2019. <http://www.oas.org/es/cidh/informes/pdfs/Honduras2019.pdf> pg.77

Secretary of Defence[3]), and authorised the mobilisation of additional resources.[4] This new role for the Armed Forces in the agricultural sector is part of the steady and worrying militarisation of public institutions that has taken place over the past decade.

There are numerous concerns surrounding this decree. On the one hand, the Secretaries of Defence and Security are precisely the institutions with the least oversight of their expenses and activities, as they are covered by the 2013 Law of Official Secrets. The Law classifies all information that "...could damage or put at risk national security and/or defence...".[5] On the other hand, CESPAD warns that the Armed Forces' management of the funds could lead to a clientelist system in the distribution of land, increasing conflict between smallholder farmers, weakening the campesino movement as a whole.[6]

State Remilitarisation Policy

In spite of multiple calls for the demilitarisation of the Honduran state and its law enforcement made by the United Nations Office of the High Commissioner for Human Rights (OHCHR) and the Inter-American Commission on Human Rights (IACHR), the Honduran Government maintains a policy of state remilitarisation.[9] Between 2013 and 2017, the Armed Forces' Budget increased rapidly, reaching a total expenditure nine times greater than the figure recorded in 2000.[10]

The National Centre for Fieldworkers (CNTC) and the Council for the Comprehensive Development of Peasant Women (CODIMCA), members of La Vía Campesina (LVC), have filed a constitutional challenge against the law before the Supreme Court of Justice (CSJ).[7] Their claim has gained the support of the Public Prosecutor's Office (Ministerio Público - MP), who called upon the Supreme court to accept the motion in a statement released 2 October 2020. The statement also reiterates that PCM-052 violates constitutional principles, specifically Article 274, overreach into the functions of another state institution.[8]

Case Study: Killing of water defender Arnold Joaquín Morazán Erazo, Guapinol, Bajo Aguán

On 13 October 2020, water defender Arnold Joaquín Morazán Erazo was killed in his place of residence. Erazo was one of 32 defenders who have been criminalised for defending the Guapinol River. Days earlier, the Municipal Committee for the Defence of Common and Public Goods (CMDBCP) of Tocoa denounced the heavy police and military presence in the area. According to information shared with PBI Honduras, to date there has been no progress in the investigation of the murder.

3.<https://www.elheraldo.hn/pais/1359785-466/ff-aa-estima-ahora-solo-1000-millones-de-lempiras-para-programa-agr%C3%ADcola>

4.Executive Power. PCM-052-2019. Published in the official newsletter, La Gaceta, on 18 October 2019.

5.Decree No. 418-2013, Law to Classify Public Documents Related to Security and National Defence, Article 3. <https://www.tsc.gob.hn/web/leyes/Ley%20para%20la%20Clasificaci%C3%B3n%20de%20Documentos%20P%C3%ABlicos%20relacionados%20con%20la%20Seguridad%20y%20Defensa%20Nacional.pdf>

6.Interview with CESPAD. Conducted 6 August 2020.

7.PBI accompaniment and observation to Supreme Court press conference, November 2019.

8.<https://www.mp.hn/index.php/autor-login/164-octubre2020/6399-comunicado-sobre-dictamen-decreto-ejecutivo-pcm-052-2019>

9.UPR Shadow Report – Human Rights Situation in the Defence of Territory and Land Access. 36th Session of the UPR Working Group. May 2020.

10.<http://cespad.org.hn/wp-content/uploads/2019/07/Seguridad-y-Defensa-WEB.pdf>

Programme to Guarantee Food Sovereignty and Security, PCM-030-2020

Peasant participation in agricultural policies, a sign of a more equitable society

The recent Decree PCM-030-2020[11] aims to guarantee food sovereignty and security in Honduras under the current COVID-19 health crisis. In order to achieve this goal, the decree declares “the food producing and processing industries,” as “a national priority within the national public interest”. [12]

Nevertheless, the decree makes no reference to the peasantry as a social group. According to the National Centre for Fieldworkers (CNTC), the measure shifts focus away from peasants’ demands and needs and will lead to concentration of land and natural goods in the hands of large landowners and agro-export industries.

The peasant women’s movement has demonstrated how the Decree lacks a gender focus, and have criticised it for failing to include differential measures to reduce inequality and allow for the active political participation of rural women.[13] This is particularly important in light of the fact that 86% of women in Honduras do not have any access to land.[14]

The arrival of the pandemic worsens food insecurity

According to an analysis published by the CIF Initiative (Comprehensive Classification of Food Security in Phases), in 2019 roughly one million Hondurans, 18% of the population, were in a phase of severe acute food insecurity.[15] This situation has worsened with the arrival of the pandemic, affecting 32% of the population.[16]

Case Study: CNTC and food insecurity: Post-Hurricane situation

The CNTC calculates that over 70% of affiliated peasant communities throughout Honduras have been affected by Hurricanes Eta and Iota. Preliminary data from the organisation estimates the loss of around 5,000 maize crops. La Vía Campesina warns that the scale of the damage caused to the country’s agricultural sector is still incalculable, and has grave impacts on food production. Even before the hurricanes, the CNTC explained that over 400,000 families stopped food production as a result of Decree PCM-030-2020, leading to food insecurity for over two million people.

11.This decree creates the “Programme to Ensure Food Sovereignty and Security”. On 10 May, this legal instrument was reformed under PCM-041-2020.

12.PCM-030-2020. Executive Power. Article 3

13.CESPAD. PCM-030-2020 and the Worsening Food Crisis. April 2020.

14.PBI Honduras. The Defence of Land has a Woman’s Name. UPR Report 2020.

15.https://www.fsinplatform.org/sites/default/files/resources/files/IPC_Honduras_AcuteFoodSec_2019Nov2020June_Spanish.pdf

16.https://www.fsinplatform.org/sites/default/files/resources/files/IPC_Honduras_AcuteFoodInsecurity_ProjectionUpdate_2020JuneAug_Spanish.pdf

Article 4: Proposed national agricultural census

Article 4 of the Decree calls for the implementation of a national census of the agricultural sector, the first of its kind in Honduras since 1993. Far from solving the food crisis in the country, the decree proposes to weaken the agricultural institutions responsible for the peasantry in Honduras – the National Agricultural Institute (INA), a key institution in the distribution and formalisation of land titles, and the National Agricultural Development Bank (BANADESA) – transferring their programmes to the Secretary of Agriculture and Livestock (SAG). Similarly, the Decree defines four priority initiatives, all of which are funded by international banks and difficult to access for peasants working small and medium plots.

According to an analysis from FIAN Honduras, the mapping and management of national, communal and municipal lands assigned to SAG could increase land-grabbing, as there is little clarity on how idle farmland will be identified and how regulations will be applied. The United Nations Working Group on Business and Human Rights estimates that approximately 80% of private lands are held with either an inadequate legal title, or no title at all.[17] This demonstrates the complexity involved in this task.

According to information shared with PBI, unidentified persons have visited rural communities to investigate land titles. Since the decree came into effect, indigenous communities and peasant groups in the process of land recuperation have reported a worrying number of evictions. These “express evictions” have been carried out by members of state and private security forces, occasionally with the support of armed civilians.

The relationship between evictions, forced displacement and business activities

According to information gathered by various United Nations bodies over recent years, forced displacement, violence and land-grabbing in Honduras have intensified due to the activities of the agroindustry, tourism and mining, in addition to the presence of drug-trafficking and organised crime.[18]

Case Study: Forced disappearance in Triunfo de la Cruz

On 18 July 2020, Esneider Centeno, president of the Community Board and an active member of the Black Fraternal Organization of Honduras (OFRANEH), and three others from the community were detained by armed individuals wearing the uniforms of the Investigative Police Department. Their whereabouts are still unknown. In October 2015, the Inter-American Court of Human Rights found in favor of the Garífuna community in a dispute over their land rights. Accordingly, the land under dispute must be returned to the community. To date, the State has not fulfilled their request. Facing the COVID-19 pandemic, the community decided to work the land in an

17. <https://oacnudh.hn/informe-del-grupo-de-trabajo-sobre-la-cuestion-de-los-derechos-humanos-y-las-empresas-transnacionales-y-otras-empresas/>

18. Numerous reports from the Rapporteurs on Indigenous Peoples and Internal Displacement, as well as the OHCHR on “Land, Territory and Displacement”. <https://www.acnur.org/5b96a9434.pdf>

assembly held in June, authorising its division among local families and particularly the community's youth. The majority of the land in question is idle, subject to this Decree, and located in an area of high interest to the tourist and hotel industries.[19]

Article 4: The role of INVEST-H and the mapping of water sources

Article 4 also references Strategic Investment of Honduras (INVEST-H), the body responsible for the implementation of the Millennium Account Programme, as an administrative body for the decree with decision-making powers. The article lays out how SAG, in collaboration with INVEST-H, “must carry out a census of land with the potential for irrigation system implementation and the identification of lands suitable for the construction of hydroelectric dams, and carry out expedited studies for the construction of dams”.[20] INVEST-H is currently under military administration due to internal corruption charges. In 2010, this institution's lack of transparency in its budget management led to the exit of the Millennium Challenge Corporation (MCC) funds from the country.[21] In November 2020, Honduras's suspension from these funds was continued for the ninth consecutive year for failing indicators related to the control of corruption.[22]

According to FIAN Honduras, this reference to INVEST-H clears the path for the mapping of the country's natural goods and creates a normative basis for their exploitation, particularly in the construction of hydroelectric dams.[23] This situation is even more alarming in light of the lack of a national regulatory and legal framework to ensure the right of affected communities to participate in processes led by state authorities and businesses. As the UN Working Group on Business and Human Rights makes clear, there is currently a high degree of flexibility in how affected populations are consulted on these projects.[24]

All proposed hydroelectric dams in Honduras are located in indigenous territory

According to the atlas of extractivist concessions in indigenous territories published by FOSDEH (2020), in 2018 there was a total of 37 hydroelectric projects, of which 8 are awaiting approval, 12 are operational, and 17 are under construction. The majority of hydroelectric projects are located in the Departments of Intibucá, La Paz and Lempira. All of these projects are located within indigenous territories, and some of them are located within or very close to protected areas.[25]

19.<http://cespad.org.hn/2020/07/21/asi-fueron-secuestrados-los-garifunas-del-triunfo-de-la-cruz/>

20.Legislative Power. PCM-041-2020, Article 4.

21.Entrevista FIAN Honduras. Realizada el 17 de septiembre 2020.

22.<https://www.laprensa.hn/honduras/1421284-410/honduras-aplazada-acceder-fondos-cuenta-milenio->

23.Interview with FIAN Honduras. Conducted 17 September 2020.

24.Business and Human Rights Working Group, 2020.

25.https://fosdeh.com/wp-content/uploads/2020/09/2020_fosdeh_atlas_concesiones_territ_indigenas.pdf

Case Study: Gualcarque River Fraud

Late October 2020, saw the opening of the trial of the so-called “Gualcarque River Fraud”,^[26] related to the illegal distribution of permits for the development of the Agua Zarca Hydroelectric Project over indigenous Lenca territory to Energy Development Inc. (DESA). The case was brought forward in March 2019 based on complaints made by Lenca leader and environmentalist Berta Cáceres, when the Public Prosecutor’s Special Prosecutor Unit against Corruption and Impunity issued warrants against 16 individuals, presenting evidence to demonstrate that the accused had committed numerous crimes in order to ensure that DESA received operational, supply, power generation and commercialisation contracts over the Gualcarque River. The hearings are proceeding without the participation of the direct victims of the corruption case, particularly the Río Blanco community and the Council of Popular and Indigenous Organisations of Honduras (COPINH).^[27]

Article 26: Defending land, territory and the environment could be a crime

Article 26 of PCM-030-2020 authorises the armed forces and National Police to act in situations of roadblocks and peaceful protests, clearing the way for new processes of criminalisation and militarisation.^[28]

According to CESPAD, this measure aims to hinder one of the most commonly-used forms of protest employed by peasant movements and community organisations in resistance: blocking motorways and installing peaceful encampments. The measures contained in the Decree permit and reinforce the role of state bodies in the criminalisation of land and territory defenders.

Adding to this alarming situation is the implementation of a new Penal Code, which – as highlighted by the United Nations Office of the High Commissioner for Human Rights (OHCHR) – creates a legal framework that could seriously impact the rights to freedom of expression and peaceful association.^[29]

Attacks against land and environment defenders in Honduras

Honduras has become the most dangerous place in the world – when measured in killings per capita^[30] – for defenders of land and the environment. Those who defend these rights are subject to violence, defamation and criminalisation in the majority of cases. Turning to figures provided by La Vía Campesina, approximately 7,000 defenders are criminalised for exercising their rights, 1,700 of whom are women.^[31]

26.<http://www.oas.org/es/sap/dsdme/maccih/new/docs/MCH-004.MACCIH-OEA-y-UFECIC-MP-presentan-noveno-caso-de-investigacion-penal-integrada-Fraude-sobre-elGualcarque.pdf?sCodigo=MCH-004/19>

27.<https://criterio.hn/honduras-debe-garantizar-derechos-del-copinh-como-victimas-en-proceso-fraude-sobre-el-gualcarque-cejil/>

28.PCM 030-2020. Judiciary. Article 26.

29.<https://oacnudh.hn/oacnudh-llama-a-desarrollar-un-proceso-de-revision-y-reforma-del-nuevo-codigo-penal/>

30.<https://www.globalwitness.org/es/defending-tomorrow-es/>

31.Interview with Wendy Cruz of LVC. Conducted 1 October 2020.

Data provided by CESPAD already demonstrate an increase in violence in rural areas against communities who resist extractive projects. Between March and July, a total of 5 murders was recorded (9 since the start of the year) and over 50 instances of criminalisation against land and territory defenders.[32]

Case Study: Criminalization of members of El Achotal Community, COPINH

In October and November 2020, roughly twenty members of the El Achotal Community (Siguatepeque) were detained and criminalised “for defending their legitimate right to work the land”, COPINH explains. In November, the presiding judge indicted 16 of the accused on charges of land usurpation, illegal land clearing and illegal logging. COPINH has stated that “the crime of land usurpation does not warrant the detention of the accused”. In October, another six defenders were granted substitutive measures, requiring them to sign a registry each week at the Civil Court, and prohibiting them from leaving the country or approaching the lands they farm. COPINH explains that these measures put their food security at risk as they deny the accused the right to work their lands and feed their families. The El Achotal Community has been in a land-recuperation process for the past seven years.[33]

National Solidarity Credit Programme for Rural Women (CREDIMUJER)

The fundamental role of women in governing land ownership

In its most recent study, the Council for the Comprehensive Development of Peasant Women (CODIMCA) highlights the fact that peasant women have been historically excluded from public agricultural policies. During the redistribution of land carried out under the Agrarian Reform Law, CODIMCA explains, “women were practically absent because the recipient under both land reform laws (1962 and 1975) was determined by the nuclear family and the head of household, generally the man”. [34]

Today, 86% of women in Honduras do not have access to land, while over the past 12 years, just 21.86% of credit extended by BANADESA was for women.[35] According to Wendy Cruz, a representative for the Women’s Commission of LVC, this is due to the fact that there is currently no institution in Honduras capable of tending to the needs of peasant women.

In light of this situation, the rural women’s movement is asserting its central role in food production, and calling for the implementation of a National Solidarity Credit Programme for Rural Women (CREDIMUJER), a legal project collectively developed by peasant organisations in order to facilitate access to credit and technical assistance for women. The Programme was approved in 2015 through Legislative Decree 110-2015. However, it has not been implemented to date.

32. Interview with CESPAD. Conducted 16 September 2020.

33. <https://copinh.org/2020/10/actualizacion-comunidad-de-el-achotal/>

34. http://codimca.org.hn/wp-content/uploads/2020/10/INFORME-PROYECTO-Mujeres-Tierra_FINAL.pdf p.7

35. <https://contracorriente.red/2020/11/22/sembrar-sin-tierras-campesinas-entre-la-desigualdad-y-la-violencia/>

The intersectional discrimination faced by peasant women

In their most recent report, the Inter-American Commission for Human Rights (IACHR) recognised that among land and territory defenders, women are particularly vulnerable as they are subject to intersectional discrimination.[36] According to data published by JASS, between 2012 and 2016 in Honduras over 3,800 women active in defending land rights suffered attacks and violence. 53 of these women were killed.[37] In the first six months of 2020 alone, there were two reported killings of women land defenders.[38]

Case Study: Lilian Borjas

Human rights defender Lilian Borjas, member of the regional board of CNTC Yoro, is one of thousands of criminalised women in Honduras. In March 2013, facing a lack of access to land among local women, Borjas began a process of land recuperation alongside her campesino group Triunfo de la Bolsa, taking possession of 62 hectares in El Negrito (Yoro). The National Agricultural Institute (INA) has assured that the lands in question are communal. Nevertheless, the supposed landowners claim that they hold a title to the lands from the Institute of Property (IP). As a result of this action, on 17 June 2013, Borjas was detained along with two other community members and accused of land usurpation. They were later granted substitutive measures in Civil Court and have been travelling to the courthouse periodically for over six years, leading to serious economic, familial, physical and emotional hardship. As a woman human rights defender, Lilian has suffered persecution, threats and stigmatisation to a greater degree than the men around her.

Proposed Emergency Law for the Reactivation of the Agriculture, Livestock and Forestry Sectors

An agricultural policy focussed on the peasantry and gender equality is needed to solve the current humanitarian crisis

On 5 February 2020, peasant organisations affiliated with La Vía Campesina and the Centre for Democracy Studies presented a proposed Emergency Law for the Reactivation of the Agriculture, Livestock and Forestry Sectors before the Honduran National Congress. This proposal aims to tackle the structural problems plaguing agriculture and food supply, as well as combat the effects of climate change on the relevant sectors.[39]

As explained by the coordination of CODIMCA, this initiative is the result of many years of work from the Honduran peasant movement and other civil society organisations. The main element of the proposal is the creation of a National Council for Agricultural Production, Livestock and Forestry (CNPAPF), a body guaranteeing peasant groups' access to technical assistance, land and finance. The law also proposes measures to mitigate the effects of climate change, in addition to training

36.IACHR Report, 2019.

37.UPR Working Group Report. Human rights situation in the defence of territory and Access to land. May 2020.

38.<https://drive.google.com/file/d/1k1KzFz-tSiO-hGF3jsAC8zSedx4Jx-7a/view?fbclid=IwAR0cJiSP5oD5oEIrl4M7cFjfnFwMjBdj0b9ktfGUrLlckTfFAZOxG1WIQes>

39.CESPAD - La Vía Campesina. Proposal to Overcome the Country's Agricultural, Food and Environmental Crisis. 2 February 2020.

programmes, while demanding the compliance with, and full implementation of, the CREDIMUJER programme, as established by Decree 110-2015.[40]

Lack of political will and support for legislative initiatives presented by the peasant movement

This is not the first occasion that the peasant movement has presented a proposed law before the National Congress. According to LVC representatives, peasant organisations presented two legal projects in the past. However, according to information shared with PBI, the Government's lack of political will and support for such measures has frozen debate and hindered their approval.