



# Honduras: Information Gathering Mission Report

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**Prepared by: The Research Directorate,  
Immigration & Refugee Board of Canada**



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This Report was prepared by the Research Directorate of the Immigration and Refugee Board (IRB) of Canada based on approved notes from meetings with oral sources, publicly available information, analysis and comment. All sources are cited. This Report is not, and does not purport to be, either exhaustive with regard to conditions in the country surveyed or conclusive as to the merit of any particular claim to refugee protection. For further information on current developments, please contact the Research Directorate.

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# Map



Map No. 3856 Rev. 3 UNITED NATIONS  
May 2004

Department of Peacekeeping Operations  
Cartographic Section

Source: United Nations (UN). May 2004. Department of Peacekeeping Operations, Cartographic Section. "Honduras." <http://www.un.org/Depts/Cartographic/map/profile/honduras.pdf> [Accessed 1 Aug. 2017]

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## Glossary

ACAP	Asylum Cooperation Action Plan
ACV	Asociación Calidad de Vida (Quality of Life Association)
APUVIMEH	Asociación Para Una Vida Mejor de Personas Infechadas y Afectadas por el VIH/SIDA en Honduras (Association for a Better Life for Persons Infected and Affected by HIV/AIDS in Honduras)
ATIC	Agencia Técnica de Investigación Criminal (Technical Agency of Criminal Investigation)
CAMR	Centro de Atención a los Migrantes Retornados (Centre for the Assistance of Returned Migrants)
CAPRODEM	Centro de Atención y Protección de los Derechos de las Mujeres (Centre for Care and Protection of Women's Rights)
CdA	Centros de Alcance (Outreach Centres)
CDH	Centro de Desarrollo Humano (Centre for Human Development)
CDM	Centro de Derechos de Mujeres (Centre for Women's Rights)
CEM-H	Centro de Estudios de la Mujer (Centre for Women's Studies)
CENISS	Centro Nacional de Información del Sector Social (National Centre for Information on the Social Sector)
COBRA	Comando de Operaciones Especiales (Special Operations Command)
COI	Country of Origin Information
COMAR	Comisión Mexicana de Ayuda a Refugiados (Mexican Commission for Refugee Assistance)
CONADEH	Comisionado Nacional de los Derechos Humanos (National Commissioner for Human Rights)
CPTRT	Centro de Prevención, Tratamiento y Rehabilitación de Víctimas de la Tortura (Centre for the Prevention, Treatment and Rehabilitation for Victims of Torture)

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DINAF	Dirección de Niñez, Adolescencia y Familia (Directorate for Children, Adolescents and Family)
DNII	Dirección Nacional de Investigación e Inteligencia (National Directorate of Investigation and Intelligence)
DESA	Desarrollos Energéticos S.A. (Energy Developments S.A.)
DPI	Dirección Policial de Investigaciones (Police Directorate of Investigations)
ECLAC	Economic Commission for Latin America and the Caribbean
ERIC-SJ	Equipo de Reflexión, Investigación y Comunicación - Compañía de Jesús (Critical Thinking, Research and Communication Team - Society of Jesus)
FUNDEVI	Fundación para el Desarrollo de la Vivienda Social, Urbana y Rural (Foundation for the Development of Urban and Rural Social Living)
GSC	Grupo Sociedad Civil (Civil Society Association)
IACHR	Inter-American Court of Human Rights
ICRC	International Committee of the Red Cross
IDMC	International Displacement Monitoring Centre
IDPs	Internally Displaced Persons
ILGA	International Lesbian, Gay, Bisexual, Trans and Intersex Association
INAM	Instituto Nacional de la Mujer (National Institute for Women)
INM	Instituto Nacional de Migración de Honduras (Honduran National Institute of Migration)
IOM	International Organization for Migration
IRB	Immigration and Refugee Board of Canada
IRCC	Immigration, Refugees, and Citizenship Canada
M-18	Barrio 18

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MACCIH	Misión de Apoyo contra la Corrupción y la Impunidad en Honduras (Mission to Support the Fight against Corruption and Impunity in Honduras)
MAU	Movimiento Amplio Universitario (Broad University Movement)
MS-13	Mara Salvatrucha
NGO	Non-governmental organization
NHL	Lempiras
NRC	Norwegian Refugee Council
OAS	Organization of American States
PLAN	Programa Nacional de Prevención, Rehabilitación y Reinserción Social (National Program for Prevention, Rehabilitation and Social Reintegration)
PMH	Pastoral de Movilidad Humana (Human Mobility Pastoral)
PLCSC	Plan Local de Convivencia y Seguridad Ciudadana (National Plan for Citizens' Coexistence and Security)
PPT	Programa de Protección a Testigos (Witness Protection Program)
RAD	Refugee Appeal Division
RPD	Refugee Protection Division
SDHJGD	Secretaría de Derechos Humanos, Justicia, Gobernación y Descentralización (Ministry of Human Rights, Justice, Governance and Decentralization)
SRE	Secretaría de Relaciones Exteriores (Ministry of Foreign Affairs)
SOGI	Sexual orientation and gender identity
UMAR	Unidades Municipales de Atención a Migrantes Retornados (Municipal Units for Assistance to Returned Migrants)
UN	United Nations

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UNAH	Universidad Nacional Autónoma de Honduras (National Autonomous University of Honduras)
UNHCR	United Nations High Commissioner for Refugees
USAID	United States Agency for International Development
USCIS	United States Citizenship and Immigration Services
WHO	World Health Organization

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## Introduction

In 2013, Canada and the United States of America (US) began working together to identify opportunities to establish new modes of cooperation in the areas of asylum and immigration; this collaboration is known as the Asylum Cooperation Action Plan (ACAP). The ACAP, through the department of Immigration, Refugees and Citizenship Canada (IRCC), approached the Immigration and Refugee Board (IRB) of Canada to seek the IRB's support for capacity-building activities to be undertaken in the Americas with the objective of improving asylum systems in the region. In May 2015, the Deputy Chairperson of the IRB's Refugee Protection Division (RPD) participated in a meeting between Canada, Mexico and the United States, where it was agreed that the IRB would undertake a number of activities to support the development of quality refugee status determination in Mexico. One such activity was IRB participation in a series of joint country of origin information (COI) gathering missions to El Salvador, Honduras, and Guatemala; key source countries in Mexico's asylum case load.

Under the auspices of the United Nations High Commissioner for Refugees (UNHCR) in Mexico and El Salvador, a joint information gathering mission was conducted in April 2016 to El Salvador by researchers from the IRB and participants from the Mexican government's Commission for Refugee Aid (Comisión Mexicana de Ayuda a Refugiados, COMAR), the Mexican Ministry of Foreign Affairs (Secretaría de Relaciones Exteriores, SRE), and the United States Citizenship and Immigration Services (USCIS). The mission resulted in two research reports produced by the IRB: *Gangs in El Salvador and the Situation of Witnesses of Crime and Corruption* and *The Situation of Women Victims of Violence and of Sexual Minorities in El Salvador*.

A second joint mission was conducted in Honduras in April 2017, including a researcher from the IRB, participants from COMAR and the SRE, and the UNHCR. Representatives of the Mexican Embassy in Honduras also participated. The joint mission was carried out from 3 to 7 April 2017. The purpose of the mission to Honduras was to gather COI as it relates to: state efforts to combat crime; criminal gangs, including their areas of operation, activities, and recruitment practices; the situation of violence against women and girls; the situation of sexual minorities, including LGBTI (lesbian, gay, bisexual, trans, and/or intersex) persons; and the ability and efficacy of the state, police and judiciary to provide recourse to victims of crime, as well as to investigate and prosecute crimes.

The IRB would like to thank the Embassy of Canada in Honduras and the UNHCR for providing logistical support and assistance during the mission.

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## Methodology

The mission to Honduras consisted of a series of meetings with community representatives, experts, and officials from relevant governmental, non-governmental, academic, and research-focused organizations. For details on the organizations and individuals consulted during this mission, please refer to the section entitled "Notes on Interlocutors" at the end of this Report. The interlocutors chosen to be interviewed were identified by the delegation based on their occupation and their expertise. However, given the time constraints in which the delegation had to undertake the mission, the list of sources should not be considered exhaustive in terms of the scope and complexity of human rights issues in Honduras. Meetings with interlocutors were coordinated by the office of the UNHCR in Honduras and took place in the interlocutors' offices, or at the UNHCR offices in Tegucigalpa and San Pedro Sula. All interviews were conducted in Spanish.

Interview questions posed to interlocutors were formulated in line with the Terms of Reference for the mission (see Appendix 1). Interviews were conducted using a semi-structured approach so as to adapt to the expertise of the particular interlocutor(s) being interviewed. The Terms of Reference were developed in consultation with joint mission participants and the IRB's decision-makers from the RPD and the Refugee Appeals Division (RAD). Interlocutors' responses to these questions varied depending on their willingness and ability to address them, and the length of time granted for the interview.

In accordance with the Research Directorate's methodology, which relies on publicly available information, interlocutors were advised that the information they provided would be used to produce a report on country conditions in Honduras. In this regard, interview notes were sent to interlocutors for their approval. Furthermore, interlocutors were asked to consent to being cited by a professional title or by their institution for the information they provided. They were informed that this report is publicly accessible and may be used by decision-makers adjudicating refugee claims in Canada.

This Report is divided into three chapters and is based on the information gathered by the IRB during the mission to Honduras, as well as publicly available documentary sources. The first chapter examines the situation of crime, gangs, internal relocation, and state protection mechanisms available for victims of crime, including state programs to assist returnees. The second chapter provides information about violence against women and girls, as well as the recourse

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available to them. The third chapter provides information about the situation of sexual minorities and recourse available to them.

This Report may be read in conjunction with several IRB publications, including the following Responses to Information Requests:

- HND105348 of 2 December 2015;
- HND105350 of 1 December 2015;
- HND105349 of 30 November 2015;
- HND104993 of 10 December 2014;
- HND104994 of 9 December 2014;
- HND104660 of 10 December 2013; and
- HND104661 of 28 November 2013.

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## Overview

Honduras has an estimated population of 8,576,532 people and a land area of approximately 112,492 square kilometers.<sup>1</sup> Honduras has 18 departments and 298 municipalities.<sup>2</sup> The government consists of three branches, namely a legislative, an executive, and a judicial branch.<sup>3</sup> Legislation is established through codified law, special laws and written administrative regulations.<sup>4</sup> Laws are “only valid once the enactment procedure is completed and [laws] come into force once they are published in the Official Gazette.”<sup>5</sup> In December 2017, Juan Orlando Hernández of the Partido Nacional de Honduras [National Party of Honduras] was re-elected as the President of Honduras.<sup>6</sup>

Honduras is considered one of the poorest countries in the world<sup>7</sup> and the second poorest country in Central America.<sup>8</sup> It is estimated that more than 60 percent of its population lives in poverty.<sup>9</sup> Its economy depends mostly on trade with the US, and remittances sent from the Honduran diaspora in the US, with its main exports being bananas and coffee.<sup>10</sup> Other exports include shrimp and tilapia.<sup>11</sup>

Honduras is also considered one of the most violent countries that is not at war.<sup>12</sup> A significant amount of violence occurs in some of the poorest communities in the country.<sup>13</sup> The US Department of State's *Country Reports on Human Rights Practices for 2016* indicates that, in Honduras, “[o]rganized criminal elements, including local and transnational gangs and narcotics traffickers, were significant perpetrators of violent crimes and committed acts of murder, extortion, kidnapping, torture, human trafficking, and intimidation of journalists, women, and human rights defenders.”<sup>14</sup> Criminal groups operating in Honduras include transnational drug trafficking organizations, street gangs, and local smuggling organizations.<sup>15</sup> Honduras is a transit country for drugs being transported from South America to

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<sup>1</sup> Honduras. 19 Jan. 2016. Despacho Presidencial.

<sup>2</sup> Honduras. 19 Jan. 2016. Despacho Presidencial.

<sup>3</sup> Honduras. 19 Jan. 2016. Despacho Presidencial; US. 24 July 2017. CIA.

<sup>4</sup> Ramos, Jessica and José Miguel Álvarez. June 2012, Section 4.1.

<sup>5</sup> Honduras recognizes as sources of law “the Law as a primary source, Jurisprudence and Legal Doctrine, together with common uses and customs in cases in which the law makes [specific] reference to them.”

Ramos, Jessica and José Miguel Álvarez. June 2012, Section 4.

<sup>6</sup> Agencia EFE 18 Dec. 2017; BBC 18 Dec. 2017; Honduras. 18 Dec. 2017. Despacho Presidencial.

<sup>7</sup> InSight Crime. 9 Apr. 2016.

<sup>8</sup> US. 24 July 2017. CIA.

<sup>9</sup> US. 24 July 2017. CIA; Agencia EFE. 27 Aug. 2016.

<sup>10</sup> US. 24 July 2017. CIA.

<sup>11</sup> Honduras. 19 Jan. 2016. Despacho Presidencial.

<sup>12</sup> InSight Crime. 9 Apr. 2016; *The Economist* 31 Mar. 2017; Meeting with Colectivo Violeta. 6 Apr. 2017;

Meeting with San Pedro Sula. 3 Apr. 2017. Gerencia de Seguridad, Prevención y Transporte.

<sup>13</sup> InSight Crime. 20 Nov. 2015, 22.

<sup>14</sup> US. 3 Mar. 2017. DOS, 1.

<sup>15</sup> InSight Crime. 9 Apr. 2016; Canada. 2016. Public Safety, 9, 15.

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North America.<sup>16</sup> As such, Colombian and Mexican drug trafficking organizations have a presence in the country,<sup>17</sup> including the Sinaloa Cartel,<sup>18</sup> Gulf Cartel and Los Zetas.<sup>19</sup> The mission learned that street gangs, especially the Barrio 18 (M-18) and Mara Salvatrucha (MS-13), are engaged in killings, extortion, street-level drug trafficking, forced displacement, disappearances, threats and intimidation. Local smuggling organizations are engaged in the legal and illegal movement of goods throughout the country and have international connections.<sup>20</sup>

According to sources, the root causes of violence in Honduras are unemployment,<sup>21</sup> lack of access to education,<sup>22</sup> family disintegration,<sup>23</sup> economic inequality,<sup>24</sup> easy access to firearms,<sup>25</sup> corruption,<sup>26</sup> and a lack of effective long term policies to address these problems.<sup>27</sup> It was indicated to the mission that violence is "normalized" in the sense that it is seen as a typical occurrence by Honduran citizens.<sup>28</sup> That is, to be a witness to violence, but remain silent, is a common method of survival.<sup>29</sup>

In 2011, the Honduran government instituted a security tax to fund the state's national security projects.<sup>30</sup> For background information on the security tax, see Response to Information Request HND104993 of 10 December 2014. The website of the Honduran government indicates that between 2012 and 28 February 2017, the government collected approximately 14.1 billion lempiras (NHL) [approximately C\$768.7 million] through the security tax initiative.<sup>31</sup> Between 2012 and 28 February 2017, 38 percent of the tax was distributed to the Ministry of Public Safety (Secretaría de Seguridad), 32 percent to the Ministry of Defense (Secretaría de Defensa), 17 percent to the National Directorate of Investigation and Intelligence (Dirección Nacional de Investigación e Inteligencia, DNII), 5 percent to the Public Ministry (Ministerio Público), and 2 percent to the Supreme Court (Corte Suprema), while funding for prevention programs amounted to 5 percent.<sup>32</sup> Claudia Flores

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<sup>16</sup> InSight Crime. 9 Apr. 2016; Canada. 2016. Public Safety, 14; Meeting with Dr. Ayestas. 7 Apr. 2017.

<sup>17</sup> InSight Crime. 9 Apr. 2016.

<sup>18</sup> InSight Crime. 9 Apr. 2016; Canada. 2016. Public Safety, 15.

<sup>19</sup> Canada. 2016. Public Safety, 15.

<sup>20</sup> InSight Crime. 9 Apr. 2016.

<sup>21</sup> Meeting with Radio Progreso. 4 Apr. 2017; Meeting with Claudia Flores. 7 Apr. 2017.

<sup>22</sup> Meeting with Dr. Ayestas. 7 Apr. 2017.

<sup>23</sup> Meeting with Claudia Flores. 7 Apr. 2017.

<sup>24</sup> Meeting with Radio Progreso. 4 Apr. 2017; Meeting with World Vision. 6 Apr. 2017.

<sup>25</sup> Meeting with Dr. Ayestas. 7 Apr. 2017.

<sup>26</sup> Meeting with Dr. Ayestas. 7 Apr. 2017; Meeting with Radio Progreso. 4 Apr. 2017.

<sup>27</sup> Meeting with Claudia Flores. 7 Apr. 2017.

<sup>28</sup> Meeting with World Vision. 6 Apr. 2017.

<sup>29</sup> Meeting with World Vision. 6 Apr. 2017.

<sup>30</sup> US. 25 July 2017. Department of Commerce.

<sup>31</sup> Honduras. 2017. Tasa de Seguridad Poblacional.

<sup>32</sup> Honduras. 2017. Tasa de Seguridad Poblacional.

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indicated that the population has not benefited from the ways that the income from the security tax has been spent.<sup>33</sup>

The mission learned that social leaders, student activists and journalists are subject to intimidation by state agents and criminal organizations. According to the Ministry of Human Rights, Justice, Governance and Decentralization (Secretaría de Derechos Humanos, Justicia, Gobernación y Descentralización, SDHJGD), human rights advocates are routinely criminalized and threatened by criminal organizations and state security forces.<sup>34</sup> *US Country Reports 2016* similarly states that "[h]uman rights defenders, including indigenous and environmental rights activists, political activists, labour activists, and representatives of civil society working to combat corruption, reported threats and acts of violence."<sup>35</sup> Student activists have been pressured by police officers to stop their advocacy work inside universities and they are also coerced by gangs to join them.<sup>36</sup> According to Radio Progreso, independent journalists are frequently barred from press conferences by state officials.<sup>37</sup> Journalists also practice self-censorship on issues such as drug trafficking.<sup>38</sup> Police officers and prosecutors suggest to journalists that they refrain from publishing information related to violence or corruption in order to avoid retaliation from criminal groups.<sup>39</sup>

According to the Honduran government, the homicide rate in 2016 was 57.7 homicides per 100,000 inhabitants.<sup>40</sup> However, interlocutors indicated that the homicide statistics presented by the government tend to be lower than the actual number, and as a result, do not reflect the real situation.<sup>41</sup> According to the National Observatory on Violence (Observatorio Nacional de la Violencia) of the Autonomous National University of Honduras (Universidad Nacional Autónoma de Honduras, UNAH), there were 5,150 homicides in 2016, representing a rate of 59.1 per 100,000 inhabitants.<sup>42</sup> The departments with the highest homicide rates in 2016 were Atlántida (414 homicides - a rate of 90.6 homicides per 100,000 inhabitants), Cortés (1,469 homicides - a rate of 88.8 homicides per 100,000 inhabitants), Francisco Morazán (1,129 homicides - a rate of 71.6 homicides per 100,000 inhabitants), and Yoro (420 homicides - a rate of 70.5 homicides per 100,000 inhabitants).<sup>43</sup> The municipalities with the highest homicide rates in 2016

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<sup>33</sup> Meeting with Claudia Flores. 7 Apr. 2017.

<sup>34</sup> Meeting with SDHJGD. Honduras. 5 Apr. 2017..

<sup>35</sup> US. 3 Mar. 2017. DOS, 15.

<sup>36</sup> Meeting with MAU. 4 Apr. 2017.

<sup>37</sup> Meeting with Radio Progreso. 4 Apr. 2017.

<sup>38</sup> Meeting with Radio Progreso. 4 Apr. 2017.

<sup>39</sup> Meeting with Radio Progreso. 4 Apr. 2017.

<sup>40</sup> Honduras. 23 Feb. 2017. Secretaría de Coordinación General de Gobierno.

<sup>41</sup> Meeting with Dr. Ayestas. 7 Apr. 2017; Meeting with PMH. 5 Apr. 2017.

<sup>42</sup> UNAH. Mar. 2017. Observatorio Nacional de la Violencia.

<sup>43</sup> UNAH. Mar. 2017. Observatorio Nacional de la Violencia.

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were La Ceiba (120.8 homicides per 100,000 inhabitants), San Pedro Sula (107.3 homicides per 100,000 inhabitants), and the Central District, which includes Comayagüela and Tegucigalpa (82.3 homicides per 100,000 inhabitants).<sup>44</sup> The Pastoral de Movilidad Humana (PMH) has documented cases of homicides that are not reported to authorities as criminal organizations kill people and then order family members to bury the victim without telling authorities.<sup>45</sup> In such cases, families are not able to obtain death certificates,<sup>46</sup> nor are such deaths captured in official homicide statistics.<sup>47</sup>

The mission learned that firearms proliferation is a serious problem in Honduras. Estimates on the number of legal and illegal weapons in Honduras vary.<sup>48</sup> In 2014, a commission established by the Honduran Congress estimated that there are approximately 400,000 registered weapons and 700,000 weapons that circulate illegally in the country.<sup>49</sup> In a 2016 interview with the Small Arms Survey, officials of the National Arms Registry (Registro Nacional de Armas) in Tegucigalpa reported that between 450,000 and 500,000 firearms were registered to private citizens.<sup>50</sup> According to the law, a citizen is allowed to legally possess up to five firearms.<sup>51</sup>

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<sup>44</sup> UNAH. Mar. 2017. Observatorio Nacional de la Violencia.

<sup>45</sup> Meeting with PMH. 5 Apr. 2017.

<sup>46</sup> Meeting with PMH. 5 Apr. 2017.

<sup>47</sup> Meeting with PMH. 5 Apr. 2017.

<sup>48</sup> InSight Crime and Asociación para una Sociedad Más Justa. 23 Aug. 2017, 7.

<sup>49</sup> *El Heraldo*. 31 July 2014.

<sup>50</sup> The Small Arms Survey. Nov. 2016, 1.

<sup>51</sup> Honduras. 2000, Art. 17.

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# Chapter I. Crime in Honduras and the Situation of Witnesses of Crime and Corruption

## 1. Territorial Presence

The mission learned that gangs have a presence in the majority of communities throughout Honduras. The mission also learned that gangs exert territorial control over their areas of influence.<sup>52</sup> Territorial control is important for gangs.<sup>53</sup> Gangs consider residences in their territory as their property and as such, control the lives of the inhabitants.<sup>54</sup> One way of exerting territorial control is through curfews, which are "normalized" inside communities, and a violation of a curfew can be fatal.<sup>55</sup> While the gang phenomenon used to be mainly urban,<sup>56</sup> it has been expanding into rural areas.<sup>57</sup>

### 1.1 Invisible Borders

The mission learned that gang territories are defined by invisible lines or invisible borders and that gangs are well-informed about the people crossing into their territories. Crossing these borders, on purpose or inadvertently, can lead to the person being killed.<sup>58</sup> Even in the presence of police patrols alongside these invisible borders, people who cross without permission are at risk of being killed.<sup>59</sup>

Several interlocutors indicated that students are at risk of being killed for crossing the invisible borders that separate schools from their homes.<sup>60</sup> The Norwegian Refugee Council (NRC) indicated that during a weekend in 2016, approximately 40 children from a local school had to be transferred to another school as the invisible border that was present in that area had shifted.<sup>61</sup> The new local gang warned that they would kill any "non-resident" student who attended school the following Monday.<sup>62</sup> According to NRC, situations like these not only put a strain

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<sup>52</sup> Meeting with CDH. 5 Apr. 2017; Meeting with Dr. Ayestas. 7 Apr. 2017; Meeting with Claudia Flores. 7 Apr. 2017.

<sup>53</sup> Meeting with San Pedro Sula. 3 Apr. 2017. Gerencia de Seguridad y Prevención.

<sup>54</sup> Meeting with Dr. Ayestas. 7 Apr. 2017.

<sup>55</sup> Meeting with the NRC. 4 Apr. 2017; Meeting with Dr. Ayestas. 7 Apr. 2017.

<sup>56</sup> Meeting with Dr. Ayestas. 7 Apr. 2017; Meeting with Radio Progreso. 4 Apr. 2017.

<sup>57</sup> Meeting with Radio Progreso. 4 Apr. 2017.

<sup>58</sup> Meeting with San Pedro Sula. 3 Apr. 2017. Gerencia de Apoyo a la Prestación de Servicios Sociales; Meeting with Radio Progreso. 4 Apr. 2017.

<sup>59</sup> Meeting with San Pedro Sula. 3 Apr. 2017. Gerencia de Apoyo a la Prestación de Servicios Sociales.

<sup>60</sup> Meeting with NRC. 4 Apr. 2017; Meeting with Casa Alianza. 4 Apr. 2017.

<sup>61</sup> Meeting with NRC. 4 Apr. 2017.

<sup>62</sup> Meeting with NRC. 4 Apr. 2017.

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on other schools' resources, but transferred children are accused by other students for exposing their school to gang violence.<sup>63</sup>

In general, non-residents seeking to enter neighbourhoods controlled by gangs need to request permission from the gangs.<sup>64</sup> Permission can be obtained through community organizations,<sup>65</sup> the local priest or a religious leader.<sup>66</sup> One of the protocols established by gangs for non-residents entering their territory is to lower the windows of vehicles while in the neighbourhood, in order to identify the individuals inside of the vehicle.<sup>67</sup>

Social workers and non-governmental organizations (NGOs) who go to schools to deliver programs must receive authorization from gangs to do so,<sup>68</sup> as well as receive gang approval of the content of the educational program.<sup>69</sup> Asociación Calidad de Vida (ACV) provided the example that students who are part of gangs routinely ask visiting social workers and advocates, in front of teachers and school administration officials, to identify themselves and to provide a debrief on the content to be presented in the classes.<sup>70</sup> The Directorate of Social Services (Gerencia de Apoyo a la Prestación de Servicios Sociales) of the Municipality of San Pedro Sula indicated that in three of San Pedro Sula's neighbourhoods, it is difficult to send an educator to cover a shift at a school in an area where he or she does not live, because he or she will be at risk.<sup>71</sup> As a result, the Municipality of San Pedro Sula struggles to recruit educators who live in the same area as the school.<sup>72</sup> The mission also learned that there have been cases of school closures due to gang violence.<sup>73</sup>

## 1.2 Recruitment

Criminal groups are persistent in their recruitment efforts.<sup>74</sup> Interlocutors indicated that youth in Honduras usually have two options: join the gangs or leave the

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<sup>63</sup> Meeting with NRC. 4 Apr. 2017.

<sup>64</sup> Meeting with the CDH. 5 Apr. 2017; Meeting with San Pedro Sula. 3 Apr. 2017. Gerencia de Seguridad y Prevención.

<sup>65</sup> Meeting with the CDH. 5 Apr. 2017; Meeting with San Pedro Sula. 3 Apr. 2017. Gerencia de Seguridad y Prevención; World Vision. 6 Apr. 2017; Meeting with Dr. Ayestas. 7 Apr. 2017.

<sup>66</sup> Meeting with San Pedro Sula. 3 Apr. 2017. Gerencia de Seguridad, Prevención y Transporte.

<sup>67</sup> Meeting with San Pedro Sula. 3 Apr. 2017. Gerencia de Seguridad, Prevención y Transporte; Meeting with Dr. Ayestas. 7 Apr. 2017.

<sup>68</sup> Meeting with ACV. 7 Apr. 2017; Meeting with Dr. Ayestas. 7 Apr. 2017.

<sup>69</sup> Meeting with ACV. 7 Apr. 2017.

<sup>70</sup> Meeting with ACV. 7 Apr. 2017.

<sup>71</sup> Meeting with San Pedro Sula. 3 Apr. 2017. Gerencia de Apoyo a la Prestación de Servicios Sociales.

<sup>72</sup> Meeting with San Pedro Sula. 3 Apr. 2017. Gerencia de Apoyo a la Prestación de Servicios Sociales.

<sup>73</sup> Meeting with Honduras. 5 Apr. 2017. SDHJGD; Meeting with Claudia Flores. 7 Apr. 2017; *La Nación*. 23 Mar. 2017.

<sup>74</sup> Meeting with the PMH. 5 Apr. 2017.

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neighbourhood to other parts of the country or outside the country.<sup>75</sup> One of the reasons why youth join gangs is to be part of a group that can protect them.<sup>76</sup> They are led to believe that these entities are organizations to which they can belong, that they can trust, and where they can find protection.<sup>77</sup> Others join as a strategy to avoid being killed by gangs.<sup>78</sup>

In addition, many families have been forced to give away their children to the gangs.<sup>79</sup> Interlocutors indicated that forced recruitment of children causes families to leave their communities.<sup>80</sup> In many other cases, parents confine their children to their house and do not let them attend school so they do not get recruited and/or killed.<sup>81</sup> According to NRC, there are cases where parents and family members lie about their child having a serious medical condition in order to dissuade gangs from forcibly recruiting that child.<sup>82</sup> PMH indicated that family members caring for children eventually send them on the migratory route (*ruta migratoria*)<sup>83</sup> to prevent gangs from recruiting them.<sup>84</sup> One of the ways girls try to avoid recruitment is through early pregnancies, hoping that this will deter interest from gang members.<sup>85</sup>

The mission learned that gangs recruit children as young as 10 years old.<sup>86</sup> PMH has documented recruits as young as five and seven years old who are being trained to commit crimes.<sup>87</sup> In some cases, gangs drug children in order to train them to use weapons and to kill people.<sup>88</sup> They start out with "easy" targets to kill, but by the time they are 16 or 17 years of age, they are fully trained to assassinate for the gang.<sup>89</sup> Gangs also use minors, as young as six years old,<sup>90</sup> as look-outs (*banderas*) to let them know when non-residents are entering the neighbourhood.<sup>91</sup>

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<sup>75</sup> Meeting with ERIC-SJ. 4 Apr. 2017; Meeting World Vision. 6 Apr. 2017; Meeting with San Pedro Sula. 3 Apr. 2017. Gerencia de Apoyo a la Prestación de Servicios Sociales.

<sup>76</sup> Meeting with San Pedro Sula. 3 Apr. 2017. Dirección de Niñez, Mujer y Familia; Meeting with Claudia Flores. 7 Apr. 2017.

<sup>77</sup> Meeting with San Pedro Sula. 3 Apr. 2017. Dirección de Niñez, Mujer y Familia; Meeting with Claudia Flores. 7 Apr. 2017.

<sup>78</sup> Meeting with Claudia Flores. 7 Apr. 2017.

<sup>79</sup> Meeting with NRC. 4 Apr. 2017; Meeting with San Pedro Sula. 3 Apr. 2017. Gerencia de Apoyo a la Prestación de Servicios Sociales.

<sup>80</sup> World Vision. 6 Apr. 2017; Meeting with NRC. 4 Apr. 2017.

<sup>81</sup> Meeting with NRC. 4 Apr. 2017; Meeting with Honduras. 5 Apr. 2017. SDHJGD.

<sup>82</sup> Meeting with NRC. 4 Apr. 2017.

<sup>83</sup> The migratory route is a term to describe the land route that irregular migrants use to travel from Central America to the US via Mexico. It involves the crossing of land borders, often irregularly, by land.

<sup>84</sup> Meeting with PMH. 5 Apr. 2017.

<sup>85</sup> Meeting with San Pedro Sula. 3 Apr. 2017. Gerencia de Apoyo a la Prestación de Servicios Sociales.

<sup>86</sup> Meeting with Dr. Ayestas. 7 Apr. 2017.

<sup>87</sup> Meeting with PMH. 5 Apr. 2017.

<sup>88</sup> Meeting with Radio Progreso. 4 Apr. 2017.

<sup>89</sup> Meeting with Radio Progreso. 4 Apr. 2017.

<sup>90</sup> Meeting with Dr. Ayestas. 7 Apr. 2017.

<sup>91</sup> Meeting with the San Pedro Sula. 3 Apr. 2017. Gerencia de Seguridad, Prevención y Transporte; Meeting with Dr. Ayestas. 7 Apr. 2017.

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Gangs also use women as *banderas* and as bait to kill targeted persons.<sup>92</sup> In addition, gangs use children to transport drugs between areas<sup>93</sup> or to sell drugs<sup>94</sup> in schools, for example.<sup>95</sup>

The mission learned that the number of gang members in Honduras varies from source to source. A research report by Public Safety Canada indicates that the numbers range between 6,000 and 36,000, depending on the source consulted.<sup>96</sup> Dr. Ayestas indicated to the mission that the number of gang members is actually hard to determine, although it is estimated that the number of gang members is 30,000.<sup>97</sup> According to InSight Crime, it is difficult to establish who is a gang member and who is a collaborator, as the line that divides both roles is not clear.<sup>98</sup> InSight Crime explained that "collaborators" are those who provide assistance to gangs, but are not part of the gangs themselves.<sup>99</sup> Collaborators include street drug dealers, lawyers, taxi drivers and mechanics who provide services to the gangs, as well as intelligence.<sup>100</sup>

The National Program for Prevention, Rehabilitation and Social Reintegration (Programa Nacional de Prevención, Rehabilitación y Reinserción Social, PLAN) indicated that gangs usually respect the lives of members who quit the gang to join religious organizations.<sup>101</sup> However, according to the Directorate of Children, Women and Family (Dirección de Niñez, Mujer y Familia) of the Municipality of San Pedro Sula, people who leave the gang are persecuted throughout the country.<sup>102</sup> Other interlocutors similarly indicated that gangs have the ability to locate targets throughout the country.<sup>103</sup> The mission learned that people fleeing extortion, recruitment, and people who they suspect have filed a complaint with authorities, are common targets of gangs. The mission learned that gangs have communication networks with other cliques (*clicas*),<sup>104</sup> not only throughout the country, but also with cliques of the same gang in other countries in the Northern Triangle. Casa Alianza gave the example of Honduran asylum seekers kept in Mexican detention centres who felt unprotected, since their persecutors were able

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<sup>92</sup> Meeting with ACV. 7 Apr. 2017.

<sup>93</sup> Meeting with Dr. Ayestas. 7 Apr. 2017.

<sup>94</sup> Meeting with NRC. 4 Apr. 2017; Meeting with ACV. 7 Apr. 2017.

<sup>95</sup> Meeting with NRC. 4 Apr. 2017.

<sup>96</sup> Canada. 2016. Public Safety, 10.

<sup>97</sup> Meeting with Dr. Ayestas. 7 Apr. 2017.

<sup>98</sup> InSight Crime. 20 Nov. 2015, 24.

<sup>99</sup> InSight Crime. 20 Nov. 2015, 24.

<sup>100</sup> InSight Crime. 20 Nov. 2015, 24.

<sup>101</sup> Meeting with Honduras. 6 Apr. 2017. PLAN.

<sup>102</sup> Meeting with San Pedro Sula. 3 Apr. 2017. Dirección de Niñez, Mujer y Familia.

<sup>103</sup> Meeting with MAU. 4 Apr. 2017; Meeting with Casa Alianza 4 Apr. 2017.

<sup>104</sup> Gangs in Honduras are organized into cliques, which are "relatively autonomous groups that have their own name and hierarchy but are subject to the leadership's overall, strategic decisions." InSight Crime and Asociación para una Sociedad Más Justa. 21 Apr. 2016, 4.

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to find them due to the presence of gang members in those same detention centres.<sup>105</sup> The mission also learned that gangs have communication networks inside state institutions.

## 1.3 Activities

The mission learned that gangs are involved in killings, extortion, street-level drug trafficking, forced displacement, disappearances, threats and intimidation. Gangs also invest in legal enterprises such as taxis, gas stations and hotels.<sup>106</sup> Contract killing has become a lifestyle and another form of income for many gang members,<sup>107</sup> and they can reportedly be carried out for as low as 200 HNL [approximately C\$10.80].<sup>108</sup> The mission learned that gangs displace entire families in order to occupy their houses.<sup>109</sup> These houses, which are called "crazy houses" (*casas locas*), are used by gangs to kill people and to dismember their bodies.<sup>110</sup> The mission learned that dismembered bodies are discarded in sacks in public areas.<sup>111</sup>

### 1.3.1 Extortion

Extortion is one of the main drivers for both internal and external displacement.<sup>112</sup> Many families are forced to leave their home because they are not able to pay the extortion fee, which is known as the "war tax" (*impuesto de guerra*).<sup>113</sup> Casa Alianza has heard cases of persons being extorted for 200,000 HNL [approximately C\$10,800], to be paid within 24 hours.<sup>114</sup>

Students and teachers are regularly threatened and extorted.<sup>115</sup> Public transportation drivers, commonly known as *transportistas*,<sup>116</sup> are specifically targeted for extortion.<sup>117</sup> Extortion is the root cause of most attacks and killings of

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<sup>105</sup> Meeting with Casa Alianza.

<sup>106</sup> Meeting with Radio Progreso. 4 Apr. 2017.

<sup>107</sup> Meeting with Claudia Flores. 7 Apr. 2017.

<sup>108</sup> Meeting with Radio Progreso. 4 Apr. 2017.

<sup>109</sup> Meeting with Honduras. 5 Apr. 2017. SDHJGD.

<sup>110</sup> Meeting with Dr. Ayestas. 7 Apr. 2017.

<sup>111</sup> Meeting with Radio Progreso. 4 Apr. 2017.

<sup>112</sup> Meeting with San Pedro Sula. 3 Apr. 2017. Gerencia de Seguridad, Prevención y Transporte; Meeting with Radio Progreso. 4 Apr. 2017.

<sup>113</sup> Meeting with Honduras. 5 Apr. 2017. CONADEH; Meeting with Dr. Ayestas. 7 Apr. 2017.

<sup>114</sup> Meeting with Casa Alianza 4 Apr. 2017.

<sup>115</sup> Meeting with Honduras. 5 Apr. 2017. SDHJGD; Meeting with Honduras. 6 Apr. 2017. PLAN; Meeting with Claudia Flores. 7 Apr. 2017.

<sup>116</sup> In Honduras, transportistas are people who work as public transportation drivers. It is important to note that in Honduras, the term transportistas is not commonly used to refer to people who are engaged in narcotrafficking.

<sup>117</sup> Meeting with San Pedro Sula. 3 Apr. 2017. Gerencia de Seguridad, Prevención y Transporte; Meeting with Radio Progreso. 4 Apr. 2017; Meeting with Honduras. 5 Apr. 2017. CONADEH.

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public transportation drivers in the country.<sup>118</sup> Public transportation drivers are often required to pay up to three extortion amounts to different gangs.<sup>119</sup> Amounts extorted typically range between 200 HNL [approximately C\$10.80] and 300 HNL [approximately C\$16.20].<sup>120</sup>

When the National Commissioner for Human Rights (Comisionado Nacional de los Derechos Humanos, CONADEH) handles cases concerning victims of extortion and threats, it requests that security measures be taken by the State Secretary of Security (Secretaría de Estado en el Despacho de Seguridad).<sup>121</sup> In recent years, security measures have consisted of random patrols sent to the victim's residence.<sup>122</sup> According to CONADEH, however, these measures are not comprehensive and are delayed.<sup>123</sup>

## 2. Legal Apparatus and Institutional Efficacy

### 2.1 Justice System

The mission learned that mistrust in the justice system is widespread among the population.<sup>124</sup> Honduras has high levels of impunity<sup>125</sup> and investigation into crimes is inefficient.<sup>126</sup> *US Country Reports 2016* indicates that "[c]orruption and impunity remained serious problems within the security forces. Some members of police committed crimes, including crimes linked to local and international criminal organizations."<sup>127</sup> Radio Progreso indicated that 95 percent of assassinations go unpunished.<sup>128</sup> Other sources indicate that in Honduras, 80 percent of crimes go unsolved.<sup>129</sup> The Organization of American States' (OAS) Mission to Support the Fight Against Corruption and Impunity in Honduras (MACCIH), which started its operations in Honduras in April 2016, works to combat corruption and impunity by, for example, assisting and strengthening Honduran state institutions, to prevent, investigate and punish acts of corruption.<sup>130</sup> One of MACCIH's areas of work is [translation] "enhancing the criminal justice system and reducing high levels of

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<sup>118</sup> Meeting with Honduras. 5 Apr. 2017. CONADEH.

<sup>119</sup> Meeting with Honduras. 5 Apr. 2017. CONADEH; Meeting with Radio Progreso. 4 Apr. 2017.

<sup>120</sup> Meeting with Radio Progreso. 4 Apr. 2017.

<sup>121</sup> Meeting with Honduras. 5 Apr. 2017. CONADEH.

<sup>122</sup> Meeting with Honduras. 5 Apr. 2017. CONADEH.

<sup>123</sup> Meeting with Honduras. 5 Apr. 2017. CONADEH.

<sup>124</sup> Meeting with GSC. 7 Apr. 2017; Meeting with Honduras. 5 Apr. 2017. CONADEH.

<sup>125</sup> Meeting with Radio Progreso. 4 Apr. 2017; Meeting with ERIC-SJ. 4 Apr. 2017; Meeting with Honduras. 5 Apr. 2017. SDHJGD; Meeting with Honduras. 5 Apr. 2017. CONADEH; Agencia EFE. 27 Aug. 2016.

<sup>126</sup> Meeting with Radio Progreso. 4 Apr. 2017; Meeting with Honduras. 5 Apr. 2017. SDHJGD; Agencia EFE. 27 Aug. 2016.

<sup>127</sup> US. 3 Mar. 2017. DOS, 10.

<sup>128</sup> Meeting with Radio Progreso. 4 Apr. 2017.

<sup>129</sup> Agencia EFE. 27 Aug. 2016; OAS. 31 Dec. 2015. IACHR, 12.

<sup>130</sup> OAS. N.d.a. MACCIH.

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impunity," including by improving access to justice, reducing judicial delays, improving criminal investigation mechanisms, effectively administering the penal process and optimizing the quality of sentences.<sup>131</sup>

## 2.2 National Police

The mission observed a lack of police presence on the streets in San Pedro Sula and Tegucigalpa. The BBC reports that Honduras has 13,500 police officers and 15,000 soldiers.<sup>132</sup> Radio Progreso estimated that there are approximately 14,000 police officers and 13,000 soldiers.<sup>133</sup> The National Police in San Pedro Sula is divided into four metropolitan units and each metropolitan unit has 200 police officers, including those employed in administrative functions.<sup>134</sup>

Dr. Ayestas indicated that private security companies have a greater capacity to provide security than the National Police and the armed forces.<sup>135</sup> Radio Progreso indicated that private security firms have more than 75,000 guards.<sup>136</sup> Other sources indicate that there are approximately 750 security firms<sup>137</sup> employing around 120,000 people.<sup>138</sup>

According to sources, there are police officers who have been accused of committing extortion.<sup>139</sup> Interlocutors indicated that the National Police has been going through an internal purge to dismiss corrupt officers from the force.<sup>140</sup> Following revelations concerning the involvement of police officials in the killing of antidrug officials, the Special Commission for the Purging and Transformation Process of the National Police (Comisión Especial para el Proceso de Depuración y Transformación de la Policía Nacional) was set up in April 2016 to lead the police purge.<sup>141</sup> According to Dr. Ayestas, almost 50 percent of police officers have been dismissed during this process.<sup>142</sup> News sources report that 4,934 police authorities were evaluated, of which 2,581 have been dismissed, including high ranking officials (28 percent), support staff (4 percent), and low ranking officials (68

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<sup>131</sup> OAS. N.d.a. MACCIH.

<sup>132</sup> BBC. 2 Feb. 2016.

<sup>133</sup> Meeting with Radio Progreso. 4 Apr. 2017.

<sup>134</sup> Meeting with the San Pedro Sula. 3 Apr. 2017. Gerencia de Seguridad, Prevención y Transporte.

<sup>135</sup> Meeting with Dr. Ayestas. 7 Apr. 2017.

<sup>136</sup> Meeting with Radio Progreso. 4 Apr. 2017.

<sup>137</sup> Meeting with Dr. Ayestas. 7 Apr. 2017.

<sup>138</sup> Meeting with Dr. Ayestas. 7 Apr. 2017; BBC 2 Feb. 2016.

<sup>139</sup> Meeting with CPTRT. 5 Apr. 2017; Meeting with Asociación Arco Iris. 6 Apr. 2017; Meeting with PMH. 5 Apr. 2017; Agencia EFE. 23 Feb. 2017; *La Prensa*. 7 Mar. 2016.

<sup>140</sup> Meeting with Dr. Ayestas. 7 Apr. 2017; Meeting with Honduras. 5 Apr. 2017. CONADEH; Meeting with CPTRT. 5 Apr. 2017.

<sup>141</sup> InSight Crime. 24 Jan. 2017; Deutsche Welle. 18 Aug. 2016.

<sup>142</sup> Meeting with Dr. Ayestas. 7 Apr. 2017.

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percent).<sup>143</sup> The Centro de Prevención, Tratamiento y Rehabilitación de Víctimas de la Tortura (CPTRT) indicated that the purge has not been effective as it has focused on lower ranking officials, rather than those in higher ranks.<sup>144</sup>

## 2.3 Protection Programs

### 2.3.1 Witness Protection Program

Honduras has a witness protection program, Programa de Protección a Testigos (PPT), which is run by the Public Ministry.<sup>145</sup> Sources indicate that witness protection provided by the Public Ministry is inefficient,<sup>146</sup> due to the lack of resources, for example.<sup>147</sup> CONADEH indicated that the number of protection requests is "out of proportion" compared to the limited financial and human resources available, which hinders the ability of the state to provide effective protection.<sup>148</sup> CONADEH indicated that it provides, in coordination with the Public Ministry, economic assistance to protected witnesses, including assistance to relocate witnesses to other parts of the country, depending on the particular situation of the person.<sup>149</sup> In some cases, CONADEH coordinates with NGOs to relocate protected witnesses abroad.<sup>150</sup> PMH has documented cases of persons in the witness protection program who were turned over to their aggressors by the officials that were in charge of protecting them.<sup>151</sup> CPTRT indicated that witnesses face risks, including death, as protection offered to them is limited to six months on average, while a trial can last up to two and a half years.<sup>152</sup> For additional information about PPT, see Response to Information Request HND105348 of December 2015.

### 2.3.2 Protection Program for Human Rights Defenders, Journalists, Media Workers, and Justice Operators

Honduras has a protection program available for human rights defenders, journalists, media workers, and justice operators.<sup>153</sup> The protection program, which was created under the 2015 *Law for the Protection of Human Rights Defenders, Journalists, Media Workers, and Justice Operators (Ley de Protección para las y*

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<sup>143</sup> *El Tiempo*. 23 Jan. 2017; *El Heraldo*. 25 Jan. 2017.

<sup>144</sup> Meeting with CPTRT. 5 Apr. 2017.

<sup>145</sup> Proceso Digital. 30 July 2014; *El Heraldo*. 10 Aug. 2014.

<sup>146</sup> *La Prensa*. 12 July 2015; *El Heraldo*. 10 Aug. 2014.

<sup>147</sup> *El Heraldo*. 10 Aug. 2014.

<sup>148</sup> Meeting with Honduras. 5 Apr. 2017. CONADEH.

<sup>149</sup> Meeting with Honduras. 5 Apr. 2017. CONADEH.

<sup>150</sup> Meeting with Honduras. 5 Apr. 2017. CONADEH.

<sup>151</sup> Meeting with PMH. 5 Apr. 2017.

<sup>152</sup> Meeting with CPTRT. 5 Apr. 2017.

<sup>153</sup> Meeting with Honduras. 5 Apr. 2017. SDHJGD.

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*los Defensores de Derechos Humanos, Periodistas, Comunicadores Sociales y Operadores de Justicia*), is administered through the National System for the Protection of Human Rights Defenders (Sistema Nacional de Protección para Personas Defensoras de Derechos Humanos).<sup>154</sup> For 2017, the National System had a budget of 25 million HNL [approximately C\$1,350,259].<sup>155</sup> It has issued protection measures to 85 persons, including 56 human rights defenders, 16 journalists, 4 media workers, and 9 justice operators.<sup>156</sup> Title III of the Law, which includes information about protection measures and the process to request such protection, is attached to this Report (Attachment 1).

SDHJGD indicated that evaluations of applications for protection originating from outside Tegucigalpa are conducted over the phone, as the SDHJGD does not have the necessary infrastructure in other parts of the country to handle these protection requests.<sup>157</sup> In some cases, and depending on the nature of the case, the SDHJGD requests the assistance of CONADEH to conduct interviews in its offices outside of Tegucigalpa.<sup>158</sup> A notification letter is provided to those who are admitted for protection under this program.<sup>159</sup>

SDHJGD indicated that, although the protection program is only available for specific groups, some employees at the SDHJGD have assisted other victims of violence by providing them with information and advice on how to deal with their personal circumstances.<sup>160</sup>

Radio Progreso indicated that the protection mechanism established by the 2015 *Law for the Protection of Human Rights Defenders, Journalists, Media Workers, and Justice Operators* does not work in practice.<sup>161</sup> The Movimiento Amplio Universitario (MAU) indicated that the government's witness protection measures for human rights advocates is inefficient and that student activists, who have been threatened, prefer seeking support from NGOs to relocate to other parts of the country or abroad.<sup>162</sup> MAU explained that student activists have been criminalized and subjected to arbitrary detention and irregular judicial proceedings, adding that between 2015 and 2017, around 120 criminal processes were launched against student activists for crimes, including sedition, misappropriation, and damage to public property.<sup>163</sup> The mission learned that journalists and human rights

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<sup>154</sup> Honduras. 2015, Art. 19.

<sup>155</sup> Honduras. 20 Apr. 2017. SDHJGD.

<sup>156</sup> Honduras. 20 Apr. 2017. SDHJGD.

<sup>157</sup> Meeting with Honduras. 5 Apr. 2017. SDHJGD.

<sup>158</sup> Meeting with Honduras. 5 Apr. 2017. SDHJGD.

<sup>159</sup> Meeting with Honduras. 5 Apr. 2017. SDHJGD.

<sup>160</sup> Meeting with Honduras. 5 Apr. 2017. SDHJGD.

<sup>161</sup> Meeting with Radio Progreso. 4 Apr. 2017.

<sup>162</sup> Meeting with MAU. 4 Apr. 2017.

<sup>163</sup> Meeting with MAU. 4 Apr. 2017.

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advocates do not trust the police for protection.<sup>164</sup> Radio Progreso explained that members of the National Police and armed forces have been accused of assaulting journalists who cover protests.<sup>165</sup>

### 2.3.3 Precautionary Measures

According to Article 25 of the Rules of Procedure of the Inter-American Commission on Human Rights (IACHR) of the OAS, the IACHR may, "on its own initiative or at the request of a party, request that a State adopt precautionary measures."<sup>166</sup> According to the IACHR, Precautionary Measures "may be of a collective nature to prevent irreparable harm to persons due to their association with an organization, a group, or a community with identified or identifiable members."<sup>167</sup> In order to carry out IACHR's requests for Precautionary Measures, OAS States have issued protection measures for beneficiaries, which can include "bodyguards, security at office buildings, direct lines of communication with the authorities, protection of ancestral territory, and others."<sup>168</sup> The mission learned, however, that activists in Honduras with Precautionary Measures issued by IACHR are regularly threatened, while some have been killed. Berta Cáceres, a highly recognized land rights advocate and indigenous leader, was killed on 3 March 2016 in La Esperanza, in the Department of Intibucá.<sup>169</sup> Cáceres had Precautionary Measures ordered by the IACHR since 2009; however, prior to her killing, she had indicated that she was constantly being harassed and intimidated.<sup>170</sup> Cáceres had reported that she received 33 death threats for her campaign against the construction of a hydroelectric dam by a company with "extensive military and government links."<sup>171</sup>

## 2.4 Violence Prevention Programs

The mission learned of the existence of several social programs to prevent violence and to assist victims, including youth. For example, according to PLAN, there are schools that offer education centres with alternative programs for youth, including violence prevention programs and extracurricular activities.<sup>172</sup> The Municipality of San Pedro Sula offers vocational training courses to disadvantaged youth, such as carpentry, computer training, appliance repair, and esthetics, so

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<sup>164</sup> Meeting with Honduras. 5 Apr. 2017. SDHJGD; Meeting with Radio Progreso. 4 Apr. 2017.

<sup>165</sup> Meeting with Radio Progreso. 4 Apr. 2017.

<sup>166</sup> OAS. 2013. IACHR, Art. 25.

<sup>167</sup> OAS. N.d.b. IACHR.

<sup>168</sup> OAS. N.d.b. IACHR.

<sup>169</sup> OAS. 4 Mar. 2016. IACHR.

<sup>170</sup> OAS. 4 Mar. 2016. IACHR.

<sup>171</sup> *The Guardian*. 28 Feb. 2017.

<sup>172</sup> Meeting with PLAN. 6 Apr. 2017

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they can obtain employment and become economically self-sufficient.<sup>173</sup> These programs, which range between six months and two years, are offered at three technical institutes located in Chamelecón, Villas Mackay and Las Palmas.<sup>174</sup> Around 500 students graduate each year and 80 percent of those who carry out the cooperative portion of their study program at Honduran companies are retained by these companies.<sup>175</sup>

As a result of increasing gang activity and the existence of invisible borders, attendance levels have dropped in recent years for the school in Chamelecón.<sup>176</sup> In addition to requesting police assistance, the Municipality of San Pedro Sula is working with military forces, which patrol the invisible borders in order to ensure that the area of the technical school is more secure.<sup>177</sup> Nonetheless, the Directorate of Social Services of the Municipality of San Pedro Sula noted the difficulty in recruiting and retaining school instructors for the school in Chamelecón.<sup>178</sup> According to the same source, the majority of youth who attend the education centres are youth who have been affected by internal displacement, as a result of the security issues in the areas where they used to reside.<sup>179</sup>

The Local Plan for Citizens' Coexistence and Security (Plan Local de Convivencia y Seguridad Ciudadana, PLCSC) is a government plan that seeks to coordinate municipal efforts to prevent violence.<sup>180</sup> The PLCSC incorporates municipal agencies, the private sector, civil society, and academia.<sup>181</sup> Through the PLCSC, the municipality of San Pedro Sula has been accessing high-risk communities to deliver social programs and provide protection.<sup>182</sup> However, the Municipality of San Pedro Sula indicated that the PLCSC has not been effective in reducing internal displacement.<sup>183</sup>

Another program is the creation of Outreach Centres (Centros de Alcance), a government initiative, in collaboration with the United States Agency for International Development (USAID), to provide social programs to prevent violence inside conflict-affected communities.<sup>184</sup> There are approximately 40 Outreach

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<sup>173</sup> Meeting with San Pedro Sula. 3 Apr. 2017. Gerencia de Apoyo y Servicios.

<sup>174</sup> Meeting with San Pedro Sula. 3 Apr. 2017. Gerencia de Apoyo y Servicios.

<sup>175</sup> Meeting with San Pedro Sula. 3 Apr. 2017. Gerencia de Apoyo y Servicios.

<sup>176</sup> Meeting with San Pedro Sula. 3 Apr. 2017. Gerencia de Apoyo y Servicios.

<sup>177</sup> Meeting with San Pedro Sula. 3 Apr. 2017. Gerencia de Apoyo y Servicios.

<sup>178</sup> Meeting with San Pedro Sula. 3 Apr. 2017. Gerencia de Apoyo y Servicios.

<sup>179</sup> Meeting with San Pedro Sula. 3 Apr. 2017. Gerencia de Apoyo y Servicios.

<sup>180</sup> Ortiz Gómez, Yamileth and Fanny Gallo. July 2014, 10.

<sup>181</sup> Ortiz Gómez, Yamileth and Fanny Gallo. July 2014, 10.

<sup>182</sup> Meeting with San Pedro Sula. 3 Apr. 2017. Gerencia de Apoyo y Servicios; Meeting with San Pedro Sula. 3 Apr. 2017. Gerencia de Seguridad, Prevención y Transporte.

<sup>183</sup> Meeting with San Pedro Sula. 3 Apr. 2017. Gerencia de Seguridad, Prevención y Transporte.

<sup>184</sup> Proceso Digital. 19 Oct. 2016; Luis Mazariegos et al. Jan. 2014, 5.

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Centres across the most conflict-affected neighbourhoods of the country,<sup>185</sup> including in Tegucigalpa, Comayagüela, San Pedro Sula, Choloma, La Ceiba and Puerto Lempira.<sup>186</sup> More than 30,000 youth have benefited from the Outreach Centres.<sup>187</sup>

The Honduran government initiated PLAN, a program created by the Office of the President, to provide assistance in Tegucigalpa to at-risk youth and persons who were former gang members.<sup>188</sup> PLAN consists of community workers who are sent to areas with a high prevalence of violence to provide programs, including psychological assistance, legal advice, the removal of gang-related tattoos, as well as individual and group therapies.<sup>189</sup> PLAN helps youth who were former gang members to change their appearance, so that they are able to move from their neighbourhoods and find work or study elsewhere.<sup>190</sup> Approximately 60 youth who were internally displaced, and have been assisted by PLAN, have been able to relocate to other neighbourhoods, changing their lifestyles completely.<sup>191</sup> PLAN enters communities without being accompanied by the army or the police, so as not to be perceived as a threat to the community.<sup>192</sup> While PLAN does not have a shelter for its clients, it does have agreements with shelters, including for persons with addictions and for persons who have problems with gangs.<sup>193</sup> In addition, PLAN offers support to individual shelters, as needed, including operational support.<sup>194</sup>

The mission learned that various NGOs have support and development programs in place, including violence prevention programs, to serve the needs of children and youth, such as the NGOs that are part of the UNHCR-led Protection Working Group (Grupo de Protección) in San Pedro Sula and Tegucigalpa. The mission learned that the Protection Working Group includes nine UN agencies and 17 NGOs who work together in order to: strengthen national protection mechanisms on forced displacement; ensure the safety of humanitarian personnel; share information on protection-related issues and; carry out advocacy on protection-related issues. World Vision, which is part of the Protection Working Group, carries out various programs and projects directly affecting children in communities with high levels of violence.<sup>195</sup> For example, in the district of San Miguel in Tegucigalpa,

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<sup>185</sup> Proceso Digital. 19 Oct. 2016; Luis Mazariegos et al. Jan. 2014, 5.

<sup>186</sup> Luis Mazariegos et al. Jan. 2014, 5.

<sup>187</sup> Proceso Digital. 19 Oct. 2016.

<sup>188</sup> Meeting with Honduras. 6 Apr. 2017. PLAN.

<sup>189</sup> Meeting with Honduras. 6 Apr. 2017. PLAN.

<sup>190</sup> Meeting with Honduras. 6 Apr. 2017. PLAN.

<sup>191</sup> Meeting with Honduras. 6 Apr. 2017. PLAN.

<sup>192</sup> Meeting with Honduras. 6 Apr. 2017. PLAN.

<sup>193</sup> Meeting with Honduras. 6 Apr. 2017. PLAN.

<sup>194</sup> Meeting with Honduras. 6 Apr. 2017. PLAN.

<sup>195</sup> Meeting World Vision. 6 Apr. 2017.

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World Vision serves 19 communities. One of its development programs is called *Cerro de Plata*, which assists 2500 girls and boys.<sup>196</sup> In addition, World Vision carries out projects focused on the prevention of violence and the promotion of a culture of peace, as well as a technical project for the development of the life skills of children and adolescents.<sup>197</sup> World Vision expressed that it is difficult to retain children in their programs, as children are constantly targeted by gangs.<sup>198</sup> Children have had to drop out of World Vision's programmes as a result of being forced to flee their community.<sup>199</sup> Despite this, the work of World Vision is widely respected within communities, given its religious affiliation and that its work is carried out alongside the church and religious leaders.<sup>200</sup> Claudia Flores indicated that church groups also carry out development programs for children in neighbourhoods and communities and that such programs are appreciated, even among gang members and organized crime members, due to the level of respect that exists for the church.<sup>201</sup>

## 2.5 Complaints Mechanism

Rather than filing their complaint with the police, victims of crime carried out by criminal groups prefer filing their complaint with civil society organizations<sup>202</sup> or CONADEH.<sup>203</sup> CONADEH receives 3 to 5 complaints per day from victims of crime, mainly regarding extortion and threats from gangs.<sup>204</sup> The mission learned that people mistrust state institutions, as there are reports of collusion between government authorities and criminal organizations, including gangs.<sup>205</sup> Government authorities are threatened by criminals, who do so in order convince the authorities to act against their victims who file complaints.<sup>206</sup>

Several interlocutors indicated that people regard complaints mechanisms as inefficient.<sup>207</sup> If a victim of crime does file a report, it is out of "formality" and not because the victim expects authorities to do something about it.<sup>208</sup> The mission

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<sup>196</sup> Meeting World Vision. 6 Apr. 2017.

<sup>197</sup> Meeting World Vision. 6 Apr. 2017.

<sup>198</sup> Meeting with World Vision. 4 Apr. 2017.

<sup>199</sup> Meeting World Vision. 6 Apr. 2017.

<sup>200</sup> Meeting World Vision. 6 Apr. 2017.

<sup>201</sup> Meeting with Claudia Flores. 7 Apr. 2017.

<sup>202</sup> Meeting with MAU. 4 Apr. 2017; Meeting with CPTRT. 5 Apr. 2017.

<sup>203</sup> Meeting with CPTRT. 5 Apr. 2017.

<sup>204</sup> Meeting with Honduras. 5 Apr. 2017. CONADEH.

<sup>205</sup> Meeting with Radio Progreso. 4 Apr. 2017; Meeting with Honduras. 5 Apr. 2017. SDHJGD; Meeting with the PMH. 5 Apr. 2017; Meeting with CPTRT. 5 Apr. 2017; Meeting with GSC. 7 Apr. 2017.

<sup>206</sup> Meeting with the PMH. 5 Apr. 2017.

<sup>207</sup> Meeting with MAU. 4 Apr. 2017; Meeting with Radio Progreso. 4 Apr. 2017; Meeting with the PMH. 5 Apr. 2017.

<sup>208</sup> Meeting with MAU. 4 Apr. 2017; Meeting with Radio Progreso. 4 Apr. 2017.

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learned that, oftentimes, when victims of crime file a complaint, police officers indicate that the case is not under their jurisdiction or that the IT system is down.

PMH indicated that officers receiving the complaints are not adequately trained to do so.<sup>209</sup> Oftentimes, they warn victims about the risk that they are taking by filing a complaint.<sup>210</sup> The mission learned that criminal groups have *banderas* outside police stations and Public Ministry offices monitoring who is filing complaints. The mission learned that there have been cases of victims who have been killed shortly after filing a complaint.

### 3. Displacement

In addition to learning that displacement is prevalent in Honduras, the mission learned that causes of displacement include generalized violence, threats, extortion, forced recruitment of minors by gangs, poverty, especially in rural areas, and land/house-grabbing. People are also displaced by violence caused by criminal organizations, particularly gangs.<sup>211</sup> State agents are also accused of causing displacement, often acting in collusion with criminal organizations and enterprises.<sup>212</sup> The mission learned that internal displacement also occurs due to family feuds,<sup>213</sup> the construction of megaprojects,<sup>214</sup> and the exploitation of natural resources.<sup>215</sup> PMH has documented cases of people being threatened so that they leave their area of residence and megaprojects can be built.<sup>216</sup>

Most cases of displacement begin as internal in nature; however, it is common that IDPs eventually seek to leave the country.<sup>217</sup> Usually, parents migrate first and leave their children behind with other relatives who will, in turn, eventually send the children on the migratory route to be reunited with their parents.<sup>218</sup> The majority of IDPs across Honduras, however, consist of entire families.<sup>219</sup> It is very common that entire families leave their homes in order to protect their children from forced

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<sup>209</sup> Meeting with the PMH. 5 Apr. 2017.

<sup>210</sup> Meeting with the PMH. 5 Apr. 2017.

<sup>211</sup> Meeting with San Pedro Sula. 3 Apr. 2017. Gerencia de Seguridad, Prevención y Transporte; Meeting with Honduras. 5 Apr. 2017. CONADEH.

<sup>212</sup> Meeting with CPTRT. 5 Apr. 2017.

<sup>213</sup> Meeting with NRC. 4 Apr. 2017; Meeting with Claudia Flores. 7 Apr. 2017; Meeting with Dr. Ayestas. 7 Apr. 2017

<sup>214</sup> Meeting with Radio Progreso. 4 Apr. 2017; Meeting with the PMH. 5 Apr. 2017.

<sup>215</sup> Meeting with ERIC-SJ. 4 Apr. 2017; Meeting with CDH. 5 Apr. 2017.

<sup>216</sup> Meeting with the PMH. 5 Apr. 2017.

<sup>217</sup> Meeting with San Pedro Sula. 3 Apr. 2017. Gerencia de Apoyo a la Prestación de Servicios Sociales; Meeting with the NRC; Meeting with Honduras. 5 Apr. 2017. CONADEH.

<sup>218</sup> Meeting with NRC. 4 Apr. 2017; Meeting with the PMH. 5 Apr. 2017.

<sup>219</sup> Meeting with Honduras. 5 Apr. 2017. SDHJGD; Meeting with CDH. 5 Apr. 2017.

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recruitment.<sup>220</sup> The family unit is an important element in Honduran society.<sup>221</sup> When family members stay behind, gangs pressure remaining relatives to provide information on the whereabouts of the targeted person.<sup>222</sup> It is also feared that remaining family members will be targeted by gangs as a form of retaliation.<sup>223</sup>

On 31 March 2014, the Honduran government officially swore in the Interinstitutional Commission for the Protection of Displaced People Due to Violence (Comisión Interinstitucional para la Protección de Personas Desplazadas por la Violencia),<sup>224</sup> which was created by Executive Decree Number (Decreto Ejecutivo Número) PCM-053-2013,<sup>225</sup> with the mandate to [translation] "formulate policies and adopt measures to prevent forced displacement, as well as to assist, protect and provide solutions to displaced people and their families."<sup>226</sup> The Commission is comprised of 10 government institutions and 5 civil society organizations.<sup>227</sup>

One of the Commission's main achievements is its ability to provide information on the number of displaced persons, their areas of resettlement, their needs, and the root causes of their displacement.<sup>228</sup> In 2015, the Commission published a study with statistical information on the number of displaced persons between 2004 and 2014.<sup>229</sup> The study, titled *Characterizing Internal Displacement in Honduras (Caracterización del Desplazamiento Interno en Honduras)*, provides an analysis on internal displacement in the country based on a survey of displaced and non-displaced persons in 20 municipalities in 11 departments.<sup>230</sup> The report indicates that approximately 174,000 people, divided into approximately 41,000 households, have been displaced between 2004 and 2014, and that 7.5 percent of these people were in their second displacement, and 2.1 percent in their third displacement.<sup>231</sup> According to the Internal Displacement Monitoring Centre (IDMC), as of 31 December 2016, there were 190,000 internally displaced persons (IDPs) in Honduras.<sup>232</sup>

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<sup>220</sup> Meeting with San Pedro Sula. 3 Apr. 2017. Gerencia de Apoyo a la Prestación de Servicios Sociales; Meeting with Honduras. 5 Apr. 2017. SDHJGD; Meeting with World Vision. 6 Apr. 2017.

<sup>221</sup> Meeting with ACV. 7 Apr. 2017; Meeting with GSC. 7 Apr. 2017.

<sup>222</sup> Meeting with MAU. 4 Apr. 2017.

<sup>223</sup> Meeting with MAU. 4 Apr. 2017.

<sup>224</sup> Meeting with Honduras. 5 Apr. 2017. SDHJGD; Meeting with Honduras. 5 Apr. 2017. CONADEH.

<sup>225</sup> Honduras. 26 Nov. 2013. Poder Ejecutivo.

<sup>226</sup> Honduras. 5 Sept. 2014. SDHJGD.

<sup>227</sup> Meeting with Honduras. 5 Apr. 2017. SDHJGD.

<sup>228</sup> Meeting with Honduras. 5 Apr. 2017. SDHJGD.

<sup>229</sup> Meeting with Honduras. 5 Apr. 2017. SDHJGD.

<sup>230</sup> Honduras. Nov. 2015. Comisión Interinstitucional para la Protección de las Personas Desplazadas por la Violencia, 10.

<sup>231</sup> Honduras. Nov. 2015. Comisión Interinstitucional para la Protección de las Personas Desplazadas por la Violencia, 12.

<sup>232</sup> IDMC. N.d.

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In 2016, CONADEH received 694 complaints of forced displacement, out of which 345 petitioners were at risk of displacement, and 349 were already displaced.<sup>233</sup> CONADEH indicated that it is very difficult to determine how many people are in a situation of internal displacement due to violence, as many of them do not file complaints.<sup>234</sup> PLAN indicated that filing a complaint due to displacement can expose complainants to retaliation by aggressors.<sup>235</sup> PLAN indicated that, for example, when students are threatened or face forced recruitment by gangs, they prefer internal displacement over filing a complaint, because submitting a complaint could lead to their death.<sup>236</sup>

Radio Progreso indicated that, according to Casa Alianza, there are 1 million youth in Honduras and that, while they are able to study or work, they neither study nor work.<sup>237</sup> While youth flee internally as a first step, they opt for the migratory route, in part due to the lack of access to education and work.<sup>238</sup>

IDPs arriving in San Pedro Sula usually inhabit areas near the river banks (*bordos*), which are not suitable living environments due to a lack of access to potable water, electricity and basic sanitary conditions, and where flooding is also frequent.<sup>239</sup> Radio Progreso indicated that people living in *bordos* are discriminated against in the job market, because employers refuse to hire people living in these areas.<sup>240</sup> The mission learned that people living in high-risk communities, including in Rivera Hernandez and Chamelecón in San Pedro Sula, face similar employment discrimination. People migrate to the cities in search of stable economic livelihoods; however, since there are not enough opportunities available in the larger cities, nor are there options in agricultural development in rural areas, many of them end up taking the migratory route.<sup>241</sup>

### 3.1 Assistance for Internally Displaced Persons (IDPs)

The Interinstitutional Commission for the Protection of Displaced People Due to Violence has a budget of 12 million HNL [approximately C\$637,440], which, according to a SDHJGD representative, is not enough to assist displaced persons in Honduras.<sup>242</sup> According to SDHJGD, so far, the Commission has only developed

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<sup>233</sup> Meeting with Honduras. 5 Apr. 2017. CONADEH.

<sup>234</sup> Meeting with Honduras. 5 Apr. 2017. CONADEH.

<sup>235</sup> Meeting with Honduras. 6 Apr. 2017. PLAN.

<sup>236</sup> Meeting with Honduras. 6 Apr. 2017. PLAN.

<sup>237</sup> Meeting with Radio Progreso. 4 Apr. 2017.

<sup>238</sup> Meeting with ERIC-SJ. 4 Apr. 2017; Meeting with NRC. 4 Apr. 2017.

<sup>239</sup> Meeting with San Pedro Sula. 3 Apr. 2017. Gerencia de Apoyo a la Prestación de Servicios Sociales.

<sup>240</sup> Meeting with Radio Progreso. 4 Apr. 2017.

<sup>241</sup> Meeting with Claudia Flores. 7 Apr. 2017.

<sup>242</sup> Meeting with Honduras. 5 Apr. 2017. SDHJGD.

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draft action plans, without implementation.<sup>243</sup> Even though the state has recognized the problem of internal displacement, it has not been able to address this problem<sup>244</sup> and no clear protection mechanism exists.<sup>245</sup> Interlocutors also indicate that the state is not prepared to deal with internal displacement and victims are sent from one state institution to another in order to find a solution for their displacement, to no avail.<sup>246</sup>

The mission learned that, in practice, NGOs,<sup>247</sup> international organizations and churches are the entities that have been addressing internal displacement.<sup>248</sup> The Honduran government refers cases of internal displacement to organizations such as UNHCR, the International Committee of the Red Cross (ICRC), and NRC.<sup>249</sup>

NRC, which has been operating in Honduras since 2015, carries out two main programs: an educational programme and the ICLA programme.<sup>250</sup> The ICLA programme provides guidance, information and legal assistance to families and individuals who have been displaced as a result of violence.<sup>251</sup> Additional services include the provision of temporary shelter, food, support to relocate in Honduras, and, with help from Doctors Without Borders psychological care.<sup>252</sup> The educational programme works with children who fall outside of the official school system as a result of displacement, or, as a result of being returned to Honduras after attempting to take the migratory route.<sup>253</sup> NRC indicated that the children it serves through its educational programme are often fleeing gang recruitment.<sup>254</sup> NRC is able to identify which children have fallen outside of the school system by means of a census that its volunteers carry out in violent and vulnerable communities in Tegucigalpa and San Pedro Sula and through organizations like Centro Belén.<sup>255</sup> NRC indicated that there are families who, once displaced, choose not to register their children in the educational system, fearing that the family's relocation will be known.<sup>256</sup> NRC further indicated that when there are no government or NGO programs or shelters to protect children who face violence or

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<sup>243</sup> Meeting with Honduras. 5 Apr. 2017. SDHJGD.

<sup>244</sup> Meeting with Honduras. 5 Apr. 2017. SDHJGD; Meeting with CPTRT. 5 Apr. 2017; Meeting with Honduras. 5 Apr. 2017. CONADEH.

<sup>245</sup> Meeting with CPTRT. 5 Apr. 2017; Meeting with Honduras. 5 Apr. 2017. CONADEH.

<sup>246</sup> Meeting with PMH. 5 Apr. 2017; Meeting with Honduras. 5 Apr. 2017. SDHJGD.

<sup>247</sup> Meeting with Honduras. 5 Apr. 2017. SDHJGD; Meeting with NRC. 4 Apr. 2017.

<sup>248</sup> Meeting with NRC. 4 Apr. 2017.

<sup>249</sup> Meeting with NRC. 4 Apr. 2017.

<sup>250</sup> Meeting with NRC. 4 Apr. 2017.

<sup>251</sup> Meeting with NRC. 4 Apr. 2017.

<sup>252</sup> Meeting with NRC. 4 Apr. 2017.

<sup>253</sup> Meeting with NRC. 4 Apr. 2017.

<sup>254</sup> Meeting with NRC. 4 Apr. 2017.

<sup>255</sup> Meeting with NRC. 4 Apr. 2017.

<sup>256</sup> Meeting with NRC. 4 Apr. 2017.

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recruitment from gangs, parents choose to keep their children locked up within their house.<sup>257</sup> Alternatively, children are sent to live with relatives in rural areas.<sup>258</sup>

Casa Alianza has been providing assistance to people in 31 cases of forced displacement due to violence, including 12 cases of internal displacement and 19 cases involving migrants.<sup>259</sup> In 60 percent of these cases, victims have suffered the loss of a relative due to violence.<sup>260</sup> Casa Alianza works with: children who receive death threats from organized crime groups or gangs; children that have been or can be recruited by organized crime groups or gangs; children whose relatives are directly connected to organized crime groups or gangs; children experiencing sexual violence; children who were witnesses of a crime; and children affected by internal displacement or migration.<sup>261</sup> At its office in Tegucigalpa, Casa Alianza offers a residential programme with comprehensive care for children between 12 to 18 years old in the areas of academics, psychology and physical health.<sup>262</sup> Admission to Casa Alianza's residential programme is voluntary, and the permission of the child's mother, father or guardians is required.<sup>263</sup> With its residential programme, Casa Alianza is able to host up to 120 children every night.<sup>264</sup>

Casa Alianza also offers another residential programme in Tegucigalpa, called Querubines, for children between the ages of 12 and 17 years old who are victims of human trafficking.<sup>265</sup> The only requirement for the Querubines programme is the need for protection, because admission to the programme is voluntary.<sup>266</sup> Casa Alianza indicates on its website that the “majority of the victims arrive at Querubines via a judicial order from a judge or prosecutor.”<sup>267</sup> Through the Querubines programme, Casa Alianza is able to house 25 girls at once, providing care “for an average of 30 to 50 girls per year, who stay for varying amounts of time.”<sup>268</sup> Through its presence in San Pedro Sula, Casa Alianza also offers comprehensive care to children who are not able to attend Casa Alianza's residential programme and who remain with their families.<sup>269</sup> Consequently, Casa

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<sup>257</sup> Meeting with NRC. 4 Apr. 2017.

<sup>258</sup> Meeting with NRC. 4 Apr. 2017; Meeting with Honduras. 6 Apr. 2017. PLAN.

<sup>259</sup> Meeting with Casa Alianza. 4 Apr. 2017.

<sup>260</sup> Meeting with Casa Alianza. 4 Apr. 2017.

<sup>261</sup> Meeting with Casa Alianza. 4 Apr. 2017.

<sup>262</sup> Meeting with Casa Alianza. 4 Apr. 2017.

<sup>263</sup> Meeting with Casa Alianza. 4 Apr. 2017.

<sup>264</sup> Covenant House. N.d.

<sup>265</sup> Meeting with Casa Alianza. 4 Apr. 2017.

<sup>266</sup> Meeting with Casa Alianza. 4 Apr. 2017.

<sup>267</sup> Covenant House. N.d.

<sup>268</sup> Covenant House. N.d.

<sup>269</sup> Meeting with Casa Alianza. 4 Apr. 2017.

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Alianza provides them with comprehensive care in the areas of physical health, dentistry, ophthalmology, psychiatry and food.<sup>270</sup>

The mission learned that UNHCR provided four protection alternatives in 2016: 1) internal relocation; 2) humanitarian evacuation; 3) Protection Transfer Arrangements; and 4) guidance on international protection. In addition, the mission learned that these alternatives are implemented with UNHCR resources in coordination with the NGOs PMH, Casa Alianza, NRC, Caritas de Honduras, and the Mennonite Social Action Committee (Comisión de Acción Social Menonita). UNHCR indicated that 2,230 IDPs were assisted in 2016, while 1,930 IDPs were assisted between January and June 2017.<sup>271</sup>

While the state does not have protection homes available for children, the Directorate of Children, Women and Family of the Municipality of San Pedro Sula indicated that it does support protection homes for children that are provided by NGOs.<sup>272</sup> SDHJGD indicated that while there are shelters for children, there are no shelters for families as a whole.<sup>273</sup> If a child is threatened by a gang, admission to a shelter might be denied, because the child may pose a threat to the rest of the children in the shelter.<sup>274</sup>

The mission learned that there have been cases of NGO workers being threatened or attacked by criminal organizations.<sup>275</sup> World Vision indicated that it is common that organizations, including UNHCR, Casa Alianza, World Vision, and the Directorate for Children, Adolescents and Family (Dirección de Niñez, Adolescencia y Familia, DINAF), are unable to assist victims of gang violence, as it could endanger someone in their organization.<sup>276</sup>

## 4. Returnees

A report produced by the National Centre for Information on the Social Sector (Centro Nacional de Información del Sector Social, CENISS), the government agency responsible for providing information to the Presidential Office (Despacho Presidencial), including on the creation of programs, projects and social policies,<sup>277</sup> indicates that between 1 January and 31 July 2016, 27,137 people were

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<sup>270</sup> Meeting with Casa Alianza. 4 Apr. 2017.

<sup>271</sup> Correspondence with UNHCR. 15 Dec. 2017.

<sup>272</sup> Meeting with San Pedro Sula. 3 Apr. 2017. Dirección de Niñez, Mujer y Familia.

<sup>273</sup> Meeting with Honduras. 5 Apr. 2017. SDHJGD.

<sup>274</sup> Meeting with Honduras. 5 Apr. 2017. SDHJGD.

<sup>275</sup> Meeting with World Vision. 6 Apr. 2017.

<sup>276</sup> Meeting with World Vision. 6 Apr. 2017.

<sup>277</sup> Honduras. N.d.a. CENISS.

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repatriated/returned to the country,<sup>278</sup> of which 5,284 were minors.<sup>279</sup> The same report indicates that between January 2014 and July 2016, 95,250 people were returned to the country, of which 11,884, or 12.48 percent, had been returned more than once before.<sup>280</sup> NRC similarly indicated that there are many cases of returnees retaking the migratory route.<sup>281</sup>

The mission learned that there are a significant number of cases where returnees were killed shortly after they returned to Honduras.<sup>282</sup> According to PMH, there are cases of people who left Honduras, due to gang or organized crime-related violence, who were killed shortly after returning to San Pedro Sula.<sup>283</sup> PMH indicated that some press reports attribute these crimes to theft or robbery, even though, in many cases, deportees arrive without any belongings.<sup>284</sup>

## 4.1 Assistance for Returnees

The mission learned that there are three Centres of Assistance for Returned Migrants (Centros de Atención a los Migrantes Retornados, CAMRs), namely in Omoa, La Lima, and San Pedro Sula. The mission learned that the CAMR in Omoa is administered by the Red Cross and receives adults deported from Mexico. It assists returnees upon their arrival in Omoa with their registration, the provision of food, health services, clothing, transportation to the bus terminal, and accommodation for a maximum of 100 persons.<sup>285</sup> The mission learned that the CAMR in La Lima is administered by the Congregación de las Hermanas Scalabrinianas [Congregation of Scalabriniana Sisters] and that it receives adults deported from the US. The mission further learned that the CAMR in San Pedro Sula, which is known as CAMR Belén, is administered by DINAF and receives children and families who are deported from Mexico and the US.

In March 2017, Municipal Units for Assistance to Returned Migrants (Unidades Municipales de Atención a Migrantes Retornados, UMAR), were opened in San Pedro Sula<sup>286</sup> and the Central District, to help [translation] "reduce the number of cases of returnees retaking the migratory route."<sup>287</sup> In August 2017, an UMAR was opened in Choloma, in the neighbourhood El Centro.<sup>288</sup> UMARs assist families

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<sup>278</sup> Honduras. 31 July 2016. CENISS, 10.

<sup>279</sup> Honduras. 31 July 2016. CENISS, 23.

<sup>280</sup> Honduras. 31 July 2016. CENISS, 18.

<sup>281</sup> Meeting with NRC. 4 Apr. 2017.

<sup>282</sup> Meeting with Dr. Ayestas. 7 Apr. 2017; Meeting with PMH. 5 Apr. 2017.

<sup>283</sup> Meeting with PMH. 5 Apr. 2017.

<sup>284</sup> Meeting with PMH. 5 Apr. 2017.

<sup>285</sup> IFRC. 1 Dec. 2016.

<sup>286</sup> *La Prensa* 10 Mar. 2017; *La Tribuna* 10 Mar. 2017; Honduras. 30 Mar. 2017. Despacho Presidencial.

<sup>287</sup> Honduras. 30 Mar. 2017. Despacho Presidencial.

<sup>288</sup> *La Tribuna*. 18 Aug. 2017; Proceso Digital 17 Aug. 2017.

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who are returned from the US and Mexico with community reintegration<sup>289</sup> and provide returnees with psychological, educational and employment support.<sup>290</sup>

DINAF is a state institution that provides policies and regulations for the comprehensive protection of the rights and well-being of children, youth and families in Honduras.<sup>291</sup> According to the Directorate of Children, Women and Family of the Municipality of San Pedro Sula, DINAF attends to cases involving children in gangs and assists them with their relocation.<sup>292</sup> The Directorate of Children, Women and Family of the Municipality of San Pedro Sula indicated that it supports returned children through DINAF in various aspects such as social assistance, including helping with their registration and paperwork, and legal assistance.<sup>293</sup> The Municipality of San Pedro Sula also follows up on the reinsertion of children in the school system, as well as with the relatives of returned children so that they can attend the municipal training centres where free vocational training is provided for women, including mothers.<sup>294</sup>

Interlocutors indicated, however, that social programs available for returnees are limited<sup>295</sup> and only a fraction of returnees benefit from them.<sup>296</sup> NRC indicated that there are no school integration programs for children returnees provided by the Ministry of Education.<sup>297</sup> NRC added that it has heard of cases where children returnees experienced bullying at school, because they are returnees.<sup>298</sup> NRC itself offers assistance programs for returnees, including school enrollment for children, food, and a temporary shelter for those wishing to relocate internally.<sup>299</sup>

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<sup>289</sup> Honduras. 30 Mar. 2017. Despacho Presidencial; *La Tribuna* 10 Mar. 2017.

<sup>290</sup> *La Tribuna* 10 Mar. 2017.

<sup>291</sup> Honduras. N.d.b. DINAF.

<sup>292</sup> Meeting with San Pedro Sula. 3 Apr. 2017. Dirección de Niñez, Mujer y Familia.

<sup>293</sup> Meeting with San Pedro Sula. 3 Apr. 2017. Gerencia de Apoyo a la Prestación de Servicios Sociales.

<sup>294</sup> Meeting with San Pedro Sula. 3 Apr. 2017. Gerencia de Apoyo a la Prestación de Servicios Sociales.

<sup>295</sup> Meeting with Honduras. 5 Apr. 2017. CONADEH; Meeting with Casa Alianza. 4 Apr. 2017.

<sup>296</sup> Meeting with Honduras. 5 Apr. 2017. CONADEH.

<sup>297</sup> Meeting with NRC. 4 Apr. 2017.

<sup>298</sup> Meeting with NRC. 4 Apr. 2017.

<sup>299</sup> Meeting with NRC. 4 Apr. 2017.

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# Chapter II - Violence against Women and Girls

## 1. Situation

The mission learned that women and girls face various forms of violence and that violence against women and girls continues to be widespread across Honduras. Grupo Sociedad Civil (GSC) indicated that there is a "war against women" in Honduras and that women face various levels of violence, including domestic violence (*violencia doméstica*) and violence carried out by organized criminal groups.<sup>300</sup> The same source indicated that these acts of violence can ultimately lead to femicide,<sup>301</sup> which the World Health Organization (WHO) describes as the "intentional murder of women because they are women."<sup>302</sup>

The Observatorio de Violencias Contra Las Mujeres (Observatory of Violence against Women) of the NGO Centro de Derechos de Mujeres (CDM) (Centre for Women's Rights), which has offices in Tegucigalpa and San Pedro Sula, provides the following statistics on 752 cases of violence against women that occurred between January 2016 and December 2016, according to data collected through the monitoring of written media reports at the national level.<sup>303</sup>

Type of Violence	Victims	Percentage
Sexual harassment	2	0.3
Acts of lust	45	6
Commercial sexual exploitation	113	15
Multiple homicides and massacre	44	5.9
Attempted homicide	14	1.9
Attempted sexual violence or statutory rape	4	0.5
Injury	51	6.8
Violent death	276	36.7
Violent death and sexual violence	11	1.5
Rape	4	0.5
Sexual violence or rape	142	18.9
Domestic violence	21	2.8
Intrafamily violence ( <i>violencia intrafamiliar</i> )	25	3.3

In 2016, CONADEH received 1,786 complaints from women related to the right to life and personal integrity, including on the basis of death threats, maltreatment,

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<sup>300</sup> Meeting with GSC. 7 Apr. 2017.

<sup>301</sup> Meeting with GSC. 7 Apr. 2017.

<sup>302</sup> UN. 2012. WHO, 1.

<sup>303</sup> CDM. N.d.a.

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intimidation, and duress.<sup>304</sup> 346 of these complaints were related to domestic violence, while 48 complaints were related to intrafamily violence.<sup>305</sup>

The Observatorio de Violencias Contra Las Mujeres of CDM provides the following statistics on 306 cases of violence against women that occurred between January 2017 and June 2017, according to data collected through the monitoring of written media reports at a national level:<sup>306</sup>

Type of Violence	Victims	Percentage
Sexual harassment	3	1.0
Acts of lust	18	5.9
Commercial sexual exploitation	8	2.6
Multiple homicides and massacre	15	4.9
Attempted homicide	2	0.7
Attempted sexual violence or statutory rape	16	5.2
Injury	36	11.8
Violent death	99	32.4
Violent death and sexual violence	6	2.0
Rape	2	0.7
Sexual violence or statutory rape	96	31.4
Domestic violence	3	1.0
Intrafamily violence	2	0.7

## 2. Forms of Violence against Women and Girls

### 2.1 Domestic Violence versus Intrafamily Violence

Dr. Ayestas indicated that in Honduras, domestic violence and intrafamily violence are problems.<sup>307</sup> In Honduras, however, there is a difference between the concepts of domestic violence and intrafamily violence.<sup>308</sup> While domestic violence concerns violence between partners, intrafamily violence concerns violence involving members of the traditional nuclear family, including fathers who assault their daughters.<sup>309</sup> Dr. Ayestas indicated that a culture of violence exists within households and that, according to information from the National Observatory of Violence of UNAH, the primary perpetrators of violence against women and girls

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<sup>304</sup> Honduras. Mar. 2017. CONADEH, 134.

<sup>305</sup> Honduras. Mar. 2017. CONADEH, 134.

<sup>306</sup> CDM. N.d.b.

<sup>307</sup> Meeting with Dr. Ayestas. 7 Apr. 2017.

<sup>308</sup> Meeting with San Pedro Sula. 3 Apr. 2017. Dirección de Niñez, Mujer y Familia; US. N.d. Embassy in Tegucigalpa.

<sup>309</sup> Meeting with San Pedro Sula. 3 Apr. 2017. Dirección de Niñez, Mujer y Familia.

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are parents, uncles, and cousins.<sup>310</sup> Domestic violence is not criminalized and is addressed in domestic violence courts (*juzgados de violencia doméstica*), whereas intrafamily violence is addressed in criminal courts,<sup>311</sup> as intrafamily violence is considered a crime.<sup>312</sup> According to the Directorate of Children, Women and Family of the Municipality of San Pedro Sula, if a domestic violence case is recurrent, it could be considered to be intrafamily violence, but this does not mean that a woman must exhaust the domestic violence complaints process before filing a criminal complaint.<sup>313</sup> Nonetheless, the majority of complaints are treated as cases of domestic violence.<sup>314</sup>

## 2.1.1 Domestic Violence

Sources indicated that domestic violence is an issue in Honduras<sup>315</sup> and has been a reason why women leave the country.<sup>316</sup> Article 5 of the 2006 *Law against Domestic Violence and its Reforms (Ley Contra la Violencia Doméstica con sus Reformas)* provides the following:

### Article 5.

The following meanings shall apply for the purposes of this Law:

- 1. Domestic Violence:** All patterns of conduct associated with a situation of unequal exercise of power that is manifested in the use of physical, psychological, patrimonial and/or economic and sexual violence; and
- 2. Unequal Exercise of Power:** All behaviour aimed at affecting, compromising or limiting free development of the personality of the woman for reasons of gender.

The following are considered forms of domestic violence:

- 1. Physical Violence:** Any action or omission that damages or impairs the bodily integrity of a woman that is not criminalized in the Criminal Code;
- 2. Psychological Violence:** Any action or omission whose purpose is to degrade or control the actions, behaviours, beliefs and decisions of a woman through intimidation, manipulation, direct or indirect threat, humiliation, isolation, confinement or any other conduct or omission involving injury to her integral development or self-

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<sup>310</sup> Meeting with Dr. Ayestas. 7 Apr. 2017.

<sup>311</sup> Meeting with San Pedro Sula. 3 Apr. 2017. Dirección de Niñez, Mujer y Familia.

<sup>312</sup> Meeting with San Pedro Sula. 3 Apr. 2017. Dirección de Niñez, Mujer y Familia; Meeting with GSC. 7 Apr. 2017.

<sup>313</sup> Meeting with San Pedro Sula. 3 Apr. 2017. Dirección de Niñez, Mujer y Familia.

<sup>314</sup> Meeting with San Pedro Sula. 3 Apr. 2017. Dirección de Niñez, Mujer y Familia.

<sup>315</sup> Meeting with Dr. Ayestas. 7 Apr. 2017; Meeting with San Pedro Sula. 3 Apr. 2017. Gerencia de Seguridad, Prevención y Transporte; Meeting with GSC. 7 Apr. 2017.

<sup>316</sup> Meeting with San Pedro Sula. 3 Apr. 2017. Gerencia de Seguridad, Prevención y Transporte.

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determination, or that causes emotional harm to a woman, lowers her self-esteem, impairs or disturbs her healthful development, through the exercise of acts of discrediting a woman, contempt for personal value or dignity, humiliating or debasing treatment, monitoring, isolation, insults, blackmail, degradation, ridicule, manipulation, exploitation or threats to take children away, among others;

**3. Sexual Violence:** Any conduct involving threat or intimidation that affects the integrity or sexual self-determination of women, such as unwanted sexual relations, denial of contraception and protection, among others, provided that such actions are not classified as a crime in the Criminal Code; and,

**4. Patrimonial and/or Economic Violence:** Any act or omission involving the loss, transformation, negation, removal, destruction or retention of objects, personal documents, movable property and/or real estate, securities, rights or economic resources used to meet the needs of a woman or family group, including impairment, reduction or negation affecting a woman's income or non-compliance with support obligations.<sup>317</sup>

The 2006 *Law against Domestic Violence and its Reforms*, which is based on the OAS *Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women*<sup>318</sup> (also known as the Bélem do Para Convention), is attached to this Report (Attachment 2).

## 2.1.2 Intrafamily Violence

Intrafamily violence is addressed in Chapter V of Title IV of Book II of the *Penal Code (Código Penal)*, which is attached to this Report (Attachment 3). GSC indicated that the penalty for intrafamily violence is "very low" and that civil society is fighting for a new penal code to increase the penalty for intrafamily violence.<sup>319</sup> GSC further stated that it is also advocating for a comprehensive law on violence against women.<sup>320</sup>

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<sup>317</sup> Honduras. 2006.

<sup>318</sup> San Pedro Sula. 15 June 2017.

<sup>319</sup> Meeting with GSC. 7 Apr. 2017.

<sup>320</sup> Meeting with GSC. 7 Apr. 2017.

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## 2.2 Femicide

The mission learned that there is a high prevalence of femicide in Honduras, with a rate of one woman killed every 16 hours,<sup>321</sup> just for being a woman.<sup>322</sup> In July 2017, women's rights defenders and organizations declared a “red alert” (*alerta roja*) for the high rate of femicides in Honduras.<sup>323</sup>

According to the UN Economic Commission for Latin America and the Caribbean (ECLAC), 531 women were killed in Honduras in 2014, which represents a femicide rate of 13.3 per 100,000 women.<sup>324</sup> The Observatory for Violent Deaths of Women and Femicides (Observatorio de Muertes Violentas de Mujeres y Femicidios) of UNAH reported that 478 women were subjected to violent death or femicide in 2015,<sup>325</sup> which represents an average of 40 women per month.<sup>326</sup> Sixty-nine percent of these deaths occurred in urban areas, while 31 percent occurred in rural areas.<sup>327</sup> The departments with the highest number of women subject to violent death or femicide are Cortés (31.2 percent) and Francisco Morazán (26.6 percent), followed by Yoro (6.7 percent), Atlántida (4.8 percent), and Olancho (4.6 percent).<sup>328</sup> The data collected by the Observatorio de Violencias Contra Las Mujeres of CDM indicates that the violent deaths of women that happened between January 2016 and June 2017 occurred in the following departments:

Department	Victims in 2016 <sup>329</sup>	Victims in 2017 <sup>330</sup>	Victims January 2016 - June 2017
Atlántida	15	10	25
Choluteca	5	2	7
Colón	6	3	9
Comayagua	6	4	10
Copán	10	1	11
Cortés	112	47	159
El Paraíso	7	3	10
Francisco Morazán	116	45	161
Gracias a Dios	2		2
Intibucá	3	2	5
Isla de la Bahía	1	1	2

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<sup>321</sup> Meeting with Radio Progreso. 4 Apr. 2017; TelesurTV. 5 May 2017.

<sup>322</sup> Meeting with Radio Progreso. 4 Apr. 2017.

<sup>323</sup> BBC. 6 July 2017; AFP. 4 July 2017.

<sup>324</sup> UN. N.d.a. ECLAC.

<sup>325</sup> UNAH. 17 Aug. 2017, 3.

<sup>326</sup> UNAH. 17 Aug. 2017, 1.

<sup>327</sup> UNAH. 17 Aug. 2017, 3.

<sup>328</sup> UNAH. 17 Aug. 2017, 4.

<sup>329</sup> CDM. N.d.a.

<sup>330</sup> CDM. N.d.b.

La Paz	3	1	4
Lempira	3	1	4
Ocatepeque	1	4	5
Olancho	11	1	12
Santa Bárbara	8	6	14
Valle	2	2	4
Yoro	20	8	28

The mission learned that the existing homicide rates issued by state officials in Honduras are not conclusive and the actual rate may be higher, as not all homicides are recorded. PMH explained that homicides are not always recorded because state officials, like the police and the forensic unit of the Public Ministry, do not always have access to gang-controlled neighbourhoods where homicides take place, and because family members of the victims are threatened by gangs so they do not report the homicide or bury bodies in an official manner.<sup>331</sup> PMH provided the example of a 16-year-old girl who refused to be recruited by a gang to perform sexual acts, and was subsequently raped by eight gang members and then killed.<sup>332</sup> The gang members demanded that an 11-year-old child bury the body of the 16-year-old girl in secret, and threatened to kill the remaining children of the family if the family members spoke out.<sup>333</sup>

The *Penal Code*, which was reformed in 2013 with *Decree No. 23-2013 (Decreto No. 23-2013)*, adding Article 118-A, provides the following:

**Article 118-A.** The crime of femicide is committed by a man or men who kill(s) a woman for reasons of gender, with hatred and contempt over the fact that she is a woman, and is punishable with thirty (30) to forty (40) years in prison when one or more of the following circumstances is in effect:

- 1) When the perpetrator of the offence has or has had a couple's relationship with the victim—whether involving marriage, a domestic partnership, a common-law union or any other similar relationship, whether or not there is or has been cohabitation, and including when there is or has been a sentimental relationship;
- 2) When the offence is preceded by acts of intra-family domestic violence, whether or not a complaint has been filed;
- 3) When the offence is preceded by a situation of sexual violence, harassment, intimidation or persecution of any nature; and,

<sup>331</sup> Meeting with PMH. 5 Apr. 2017.

<sup>332</sup> Meeting with PMH. 5 Apr. 2017.

<sup>333</sup> Meeting with PMH. 5 Apr. 2017.

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- 4) When the offence is committed with cruelty or when deprecating or degrading injuries or mutilations have been inflicted prior to or following the taking of life.<sup>334</sup>

Radio Progreso explained that it is common for the media to justify acts of femicide by reporting that the murdered women had been unfaithful to their partner.<sup>335</sup> Radio Progreso indicated that perpetrators of femicide often remain unidentified and that many of them do not appear in police reports or in forensic reports, especially in rural areas.<sup>336</sup>

## 2.3 Sexual Violence

Sources indicated that adolescent women, in particular, are vulnerable to sexual attacks and sexual violence.<sup>337</sup> According to Asociación Calidad de Vida (ACV), there has been an increase in the sexual abuse of girls in rural areas.<sup>338</sup> PLAN indicated that girls between the ages of 12 and 15 living in rural areas are vulnerable to being targeted by drug lords who wait for them outside of schools.<sup>339</sup> ACV provided the example of a group of girls who were raped while traveling to school in a rural area.<sup>340</sup> One girl had consequently become pregnant, but was accused of abortion when she lost the baby.<sup>341</sup> Given that abortion is criminalized in Honduras,<sup>342</sup> she was sent to jail.<sup>343</sup> GSC indicated that women are also vulnerable to human trafficking and sexual exploitation.<sup>344</sup> The same source provided the example of a case where church pastors were involved in the trafficking of girls.<sup>345</sup>

Out of the 1,786 complaints in 2016 by women related to the right of life and personal integrity, CONADEH registered 17 complaints of sexual violence from women.<sup>346</sup> The mission learned that survivors of sexual violence often do not file a report as a result of fear of the aggressor, shame, or due to a lack of confidence in the justice system, for example.<sup>347</sup>

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<sup>334</sup> Honduras. 1985 (reformed 2013).

<sup>335</sup> Meeting with Radio Progreso. 4 Apr. 2017.

<sup>336</sup> Meeting with Radio Progreso. 4 Apr. 2017.

<sup>337</sup> Meeting with GSC. 7 Apr. 2017; Meeting with Casa Alianza 4 Apr. 2017.

<sup>338</sup> Meeting with ACV. 7 Apr. 2017.

<sup>339</sup> Meeting with PLAN. 6 Apr. 2017.

<sup>340</sup> Meeting with ACV. 7 Apr. 2017.

<sup>341</sup> Meeting with ACV. 7 Apr. 2017.

<sup>342</sup> Meeting with GSC. 7 Apr. 2017; Human Rights Watch. 24 Apr. 2017; *La Prensa* 4 May 2017.

<sup>343</sup> Meeting with ACV. 7 Apr. 2017.

<sup>344</sup> Meeting with GSC. 7 Apr. 2017.

<sup>345</sup> Meeting with GSC. 7 Apr. 2017.

<sup>346</sup> Honduras. Mar. 2017. CONADEH, 134.

<sup>347</sup> Meeting with ACV. 7 Apr. 2017; CDM. N.d.c., 8.

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Forms of sexual violence, including rape and sexual harassment, are addressed in Chapter I of Title II of Book II of the *Penal Code*, which is attached to this Report (Attachment 4).

## 2.4 Gang Violence against Women and Girls

The mission learned that gangs subject women to various forms of violence and that they seek to exert control over women, including their bodies. GSC provided the example that gangs establish rules on how women should dress and what their hair colour should be, including prohibiting them from dyeing their hair, unless they belong to a certain gang or criminal organization, as well as prohibiting them from wearing purses that show crosses, as this is regarded to have a symbolic meaning.<sup>348</sup> GSC also explained that women's bodies are used for revenge; gang members may seek to kill the wife or children of an adversary as a form of retribution.<sup>349</sup>

The mission learned that girls have been forced to carry out gang-related activities.<sup>350</sup> GSC provided the example of a neighbourhood where youth, including girls, were killed for not wanting to sell drugs.<sup>351</sup> Girls have also been subject to extortion.<sup>352</sup> GSC provided an example of an incident that occurred in 2016, where girls between the ages of 13 and 15 years old were found dead (dismembered in bags) because they had refused to pay a gang's war tax.<sup>353</sup>

The mission learned that gangs subject girls to forced recruitment,<sup>354</sup> for example, as the girlfriends of gang leaders.<sup>355</sup> PMH explained that grandmothers, aunts and guardians of children often send minors on the migratory route to prevent them from being forcibly recruited by gangs.<sup>356</sup> The Directorate of Social Services of the Municipality of San Pedro Sula explained that when a girl refuses to submit herself to the gang, after a member expresses interest in her, the rest of her family is put in danger and is threatened by the gang.<sup>357</sup> As a result, there have been families that have been coerced to surrender their daughters to gangs, subjecting the girls

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<sup>348</sup> Meeting with GSC. 7 Apr. 2017.

<sup>349</sup> Meeting with GSC. 7 Apr. 2017.

<sup>350</sup> Meeting with GSC. 7 Apr. 2017.

<sup>351</sup> Meeting with GSC. 7 Apr. 2017.

<sup>352</sup> Meeting with GSC. 7 Apr. 2017.

<sup>353</sup> Meeting with GSC. 7 Apr. 2017.

<sup>354</sup> Meeting with Dr. Ayestas 7 Apr. 2017; Meeting with Casa Alianza 4 Apr. 2017; Meeting with PMH. 5 Apr. 2017; Meeting with San Pedro Sula. 3 Apr. 2017. Dirección de Niñez, Mujer y Familia; Meeting with San Pedro Sula. 3 Apr. 2017. Gerencia de Apoyo a la Prestación de Servicios Sociales.

<sup>355</sup> Meeting with Dr. Ayestas 7 Apr. 2017; Meeting with San Pedro Sula. 3 Apr. 2017. Dirección de Niñez, Mujer y Familia; Meeting with San Pedro Sula. 3 Apr. 2017. Gerencia de Apoyo a la Prestación de Servicios Sociales.

<sup>356</sup> Meeting with PMH. 5 Apr. 2017.

<sup>357</sup> Meeting with San Pedro Sula. 3 Apr. 2017. Gerencia de Apoyo a la Prestación de Servicios Sociales.

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to early pregnancies.<sup>358</sup> In order to protect their daughter, there have also been families who choose to leave the country instead.<sup>359</sup>

## 2.5 Violence by Authorities against Women and Girls

In addition to violence perpetrated by gangs, the mission learned that women face violence from state authorities as well, including the police and the military.<sup>360</sup> According to GSC, there are cases where women experienced gang rape by the police and members of the military.<sup>361</sup> The same source explained that in these cases, there is usually no DNA evidence to prove that rape had occurred, because the perpetrators had used condoms.<sup>362</sup>

## 2.6 Violence Experienced by Women's Rights Defenders

Sources indicated that human rights defenders in Honduras are very vulnerable.<sup>363</sup> Human rights defenders and journalists suffer a high level of aggression and rights violations, and face threats, harassment, persecution and criminalization.<sup>364</sup> Human rights defenders have received threats via social media and telephone calls, sometimes by members of the police or the military.<sup>365</sup> The mission learned that human rights defenders generally do not trust the police or the military.<sup>366</sup> Despite the existence of the *Law for the Protection of Human Rights Defenders, Journalists, Media Contributors, and Justice Workers*, the mission learned that there is no true protection mechanism in Honduras for human rights defenders<sup>367</sup> and that the protection mechanisms for women's rights defenders are ineffective.<sup>368</sup>

Radio Progreso indicated that many women's rights defenders receive threats for their work from perpetrators of violence against women.<sup>369</sup> There have also been various women's rights defenders who were criminalized for their work to advance women's rights in Honduras.<sup>370</sup> An example is the case of women's rights defender

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<sup>358</sup> Meeting with San Pedro Sula. 3 Apr. 2017. Gerencia de Apoyo a la Prestación de Servicios Sociales.

<sup>359</sup> Meeting with San Pedro Sula. 3 Apr. 2017. Dirección de Niñez, Mujer y Familia; Meeting with San Pedro Sula. 3 Apr. 2017. Gerencia de Apoyo a la Prestación de Servicios Sociales.

<sup>360</sup> Meeting with GSC. 7 Apr. 2017.

<sup>361</sup> Meeting with GSC. 7 Apr. 2017.

<sup>362</sup> Meeting with GSC. 7 Apr. 2017.

<sup>363</sup> Meeting with Honduras. 5 Apr. 2017. SDHJGD; Meeting with ACV. 7 Apr. 2017; Meeting with GSC. 7 Apr. 2017.

<sup>364</sup> Meeting with Honduras. 5 Apr. 2017. SDHJGD.

<sup>365</sup> Meeting with Honduras. 5 Apr. 2017. SDHJGD.

<sup>366</sup> Meeting with Honduras. 5 Apr. 2017. SDHJGD.

<sup>367</sup> Meeting with MAU. 4 Apr. 2017; Meeting with Radio Progreso. 4 Apr. 2017.

<sup>368</sup> Meeting with GSC. 7 Apr. 2017.

<sup>369</sup> Meeting with Radio Progreso. 4 Apr. 2017.

<sup>370</sup> Meeting with GSC. 7 Apr. 2017; TeleSUR. 21 Sept. 2016; ISHR. 2 Apr. 2015.

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Gladys Lanza Ochoa.<sup>371</sup> Gladys Lanza Ochoa was the coordinator of the women's rights collective Visitación Padilla.<sup>372</sup> In 2015, she was convicted of defamation against the Director of the Foundation for the Development of Urban and Rural Social Living (Fundación para el Desarrollo de la Vivienda Social Urbana y Rural, FUNDEVI), after she supported the case of a FUNDEVI employee who reported that the Director had sexually harassed her in 2011.<sup>373</sup> Another example is the case of women's rights defender Suyapa Martínez,<sup>374</sup> who is the co-director of the Women Research Centre - Honduras (Centro de Estudios de la Mujer - Honduras, CEM-H).<sup>375</sup> In February 2017, the company Desarrollo Energético S.A. (DESA) filed a lawsuit against CEM-H for alleged false declarations linking DESA and the murder of land rights defender Berta Cáceres.<sup>376</sup> The lawsuit was dismissed in March 2017 by the Civil Court of the district of Francisco Morazán.<sup>377</sup>

### 3. State Protection

#### 3.1 Agencies Where Victims Can File Complaints

Sources indicate that women experiencing violence can file complaints with: the police; the Public Ministry, and domestic violence courts.<sup>378</sup> According to GSC, the police no longer has a unit specializing in gender-related issues.<sup>379</sup>

In terms of reporting cases of domestic violence, Article 16 of the *Law Against Domestic Violence and its Reforms* provides the following:

##### **Article 16.**

A complaint of domestic violence may be submitted by:

- 1) The woman directly affected;
- 2) Any household member;
- 3) Any official, public employee or professional who, for reasons of his/her duties, is in contact with the woman directly affected or with members of her family group;

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<sup>371</sup> Meeting with GSC. 7 Apr. 2017; TeleSUR. 21 Sept. 2016; ISHR. 2 Apr. 2015.

<sup>372</sup> Frontline Defenders. N.d.a; TeleSUR. 21 Sept. 2016; ISHR 2 Apr. 2015.

<sup>373</sup> TeleSUR. 21 Sept. 2016; ISHR 2 Apr. 2015.

<sup>374</sup> Meeting with GSC. 7 Apr. 2017; El Pulso. 9 Mar. 2017.

<sup>375</sup> Frontline Defenders. N.d.b; El Pulso. 9 Mar. 2017.

<sup>376</sup> Frontline Defenders. N.d.b; El Pulso. 9 Mar. 2017.

<sup>377</sup> Frontline Defenders. N.d.b.

<sup>378</sup> Correspondence with ACV. 1 Sept. 2017; Meeting with San Pedro Sula. 3 Apr. 2017. Dirección de Niñez, Mujer y Familia; Honduras. Nov. 2013. Poder Judicial, 21.

<sup>379</sup> Meeting with GSC. 7 Apr. 2017.

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- 4) State institutions and non-governmental organizations that defend the fundamental rights of women and that in general address family matters and human rights; and
  - 5) Any person who is aware of the case.

The complaint shall be presented in verbal or written form.<sup>380</sup>

According to the US Embassy in Tegucigalpa, when a police report is filed for domestic violence, the aggressor is detained "for a few hours and a protection/restraining order may be issued."<sup>381</sup> The mission learned that the aggressor can be detained for up to 24 hours, but if the victim does not ratify the complaint at a court, the aggressor is set free, without a protection/restraining order. In a case of intrafamily violence, the aggressor is detained, trial procedures are initiated, and a protection/restraining order may be issued.<sup>382</sup> Once the complaint is received and security measures are imposed, the police forwards the proceedings to the Public Ministry, or the competent judicial authority (in case there is no local Public Ministry office), within the following 24 hours.<sup>383</sup> When a complaint is filed at the Public Ministry, a decision needs to be made, within 24 hours, whether to forward the complaint to the competent judicial authority.<sup>384</sup> Consequently, any entity that receives domestic violence complaints must forward the complaints within 24 hours to a domestic violence court, a local court that addresses minor cases (*juzgado de paz*) or a family court (*juzgado de letras de familia*).<sup>385</sup> If a judge determines that the complaint involves an act of domestic violence, a writ of admission is issued and a date and time of the hearing is provided.<sup>386</sup>

The moment that a woman presents a complaint of domestic violence, protection measures, as established within the *Law against Domestic Violence and its Reforms*, can be applied by the police, the Public Ministry and the competent courts, including prohibiting the accused from visiting places that the complainant visits, removing the accused from the house of the complainant, confiscating any weapons, and placing the accused in prison for 24 hours.<sup>387</sup> If the accused is indeed determined to have committed domestic violence, several sanctions can be applied, including community service.<sup>388</sup> GSC explained that the *Law against Domestic Violence and its Reforms* is a preventive measure and that there is

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<sup>380</sup> Honduras 2006.

<sup>381</sup> US. N.d. Embassy in Tegucigalpa.

<sup>382</sup> US. N.d. Embassy in Tegucigalpa.

<sup>383</sup> Honduras. Nov. 2013. Poder Judicial, 34.

<sup>384</sup> Honduras. Nov. 2013. Poder Judicial, 40.

<sup>385</sup> Honduras. Nov. 2013. Poder Judicial, 45.

<sup>386</sup> Honduras. Nov. 2013. Poder Judicial, 46.

<sup>387</sup> Meeting with San Pedro Sula. 3 Apr. 2017. Dirección de Niñez, Mujer y Familia.

<sup>388</sup> Meeting with San Pedro Sula. 3 Apr. 2017. Dirección de Niñez, Mujer y Familia.

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“pressure” from authorities on the perpetrator of domestic violence for only 24 hours.<sup>389</sup>

A diagram providing the steps for filing a complaint, which is featured in the 2013 report of the Judicial Authority (Poder Judicial) titled *Protocolo de Atención Integral a Víctimas de la Violencia Contra la Mujer en Supuestos de Violencia Doméstica y de Violencia Intrafamiliar* [Comprehensive Care Protocol for Victims of Violence against Women in Cases of Domestic Violence and Intrafamily Violence], is attached to this report (Attachment 5).

A complaint can also be filed at CONADEH<sup>390</sup> and at a Municipal Office for Women (Oficina Municipal de la Mujer).<sup>391</sup> CONADEH is a state organ that works to promote and protect human dignity, human rights and fundamental freedoms.<sup>392</sup> Complaints can be filed in person at one of the 19 CONADEH offices,<sup>393</sup> by phone or electronically, by inhabitants of Honduras and migrants.<sup>394</sup> When a complaint is filed, an acknowledgement of receipt is provided and the complaint is subsequently processed.<sup>395</sup> If the complaint is rejected, the complainant is informed in writing of other available recourse.<sup>396</sup> In domestic violence or intrafamily violence cases evidencing a criminal offence, CONADEH can file complaints before another state body, on behalf of the party concerned.<sup>397</sup> In addition, CONADEH provides legal advice<sup>398</sup> and coordinates with institutions, such as women's shelters.<sup>399</sup> The Municipal Office for Women supports women who are victims of violence with the legal processes, in order to monitor whether their complaint is being processed.<sup>400</sup> Not all municipalities have a Municipal Office for Women, however.<sup>401</sup> The Municipal Office for Women of San Pedro Sula reports that it responds to 30 cases of domestic violence a week.<sup>402</sup>

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<sup>389</sup> Meeting with GSC. 7 Apr. 2017.

<sup>390</sup> Correspondence with ACV. 1 Sept. 2017; Honduras Mar. 2017. CONADEH, 187.

<sup>391</sup> Correspondence with ACV. 1 Sept. 2017; Meeting with San Pedro Sula. 3 Apr. 2017. Dirección de Niñez, Mujer y Familia; Honduras. Nov. 2013. Poder Judicial, 21.

<sup>392</sup> Honduras. Mar. 2017. CONADEH, 6.

<sup>393</sup> Meeting with CONADEH. 5 Apr. 2017.

<sup>394</sup> Honduras. Mar. 2017. CONADEH, 186.

<sup>395</sup> Honduras. Mar. 2017. CONADEH, 186.

<sup>396</sup> Honduras. Mar. 2017, CONADEH, 186.

<sup>397</sup> Honduras. Mar. 2017. CONADEH, 187.

<sup>398</sup> Meeting with San Pedro Sula. 3 Apr. 2017. Dirección de Niñez, Mujer y Familia; Meeting with PMH. 5 Apr. 2017.

<sup>399</sup> Meeting with CONADEH. 5 Apr. 2017.

<sup>400</sup> Meeting with San Pedro Sula. 3 Apr. 2017. Dirección de Niñez, Mujer y Familia.

<sup>401</sup> Honduras. Nov. 2013. Poder Judicial, 54.

<sup>402</sup> San Pedro Sula. 15 June 2017.

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## 3.2 Reporting Rate and Lack of Trust

While some sources indicated that women do not file complaints because they do not know how to file complaints or because they are scared,<sup>403</sup> others indicated that it is because women do not trust the system.<sup>404</sup> Sources indicated that there is a general lack of trust in state institutions,<sup>405</sup> including those that carry out criminal investigations, such as the Public Ministry and the Police Directorate of Investigations (Dirección Policial de Investigaciones, DPI),<sup>406</sup> as well as the justice system.<sup>407</sup> Sources indicated that there is collusion between members of the police and members of organized criminal groups.<sup>408</sup> SDHJGD indicated that when people do not file complaints, their situation and their problems remain invisible, which prevents SDHJGD from responding to their protection needs.<sup>409</sup>

The mission learned that women feel that they would be in greater danger if they reported the violence they have experienced.<sup>410</sup> For example, the mission learned that permission must be sought from gang leaders to file a complaint related to violence against women.<sup>411</sup> While filing a complaint, it is common for women to be told by state authorities that it is better to not file the complaint, because it is dangerous, and that one should leave the office.<sup>412</sup> ACV provided the example of a woman who came to the organization to seek protection from a man who was managing a *sicariato* group (a group of contract killers) from inside prison.<sup>413</sup> While the woman had proof to show that her story was credible, she refused to report her situation to authorities, fearing that she would be killed for doing so, as the man had been paying police authorities from inside of the prison.<sup>414</sup> The same source provided another example of a woman who reported that she was raped.<sup>415</sup> After the perpetrator was captured, she began receiving threats from his family against herself and her family.<sup>416</sup> ACV also provided the example of a woman who refused to present her case in front of a judge, out of fear that the judge was compromised.<sup>417</sup>

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<sup>403</sup> Meeting with San Pedro Sula. 3 Apr. 2017. Gerencia de Apoyo a la Prestación de Servicios Sociales.

<sup>404</sup> Meeting with ACV. 7 Apr. 2017; Meeting with CONADEH. 5 Apr. 2017; Meeting with GSC. 7 Apr. 2017.

<sup>405</sup> Meeting with ERIC-SJ. 4 Apr. 2017; Meeting with CONADEH. 5 Apr. 2017; Meeting with Dr. Ayestas 7 Apr. 2017; Meeting with Honduras. 5 Apr. 2017. SDHJGD; Meeting with Radio Progreso. 4 Apr. 2017.

<sup>406</sup> Meeting with CONADEH. 5 Apr. 2017.

<sup>407</sup> Meeting with GSC. 7 Apr. 2017; Meeting with ACV. 7 Apr. 2017.

<sup>408</sup> Meeting with GSC. 7 Apr. 2017; Meeting with ACV. 7 Apr. 2017.

<sup>409</sup> Meeting with Honduras. 5 Apr. 2017. SDHJGD.

<sup>410</sup> Meeting with ACV. 7 Apr. 2017.

<sup>411</sup> Meeting with GSC. 7 Apr. 2017.

<sup>412</sup> Meeting with PMH. 5 Apr. 2017.

<sup>413</sup> Meeting with ACV. 7 Apr. 2017.

<sup>414</sup> Meeting with ACV. 7 Apr. 2017.

<sup>415</sup> Meeting with ACV. 7 Apr. 2017.

<sup>416</sup> Meeting with ACV. 7 Apr. 2017.

<sup>417</sup> Meeting with ACV. 7 Apr. 2017.

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### 3.3 Protection Measures

Interlocutors indicated that there are large gaps in state protection measures,<sup>418</sup> including in addressing violence against women.<sup>419</sup> According to ACV, when a woman files a complaint, she is provided with protection measures, which, depending on the judge receiving the complaint, can include precautionary measures as well.<sup>420</sup> According to the US Embassy in Tegucigalpa, protection/restraining orders may be issued for both domestic violence and intrafamily violence cases.<sup>421</sup> The same source states that in the case of intrafamily violence, if the aggressor violates the order, the victim has to file a new police report.<sup>422</sup> Regarding domestic violence cases, the Public Ministry, the police and the competent judicial authority are required to enforce and monitor the compliance of security measures of the accused, until the hearing.<sup>423</sup> ACV explained that the enforcement of such measures is problematic and that women have complained that men do not respect the measures.<sup>424</sup> The same source indicated that there have been women who were killed despite the issuance of such measures.<sup>425</sup> In the case of gang violence towards women and girls, GSC highlighted a case where girls, who were targeted by gangs and displaced from their homes, received assistance from the National Police in order to leave their neighbourhood.<sup>426</sup>

### 3.4 Effectiveness of the Police and Judicial System

The mission learned that protection mechanisms, including the police complaint mechanism, do not function effectively and do not guarantee protection for victims and witnesses of crimes.<sup>427</sup> The SDHJGD explained that the investigation systems of the Public Ministry and the police are weak, particularly when identifying aggressors and, consequently, in reducing the level of risk for victims.<sup>428</sup> PMH indicated that complaints mechanisms, including human rights mechanisms and police mechanisms, do not have sufficient and qualified persons with the ability to provide an official response from an institution.<sup>429</sup>

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<sup>418</sup> Meeting with CONADEH. 5 Apr. 2017; Meeting with GSC. 7 Apr. 2017.

<sup>419</sup> Meeting with GSC. 7 Apr. 2017.

<sup>420</sup> Correspondence from ACV. 1 Sept. 2017.

<sup>421</sup> US. N.d. Embassy in Tegucigalpa.

<sup>422</sup> US. N.d. Embassy in Tegucigalpa.

<sup>423</sup> Honduras Nov. 2013. Poder Judicial, 35.

<sup>424</sup> Correspondence from ACV. 1 Sept. 2017.

<sup>425</sup> Correspondence from ACV. 1 Sept. 2017.

<sup>426</sup> Meeting with GSC. 7 Apr. 2017.

<sup>427</sup> Meeting with PMH. 5 Apr. 2017; Meeting with Honduras. 5 Apr. 2017. SDHJGD.

<sup>428</sup> Meeting with Honduras. 5 Apr. 2017. SDHJGD.

<sup>429</sup> Meeting with PMH. 5 Apr. 2017.

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The mission learned that impunity is rampant,<sup>430</sup> and that state institutions do not function effectively.<sup>431</sup> For example, according to the Directorate of Security, Prevention and Transportation (Gerencia de Seguridad, Prevención y Transporte) of the Municipality of San Pedro Sula, the DPI does not have the capacity to carry out adequate investigations.<sup>432</sup> According to CONADEH, a contributing factor to the high level of impunity in cases of femicide is the lack of preventative and investigative strategies for addressing femicide.<sup>433</sup> Such cases are investigated by the Technical Agency of Criminal Investigation (Agencia Técnica de Investigación Criminal, ATIC), which is a special unit that is part of the Public Ministry.<sup>434</sup> According to ACV, ATIC lacks resources, training and specialized staff.<sup>435</sup>

A 2017 BBC article cites women's rights organizations as stating that "out of 463 women murdered [in 2016], ... 15 cases were investigated."<sup>436</sup> According to the 2015 Annual Report of the National Police, out of the 4,201 arrest warrants issued by the police in 2015, 417 were issued to members of criminal groups for intrafamily violence.<sup>437</sup> In 2015, the Special Tribunal on Domestic Violence issued 3,430 sentences.<sup>438</sup> *La Prensa*, a daily Honduran newspaper, reports that, between January and July 2016, the Domestic Violence Court in San Pedro Sula received close to 2,000 complaints, with the Domestic Violence Court in San Pedro Sula issuing 700 sentences by the beginning of August 2016.<sup>439</sup> The Domestic Violence Court in San Pedro Sula noted that complaints increased by seven percent, in contrast to 2015, when the Court had received 1,500 complaints.<sup>440</sup> According to *La Prensa*, judicial authorities indicate that 50 percent of domestic violence victims drop their case before a sentence is issued.<sup>441</sup> The mission was unable to obtain further statistics on sentences.

### 3.5 Awareness-Raising Campaigns and Activities

A small number of activities are carried out at state and municipal level to raise awareness about the prevalence of gender-based violence. For example, in 2016, CONADEH once again joined UN Women's UNiTE To End Violence Against

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<sup>430</sup> Meeting with Honduras. 5 Apr. 2017. SDHJGD; Meeting with Radio Progreso. 4 Apr. 2017; ERIC-SJ. 4 Apr. 2017.

<sup>431</sup> Meeting with Radio Progreso 4 Apr. 2017; ERIC-SJ. 4 Apr. 2017.

<sup>432</sup> Meeting with San Pedro Sula. 3 Apr. 2017. Gerencia de Seguridad, Prevención y Transporte.

<sup>433</sup> Honduras. Mar. 2017. CONADEH, 41.

<sup>434</sup> Correspondence with ACV. 1 Sept. 2017.

<sup>435</sup> Correspondence with ACV. 1 Sept. 2017.

<sup>436</sup> BBC. 6 July 2017.

<sup>437</sup> Honduras. N.d.f. Policía Nacional, 8.

<sup>438</sup> Honduras. 19 July 2016. CONADEH.

<sup>439</sup> *La Prensa*. 7 Aug. 2016.

<sup>440</sup> *La Prensa*. 7 Aug. 2016.

<sup>441</sup> *La Prensa*. 7 Aug. 2016.

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Women campaign, which occurs annually, for sixteen days between 25 November and 10 December.<sup>442</sup> The objective of this campaign is to sensitize and mobilize the public to take a stance against gender-based violence.<sup>443</sup> According to the Directorate of Social Services of the Municipality of San Pedro Sula, the Municipal Office for Women and the Municipal Office for the Defense of Children (Defensoría Municipal de la Niñez) of San Pedro Sula provide training in neighbourhoods on how to file a complaint with authorities and what the rights of the complainants are, including those of their children.<sup>444</sup> The Municipality of San Pedro Sula also provides classes on the *Law Against Domestic Violence and its Reforms* in order to educate couples who are about to get married.<sup>445</sup> These classes address the types of violence that exist, the protection mechanisms and security measures available, the places where complaints can be filed and the sanctions that exist for domestic violence.<sup>446</sup>

## 4. Support Services

The mission learned that there is a significant gap in support services for women facing violence. According to ACV, there are even fewer support services for women and girls who are survivors of violence in rural areas than in cities like Tegucigalpa and San Pedro Sula.<sup>447</sup> Dr. Ayestas stated that, according to information from the National Observatory of Violence, mechanisms providing health services to assist victims of domestic violence do not exist.<sup>448</sup> GSC indicated that a woman who has experienced domestic violence may face difficulty accessing services, such as shelters, if her partner is also a gang leader.<sup>449</sup> In a context where there are no real protection mechanisms that can adequately protect women from violence and life-threatening situations, ACV expressed feelings of despair.<sup>450</sup>

The mission learned that the majority of support services that are available for women facing violence are provided by NGOs,<sup>451</sup> such as Casa Alianza, NRC and ACV. Casa Alianza provides services for girls and boys affected by violence, including a voluntary residential programme for children at the office of Casa Alianza in Tegucigalpa, as described in Chapter I.<sup>452</sup> Another voluntary residential

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<sup>442</sup> Honduras. Mar. 2017. CONADEH, 135.

<sup>443</sup> Honduras. Mar. 2017. CONADEH, 135.

<sup>444</sup> Meeting with San Pedro Sula. 3 Apr. 2017. Gerencia de Apoyo a la Prestación de Servicios Sociales.

<sup>445</sup> San Pedro Sula. 15 June 2017.

<sup>446</sup> San Pedro Sula. 15 June 2017.

<sup>447</sup> Meeting with ACV. 7 Apr. 2017.

<sup>448</sup> Meeting with Dr. Ayestas. 7 Apr. 2017.

<sup>449</sup> Meeting with GSC. 7 Apr. 2017.

<sup>450</sup> Meeting with ACV. 7 Apr. 2017.

<sup>451</sup> Meeting with Honduras. 5 Apr. 2017. SDHJGD; Meeting with NRC. 4 Apr. 2017.

<sup>452</sup> Meeting with Casa Alianza. 4 Apr. 2017.

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programme, also described in Chapter I, is called Querubines, which takes care of youth between 12 and 17 years old who have been victims of human trafficking.<sup>453</sup> In addition to the residential programs, Casa Alianza provides material support to children, in case they do not have school supplies, such as backpacks, clothing or lunch.<sup>454</sup>

NRC's ICLA Programme assists people who are displaced as a result of violence, for example intrafamily violence, including with access to food, a temporary shelter, as well as assisting with one's relocation or, with the help of Doctors Without Borders, providing psychological care.<sup>455</sup>

The mission learned that, through ACV, UNHCR provides humanitarian assistance to displaced women and their children up to 12 years old, who face persecution, threats and forced recruitment from gangs.

In terms of state-run support services, the Centre for Care and Protection of Women's Rights (Centro de Atención y Protección de los Derechos de las Mujeres, CAPRODEM) was created by the state to provide free of charge technical and legal support to women who are victims of domestic violence and intrafamily violence.<sup>456</sup> CAPRODEM receives support from civil society<sup>457</sup> and CONADEH.<sup>458</sup> Its office is located in Barrio Concepción in Comayagüela.<sup>459</sup> In 2015, CAPRODEM assisted 213 women who experienced domestic and/or intrafamily violence.<sup>460</sup> The mission did not obtain further information on the services provided by CAPRODEM.

Sources report that in March 2017, the first comprehensive care centre, called Ciudad Mujer (Woman City), was opened in the Kennedy neighbourhood of Tegucigalpa.<sup>461</sup> Ciudad Mujer is a state-led initiative that coordinates the work of 15 state institutions with the objective of providing comprehensive services to women, including in the area of violence against women.<sup>462</sup> The mission did not obtain further information on the services provided by Ciudad Mujer.

According to the response of the Government of Honduras to a 2010 UN questionnaire on violence against women, the Special Attorney for Women (Fiscalía Especial de la Mujer), as part of the Public Ministry, provides legal and

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<sup>453</sup> Meeting with Casa Alianza. 4 Apr. 2017.

<sup>454</sup> Meeting with Casa Alianza. 4 Apr. 2017.

<sup>455</sup> Meeting with NRC. 4 Apr. 2017.

<sup>456</sup> Honduras. N.d.c. Poder Judicial.

<sup>457</sup> Honduras. N.d.c. Poder Judicial.

<sup>458</sup> Honduras. 19 July 2016. CONADEH.

<sup>459</sup> Honduras. 28 Oct. 2014. Poder Judicial.

<sup>460</sup> Honduras. 19 July 2016. CONADEH.

<sup>461</sup> Honduras. 28 Mar. 2017. INAM; *El Herald* 28 Mar. 2017; *La Tribuna* 28 Mar. 2017.

<sup>462</sup> Honduras. N.d.d. Ciudad Mujer.

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technical assistance on the issue of gender-based violence.<sup>463</sup> The Special Attorney for Women also carries out public criminal proceedings of violence against women cases, in addition to designing and implementing institutional policies on violence against women.<sup>464</sup>

## 4.1 Helplines

There are no official helplines provided by the state that serve to inform women about their rights and about the services that are available,<sup>465</sup> other than 911, which is the general emergency phone line.<sup>466</sup> According to the National Institute for Women (Instituto Nacional de la Mujer, INAM), which is responsible for the development of policies to guarantee women and girls' rights in Honduras,<sup>467</sup> the national emergency line of 911 is [translation] "a successful tool that ensures that complaints about intrafamily violence are addressed as a priority matter and allows for adequate follow-up to each individual case."<sup>468</sup> Media sources report that in 2016, 3,233 domestic violence complaints and 4,653 intrafamily violence complaints were received through 911.<sup>469</sup> The website of the Municipality of San Pedro Sula indicates that women can call the Municipal Office for Women of San Pedro Sula if they have experienced violence.<sup>470</sup>

## 4.2 Shelters

The mission learned that oftentimes, the most that women's rights organizations are able to do for women facing violence is help them look for a shelter or send them back to their community, where they are expected to be protected by the community.<sup>471</sup> Within the *Law Against Domestic Violence and its Reforms*, shelters are listed as one of the measures provided to women who are survivors of domestic violence.<sup>472</sup> According to the Directorate of Social Services of the Municipality of San Pedro Sula, there is one state-run shelter, which is located in San Pedro Sula and run by the municipality of San Pedro Sula, and there are four NGO-run shelters, which are located in La Ceiba, Santa Rosa de Copán, Choloma and

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<sup>463</sup> UN. 2016. UN Women.

<sup>464</sup> CDM. Dec. 2014, 38.

<sup>465</sup> Correspondence with ACV. 1 Sept. 2017; US. n.d. Embassy in Tegucigalpa.

<sup>466</sup> Correspondence with ACV. 1 Sept. 2017; Honduras. 10 Oct. 2016. INAM.

<sup>467</sup> Honduras. N.d.e. INAM.

<sup>468</sup> Honduras. 10 Oct. 2016. INAM.

<sup>469</sup> *El Heraldo*. 4 Nov. 2016; *Tiempo*. 4 Nov. 2016.

<sup>470</sup> San Pedro Sula. 15 June 2017.

<sup>471</sup> Meeting with GSC. 7 Apr. 2017.

<sup>472</sup> Honduras. 2006. Article 6; Meeting with San Pedro Sula. 3 Apr. 2017. Dirección de Niñez, Mujer y Familia.

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Tegucigalpa.<sup>473</sup> ACV stated, however, that there are three state-run women shelters across Honduras, which are under the direction of the Municipal Offices for Women and are located in San Pedro Sula, Choluteca, and La Ceiba.<sup>474</sup> According to ACV, both the shelters in Choluteca and La Ceiba receive support from civil society.<sup>475</sup>

The mission learned that a key requirement to access the shelter in San Pedro Sula is that a domestic violence complaint is filed. In order to access the shelter in San Pedro Sula, a woman has to be referred to the shelter either by the police, the Public Ministry or a judicial authority.<sup>476</sup> Women may also come to the Municipal Office for Women to access the shelter, but they are then accompanied to first file a complaint at a domestic violence court or at the Public Ministry.<sup>477</sup> The shelter, which is in a secret location for security reasons,<sup>478</sup> receives women who have been displaced from their homes, including by their partner.<sup>479</sup> The mission learned that this shelter does not receive women who have been displaced by gangs; it only receives victims of domestic violence. The shelter admits women with their children who can remain there for up to three months.<sup>480</sup> The mission learned that boys older than 12 years old are not allowed, however. Women's entry, stay and departure of the shelter is voluntary and there are women who leave before the three-month period has ended.<sup>481</sup> The shelter was furnished as a result of donations received by the municipality.<sup>482</sup>

The shelter in San Pedro Sula can host six families.<sup>483</sup> Women receive food, medical care, psychological care and legal support at the shelter in San Pedro Sula.<sup>484</sup> The Municipality of San Pedro Sula also offers women who come to the shelter vocational training and training to help them open small businesses in the fields of flower-arranging, baking, jewelry-making, and cosmetology.<sup>485</sup> There is also an educational programme for children<sup>486</sup> and children have access to therapy and psychological support.<sup>487</sup> The shelter has one psychologist that provides support to the women and children.<sup>488</sup>

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<sup>473</sup> Meeting with San Pedro Sula. 3 Apr. 2017. Gerencia de Apoyo a la Prestación de Servicios Sociales.

<sup>474</sup> Meeting with ACV. 7 Apr. 2017.

<sup>475</sup> Meeting with ACV. 7 Apr. 2017.

<sup>476</sup> Meeting with San Pedro Sula. 3 Apr. 2017. Dirección de Niñez, Mujer y Familia.

<sup>477</sup> Meeting with San Pedro Sula. 3 Apr. 2017. Dirección de Niñez, Mujer y Familia.

<sup>478</sup> Meeting with San Pedro Sula. 3 Apr. 2017. Gerencia de Apoyo a la Prestación de Servicios Sociales.

<sup>479</sup> Meeting with San Pedro Sula. 3 Apr. 2017. Dirección de Niñez, Mujer y Familia.

<sup>480</sup> Meeting with San Pedro Sula. 3 Apr. 2017. Dirección de Niñez, Mujer y Familia.

<sup>481</sup> Meeting with San Pedro Sula. 3 Apr. 2017. Dirección de Niñez, Mujer y Familia.

<sup>482</sup> Meeting with San Pedro Sula. 3 Apr 2017. Gerencia de Apoyo a la Prestación de Servicios Sociales.

<sup>483</sup> Meeting with San Pedro Sula. 3 Apr. 2017. Gerencia de Apoyo a la Prestación de Servicios Sociales.

<sup>484</sup> Meeting with San Pedro Sula. 3 Apr. 2017. Dirección de Niñez, Mujer y Familia.

<sup>485</sup> Meeting with San Pedro Sula. 3 Apr. 2017. Gerencia de Apoyo a la Prestación de Servicios Sociales.

<sup>486</sup> Meeting with San Pedro Sula. 3 Apr. 2017. Dirección de Niñez, Mujer y Familia.

<sup>487</sup> Meeting with San Pedro Sula. 3 Apr. 2017. Gerencia de Apoyo a la Prestación de Servicios Sociales.

<sup>488</sup> Meeting with San Pedro Sula. 3 Apr. 2017. Gerencia de Apoyo a la Prestación de Servicios Sociales.

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According to the Directorate of Social Services of the Municipality of San Pedro Sula, the shelter in San Pedro Sula provides effective and successful support to the women it hosts.<sup>489</sup> According to ACV, however, the shelter does not function effectively, given that it is run by government personnel who are not gender-sensitive and who are not knowledgeable about the issues at stake.<sup>490</sup>

ACV itself is an NGO that runs a women's shelter in Tegucigalpa, providing women facing violence, and their children, with services, food, clothing and medicine.<sup>491</sup> Women can remain in the shelter for three months, and sometimes longer in exceptional cases.<sup>492</sup> Boys can remain with their mother until they are 12 years old.<sup>493</sup> ACV has a multidisciplinary team that is comprised of a social worker, a psychologist, a lawyer and a teacher.<sup>494</sup> It receives many women, including women that have fled from other countries, like Afghanistan, Brazil and Mexico.<sup>495</sup> According to ACV, as a women-run organization, security is an issue.<sup>496</sup> ACV provided the example of a man trying to break down the door of the shelter.<sup>497</sup> According to ACV, requests made to the police to designate women police officers to protect the shelter have been declined, with the police giving excuses that there are other emergencies, or that the request has been sent to a higher level.<sup>498</sup> Nevertheless, the police continue to send women who need protection to the ACV shelter.<sup>499</sup> ACV stated that in its 20 years of existence, it has never received financial support from the state of Honduras.<sup>500</sup> In addition to running a women's shelter, ACV indicated that they work in border areas as well, for example on the issue of human trafficking.<sup>501</sup>

The mission learned that there is a private-run shelter in Santa Rosa Copan that is well-established with the necessary resources.<sup>502</sup> This shelter was financed and constructed by the Spanish Cooperation (Cooperación Española) and has space for 12 families.<sup>503</sup> According to ACV, the shelter in Santa Rosa Copan is Honduras' best women's shelter, in terms of its infrastructure.<sup>504</sup> ACV further indicated that

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<sup>489</sup> Meeting with San Pedro Sula. 3 Apr. 2017. Gerencia de Apoyo a la Prestación de Servicios Sociales.

<sup>490</sup> Meeting with ACV. 7 Apr. 2017.

<sup>491</sup> Correspondence with ACV. 1 Sept. 2017.

<sup>492</sup> Correspondence with ACV. 1 Sept. 2017.

<sup>493</sup> Correspondence with ACV. 1 Sept. 2017.

<sup>494</sup> Correspondence with ACV. 1 Sept. 2017.

<sup>495</sup> Meeting with ACV. 7 Apr. 2017.

<sup>496</sup> Meeting with ACV. 7 Apr. 2017.

<sup>497</sup> Meeting with ACV. 7 Apr. 2017.

<sup>498</sup> Meeting with ACV. 7 Apr. 2017.

<sup>499</sup> Meeting with ACV. 7 Apr. 2017.

<sup>500</sup> Meeting with ACV. 7 Apr. 2017.

<sup>501</sup> Meeting with ACV. 7 Apr. 2017.

<sup>502</sup> Meeting with ACV. 7 Apr. 2017.

<sup>503</sup> Meeting with San Pedro Sula. 3 Apr. 2017. Dirección de Niñez, Mujer y Familia.

<sup>504</sup> Meeting with ACV. 7 Apr. 2017.

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there is less demand for this shelter, given that the area is more affected by trafficking than by violence.<sup>505</sup>

ACV explained that there is communication among shelters in Honduras to coordinate whether to send women to another shelter, so as to ensure their security in another location.<sup>506</sup> Likewise, the Directorate of Children, Women and Family of the Municipality of San Pedro Sula indicated that if a woman is too scared to stay in San Pedro Sula, she can be transferred to another shelter or to family members in another city.<sup>507</sup>

According to ACV, women in shelters live in fear, experience a high level of stress and some even experience post-traumatic stress syndrome.<sup>508</sup> According to the same source, women's shelters receive women who have experienced various types of violence, in addition to women who have experienced human trafficking.<sup>509</sup> ACV indicated that it is working with Trócaire, an Irish Catholic development NGO,<sup>510</sup> to create a shelter solely dedicated to women who have experienced human trafficking.<sup>511</sup>

## **5. Possibility of Relocation and Traceability of Women Fleeing Violent Situations**

PMH explained that women leave Honduras to protect their own lives and also the lives of their children.<sup>512</sup> Other interlocutors similarly indicated that, when women are forced to flee, they are often reluctant to leave behind their family members, including their children, given the cultural importance of family ties.<sup>513</sup> GSC indicated that when women do flee, either abroad or within Honduras, it is standard for them to take contraceptive pills, with the assumption that they will be raped at some point in their journey.<sup>514</sup>

According to ACV, the feasibility of a woman to safely relocate to another part of Honduras to escape violence depends on her own means and the support network she has, including support she could receive from relatives.<sup>515</sup>

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<sup>505</sup> Meeting with ACV. 7 Apr. 2017.

<sup>506</sup> Meeting with ACV. 7 Apr. 2017.

<sup>507</sup> Meeting with San Pedro Sula. 3 Apr. 2017. Dirección de Niñez, Mujer y Familia.

<sup>508</sup> Meeting with ACV. 7 Apr. 2017.

<sup>509</sup> Meeting with ACV. 7 Apr. 2017.

<sup>510</sup> Trocaire n.d.

<sup>511</sup> Meeting with ACV. 7 Apr. 2017.

<sup>512</sup> Meeting with PMH. 5 Apr. 2017.

<sup>513</sup> Meeting with GSC. 7 Apr. 2017; Meeting with ACV. 7 Apr. 2017.

<sup>514</sup> Meeting with GSC. 7 Apr. 2017.

<sup>515</sup> Correspondence from ACV. 1 Sept. 2017.

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# Chapter III - Situation of Sexual Minorities

## 1. Situation

The mission learned that the situation of sexual minorities and LGBTI human rights defenders in Honduras is precarious. Sexual minorities in Honduras face widespread discrimination on a daily basis throughout the country.<sup>516</sup> Asociación Colectivo Violeta indicated that it is ingrained in society as a whole to discriminate on the basis of sexual orientation and gender identity (SOGI).<sup>517</sup> According to Asociación Para Una Vida Mejor de Personas Infeccionadas y Afectadas por el VIH/SIDA en Honduras (APUVIMEH), LGBT organizations and sexual minorities live in an "extreme situation" where their human rights are not respected and they remain invisible.<sup>518</sup>

The mission learned that sexual minorities in Honduras are persecuted in both public and private domains. In the public domain, persecution occurs at the hands of state authorities,<sup>519</sup> including the police<sup>520</sup> and the military.<sup>521</sup> According to Asociación LGTB Arcoíris, the principal agents of persecution are security forces, including the National Police, the Military Police of Public Order (Policía Militar Del Orden Público), municipal police (policía municipal), DPI, ATIC, Special Operations Command (Comando de Operaciones Especiales, COBRA), and the Armed Forces (Fuerzas Armadas).<sup>522</sup> Security forces have subjected sexual minorities to robbery,<sup>523</sup> extortion,<sup>524</sup> physical abuse, kidnapping,<sup>525</sup> and death.<sup>526</sup> According to Asociación LGTB Arcoíris, security forces have also subjected sexual minorities to sexual abuse, including children as young as 12 years old.<sup>527</sup> Asociación Trans Cozumel indicated that there is a case where military representatives targeted and attacked transwomen.<sup>528</sup> The Directorate of Security, Prevention and Transportation of the Municipality of San Pedro Sula, stated,

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<sup>516</sup> Meeting with Asociación Colectivo Violeta. 6 Apr. 2017.

<sup>517</sup> Meeting with Asociación Colectivo Violeta. 6 Apr. 2017.

<sup>518</sup> Meeting with APUVIMEH. 6 Apr. 2017.

<sup>519</sup> Meeting with APUVIMEH. 6 Apr. 2017; Meeting with Asociación LGTB Arcoíris. 6 Apr. 2017; Meeting with Asociación Trans Cozumel. 6 Apr. 2017.

<sup>520</sup> Meeting with APUVIMEH. 6 Apr. 2017; Meeting with Asociación Trans Cozumel. 6 Apr. 2017; Meeting with Asociación LGTB Arcoíris. 6 Apr. 2017.

<sup>521</sup> Meeting with Asociación Trans Cozumel. 6 Apr. 2017; Meeting with Asociación LGTB Arcoíris. 6 Apr. 2017.

<sup>522</sup> Meeting with Asociación LGTB Arcoíris. 6 Apr. 2017.

<sup>523</sup> Meeting with APUVIMEH. 6 Apr. 2017.

<sup>524</sup> Meeting with Asociación LGTB Arcoíris. 6 Apr. 2017.

<sup>525</sup> Meeting with Asociación LGTB Arcoíris. 6 Apr. 2017; Meeting with Asociación Colectivo Violeta. 6 Apr. 2017.

<sup>526</sup> Meeting with Asociación Colectivo Violeta. 6 Apr. 2017; Meeting with APUVIMEH. 6 Apr. 2017.

<sup>527</sup> Meeting with Asociación LGTB Arcoíris. 6 Apr. 2017.

<sup>528</sup> Meeting with Asociación Trans Cozumel. 6 Apr. 2017.

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however, that sexual minorities are not persecuted by the municipal police of San Pedro Sula.<sup>529</sup>

The mission also learned that gangs discriminate against sexual minorities and have used them for various gang-related activities. According to APUVIMEH, gangs, including M-18, MS-13, and criminal organizations, like the Cachiros, among others, express a high level of intolerance, homophobia, transphobia and lesbophobia towards sexual minorities.<sup>530</sup> According to Asociación Kukulcán, transwomen and gay men are not only stigmatized by gangs, they are also forced to sell drugs and are used as drug mules.<sup>531</sup> Asociación LGTB Arcoíris explained that it can be deadly if one declines to sell drugs.<sup>532</sup> Asociación Kukulcán further explained that when transwomen and gay men seek to escape gang control, gangs threaten them, causing transwomen and gay men to move to another city or to leave the country.<sup>533</sup> The Department for Children, Women and Family of the Municipality of San Pedro Sula stated that sexual minorities are not special targets for gangs and that sexual minorities are subject to the same type of violence as any other member of society.<sup>534</sup>

The mission learned that it is also common for sexual minorities to face discrimination and ill-treatment from family members.<sup>535</sup> Asociación LGTB Arcoíris explained that LGBTI persons experience high levels of repression within their homes from family members, including parents, brothers and sisters, which affects their psychosocial and psychological state.<sup>536</sup> The same source indicated that the stigma and discrimination against their sexual orientation causes LGBTI persons to leave their homes at an early age.<sup>537</sup> In addition, suicidal thoughts among LGBTI adolescents are prevalent and suicide is regarded as an option to escape the shame placed upon them by family members.<sup>538</sup>

According to Asociación Colectivo Violeta, the persecution of LGBTI rights defenders is significant and systematic.<sup>539</sup> LGBT organizations are also frequently robbed, including of their files.<sup>540</sup> Asociación Colectivo Violeta stated that

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<sup>529</sup> Meeting with San Pedro Sula. 3 Apr. 2017. Gerencia de Seguridad, Prevención y Transporte.

<sup>530</sup> Meeting with APUVIMEH. 6 Apr. 2017.

<sup>531</sup> Meeting with Kukulcán Association. 6 Apr. 2017.

<sup>532</sup> Meeting with Asociación LGTB Arcoíris. 6 Apr. 2017.

<sup>533</sup> Meeting with Kukulcán Association 6 Apr. 2017

<sup>534</sup> Meeting with San Pedro Sula. 3 Apr. 2017. Dirección de Niñez, Mujer y Familia.

<sup>535</sup> Meeting with APUVIMEH. 6 Apr. 2017; Meeting with Asociación LGTB Arcoíris. 6 Apr. 2017.

<sup>536</sup> Meeting with Asociación LGTB Arcoíris. 6 Apr. 2017.

<sup>537</sup> Meeting with Asociación LGTB Arcoíris. 6 Apr.2017.

<sup>538</sup> Meeting with Asociación LGTB Arcoíris. 6 Apr. 2017.

<sup>539</sup> Meeting with Asociación Colectivo Violeta. 6 Apr. 2017.

<sup>540</sup> Meeting with Asociación Trans Cozumel. 6 Apr. 2017; Meeting with Asociación Colectivo Violeta. 6 Apr. 2017; Meeting with APUVIMEH. 6 Apr. 2017.

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espionage of LGBTI rights defenders by state authorities, including wiretapping, is commonplace.<sup>541</sup>

Sources indicated that sexual minorities are vulnerable and face obstacles when trying to access opportunities,<sup>542</sup> including in the areas of employment and education.<sup>543</sup> Sources indicated that transwomen have been forced to cut their hair,<sup>544</sup> in order to access employment or education.<sup>545</sup>

The mission learned that sexual minorities have been targeted and killed. APUVIMEH indicated that sexual minorities have been killed in a "very dehumanizing manner" and in "very savage" ways in their homes and in public spaces, including being stoned to death and mutilated.<sup>546</sup> Asociación Trans Cozumel stated that the situation of transwomen in Honduras is "horrible"<sup>547</sup> and that there have been cases of transwomen who have been attacked, threatened, stabbed, kidnapped, forcibly disappeared, and assassinated.<sup>548</sup> While the mission participants were in Honduras, Sherlyn Montoya, a transwoman, was killed and found dead in Tegucigalpa on 4 April 2017.<sup>549</sup> Sources indicate that Sherlyn Montoya was an LGBTI human rights defender and that she was a member of Asociación LGBT Arcoíris and of Grupo de Mujeres Transexuales - Muñecas de Arcoíris (Transsexual Women's Group - Rainbow Dolls),<sup>550</sup> "which is part of Arcoíris and is dedicated to promoting dialogue and advocacy for issues concerning transgender women."<sup>551</sup> Sources indicate that her body was found wrapped in sacks<sup>552</sup> and that it showed signs of torture<sup>553</sup> and strangulation.<sup>554</sup>

## 2. Statistics

A 2017 report published by the International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA) indicates that, there is an "absence of comprehensive statistical information on the violence indexes that affect LGB people in the

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<sup>541</sup> Meeting with Asociación Colectivo Violeta. 6 Apr. 2017.

<sup>542</sup> Meeting with Asociación LGTB Arcoíris. 6 Apr. 2017; Meeting with Asociación Colectivo Violeta. 6 Apr. 2017.

<sup>543</sup> Meeting with Asociación Colectivo Violeta. 6 Apr. 2017.

<sup>544</sup> Meeting with Asociación Trans Cozumel. 6 Apr. 2017; Meeting with Asociación Colectivo Violeta. 6 Apr. 2017.

<sup>545</sup> Meeting with Asociación Colectivo Violeta. 6 Apr. 2017.

<sup>546</sup> Meeting with APUVIMEH. 6 Apr. 2017.

<sup>547</sup> Meeting with Asociación Trans Cozumel. 6 Apr. 2017.

<sup>548</sup> Meeting with Asociación Trans Cozumel. 6 Apr. 2017.

<sup>549</sup> Meeting with APUVIMEH. 6 Apr. 2017; *Tiempo*. 4 Apr. 2017; AWID. 4 Apr. 2017.

<sup>550</sup> Frontline Defenders. N.d.c; ILGA. 7 Apr. 2017.

<sup>551</sup> Frontline Defenders. N.d.c.

<sup>552</sup> Washington Blade. 10 Apr. 2017.

<sup>553</sup> OAS. May 16 2017. IACHR; Frontline Defenders. N.d.c.

<sup>554</sup> OAS. May 16 2017. IACHR; Washington Blade. 10 Apr. 2017.

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[Americas]."<sup>555</sup> Sources indicate that in 2015, 37 sexual minorities were killed in Honduras.<sup>556</sup> According to ILGA, in 2016, the murders of "seven LGBT people and human rights advocates" were recorded in Honduras.<sup>557</sup> A 2017 report by CATTRACHAS,<sup>558</sup> a Tegucigalpa-based feminist lesbian organization dedicated to research, communication and advocacy to defend the human rights of sexual minorities in Honduras,<sup>559</sup> indicates that in 2016, 22 sexual minorities were killed in Honduras.<sup>560</sup> The same report indicates that between 1994 and 2017, 269 deaths of sexual minorities were registered in Honduras, of which 153 were gay men, 23 were lesbian women and 93 were transsexuals.<sup>561</sup> In the vast majority of cases involving gay men, the bodies of the victims were found in their own homes.<sup>562</sup>

According to the same source, the highest number of cases involving sexual minorities were registered in the Francisco Morazán Department (115 cases), followed by the Cortés Department (114).<sup>563</sup> By municipalities, the highest number of cases were registered in the Central District (110 cases), which includes Tegucigalpa and Comayagüela, followed by San Pedro Sula (80), Choloma (17), La Ceiba (8), Chamelecón (6), El Progreso (5), Roatán (5), La Lima (4), Tocoa (4), San Manuel (2), Quimistán (2), and Santa Cruz de Yojoa (2).<sup>564</sup> CATTRACHAS indicated that between January and 22 September 2017, a total of 27 sexual minorities were killed in Honduras, including 7 lesbian women, 6 transsexual persons and 14 gay men.<sup>565</sup>

### 3. Legislation

ILGA's 2017 report indicates that consensual same-sex acts between adults have been legal since 1899.<sup>566</sup> Asociación Trans Cozumel indicated that, according to research carried out with CATTRACHAS, SOGI is addressed in 15 laws, rules and protocols in Honduras.<sup>567</sup> Sources indicated that legislation to exclusively protect

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<sup>555</sup> ILGA. May 2017, 161.

<sup>556</sup> OAS. 7 Mar. 2016; CATTRACHAS. Apr. 2017, 18.

<sup>557</sup> ILGA. May 2017, 161.

<sup>558</sup> In correspondence with the Research Directorate, CATTRACHAS indicated on 7 September 2017 that the data on the deaths of sexual minorities is collected by the CATTRACHAS' Observatory of Violent Deaths of LGTTBI Persons (Observatorio de Muertes Violentas de Personas LGTTBI) through the daily monitoring of media, social networks and registered complaints. CATTRACHAS also indicated that the 2017 statistics are from January to April 2017.

<sup>559</sup> CATTRACHAS. 2017, 1.

<sup>560</sup> CATTRACHAS. 2017, 23.

<sup>561</sup> CATTRACHAS. 2017, 22-23.

<sup>562</sup> CATTRACHAS. 2017, 2.

<sup>563</sup> CATTRACHAS. 2017, 20.

<sup>564</sup> CATTRACHAS. 2017, 21.

<sup>565</sup> Correspondence with CATTRACHAS 7 Sept. 2017 and 22 Sept. 2017.

<sup>566</sup> ILGA. May 2017, 29.

<sup>567</sup> Meeting with Asociación Trans Cozumel. 6 Apr. 2017.

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the rights of sexual minorities in Honduras does not exist.<sup>568</sup> In 2013, Article 321 of the Penal Code was amended and criminalizes discrimination, including on the basis of sexual orientation.<sup>569</sup> Asociación Colectivo Violeta indicated that the reform of Article 321 has not produced any tangible results for sexual minorities, because it has not been applied due to a lack of political will.<sup>570</sup> ILGA's 2017 report indicates that Article 27(27) of the Penal Code, which was amended in 2013, "establishes that motivation for a crime based on the victim's sexual orientation (among other grounds) operates as an aggravating circumstance."<sup>571</sup> Article 321-A of the Penal Code, as amended in 2013, criminalizes "incitement to hatred or discrimination based on sexual orientation."<sup>572</sup> Between 2013 and 2017, there have been no cases of punishment on the basis of discrimination against sexual minorities.<sup>573</sup>

Asociación LGTB Arcoíris indicated that the *Law for the Protection of Human Rights Defenders, Journalists, Media Contributors and Judiciary Workers* does not necessarily protect all sexual minorities, because not all sexual minorities are active human rights defenders.<sup>574</sup> The same source explained that it is necessary to have legislation that protects sexual diversity for all, not just for human rights defenders, and that it is necessary to have anti-discrimination legislation with functioning mechanisms and legislation on gender identity.<sup>575</sup>

## 4. State Protection

In meetings with state authorities, the mission observed an attitude of indifference towards sexual minorities as a group that has special protection needs. Interlocutors indicated that the state lacks the political will to address the situation of sexual minorities<sup>576</sup> and that state protection for sexual minorities does not exist.<sup>577</sup> According to Asociación Colectivo Violeta, there is no mechanism in the country that functions adequately to improve the situation of sexual minorities.<sup>578</sup> According to Asociación Colectivo Violeta, the state exacerbates the vulnerability

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<sup>568</sup> Meeting with San Pedro Sula. 3 Apr. 2017. Gerencia de Seguridad, Prevención y Transporte; Meeting with Asociación LGTB Arcoíris. 6 Apr. 2017; Correspondence from Grupo Lésbico Bisexual LITOS. 1 Sept. 2017.

<sup>569</sup> ILGA. May 2017, 49; Meeting with Asociación LGTB Arcoíris. 6 Apr. 2017; Meeting with Asociación Colectivo Violeta. 6 Apr. 2017.

<sup>570</sup> Meeting with Asociación Colectivo Violeta. 6 Apr. 2017.

<sup>571</sup> ILGA. May 2017, 61.

<sup>572</sup> ILGA. May 2017, 64.

<sup>573</sup> Meeting with Asociación LGTB Arcoíris. 6 Apr. 2017.

<sup>574</sup> Meeting with Asociación LGTB Arcoíris. 6 Apr. 2017.

<sup>575</sup> Meeting with Asociación LGTB Arcoíris. 6 Apr. 2017.

<sup>576</sup> Meeting with Asociación Colectivo Violeta. 6 Apr. 2017; Meeting with Asociación LGTB Arcoíris. 6 Apr. 2017.

<sup>577</sup> Meeting with Asociación LGTB Arcoíris. 6 Apr. 2017.

<sup>578</sup> Meeting with Asociación Colectivo Violeta. 6 Apr. 2017.

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of sexual minorities due to their sexual orientation and gender identity.<sup>579</sup> APUVIMEH added that severe institutional homophobia exists and that in the past, public officials have carried out smear campaigns against sexual diversity.<sup>580</sup> The representatives of the Municipality of San Pedro Sula, stated, however, that "sexual minorities have the same rights as everyone else in Honduras,"<sup>581</sup> elaborating that sexual minorities have "the same rights as men, women and children."<sup>582</sup>

According to Asociación LGTB Arcoíris, the state "permits the social cleansing" of sexual minorities in Honduras by not condemning newspapers that spread anti-LGBTI rhetoric and by allowing state ministers and religious entities to spread negative rhetoric about sexual minorities.<sup>583</sup> Other interlocutors also indicated that sexual minorities are stigmatized and discriminated against by Christian-based religious entities.<sup>584</sup> For example, according to Asociación Colectivo Violeta, religious groups, such as the Evangelical Brotherhood of Honduras (Confraternidad Evangélica de Honduras), advocate for violence and discrimination against sexual minorities.<sup>585</sup> According to APUVIMEH, SDHJGD had created a campaign in 2012 to raise awareness about SOGI, but due to interventions by the Evangelical Brotherhood and the Catholic Church, the campaign launch was suspended.<sup>586</sup> According to Asociación Colectivo Violeta, there are no state-led campaigns to reduce discrimination on the basis of SOGI.<sup>587</sup> In terms of support from religious figures, sources indicate that Reverend Berta Ramírez has been advocating for the rights of sexual minorities<sup>588</sup> since 2009<sup>589</sup> and has provided them with a place of worship.<sup>590</sup> As a reverend of the Metropolitan Community Church, Reverend Berta Ramírez ministers in Tegucigalpa.<sup>591</sup>

Sources indicated that the police and the judiciary receive training on how to respond to cases involving sexual minorities.<sup>592</sup> Such training has been provided by LGBT organizations, but due to rotations within the police force, the training has

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<sup>579</sup> Meeting with Asociación Colectivo Violeta. 6 Apr. 2017.

<sup>580</sup> Meeting with APUVIMEH. 6 Apr. 2017.

<sup>581</sup> Meeting with San Pedro Sula. 3 Apr. 2017. Dirección de Niñez, Mujer y Familia; Meeting with San Pedro Sula. 3 Apr. 2017. Gerencia de Apoyo a la Prestación de Servicios Sociales; Meeting with San Pedro Sula. 3 Apr. 2017. Gerencia de Seguridad, Prevención y Transporte.

<sup>582</sup> Meeting with San Pedro Sula. 3 Apr. 2017. Gerencia de Apoyo a la Prestación de Servicios Sociales.

<sup>583</sup> Meeting with Asociación LGTB Arcoíris. 6 Apr. 2017.

<sup>584</sup> Meeting with Asociación Colectivo Violeta. 6 Apr. 2017; Meeting with APUVIMEH. 6 Apr. 2017.

<sup>585</sup> Meeting with Asociación Colectivo Violeta. 6 Apr. 2017.

<sup>586</sup> Meeting with APUVIMEH. 6 Apr. 2017.

<sup>587</sup> Meeting with Asociación Colectivo Violeta. 6 Apr. 2017.

<sup>588</sup> Meeting with APUVIMEH. 6 Apr. 2017; *La Prensa*. 16 Aug. 2016.

<sup>589</sup> *La Prensa*. 16 Aug. 2016.

<sup>590</sup> Meeting with APUVIMEH. 6 Apr. 2017.

<sup>591</sup> *La Tribuna*. 18 Aug. 2016.

<sup>592</sup> Correspondence from APUVIMEH. 1 Sept. 2017; Correspondence from Grupo Lésbico Bisexual LITOS. 1 Sept. 2017.

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not been effective and sexual minorities continue being victimized by the police.<sup>593</sup> There is no mechanism to monitor or evaluate the manner in which the police and the judiciary respond to cases of involving sexual minorities.<sup>594</sup> The 2016 Annual Report by CONADEH states that one of their priorities is to carry out actions that prevent violence and aggression against sexual minorities and to reduce the level of impunity surrounding their deaths.<sup>595</sup>

## 4.1 Filing Complaints

Sources indicate that sexual minorities who have experienced harassment or violence can file complaints before: police bodies,<sup>596</sup> namely ATIC and DPI,<sup>597</sup> the Public Ministry,<sup>598</sup> courts,<sup>599</sup> CONADEH;<sup>600</sup> and LGBT organizations.<sup>601</sup>

The mission learned that protection mechanisms, including the police system to report crimes, do not function effectively and do not guarantee protection for victims and witnesses of crimes. In addition, the mission learned that filing complaints can be risky for sexual minorities. APUVIMEH provided the example that, in many cases, there is a lack of evidence or witnesses to prosecute crimes, because witnesses fear that they will be in danger if they provide information.<sup>602</sup> There have been cases of persons whose houses were burnt down by the same perpetrators against whom a complaint was filed.<sup>603</sup> APUVIMEH indicated that such acts have caused fear among sexual minorities, making it less likely that they will file complaints.<sup>604</sup> According to the Directorate of Security, Prevention and Transportation of the Municipality of San Pedro Sula, the Municipality of San Pedro Sula does not have statistics on how many complaints are filed by sexual minorities, because sexual minorities "do not file complaints."<sup>605</sup>

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<sup>593</sup> Correspondence from Grupo Lésbico Bisexual LITOS. 1 Sept. 2017.

<sup>594</sup> Correspondence from APUVIMEH. 1 Sept. 2017; Correspondence from Grupo Lésbico Bisexual LITOS. 1 Sept. 2017.

<sup>595</sup> Honduras Mar. 2017, 43.

<sup>596</sup> Correspondence APUVIMEH. 1 Sept. 2017; Correspondence from Grupo Lésbico Bisexual LITOS. 1 Sept. 2017.

<sup>597</sup> Correspondence from Grupo Lésbico Bisexual LITOS. 1 Sept. 2017.

<sup>598</sup> Correspondence from APUVIMEH. 1 Sept. 2017; Correspondence from Grupo Lésbico Bisexual LITOS. 1 Sept. 2017; Meeting with San Pedro Sula. 3 Apr. 2017. Dirección de Niñez, Mujer y Familia.

<sup>599</sup> Correspondence from APUVIMEH. 1 Sept. 2017.

<sup>600</sup> Correspondence from APUVIMEH. 1 Sept. 2017.

<sup>601</sup> Correspondence from APUVIMEH. 1 Sept. 2017; Correspondence from Grupo Lésbico Bisexual LITOS. 1 Sept. 2017.

<sup>602</sup> Correspondence APUVIMEH. 1 Sept. 2017.

<sup>603</sup> Meeting with APUVIMEH. 6 Apr. 2017.

<sup>604</sup> Meeting with APUVIMEH. 6 Apr. 2017.

<sup>605</sup> Meeting with San Pedro Sula. 3 Apr. 2017. Gerencia de Seguridad, Prevención y Transporte.

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As previously noted, there is a general lack of trust among citizens, which prevents them from filing complaints with state authorities.<sup>606</sup> This lack of trust is linked to the overall lack of confidence in state authorities to protect citizens from human rights abuses.<sup>607</sup> The mission also learned that complaints against the police can be fatal for the complainant.<sup>608</sup> Asociación Trans Cozumel provided the example of a case where transwomen were threatened by the police while they were reporting a crime, and they were reportedly told by police officers that if they continued filing complaints, they would be killed.<sup>609</sup> According to Asociación LGTB Arcoíris, LGBT persons who experience violence perpetrated by security forces are very vulnerable given that they are not able to report such instances to the police.<sup>610</sup>

Asociación LGTB Arcoíris explained that there is a sentiment among sexual minorities that reporting a crime is "futile" given that no adequate investigation results from reporting a crime.<sup>611</sup> The mission noted that impunity is commonplace, because state institutions do not function effectively.<sup>612</sup> A special unit exists to investigate crimes committed against sexual minorities,<sup>613</sup> called the Unit of High Impact Deaths (Unidad de Muertes de Alto Impacto) within the Attorney General's Office (Fiscalía) of the Public Ministry.<sup>614</sup> This special unit, however, lacks the human and technical resources required to function effectively.<sup>615</sup>

Other sources further indicated that investigations carried out by state authorities are not effective.<sup>616</sup> Asociación LGTB Arcoíris added that the Public Ministry does not carry out appropriate measures for the effective investigation and punishment of crimes that are committed against sexual minorities.<sup>617</sup> According to the 2017 report by CATTRACHAS, 48 of the 225 cases involving the deaths of sexual minorities between 2008 and 2015 were prosecuted.<sup>618</sup> The rate of cases that went unsolved for those prosecuted between 2008 and 2015 is reportedly 80 percent.<sup>619</sup> The same report indicates that of the 29 cases involving the deaths of sexual

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<sup>606</sup> Meeting with Radio Progreso. 4 Apr. 2017; Meeting with CONADEH. 5 Apr. 2017; Meeting with Asociación LGTB Arcoíris. 6 Apr. 2017.

<sup>607</sup> Meeting with Radio Progreso. 4 Apr. 2017; Meeting with Dr. Ayestas. 7 Apr. 2017.

<sup>608</sup> Meeting with PLAN. 6 Apr. 2017.

<sup>609</sup> Meeting with Trans Cozumel Association. 6 Apr. 2017.

<sup>610</sup> Meeting with Asociación LGTB Arcoíris. 6 Apr. 2017.

<sup>611</sup> Meeting with Asociación LGTB Arcoíris. 6 Apr. 2017.

<sup>612</sup> Meeting with Radio Progreso. 4 Apr. 2017; Meeting with ERIC-SJ. 4 Apr. 2017.

<sup>613</sup> Correspondence from APUVIMEH. 1 Sept. 2017; Correspondence from Grupo Lésbico Bisexual LITOS. 1 Sept. 2017.

<sup>614</sup> Correspondence from Grupo Lésbico Bisexual LITOS. 1 Sept. 2017.

<sup>615</sup> Correspondence from APUVIMEH. 1 Sept. 2017.

<sup>616</sup> Meeting with Asociación Trans Cozumel. 6 Apr. 2017; Meeting with Asociación LGTB Arcoíris. 6 Apr. 2017.

<sup>617</sup> Meeting with Asociación LGTB Arcoíris. 6 Apr. 2017.

<sup>618</sup> CATTRACHAS. 2017, 18.

<sup>619</sup> CATTRACHAS. 2017, 18.

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minorities that occurred between 2016 and April 2017, 4 were prosecuted.<sup>620</sup> According to Asociación Colectivo Violeta, between 2009 and April 2017, there were 242 cases of sexual minorities who were murdered, 10 per cent of which were prosecuted.<sup>621</sup> Asociación Colectivo Violeta explained that the majority of these cases were dropped, because the state did not have enough capacity to investigate.<sup>622</sup>

## 4.2 Protection Measures

CONADEH indicated that there is a "large vacuum" in the area of protection measures.<sup>623</sup> Protection orders for sexual minorities experiencing violence do not exist.<sup>624</sup> Many leaders of LGBT organizations have been issued Precautionary Measures by the IACHR of the OAS, which were discussed in Chapter I.<sup>625</sup> Asociación LGTB Arcoíris indicated that the Precautionary Measures are not effective, especially when police authorities are the ones sanctioned to enforce these measures.<sup>626</sup>

## 5. Support Services

The mission learned that support services for sexual minorities are primarily provided by LGBT organizations. Asociación LGTB Arcoíris explained that it provides support services to adolescents who are victims of abuse or bullying and that LGBT organizations provide a safe space and support for youth.<sup>627</sup> The same source further explained that the capacity of LGBT organizations to provide LGBTI adolescents with psychosocial and psychological help and care is nevertheless limited and, in some cases, non-existent.<sup>628</sup> Asociación Trans Cozumel provides support services to transwomen, including adolescents involved in the sex trade industry, and works together with DINAF to assist at-risk/vulnerable adolescents.<sup>629</sup> PLAN indicated that it does not have programs especially dedicated to sexual minorities, but that the principles of non-exclusion and non-discrimination are upheld in their programs.<sup>630</sup> While the situation for intersex

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<sup>620</sup> CATTRACHAS. 2017, 18.

<sup>621</sup> Meeting with Asociación Colectivo Violeta. 6 Apr. 2017.

<sup>622</sup> Meeting with Asociación Colectivo Violeta. 6 Apr. 2017.

<sup>623</sup> Meeting with CONADEH. 5 Apr. 2017.

<sup>624</sup> Correspondence from APUVIMEH. 1 Sept. 2017; Correspondence from Grupo Lésbico Bisexual LITOS. 1 Sept. 2017.

<sup>625</sup> Correspondence from Grupo Lésbico Bisexual LITOS. 1 Sept. 2017. For more information about the Precautionary Measures of the IACHR, please see Section 2.3.3 of Chapter I.

<sup>626</sup> Meeting with Asociación LGTB Arcoíris. 6 Apr. 2017.

<sup>627</sup> Meeting with Asociación LGTB Arcoíris. 6 Apr. 2017.

<sup>628</sup> Meeting with Asociación LGTB Arcoíris. 6 Apr. 2017.

<sup>629</sup> Meeting with Asociación Trans Cozumel. 6 Apr. 2017.

<sup>630</sup> Meeting with PLAN. 6 Apr. 2017.

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persons was described as "very difficult,"<sup>631</sup> the mission learned that there are no organizations<sup>632</sup> or leaders<sup>633</sup> that are focused on intersex issues in Honduras.

## 5.1 Shelters

There are no state-run shelters specifically for sexual minorities fleeing violence carried out by gangs, family members or state authorities.<sup>634</sup> APUVIMEH is the only organization able to provide sexual minorities with a place to stay.<sup>635</sup> In regard to other LGBT organizations, the homes of the organization's leaders are used as a place of shelter.<sup>636</sup>

## 5.2 Helplines

There are no official helplines provided by the state for sexual minorities.<sup>637</sup> However, leaders and members of LGBT organizations respond to queries<sup>638</sup> and provide information on the rights of sexual minorities.<sup>639</sup>

## 6. Possibility of Relocation and Traceability of Sexual Minorities Fleeing Violence

The mission learned that, in an effort to escape violence, sexual minorities have fled internally or have sought to leave Honduras. According to Asociación LGTB Arcoíris, LGBT organizations have seen an increase in cases of forced internal displacement over the last nine years.<sup>640</sup> In many instances, sexual minorities who are internally displaced do not receive support.<sup>641</sup> There have also been cases where sexual minorities become internally displaced without having first sought assistance or information.<sup>642</sup> Casa Alianza provided the example of a gay boy and his family who were threatened by gangs.<sup>643</sup> The boy and his father fled the country without first seeking protection due to the lack of information about protection

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<sup>631</sup> Meeting with Asociación Kukulcán. 6 Apr. 2017.

<sup>632</sup> Meeting with Grupo Lésbico Bisexual LITOS. 6 Apr. 2017.

<sup>633</sup> Meeting with Asociación Trans Cozumel. 6 Apr. 2017.

<sup>634</sup> Correspondence from Grupo Lésbico Bisexual LITOS. 1 Sept. 2017; Correspondence from APUVIMEH. 1 Sept. 2017.

<sup>635</sup> Correspondence APUVIMEH. 1 Sept. 2017.

<sup>636</sup> Correspondence from Grupo Lésbico Bisexual LITOS. 1 Sept. 2017.

<sup>637</sup> Correspondence from APUVIMEH. 1 Sept. 2017; Correspondence from Grupo Lésbico Bisexual LITOS. 1 Sept. 2017.

<sup>638</sup> Correspondence from APUVIMEH. 1 Sept. 2017.

<sup>639</sup> Correspondence from Grupo Lésbico Bisexual LITOS. 1 Sept. 2017.

<sup>640</sup> Meeting with Asociación LGTB Arcoíris. 6 Apr. 2017.

<sup>641</sup> Correspondence APUVIMEH. 1 Sept. 2017.

<sup>642</sup> Correspondence APUVIMEH. 1 Sept. 2017.

<sup>643</sup> Meeting with Casa Alianza. 4 Apr. 2017.

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options available.<sup>644</sup> They were subsequently deported back to Honduras where they received assistance from a local NGO, which gave them information about seeking asylum abroad.<sup>645</sup> After contacting UNHCR in Mexico, the family was able to leave for Mexico.<sup>646</sup> According to Grupo Lésbico Bisexual LITOS, approximately two sexual minorities flee Honduras every week.<sup>647</sup>

Sources indicated that while it is possible for sexual minorities to relocate elsewhere in Honduras, it is unlikely that they are able to relocate to a secure location.<sup>648</sup> According to the Asociación Kukulcán, there are no safe neighbourhoods for the LGBTI community.<sup>649</sup> According to Asociación LGTB Arcoíris, there are three bars and one club for sexual minorities in Tegucigalpa.<sup>650</sup> However, APUVIMEH added that people in these spaces are harassed by state authorities.<sup>651</sup> Asociación Kukulcán explained that, even though there are bars and discos for sexual minorities, there have been fatalities and assassinations in these areas and as such, there are no true safe spaces.<sup>652</sup> The Directorate of Security, Prevention and Transportation of the Municipality of San Pedro Sula stated that the city of San Pedro Sula allows sexual minorities to express themselves freely.<sup>653</sup> The Directorate of Social Services of the Municipality of San Pedro Sula stated, however, that there are "risks" for sexual minorities in San Pedro Sula, "like in any other major city."<sup>654</sup>

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<sup>644</sup> Meeting with Casa Alianza. 4 Apr. 2017.

<sup>645</sup> Meeting with Casa Alianza. 4 Apr. 2017.

<sup>646</sup> Meeting with Casa Alianza. 4 Apr. 2017.

<sup>647</sup> Meeting with Grupo Lésbico Bisexual LITOS. 6 Apr. 2017.

<sup>648</sup> Correspondence from APUVIMEH. 1 Sept. 2017; Correspondence from Grupo Lésbico Bisexual LITOS. 1 Sept. 2017.

<sup>649</sup> Meeting with Asociación Kukulcán. 6 Apr. 2017.

<sup>650</sup> Meeting with Asociación LGTB Arcoíris. 6 Apr. 2017.

<sup>651</sup> Meeting with APUVIMEH. 6 Apr. 2017.

<sup>652</sup> Meeting with Asociación Kukulcán. 6 Apr. 2017.

<sup>653</sup> Meeting with San Pedro Sula. 3 Apr. 2017. Gerencia de Seguridad, Prevención y Transporte.

<sup>654</sup> Meeting with San Pedro Sula. 3 Apr. 2017. Gerencia de Apoyo a la Prestación de Servicios Sociales.

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## Notes on Interlocutors

### **Asociación Calidad de Vida, ACV (Quality of Life Association)**

ACV is a Tegucigalpa-based NGO and women's shelter that assists women and their children fleeing violence, including domestic violence. In addition, ACV provides services to persons with HIV/AIDS. The joint mission met with a representative in Tegucigalpa on 7 April 2017.

### **Asociación Colectivo Violeta (Violet Collective Association)**

Asociación Colectivo Violeta is an NGO based in Tegucigalpa that promotes human rights in order to reduce the stigma and discrimination against sexual minorities as well as improve their access to justice. The joint mission met with a representative in Tegucigalpa on 6 April 2017.

### **Asociación Kukulcán (Kukulcán Association)**

Asociación Kukulcán is an NGO based in Tegucigalpa that works to provide a better quality of life for sexual minorities in the Central District in the area of HIV prevention and human rights. The joint mission met with a representative in Tegucigalpa on 6 April 2017.

### **Asociación LGBT Arcoíris (Rainbow LGBT Association)**

Asociación LGBT Arcoíris is an NGO that raises awareness about the rights of sexual minorities in the cities of Comayagüela and Tegucigalpa, in addition to carrying out research on sexual minorities' issues in Honduras. The joint mission met with a representative in Tegucigalpa on 6 April 2017.

### **Asociación Para Una Vida Mejor de Personas Infectadas y Afectadas por el VIH/SIDA en Honduras, APUVIMEH (Association for a Better Life for People Infected with and Affected by HIV/AIDS in Honduras)**

APUVIMEH is an NGO that works with sexual minorities and those affected by HIV/AIDS in Honduras. The joint mission met with a representative in Tegucigalpa on 6 April 2017.

### **Asociación Trans Cozumel (Trans Cozumel Association)**

Asociación Trans Cozumel is an NGO based in Tegucigalpa that works to promote and defend the right of transvestites, transgender persons and transsexual persons. It also works to prevent sexually transmitted diseases and HIV/AIDS. The joint mission met with a representative in Tegucigalpa on 6 April 2017.

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### **Casa Alianza (Covenant House)**

Casa Alianza is an international NGO that provides assistance to vulnerable children, including those at risk of being recruited by gangs and homeless youth. In Tegucigalpa, Casa Alianza has two residential centers for youth, including the Crisis Centre and the Querubines Home. The joint mission met with representatives in San Pedro Sula on 4 April 2017 and visited the Crisis Centre in Tegucigalpa on 6 April 2017.

### **Centro de Desarrollo Humano, CDH (Centre for Human Development)**

CDH is a Tegucigalpa-based NGO focused on human development and deals with issues related to poverty in Honduras. CDH delivers violence prevention programs in conflict-affected neighbourhoods in both urban and rural areas. The joint mission met with a representative in Tegucigalpa on 5 April 2017.

### **Centro de Prevención, Tratamiento y Rehabilitación de Víctimas de la Tortura, CPTRT (Centre for the Prevention, Treatment and Rehabilitation for Victims of Torture)**

CPTRT is a Tegucigalpa-based human rights NGO that advocates for the defense of the rights of victims of torture and cruel, inhumane or degrading treatment. The joint mission met with a representative in Tegucigalpa on 5 April 2017.

### **Claudia Flores**

Claudia Flores is a lawyer and the Academic Head of Law and International Relations majors at the Central American Technical University (Universidad Tecnológica Centroamérica, UNITEC), a private institution of higher education, with seven campuses across Honduras, including in Tegucigalpa, San Pedro Sula and in La Ceiba. The joint mission met with Claudia Flores in Tegucigalpa on 7 April 2017. The information provided by Claudia Flores represents her personal opinion, not the position of UNITEC.

### **Comisionado Nacional de los Derechos Humanos, CONADEH (National Commissioner for Human Rights)**

CONADEH is a governmental institution that advocates for the respect and promotion of human dignity and human rights in the country. The joint mission met with representatives in San Pedro Sula on 4 April 2017 and with representatives at the Tegucigalpa office on 5 April 2017.

### **Dr. Ayestas**

Dr. Migdonia Ayestas is the Director of the National Violence Observatory (Observatorio Nacional de la Violencia) at the National Autonomous University of Honduras (Universidad Nacional Autónoma de Honduras, UNAH), which analyzes

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and publishes information on violence and fatalities in Honduras. The joint mission met with Dr. Ayestas in Tegucigalpa on 7 April 2017.

**Equipo de Reflexión, Investigación y Comunicación - Compañía de Jesús, ERIC-SJ (Critical Thinking, Research and Communication Team - Society of Jesus)**

ERIC-SJ is a Jesuit organization that carries out research and analyses on social justice issues, including on the situation of migrants. ERIC-SJ is the sister organization of Radio Progreso. The joint mission met with a representative of ERIC-SJ in San Pedro Sula on 4 April 2017.

**Grupo Lésbico Bisexual LITOS (LITOS Bisexual Lesbian Group)**

Grupo Lésbico Bisexual LITOS is an association representing the rights of lesbian and bisexual women in Honduras. The joint mission met with a representative in Tegucigalpa on 6 April 2017.

**Grupo Sociedad Civil, GSC (Civil Society Association)**

GSC is a civil society association representing eleven social sectors (including women, the afro and indigenous population, the working class, private businesses, small and medium-sized businesses, people with disabilities, seniors, youth and sexual minorities) to advance the promotion of citizens' participation, democracy, political dialogue, economic stability and equality. The joint mission met with a representative in Tegucigalpa on 7 April 2017.

**Movimiento Amplio Universitario, MAU (Ample University Movement)**

MAU is an association of several Honduran student movements that advocates for the right to education and participation in the drafting of policies that affect education and universities. The joint mission met with a representative in San Pedro Sula on 4 April 2017.

**San Pedro Sula - Dirección de Niñez, Mujer y Familia (San Pedro Sula - Department for Women, Children and Family)**

The Department for Children, Women and Family is the municipal agency of San Pedro Sula responsible for providing assistance and protection programs to women, children and families. The joint mission met with a representative in San Pedro Sula on 3 April 2017.

**San Pedro Sula - Gerencia de Apoyo a la Prestación de Servicios Sociales (San Pedro Sula - Directorate of Social Services)**

The Directorate of Social Services is the municipal agency of San Pedro Sula responsible for executing public policy through programs designed to protect

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women, children, families and vulnerable groups. The joint mission met with a representative in San Pedro Sula on 3 April 2017.

**San Pedro Sula - Gerencia de Prevención, Seguridad y Transporte (San Pedro Sula - Directorate of Prevention, Security and Transportation)**

The Directorate of Prevention, Security and Transportation is the municipal agency of San Pedro Sula responsible for policies and programs for the prevention of violence, citizen safety and transportation within San Pedro Sula. The joint mission met with a representative in San Pedro Sula on 3 April 2017.

**Norwegian Refugee Council, NRC**

NRC is an Oslo-based humanitarian organization that provides assistance to displaced people. NRC has two programs in Honduras that provide information and legal assistance to displaced people, as well as educational programs. The joint mission met with a representative in San Pedro Sula on 4 April 2017.

**Pastoral de Movilidad Humana, PMH (Human Mobility Pastoral)**

PMH is a faith-based organization under the Episcopal Conference of Guatemala that promotes the research, advocacy, and protection of the rights of migrants. The joint mission met with a representative in Tegucigalpa on 5 April 2017.

**Programa Nacional de Prevención, Rehabilitación y Reinserción Social, PLAN (National Program for Prevention, Rehabilitation and Social Reintegration)**

PLAN is a program created by the Office of the President to provide assistance in Tegucigalpa to at-risk youth and persons who were former gang members. The joint mission met with representatives from PLAN in Tegucigalpa on 6 April 2017.

**Radio Progreso**

Radio Progreso is an independent Jesuit radio station that carries out investigative journalism on issues related to, for example, migration, human rights, the environment and culture. Radio Progreso is the sister organization of ERIC-SJ. The joint mission met with three journalists of Radio Progreso in San Pedro Sula on 4 April 2017.

**Secretaría de Derechos Humanos, Justicia, Gobernación y Descentralización, SDHJGD (Ministry of Human Rights, Justice, Governance and Decentralization)**

SDHJGD coordinates the implementation of public policy, including on human rights, and works to promote citizenship participation and a culture of respect for human rights at state level. SDHJGD is responsible as well for the coordination of the Interinstitutional Commission for the Protection of Displaced People Due to Violence (Comisión Interinstitucional para la Protección de Personas Desplazadas

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por la Violencia). The joint mission met with representatives in Tegucigalpa on 5 April 2017.

### **World Vision**

World Vision, a Christian relief, development and advocacy organization, has several social projects in Honduran communities that address issues related to education, health, and violence prevention. The joint mission met with representatives in San Pedro Sula on 4 April 2017 and in Tegucigalpa on 6 April 2017.

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# Appendix 1 - Terms of Reference

## 1. Witnesses and victims of crime and corruption

- a. Current levels of corruption, including in the police, judiciary and government; anti-corruption efforts and their effectiveness.
- b. Current extent of individuals who report police corruption or witness a crime by a criminal gang especially with regard to drug-trafficking, kidnapping, extortion, and public sector malfeasance:
  - i. Statistics: national, state, and local;
  - ii. Legislative framework: national and state level.
- c. Government and police effectiveness in assisting individuals who witness police wrongdoing or a criminal activity:
  - i. Police protection measures; whether a special police unit exists to investigate these types of crimes; availability and effectiveness of protection at the national, state and local levels;
  - ii. Accessibility of the justice system: complaints procedure, whether protection for witnesses/whistleblowers is addressed; police response to complaints; judicial process for these types of complaints (e.g. are witness protection orders available and to what extent are they enforced);
  - iii. Whether special training exists for police and judiciary in dealing with witness protection cases;
  - iv. Whether police response to witnesses is measured or evaluated, including results;
  - v. Existence, scope and effectiveness of any witness protection programs.
- d. Ability of victims to seek relocation:
  - i. Ability to flee from aggressor without being found (e.g., the level of risk & socio-economic factors);
  - ii. Accessibility to databases to find a victim (e.g., school registries, etc.); what are the main national registries and identity cards that are issued by the government? Which authorities, and at what level, are able to access these registries? Level of security used to protect these databases; surveillance systems in place at the state and national levels;
  - iii. Level of communication among law enforcement agencies at the local, state, and federal levels;
  - iv. Known cases of victims being found by agents of persecution.

## 2. Gangs

- a. Main gangs and criminal organizations, including presence of Los Zetas.

- 
- b. Structure of main gangs
    - i. Hierarchical division of main gangs as a whole and as cliques; scope of communication between leadership and cliques, within cliques, within cities and between different cities/areas; how are orders transmitted and executed;
    - ii. The role of women in the maras;
    - iii. Number of cliques and members.
  - c. Recruitment
    - i. Methods of recruitment; have they changed after the *mano dura* policies? Target population (i.e. age, gender, social class, etc.);
    - ii. Initiation process and processes practiced for promotion within;
    - iii. Information on how to leave a gang; treatment of former gang members or people who try to leave; information about former gang members (also known as *calmados*); whether they are still active or collaborate with gangs.
  - d. Areas of operation
    - i. Territorial division of gangs and cliques; how are territorial divisions established (*rifa del barrio*);
    - ii. Conflicts and disputes between cliques and gangs for territorial presence; cooperation between gangs.
    - iii. Presence in rural areas;
    - iv. Proliferation of firearms.
  - e. National/transnational activities
    - i. Local criminal activities: kidnapping, extortion, homicides; statistics; profile of targets/victims;
    - ii. International activities: drug trafficking, contract killings; statistics; profile of targets/victims;
    - iii. Whether gangs can be considered transnational crime syndicates; relationship with drug cartels and other organized criminal organizations.
    - iv. Ability to flee from gangs without being found, including characteristics (gender, education, economic background etc.) of the victim; scope of their reach at the national and transnational levels; whether a victim's profile influences the likelihood of being found.
  - f. State efforts
    - i. Legislative framework;
    - ii. Anti-gang units: whether a special police unit exists to combat gangs and investigate crimes committed by them; information on effectiveness, training, and resources; instances of cooptation, infiltration, corruption or excessive use of force; whether their effectiveness is measured or evaluated; statistics on arrests.

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- iii. Accessibility of the justice system: complaints procedure; police response to complaints; judicial process for these types of complaints; statistics on charges, convictions, and jail terms;
  - iv. State protection programs: existence, scope and effectiveness of any witness protection program; whether the protection for victims, witnesses, and former gang members is addressed; accessibility to databases to find a victim; level of security used by authorities to protect these databases; known cases of victims being found.

### **3. Violence against Women**

- a. Prevalence of gender-based violence, including: domestic violence, sexual harassment and violence (including rape), femicide, disappearance, trafficking, and stalking:
  - i. Statistics: national, state-level, and local;
  - ii. Legislative framework; whether there have been any new developments nationally; or at the state-level.
- b. Effectiveness of the police and judiciary in addressing gender-based violence:
  - i. Police records; arrests and complaints; numbers of persons charged/arrested for committing gender-based crimes (as outlined in section a); numbers of those convicted; length of jail term (if found guilty); numbers of those released;
  - ii. Police protection measures; whether special police units exist to investigate these types of crimes; protection orders and enforcement;
  - iii. Accessibility of the justice system: Complaints procedure, police response to complaints; judicial process for these types of complaints (e.g. are protection orders available);
  - iv. Whether special training exists for police and judiciary in dealing with gender-based violence cases;
  - v. Whether police response to gender-based violence is measured or evaluated by government agencies.
- c. Status of emergency shelter system:
  - i. Number of government-run shelters in operation and the capacity of each of these shelters (e.g., number of beds per shelter, trained staff);
  - ii. Accessibility and length of stay allowed;
  - iii. Options available after individual leaves shelter; whether social services follows-up with victim.
- d. Ability of victims to seek relocation:
  - i. Ability to flee from aggressor without being found (e.g., the level of risk & socio-economic factors);

- 
- ii. Access to databases to find a victim (e.g., school registries, etc.); what are the main national registries and identity cards that are issued by the government? Which authorities, and at what level, are able to access these registries? Level of security used to protect these databases; surveillance systems in place at the national and state level;
  - iii. Known cases of victims being found by their ex-partners.
  - e. Women rights organizations and treatment of women human rights defenders.

#### **4. Sexual Orientation and Gender Identity**

- a. Treatment by society; current extent of homophobia, transphobia, discrimination, and harassment against members of the Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) community:
  - i. Statistics on homophobic and transphobic violence/hate crimes: national, state-level, and local;
  - ii. Incidents of homophobic and transphobic violence against LGBTI members (widespread, minimal, under-reported, etc.);
  - iii. Types of violations experienced by LGBTI members (e.g. insults, harassment, physical violence, homicide, and discrimination, including employment, housing and education);
  - iv. Legislative framework; whether there have been any new developments nationally; or at the state-level;
  - v. Access to social services.
- b. Police effectiveness in addressing wrongdoing/violence against LGBTI individuals:
  - i. Police records; arrests and complaints; numbers of those charged for committing homophobic and transphobic crimes (as outlined in section a); numbers of those convicted; length of jail term (if found guilty); numbers of those released (without conviction);
  - ii. Police protection measures; whether a special police unit exists to investigate these types of crimes;
  - iii. Access to the justice system: Complaints procedure, police response to complaints; judicial process for these types of complaints (e.g. length of procedures, protection orders available for victims, availability of bail for the accused);
  - iv. Whether special training of police and judiciary in dealing with LGBTI cases exists;
  - v. Whether police response to LGBTI violence is measured or evaluated.
- c. Ability of victims to seek relocation:

- 
- i. Ability to flee from aggressor without being found (e.g., the level of risk & socio-economic factors);
  - ii. Access to databases to find a victim (e.g., school registries, etc.); what are the main national registries and identity cards that are issued by the government? Which authorities and at what level are able to access these registries? Level of security used to protect these databases; surveillance systems in place at the national and state level;
  - iii. Known cases of victims being found.

## **5. Other Items**

- a. Availability of government programs for returned asylum seekers, including housing, health, education, and employment.
- b. Availability of fraudulent documents.

**THE GAZETTE**

**OFFICIAL GAZETTE OF THE REPUBLIC OF HONDURAS**

The first printing press arrived in Honduras in 1829, being deployed in Tegucigalpa, at the San Francisco Headquarters. The first document to be printed was a proclamation by General Morazán, dated 4 December 1829.

Subsequently, the first official gazette of the Government was printed, dated 25 May 1830, known today as the Official “Gazette”.

Year CXXXVII Tegucigalpa, Central District Municipality, Honduras, Central America

Friday, 15 May 2015

Issue 33,730

Section A

Legislative Power

Decree No. 34-2015

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The National Congress,

**Whereas:** The Constitution of the Republic, in Article 59, recognizes that “the human person is the central subject of society and the State. Every person has the obligation to respect and protect society. The dignity of

the human being is inviolable.” Likewise, it recognizes in Article 65 that “The right to live is inviolable” and to that same effect, Article 68 reads: “Every person has the right to be respected in their physical, psychological and moral integrity. Nobody shall be subjected to torture, nor cruel, inhumane or degrading punishment or treatment...”

**Whereas:** The Government of Honduras is a High Contracting Party of most international instruments of the Universal System of Human Rights and the Inter-American System of Human Rights and is therefore committed to recognizing, respecting, protecting, promoting and above all, guaranteeing the full enjoyment of the rights and freedoms therein recognized for every person, without any form of discrimination on the grounds of race, gender, language, religion, political views or national or social background, financial status, birth, sexual orientation, gender identity or any other consideration.

**Whereas:** Judicial officers perform an important task for the strengthening of the Rule of Law, judicial security and the institutions within the field of Justice, which must likewise be recognized.

**Whereas:** Defenders of human rights, journalists, social communicators and judicial officers have become a large group, occupying a vulnerable position, hence it is necessary to adopt national laws and policies which protect any person, group or organization which works to promote and defend human rights, based on the contents of the United Nations Declaration on Human Rights Defenders, which establishes: “...That Governments have the obligation to create the necessary conditions to be able to exercise the right to defend human rights, including journalism.”

**Whereas:** The vulnerable situation endured by human rights defenders, journalists, media workers and justice operators has been pointed out at the national and international level as a concern and as requiring immediate action on the part of the Government.

**Whereas:** The Secretariat of State, in the Offices of Human Rights, Justice, Governance and Decentralization, as the Institution that takes on the role of representing the Government regarding compliance with international commitments and obligations in the areas of Justice and Human Rights, has accepted the various recommendations made by the United Nations (UN), by means of its various bodies and agencies, as well as the Organization of American States (OAS) via the Inter-American Commission on Human Rights and Special Rapporteurships, with the purpose of creating conditions in order to avoid that the persons referred to in the previous paragraph continue to be exposed to the situation of risk that they have been living in for several years.

**Whereas:** The Government of Honduras appeared at a given time before the United Nations (UN) Human Rights Council to sit for the Universal Periodic Review (UPR), which it passed without any objection from any of the Member States of the United Nations (UN), where one hundred and twenty-eight (128) recommendations were issued, amongst which stands out the recommendation to adopt measures to overcome the risk endured by human rights defenders, journalists, media workers and justice operators, where “they voiced their concern regarding a series of obstacles which hinder the full execution of their work, amongst which stand out the risks of human rights defenders, the murder of journalists and other very serious acts of violence against those persons who disseminate information, ideas and opinions, and the general impunity in said cases.”

**Whereas:** The Government of Honduras is committed to implementing immediate measures for the efficient protection of human rights defenders, journalists, media workers and justice operators by means of passing a Law on the Protection of the aforementioned persons, which complies with the duty to guarantee rights on the part of the Government, assuming via the Secretariat of State, Offices of Human Rights, Justice, Governance and Decentralization, by means of the Directorate-General of Protection Mechanisms and Social Conflict Analysis, the commitment of the Government and the State in general, in order to guarantee the free and full exercise of the work of the people involved.

**Whereas:** This Law aims for the implementation of the following resolutions: 13/13 of the United Nations Human Rights Council, regarding the “Protection of Human Rights Defenders”, by means of which the Government of Honduras is urged to establish a coordination centre of the Human Rights Defenders within the Public Administration in order to determine concrete protection needs for Human Rights Defenders; 53/144 of the United Nations General Assembly, regarding the “Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms”; 62/152 of the United Nations General Assembly, which establishes the need to adopt bold and efficient measures to protect Human Rights Defenders; and Resolution 7/8 of the Human Rights Council regarding the “Mandate of the Special Rapporteur on the situation of human rights defenders,” amongst other important resolutions of the United Nations (UN), which the Government of Honduras accepts as a result of the follow-up to the Universal Periodic Review (UPR) mechanism of the Human Rights Council.

**Whereas:** In accordance with Article 205, Part 1) of the Constitution of the Republic, it is within the powers of the National Congress to create, decree, interpret, reform and revoke laws.

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Governmental Civic Centre

Therefore,

**It decrees**

The following:

**LAW ON THE PROTECTION OF HUMAN RIGHTS DEFENDERS, JOURNALISTS, MEDIA WORKERS AND JUSTICE OPERATORS**

**TITLE I**

**General Provisions**

**CHAPTER I**

**Nature, Objectives, Principles, Definitions and Scope of the Rights Accorded to Human Rights Defenders, Journalists, Media Workers and Justice Operators**

**Article 1.- The Right to Defend Human Rights.-** The Government recognizes the right of every person to promote and foster the promotion, protection and realization of human rights and fundamental freedoms, whether individually or collectively.

Every person, whether natural or legal, plays an important role in the strengthening of democracy, the promotion and advancement of society and institutions, as well as in the promotion of a culture of human rights.

**Article 2.- Nature and Purpose of the Law.-** This Law concerns public order and is of social interest and for general compliance throughout the Republic. Its purpose is to recognize, promote and protect the human rights and fundamental freedoms recognized and contained in the Constitution of the Republic and international law agreements, regarding every person, whether natural or legal, devoted to the promotion and defence of human rights, freedom of speech, and the jurisdictional workers subject to risk due to their activities.

**Article 3.- Principles of the Law.-** Implementation of this Law is based on the Constitution of the Republic, the international regulations on human rights and the following principles:

- 1) **Pro Persona:** Every regulation applicable to the functioning of the powers established in this Law shall be interpreted in accordance with the Constitution of the Republic and the international treaties regarding human rights signed and ratified by the Government of Honduras, encouraging at all times the most protection possible for the persons involved;
- 2) **Non-Restriction of Rights:** Laws or provisions set out by the Government or any other body are not applicable when they reduce, restrict or distort the exercise of the declarations, rights and guarantees established in the Constitution of the Republic;
- 3) **Good Faith:** The endeavours and resolutions derived from this Law are based on good faith;

- 4) **Efficiency:** The purpose of the protection or security measures is to prevent the manifestation of the risks or alleviate the effects of their possible realization;
- 5) **Suitability:** Protection measures must suit the situation of risk and aim to adapt to the specific conditions of the persons they protect;
- 6) **Coordination:** Protection measures must be decreed and implemented, ordered, systematized, coherent, efficient and standardized by the constituent institutions of the National System for the Protection of Persons who Defend Human Rights and other related authorities, for the preservation and protection of the rights to life, freedom, integrity and personal security of the persons involved;
- 7) **Concurrence:** The constituent institutions of the National System for the Protection of Persons who Defend Human Rights and other governmental authorities shall adopt the prevention and protection measures in accordance with their institutional, administrative and budgetary competencies and capacities, for the effective guarantee of the rights to life, freedom, integrity and security of the persons involved;
- 8) **Voluntariness:** Both the request of protection measures and the acceptance of said measures are voluntary;
- 9) **Exclusivity:** Measures must be exclusively aimed at those persons who are in a high-risk situation or that are directly linked due to the defence activities they perform;
- 10) **Complementarity:** Protection measures shall be implemented without prejudice to other measures of an assistance, integral or humanitarian nature established by other bodies;
- 11) **Prevention:** The Directorate-General of the Protection System and other competent government agencies have the permanent duty to establish efficient measures which avoid any risk that may target the persons involved;
- 12) **Temporality:** Protection measures shall be decreed and maintained for as long as the situation of risk lasts;
- 13) **Causality:** Protection measures are based on risk factors and on the condition, activity, position or profession of the persons involved;
- 14) **Proportionality:** The protection measures granted shall correspond to the circumstances of manner, time and place of the specific risk of each person involved;
- 15) **Confidentiality:** Information regarding the protection of the persons involved and their families shall be kept strictly secret;
- 16) **Equal Treatment, Non-Discrimination and Targeted Approach:** Protection measures shall be applied equally, without any discrimination based on any consideration and with a targeted approach from one person to another; and,
- 17) **Respect:** Any protection measure decreed shall be aimed at guaranteeing respect for the life and

dignity of the human being.

**Article 4.- Scope of Protected Rights.-** For the purposes of this Law, human rights defenders, journalists, media workers and justice operators, whether individually or collectively, have, among others, the following rights to:

- 1) Participate, individually or collectively, in peaceful activities against violations of human rights and fundamental liberties;
- 2) Establish non-governmental organizations, associations or groups, become members, participate in them and/or withdraw freely from said entities;
- 3) Efficient protection on the part of the Government, by means of the competent authorities, when protesting or opposing in a peaceful manner the acts or omissions attributable to the Government which may cause a violation of human rights and fundamental freedoms;
- 4) Report and demand the termination of violent acts performed by groups or people which may affect the enjoyment of human rights and fundamental freedoms;
- 5) Communicate with non-governmental and inter-governmental organizations in order to achieve their purposes;
- 6) Receive specialized attention from the various authorities of the Legislative Power, Judicial Power, Executive Power, Public Ministry and other competent authorities while conducting their activities, or performing actions to search, obtain, gather, receive and possess the necessary information for the execution of their tasks;
- 7) Freely disseminate, publish and issue opinions, information and ideas of any type, without any limitations, whether orally, in writing or in printable or artistic expression or through any other channel they may choose;
- 8) Study and discuss whether fundamental rights and freedoms are observed in actual practice, adopt and maintain an opinion in that regard and request the attention of the public by any means possible;
- 9) Have the opportunity to participate effectively in the government of their country and in the management of public matters;
- 10) Present before the various Authorities and other Institutions of the State observations, criticisms and proposals in order to improve its performance;
- 11) File reports or call for attention to any aspect of their work which may hamper or prevent the promotion, protection and enjoyment of human rights and fundamental freedoms;
- 12) Be protected and have access to efficient legal resources in the event that human rights and fundamental freedoms are violated;
- 13) File a claim or petition, in person or by means of a representative, before the competent, independent and impartial authorities, or any other authority established by the Law, so that said

claim or petition is quickly examined, and obtain from said authority an answer without any delay and in accordance with the timeframes established under this Law;

- 14) Attend public hearings, proceedings and trials in order to form an opinion regarding compliance with applicable national standards and international obligations and commitments, except for the reservations decreed in accordance with the Law;
- 15) Offer and lend professional legal assistance or any other type of pertinent counseling, support or assistance, to defend human rights and fundamental freedoms;
- 16) Demand the Government perform expeditious and impartial investigations where there may be reason to believe a violation of human rights or fundamental freedoms has been committed at any location within the national territory;
- 17) Request, receive and use, whether individually or collectively, resources with the express purpose of promoting and protecting, in a peaceful manner, human rights and fundamental freedoms; and,
- 18) Enjoy the other rights and freedoms which derive from the dignity of a human being.

**Article 5.- Definitions.-** For the purposes of this Law, the followings definitions shall apply:

- 1) **Human Rights Defender:** Any person that executes the right, whether individually or collectively, to promote or pursue the protection and enjoyment of human rights and fundamental freedoms within the framework of national and international law; amongst these are defenders of the environment and natural resources conservationists.
- 2) **Justice Operators:** Officers or employees who participate in the process of application or administration of the law such as policemen or policewomen, prosecutors of the Public Ministry, judges and magistrates of the Judicial Power and lawyers performing defence tasks in the exercise of their profession.
- 3) **Journalists, Media Workers, Photographers, Cameramen or Camerawomen and Graphic Reporters in Media:** Natural persons who perform tasks such as gather, generate, process, edit, comment, opine, disseminate, publish or provide information via any dissemination and communication method, which may be printed, radio-electronic, digital, in images or of any other type.
- 4) **Risk:** The probability of the occurrence of a danger or aggression that a person, group or community is exposed to as a direct consequence of exercising their activities or functions.
- 5) **Imminent Risk:** The existence of threats or aggressions which represent the imminent materialization of said threats or a new aggression which may seriously affect life, physical integrity or personal freedom.
- 6) **Risk Zone:** Area or location of the national territory where the person exposed to a situation of vulnerability resides, conducts his/her activity or performs his/her role.

- 7) **Aggressions:** The damage, threat, harassment or intimidation suffered by human rights defenders, journalists, media workers and justice operators due to their activity or position.
- 8) **Petitioner:** The natural person, group or community requesting the preventative measures, protection measures or urgent protection measures from the National System for the Protection of Human Rights Defenders.
- 9) **Person Involved:** The natural person, group or community to whom the preventative measures, protection measures or urgent protection measures to which this Law refers are granted.
- 10) **Protection Mechanisms:** The set of security actions or instruments developed/implemented by the National System for the Protection of Human Rights Defenders by itself or with the concurrence of various government agencies, with the objective of preventing and reducing the risks and protecting the lives, personal integrity and security of the persons described in this Law.
- 11) **Preventative Measures:** The set of actions adopted with the objective of reducing the risk factors.
- 12) **Reactive Measures:** The set of actions and security measures to address the risk and protect the right to life, personal integrity, personal freedom and safety of the person described within the framework of this Law.
- 13) **Urgent Protection Measures:** The set of actions and means to safeguard, immediately, the life, integrity and freedom of the person described and in some cases his/her assets.
- 14) **Psycho-social Measures:** The set of actions aimed at coping with the psychological and social impact of violence on human rights defenders, as well as on their families and the organizational spaces in which they as individuals operate.
- 15) **Measures aimed at Countering Impunity:** The set of actions aimed at guaranteeing the efficient investigation, processing and sanctioning of the persons responsible for the attacks on the people that are the subject of this Law.
- 16) **Assessment Study for Immediate Action:** The immediate analysis of the risk factors, in order to determine the situation and level of said factors and the urgent protection measures to safeguard the life, personal integrity, personal freedom and safety of the person potentially involved.
- 17) **Risk Assessment Study:** The process by which an analysis of the various risk factors is performed in order to determine the level at which the person involved or petitioner may be, which for this purpose may be moderate, serious or very serious.
- 18) **Ordinary Procedure:** The procedure by which the request is received, and preventative and protection measures are decreed and applied in favor of the persons described.
- 19) **Extraordinary Procedure:** The procedure by which urgent protection measures are decreed with the objective of preserving the life, the integrity and the freedom of the person described.

## CHAPTER II

### **Prevention in the Promotion and Protection of Human Rights**

**Article 6.- Duty of Special Protection of Human Rights Defenders.-** The Government has the obligation to respect the human rights of the defenders and to reasonably prevent the threats, harassment and aggressions which may be caused against them, regardless of whether these come from government or individual actors.

**Article 7.- Duty to Provide Cooperation.-** Every civil, police or military authority, as well as every person, has the obligation to provide information in an expeditious manner and provide all the cooperation required on the part of the various authorities in charge of compliance with this Law for achieving its objectives.

**Article 8.- Duty to Order the Necessary Measures for the Prevention of Violations of Human Rights.-** The Government has the primary duty, via its authorities, to prevent any act or omission constitutive of violations of human rights.

No public servant or employee, whether civil or military, is obliged to comply with illegal orders or orders which may involve the violation of human rights.

**Article 9.- Duty to order the Necessary Measures for the Promotion of Human Rights.-** The Government has the duty to promote the respect of human rights and fundamental freedoms of every person, creating the conditions for the empowerment and enforceability to enjoy fundamental rights and freedoms. Government officials have the duty to contribute to this end.

**Article 10.- Duty to Order the Necessary Measures for the Protection of Human Rights.-** The Government has the primary duty to order the necessary personal protection and security mechanisms, by means of and in coordination with the Directorate-General for the Protection System, in accordance with the risk assessment of the persons who are the object of this Law. To this effect, the other Government institutions, within the scope of their competencies, must provide the required cooperation for full compliance with the provisions of this Law.

**Article 11.- Duty to Order the Necessary Measures to Guarantee Human Rights.-** It is the duty of the Government to order the appropriate statutory, judicial, administrative or other measures to guarantee every person subject to its jurisdiction the respect and protection of their civil, political, economic, social and cultural rights. Amongst said measures are the following:

- 1) Publication and widespread dissemination of the laws, national regulations and basic international instruments regarding human rights; and,
- 2) Access, in equal conditions, to the official information derived from international obligations and commitments regarding human rights, including periodical reports by the Government to the institutions established by international agreements and treaties within which the Government of Honduras may be a party.

The Government must guarantee and support the development of other independent national institutions whose aim is to promote and protect human rights and fundamental freedoms throughout

the national territory.

### CHAPTER III

#### **The National System for the Promotion of Human Rights and the Prevention of Violations Thereof**

**Article 12.- Prevention Tools.-** The following are considered helpful tools for the promotion and preservation of human rights:

- 1) Support institutional functionality with agencies devoted to the promotion and preservation of human rights;
- 2) Reinforce the Rule of Law and accountability mechanisms;
- 3) Foster equal and inclusive social structures;
- 4) Establish structures for operations and respond to early warning signs;
- 5) Ratify international instruments regarding human rights; and,
- 6) Impart a culture of respect for human rights.

**Article 13.- Prevention Actors.-** Actors taking part in the prevention are:

- 1) The Government;
- 2) Civil Society;
- 3) National institutions regarding human rights;
- 4) Investigators; and,
- 5) Mass Media.

**Article 14.- Prevention of Acts.-** It is the priority of the Government to establish prevention and education mechanisms and measures. Amongst the measures which contribute to this objective are: the promotion of the respect for human rights, the identification of risks by means of mapping and a general monitoring and surveillance system. Likewise, the establishment of an early warning system, which must compulsorily be accompanied by an immediate response structure.

As a foundation for prevention and education, analysis groups must be created with regard to the resolutions of the United Nations High Commissioner for Human Rights and the United Nations General Assembly for the purpose of establishing actions and programs regarding the new human rights preservation strategies.

**Article 15.- New Actors.-** In response to the resolutions of the United Nations (UN) High Commissioner for Human Rights, the institutionalization and creation of new actors must be brought about in order to establish actions which systematically may configure prevention plans so that the number of attacks on human rights are reduced under this perspective.

This new strategy entails the creation of reports and statistics, which relate the establishment of new institutions devoted to safeguarding to the rates of established incidents detrimental to human rights.

Civil society organizations and the tailoring of government policies shall be a part of promotion and preservation in the management of human rights.

**Article 16.- Performance Measurement.-** The Government shall establish Mechanisms which expedite the measurement of performance and the fight against impunity as a source for detecting or locating risk areas and identifying whether indeed there has been a reduction in the violation of human rights.

**Article 17.- Early Warning.-** The early warning is the instrument with which the information related to population vulnerability and risk situations is verified and analyzed in a technical fashion and alerts the competent authorities in charge of protection, in order to provide a timely and integral attention to the persons involved; it likewise alerts of risk situations and promotes the integral violation prevention of the Government with the objective of protecting and guaranteeing the fundamental rights of the population in a timely manner.

**Article 18.- Duty to Promote Education on Human Rights at All Levels.-** The Government, by means of the Secretariat of State in the Office of Education and the Secretariat of State in the Offices of Human Rights, Justice, Governance and Decentralization, as well as by means of the Higher Education Council, shall promote the teaching of human rights and of a culture of peace at all levels of the national education system, whether elementary, middle or high. Likewise, education on human rights shall be included in training programs for the civil servants of the Government.

## SECTION II

### **The National System for the Protection of Human Rights Defenders, Journalists, Media Workers and Justice Operators**

#### CHAPTER I

##### **Law Enforcement Institutions**

**Article 19.- National System for the Protection of Human Rights Defenders.-** The National System for the Protection of Human Rights Defenders is hereby created, whose role is to establish the basis for coordination with other public institutions and with society in general, for efficient protection within the framework of the public policies and national plan regarding Human Rights. It includes the set of actions, regulations and resources for the application of this Law.

The National System for the Protection of Human Rights Defenders is comprised of:

- 1) The Secretariat of State in the Offices of Human Rights, Justice, Governance and Decentralization, as the governing body;
- 2) The National Council for the Protection of Human Rights Defenders, Journalists, Media Workers and Justice Operators;

- 3) The Directorate-General of the System for the Protection;
- 4) The Technical Committee of the Mechanism for the Protection; and,
- 5) The Human Rights Department of the Secretariat of State in the Security Office.

For the operation of the National System for the Protection of Human Rights Defenders, the Secretariat of State in the Office of Finances shall implement the corresponding budgetary provisions.

## CHAPTER II

### National Council for the Protection of Human Rights Defenders

**Article 20.- National Council for the Protection of Human Rights Defenders.-** The National Council for the Protection of Human Rights Defenders is hereby created, as a deliberative and advisory institution for the National System for the Protection of Human Rights Defenders.

**Article 21.- Composition of the National Council for the Protection of Human Rights Defenders.-** The National Council for the Protection of Human Rights Defenders is made up of a representative in charge and his/her deputy from the following government institutions and civil society organizations:

- 1) The Secretariat of State in the Offices of Human Rights, Justice, Governance and Decentralization;
- 2) The Secretariat of State in the Office of Foreign Affairs and International Cooperation;
- 3) The Public Ministry;
- 4) The Judicial Power;
- 5) The Attorney-General of the Republic;
- 6) The Secretariat of State in the Security Office;
- 7) The Secretariat of State in the National Defence Office;
- 8) A representative of the College of Lawyers of Honduras (CAH);
- 9) A representative of the College of Journalists of Honduras (CPH);
- 10) A representative of the Press Association of Honduras (APH);
- 11) A representative of the Associations of Judges and Magistrates;
- 12) A representative of the Association of Prosecutors; and,
- 13) Two (2) representatives of human rights associations of civil society accredited by the National Commissioner on Human Rights.

Likewise, the National Commissioner on Human Rights and the representative in Honduras of the United Nations Office of the High Commissioner for Human Rights, as guests and observers with voice but without

vote.

The representatives of the Government institutions at the National Council for the Protection of Human Rights Defenders shall be the head of the respective institution, and likewise, the person acting as deputy shall hold the position of Under-Secretary of State, Deputy Prosecutor General, Deputy Attorney General of the Republic, as the case may be.

The representatives of human rights defence associations shall be elected in public assembly convened by the Secretariat of State in the Offices of Human Rights, Justice, Governance and Decentralization; and, with the support of the Office of the National Commissioner for Human Rights and the United Nations Office of the High Commissioner for Human Rights.

The mandate of the members of the National Council for the Protection of Human Rights Defenders shall be for a period of two (2) years and they may only be re-elected for one additional term. Except for the representatives of the Government institutions, who shall maintain said status for the duration of their position.

**Article 22.- Coordination of the National Council for the Protection of Human Rights Defenders.-**

The coordination of the National Council for the Protection of Human Rights Defenders shall be performed alternately in each term. Each coordinator shall serve in his/her position for one (1) year and shall be elected in accordance to its internal regulations.

**Article 23.- Profile of the Counsellors of Human Rights Associations.-** Counsellors of human rights associations and professional associations shall have the following profile:

- 1) Be Honduran;
- 2) Be older than twenty-one (21) years;
- 3) Be recognized as an honorable person; and,
- 4) Have experience in or knowledge of the defence and promotion of human rights and preferably regarding the analysis or evaluation of risks and protection of persons.

**Article 24.- Attributions of the National Council for the Protection of Human Rights Defenders.-** The attributions of the National Council for the Protection of Human Rights Defenders are as follows:

- 1) Act as the consultative, deliberative and advisory agency, in order to guarantee the rights established by this Law;
- 2) Perform monitoring, control, follow-up and evaluation tasks with regard to the National Protection System for Human Rights Defenders;
- 3) Advise Government institutions in compliance with public policies which guarantee the work of human rights defenders;
- 4) Promote or direct the design and implementation of instructions, public policies and programs to guarantee and fulfill the rights contained in this Law;

- 5) Present proposals and recommendations in order to improve the implementation of the National Protection System for Human Rights Defenders;
- 6) Analyze, debate, write and disseminate yearly reports with regard to the national context, the situation of human rights defenders, journalists, media workers and justice operators in the country, making the corresponding recommendations to the authorities in charge of taking the necessary measures;
- 7) Propose the creation of new preventative, protective and urgent measures which guarantee the life, integrity, freedom, security and exercise of the defence work of the persons involved;
- 8) Issue recommendations with regard to the special protocols which may be adopted within the framework of this law and/or recommend the adoption of new protocols;
- 9) Advise on the profile of the security personnel which may be assigned to protect the persons involved;
- 10) Issue recommendations for the annual report on the activities of the Directorate-General of the Protection System;
- 11) Participate in national or international events in order to exchange experiences and information regarding matters related to the application of this Law;
- 12) Draft and approve its own internal regulations; and,
- 13) Any other necessary task for the fulfillment of its purposes.

**Article 25.- Meetings of the National Council for the Protection of Human Rights Defenders.-** The National Council for the Protection of Human Rights Defenders shall meet in ordinary session once a month, convened by the Coordination of the Council, and quorum shall be achieved with the attendance of half plus one of its members.

There may be an extraordinary session with the attendance of one third (1/3) of its members.

The Directorate-General of the Protection System shall act as the Executive Secretariat of the Council and as its technical facilitator.

**Article 26.- Resolutions of the National Council for the Protection of Human Rights Defenders.-** Once there is quorum in the National Council for the Protection of Human Rights Defenders, it shall adopt its decisions with the simple majority vote of those present and in the event of a tie, the Coordination of the Council has a casting vote.

**Article 27.- Ad Honorem Provision.-** The members of the National Council for the Protection of Human Rights Defenders perform their services with an eminently *ad honorem* character.

### CHAPTER III

#### Directorate-General of the Protection System

**Article 28.- Directorate-General of the Protection System**

The Directorate-General of the Protection System is part of the organic structure of the Secretariat of State in the Offices of Human Rights, Justice, Governance and Decentralization, being the executive branch of the National System for the Protection of Human Rights Defenders.

**Article 29.- Attributions of the Directorate-General of the Protection System.-** The attributions of the Directorate-General of the Protection System are as follows:

- 1) Receive all requests for protection and process them in accordance with this Law;
- 2) Request the implementation of the Protection Plans for the persons involved and monitor that they are duly executed;
- 3) Process *ex officio* the application of security measures when any person who is the subject of this Law faces a risk situation which calls for urgent measures;
- 4) Issue, in coordination with other Government institutions and the active participation of civil society, measures for preventing harm to the persons involved;
- 5) Coordinate with Government institutions, civil society and other institutions which may be considered pertinent, any matters in regard to compliance with the protection measures and plans;
- 6) Request and provide permanent follow-up to the provisional measures of the Inter-American Court of Human Rights, the precautionary measures of the Inter-American Commission on Human Rights and the corresponding security measures decreed by the jurisdictional bodies of the State, respectively;
- 7) Present before the National Council for the Protection of Human Rights Defenders biannual reports regarding the general level of efficiency of the measures adopted and the actions conducted;
- 8) Draft the required Operational Protocols for the efficient application of this Law;
- 9) Provide support to the persons requesting or receiving protection measures regarding the procedures, complaints or claims for the investigation of the source of the risk which he/she is facing;
- 10) Serve as Executive Secretariat of the National Council for the Protection of Human Rights Defenders;
- 11) Monitor at the national level claims regarding the violation of human rights of the persons involved, with the objective of identifying aggression patterns and making risk maps for the adoption of preventative measures;
- 12) Be informed of the recourses against decisions adopted by the Technical Committee of the Protection Mechanism, in accordance with the administrative procedure and this Law; and,
- 13) Any others which may be necessary for the effective fulfillment of its mandate.

**Article 30.- Facilitation of the National Council for the Protection of Human Rights Defenders.-** In its role as Executive Secretary of the National Council for the Protection of Human Rights Defenders, the

Directorate-General of Protection shall:

- 1) Convene the calls for the ordinary and extraordinary sessions of the National Council for the Protection of Human Rights Defenders; and,
- 2) Widely disseminate among the people the function of the Protection Mechanism.

## **CHAPTER IV**

### **Technical Committee for the Protection Mechanism**

**Article 31.- Creation of the Technical Committee for the Protection Mechanism.-** The Technical Committee for the Protection Mechanism of the Directorate-General of the Protection System in charge of making judgments on risk analysis, deliberations and decisions regarding protection requests filed with the Directorate-General is hereby created.

The Technical Committee is comprised of the Director-general of the Protection System, who also acts as the Chair, and a representative of the Attorney-General of the Republic, the Prosecutor's Office for Human Rights and the Human Rights Department of the Secretariat of State in the Security Office. The Technical Committee shall be advised by experts in risk analysis.

In the event of a tied vote in the decision making, the Director-General of the Protection System has a casting vote.

The members of the Technical Committee are obliged to maintain the full confidentiality of any information related to the procedure of protection and case analysis. Failing which, the person not complying with confidentiality shall be suspended from his/her position in the Technical Committee, and another person from the institution he/she represents must be appointed.

**Article 32.- Attributions of the Technical Committee for the Protection Mechanism.-** The Technical Committee for the Protection Mechanism has the following attributions:

- 1) Perform the risk analysis of the persons requesting protection;
- 2) Issue the expert opinion with the suggested protection measures for the Directorate-General of the Protection System to proceed with their implementation by itself or in coordination with other applicable institutions;
- 3) Order, modify, suspend and/or cancel the protection measures which it may timely grant to the persons concerned;
- 4) Dictate new protection and prevention measures, whether urgent or ordinary, to guarantee the life, integrity, freedom and security of persons in a risk situation;
- 5) Perform any immediate action assessment study which may be required;
- 6) Immediately inform the Directorate-general for the Protection System on urgent measures which must be issued to the Secretariat of State in the Security Office;

- 7) Make, evaluate and update every six (6) months the risk analysis of the person involved; and,
- 8) Any other attribute that may contribute to the proper performance of its functions.

**Article 33.- Risk Assessment.-** The risk analysis and the immediate reaction shall be performed in conformity with the best methodologies, best practices and international standards contained in the approved protocols, which shall take into account:

- 1) The risk level and scope of the persons involved;
- 2) The ideal Protection Measures in order to minimize the risk identified; and,
- 3) The immediacy and expeditiousness in the adoption of protection measures.

## CHAPTER V

### **Intervention of the Secretariat of the State in the Security Office in the implementation of protection measures**

**Article 34.- The Role of the Human Rights Department of the Secretariat of State in the Security Office.-** In the event that the protection measures decreed shall be implemented, whether fully or partially, by the Secretariat of State in the Security Office, said measures must be referred to its Human Rights Department, which shall work as a technical body specialized in the implementation of the measures which may be referred to it by the Directorate-General of the Protection System.

**Article 35.- Attributions of the Human Rights Department of the Secretariat of State in the Security office within the Framework of this Law.-** The Human Rights Department of the Secretariat of State in the Security Office, besides the attributions it already holds, shall have the following:

- 1) Implement the protection measures involving the police issued by the Technical Committee for the Protection Mechanism in the terms established in the respective protocols;
- 2) Coordinate with the police directorates and headquarters, who shall give a preferential treatment to the implementation of the measures ordered;
- 3) Appoint the number of agents in charge of giving personal protection in accordance with the measures decreed;
- 4) Recommend the procedure for the selection, admittance, training and professionalization of the security personnel assigned to the protection of people, in accordance with the National Council for the Protection of Human Rights Defenders;
- 5) Present before the Head of the Secretariat of State in the Security Office the draft budget which may be required for the efficient compliance with its responsibilities established under this Law, in each fiscal year;
- 6) Evaluate and inform periodically the National Council for the Protection of Human Rights Defenders of the level of compliance of protection measures involving the police;

- 7) Draft its internal regulations and protocols for the implementation of protection measures involving the police; and,
- 8) Any other attribution which may derive from the application of this Law.

### TITLE III

#### Protection Measures

#### CHAPTER I

##### Measures Adopted in Accordance with the Risk Analysis

**Article 36.- Purpose and Nature of the Protection Measures.-** The preventative protection measures, whether ordinary or urgent, which may be issued, have the purpose of deterring and minimizing the reported risk, for which reason they shall be immediately communicated to the competent authority.

Said measures are individual or collective, timely, efficient and temporary, in accordance with the best methodologies, best practices and international standards. They shall, moreover, be applicable to those persons determined by the Risk Assessment Study and be analyzed, determined, implemented and evaluated by mutual agreement with the persons receiving protection.

As much as possible, protection measures shall not restrict the everyday activities of the persons involved, nor imply undesired monitoring of or intrusions into their professional or personal life.

**Article 37.- Adoption of Protection Measures.-** The Directorate-General of the Protection System, in accordance with the binding judgment issued by the Technical Committee of the Protection Mechanism, shall adopt and order compliance with the protection measures recommended by the latter. The adoption of the measures shall be based on the risk analysis and the context in which the threat may take place, and the fact that said threat is linked to the activity performed by the person receiving protection.

**Article 38.- Establishment of the Protection Measures.-** The type, scope and characteristics of the protection measures which the Technical Committee of the Protection Mechanism may adopt shall be formulated under the respective Protocols which, in compliance with this law, shall be created by the Secretariat of State in the Offices of Human Rights, Justice, Governance and Decentralization via the Directorate-General of the Protection System, taking into account the recommendations by the National Council for the Protection of Human Rights Defenders.

The Protocols adopted shall take into consideration the existing differences within the protected groups, such as gender, age, ethnicity, socio-economic status, sexual orientation and gender identity, urban and rural geographic differences, as well as any other condition or situation which should be treated in a differentiated manner.

**Article 39.- Duration of the Protection Measures.-** The Technical Committee of the Protection Mechanism shall determine the duration of the protection measures in accordance with the risk analysis previously conducted.

**Article 40.- Review of the Protection Measures.-** Every six (6) months, the Technical Committee of the Protection Mechanism shall conduct a new analysis, with the objective of measuring the risk level of the persons receiving protection and, if necessary, adapt the measures issued. Notwithstanding the aforesaid, the Directorate-General of the Protection System may request *ex officio* or upon the request of the person involved a review of the protection measures implemented.

When a review of the aforesaid protection measures is requested by the Directorate-General of the Protection System, the latter shall do so in writing and present the reasons for said request. When the review is presented by the person concerned, his/her direct family members or the organization representing him/her, this shall likewise be done in writing, specifying whether the request is for the measures to be extended, altered or revoked, as applicable.

Regardless of the Resolution adopted by the Technical Committee of the Protection Mechanism, this shall be notified by the Directorate-General of the Protection System to the person involved or the corresponding authority, for the relevant purposes.

## CHAPTER II

### Procedure to Receive, Adopt and Implement Protection Measures

**Article 41.- Procedure to Receive Protection Measures.-** Any person, whether natural or legal, who benefits from this Law may likewise request the intended protection from the Directorate-General of the Protection System free of charge.

This request is presented in person, without the need of a power of attorney nor any other formality, orally or in writing, via any means of communication, at times or days inside or outside the hours of operation. When the person requesting protection may be impeded due to serious/exceptional causes, the request may be presented on his/her behalf by family members, third parties, an organization representing him/her or any authority that may be aware of his/her risk situation. In any event, the request shall be formalized in writing as soon as possible.

**Article 42.- Locations Without Offices of the Directorate-General of the Protection System.-** In those locations where there may not be offices of the Directorate-General of the Protection System or in situations of emergency or at holidays or times outside the hours of operation, and there is a need to adopt urgent protection measures, said measures may be adopted by the Secretariat of State in the Security Office via the Preventative Police or, failing this, the competent authority for security matters. The aforesaid is without prejudice to referring the dossier within a period of twenty-four (24) hours to the Directorate-General of the Protection System so that the latter proceeds with the procedure established in this Law and the corresponding regulatory legislation.

The Secretariat of State in the Security Office, via the Human Rights Department and in coordination with the Directorate-General of the Protection System, shall create the respective protocols for said urgent responses.

## CHAPTER III

### **Ordinary and Extraordinary Processing of the Protection Measures**

**Article 43.- Receipt of Requests.-** Once the request for protection measures is received, the Directorate-General of the Protection System shall review the following items in order to initiate the proceedings:

- 1) That the person requesting protection or the person for whom protection is requested is amongst the sector of people to which this Law offers protection;
- 2) That there is consent on the part of the potential person to protect, except if there are serious and/or exceptional grounds;
- 3) That there is a causal link between the risk situation and his/her activity as a human rights defender, or as a worker in the case of journalists, media workers and justice operators; and,
- 4) That there is evidence of the risk situation.

**Article 44.- Processing the Request.-** In the event that the requirements previously listed are met, the Directorate-General of the Protection System shall issue a Resolution, without any further delay, determining whether said request should be processed ordinarily or extraordinarily, depending on whether an imminent risk exists or not.

**Article 45.- Extraordinary Processing.-** When there are facts to determine the imminent risk, that is, the existence of threats or aggressions of immediate fulfillment, within the following twenty-four (24) to seventy-two (72) hours which could seriously affect the life, physical integrity or personal freedom of the requesting person, the Directorate-General of the Protection System shall urgently order in favor of the requesting person and issue the pertinent instructions to the Secretariat of State in the Security Office, for said measures to be implemented within a timeframe of no more than eight (8) hours following the receipt of the Resolution decreeing the respective measure.

For the implementation of the urgent measures, it is necessary to have the consent of the person to be protected, which may be given in person, by telephone or any other channel of communication, and the Directorate-General of the Protection System shall keep a written record of said consent. When the authority implementing the measures has contact with the person to be protected, it shall obtain the consent in writing, unless this is impossible due to serious and/or exceptional grounds. In this event, consent may be granted by his/her spouse, partner, daughter, son or any family member within the fourth degree of kinship and second of affinity.

The validity of the urgent measure shall be maintained until the Technical Committee of the Protection Mechanism determines its modification or cancellation after conducting a risk analysis, which must be made within one (1) or two (2) subsequent weeks.

**Article 46.- Ordinary Processing of the Request for Protection Measures.-** The Directorate-General of the Protection System shall inform the members of the Technical Committee of the Protection Mechanism of the cases to be processed ordinarily and the latter shall meet weekly in order to conduct the respective assessment of the risk in each case.

**Article 47.- Risk Analysis.-** The Technical Committee of the Protection Mechanism, with the information at

its disposal, shall determine the risk situation based on the threats, vulnerabilities and capabilities of the person involved.

If the information or documentation initially given were insufficient to issue a risk analysis, the Directorate-General of the Protection System shall request the presence of the possible involved person and/or his/her family members or the organization representing him/her, or request further information.

While the requested additional information is being obtained, the Directorate-General of the Protection System may request the Technical Committee of the Protection Mechanism to issue interim measures, which shall serve to protect the person while the final measures are being determined.

In accordance with the respective Protocol, the Technical Committee of the Protection Mechanism shall make a risk assessment in each case in order to determine the level, whether moderate, serious or very serious, and determine the necessary protection measures. In all cases, the requesting person or his/her representative shall be heard, with a view to reaching an agreement on the measures to be adopted.

Risk analysis in the Ordinary Processing shall be conducted by the Technical Committee of the Protection Mechanism in a period of between two (2) to four (4) weeks.

**Article 48.- Implementation of Protection Measures.-** The implementation of protection measures ordered by the Technical Committee of the Protection Mechanism shall be implemented by the Directorate-General of the Protection System within a period of no more than forty-eight (48) hours following the receipt of the Resolution decreeing the respective measure.

The Directorate-General of the Protection System, depending on the type of protection measures decreed, shall coordinate with the pertinent public authorities, who are obliged to provide the necessary institutional resources, as well as those additional ones which may be provided by the Directorate-General of the Protection System.

**Article 49.- Communication and Assessment of the Protection Measures.-** The Technical Committee of the Protection Mechanism shall:

- 1) Immediately communicate the Resolution granted by the Directorate-General of the Protection System to the institution or organization which may have referred the case, to the person requesting protection and/or receiving the Protection Measure;
- 2) Ensure the informed consent of the beneficiary(ies), which may be granted in person, by telephone or by any other communication channel, always keeping a written record unless doing so is impossible due to serious and/or exceptional grounds. In that event, consent may be granted by his/her spouse, partner, daughter, son or any other family member within the fourth degree of kinship and second of affinity;
- 3) Communicate the Resolution granted by the Directorate-General of the Protection System to the authorities, who shall execute the protection measures within a period no longer than eight (8) hours in extraordinary cases and no longer than forty-eight (48) hours in ordinary cases; and,
- 4) Follow up on the implementation of the measures granted and determine their level of compliance

and efficiency and order the corrective measures which may be deemed necessary.

**Article 50.- *Ex officio*.**- In accordance with the respective Protocols, the Technical Committee of the Protection Mechanism may decree *ex officio* protection measures which are preventive, reactive and urgent with a view to guarantee the life and the integrity of human rights defenders, journalists, social communicators and judicial officers, when the risk situation is a causal consequence of their work as rights defenders and upholders of the Law.

**Article 51.- Referral to the Prosecution Authorities.**- In the event that the Technical Committee of the Protection Mechanism becomes aware of an alleged commission of a crime, it shall direct the requesting and/or involved person to make a legal report of said facts before the corresponding Prosecutor's Office. The aforesaid without prejudice to the obligation on the part of the Directorate-General of the Protection System to communicate officially with the competent authorities within a period of twenty-four (24) hours.

**Article 52.- Implementation of Precautionary and Provisional Measures of the Inter-American Human Rights System.**- The compliance with the precautionary and provisional measures of the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights respectively is the competence of the National System for the Protection of Human Rights Defenders, which shall coordinate with the Attorney-General of the Republic as the representative of the State before the Inter-American System for the Protection of Human Rights the receipt and processing of said measures.

When the respective notification is received, the Attorney-General of the Republic shall immediately transfer to the Directorate-General of the Protection System the mandate issued by the Inter-American Commission on Human Rights or the Inter-American Court of Human Rights, with the objective to implement it in the timeframes, channels and manner determined by the latter.

The Technical Committee of the Protection Mechanism shall perform an additional risk analysis with the objective of determining whether the protection measures ordered by said bodies are sufficient to prevent irreparable damage to their rights, ensuring at all times the informed consent of the persons involved, as well as their family members or the organization representing them.

Neither the Directorate-General of the Protection System nor the Technical Committee of the Protection System may suspend, revoke, or in any other manner reduce the protection granted by the precautionary or provisional measures of the Inter-American Commission on Human Rights or the Inter-American Court of Human Rights, respectively.

**Article 53.- Obligation of Government Bodies, Institutions and Agencies to Cooperate.**- The three (3) Powers of the State and other institutions are obliged to facilitate, with a preferential and urgent character, the National System for the Protection of Human Rights Defenders, with the objective of complying with this Law, as well as with the decisions of the bodies of the Inter-American System for the Protection of Human Rights.

## CHAPTER IV

### Filing of Appeals against the Resolutions

**Article 54.- Presentation of objections to the decisions of the Technical Committee of the Protection Mechanism.-** Any person requesting or receiving protection who may not agree with the decisions of the Technical Committee of the Protection Mechanism has the right to challenge said decision before the Directorate-General of the National Protection System.

The appeals filed shall be resolved in a preferential and urgent manner, always based on the *pro persona* principle, within a period of twenty-four (24) hours, through the procedure established by the Law on Administrative Procedures.

**Article 55.- Request for New Facts.-** In the event that the final resolution determines not to approve the request, the requesting party shall have the right to file a new request for protection in the event that there is additional information or the appearance of new circumstances.

## CHAPTER V

### Sanctions

**Article 56.- Responsibility of Public Servants and Employees.-** Resolutions and recommendations issued within the framework of this Law are mandatory.

Public servants who due to omission or negligence may prevent the application of the protection measures in order to guarantee the life, integrity and security of the people subject to this Law, shall be committing the crime of violating the duties of public servants and others which may be applicable depending on the case, proceedings which shall be initiated *ex officio* by the Attorney-General's Office. This without prejudice to the corresponding civil and administrative responsibilities.

**Article 57.- Referral to the Attorney-General's Office.-** The Secretariat of State in the Offices of Human Rights, Justice, Governance and Decentralization, by means of the Directorate-General of the Protection System, shall refer *ex officio* and immediately to the Attorney-General's office the claim in those cases in which there is evidence of non-compliance with the obligations arising from this Law on the part of public servants and employees and any civilian or military authority within the scope of this Law, for the purpose of proceeding to file the corresponding legal action.

## SECTION IV

### Technical and Financial Assistance

## CHAPTER I

### Cooperation Agreements

**Article 58.- Cooperation Agreements.-** The Secretariat of State in the Offices of Human Rights, Justice, Governance and Decentralization, via the Directorate-General of the Protection System, must sign cooperation agreements for the purpose of achieving the objective of guaranteeing the life, integrity, freedom and security of human rights defenders, journalists, media workers and justice operators.

It may sign said agreements with national and international humanitarian organizations and institutions and

with other countries, following the corresponding legal channels which may provide resources, technical assistance and even asylum or refuge to safeguard the life and physical and psychological integrity of whoever may need it.

**Article 59.- Objectives of the Cooperation Agreements.-** Cooperation agreements have, among others, the following objectives:

- 1) Technical and financial assistance to the Secretaries of State and government institutions involved in the enforcement of this Law;
- 2) Technical and financial assistance to civil society organizations engaged in the matters covered by this Law;
- 3) Strengthening of the capacities of the staff at the Directorate-General of the Protection System and the Technical Committee of the Protection Mechanism to be applied in their various working areas;
- 4) Strengthening of the Secretariat of State in the Security Office with regard to human rights defence;
- 5) Reciprocal collaboration and assistance with public and private institutions;
- 6) Promotion, study, analysis, investigation and development of strategies, actions, systems and methodologies which integrate best practices in prevention and protection;
- 7) Academic research, promoting legislation and necessary legislative reforms in order to improve the situation of human rights defenders, journalists, social communicators and judicial officers, as well as groups in a vulnerable situation; and,
- 8) Any other that the parties may agree on for the enforcement of this Law.

## CHAPTER II

### Transparency and Access to Information

**Article 60.- Access to Public Information.-** Access to and the dissemination of information related to this Law shall be in compliance with the provisions of the Law on Transparency and Access to Public Information.

The resolutions by means of which the Directorate-General of the Protection System may grant preventative measures, protection measures and urgent protection measures are considered classified information, therefore the applicable procedure must be followed.

**Article 61.- Presentation of Reports.-** Any information regarding this Law with respect to individual cases shall not be included in public reports. Special and annual reports, to which this Law makes reference based on the subject matter, shall be general in nature.

## TITLE V

### Final and Temporary Provisions

**Article 62.- Drafting of Regulations and Protocols of the Law.-** Within a period of three (3) months as of the date of entry into force of this Law, the Secretariat of State in the Offices of Human Rights, Justice, Governance and Decentralization, and the National Commission on Human Rights as an advisory body, shall issue the respective regulations and protocols for its implementation.

Within that same period, the Department of Human Rights of the Secretariat of State in the Security Office shall draft the protocols pertaining to its specific functions established under this Law.

**Article 63.- Call for Election of the Members of the National Council for the Protection of Human Rights Defenders.-** The Secretariat of State in the Offices of Human Rights, Justice, Governance and Decentralization shall convene, within a timeframe not exceeding thirty (30) days as of the publication of this Law, the constituent sectors of the National Council for the Protection of Human Rights defenders, with the objective of holding the general assemblies in order to elect their respective main and substitute representatives. Likewise, this authority shall require the remaining institutions to accredit their respective representatives.

**Article 64.- Protection Measures for Justice Operators.-** The institutions of the judicial sector shall make modifications to their own budgets in order to include the item of protection measures for their officers.

With the objective of guaranteeing the independence of justice operators, the Judicial Power and the Attorney-General's Office shall progressively organize a protection mechanism for judges, magistrates, public attorneys and prosecutors, in accordance with the principles, risk analysis and standards established by this law.

The Directorate-General of the Protection System shall collaborate with the institutions in the judicial sector so that the latter may formulate their budgetary allotments in an efficient and realistic manner with respect to the financial situation and context of the country.

**Article 65.- Budget of the National Protection System.-** For effective compliance with this Law, the Secretariat of State in the Finance office is instructed to allocate the adequate and necessary financial resources from the General Budget of the Republic. Likewise, it shall allocate complementary budget items.

Likewise, the financing for the National System for the Protection of Human Rights Defenders is comprised of the following resources and assets:

- 1) Contributions and subsidies from institutions;
- 2) Donations, estates and bequests, as well as national and international cooperation by legal means, by natural or legal persons, whether private or public, which shall be accounted for by means of a special report in accordance with the regulations and procedures governed by the High Court of Auditors and the institution or person granting the cooperation;
- 3) Those granted by special laws; and,
- 4) Others that may be obtained by other means.

**Article 66.- Creation of a Protection Fund.-** The Special Fund for the Protection of Human Rights

Defenders, Journalists, Media Workers and Justice Operators is hereby created, which shall be immediately funded with the resources available under the Population Security Fund once this Law comes into force. The description and implementation of said fund shall be subject to a special regulation.

**Article 67.- Continuity in the Operability of the National Council for the Protection of Human Rights Defenders.-** In order to guarantee the continuity of the processes developed by the National Council for the Protection of Human Rights Defenders, two (2) representatives of Human Rights organizations of the First Council established shall be kept in their positions and only those remaining shall be replaced.

**Article 68.- The College of Judges.-** The representation in the National Council for the Protection of Human Rights Defenders by the College of Judges and Magistrates is understood to be conferred to the College of Judges and Magistrates of Honduras as well as the Association of Judges for Democracy, who shall rotate the main and substitute roles for the time that they remain on the Council.

**Article 69.- Validity.-** This Decree shall come into force as of its publication in the Official Gazette.

Given in the City of Tegucigalpa, municipality of the Central District, at the Hall of Sessions of the National Congress, on the sixteenth day of the month of April of the year two thousand and fifteen.

**Mauricio Oliva Herrera**

PRESIDENT

**Mario Alonso Pérez López**

SECRETARY

**Román Villeda Aguilar**

SECRETARY

To the Executive Power.

Therefore: To be executed.

Tegucigalpa, municipality of the Central District, May 14, 2015.

**Juan Orlando Hernández Alvarado**

President of the Republic

The Secretary of State in the Offices of Human Rights, Justice, Governance and Decentralization.

**Rigoberto Chang Castillo**

## LAW AGAINST DOMESTIC VIOLENCE WITH ITS AMENDMENTS

### INTRODUCTION

The **Domestic Violence Act** was enacted in September 1997 and entered into force in February 1998, three months after its publication in *La Gazette* [Official Gazette].

This publication of the **Law Against Domestic Violence** includes the amendments approved by the National Congress on 1 September 2005, which entered into force on the day of their publication in the Official Gazette: 11 March 2006.

Although the proposed amendments were the result of years of work and consensus by the *Interinstitutional Commission for Monitoring the Implementation of the Law Against Domestic Violence*, the pressure exerted by certain sectors forced their approval when in-depth discussion and agreement was still required with the National Congress deputies on some aspects that, in the course of the discussion, were amended from the original bill. Thus, the amendments were approved in haste within one political year, a few months before general elections were held in the country.

Under these conditions, some obvious transcription errors were also made and were reproduced literally for publication in the Official Gazette. In this publication, those errors are indicated by means of footnotes, with the official text preserved.

In the Official Gazette publication, moreover, chapter titles were deleted, which means that in the amended edition of the Law Against Domestic Violence, they do not appear and only the articles are considered.

The Law was almost totally amended as established in Article 1 of Decree No. 250-2005: "Amending the LAW AGAINST DOMESTIC VIOLENCE contained in Decree No. 132-97 of 11 September 1997 and published in the Official Gazette on November 15<sup>th</sup> of that same year, in its Articles 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22 and 23; Articles 20-A and 20-B are further added ..."

The amendments introduced significant progress in the Law, including the sanction of the act motivating the reporting of domestic violence, the introduction of coordination and monitoring mechanisms, increased length of penalties and other measures whose due application will depend on the will of the State institutions vested with the responsibility to contribute to preventing, punishing and eradicating violence against women.

### DECREE No. 132-97

**Official Gazette No. 28, 414 of 15 November 1997**

#### **THE NATIONAL CONGRESS:**

**CONSIDERING:** That the Constitution of the Republic states the following in Article 59: "The human person is the highest purpose of society and the State. All are required to respect and protect it. The dignity of the human being is inviolable."

**CONSIDERING:** That Article 2 (e) of the Convention on the Elimination of All Forms of Discrimination against Women establishes the commitment of States Parties to adopt all appropriate measures to eliminate discrimination against women practised by any person, organization or company.

**CONSIDERING:** That the preamble to the Convention for the Prevention, Punishment and Eradication of

Violence against Women recognizes that violence against women is an offence against human dignity and a manifestation of the historically unequal relationships of power between women and men.

**CONSIDERING:** That, in accordance with Article 60 of the Constitution of the Republic, all humans are born free and with equal rights; there are no privileged classes and all Hondurans are equal before the law; however, since we are shown in practice that there is a marked and constant breach of the spirit of the same, it has become necessary to prevent, punish and eradicate domestic violence against women.

**CONSIDERING:** That the State of Honduras is a signatory to the two most important conventions on the subject, and that it has become imperative to amend the current legal order to adjust it to the spirit of the same, thereby ensuring actual equality between men and women in the exercise of their rights.

**CONSIDERING:** That according to Article 111 of the Constitution of the Republic, family, marriage, motherhood and childhood are protected by the State; therefore, the latter is obliged to adopt flexible and efficient measures that prevent, combat and eradicate violence against women.

**DECREE No. 250-2005**

**Official Gazette No. 30,950**

**11 March 2006**

**THE NATIONAL CONGRESS,**

**CONSIDERING:** That it is the responsibility of the State to guarantee life, safety and other rights of all persons listed in the Constitution of the Republic, international treaties and laws.

**CONSIDERING:** That, in accordance with Article 111 of the Constitution of the Republic, family, marriage, motherhood and childhood are protected by the State.

**CONSIDERING:** That the Law Against Domestic Violence was issued by means of Decree No. 132-97 dated 11 September 1997 and published on November 15<sup>th</sup> of the same year.

**CONSIDERING:** That it is necessary to amend the Law Against Domestic Violence in order to eliminate certain loopholes that have been identified in that legal text, and to thus obtain a comprehensive law that will help eradicate domestic violence in our country.

THEREFORE DECREES THE FOLLOWING:

**LAW AGAINST  
DOMESTIC VIOLENCE**

**Article 1.**

The provisions of this Law are public policy, of inescapable observance and protect the physical, psychological, patrimonial and sexual integrity of women against any form of violence on the part of their spouse, former spouse, common-law partner, former common-law partner or any partner in a couple-type relationship in which there is or has or has not been, cohabitation; the foregoing relationships include past or current dating relationships. The rights enshrined herein are universal.

All acts of discrimination and domestic violence against women shall be punished in accordance with this law,

the Inter-American Convention for the Prevention, Punishment and Eradication of Violence against Women, the International Convention on the Elimination of All Forms of Discrimination against Women, and such others as may be signed in the future on this subject.

**Article 2.**

The State shall adopt as public policy such measures as are necessary to prevent, punish and permanently eradicate domestic violence against women. It shall therefore promote and implement, where appropriate, the commitments and policy guidelines outlined below:

1. Promote and implement interrelated and global measures that include both short- and long-term solutions that contribute to the prevention and eradication of violence against women;
2. Provide immediate assistance and protection to women who suffer domestic violence, promoting the creation of new public services and strengthening existing ones;
3. Develop, with direct participation by local or municipal governments, governmental actions plans, which must be agreed upon with the various Honduran civil society organizations, welcoming their initiatives and recovering their experiences. These plans must be periodically reviewed and evaluated; and,
4. Such others as are necessary to guarantee full enjoyment of the rights and freedoms of women.

**Article 3.**

The principles of public action, freedom from cost, speed, secrecy, orality and diligence shall be observed.

**Article 4.**

The filing of a complaint and imposition of the safety measures referred to in this Law shall not require representation by a legal professional; however, in the subsequent course of the proceedings, the services of such professionals shall in fact be necessary.

To guarantee freedom from cost for the complainant, institutions—whether governed by public or private law—that carry out programs to legally assist women affected by domestic violence, such as the Public Prosecutor's Office, legal professionals from the Family Counselling Offices or any State institution or non-governmental organization, must attend to and provide timely legal services to complainants 24 hours a day and 365 days a year.

Prosecutors, by appearing in court, shall act on behalf of the affected party.

For the purposes of this Law, all witnesses are fit to make a statement, and proceedings may take place 24 hours a day and 365 days a year.

The procedure to be applied shall be oral.

**Article 5.**

The following meanings shall apply for the purposes of this Law:

1. **Domestic Violence:** All patterns of conduct associated with a situation of unequal exercise of power that is manifested in the use of physical, psychological, patrimonial and/or economic and sexual violence; and
2. **Unequal Exercise of Power:** All behaviour aimed at affecting, compromising or limiting free development of the personality of the woman for reasons of gender.

The following are considered forms of domestic violence:

- 1. Physical Violence:** Any action or omission that damages or impairs the bodily integrity of a woman that is not criminalized in the Criminal Code;
- 2. Psychological Violence:** Any action or omission whose purpose is to degrade or control the actions, behaviours, beliefs and decisions of a woman through intimidation, manipulation, direct or indirect threat, humiliation, isolation, confinement or any other conduct or omission involving injury to her integral development or self-determination, or that causes emotional harm to a woman, lowers her self-esteem, impairs or disturbs her healthful development, through the exercise of acts of discrediting a woman, contempt for personal value or dignity, humiliating or debasing treatment, monitoring, isolation, insults, blackmail, degradation, ridicule, manipulation, exploitation or threats to take children away, among others;
- 3. Sexual Violence:** Any conduct involving threat or intimidation that affects the integrity or sexual self-determination of women, such as unwanted sexual relations, denial of contraception and protection, among others, provided that such actions are not classified as a crime in the Criminal Code; and,
- 4. Patrimonial and/or Economic Violence:** Any act or omission involving the loss, transformation, negation, removal, destruction or retention of objects, personal documents, movable property and/or real estate, securities, rights or economic resources used to meet the needs of a woman or family group, including impairment, reduction or negation affecting a woman's income or non-compliance with support obligations.

**Article 6.** Mechanisms of protection have been established to protect or restore the rights of women who suffer from domestic violence. These consist of: security measures, preventive measures, and precautionary measures.

- 1. Security Measures:** Those aimed at preventing and stopping violence in any of its forms and preventing further harm. They are imposed by the competent judge, the Public Ministry (*Ministerio Público*) or the Secretariat of Security (*Secretaría de Estado en el Despacho de Seguridad*) through the National Police, ex officio, when charges are laid.

The security measures are as follows:

- a. Temporarily separate the accused from the household that he shares with the complainant. The accused shall take with him only his personal effects and tools of work and/or study. The safety, health and life of the victim shall take priority over the right of the accused to occupy the home.
- b. Prohibit the accused from going to the home, place of work or other locations habitually frequented by the complainant, provided that this measure does not interfere with the accused's employment or study relationships. In order to guarantee the execution of this measure, when the accused's place of work is located in the home that is shared with the complainant, the judge shall impose measures appropriate to the particular situation, while still ensuring the full security of the complainant.
- c. Detain for a period of no more than twenty-four (24) hours the accused if apprehended in *flagrante delicto*.
- d. Prohibit the accused from carrying out acts of intimidation or disturbance against the woman, against any member of the family group or persons related to the complainant.

- e. Immediately confiscate temporarily any weapons in the possession of the accused. The judge hearing the case may order such a measure at any time. In all cases the arms seized shall be forwarded to the competent Court. and will be handed over to:
- e.1. the accused, once the measure imposed has expired and been duly complied with, if the weapon in question is not a prohibited weapon and it is legally possessed. If the non-prohibited weapon does not have a valid registration, it shall be forwarded immediately to the Departmental Headquarters of the Preventive Police. The mere possession of a prohibited weapon, ammunition or explosive or a prohibited object is grounds for it to be seized and sent to the Public Ministry.
- e.2. to the supervisor or employer of the accused where the weapon in question is a service weapon used by the accused in the performance of his work. The supervisor or employer shall confirm its legitimate possession and take responsibility for compliance with the measures ordered by the judge, so as to ensure that the accused does not have said weapons in his possession outside of his daily work.
- Weapons that have been seized and not reclaimed once the order has expired shall be sent to the evidence warehouse of the Public Ministry.
- f. The Secretariat of Security may revoke, suspend or cancel permits to carry firearms when they are used in acts of domestic violence.
- g. Reintegrate back into the home the woman who has had to leave the home for reasons of personal safety or the safety of the family group, and arrange for return of goods belonging to her and to the household. In this case the measure set out in clause a) above shall be imposed immediately unless the complainant is opposed thereto.
- h. Enter or raid the home without the need for any [judicial] proceedings in case of an offence in *flagrante delicto* or by court order in the event that the accused fails to comply with the measure established in clause a) above. In *flagrante delicto* means to arrest the person at the moment of committing the offence in order to prevent further harm.
- i. When the woman is obliged for reasons of safety to leave the home she shares with the accused, she can take with her some goods to ensure the well-being of herself and the family group.
- j. The institutions that have been informed of the charges shall send the affected woman to a secure home.

The State, through the National Women's Institute (*Instituto Nacional de la Mujer* (INAM)), the Secretariat of Justice (*Secretaría de Estado en los Despachos de Gobernación y Justicia*) and municipal administrations, undertake to establish temporary shelters and houses of refuge in order to provide immediate protection to women affected by domestic violence and their dependent children.

The judges, the Public Ministry and the Police shall inform the corresponding police station or precinct about the measures taken so that they may provide immediate care to the affected woman.

In cases where security measures are imposed by the Public Ministry or the National Police, these institutions shall submit the proceedings to the competent court within the 24 hours following.

2. **Preventive Measures:** These measures are aimed at preventing a repetition of the domestic violence through re-education of the accused and strengthening the self-esteem of the woman. These measures are as follows:
- a. Order the compulsory attendance of the accused at re-education services provided by the closest Family Counselling Agency (*Consejería de Familia*) trained in gender perspective, or any natural or legal person trained in this type of counselling and authorized by the Secretariat of Health (*Secretaría de Estado en el Despacho de Salud*).
  - b. Order the referral of the woman and, where appropriate, her immediate family, to a Family Counselling Agency or other agency as described in the preceding clause.

The Family Counselling Agency or person authorized to provide this type of service shall report monthly on the provision of the service and shall provide an expert opinion to the court that ordered the measure concerning behavioural changes. Failure of the accused to attend two sessions, without duly proven reasons of unforeseeable circumstances or force majeure, shall be counted as contempt of court.

When the foregoing measures are ordered, the employer shall be required to give the employee leave in order that he or she may comply strictly with the orders imposed and decreed by the competent court, without prejudice of any kind to the employee's work situation.

3. **Precautionary Measures:** These measures seek to ensure the accused's ability to fulfil family responsibilities and will be imposed only by the competent court or tribunal in cases that are submitted to it either directly or by referral, and may consist of one or more of the following:
- a. Establish a provisional support payment, the amount of which shall correspond to the needs of the recipient. In establishing the amount of the payment, the court shall take into account not only the formal revenues of the accused but also those inferred on the basis of his lifestyle, in accordance with the provisions of the Family Code (*Código de Familia*). These support payments shall be remitted in advance and be paid in daily, weekly, biweekly or monthly instalments as appropriate to the court ordering the measure or any other location as long as the performance is ensured. In the event of failure to comply with this measure, before imposing the corresponding penalty, the accused shall be given a deadline of 24 hours to pay or to remit to the judge the support payments owed. Depending on the case, a temporary embargo will be imposed.
  - b. Establish temporary foster care for the minor children of the woman concerned, which may also be awarded to third parties at the request of the mother. Where appropriate a special regime of visits by the father may also be established.
  - c. Temporarily arrogate the use and enjoyment of the family home and household of the woman. In order to ensure compliance with this measure, both members of the couple shall be prohibited from entering into contracts or actions concerning any real property acquired during the relationship of the couple, even where these have been registered in the name of one of them and their ownership is duly accredited. The competent court shall send an urgent communication or notice to the Register of Real and Mercantile Property<sup>1</sup>, [and] to the corresponding public or private agency such as: employers' associations, co-operatives, municipal administrations or corporations, PROLOTE (Lot Legalization Program), FONAPROVI (National Fund for Production and Housing), INJUPEMP (Pension Institute for Public Employees), IMPREMA (Teachers' Pension Fund), or others, so that in no more than 48 hours the precautionary measure imposed by the court may be strictly complied

with. In these cases, entries in the Property Register shall be exempt from any type of tax.

Contracts or actions concerning movable goods are prohibited, as is their removal from the shared residence to any other place. Excluded from this last provision is the woman who, for her own good and at her request, is the one to leave the shared residence; in this case she may take with her some goods to ensure her well-being and that of the family group. The judge accompanied by the clerk of the court shall make an inventory of said goods, both at the time of issuing the order and at the time of its suspension.

The precautionary measures may be imposed without prejudice to the right of the complainant to take actions to guarantee permanently the family responsibility of the accused.

The mechanisms of protection are not subject to appeal.

These mechanisms are temporary in nature. Their duration shall be not less than two months and not more than six months. The preventive measures shall have a duration of two months for women and three months for men, but may be extended in accordance with the diagnostic report issued by the family counsellor. The competent court, on its own initiative or at the request of the complainant, may extend one or more of the security and precautionary measures for a period of two months and only once, if it deems it advisable to do so.

The judge may at any time modify the mechanisms of protection imposed.

**Article 7.** The aggressor who, pursuant to this law, commits acts of domestic violence without causing damages defined as offences in the Penal Code (*Código Penal*), shall be penalized as follows:

1. Community service for a period of one to three months, if the complaint is upheld.
2. Community service for a period of one to three months in case of failure to comply with one or more of the mechanisms of protection ordered, without prejudice to any penalty which may be imposed for the offence of contempt of court.

The community service shall consist of a profession, function or work activity different from that ordinarily performed by the accused and shall be equivalent to two hours per day, which may be during business or non-business hours. Hours may be accumulated and served during non-business hours of the respective week, as long as the nature of the community service permits.

To ensure that the provisions of the preceding paragraph are complied with, the competent court shall remit to the corresponding Municipal Administration the list of persons subject to such penalties within the first five days of each month. The Municipal Administration shall also report on the attendance and fulfilment of the penalty imposed on the accused within the same period. The Family Counselling Agencies or any other public institution where the accused is complying with measures or performing community service shall be under the same reporting obligations. The complainant may inform the competent court or the execution judge about failure to comply with any mechanism of protection imposed on the accused.

In addition to the foregoing, failure to complete the penalty imposed shall be punishable under Article 346 of the Penal Code referring to the offence of contempt of court. Proceedings will be lodged immediately with the Public Ministry.

The accused who commits acts of violence against property or economic violence, within the meaning of this Law, shall make restitution for costs and repair damages caused to the victim. This compensation includes, but is not limited to, compensation for moving costs, costs of repairs to property, legal costs, medical costs, costs of psychiatric or psychological care, counselling, advice, professional fees of all kinds, lodging, shelter and other similar costs.

**Article 8.** The aggressor who commits further acts of violence after having complied with the mechanisms of protection and once a final sentence has been ordered, will be subject to security measures in accordance with Article 6(1) of the present Law; the case will be forwarded to the Public Ministry for the appropriate actions under criminal law.

**Article 9.** When the woman is the active subject of the domestic violence within the meaning of this law, either the competent courts or the Public Ministry or the Secretariat of Security, under the best criterion, may impose the measures set out in clauses b), d) and e) of Article 6(1), provided that this does not prejudice the studies or the work of the [female] accused and subject to ratification or modification by the competent court.

The other security measures may be imposed on the [female] accused solely by the competent courts, provided that it has been proven that the aggression in question was not a response to aggression suffered by the woman at the hands of the alleged victim of the attack. The judge may seek specialized advice in this regard if necessary.

**Article 10.** If it is established that the domestic violence committed by the woman is a response to aggression suffered but not reported by the woman of her own will, that is to say the failure to lay charges was not the result of coercion, fear or other restriction, the competent judge shall apply the security measures enumerated at c), d) and e) of Article 6(1) of this Law to both members of the couple.

In this case, the security measures imposed may be extended only once without such extension having to be requested by one or both members of the couple as a result of the specialized risk diagnostic by the specialized<sup>2</sup> responsible for the case.

If domestic violence persists from both parties, the competent judge, pursuant to the Law, shall, if both partners live under the same roof, impose a temporary separation from the shared home of one of the members of the couple, preferably the man, to prevent the cohabitation degenerating into harm of increasing seriousness. The duration of this measure shall not exceed six months, during which time both parties shall come to an agreement on the desirability of maintaining the relationship. This agreement shall be communicated jointly to the judge who imposed the measure.

**Article 11.**

Whosoever complies<sup>3</sup> with one or more of the security measures imposed shall be punished as provided for in Article 7 of this Law.

**Article 12.**

Monitoring and control of the implementation of protection mechanisms, extension of measures and sanctions imposed by the Courts, shall be the responsibility of an Enforcement Judge, who shall ensure full compliance with the resolutions and also impose the appropriate sanctions in case of non-compliance with the protection mechanisms. In places where there is no Enforcement Judge, this responsibility shall rest with the judge who is hearing the complaint.

The judge hearing a complaint that is declared admissible shall impose the appropriate sanction according to Article 7, paragraph 1 hereof.

These officials shall be responsible for the referral of proceedings to the Public Ministry in case of breach of the sanctions imposed and/or where a crime is constituted.

**Article 13.**

The special jurisdiction of domestic violence is to be created, which shall be aware of and shall implement the provisions of this Law, and which shall operate through the specialized courts and tribunals in various regions of the country according to specific requirements.

When the specialized courts and tribunals are created, their application will be the responsibility of the Family Courts, the Departmental or Sectional Courts of First Instance and the Magistrates' Courts. Where applicable, the respective Courts of Appeal shall hear appeals.

**Article 14.**

In accordance with Article 6 above, both the Public Ministry and the Secretariat of State for Security must impose the security measures and refer the case to the appropriate court within twenty-four (24) hours of receiving it.

Appropriate levels of coordination must be established between the competent court, the Secretariat of State for Security and the Public Ministry to ensure that service is provided twenty-four (24) hours a day.

**Article 15.**

Non-governmental organizations and the National Commissioner for Human Rights must submit cases of which they become aware within the same period stipulated in the preceding article, to the competent Court in keeping with Article 11 or, in its absence, to the Public Ministry or Secretariat of State for Security. Those organizations may suggest the imposition of protective mechanisms that are deemed necessary.

**Article 16.**

A complaint of domestic violence may be submitted by:

1. The woman directly affected;
2. Any household member;
3. Any official, public employee or professional who, for reasons of his/her duties, is in contact with the woman directly affected or with members of her family group;
4. State institutions and non-governmental organizations that defend the fundamental rights of women and that in general address family matters and human rights; and
5. Any person who is aware of the case.

The complaint shall be presented in verbal or written form.

**Article 17.**

The following are obliged to report and record acts of domestic violence against women of which they become aware during the exercise of their activities: doctors, pharmacists, dentists, dental or medical students, nurses, paramedics, birth attendants, other persons involved in the exercise of psychological<sup>4</sup> professions, or health-related trades or practices.

**Article 18.**

The accused must be notified, preferably in person, of any security measures that are handed down.

These notifications shall be made by the Court Clerk or Receiver, who shall read the ruling in full to the accused,

and who shall provide the latter at that time, where requested, with a literal copy of the ruling, signed by the notifier. Both acts must be indicated in the proceedings, as well as the location, date and time of the notification.

The notification shall be made at the home or workplace of the accused, as indicated by the complainant. If personal notification of the accused cannot be done at the home address, it shall be deemed delivered when presented to anyone over fourteen (14) years of age, or when posted on the door of the house, if there is nobody home, or if there is a refusal to accept it. Such proceedings shall be recorded in the records and shall be signed by the notifier and by the person who receives the document, if applicable.

This notification shall serve as a summons for the accused, informing him/her of the date on which the hearing is to be held in the court hearing the complaint; in addition, the person in question must be informed that he/she may, if desired, attend the hearing accompanied by a legal professional.

Notifications of accused persons shall engender no costs for the complainant.

**Article 19.**

The competent court shall schedule a hearing within the next twenty-four (24) hours for the ratification or modification of security measures and the imposition of precautionary and preventive measures. No extension of this period will be granted. Judges hearing other cases must give priority to allegations of domestic violence. The hearing shall be presided over personally by the judge hearing the case.

The hearing will be held with the complainant and the accused in attendance. At this hearing, the parties shall express what they will in that order.

When the facts are disputed, the relevant proof shall be admitted and examined within that same hearing; where the dispute is not resolved, the proceedings shall be suspended and continued within the next two (2) working days. No extension of that deadline will be granted. All witnesses are fit to give statements according to the terms of Article 4, paragraph two, of this Law.

Notwithstanding the foregoing, the hearing shall be deemed validly held if only the complainant is in attendance, under the presumption that the accused accepts the facts and the protective mechanisms to be imposed on him.

In the event that the accused fails to appear at the hearing, all protective mechanisms deemed applicable shall be imposed, and final sentencing shall take place. In this case, police support will be required to enforce the appearance of the accused at a subsequent hearing, which shall be held at the time he is brought before the court by the National Police. This hearing will be held for the sole purpose of making him aware of the protective mechanisms imposed and of the final sentence handed down at the hearing that was held with only the complainant in attendance.

No hearing will be held with only the accused in attendance.

If the complainant fails to appear at the hearing indicated by the Court, the Judge may order that within a period not exceeding one (1) month, the necessary investigative measures be carried out to determine the reasons for her failure to appear. If the complaint is deemed abandoned, and once six (6) months have transpired since the last proceedings.

<sup>5</sup>The complaint shall be declared expired.

The Judge shall keep records of all proceedings at the hearing, which must be signed by the parties or only by

the complainant if applicable; a final sentence must be handed down at the hearing or within no more than three (3) days where the facts are disputed. If the complaint is declared in order, a ruling shall be handed down imposing the penalty in keeping with Article 7 (1) of this Law.

**Article 20.**

Appeals shall be granted only with devolutive effect, and shall be filed at the time of notification of the final judgment, in which case the Clerk shall record such appeal in the proceedings, or within the three (3) following days through appearance before the Court that heard the complaint.

Appeals of rulings or orders must be filed at the time of notification or the day after, by appearing before the Court hearing the complaint, without the granting of suspensive effect.

**Article 20-A<sup>6</sup>**

In order to determine the incidence of domestic violence against women in our society, evaluate the results of this Law and homogenize statistical control, the Public Ministry, the Secretariats of State for Security and Health, and all the public institutions involved in addressing domestic violence, as well as non-governmental organizations and the Courts responsible for enforcing the law, shall use the measuring and control instrument designed and provided by the National Women's Institute (INAM). All entities shall provide half-yearly "information to the National Women's Institute (INAM), which must have procedures that allow it to keep up-to-date statistics.<sup>7</sup>

**Article 20-B.**

The National Women's Institute (INAM) shall be responsible for coordinating the policies aimed at women and, in conjunction with public or private law entities working in this area, shall design a policy with its national action plan to address domestic violence against women as well as the planning and execution of actions aimed at eradicating these behaviours in Honduran society.

The National Plan shall include educational, research, and comprehensive care measures for victims—medical, psychological, legal and social—awareness-raising and training for judges, police, officials and employees of the different public or private institutions that are involved in the prevention, punishment and protection of women suffering domestic violence.

For purposes of disclosure on the scope and objectives of this Act, the action plan must involve social communicators, including promoting new forms of mass communication to delegitimize violence of all kinds against women, to disseminate the contributions of and a positive image of women, and in general to contribute to establishing new relationships between the sexes.

The National Women's Institute (INAM) shall enter into agreements with legally-recognized non-governmental organizations that operate shelter programs and that provide legal assistance and emotional care to women affected by domestic violence.

**Article 21.**

The Public Ministry and the Secretariat of State for Security shall be competent to monitor the implementation of and compliance with security measures imposed, with that obligation remaining in place until completion of the hearing to be undertaken by the relevant court. That Court shall also be responsible for the enforcement of and compliance with measures imposed, and should request police assistance if necessary.

Notwithstanding the foregoing, the burden of proof with respect to compliance with the measures imposed rests with the accused; this must be verified by whosoever has the power to enforce compliance with the measures.

**Article 22.**

If those responsible for enforcing the law determine that an act of domestic violence of which they are made aware constitutes a crime, they shall immediately refer the proceedings to the Public Ministry, leaving an extract of the proceedings in order to impose other protective mechanisms that may apply.

**Article 23.** Notwithstanding the basic procedural principles established in this Act, women affected by domestic violence shall have the right to:

1. Request assistance from the National Police, in any circumstances in which their personal safety or that of their family group is threatened;
2. Request assistance from the National Police, by court order, in enforcing the terms of Article 6 (1) (h) of this Act;
3. Be respected when being questioned;
4. Be attended to for the purpose of a report and examination by the Department of Forensic Medicine, when referred by the competent Public Ministry or Court or by any of the equally competent institutions for the purpose of imposing security measures;
5. Not be subjected to inadequate or unnecessary medical or psychological testing;
6. Not be subjected to confrontation with the accused unless she is emotionally able to do so.

**Article 2<sup>8</sup>.**

All provisions that are contrary to this Law are repealed.

**Article 3<sup>9</sup>.**

This Decree shall enter into force as of the day on which it is published in the Official Gazette.

Done in the city of Tegucigalpa, municipality of the Central District, in the Meeting Hall of the National Congress, on the 1<sup>st</sup> of September of 2005.

Porfirio Lobo Sosa  
President

Juan Orlando Hernández A.  
Clerk

Gilliam Guifarro Montes de Oca  
Clerk

“Sanctioned under Article 216, paragraph two, of the Constitution of the Republic.”

The effective period of the Law against Domestic Violence was established in Article 25, as follows:

This Law shall enter into effect three months after the date of its publication in the Official Gazette.

Done in the city of Tegucigalpa, municipality of the Central District, in the Meeting Hall of the National Congress, on the 11<sup>th</sup> of September of 1997.

Carlos Roberto Flores Facussé  
President

Roberto Micheletti Bain  
Clerk

Salomón Sorto del Cid  
Clerk

To the Executive Power

To be executed.

Tegucigalpa, M.D.C., 29 September 1997

<sup>1</sup>Currently the Institute of Property (Instituto de la Propiedad)

<sup>2</sup>For the publication, the word "institution" was omitted.

<sup>3</sup>Transcription error; the correct wording is "fails to comply"

<sup>4</sup>"Psychological" was included here due to a transcription error; this section should instead read "...and other persons involved in the exercise of health-related professions, trades or practices."

<sup>5</sup>Due to a transcription error, this wording was separated from the preceding paragraph, whose final part should read as follows: If the complaint is deemed abandoned, and once six (6) months have transpired since the last proceedings, the complaint shall be declared expired.

<sup>6</sup>The sequence of this numbering was also a transcription error, since it is obvious that this Article is not part of the preceding one, which refers to appeals.

<sup>7</sup>The quotation marks used in this section were also a transcription error.

<sup>8</sup>Due to an error in the Official Gazette publication that contains the amendments to the Law Against Domestic Violence, these last two articles were numbered as 2) and 3), when in fact they should be 24) and 25).

<sup>9</sup>This refers to Decree No. 250-2005, which contains the amendments to the Law Against Domestic Violence.

## TITLE IV

### CRIMES AGAINST THE CIVIL STATE AND THE FAMILY ORDER

#### CHAPTER V

#### INTRAFAMILY VIOLENCE

**Article 179-A.** Anyone who uses force or intimidation against, or subjects to persecution, a spouse or ex-spouse, a person with whom they are living or with whom they had maintained a consensual relationship or with whom they produced a child, with the aim of causing that person physical or emotional harm or damaging their possessions, shall be punished by a term of imprisonment from one (1) to three (3) years, notwithstanding the punishment corresponding to the injuries or damages caused. The same penalty shall apply when the violence is committed against joint children or against the children of the persons mentioned that are under parental authority, or against a minor or person with disabilities under supervision or guardianship, or against ascendants.

**Article 179-B.** Anyone who subjects to mistreatment their spouse, ex-spouse, partner or ex-partner from a consensual relationship, or person with whom they have produced a child, in any of the following circumstances, shall be punished by a term of imprisonment from two (2) to four (4) years:

- a) Enters into the dwelling place of the person or the place where they are being housed or sheltered, to consummate the action;
- b) Inflicts on the person serious bodily harm;
- c) Performs the action with a lethal weapon even if they did not act with the intent of killing or maiming;
- d) Performs the actions in the presence of minors;
- e) Induces, incites or obliges the person to consume drugs, narcotics or other psychotropic or intoxicating substances;
- f) Also subjects a minor to mistreatment; and,
- g) Claims that the victim suffers from illness or mental handicap as a pretext for restricting their liberty.

The provisions of this article shall apply notwithstanding the punishment corresponding to other offences the perpetrator may have committed.

**Article 179-C.** Repealed<sup>76</sup>

**Article 179-D.** Maltreatment by transgression takes place whenever hostile, rejecting or destructive actions or behaviours are taken against the child, such as:

- 1) Subjecting the child to physical maltreatment;
- 2) Providing the child with drugs or medications that are not necessary for his or her health or that are detrimental;

- 3) Subjecting the child to unnecessary medical or surgical procedures that endanger his or her physical, mental or emotional health;
- 4) Making the child a victim of emotional or verbal aggression, including insults and humiliation;
- 5) Rejection by failure to communicate; and
- 6) Punishment in the form of hard labour.

Maltreatment by transgression shall be punishable by a term of imprisonment of from two (2) to four (4) years, with the offender obliged to change their conduct.

In applying this law, judges shall endeavour not to undermine the legitimate exercise of the rights arising from parental authority or guardianship, as the case may be.<sup>77</sup>

**Article 179-E.** Anyone who uses a child to carry out begging, whether for themselves or through another person, shall be subject to punishment of from three (3) to six (6) years of imprisonment.

The punishment set out in the preceding shall be increased by two thirds (2/3) when any of the following circumstances applies:

- 1) The child is less than twelve (12) years old;
- 2) The child is affected by physical or mental illness or disability that tends to produce sentiments of commiseration, repulsion or the like; and
- 3) When there is trafficking of children for the purpose of carrying out begging.<sup>78</sup>

**Article 179-F.** Anyone who makes a child work under the circumstances set out in the following shall be guilty of the offence of economic exploitation:

- 1) During extraordinary work days or night shifts;
- 2) In work that is prohibited by law; and
- 3) For a wage that is less than the applicable minimum wage.

The same offence is committed by anyone who violates the rights contained in the Code of Childhood and Adolescence in the course of requiring a child to perform family or domestic work. In this case, the penalty will apply only if the person responsible, having been instructed to change their behaviour, persists in that behaviour.

Anyone guilty of the offence described in this article shall be punished by from three (3) to five (5) years imprisonment.

**Article 179-G.** The offence of rights violation is committed by anyone who, by failing to fulfill their duties as a parent or legal representative, violates the rights of their children or wards or induces them to fail to fulfill their legal duties or orders from a legally constituted authority.

Anyone guilty of the offence described in this article shall be punished by a term of imprisonment from one

(1) to three (3) years.

<sup>76</sup> **Article 179-C.** Repealed by Decree 35-2013 of 27 February 2013, published in the Official Gazette No. 32, 222 on 6 September 2013, and valid as of this date of publication.

<sup>77</sup> **Article 179-D.** Added by Decree 35-2013 of 27 February 2013, published in the Official Gazette No. 32, 222 on 6 September 2013, and valid as of this date of publication.

<sup>78</sup> **Articles 179-E; 179-F; 179-G.** Added by Decree 35-2013 of 27 February 2013, published in the Official Gazette No. 32, 222 on 6 September 2013, and valid as of this date of publication.

**TITLE II<sup>57</sup>**

**OFFENCES AGAINST THE PHYSICAL, PSYCHOLOGICAL AND SEXUAL FREEDOM AND INTEGRITY OF PERSONS.**

**CHAPTER I**

**RAPE, STATUTORY RAPE, INDECENT ASSAULT, ABDUCTION**

**Article 140. THE FOLLOWING CONSTITUTES AN OFFENCE OF RAPE:** Sexual access to a person of either gender by means of violence or the threat of causing serious and imminent danger to the victim or to the victim's spouse or domestic partner, or to a family member up to the fourth (4th) degree of consanguinity or the second (2nd) degree of affinity. For the purposes of this article, sexual access means vaginal, anal or oral access. This will be sanctioned with a penalty of ten (10) to fifteen (15) years in prison. When any of the following circumstances concur, without violence or threat, this will be considered a special case of sexual access to a person of either gender. Such cases will be sanctioned with a penalty of fifteen (15) to twenty (20) years in prison:

- 1) When the victim is under fourteen (14) years of age;
- 2) When the victim is deprived of reason or free will, or when, for whatever reason, the victim is unable to offer resistance;
- 3) When, in order to commit the offence, the offender intentionally diminishes or eliminates the victim's free will, using psychotropic or narcotic substances, including alcohol; or when the offender commits the rape upon finding the victim in such condition;
- 4) When the offender is responsible for the guardianship or custody of the victim and takes advantage of such authority to gain access to the victim;
- 5) Persons who commit rape, knowing that they are carriers of Acquired Immunodeficiency Syndrome / Human Immunodeficiency Virus (AIDS/HIV) or an incurable, sexually transmitted disease.

The same penalty will apply to cases of rape committed by more than one person, by a repeat offender, when the victim is pregnant, when the victim becomes pregnant as a result of the rape, or when the victim is over seventy (70) years of age.

**Article 141.** Whosoever, under the conditions or using the means indicated in the preceding article, victimizes another person or persons with lewd acts other than carnal access, shall be sentenced to five (5) to eight (8) years in prison.

When the victim is under fourteen (14) years of age, even where he/she has consented to the act or if, being over that age, the victim suffers from mental illness, incomplete or delayed mental development; or is deprived of reason or will; or when, for any reason, he or she cannot put up resistance, the foregoing penalty shall be increased by one-half (1/2).

When the lewd acts consist of introducing items or instruments of any nature into the sexual organs or other natural or artificial orifices that simulate the sexual organs of the victim's body, the guilty party shall be sentenced to ten (10) to fifteen (15) years in prison.

**Article 142.** Statutory rape of a person over fourteen (14) and under eighteen (18) years of age, taking advantage of trust, hierarchy or authority, shall be punished with six (6) to eight (8) years in prison.

When statutory rape is committed by means of deception, the sentence shall be five (5) to seven (7) years in prison.

**Article 143.** Carnal access between ascendants or descendants, between siblings, between an adoptive child and parent, with a stepparent, when the victim is over eighteen (18), constitutes the crime of incest, and shall be punished with four (4) to six (6) years in prison; proceedings shall be initiated upon a complaint from the victim or his/her legal representative.

When the victim is over fourteen (14) years of age and under eighteen (18) years of age, the sentence shall be increased by one-half (1/2).

**Article 144.** Whosoever, for sexual purposes and by means of force, intimidation or deception, abducts a person or keeps him/her captive, shall be subject to four (4) to six (6) years in prison.

When the victim of this crime is a person under eighteen (18) years of age, the penalty provided for in the preceding paragraph shall be increased by one-half (1/2).

**Article 145.** Repealed<sup>58</sup>

**Article 146.** Repealed

**Article 147.** Repealed<sup>59</sup>

### **CRIMES AGAINST CIVIL STATUS AND FAMILY ORDER, AND VIOLATIONS OF THE RIGHTS AND INTEGRITY OF CHILDREN**

**Article 147. A.** The offence of sexual harassment is committed by whosoever, on his/her own or through a third party, and taking advantage of a situation of superiority, causes reprisals against the victim for rejecting indecent acts in the form of insinuations or requests for favours of a sexual nature for him/herself or for a third party, when any of the following circumstances are in effect:

- 1) When, taking advantage of a situation of labour or administrative hierarchical superiority, he/she causes instability, disqualification in the performance of work, an advantage or disadvantage with respect to job promotions, or blocked access to an employment position;
- 2) When, taking advantage of a situation of hierarchical superiority as a teacher, he/she causes instability, disqualification of studies, an undue pass or fail on tests, examinations or grades, or any other condition that has a determining effect on [the victim's] status as student; and
- 3) When, taking advantage of a situation of religious hierarchical superiority, he/she causes personal or family instability, in the name of spiritual wellbeing.

The penalty applicable to this offence shall be three (3) to six (6) years in prison and suspension for the term of the sentence.

The aforementioned penalty shall be increased by one-third when [the offence is] committed against a child or

person who suffer from mental illness.<sup>60</sup>

**Article 147. B.** When the sexual harassment takes place without hierarchical superiority, the applicable penalty shall be two (2) to four (4) years in prison and suspension for the term of the sentence.<sup>61</sup>

**Article 147. C.** Whosoever commits the offence of sexual harassment using electronic or telecommunication means or information technologies shall be sentenced to three (3) to six (6) years in prison and suspension for the term of the sentence, where applicable.

The aforementioned penalty shall be increased by one-third when [the offence is] committed against children or persons suffering from mental illness.

<sup>57</sup> **Title II, Crimes against the Freedom and Physical, Psychological and Sexual Integrity of Persons. Chapter I, Articles 140, 141, 142, 143, 144, Chapter II, Crimes of Sexual Commercial Exploitation, 145, 148, 149, 149-A, 149-B, 149-C, 149-D, 149-E, 150, 151, 152, 153, 154, 154-A y 154-B, Rape, Statutory Rape, Indecent Assault, Abduction.** Amended, repealed and added by Decree 234-2005 of 1 September 2005, published in Official Gazette No. 30,920 of 4 February 2006.

<sup>58</sup> **Articles 145 and 146.** Repealed by Decree 191-96 of 31 October 1996, published in Official Gazette No. 28,182 of 8 February 1997, and effective as of 28 February 1997.

<sup>59</sup> **Article 147.** Repealed by Decree 59-97 of 8 May 1997, published in Official Gazette No. 28,281 of 10 June 1997 and effective as of that publication date.

<sup>60</sup> **Article 147-A.** Added by Decree 59-97 of 8 May 1997, published in Official Gazette No. 28,281 of 10 June 1997 and effective as of that publication date.

**Article 147-A.** Amended by Decree 35-2013 of 27 February 2013, published in Official Gazette No. 32,222 of 6 September 2013 and effective as of that publication date.

<sup>61</sup> **Articles 147-B and 147-C.** Added by Decree 35-2013 of 27 February 2013, published in Official Gazette No. 32,222 of 6 September 2013 and effective as of that publication.

## VII. Complaints Procedure



