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**Promotion and protection of all human rights, civil,  
political, economic, social and cultural rights,  
including the right to development**

## Visit to Honduras

### **Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Irene Khan\*, \*\***

#### *Summary*

The Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Irene Khan, visited Honduras from 16 to 27 October 2023. In the present report, while recognizing some important advances, the Special Rapporteur describes the challenging context of complex and long-lasting human rights problems in Honduras, sustained by a culture of impunity. The Special Rapporteur expresses particular concern about persistently high rates of violence and threats against human rights defenders, journalists and social communicators in Honduras, accompanied by high rates of impunity. The Special Rapporteur recommends an overhaul of the National Protection System for Human Rights Defenders, Journalists, Social Communicators and Justice Officials and calls for effective investigations into all cases of killings and attacks against human rights defenders, journalists and social communicators. The Special Rapporteur describes the need to strengthen media freedom and pluralism and access to information, and to invest in building trust across society, including by recognizing the importance of community media and enabling their full operability and by addressing disinformation in line with international standards. The Special Rapporteur recognizes the openness of the Government of Honduras to technical advice and assistance from international and regional mechanisms and encourages it to pursue its efforts to advance freedom of expression and the safety of journalists and civil society actors.

\* The summary of the report is being circulated in all official languages. The report itself, which is annexed to the summary, is being circulated in the language of submission and Spanish only.

\*\* Agreement was reached to publish the present report after the standard publication date owing to circumstances beyond the submitter's control.



## **Annex**

### **Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Irene Khan, on her visit to Honduras**

#### **I. Introduction**

1. At the invitation of the Government of Honduras, and pursuant to Human Rights Council resolution 52/9, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Irene Khan, conducted an official visit to Honduras from 16 to 27 October 2023. The purpose of the visit was to assess the state of freedom of opinion and expression, including the right to information, in the country and to make recommendations to the Government in the light of its international human rights obligations.
2. The Special Rapporteur visited Tegucigalpa, La Ceiba, San Pedro Sula, Jutiapa (Nueva Armenia) and El Progreso and met with a wide range of stakeholders from civil society, including human rights defenders, journalists from established and independent media organizations, social activists and members of peasant and Indigenous communities. She is very grateful for the extensive information, insights and analyses they provided to her.
3. In Tegucigalpa, the Special Rapporteur had substantive meetings with all three branches of the Government. She met with the Minister for Foreign Affairs and International Cooperation, the Minister for Human Rights, the Minister for Security, the Minister for the Office of the President and the Counsel General, as well as with the Deputy Ministers for Foreign Affairs, Defence and Women's Affairs and senior officials from their ministries. She also met with senior officials from the Ministry of the Interior, Justice and Decentralization, the Press Ministry, the Public Prosecution Service and the Offices of the Specialized Prosecutors, the Directorate General of the Protection System and the Inter-Agency Commission for Monitoring the Investigation of Violent Deaths of Women and Femicides.
4. She was received by the President, judges and officials of the Supreme Court, the President of the National Congress and members of the Commissions of the National Congress on Human Rights, Constitutional Affairs and Security.
5. She had fruitful meetings with the National Commissioner for Human Rights and representatives of the Institute on Access to Public Information and the National Telecommunications Commission. She also met with representatives of the Directorate General for Information and the Press and the State news channel (Channel 8).
6. The Special Rapporteur thanks the Government of Honduras for the invitation and cooperation extended to her and for constructive and candid discussion regarding plans, progress, concerns and challenges relating to freedom of opinion and expression in the country. She would like to extend her special thanks to the Ministry of Foreign Affairs and International Cooperation and the Ministry of Human Rights for organizing and facilitating various government meetings.
7. The Special Rapporteur is grateful to the United Nations country team, the United Nations Resident Coordinator and, in particular, the Representative of the United Nations High Commissioner for Human Rights in Honduras and the staff of the Office of the United Nations High Commissioner for Human Rights (OHCHR) in Honduras for their support and assistance in connection with the mission.

#### **II. Background**

8. Honduras is a multiparty parliamentary democracy with a 128-Member unicameral National Congress and a President as the Head of State. In late November 2021, Iris Xiomara Castro Sarmiento, from the Libre Party, was elected the first female President of Honduras,

succeeding Juan Orlando Hernández Alvarado, who was extradited to the United States of America, after the change of government, for alleged links to drug trafficking.

9. The Special Rapporteur recognizes the difficult political context and complex human rights problems that the Government has inherited. The country has a troubled history of political turmoil, including a coup d'état in 2009, which resulted in the overthrow of a democratically elected Government, and decades of poor governance, autocratic rule and weak institutions, which have taken a heavy toll on democracy, human rights and the rule of law and have left a legacy of political division and public mistrust in authority. Violence and impunity for crimes against activists, journalists, human rights defenders and social communicators persist, fuelling a climate of fear and having a chilling effect on freedom of expression.

10. The Special Rapporteur welcomes the Government's commitment to change and the steps it has taken so far, such as the repeal of the Act on the Classification of Public Documents relating to National Security and Defence, also known as the Official Secrets Act, and the plan to establish an international, impartial, independent and autonomous mechanism to combat corruption and impunity. However, the scale and complexity of the human rights problems in Honduras require concerted, wider and deeper reforms and more accelerated, dedicated action to break the cycle of violations and impunity and strengthen freedom of expression as an essential pillar of democracy.

11. The Special Rapporteur expresses appreciation for the Government's openness to advice and support from and scrutiny by international and regional human rights bodies, including the special procedures of the Human Rights Council and the Inter-American Commission on Human Rights, which conducted an official visit to Honduras from 24 to 28 April 2023. In that spirit of collaboration, the Special Rapporteur offers her findings and recommendations on strengthening freedom of expression and the right to information and looks forward to continuing her constructive dialogue with the Government of Honduras.

### **III. Legal frameworks relating to freedom of opinion and expression in Honduras**

#### **A. International legal framework**

12. The right to freedom of opinion and expression is enshrined in article 19 of the Universal Declaration of Human Rights. The right is codified further in article 19 of the International Covenant on Civil and Political Rights<sup>1</sup> and article 13 of the American Convention on Human Rights.<sup>2</sup>

13. While the right to freedom of expression is not absolute, any restriction of that right must be compatible with the requirements set out in article 19 (3) of the Covenant, that is, it must be provided by law and be necessary and proportionate to achieve the legitimate objectives specified in the Covenant.<sup>3</sup> Similar conditions are included in the American Convention on Human Rights.

14. Article 20 of the Covenant provides that any propaganda for war and any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence is to be prohibited by law.

#### **B. National legal framework**

15. Article 72 of the 1982 Constitution of Honduras guarantees the freedom to express opinions by any means of dissemination, without prior censorship. The same article provides

<sup>1</sup> Ratified by Honduras on 25 August 1997.

<sup>2</sup> Ratified by Honduras on 5 September 1977.

<sup>3</sup> See Human Rights Committee, general comment No. 34 (2011), para. 34.

that those “abusing” that freedom and those restricting or impeding the communication and circulation of ideas and opinions are liable before the law.

16. Articles 73 and 74 of the Constitution guarantee the freedom and independence of the press in Honduras. Specifically, article 73 establishes a prohibition on seizing, confiscating, closing down or interrupting the work of printing shops, radio stations, television stations or any other means of broadcasting or disseminating thought. Article 74 establishes a prohibition on restricting the right to freedom of expression by indirect means, such as government or private controls on the equipment used in the dissemination of information.

17. Freedom of expression is elaborated further in the Expression of Thought Act. Article 2 of the Act establishes the inviolability of the freedoms of expression of thought and information. Article 5 provides that all inhabitants of Honduras may freely express their thoughts, give and receive information and discuss their own or others’ opinions in writing or speech or by any other graphic, oral or visual means, without prior censorship.

18. While the offence of defamation has been repealed from the Criminal Code, several other provisions affecting freedom of expression remain in force.<sup>4</sup> Slander and libel, which are generally referred to as “crimes against honour”, are still offences under the Criminal Code, in articles 229 to 231 (Decree No. 130-2017). Under the Criminal Code, it is an aggravating factor if the offences are committed online. Furthermore, the Code establishes subsidiary civil liability for a media outlet that serves as a platform for libel or slander.

19. Article 573 of the Criminal Code covers the dissemination of “fake news or rumours”, providing that anyone who repeatedly and publicly disseminates “fake news or rumours” that terrify the population or a portion thereof, creating a serious danger to life, health or property, is to be punished with imprisonment for one to three years, unless the acts are punishable by more severe penalties in other provisions of the Criminal Code.

20. Article 28 of the Criminal Code extends criminal liability for offences committed through means of dissemination to editors and media companies responsible for the dissemination.

21. The Framework Act on Telecommunications of 1995 governs the telecommunications sector in Honduras, appointing the National Telecommunications Commission as the competent entity to regulate and oversee telecommunications and endowing it with the competence to grant and revoke broadcasting licences and permits.

22. The Transparency and Access to Public Information Act was adopted in 2006 to give effect to the right of access to information and to improve government transparency. According to article 1, the main aim of the Act is to develop and execute a national transparency policy and improve the exercise of the right of every person to access public information for the strengthening of the rule of law and the consolidation of democracy through citizen participation.

23. Decree No. 12-2022 of March 2022 provides for the repeal of the Official Secrets Act. Article 2 of Decree No. 12-2022 provides for the declassification of any information to which access was restricted under the previous law. Furthermore, article 3 establishes that all natural and legal persons, both private and public, as well as entities without legal personality, are entitled to request data or public information from public institutions.

## IV. Main findings

### A. Attacks on journalists, human rights defenders and activists

24. Violence, threats, online attacks, intimidation, smear campaigns to stigmatize, discredit and delegitimize, criminalization and judicial harassment targeting human rights defenders, journalists and social communicators are alarmingly common in Honduras. Such

<sup>4</sup> The Special Rapporteur’s concerns regarding these provisions of the Criminal Code are explained in paras. 78 to 84 of the present report.

measures not only seek to suppress expression by those who are attacked; they also have an intimidating or chilling effect that goes far beyond those directly targeted.

25. Honduras is regarded as one of the most dangerous countries in the world for journalists, currently ranking 169th among the 180 States included in the World Press Freedom Index.<sup>5</sup> Digital technology has added a new dimension to the existing threats, including online attacks, the surveillance of communications and the hacking of journalists' electronic devices.

26. The OHCHR country office in Honduras registered 946 attacks – 254 against journalists and 692 against human rights defenders – between January 2021 and September 2023, including the killings of 36 human rights defenders and 4 journalists. The civil society organization Comité por la libre expresión (C-Libre) registered 99 killings of media workers between 2001 and 2022, with an impunity level of 92 per cent.<sup>6</sup> Furthermore, between 2001 and 2023, the Office of the National Commissioner for Human Rights registered the murders of 96 journalists and media workers. Between 2016 and 2023, the Office also registered 107 cases in which journalists and social communicators were displaced or at risk of displacement.<sup>7</sup> The Special Rapporteur was informed of several new cases of killings of journalists and human rights defenders since the end of her visit in October 2023.

27. The Special Rapporteur notes that those working on issues relating to land, environment, corruption, organized crime and agrarian and mining conflicts are at a high risk of violence, threats and judicial harassment. During her visit, members of the Garifuna community informed the Special Rapporteur about the ongoing attacks, threats, stigmatization and criminalization that they faced in their struggle for land rights and the protection of the environment and their livelihoods. Emblematic of the violence that the community is facing are the threats and attacks on the life of Garifuna community leader and coordinator of the Fraternal Black Organization of Honduras Miriam Miranda.<sup>8</sup> The Special Rapporteur also received reports about the targeting of Garifuna community radio stations, including an arson attack on the radio station Faluma Bimetu in El Triunfo de la Cruz in January 2010. Those threats and attacks directly limit the enjoyment of freedom of expression and access to information by members of the Garifuna community and have a chilling effect on all those wishing to express critical views in relation to the fight for their ancestral lands and the protection of the environment.

28. Coordinated smear campaigns online and in the traditional media and vicious verbal attacks and accusations of fake news are increasingly being used to threaten, discredit and delegitimize journalists, human rights defenders, social communicators and activists. The testimonies of victims indicate that such online attacks can easily translate into offline threats and violence, leading to self-censorship and a chilling effect on freedom of expression.

29. Highly polarized public debates on sexual and reproductive health and rights in Honduras have created an environment in which representatives and members of the LGBTIQ+ community, women human rights defenders and organizations related to the defence of sexual and reproductive health and rights have been targeted by online and offline hate and smear campaigns, often instigated, encouraged and condoned by leading political and religious figures. Such gendered threats spiked during the heated discussion and approval on 8 March 2023 in the National Congress of the law on comprehensive sexuality education, which was subsequently vetoed by the President.

30. Evidence provided to the Special Rapporteur shows that women and gender-diverse persons, in particular journalists, activists and others with a public profile, are at a higher risk of attacks, gendered threats, hate speech, including misogynistic speech, and smear

<sup>5</sup> See <https://rsf.org/en/country/honduras>.

<sup>6</sup> Comité por la libre expresión (C-Libre), 2023 report.

<sup>7</sup> Ibid.

<sup>8</sup> See communications HND 2/2022 and HND 3/2023, available from <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=27574> and <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=28577>, respectively.

campaigns, both offline and online. In a survey conducted by the Office of the National Commissioner for Human Rights in five different regions in 2022, 54 per cent of women human rights defenders indicated that they had suffered acts of aggression, including rape threats and other forms of gender-related attacks, because of their work.

31. During her visit, the Special Rapporteur received many testimonies of such gender-related attacks, including from journalists from Reportar sin miedo, who have faced insults, robberies, threats of kidnapping, physical violence and cyberattacks. They have been targeted with hate speech, both for their sexual orientation or gender identity and for their work as journalists, by senior officials in the city of San Pedro Sula. When they approached the National Protection System for Human Rights Defenders, Journalists, Social Communicators and Justice Officials and the Public Prosecution Service, not only were a number of them denied protection and access to justice, but they also received calls from the perpetrators warning them that they and their families would be killed if they proceeded with their complaints.

32. The Special Rapporteur received accounts of intimidation, threats and violations carried out by so-called *colectivos*, or political militias that operate outside the legal framework without accountability. She also heard concerns about repeated extensions of “states of emergency” in over 300 of the country’s municipalities, which limit fundamental rights and grant extensive powers to State security and law enforcement actors. While such measures are ostensibly aimed at addressing organized crime, the Special Rapporteur is concerned that they can have a chilling effect on the freedom of expression of civil society and grass-roots activists.

## **B. High prevalence of impunity**

33. According to the National Commissioner for Human Rights, 96 murders of journalists have been recorded since 2001, but only 8 have been investigated and prosecuted. That constitutes an impunity rate of over 90 per cent. As the Special Rapporteur noted in a previous report to the Human Rights Council, the killing of journalists with impunity is the most egregious form of censorship.<sup>9</sup>

34. Under previous Governments, Honduras took steps at the legislative and institutional levels to establish the Offices of the Special Prosecutors for Crimes against Life (in 2013), Human Rights (in 1994) and the Protection of Human Rights Defenders, Journalists, Social Communicators and Justice Officials (in 2018). After the Special Rapporteur’s meeting with representatives of those Offices, the Public Prosecution Service transmitted a list of 56 killings or enforced disappearances of journalists and human rights defenders, including Indigenous human rights defenders, recorded since the beginning of 2020. In only 10 of the cases had investigations been partially or fully concluded, leading to convictions. The Special Rapporteur notes that the Special Prosecutor for the Protection of Human Rights Defenders has not prosecuted a single case in five years.

35. Those statistics show that the measures taken by the Public Prosecution Service have failed to make a difference. The fact that the level of impunity for murders of journalists and human rights defenders is the same as for other killings is indicative of the overall dysfunctionality of the investigation and prosecutorial systems in Honduras. The Special Rapporteur urges the Government to take urgent action on the findings and recommendations made by the Special Rapporteur on extrajudicial, summary or arbitrary executions.<sup>10</sup> All killings must be investigated in a prompt, independent, impartial, effective, thorough and transparent manner, according to international standards, in particular the Minnesota Protocol on the Investigation of Potentially Unlawful Death.

36. It is obvious that much more must be done to fight impunity for violence against journalists and human rights defenders. The Special Rapporteur reminds the Government that her predecessor suggested increasing the existing penalties for crimes against members of

<sup>9</sup> A/HRC/53/25, para. 68.

<sup>10</sup> The report on the visit to Honduras of the Special Rapporteur on extrajudicial, summary or arbitrary executions will be presented to the Human Rights Council at its fifty-sixth session.

the press and violations of the right to freedom of expression. Recommendations made through international human rights mechanisms, including the universal periodic review, have included increasing the budget and strengthening the training of the Special Prosecutors, but those recommendations have been only partially implemented by the authorities.

37. The Special Rapporteur believes that persistently high levels of impunity ultimately point to a colossal lack of political will on the part of successive Governments and an abject, decades-long failure of leadership in the prosecutorial sector. She calls upon the current Government and the recently appointed Attorney General to prioritize the fight against impunity. The failure to tackle impunity emboldens perpetrators and increases risks and dangers for journalists and human rights defenders, contributing to an environment of fear and having a severe chilling effect on freedom of expression.

### **C. Improvement of the National Protection System for Human Rights Defenders, Journalists, Social Communicators and Justice Officials**

38. On 15 May 2015, Honduras established the National Protection System for Human Rights Defenders, Journalists, Social Communicators and Justice Officials (commonly known as the Mechanism), in response to the demands of civil society and recommendations from international human rights mechanisms, including the then Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression.<sup>11</sup>

39. Since its inception on 15 April 2015, the Mechanism has faced serious criticism from beneficiaries and civil society organizations for being largely ineffective and inadequate. In 2022, the OHCHR country office in Honduras published an assessment of the functioning of the National Protection System, concluding that it suffers from insufficient financial, human and technical resources, an absence of shared responsibility among its governing institutions and a lack of clarity among civil society and State actors regarding its purpose, scope, functions and target population.<sup>12</sup>

40. The Special Rapporteur held in-depth discussions with the Ministers for Human Rights and Security, senior officials from their ministries and representatives of the Directorate General of the Protection System, as well as with representatives of civil society organizations and at least 25 individuals who are receiving, have received or have sought the assistance of the Mechanism. An official meeting of the National Protection Council, which was meant to bring together all stakeholders and which the Special Rapporteur was invited to attend, was cancelled for lack of quorum. It is worth noting that the Special Rapporteur was told by several stakeholders that the Council's meetings were regularly cancelled for lack of quorum and that, in the past, even when meetings were held, participants who were required to attend by law often did not do so.

41. According to data provided by the Directorate General of the Protection System, as of September 2023, a total of 185 persons, including 138 human rights defenders, 15 journalists, 16 social communicators and 16 justice officials, were protected under the Mechanism. Thirty-three of the cases had been referred by the inter-American system.

42. The Special Rapporteur was informed by the Directorate General about the measures that had been taken by the current Government to improve the Mechanism, including the doubling of its budget, the provision of training to strengthen staff capacity and the promotion of strategic alliances, including with Ciudad Mujer Honduras, OHCHR, the Norwegian Refugee Council and the European Union. A proposal to reform the Act on the Protection of Human Rights Defenders, Journalists, Social Communicators and Justice Officials is under way, and a regulation on the execution of funds by the Directorate General is being drafted. The Directorate General also noted some challenges, including insufficient resources to meet all protection needs, a shortage of staff, an inability to apply protection measures equitably owing to resource and other constraints, such as the remoteness of certain locations, and a lack of early warning and response capacity.

<sup>11</sup> [A/HRC/23/40/Add.1](#), para. 93 (b).

<sup>12</sup> [A/HRC/52/24](#), paras. 71 and 72.



43. Persons who qualify for protection under the Act on the Protection of Human Rights Defenders, Journalists, Social Communicators and Justice Officials, including current beneficiaries, and civil society organizations were unanimous in their view that the Mechanism was not working effectively. They complained about, among other issues, the lack of responses or long delays in receiving responses, risk assessments that failed to take into account the context and environment in which individuals lived and worked, the inadequacy of consultations with beneficiaries organized by the authorities and the resulting inappropriateness of the measures proposed and the absence of gender considerations, despite the fact that many of those seeking support were women and LGBTQI+ individuals.

44. It was mentioned that a major layoff of well-trained technical staff by the Ministry of Human Rights in 2022 had significantly hampered the operability of the Mechanism. It was also pointed out that there was no secure system for comprehensive data collection and storage, including on the regional allocation of protection measures, and no adequate monitoring and follow-up system to verify compliance with the protection measures ordered.

45. The Special Rapporteur was informed that several employees of the Office of the National Commissioner for Human Rights who had applied for protection from the Mechanism because of threats they faced as a result of their human rights work had been turned down on the ground that they did not qualify under the Act on the Protection of Human Rights Defenders, Journalists, Social Communicators and Justice Officials. That raises serious concerns about the interpretation of the scope of the Mechanism.

46. Human rights defenders and journalists repeatedly emphasized that they did not trust the Mechanism to provide them with the protection they needed. Ongoing impunity and past human rights violations by security and law enforcement officials have undermined the credibility and public trust in the justice and security systems that form part of the System. Furthermore, some human rights defenders seeking protection are under criminal investigation following allegations of honour crimes or usurpation and are thus understandably reluctant to seek protection from the same authorities that are investigating them. Many of them mentioned that they were often seeking protection from threats and violence emanating directly or indirectly from the very State entities that were tasked under the Mechanism with implementing the protection measures.

47. Having considered the information and insights provided by a wide range of stakeholders, the Special Rapporteur has come to the conclusion that the National Protection System is insufficiently funded and inadequately staffed and lacks the necessary technical expertise, experience, effective coordination on the part of all its constituent entities, strategic leadership and system of accountability. In its 2022 report, OHCHR observed a lack of shared responsibility among the different bodies constituting the Protection Mechanism.<sup>13</sup> The failure of the National Protection Council to meet regularly, including during the visit of the Special Rapporteur, is just one example of the low level of commitment of some of the entities.

48. In the light of these fundamental problems of the National Protection System, the Special Rapporteur calls upon the Government to undertake a major overhaul, including by implementing the recommendations of OHCHR as contained in its report on the System.

## **D. Strengthening media freedom and pluralism**

49. A free, independent and diverse media sector is indispensable to the fulfilment of society's right to know and journalists' right to seek, receive and impart information.<sup>14</sup> It enables informed public participation and, consequently, is a foundation for democracy and

<sup>13</sup> *Diagnóstico y plan de fortalecimiento del Sistema Nacional de Protección para las y los defensores de derechos humanos, periodistas, comunicadores sociales y operadores de justicia en Honduras* (Tegucigalpa, OHCHR country office in Honduras, 2022).

<sup>14</sup> A/HRC/50/29, para. 11.



sustainable development, as recognized in numerous General Assembly and Human Rights Council resolutions.<sup>15</sup>

50. Attacks on and persistent impunity for crimes against journalists, as discussed above, pose the biggest danger to media freedom in Honduras.

51. The Special Rapporteur recognizes the diversity of the media in Honduras but notes with concern that the pluralism and independence of the media are under threat from business interests and the ownership of certain media outlets by the political class.<sup>16</sup> The Special Rapporteur also notes with concern the lack of editorial independence of government broadcasting channels. In addition to ensuring the safety of all journalists, promoting media freedom will require appropriate policy and regulatory measures to ensure the editorial independence of public media and the transparency of private media ownership.

52. The media sector can be further developed and strengthened through investment in the professional training of journalists and the adoption of ethical standards for self-governance by the media organizations themselves. The creation of an independent press council to oversee the application of ethical and professional standards could be considered a good practice to improve the professionalism and self-regulation of the sector.

53. The Special Rapporteur received complaints about the unfair and arbitrary application of the accreditation process in a manner that denies some journalists access to public institutions, in particular the Presidential Palace. While limited accreditation schemes are permitted under international law, international standards require such schemes to be non-discriminatory, based on objective standards and applied in a non-arbitrary manner.<sup>17</sup> Honduran authorities should respect those standards.

54. The Special Rapporteur is impressed by the important role that community media, in particular community radio, play in Honduras. They are the primary means for people in rural areas to receive information, in particular on issues of interest to local communities, including through broadcasting in Indigenous languages. Community media are an important vehicle for the preservation and development of Indigenous languages and cultures and for equality of access to information.

55. Despite their significance, community media are at risk in multiple ways. First, those working for community radio are exposed to threats and violence, often because of their critical reporting on public issues affecting powerful political and economic interests. Second, community media are often not officially recognized. That means that, generally, they lack legal personality, which impedes their ability to raise funds through advertising, denies them legal access to radio frequencies, exposes them to a risk of extortion and hinders their access to justice and effective remedies, including access to the National Protection System.

56. The telecommunications regulatory authority, the National Telecommunications Commission, informed the Special Rapporteur that, of the 85 radio stations operating on the regulated radio frequency spectrum, barely 3 per cent were community radio stations. Representatives of community media informed the Special Rapporteur that frequencies were often reserved for big corporate media organizations. Broadcasting licences are generally issued by the Commission for a period of 15 years with automatic renewal for further periods of 15 years. Article 27 of the Framework Act on Telecommunications does not set out a clear procedure for the granting of licences or criteria for the equitable, democratic and transparent allocation of radio frequencies.

57. The National Telecommunications Commission informed the Special Rapporteur that the allocation of frequencies to community radio stations was one of its priorities and that a law was being discussed in the National Congress to facilitate the allocation of frequencies to such stations. Community radio workers expressed concern that, even if the law was

<sup>15</sup> See, for example, General Assembly resolutions 68/163, 69/185, 70/162, 72/175, 74/157 and 76/173 and Human Rights Council resolutions 21/12, 27/5, 33/2, 39/6 and 45/18.

<sup>16</sup> Peace Brigades International Honduras, *Breaking Down in Order to Rebuild: The Human Rights Situation in Honduras* (2022), p. 24.

<sup>17</sup> Human Rights Committee, general comment No. 34 (2011), para. 44.

adopted, the requirements set by the Commission, which were geared towards mainstream media, would be too onerous for them to fulfil. The Special Rapporteur recommends that the Government adapt the media regulatory framework to ensure appropriate support for, and the effective integration of, community media, including through the inclusion of clear criteria and a transparent process for the equitable and democratic allocation of frequencies, in full recognition of the important role that those media play in creating a free, independent and pluralistic media landscape. The Special Rapporteur underlines the importance of allowing media to broadcast in Indigenous languages in order to allow communities to access information and broadcasting services in their own languages.

58. The new institution of the Directorate General for Information and the Press was created pursuant to Decree PMC-023-2022 of September 2022 as an organ attached to the Ministry of Strategic Planning. According to the Decree, some of the responsibilities of the Directorate General are to develop and plan the Government's information and press strategy, periodically carry out a diagnosis and evaluation of the resources and capacities of State institutions in matters of communication and social networks, carry out monitoring and a diagnosis of all media and social networks that operate in the country and maintain communication and coordination with the National Telecommunications Commission.

59. The Special Rapporteur heard concerns from civil society and the Office of the National Commissioner for Human Rights about the broad and vague mandate of the Directorate General for Information and the Press, which lacks a clear objective, opening the door to the abusive and arbitrary use of its powers to control independent media and social media networks.<sup>18</sup> Given the climate of mistrust and a real risk that the mandate of the Directorate General could be abused to monitor and censor the media, including online media platforms, the Special Rapporteur calls upon the Government of Honduras to further clarify the mandate of that new institution and ensure that it functions in full compliance with article 19 of the Covenant, including the requirements for legitimate restrictions as laid down in article 19 (3).

## E. Access to information

60. Access to information is a right inherent to freedom of opinion and expression. The Human Rights Committee indicated in 2011 that States should make every effort to ensure easy, prompt, effective and practical access to government information of public interest through proactive legislative and policy measures.<sup>19</sup> In line with target 16.10 of the Sustainable Development Goals, States should ensure public access to information and protect fundamental freedoms, in accordance with national legislation and international agreements.

61. As the Special Rapporteur has pointed out in her various thematic reports, access to accurate and reliable information is an important antidote to disinformation and enables public participation and sustainable development.<sup>20</sup> Access to reliable public information is also an important way to increase government transparency and accountability. The Special Rapporteur believes that enhancing access to accurate and reliable public information would contribute significantly to increasing citizen participation and strengthening democracy and public trust in institutions in Honduras.

62. While the Special Rapporteur recognizes that some advancements have been made in relation to access to information in Honduras, she notes that major challenges and obstacles persist and that more action is needed from the Government to make access to information meaningful.

63. The legal framework for access to information in Honduras has improved with the repeal of the Official Secrets Act in March 2022, which allows for important public information to be declassified. The Special Rapporteur welcomes that development to

<sup>18</sup> Submission from the Office of the National Commissioner for Human Rights.

<sup>19</sup> Human Rights Committee, general comment No. 34 (2011), paras. 18 and 19. See also General Assembly resolutions S-19/2 and 74/5.

<sup>20</sup> See [A/HRC/47/25](#) and [A/HRC/53/25](#).

promote transparency and public access to information. The Special Rapporteur encourages the Government to focus on the effective implementation of the legal framework in order to ensure meaningful access to information.

64. The Special Rapporteur was informed about some important measures that the Institute on Access to Public Information has taken to modernize the information infrastructure and develop online information portals for the proactive disclosure of information by government bodies, local authorities and public entities (the Single Transparency Portal and the Electronic Information System of Honduras). The Institute informed the Special Rapporteur that a total of 12,450 requests for information had been made in 2022, with an average compliance rate of 69 per cent.

65. In her conversations with journalists and members of civil society, the Special Rapporteur was informed that, often, requests for public information were not complied with in time or were responded to in a perfunctory manner, with referrals to general portals that did not contain the requested information, and that the data provided were not accurate or of the required quality. That indicates that there is a lack of proper archiving of information by government institutions, inadequate capacity and inadequate collaboration between the Institute and other government institutions.

66. The Special Rapporteur notes that the infrastructure of the Institute on Access to Public Information is located in Tegucigalpa and that the Institute has no presence in the regions, which severely restricts the access to information of populations living outside the capital city. The problem is particularly severe in remote areas, where Internet connectivity is low.

67. The Special Rapporteur calls upon the Government to increase its investment in information management across all institutions and support the Institute on Access to Public Information in building the capacity of all government departments and State institutions to store public information, enhance its own capability to make information accessible, including in the regions outside the capital city and in remote areas, and raise awareness among authorities and the public about the right to information.

68. The attention of the Special Rapporteur was drawn to a specific lapse in relation to the access of the Office of the National Commissioner for Human Rights to information. Although the Commissioner has a legal mandate to request information from all State institutions, the security and law enforcement entities of the Government do not respond to requests for information from the Commissioner. Given the Commissioner's important role in monitoring and reporting on human rights issues and the obligations of the Government to cooperate with the Commissioner to ensure appropriate accountability, the Special Rapporteur calls upon the Government to rectify that failure without delay.

69. In relation to access to information, the Special Rapporteur would like to highlight two major impediments in Honduras. First, the lack of availability of public information in Indigenous languages exacerbates the already limited access to information of Indigenous communities, in particular in remote areas. As proclaimed by the Inter-American Court of Human Rights, language is one of the most important elements of a people's identity because it guarantees the expression, dissemination and transmission of its culture. The Special Rapporteur encourages the Government of Honduras to ensure that information is available in Indigenous languages, in line with relevant rulings of that Court.<sup>21</sup>

70. Second, the lack of universal access to the Internet is a barrier to the enjoyment of the right to information in Honduras. The digital divide in Honduras is one of the starkest in Central America, disproportionately affecting women and girls, as well as Indigenous and Afro-Honduran communities.<sup>22</sup> According to the Office of the National Commissioner for Human Rights, only about 46 per cent of the population has access to the Internet. The Special Rapporteur encourages Honduras to take urgent steps to ensure universal Internet access,

<sup>21</sup> See, in particular, Inter-American Court of Human Rights, *López Álvarez v. Honduras*, Judgment, 1 February 2006, para. 171.

<sup>22</sup> See <https://www.undp.org/es/honduras/blog/promover-el-acceso-soluciones-digitales-favor-de-las-mujeres-para-un-desarrollo-sostenible>.

meaningful connectivity and to increase the digital literacy of its population, in line with its commitment to the 2030 Agenda for Sustainable Development.

71. The Special Rapporteur notes that Honduras has not yet signed and ratified the Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean (the Escazú Agreement). The Agreement strengthens access to information, promotes open, inclusive public participation in all aspects of environmental decision-making and specifically protects human rights defenders working on environmental issues. Fifteen countries in the region are parties to the Agreement. The Special Rapporteur urges Honduras to accede to the Agreement in order to align its commitment to access to information and environmental matters with the highest regional standards.

## **F. Concerns about disinformation**

72. During the Special Rapporteur's visit, both government officials, on the one hand, and civil society representatives and journalists, on the other, expressed serious concerns about increasing levels of disinformation and misinformation, both online and offline, aimed at undermining or discrediting "the other". The Special Rapporteur noted a lack of trust on both sides, each considering itself to be the target of false and malicious information campaigns launched by the other.

73. In several meetings with government officials, the Special Rapporteur heard calls for "regulation" to counter harmful speech that undermines government policies. Officials also informed her of efforts under way to counter disinformation by monitoring the online space and labelling certain content as "fake". The Special Rapporteur further learned that the new Directorate General for Information and the Press has been given a broad mandate to monitor traditional and online media and respond to fake news.

74. In her 2021 thematic report to the Human Rights Council, the Special Rapporteur noted that disinformation is a highly complex phenomenon. What may be disinformation to one group may be regarded as fair criticism by another. Because there is often no agreement as to what constitutes disinformation, finding appropriate responses is difficult. Experience has shown that laws to censor speech or restrict the free flow of information in the name of combating disinformation do little to counter disinformation; instead, they create distrust and suspicion, in addition to having a detrimental impact on the enjoyment of human rights, in particular freedom of expression and media freedom.<sup>23</sup>

75. The Special Rapporteur cautions the Government that criminalizing online speech on grounds of falsity alone is both contrary to international law and counterproductive as a way of combating disinformation. Any regulation to restrict expression must be fully in compliance with article 19 (3) of the Covenant. She encourages the Government to prioritize the proactive dissemination of accurate and reliable information to the public. The State has an obligation to provide truthful, factual information and should not sponsor, encourage or disseminate information that it knows to be false.

76. The Special Rapporteur highlights the importance of diverse sources of information as an antidote to disinformation and misinformation.<sup>24</sup> She calls upon the Government to promote free, independent and pluralistic media as an important fact-checker and to nurture civic spaces for public debate. Opinions critical of the Government should not be labelled as disinformation but should be addressed on their merits, with factually correct information and a full explanation.

77. The Special Rapporteur encourages the Government of Honduras to invest in information, media and digital literacy in order to build resilience against disinformation and misinformation.<sup>25</sup> Investing in media, information and digital literacy empowers citizens by

<sup>23</sup> A/HRC/47/25, para. 3.

<sup>24</sup> Ibid., para. 93.

<sup>25</sup> General Assembly resolution 75/267, para. 3.

giving them the tools to safely navigate the online space, access information, express themselves and make their own assessment of the reliability of information.<sup>26</sup>

## G. Criminalization of expression

78. The Special Rapporteur is concerned that the Criminal Code of Honduras (Decree 130-2017) contains several provisions that are at odds with the right to freedom of opinion and expression and the related rights of peaceful assembly and association. The vague language and ambiguous concepts used in the Code and the wide discretion given to officials heighten the risk of abuse of those provisions. The Special Rapporteur would like to draw attention to the three issues set out below.

79. First, the Special Rapporteur is concerned about the criminalization of journalists, human rights defenders and activists for libel and slander under articles 229 to 231 of the Criminal Code, generally referred to as “crimes against honour”. According to data received from the Supreme Court of Justice, there were 14 convictions on the basis of crimes against honour in 2022 and 2023. In line with the recommendations of the Human Rights Committee, the Special Rapporteur advocates the repeal of laws that criminalize speech. Criminalization is a disproportionate response if the protection of the rights and reputations of others can be protected by the less stringent regimes of civil law.<sup>27</sup> During her meeting with the President of the National Congress, the Special Rapporteur was informed that legislative proposals aimed at the decriminalization of crimes against honour are currently pending before the National Congress but that the discussions of those proposals had stalled for political reasons. The Special Rapporteur calls upon all political parties to take responsibility and find consensus around the decriminalization of crimes against honour.

80. Second, the Special Rapporteur is concerned about the use of the offence of usurpation to criminalize land rights defenders, which affects Indigenous communities, Afro-Hondurans and peasants in particular. She notes that the current wording of article 378 of the Criminal Code on the crime of usurpation does not require proof of any intent to appropriate land or property. The broad and vague wording of that article has led to its abuse in the criminalization of those protesting peacefully or exercising their freedom of expression in defence of their land rights and seeking to protect their livelihoods. She received testimonies from activists, social communicators, journalists and members of Indigenous communities, including members of the Garifuna community, who are facing the charge of usurpation for their activities in relation to land conflicts. The Special Rapporteur calls upon the Government to revise article 378 of the Criminal Code.

81. Third, the Special Rapporteur expresses concern about the criminalization of the spread of “fake news or rumours” in article 573 of the Criminal Code, which can be punished with imprisonment for up to three years. While disinformation and fake news are legitimate concerns and while, above and in her thematic report to the Human Rights Council on disinformation,<sup>28</sup> the Special Rapporteur has proposed primarily non-legal or civil-law measures to address that issue, the criminalization of the dissemination of the vaguely defined and ambiguous notion of “fake news or rumours” leads to legal uncertainty, which can hamper the free flow of information or be used to shut down legitimate criticism of the Government and thus lead to unlawful restrictions on freedom of expression.

82. Article 28 extends criminal liability for offences committed by means of dissemination to include the editors and media companies responsible for the dissemination. Such extended criminal liability contributes further to legal uncertainty and can impede the free flow of information.

83. The Special Rapporteur reiterates that the criminalization of speech not only limits the freedom of expression of those charged with the offence but also leads to self-censorship due to fear of prosecution and has a chilling effect on other activists, journalists, media

<sup>26</sup> A/HRC/47/25, para. 94.

<sup>27</sup> Human Rights Committee, general comment No. 34 (2011), para. 47.

<sup>28</sup> A/HRC/47/25.

workers and human rights defenders who wish to express themselves, demonstrate peacefully and participate in public and political life.

84. The Special Rapporteur stands ready to provide further support and advice to the Government of Honduras regarding the revision of national laws to ensure their full compliance with international standards on freedom of opinion and expression.

## V. Conclusion and recommendations

85. Honduras faces complex and long-standing human rights problems, which are rooted in poverty, inequality, corruption, organized crime, weak institutions, the marginalization of peasant and Indigenous communities, patriarchal values impeding gender equality and respect for the rights of gender non-conforming individuals and alarmingly high levels of violence by State and private actors against human rights defenders, journalists and social communicators, sustained by a culture of impunity.

86. The election in 2021 of the current Government, which is headed by the first female President of Honduras, identifies with the “resistance on the streets” and has promised major political, social and economic reforms, raised expectations of much-needed change. By the time of the visit of the Special Rapporteur, almost two years after the presidential election, a sense of disappointment was apparent among many civil society actors, grass-roots activists and members of Indigenous communities, including those who had warmly welcomed the change of government, owing to the lack of clear direction on human rights issues, the slow pace of change and the absence of sustained efforts to promote institutional reforms. The Special Rapporteur shares their concerns, while acknowledging the complexity of the problems inherited by the Government.

87. The Special Rapporteur is alarmed that, in the face of growing criticism from civil society and the media regarding the lack of action on human rights issues, there has been a tendency on the part of the Government to label such criticism as “fake news” or “disinformation”. Some government officials have made negative public statements about civil society and independent media, calling for restrictions on freedom of expression, while others have acknowledged candidly that the political environment is highly polarized, eroding trust in the integrity of information and curtailing the space for tolerance of dissent and a plurality of views.

88. The risks to freedom of expression are high in such an environment. The Special Rapporteur urges the Government of Honduras to make urgent and substantive reforms to promote and protect freedom of expression, including the right to information, the right to dissent and the right to media freedom, as a vital pillar of its democracy and development agenda. Public figures, including those exercising the highest political authority, are legitimate subjects of public scrutiny and criticism.<sup>29</sup> Tolerance of diverse views, public debate and critical scrutiny of the Government and public institutions by the media, civil society and human rights defenders are essential features of democracy and are protected by international human rights law.

89. The Government has shown a willingness to seek technical advice and assistance from international and regional human rights mechanisms. The Special Rapporteur encourages Honduras to continue on that path and to translate its commitment to human rights into concrete changes on the ground, including by implementing the recommendations of relevant human rights mechanisms. The creation of a new special legislative commission of the National Congress to analyse freedom of expression and the right to information, in February 2024, as well as a new high-level intersectoral commission for the implementation of the judgments of the Inter-American Court of Human Rights in the cases *Garifuna Community of Triunfo de la Cruz and its Members v. Honduras* and *Punta Piedra Garifuna Community and its Members v. Honduras*, have

<sup>29</sup> Ibid., para. 38.

the potential to promote freedom of expression and strengthen press freedom and access to information in the country.

90. The Special Rapporteur makes the specific recommendations set out below to the Government of Honduras.

#### **A. Build mutual trust**

91. The Government should promote an open and trustful relationship with civil society and Indigenous communities. The free flow of information, including factual, timely information from State institutions, the tolerance of a diversity of views, the promotion of independent, free and pluralistic media, including community media, and inclusive, constructive engagement with civil society and communities on institutional reforms are important measures with which to build mutual trust.

92. Human rights defenders, journalists and social communicators play a valuable role in a democratic society and deserve respect, recognition and support from the authorities to enable them to carry out their work safely and effectively. The Government must ensure that public officials refrain from stigmatizing and attacking them in ways that could endanger their safety or undermine their credibility.

#### **B. Tackle impunity**

93. The Government must make the fight against impunity for killings and enforced disappearances of human rights defenders, journalists and social communicators a high political priority.

94. All killings and attacks on human rights defenders, journalists and social communicators must be investigated in a prompt, independent, impartial, effective, thorough and transparent manner according to international standards, in particular the Minnesota Protocol on the Investigation of Potentially Unlawful Death.

95. Independent evaluations should be carried out into the performance of the Special Prosecutors for Crimes against Life, for Human Rights and for the Protection of Human Rights Defenders, Journalists and Justice Officials to identify the main causes of their failure to investigate, prosecute and conclude cases effectively and promptly. The Government should strengthen the capacity and independence of the Special Prosecutors so that they can function free from any political interference and deliver their mandates effectively. The Government should also accept and implement the recommendations made by the Special Rapporteur on extrajudicial, summary or arbitrary executions after his recent visit.

96. Specialized protocols should be adopted for the prevention and investigation of gender-related killings of women and LGBTQI+ human rights defenders and journalists.

#### **C. Strengthen protection**

97. A major overhaul of the National Protection System should be undertaken, through a multi-stakeholder process involving civil society, State entities and OHCHR, with a view to strengthening the leadership, coordination and accountability of the Mechanism and the political will of all State entities involved to deliver results for those who need protection.

98. The reform of the National Protection System should take into account the recommendations of OHCHR as contained in the plan on strengthening the National Protection System, including an increased allocation of financial and human resources, capacity-building for staff and a personalized and context-sensitive approach to the identification and application of protection measures, including by applying a gender lens.



## **D. Ensure access to information**

99. The Institute on Access to Public Information should be strengthened with additional resources and empowered as an independent State institution with the authority to coordinate and enforce compliance by all public entities with the right to information. The presence of the Institute should be expanded across the country to ensure equal access to public information throughout the country, including in remote areas.

100. The Institute on Access to Public Information should enhance its efforts to coordinate and strengthen the storage of information by public institutions, including at the local level, through awareness-raising and capacity-building, with a view to making it accessible to the public.

101. Indigenous languages should be used by public institutions to enable the participation and access to information of Indigenous communities.

102. Honduras should ratify the Escazú Agreement in order to align its legal framework for access to information in environmental matters with the highest regional standards, to strengthen citizen participation and to advance sustainable development.

103. State institutions should respect the mandate of the Office of the National Commissioner for Human Rights to request information and should deal with its information requests as a matter of urgency.

104. The Government should accelerate its efforts to reach the goal of universal Internet access and meaningful connectivity across the country and should significantly enhance digital, information and media literacy, in particular for women, Indigenous communities and people living in remote areas, with a view to closing the digital gap, enabling access to information for all and increasing citizen participation.

## **E. Promote media freedom and pluralism**

105. The Government should promote free, independent, diverse and pluralistic media by ensuring equitable access to broadcasting frequencies and the editorial independence of government broadcasting channels and by increasing the transparency of media ownership.

106. Given the important role of community media in Honduras, the Government should support them to realize their full potential, including by taking the measures necessary at the legal and institutional levels to ensure that community radio has meaningful access to broadcasting frequencies, an adequate legal framework and simplified procedures that enable it to operate effectively.

107. The Government should ensure that accreditation schemes for journalists comply with international standards and are not applied arbitrarily, in particular with regard to access to government institutions.

108. Journalists and media organizations should be enabled to consider strengthening the quality of the sector, including through capacity development, better employment conditions for journalists and codes of conduct based on self-regulation. The creation of an independent press council to oversee the application of ethical and professional standards could be considered as a measure to enhance professionalism in the sector.

## **F. Address disinformation**

109. The Government should address disinformation by proactively providing truthful, factual information to the public and should refrain from sponsoring, encouraging or disseminating information that the Government knows or has grounds to believe is false.

110. The Government should invest in media, digital and information literacy in order to empower citizens by giving them the tools to safely navigate the online space, access information, express themselves and make their own informed assessment of the reliability of information.

111. In countering disinformation, the Government should favour non-legal measures over legal measures to restrict freedom of expression. Any restriction of freedom of expression must be in full compliance with the standards set forth in article 19 (3) of the Covenant and other relevant international and regional standards.

112. The Government should clearly define and make public the mandate of the Directorate General for Information and the Press and ensure that its role and functions do not infringe the right to freedom of expression or suppress media freedom, in particular when seeking to address disinformation.

## **G. Decriminalize freedom of expression**

113. Honduras should decriminalize libel and slander, which constitute offences under articles 229 to 231 of the Criminal Code (Decree 130-2017) and are generally referred to as “crimes against honour”.

114. Honduras should revise article 378 of the Criminal Code (Decree 130-2017), which establishes the offence of usurpation, to ensure that it cannot be used to criminalize those protesting peacefully or exercising their freedom of expression in defence of their land rights or their livelihoods.

115. Honduras should review and revise article 573 of the Criminal Code (Decree 130-2017), on the spreading of “fake news or rumours”, and article 28, which extends criminal liability for offences committed by means of dissemination to include editors and media companies, in order to ensure that vaguely defined and ambiguous concepts do not create legal uncertainty and do not lead to restrictions on freedom of expression that are not in line with international law.

116. The Special Rapporteur stands ready to support and advise the Government of Honduras further on those recommendations or other measures to strengthen freedom of opinion and expression.

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