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### **In post-coup Honduras, violence against journalists and impunity escalate, freedom of expression and cultural rights undermined**

Honduras' journalists and writers are working in a climate of rising violence, impunity and fear generated by the infiltration of the state by organised crime, increased militarisation and enfeebled institutions, says a new report to the United Nations on freedom of expression in the country. The ability of writers to investigate and inform is increasingly restricted, while the cultural sector is stagnating due to a lack of long-term policy and investment.

The report, submitted by PEN International, PEN Canada and the International Human Rights Program at the University of Toronto Faculty of Law (IHRP) as part of the UN's Universal Periodic Review (UPR) of Honduras' human rights record, due to take place in April 2015, finds that despite some positive steps taken by the state, many of the areas of concern highlighted at the last review in 2010 persist or have worsened. Moreover, a large number of the advances praised at that time have been seriously undermined.

Despite Honduras' pledge to protect journalists and combat impunity in November 2010, the current and previous administrations have displayed a lack of political will to investigate violations of freedom of expression and to protect journalists. Numerous initiatives to combat impunity have borne scant concrete results.

Attacks on journalists have risen sharply, including both murders and non-fatal, violent attacks. At least 26 journalists have been killed since the last UPR and at least 44 since 2003, most working for TV and/ or radio. Some have been slain despite having been granted protection measures, including by the Inter-American Commission on Human Rights (IACHR). Convictions have only been obtained for four of these murders, with the remaining 40 unresolved – an impunity rate of 91 per cent. Even in cases with convictions, justice is only partial and none of the masterminds have been prosecuted.

The Honduran state's official line is that the journalists are killed by "common criminals" or organised crime and their murders are unconnected to their opinions. However, in most cases possible links between attacks and the victim's journalism are not properly investigated. Indeed, police and officials often publically discard journalism as a motive before investigations are complete.

Moreover, state agents have been found to be responsible for 50 per cent of all attacks on freedom of expression and access to information in 2013 where the perpetrator could be identified. The vast majority of non-fatal attacks on journalists also go unpunished.

The Honduran state's failure to investigate and prosecute the murder of journalists constitutes not only a breach of the victims' right to freedom of expression, life and judicial protection, it also denies the victims' families, loved ones and the general public the right to obtain information and to learn the truth.

This failure is due in part to a lack of specialised protocols and investigative police and structural weaknesses, as well as to corruption within the security forces and the judiciary, which is woefully lacking in independence.

The advent of a new law to protect journalists and human rights defenders – currently before Congress – is a welcome development, but it remains to be seen whether there will be the necessary institutional coordination and financial, human and technical resources to ensure effective implementation.

In 2010, Honduras accepted numerous recommendations on strengthening and building the capacity of its human rights institutions, but these have been insufficiently implemented.

- Little is known about the work of the Special Prosecutor for Crimes Against Life (*Fiscalía Especial de Delitos Contra la Vida*, FEDCV), created in August 2013, which is responsible for investigating and prosecuting the murder of journalists, and it is unclear whether or not its staff have any training in human rights.
- The Office of the Special Prosecutor for Human Rights – responsible for investigating non-fatal attacks on journalists where the involvement of a state agent is suspected – is failing to make headway in the vast majority of its cases, due in part to a chronic and worsening lack of resources, including a lack of personnel trained in human rights.
- The Ministry for Justice and Human Rights, created in September 2010 – a move praised at the last UPR – was downgraded to a sub-secretariat of the Ministry of the Interior in early 2014 and as such is likely to enjoy less autonomy and influence.
- While the election of a new National Commissioner for Human Rights (*Comisionado Nacional de los Derechos Humanos*, CONADEH) in March 2014 is a positive step, there are concerns that the selection process is excessively political, and the new incumbent still has much to do to restore the credibility the office lost after the former Commissioner publically supported the June 2009 coup d'état. CONADEH's budget has not increased since 2009 and is insufficient.
- Fewer than half of the recommendations of the Truth and Reconciliation Commission (*Comisión de Verdad y Reconciliación*, CVR) – established in April 2010 to examine the coup, including human rights violations – have been fully implemented, yet the unit created to monitor implementation has been disbanded. Similarly, the Public Security Reform Commission (*Comisión de Reforma a la Seguridad Pública*), which was created in February 2012 as a result of the CVR in order to tackle corruption in the security forces and justice system, was disbanded in March 2014, one year short of its minimum three-year mandate. None of its proposed reforms have been undertaken to date.

Writers and journalists in Honduras are restricted by a raft of new and existing legislation and practices.

The last four years have seen a decrease in public transparency and a regression towards a culture of secrecy, with access to official sources increasingly restricted. The Law on Official Secrets and Classification of Information, which came into effect in March 2014, effectively abrogates the 2006 Access to Information law, rendering access to information arbitrary and dependent on the whim of individual officials.

Journalists and human rights defenders, whose phone calls and emails are frequently monitored by the authorities, have strongly criticised the December 2011 Special Law on Interception of Private Communications as contravening the right to privacy. The law lacks important accountability guarantees, including effective redress for illegitimate surveillance, and could enable arbitrary surveillance by the state.

Worryingly, the government has de-prioritized a pledge made by the previous administration to partially decriminalise defamation, which is still punishable by up to five years in prison. This has a chilling effect on journalists, against whom such suits are sometimes brought with the intention of silencing them. Journalists are also increasingly facing the threat of sedition charges.

Despite the Honduran state's international commitments to respecting and promoting cultural rights, writers in the country have deplored the lack of investment in the cultural sector and of a long-term policy to promote training, production and research, particularly since the coup.

## **Recommendations**

The Honduran government should:

- a. Recognise the importance of independent journalism and condemn all attacks against journalists at the highest levels of the state
- b. Develop specialised protocols within the Public Prosecutor's Office (*Ministerio Público*) for the prompt investigation of crimes against journalists, prioritising any links with their profession, and ensure adequate resources for implementation
- c. Ensure that all prosecutors and police responsible for investigating crimes against journalists are trained in human rights
- d. Publish a report on the activities of the Special Prosecutor for Crimes Against Life (FEDCV), with details of progress in investigations into the murder of journalists
- e. Keep victims and their families informed of the results of ongoing official investigations into attacks on journalists
- f. Take into account civil society concerns regarding the new journalist protection law and ensure that it is passed with sufficient financial, human and technical resources for meaningful implementation by all bodies involved; ensure that the mechanism has at its disposal police officers of good character who are trained in human rights protection work

- g. Take effective steps to improve the implementation of Inter-American Commission on Human Rights (IACHR) precautionary measures for journalists including by creating a judicial oversight mechanism
- h. Substantially increase financial, human and technical resources to the institutions responsible for promoting and protecting the rights of journalists, including the National Commissioner for Human Rights (CONADEH), the Sub-Secretariat for Human Rights, the Special Prosecutor for Human Rights and the protection division of the Ministry of Security, so they can carry out their work effectively; ensure that they are in regular communication and co-ordinate their work; and implement an accountability mechanism to monitor progress and compliance with their mandates.
- i. Reform the procedure for electing the CONADEH Commissioner so that the final decision is taken by independent experts
- j. Allow the media and researchers, including the Violence Observatory, access to official sources and statistics, and ensure public access to clear accounts of public expenditure by sector
- k. Review the Law on Official Secrets and Classification of Information to ensure that it cannot be used to unlawfully restrict the right to freedom of expression, which includes the right to receive information
- l. Repeal the Special Law on Interception of Private Communications and ensure that that all current surveillance practices are reviewed to ensure that they meet international standards on the right to privacy and freedom of expression
- m. Decriminalise defamation and make it a civil offence
- n. Ensure no journalist, writer or other individual is discriminated against or harassed, including by the bringing of spurious charges, on account of their opinions
- o. Develop and implement a properly funded and non-discriminatory national policy to encourage training, production and research in culture and the arts in full consultation with all sectors of civil society
- p. Sign and ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (ICESCR)
- q. Establish transparent procedures for the appointment, sanctioning, and removal of judges and judicial employees
- r. Accelerate the process of vetting police so that corruption at all levels is rooted out in a timely manner while respecting the rights of those involved
- s. Prohibit the deployment of military forces for law enforcement and domestic security purposes

- t. Facilitate as a matter of urgency the opening of a UN Office of the High Commissioner for Human Rights (OHCHR) in Honduras with a full mandate