

REPORT ON THE GOVERNMENT OF HONDURAS' PROTECTION OF HUMAN RIGHTS AND THE INVESTIGATION AND PROSECUTION OF SECURITY SERVICES PERSONNEL CREDIBLY ALLEGED TO HAVE VIOLATED HUMAN RIGHTS

BACKGROUND

Section 7045 (d) of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2012 (Div. 1, P.L. 112-74) ("the Act") provides that prior to the obligation of 20 percent of the funds appropriated by this Act that are available for assistance for Honduran military and police forces, the Secretary of State shall report in writing to the Committees on Appropriations that the Government of Honduras is (a) implementing policies to protect freedom of expression and association, and due process of law; and (b) investigating and prosecuting in the civilian justice system, in accordance with Honduran and international law, military and police personnel who are credibly alleged to have violated human rights; and the Honduran military and police are cooperating with civilian judicial authorities in such cases.

As discussed below, the Honduran government is meeting the requirements set forth in section 7045 (d) of the Act. Nevertheless, the Department will continue to urge the Government of Honduras to do more to protect and strengthen freedom of expression and association, to protect the due process of law, and to fully investigate and prosecute those in the police and military who have been credibly alleged to have committed human rights abuses.

HONDURAS – OVERVIEW AND CONTEXT

Honduras is under siege and struggling to reverse its deteriorating citizen security environment. The nation is the world's most violent; it recorded 7,104 homicides in 2011, a 14 percent increase over 2010. Honduras has a national per capita murder rate of 86.5 homicides per 100,000 citizens, and suffers approximately 19 homicides daily. The homicide rates are higher in municipalities such as Copan (175.6 per 100,000) and La Ceiba (174.2 per 100,000). Of particular concern is the impact of violence on the nation's young adult males, with men between the ages of 20 – 34 experiencing homicide rates that exceed 300 per 100,000.

The Government of Honduras faces the scourge of narcotics trafficking, with estimates indicating that up to 40 percent of cocaine destined for U.S. consumers makes its initial landfall in the country. Both domestic and transnational gangs

operate with impunity, creating a climate of fear, in particular for the most vulnerable citizens. Honduras is home to more gang members than the rest of the region combined. Organized crime and corruption create costs for citizens and businesses through extortion schemes and kidnapping. Corruption is prevalent throughout public institutions, and the police and rule of law institutions are ill equipped, trained, and managed to address Honduras' citizen security threats. The Honduran government has acknowledged its weak investigative capacity, which has resulted in ineffective investigations into allegations of abuse and extrajudicial killings by the police and military, as well as most other common and violent crimes in Honduras.

The Department is aware of allegations of human rights violations related to Police Chief Juan Carlos Bonilla's service a decade ago, and has established a working group to examine thoroughly the allegations against him to ensure compliance with the Leahy Law. While this review is ongoing, we are carefully limiting assistance to special Honduran law enforcement units, staffed by Leahy-vetted Honduran personnel who receive training, guidance, and advice directly from U.S. law enforcement, and are not under Bonilla's direct supervision.

Protection of Freedom of Expression: The constitution and laws of Honduras provide for freedom of speech, press, and assembly. Individuals and groups can engage in the expression of views via the internet, including by e-mail, and there are no restrictions on access to the internet or credible reports that the Government of Honduras monitored e-mail or internet chat rooms. There were no Honduran government restrictions on academic freedom or cultural events. There have been reports of intimidation of members of the media, and NGOs have criticized the government for the culture of impunity that exists for those who threaten and commit crimes against journalists. In December 2011, unknown gunmen attacked the offices of the daily newspaper La Tribuna, injuring a security guard. The Government of Honduras condemned the attack, but no suspects have been identified. In response to these attacks, the secretariat of security and the public ministry established the Special Victims' Task Force (SVTF) in 2011 to investigate the murders of vulnerable populations, including members of the press and the lesbian, gay, bisexual, and transgender (LGBT) community. Since its creation, the SVTF has arrested 11 suspects, has pending arrest warrants in seven more cases, and 90 more cases are under investigation. The secretariat of security's human rights division now offers threatened journalists protection customized to each individual. As of May, the secretariat was providing protective measures to 26 journalists and 25 other media workers. The protective measures include bodyguards, extra police patrols around offices and homes, and a hotline to report threats.

Protection of Freedom of Association: In May 2011, the Honduran government repealed a state of siege law that permitted the suspension of civil liberties. Demonstrations and strikes are permitted and occur regularly. In general, these activities are peaceful, but there have been confrontations between protesters and police where the police have deployed crowd control devices such as tear gas and water cannons. Honduran law provides for the right of workers to form and join unions of their choice, protects the right to bargain collectively and to strike, and prohibits employer retribution for engaging in trade union activity. However, it places a number of restrictions on these rights and employers occasionally violate the law with impunity. The secretariat of labor and social security can reach administrative decisions and fine companies for unfair dismissal.

Protection of Due Process of Law: Under President Porfirio Lobo, the Government of Honduras has begun to make the legislative changes necessary to reinforce the rule of law, bolster the capacity and professionalization of the police, prosecutors, and judiciary, and generate the funding required to sustain such efforts. Over the past year, the Government of Honduras passed a number of legislative reforms, including a security tax to generate a stream of revenue dedicated funding for prevention, law enforcement, and rule of law professionalization efforts. It passed legislation permitting judicially authorized wiretapping and a constitutional amendment to allow for the extradition of its citizens for organized crime, terrorism, and narcotics trafficking. The congress created a council of the judiciary to organize and direct the judiciary, appoint and remove judges, and carry out disciplinary measures against judicial personnel. In addition, Honduras doubled the prison term for extortion, and the government began a campaign to strengthen security for transport drivers to combat extortion. These legislative achievements follow passage of asset forfeiture legislation that provides additional public resources for citizen security programs and deprives criminals of their ill-gotten gains.

The Honduran government recognizes it needs help to improve respect for the rule of law, and has asked the United States for assistance. Through the Central America Regional Security Initiative (CARSI) and related U.S. government programs, the United States is supporting the Government of Honduras on such efforts. CARSI assistance led to the creation of a SVTF of vetted Honduran police and prosecutors that investigates and prosecutes crimes committed against journalists and other vulnerable groups. The United States has developed a police investigative school (PIS), which is providing law enforcement personnel with training in investigative techniques critical to the development of effective cases

for prosecution while protecting human rights. We are preparing to assist the Government of Honduras with the creation of an independent major crimes unit that will be capable of investigating complex crimes, such as narcotics trafficking, domestic and transnational gangs, and public corruption. CARSI also continues to support at-risk youth and municipal crime prevention programs, vetted units, land and maritime border security, and rule of law programs to strengthen the capacity of judicial actors.

Investigation and Prosecution in the Civilian Justice System Military and Police Personnel Credibly Alleged to Have Violated Human Rights and Military and Police Cooperation with Civilian Judicial Authorities: At the end of 2011, there were 424 ongoing investigations against security forces in relation to administrative and criminal complaints, including conduct not befitting an officer, abuse of authority, police brutality, robbery, and homicide. In November 2011, the Honduran national congress, recognizing the need to make immediate and dramatic improvements in the oversight of the police, removed the internal affairs function from the national police and established an agency independent of the police, the Directorate for the Investigation and Evaluation of the Police, to investigate cases of misconduct by the police. Before it was dismantled, the internal affairs directorate of the national police had completed 145 investigations of police accused of abuses and began legal proceedings in 43 of those cases, an increase of 26 percent over 2010. In January 2012, the national congress approved legislation creating a Commission for the Reform of Public Security. This independent body will design, plan, and monitor the process of reforming the police, prosecutors, and judiciary. The Government of Honduras also added a module on human rights and ethics in the basic criminal investigation course taught at the PIS. During 2011, the national police academy provided 150 hours of human rights training to the Honduran Police National University, 120 hours to the National Police Academy, 60 hours to the Officers Candidate School, and 10 hours to the Police Technology Institute.

All members of the Honduran Armed Forces (HAF) receive human rights training. Since 1998, the HAF have participated in a U.S. Southern Command-sponsored regional process to strengthen military respect for human rights, known as the Human Rights Initiative (HRI). The HAF signed a memorandum of cooperation with the HRI Secretariat in 2005, formally committing to implementing HRI within its forces. Representatives from the HAF, Honduran government, and civil society participated in the latest HRI conference, held in Guatemala in May.

The Office of the Special Prosecutor for Human Rights (OSPHR) investigates and prosecutes cases of human rights violations by state actors. The Government of

Honduras significantly increased the resources devoted exclusively to human rights, increasing the number of human rights prosecutors assigned to the OSPHR from 13 to 19 from 2010 to 2011. The government also increased the financial resources allotted to prosecuting human rights cases, increasing the OSPHR budget from \$470,000 in 2009 to \$842,000 in 2011. According to the OSPHR, in 2011, 487 formal complaints were filed against the police, six against the police and military, and one against the military. Of these, the OSPHR has taken legal action on 70 cases, of which 63 are working through the court system, and the remaining 424 still under investigation. In 2011, 10 human rights cases against police officers resulted in convictions. In addition, on February 20, a civilian court sentenced a member of the national police to eight years in prison for illegal detention and torture of a member of the anti-coup resistance during an August 2009 demonstration. On April 26, two police and two military officers were indicted for abuse of authority, attempted murder, assault, and illegal detention related to an August 2010 event, and will face prosecution in a civilian court for their alleged crimes.

The secretariat of justice and human rights, created in November 2010, is developing a first-ever human rights policy and plan of action. The Honduran government created a team, led by Secretary of Justice and Human Rights Ana Pineda, to implement the recommendations of the Truth and Reconciliation Commission established in May 2010, pursuant to the Tegucigalpa-San Jose agreement. The Honduran government has implemented 13 of the 84 recommendations to date, and an additional 13 are in the process implementation. The Supreme Court of Justice in September 2011 swore in a human rights liaison, a newly created position.

CONCLUSION

The Department believes Honduras has exhibited significant political will in making the difficult legislative and constitutional changes required to reinforce the rule of law, and it is investigating and prosecuting in civilian courts members of the military and police who have committed human rights abuses. The Department will continue to press the Government of Honduras to ensure that the recent legislative changes are effectively implemented to build the investigative, prosecutorial, and judicial capacity of key rule of law institutions. We will also hold the Government of Honduras accountable for the protection and promotion of the freedoms of expression and association, and the due process of law for all Hondurans, and will enhance our engagement with key civil society representatives to ensure that their concerns are addressed by the Honduran government. Finally,

we will continue to urge the Government of Honduras to aggressively investigate and prosecute those in the police and armed forces who violate the human rights of Honduran citizens, and take steps to reduce the climate of impunity that has left journalists, members of the LGBT community, and other vulnerable groups subject to intimidation and violent crime.