

Honduras: Human Rights Violations in Bajo Aguán

International Fact Finding Mission Report

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HONDURAS: Human Rights Violations in Bajo Aguán

The following international networks and organisations participated in the Mission:



APRODEV (Association of World Council of Churches related Development Organisations)



CIFCA (Copenhagen Initiative for Central America and Mexico)



FIAN International (FoodFirst Information and Action Network)



International Federation for Human Rights

FIDH (International Federation for Human Rights)



www.rel-uita.org

Rel-UITA (Latin American regional branch of the International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations)



Vía Campesina International

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1. INTRODUCTION

Since the coup d'état on July 28th 2009, several missions and reports by national and international human rights bodies and organisations have documented systematic and grave human rights violations in Honduras¹.

During 2010 and 2011, the human rights situation in the country continued to be critical. The focus of the international community has mainly been on attacks and murders of journalists, with the result that the country has been classified as one of the most dangerous places for journalists in the world². Cases of assassination, repression and harassment of opposition activists have also been documented and reported, as well as the firing of and reprisals against judges and magistrates who oppose the coup d'état. The human rights situation has been characterised by a prolonged state of defencelessness and impunity that has been exacerbated and reinforced by the coup d'état. This has particularly affected social leaders, peasants, participants of the resistance, teachers, journalists, and persons defending democracy and human rights.

In this context, one of the regions most affected by tension and repression has been the Bajo Aguán Valley. Peasant movements in this area, who fight for access to land in order to exercise their right to feed themselves, are faced with a situation of permanent harassment and abuse by public security forces, as well as by members of private security companies.

Between January 2010 and March 2011, 25 deaths have been registered relating to conflicts over land in Bajo Aguán: 23 peasants, a journalist and his partner³.

¹ Report on human rights violations during the first months after the coup d'état in Honduras: Report of the Inter-American Human Rights Commission, 30th of December 2009 (published on 20th of January 2010), <http://cidh.org/countryrep/Honduras09eng/Toc.htm>

Report of the UNHCHR to the Human Rights Council, March 2010, <http://www2.ohchr.org/english/bodies/hrcouncil/docs/13session/A-HRC-13-66.pdf>

Report of the Sub-Committee for the Prevention of Torture, February 2010, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G10/411/11/PDF/G1041111.pdf?OpenElement>

International Observation Mission for the Human Rights Situation in Honduras (FIDH, CEJIL, FIAN, PIDHDD, CIFCA and others): DE FACTO GOVERNMENT VIOLATES HUMAN RIGHTS IN HONDURAS, August 2009,

<http://cejil.org/sites/default/files/FINAL%20REPORT%20%20International%20Mission%20to%20Honduras.doc.pdf> .

Other reports, urgent calls and press releases can be found on the web pages FCA, FIAN, FIDH, Human Rights Watch, OMCT and other international organizations.

² Reporters without Borders, International Report 2010, <http://es.rsf.org/report-honduras,182.html>

Violence against journalists: UN experts call upon Honduras to protect media staff, published May 10th 2010, by Mr. Frank la Rue, Special Rapporteur on the promotion and protection of the rights to freedom of opinion and expression; Mr. Philip Alston, Special Rapporteur on summary, extrajudicial or arbitrary executions; and Ms. Margaret Sekaggya, Special Rapporteur on the situation of human rights defenders.

<http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=10032&LangID=E>

³ See Ch. 3.1; after the mission, between April and the beginning of June 2011, nine other peasants affiliated with the peasant movement in Bajo Aguán were murdered. See <http://www.fian.org/news/press-releases/honduras-2013-bajo-aguan-international-networks-denounce-ongoing-killings-and-severe-human-rights-violations/pdf>

The International Observation Mission on the human rights situation in Bajo Aguán visited Honduras from 26th February to 4th March 2011 in order to evaluate and make visible the human rights situation in this region, as a special case of repression, defencelessness and impunity that continues to dominate this country's reality.

In order to carry out this work, the Mission held meetings with seven peasant communities belonging to the three principal peasant movements in the area: The Peasant Movement of Aguán (MCA), the Unified Peasant Movement of Aguán (MUCA) and the Authentic Peasant Reclamation Movement of Aguán (MARCA). Meetings were also held with lawyers and organisations that are familiar with the human rights situation in Bajo Aguán, as well as with authorities related to the conflict (courts and district attorneys in Trujillo, Tocoa, La Ceiba, the Regional Office of the National Agrarian Institute, and the Special Attorney for Human Rights), with representatives from the international community (G16, International Cooperation Agencies ACI-DH), and with the independent Truth Commission (*Comisión de Verdad*).⁴

The following six international networks and organisations participated in the Mission: APRODEV (Association of World Council of Churches related Development Organisations), CIFCA (Copenhagen Initiative for Central America and Mexico), FIAN International, FIDH (International Federation for Human Rights), Rel-UITA (Latin American regional branch of the International Food, Agricultural, Hotel, Restaurant, Tobacco and Allied Workers' Association), and Via Campesina International. The international mission was accompanied and supported by seven national organisations: CDM (Women's' Rights Center), CIPRODEH (Center for the Investigation and Promotion of Human Rights in Honduras), COFADEH (Committee of the Families of Detained-Disappeared Persons in Honduras), Truth Commission, FIAN Honduras, Via Campesina Honduras and HEKS Honduras (Development Agency of the Protestant Churches of Switzerland).

As a product of the Mission, this report compiles and analyses the testimonies collected during the visit⁵ to the Valley of Bajo Aguán. It contributes to the visibility of this region's human rights situation before Honduran society and the international community, and can serve as an input to the Truth Commission's report. The Mission contacted different actors and parties involved in the agrarian conflict in Bajo Aguán in order to gather observations and comments⁶. The objectives of the report, among others, are: to evaluate and raise

⁴ Convoled by the Honduras Platform for Human Rights, the report's objective is to clarify the events that occurred before, during and after 28th June 2009, and identify the actions that led to the crisis, providing the Honduran people with mechanisms to avoid the repetition of these kinds of events in the future. This Commission acts autonomously, guaranteeing respect for due process, compiling evidence that helps to uncover the truth and those responsible for summary executions, random arrests, and forced disappearances, torture, death threats, defamation, cruel, inhumane and degrading treatment, among other crimes. It is then able to confront those seen to be responsible for such crimes. All of this aims to contribute to overcoming the impunity that currently reigns in Honduras, and contribute to the historical memory of the Honduran people, as well as provide recommendations for the eradication of human rights violations. For more information, visit: <http://www.comisiondeverdadhonduras.org>

⁵ Many witnesses and victims' family members gave their testimonies to the Mission, but out of fear for their safety, requested that the Mission not cite their names or their testimonies directly.

⁶ The preliminary report was sent for comments to the Special Attorney on Human Rights, the pro tempore president of the G-16, other United Nations bodies and diplomats, civil society representatives and private sector actors in Honduras. The communications from the Special Attorney on Human Rights received by the Mission until 6th of July 2011 indicate that the Special Attorney has no information about any progress of investigations in any of the cases of assassination of peasant in the Bajo Aguán, compared to their information shared with the Mission on March 1, 2011 (see chapter 3.1). It should be noted that there was an unfruitful mail exchange with the

awareness of the human rights situation in Bajo Aguán, the state of repression, defencelessness, and impunity in which the peasant population of this region live; and to express, on behalf of the organisations participating in the Mission, international support and attention for the peasant and social organisations in the region and the country, who have been defending their right to food and access to land, and who have reported the murders and abuses suffered in their communities.

2. CONTEXTUAL ANALYSIS

2.1. *The human rights situation in Honduras after the coup d'état*

The degradation of respect for and protection of human rights in Honduras has been consistent since the coup d'état that occurred on 28th June 2009. This was further aggravated by the ensuing break-down of constitutional order.

The international community had already expressed, on multiple occasions, its concern for the fragile rule of law and the human rights violations that the Honduran people suffer. In this regard, the Committee against Torture expressed, at the time, its concern for the “persistent acts of harassment and persecution, including threats, murders and other human rights violations, that human rights defenders, environmentalists and other political activists were experiencing, and for the impunity for such acts”⁷.

During and after the coup d'état, these violations became systematic and generalised. These then became part of official policy, implicating practically all main public institutions.

During the strong social mobilisation against the coup government, which took place during the days following the coup d'état, hundreds of people were brutally repressed by public security forces and more than 10 people died. The police and the army unjustifiably used tear gas and other anti-riot materials. The threats towards and intimidation of journalists, judges, magistrates and human rights defenders increased. Multiple cases of illegal arrests, kidnappings and torture occurred. Many women were illegally detained and suffered sexual abuse, perpetrated by public security forces. The judges that criticised the coup were later victims of arbitrary transfers or lay-offs and unjust disciplinary proceedings. There has been practically no investigation into these cases or justice measures for those responsible for the human rights violations. This was verified by the IACHR during their visit and emphasised in their report on Honduras in May 2010⁸.

This rupture in the rule of law and the ensuing aggravation of the human rights situation in the country did not go unnoticed by international NGOs and other organisations. The Inter-American Commission for Human Rights visited Honduras on several occasions and produced various press releases and reports warning of grave violations being committed after the coup d'état. Likewise, the United Nations system rejected the coup with a resolution from the Human Rights Council that recommended specific follow-up on the situation in

Executives at the Dinant Corporation, who finally responded by counter-arguing the Mission's results without presenting any documented evidence. Despite this fact, the company's version is documented in the respective section (the murder of five peasants on November 15th 2010 on the El Tumbador estate), see Chapter 3.1.

⁷ Joaquín A. Mejía R.: *The human rights situation in Honduras after the coup d'état (La situación de los derechos humanos en Honduras en el escenario postgolpe de Estado)*.

⁸ IACHR: Honduras Report: Human Rights and the Coup d'état, May 2010.

Honduras. This follow-up involved a visit from the United Nations Office of the High Commissioner on Human Rights and visits from various UN Special Rapporteurs, as well as continual monitoring by various national and international NGOs.

Seeking to dissipate international criticism - which had provoked Honduras's expulsion from the Organisation of American States (OAS) - the government called elections on 29th November 2009.

Nevertheless, those elections did not fulfill the minimum necessary conditions for a legitimate government to be created. Some of the specific elements that demonstrated the abnormal conditions surrounding these elections were: the continued militarisation of the country; the state of emergency; the political and social repression; and a lack of participation.

As a result, Porfirio Lobo Sosa was named president of this new government. His administration and the human rights violations that have continued since he took office in January 2010 clearly demonstrate the continuation of the coup d'état rule.

The violations and persecution of social and peasant leaders, supporters of the resistance, teachers, journalists and human rights defenders, among others, have continued to take place with the same intensity and in practically the same way. The only difference now is that acts of repression are more discrete and selective in order to avoid too many international repercussions.

The government, seeking international recognition, has established mechanisms to legitimise itself *formally* before the international community. Among these was the creation of the Truth and Reconciliation Committee, whose objective is limited to identifying the factors that contributed to the crisis. This excludes the obligation to investigate human rights violations against the people or justice and compensation for victims, which hinders healing processes and perpetuates the cycle of violence. This Committee was formed with many judicial as well as legal shortcomings that limited the scope of its work and therefore, also the results of its labor⁹. The government also created the Ministry of Human Rights.

Additionally, the government adopted various measures that tend to guarantee impunity for violations committed during and after the coup d'état, including the definitive dismissal of charges against six high-ranking military officials who participated in the coup. Furthermore, the director of the coup, Roberto Micheletti, has been given a life-long position as senator (a measure that is not permitted by the Honduran constitution), an amnesty decree has been approved, and many public institutions remain under the control of the same people who supported the coup d'état.

The government has not taken any actions to purge these institutions nor to sanction those who failed to fulfill their obligations. Worse still, the current government has nominated high-ranking military officials and former military officials linked to the coup d'état to public offices¹⁰;

⁹ Among other faults, the Commission's mandate is limited to "the clarification of the events occurring before and after 28th June 2009". It also does not include any obligation for the legislative, judicial or public ministries to provide information to the Truth Commission. The victims and Honduran civil society have been excluded from the process of establishing this commission and from its work. CEJIL press release: Honduran Truth Commission is formed with serious legal shortcomings. 4th May 2010.

¹⁰ The following nominations were made by the current administration: Division General Venancio Cervantes is the General Director of Migration and Immigration (he was assistant director of the Joint Chiefs of Staff at the time of the coup d'état); Brigade General Manuel Enrique Cáceres is the Director of Civil Aeronautics; the ex-General Nelson Wily Mejía is now in charge of the Marine Mercantile Administration and the ex-General Romeo Vásquez Velásquez is the manager of the

positions that are still standing to this day. The State also failed to make any attempt to reverse the illegal dismissals of judges that occurred in May 2010, due to the fact that the judges opposed, and continue to oppose, the coup d'état¹¹. Honduras is one of the countries with the most convictions from the Inter-American Human Rights System and almost all of them have impunity in common, both for the perpetrators and the organisers of these violations¹². It does not seem likely that anything will change in this regard. The human rights violations committed during and after the coup d'état led to impunity, not only through the denial of access to justice, rights and compensation for victims, but also through the perpetuation of the repressive State model that does not guarantee or promote human rights¹³.

2.2 The agrarian situation in Honduras

The agricultural and livestock sector in Honduras constitutes between 26% and 28% of the Gross Domestic Product (GDP), and according to World Bank and FAO data, more than a third of its territory is cultivable and pastoral lands¹⁴. Despite the large amount of land available and the workforce's high level of agricultural activity, especially in the production of export crops, a large number of families remain without access to land and many others only have between 1 and 3.5 hectares¹⁵ while land ownership is highly concentrated in the hands of a few private owners. Based on the last Agriculture and Livestock Census in 1993, CEPAL indicates that 1.6% of land-holding producers own 40% of the cultivated land in the country, while 72% of producers own just 12% of cultivated land. The census also revealed that more than 200 thousand peasant families (equivalent to 44% of the rural population) have no access or very inadequate access to land. Since agrarian reform policies were paralysed in the 90s, it is very probable that these huge disparities in land ownership have not diminished¹⁶.

This dramatic situation has increased the levels of poverty and extreme poverty in a country that is enormously rich in natural resources. According to the Applied Economics Institute's Report on Rural Poverty¹⁷, the rural Honduran population lives on one dollar a day per person on average. Almost half of the rural population lives on an income of less than 0.5 dollars a

Honduran Telecomunicaciones company (Hondutel) (he was the Commander-in-Chief of the Armed Forces at the time of the coup). IACHR. Preliminary Comments from the Inter-American Court for Human Rights on their visit to Honduras from 15th – 18th May 2010. OAS/Ser.L/V/II. Doc. 68. 3rd June 2010, par. 124.

¹¹ Intervention of the FIDH, CIFCA and CEJIL seeking the definitive approval of the Universal Periodic Review (UPR) conducted by the United Nations Human Rights Council regarding the State of Honduras, Geneva 17th March 2011.

¹² Joaquín A. Mejía R.: The human rights situation in Honduras after the coup d'état.

¹³ For more information on the human rights situation in the Universal Periodic Review on the human rights situation in Honduras, visit <http://www.ohchr.org/EN/HRBodies/UPR/PAGES/HNSession9.aspx>

¹⁴ United Nations' Food and Agriculture Organisation (FAO): WTO Agreement on Agriculture. The experience of its execution. Case studies in developing countries. Rome, 2004.

¹⁵ SARA – Alliance for Food Sovereignty and Rural Reform (*Alianza por la Soberanía Alimentaria y la Reforma Agraria*) 2009.

¹⁶ Economic Commission for Latin American and the Caribbean (CEPAL), Agrarian structure and peasants in El Salvador, Guatemala and Honduras, September 2001, <http://www.eclac.org/publicaciones/xml/7/9587/l492.pdf>

¹⁷ Paes de Barros, Ricardo Mirela de Carvalho; Samuel Franco (2006): *Rural Poverty in Honduras: Magnitude and factors (Pobreza rural en Honduras: Magnitud y determinantes)*, United Nations Program for Development (UNPD), Applied Economics Institute for Investigation (IPEA), Secretary of State for the President's Office, Tegucigalpa, Honduras, November 2006.

day and close to 25% have an income of less than 0.25 dollars a day. This report also shows that 2.8 million Hondurans from rural areas live below the poverty line. This group represents more than 75% of the rural population and more than 70% of the poor in the entire country. Data from the FAO from October 2010 indicate that even when compared to the Central American region, the case of Honduras is particularly critical: 78.8% of the rural population lives below the poverty line, which is the highest level in the region¹⁸. Another factor that influences the rural population's quality of life considerably is the progressive displacement of basic grain production by export crops, accompanied by an excessive concentration of land in the hands of a few owners. This has greatly affected the food security of thousands of families. Furthermore, Honduras has recently gone from being one of the main basic grain producers in Central America, to producing half of what it needs, which in turn forces the country to import large quantities of food (rice, corn, and beans). The fall in corn production in Honduras has been extreme, and has affected the volume of imports, which has grown from 0.04% in 1995 to 0.39% in 2006. In the case of rice, its decrease has been notable, with its import rate growing from 0.39% in 1995 to 0.90% in 2006¹⁹. On the other hand, Honduras currently produces more than 300 metric tons of African palm oil, almost 70% of which is exported. This plant is now cultivated on 120 thousand hectares (compared to 40 thousand during the 90s and 80 thousand in 2005), the majority of which is situated in the northern parts of Colón, Atlántida, and particularly in the Valley of Aguán.

The current rural development model, based on agribusiness and land grabbing, is not only worsening poverty levels, but also affecting the food security of the entire rural population. At the same time it is generating intense conflicts that frequently turn into open and systematic violations of people's most basic rights²⁰.

2.3 Agrarian reform and the re-concentration of land in Bajo Aguán

The substantial decrease of sovereignty and food security accompanied by a process of re-concentration of the country's best lands into the hands of a few reversed the advancements achieved by the land redistribution process that started in the 70s. The process of agrarian reform reached its peak between 1973 and 1977 when a specific law and various decrees were approved, and 120 thousand hectares of land were distributed in just five years.

It was during this time that the State, through the National Agrarian Institute (INA) began to promote a migration program that aimed to relocate peasants, especially in the southern region of the country, to less populous areas on the Honduran Atlantic coast, and especially to the Bajo Aguán region. The reformist government, formed in 1972, intensified the colonisation process, always with strong external financial backing to complement their own resources. The State built highways and secondary roads, drainage systems, flood retaining walls, schools, health centers and other projects with economic and social ends. Over time, the new colonists took over the land and consolidated peasant groups. At this time, peasant organisations reached their high point, as did their successes. As in the rest of the country,

¹⁸ FAO advocates for a bold food strategy in Central America, 15th October 2010, <http://www.elpais.cr/articulos.php?id=34298>

¹⁹ Commercial Policy and Food Security in Central America: Options and Implications (*Política Comercial y Seguridad Alimentaria en Centroamérica: Opciones e Implicaciones*). Inter-American Bank for Development, 2008. <http://idbdocs.iadb.org/wsdocs/getdocument.aspx?docnum=1667221>

²⁰ For more details see: Bernd Kappes/ Gilberto Rios (FIAN Honduras): Advancements in the Promotion of the Right to Food in Honduras (*Avances en la Promoción del Derecho a la Alimentación en Honduras*), FAO, Santiago de Chile, 2008.

the peasant settlements in Aguán had to form cooperatives, associative groups or some kind of societal organisation so that the peasants, turned business people, could manage to be competitive and therefore, prevent the property managed by the INA from being concentrated in the hands of estate owners and rural business people again, as a result of corporate circulation²¹.

Nevertheless, within the framework of the Agreements on Structural Adjustments impelled by the international financial institutions, the Modernisation and Agricultural Sector Development Act was promulgated in 1992, which allowed business people to continue concentrating the land. By means of various irregular schemes and different interpretations of this law, large producers were given the opportunity to extend their territories beyond the maximum property limits established by the agrarian reform law (known in Honduras as the "sobretechos" (*excess beyond land ceilings*))²². A campaign then began to allow the directors of peasant organisations to sell this land, which promoted open corruption as the agrarian reform had declared that these lands could not legally be sold to private landowners.

The only legal way to separate the lands was to sell them and return them to the INA so that this institution could then transfer them to other peasants, the beneficiaries of the agrarian reform. However, INA itself encouraged the sale of lands from this reformed sector, violating the fundamental rules of the Agrarian Reform Act. In the case of Aguán, it was verified that the INA administration sent letters pressuring the peasant settlements to sell their lands²³. As a result, in 1991 and 1993, the majority of the agrarian reform land sales (lands belonging to 40 peasant companies in Bajo Aguán) ended up in the hands of the main landowners and palm oil businesses currently in the region (Miguel Facussé, René Morales, and Reinaldo Canales)²⁴.

The factors described above, including the malicious bureaucratic modifications, corruption among the peasant leadership and civil servants in the INA, as well as pressure from INA's Executive Administration on the peasant companies to sell their lands to big businesses or for them to enter co-investment agreements, created favorable conditions for the massive sale of land which, for the most part could not be considered legal²⁵.

At the same time, land transfer to peasant groups within the agrarian reform process almost disappeared. However, the legal provisions clearly established that the lands belonging to the

²¹ Ríos, Gilberto, "Agraria Reform and Conflict in Bajo Aguan" (*Reforma agraria y el conflicto agrario en el Bajo Aguán*), FIAN Honduras (2010).

²² The Agrarian Reform Act of 1962 designated "sobretechos" (land ceilings) as incentives to promote better use of land and water, and simultaneously, provided for the affectation and allocation of land. Excess lands are the amount of land that is greater than the ceilings, and according to the Modernization and Agricultural Sector Development Act, can be authorised by the Secretary of Agriculture and Livestock when the secretariat considers the project presented by an interested party to be feasible and, the investment is less than 1 million Lempiras, according to prices in December 1991. The calculation for the land ceilings in hectares was determined by soil quality and the availability of productive and social infrastructure. Resultantly, in irrigation districts the land ceiling is defined to be 100 hectares; in Bajo Aguán 300 hectares; in other regions in the country the ceiling can go up to 1,500 hectares.

²³ See letter by Juan Ramón Martínez, Director of the INA, dated 23rd May 1990, in the Annex to the Contract of Sale of agrarian reform lands, by Raúl Ruben and Francisco Fúnez, March 1993, Editorial Guaymuras.

²⁴ Raúl Rubén/Francisco Fúnez, The sale of agrarian reform lands (*La compraventa de tierras de reforma agraria*), March 1993; Ríos Gilberto, "Agrarian reform and the agrarian conflicto in Bajo Aguán" (*Reforma agraria y el conflicto agrario en el Bajo Aguán*) FIAN Honduras (2010).

²⁵ Trucchi Giorgio, "Blood runs again in Bajo Aguán" (*De nuevo corre la sangre en el Bajo Aguán*) (2010)

former Regional Center for Military Training (CREM) had to be transferred to landless peasants through the Agrarian Reform. In spite of these provisions, the Municipal Corporation of Trujillo illegally sold these state lands in 1991 to several business people, politicians and military groups in the area. Since then, one of the most severe agrarian conflicts in the region today is fought over the site of the former CREM. Despite the fact that the state of Honduras, through the National Attorney General of the Republic, clarified that at no time did the Municipal Corporation have the legal authority to sell this land, and that in October 2000 the President of the Republic at the time, Carlos Flores Facussé, transferred the title for over 1500 hectares to peasant families organised as the Peasant Movement of Aguán (*Movimiento Campesino del Aguán* or MCA), this process of recovering and transferring the CREM lands to the families in the Guadalupe Carney community has never been completed²⁶.

The vast majority of landless peasants and mini-estate owners have lost any hope for access to productive land in sufficient quantity and quality to allow them to produce their own food. The privatisation of the few credit, technical assistance, commercialisation training and consulting services that the State had been offering for free was the final blow²⁷.

Big business, on the other hand, receives national and international financing, particularly for the expansion of African palm trees, used in the production of oil and increasingly for agrofuel production (see table below).

A recent example of a significant international loan is project 27250 by the International Financial Corporation (IFC), an entity of the World Bank Group that co-finances the project, providing 30 million USD of the sum total of 75 million USD to the Dinant Corporation, owned by businessman Miguel Facussé²⁸.

In the IFC's public description of project 27250 on its environmental and social impact and sustainability, it is categorised as level B given the "limited environmental and social impact of the project, which can also be avoided or mitigated by adhering to international standards, guidelines, design criteria, local regulations and industrial certification plans".

In the project description, the IFC asserts that "Oil palm plantation development is occurring on existing, cleared agricultural land, and there is no destruction of or impact on critical habitat involved. Land acquisition is on a willing buyer-willing seller basis, and there is no involuntary displacement of any people."

In an interview with the *Heraldo*²⁹ on 21st January 2010, businessman Facussé indicated that he would also receive financial support from the Inter-American Development Bank (IDB) (20 million USD); from the Central American Bank of Central American Integration (BCIE) (another 20 million USD); and from the German bank DEG³⁰ (20 million USD).

²⁶ See property history and the current situation in Ch. 3.6.2.b of this report.

²⁷ Ríos Gilberto, "Agrarian reform and the agrarian conflict in Bajo Aguán" (*Reforma agraria y el conflicto agrario en el Bajo Aguán*) FIAN Honduras (2010).

²⁸ See Project plan at:

<http://www.ifc.org/ifcext/spiwebsite1.nsf/1ca07340e47a35cd85256efb00700cee/2F9B9D3AF1F894852576BA000E2CD0>

²⁹

http://www.dinant.com/noticias.php?noti_id=82&start=0&categoria_id=1&prede_id=0&arcm onth <http://www.elheraldo.hn/Ediciones/2010/01/22/Noticias/Miguel-Facusse-hara-millonaria-inversion>

³⁰ However, on the 11th April 2011, the German Investment and Development Society (DEG) decided to suspend their contractual relationship with the Dinant Corporation and not grant the agreed upon loan. DEG received the preliminary report and began a dialogue with the international fact finding

The MUCA and MARCA case:

In 1998, cooperative members that had sold their shares began to investigate the motives behind the sales and their legal basis. In doing so, they discovered several irregularities and illegalities. In November 2001 the Unified Peasant Movement of Aguán was formed (*el Movimiento Unificado Campesino del Aguán* or MUCA) consisting of 28 groups of peasants who had not benefited from the agrarian reform. This organisation laid the foundations for a new peasant movement in the region over their legitimate claims to lands that had been declared part of the agrarian reform in the 70s and had been fraudulently transferred within corruption led land sales.

Since 2004, MUCA has been demanding the nullification of land sales as well as legal clarification regarding the situation of the lands and the organised peasants' legitimate rights as established by the 1962 Agrarian Reform Act. In February 2006, seven thousand peasants peacefully occupied part of the highway near Tocoa, calling the action "The occupation of five thousand machetes" (*Toma de los Cinco Mil Machetes*). This publicly launched MUCA and their claims to rights over the land freed in the concession. On this date, a general agreement was negotiated on the 12 points presented by the peasants and the popular movement.

On 3rd March 2009, MUCA presented a Proposal for Negotiable Agreements, between the government, businesses and peasants, suggesting to the President of the Republic that a dialogue commission be established. On 12th June 2009, a high-level government mission and MUCA both signed the Agreement Act. This included a technical legal commission comprised of INA representatives and five MUCA representatives, coordinated by an agricultural secretary representative on behalf of the government, and Fabio Evelio Ochoa as an agricultural consultant for the peasants. The agreement was signed by President José Manuel Zelaya Rosales on 19th June 2009 in Tocoa, Colón. The coup d'état on the 28th paralysed the implementation of the planned framework for this conflict resolution.

On December 9th 2009, 2,500 peasant families affiliated with the 28 peasant cooperatives that make up MUCA began a recovery process based on the evident breach of the agreement signed before the coup d'état. This sparked a wave of violence and repression across the Bajo Aguán region. The armed forces, police, business security guards and so-called paramilitary groups (private guards) carried out evictions and armed attacks. Orders for illegal arrests, captures and assassinations accompanied the media campaign to defame MUCA, orchestrated by the principal national media outlets. In the middle of unprecedented militarisation in the area, the government and MUCA began negotiations that ended with an agreement on 13th April 2010³¹.

The Authentic Peasant Reclamation Movement of Aguán (*Movimiento Auténtico Renovador de Campesinos del Aguán* or MARCA), originally comprised of four cooperatives and today including 14 associative peasant cooperatives, decided not to sign the agreement between MUCA and the government, as they were convinced that they should attempt to recover their lands through courts of law due to the legal validity of their land titles to the land in question.

mission. After analysing the situation, the public bank that manages German development funds, decided to withdraw their final support from the project. Furthermore, the Clean Development Mechanism's Executive Board (CDM) and the British government are reviewing their authorisation of controversial carbon offsetting project in the Bajo Aguán: Due to the reported human rights situation, EDF Trading, a wholly-owned subsidiary of Electricité de France SA and one of the biggest CDM investors, pulled out of a contract to buy carbon credits of around 2.8 million dollar from the project.

³¹ See the agreement's content and implementation process in Chapter 3.6.2.a.

The MCA case: The Peasant Movement of Aguán (*Movimiento Campesino del Aguán* or MCA), is comprised of 700 peasant families organised in 45 peasant cooperatives and settled in the Guadalupe Carney Community. They are living in a different situation, on the State lands that were previously utilised by the Regional Center for Military Training (CREM). This land is State territory of 5,724 hectares in Bajo Aguán, that the Republic's Attorney General transferred to the INA to be used in the Agrarian Reform when the CREM closed ³².

MCA's efforts to recover the lands from CREM began at the end of the 90s. Following the transfer of the land deeds to the MCA for 1,500 acres by the President of the Republic at the time, Carlos Flores Facussé in 2000, there began a very slow process of regulating and transferring these lands to the MCA peasant companies.

An important step forwards was the legal framework that became effective in April 2008, the Decree 18/2008: it included the resolution of the CREM case as well as other pending agrarian conflicts: in the face of the instability of many peasant settlements and ensuing conflicts between them and the prior landowners, the so-called "mora agraria" (pending agrarian conflicts that have not been resolved for many years) must be addressed.

The decree notes that it is extremely important to create pertinent legal mechanisms and instruments to implement effective legal actions to permit the regularisation of the land, as well as provide a definitive solution to approximately 800 agrarian conflict cases filed with the National Agrarian Institute (INA).

The agreement also specifies that the resources to pay for the improvements should come from those who illegally appropriated the lands and occupied the Regional Center for Military Training, thus providing the INA with a special proposal to resolve the CREM case³³. However, the case has yet to be resolved, due to the INA's weak institutional actions and especially because of the disrespectful attitude of several landowners in the area who do not want to concede the State lands that they acquired illegally at the beginning of the 90s. In January 2011, the Supreme Court declared Decree 18-2008 unconstitutional according to the appeal presented by the National Federation of Farmers and Ranchers of Honduras (FENAGH).

³² See more details in the relevant section of Chapter 3.6.2.b.

³³ Art. 12, Decree 18-2011.

3. THE HUMAN RIGHTS SITUATION IN BAJO AGUÁN

Article 16 of the Honduran Constitution establishes that international treaties signed by the State constitute laws of the Republic. Honduras is a State party to the International Covenant of Economic, Social and Cultural Rights (ICESCR), and has adopted the Covenant Decree 961-80; and the International Covenant of Civil and Political Rights (ICCPR), through Decree 64-95, among other international treaties. By signing these international treaties, Honduras has agreed to the legal obligation to respect, protect and fulfil these rights for the benefit of all inhabitants of its territory.

As a result of the coup d'état the death rate rose, as did persecutions, threats and intimidations against approximately 3,500 peasant families who were claiming land in order to live with dignity in Bajo Aguán.

The government has converted the area of these agrarian conflicts in Bajo Aguán into a war zone: low-flying military helicopters and planes, armed commandos passing menacingly through defenceless villages during the days after the coup; and the peasants of the region's organized movement suffer from kidnappings, torture and murders. Human rights violations are growing as the peasants' claims increase.

3.1. *The right to Life*

Regulatory framework in force

The Constitution of the Republic approaches this right from three perspectives: human life in its physical and psychic forms; the social life of people where actions are realised in common; life in relation to nature. The correct fulfillment of these three components involves not only human survival, but also, a full and dignified life.

This right is also included, among others, in the International Covenant of Civil and Political Rights (article 6). The Committee for Human Rights, in General Comment 6 has detailed this right as follows:

This right demands supreme respect and its suspension cannot be authorised under any circumstances, including exceptional situations that threaten the life of the nation. The Committee considers that States party must not only adopt measures to avoid and punish criminal acts that involve the deprivation of life, but must also avoid their own security forces killing people arbitrarily. The deprivation of life by State authorities is an extremely grave matter.

Violations of the right to life in Bajo Aguán

This right - recognised in international treaties which oblige States Party to guarantee it – is ignored in areas such as the Valley of Aguán where Honduran State agents, complicit with private security companies, threaten the lives of peasant families.

The Mission's results verified that between January 2010 and March 2011, 23 peasants were murdered in the context of the agrarian conflict in Bajo Aguán. Furthermore, the murder of a journalist and his partner is also alleged to be related to this conflict³⁴.

The testimonies and information provided by national human rights bodies, victims and their families, peasant organisations, unions, lawyers and legal representatives, journalists and the media, development NGOs, church institutions, the district attorney and courts in the region of Bajo Aguán, lead to the conclusion that the murders were perpetrated in the context of agrarian conflict. This information also shows direct involvement of private security guards from some of the local companies who are complicit with police and military officials that have kept the streets and highways of the Valley of Aguán under their control since March 2010.

During the first three months of 2010 the deaths were typically "feigned accidents" where the victim was run over by a vehicle or killed in a fatal car accident. In all cases, according to witnesses and members of the peasant movements, the security guards working for businessmen Miguel Facussé and René Morales are seen to be the primary actors.

Following the negotiation process between the Porfirio Lobo Sosa administration and the MUCA peasants, there were more deaths caused this time by high caliber firearms following a chase; in two of these cases the victims were ambushed. After the agreement was signed, the murders took on new forms, including kidnapping, torturing prior to the victims' murder.

Murders that occurred in the heart of the peasant movement between January 2010 and March 2011 in the Valley of Aguán:

<u>Date</u>	<u>Name of Victim</u>	<u>Alleged events</u>
<u>2nd January 2011</u>	Ermin Nabarro, Cooperativa La Aurora (MUCA)	<u>Murdered on the public motorway close to the La Aurora settlement</u>
<u>15th November 2010</u>	Raúl Castillo, 48 years old, of the Cooperativa 14 de mayo. (MCA)	<u>Murdered by private security guards from the El Tumbador estate.</u>
<u>15th November 2010</u>	José Luis Saucedo Pastrana, 25 years old. (MCA)	<u>Murdered by private security guards from the El Tumbador estate</u>
<u>15th November 2010</u>	Ciriaco de Jesús Muñoz, 50 years old, from the Cooperativa Nueva Esperanza. (MCA)	<u>Murdered by private security guards from the El Tumbador estate.</u>
<u>15th November</u>	Teodoro Acosta, 39 years old,	<u>Murdered by private security</u>

³⁴ **Murders related to the agrarian conflict in Bajo Aguán, occurring after the Mission (April to June 2011):** According to the information received and verified by national human rights organisations, **9 organised peasants have been murdered since April 2011:**

- 20th April 2011: Tarín Daniel García Enamorado and Carlos Alberto Acosta Canales, of the associative business Productores de Colón
- 5th May 2011: Henry Roney Díaz, of the Cooperativa El Despertar
- 10th May 2011: José Paulino Lemus Cruz, member of the Cooperativa Brisas del Edén
- 29th May 2011: Olvin Gallegos and Secunino Gómez, both of the cooperative El Despertar
- 5th June 2011: Guillermo Recinos Aguilar, Joel Santamaría and Genaro Acosta, peasant members of the cooperative San Esteban.

<u>Date</u>	<u>Name of Victim</u>	<u>Alleged events</u>
<u>2010</u>	from the Cooperativa Nueva Vida. (MCA)	<u>guards from the El Tumbador estate.</u>
<u>15th November 2010</u>	Ignacio Reyes García, 50 years old from the Cooperativa Familias Unidas 3. (MCA)	<u>Murdered by private security guards from the El Tumbador estate.</u>
<u>10th September 2010</u>	Francisco Miranda Ortega, 55 years old, from the Cooperativa La Aurora. (MUCA)	<u>Shot to death with 6 bullets by unknown persons while the victim was travelling by bicycle towards Tocoa.</u>
<u>10th September 2010</u>	Enrique Alfredo Larios Cruz, of the peasant association company "Unión Catracha". (MCA)	<u>Murdered alongside his companion by firearm near the village Honduras Aguán, in the municipality of Trujillo.</u>
<u>10th September 2010</u>	Rodríguez Valdés, companion of Enrique Larios Cruz. (MUCA)	
<u>17th August 2010</u>	Sergio Magdiel Amaya, 18 years old, from the Cooperativa San Esteban. (MUCA)	<u>Shot to death with an AK-47 weapon while travelling towards his village from Tocoa, two companions travelling in the same vehicle also died. According to the report, the victims were ambushed by security guards travelling in a blue vehicle with a double cabin.</u>
<u>17th August 2010</u>	Víctor Manuel Mata Oliva, 40 years old, from the Cooperativa San Esteban. (MUCA)	<u>Shot to death by an AK-47 weapon while travelling towards his village from Tocoa in a vehicle where two companions also died. According to the report, the victims were ambushed by security guards travelling in a blue vehicle with a double cabin.</u>
<u>17th August 2010</u>	Rodving Omar Villegas, 15 years old, from the Cooperativa San Esteban. (MUCA)	<u>Shot to death by an AK-47 weapon while travelling towards his village from Tocoa in a vehicle where two companions also died. According to the report, the victims were ambushed by security guards travelling in a blue vehicle with a double cabin.</u>
<u>9th August 2010</u>	Esteban García Cruz, 45 years old, from the Cooperativa 25 de abril. (MUCA)	<u>Murdered by unknown individuals driving a white SUV vehicle.</u>
<u>20th June 2010</u>	Oscar Giovanni Ramírez, de 17 years old, from the Cooperativa La Aurora. (MUCA)	<u>Found murdered, according to the report, in the location where an armed attack had occurred, led by National Police Cobra agents, the Preventative Police and the Orion company's security guards (body displayed signs of torture).</u>
<u>29th May 2010</u>	Agustín Bustillo, 40 years old, from the Cooperativa Camarones. (MUCA)	<u>Disappeared on May 24th. Found dead five days later on the banks of the Aguán River.</u>

<u>Date</u>	<u>Name of Victim</u>	<u>Alleged events</u>
<u>7th April 2010</u>	José Leonel Guerra Álvarez, 32 years old, from the Cooperativa La Confianza. (MUCA)	<u>Shot to death by 5 bullets. Two individuals got off a motorcycle and shot him inside his house in front of his wife and children.</u>
<u>1st April 2010</u>	Miguel Ángel Alonzo Oliva, 22 years old, from the cooperativa Guanchías. (MUCA)	<u>Murdered by a bullet in the back.</u>
<u>17th March 2010</u>	José Antonio Cardoza and José Concepción Carías both 50 years old, from the Associative Business Brisas de COHDEFOR in the municipality Bonito Oriental.	<u>Unidentified individuals shot them while they were on their way home from working in the bean fields. The peasants had already reported being threatened.</u>
<u>14th February 2010</u>	Feliciano Santos, 40 years old, member of the Cooperativa 21 de julio. (MUCA)	<u>Died of 2 bullet wounds. At the time he was travelling towards the recovered lands occupied by René Morales, on the right bank of the Aguan River.</u>
<u>4th February 2010</u>	Francisco Montes and Isidro Cano, both 45 years old, from the Cooperativa Buenos Amigos. (MUCA)	<u>Died due to wounds suffered in a vehicle crash, in which they were trying to escape from armed men who were shooting at them from another vehicle.</u>
<u>31st January 2010</u>	Juan Ramón Mejía, 60 years old, from the cooperativa Occidental. (MUCA)	<u>Died due to multiple contusions suffered when hit by a vehicle that was following him.</u>

In addition to these 23 peasant deaths, Nahún Palacios³⁵, news director for television channel Canal 5, was murdered by 14 bullets on March 14th 2010 in Tocoa. His partner, Yorleny Yadira Sánchez Rivas, was also seriously injured and died two weeks later as a consequence of the attack.

In the weeks before the murder, Nahún Palacios, who had been granted precautionary measures by the Inter-American Commission for Human Rights (IACHR), reported on the agrarian conflict in Bajo Aguán from a balanced perspective, openly questioning several media outlets' campaigns to stigmatise and defame the peasant movements (see also box below, from an Amnesty International Report).

<u>Date</u>	<u>Name of Victim</u>	<u>Brief description of event</u>
<u>14th March 2010</u>	Nahún Palacios, 33 years old, director of the television channel 5 in Aguán	<u>Murdered close to his home by unknown persons carrying AK-47 assault rifles.</u>
<u>28th March 2010</u>	Yorleny Yadira Sánchez Rivas, 33 years old.	<u>Wounded by a bullet on March 14th when hitmen attacked the vehicle in which she was travelling with journalist Nahún Palacios. Days later, she died in the hospital.</u>

³⁵ Reported to the International Human Rights Mission, and confirmed to the PIDHDD and FIAN in July 2009, to have been threatened by the Third Captain of the Castilla Naval Base, on 28th June, the day on which the coup d'état took place. After this report, Nahún Palacios was granted precautionary measures by IACHR.

Honduras: Information from Amnesty International for the UN Universal Periodic Review regarding the murder of Nahún Palacios:

On Sunday night, 14th March 2010, Nahún Palacion Arteaga, 34-year-old journalist and news director for Channel 5 in Aguán, who also worked for Radio Tocoa, was murdered when he was travelling by car to his home in the Los Pinos district, in the city of Tocoa, region of Colón. Palacios was killed by two unidentified armed men who, in a vehicle travelling alongside his, opened fire with AK-47 automatic rifles at those travelling inside Palacios's vehicle. They shot almost 30 bullets at Palacios, killing him and injuring two other passengers in the car; the armed men then fled in their vehicle. Nahún Palacios had been criticised for openly expressing his opposition to the 28th June 2009 coup d'état and had reported on many organised demonstrations against the government. On 30th June according to the reports, Palacios's home was searched as part of a military operation and his television equipment, necessary for his work, was confiscated.

On 24th June 2009, the Inter-American Human Rights Commission granted Nahún Palacios precautionary measures, requesting that the State of Honduras adopt the necessary measures to protect his life and physical integrity. However those measures were not implemented by the Honduran authorities, or by the government that came into power on 27th January 2010. During the weeks preceding his death, Palacios had reported on an agrarian conflict in the Aguán region and on drug trafficking. It also appears that he was receiving death threats again. On 16th March 2010, in an official press release (no. 31/10) the Inter-American Human Rights Commission "profoundly" lamented the murder of Nahún and the fact that the State of Honduras had not implemented the precautionary measures.

During the Mission's interviews, family members of the victims insistently pointed out that the legal authorities had not followed due process in order to identify and take to trial the physical and intellectual perpetrators of the murders, crimes and violent acts against the peasants. The report by the Special Attorney for Human Rights, and the declarations of the Regional Coordinator of District Attorneys in La Ceiba and the local offices of Tocoa, Trujillo, confirm little or no progress of the investigations into the murders in Bajo Aguán.

The report on the progress of the murder investigations, allegedly committed in relation to the agrarian conflicts in Bajo Aguán, submitted by the Special Attorney for Human Rights to the Mission on March 1st 2011³⁶, together with the interviews conducted by the Mission with the Special Attorney for Human Rights, and the District Attorneys of Trujillo, Tocoa, and La Ceiba, allow for the following observations to be made:

- The Special Attorney for Human Rights is aware of only 15 murder victims, in 2010, related to the conflict, which includes the journalist and his partner. This means that the District Attorney has not taken into consideration at least 9 other peasants murdered in 2010. For the Attorney's Office, these deaths do not exist, despite the fact that the murders are common public knowledge. Of the 15 victims included in the Special Attorney's report, in 4 cases "no file exists"³⁷. In another 3 of the 15 cases, the report

³⁶ Public Ministry, Special Attorney for Human Rights, Homicide Report 2010 Bajo Aguán, March 1, 2011

³⁷ In the cases of Miguel Ángel Alonso Oliva, 1st April 2010, Francisco Montes and Isidro Cano 4th February 2010, Juan Ramón Mejía, 31st January, 2010.

indicates that the only procedure realised to date has been the “legally sanctioned removal of the corpse”³⁸.

- In another 3 of the 15 cases, the report indicates that the only procedures conducted up to the end of February 2011 were the “legally sanctioned removal of the corpse”, witness testimonies and an autopsy of the victim³⁹. This means that even in the internationally known case of journalist Nahún Palacios’ murder, nothing has been done a year after the crime. The district attorneys and judges of Trujillo and Tocoa confirmed that at by the end of February 2011, the District Attorney had not presented any fiscal requests for any of the peasant murder cases from 2010. The only case with an assigned file number is the case of the 5 peasants murdered at El Tumbador on November 15th 2010⁴⁰.
- In the case of the 5 murders at El Tumbador, the Special Attorney for Human Rights report included the corpse removal, the victims’ autopsies and the evidence gathering (casings), site inspection, photography from the scene, the seizure of arms from the security company, suspects’ declarations, and eye witness declarations. Nevertheless, prior to the Mission, there were no ballistic results for the arms confiscated from the security guards, and no verification of the legal status of the operating permits of the companies indicated as being responsible because these companies’ records are not updated and no arms or uniform inventory has been done, etc. This is due to a lack of legal authorisation (according to the District Attorney in charge of the case in La Ceiba).
- Following the public declarations made by Miguel Facussé, accusing the INA Minister-Director, Cesar Ham of “murdering” the five peasants; the District Attorney called him in to testify, however Mr. Facussé refused to appear before the authorities⁴¹.
- **In conclusion:** the violence committed against the peasants in Bajo Aguán reached an unprecedented level in 2010 and 2011. The minimal or complete lack of progress in the investigations is alarming⁴². The murders committed in Bajo Aguán are moving towards being treated with complete impunity, which could facilitate a repetition of similar events.

³⁸ In the case of Feliciano Santos, 14th February 2010, and of José Antonio Cardoza and José Concepción Carías, 17th March 2010.

³⁹ In the case of José Leonel Guerra, 7th April 2010, Case of Nahún Palacios, 14th March 2010, and of Yorleny Yadira Sanchez, 28th March 2010.

⁴⁰ In the case of El Tumbador, this occurred in the Trujillo jurisdiction on 15th November 2010 when five members of the Peasant Movement of Aguán (MCA) were murdered. Investigation file number 0801-2010-38546.

⁴¹ The Dinant Group’s versión of the events, according to the Dinant Group’s treasurer, which the International Mission had repeatedly requested, was sent by email on 6th May 2011, and reads as follows: “Regarding the 5 deaths related to the report, and the incident at the El Tumbador estate, the Orion security company security guards (a company sub-contracted by our company to guard the company’s property) shot in self-defence, as they were being attacked by invaders with high caliber weapons. At our insistence, the security guards have been placed at the disposition of the competent authorities, and to our understanding, have open proceedings against them so that the 5 deaths can be shown to be a result of their actions taken to defend their lives, or to establish the nature of the events that occurred on this regrettable day. The company has not denied this incident and in fact has been collaborating with the authorities in the investigation to help clarify this regrettable situation.”

⁴² The communications from the Special Attorney on Human Rights received by the Mission until 6th of July 2011 indicate that the Special Attorney has no information about any progress of investigations in any of the cases of assassination of peasant in the Bajo Aguán, compared to their information shared with the Mission on March 1, 2011.

3.2 The right to physical, psychic and moral integrity

Regulatory framework in force

The right to integrity is established in, among others, the Universal Declaration of Human Rights of 1948 (article 5); the International Covenant on Civil and Political Rights of 1966 (article 7); the American Convention on Human Rights “Pact of San José, Costa Rica” of 1968 (article 5); the Convention against Torture and other cruel, inhumane or degrading treatment (UN - 1987); and the Inter-American Convention to Prevent and Sanction Torture (OAS - 1987).

Physical integrity implies the preservation of a person’s state of health. Psychic integrity is the conservation of all motor, emotional and intellectual skills. Moral integrity refers to the right of each human being able to lead their life according to their convictions.

The Human Rights Committee has emitted two general comments on this right, the most recent being General Comment 20 in 1992, mainly regarding the prohibition of torture and other cruel, inhuman or degrading treatment. The most important points in this General Comment are:

- The State party has the duty to provide all people with the necessary protection against the acts prohibited in article 7, whether they are inflicted by persons acting in an official position, or outside said functions or even under a private title. No justification or extenuating circumstances can be invoked as a pretext for violating article 7 for any reason whatsoever, in particular those based on an order received from a superior or a public authority.

Those who violate article 7 will be held responsible regardless of whether they were encouraging, ordering or perpetrating prohibited acts.

Violations of the right to personal integrity in Bajo Aguán

The Mission verified *in situ* serious violations of this right by actions such as constant threats, harassment (telephone calls, home and personal surveillance), kidnapping, torture and sexual abuse, among others.⁴³

⁴³

Wounded, reported after the visit of the Mission:

During the month of May, at least 6 peasants have reported being seriously injured during eviction operations against the peasant movement.

5th May 2011: Antonio Rivas was wounded during an attempt to evict the La Trinidad cooperative

7th May 2011: Juan Licona and Manual Vásquez of the El Despertar cooperative were wounded during an attempted eviction of the el Despertar estate.

13th May 2011: Neptalí Esquivel, peasant, was severely wounded during a mobilization eviction in the Sonaguera municipality. He was handicapped after a soldier shot him in his left leg.

5th June 2011: Doris Pérez Vásquez and Oliver Gonzales, peasants, were staying at the National Agrarian Institute (INA) facilities in Sinaloa. Private security guards shot and wounded them when the guards violently entered the INA.

Threats and harassment⁴⁴

All the peasants visited by the Mission reported a **generalised atmosphere of fear and terror caused by continual threats and harassment** from the military, police, and the local businesses' security guards. Their testimonies concurred that it is often difficult to identify who exactly is carrying out the harassment, since different armed actors in the region work together.

These threats are communicated through violent acts and intimidation (burning houses, shots fired at night, threatening vehicle searches), accusations of crimes that have not been committed, and phone calls or messages directly threatening the physical integrity of members of the peasant community and their families.

Sometimes, the threatening attitudes of security guards or public agents, especially when they are armed, end up degenerating into attacks, especially when community or peasant leaders are involved. It is also these individuals who are threatened most frequently.

At the cooperative La Aurora (comprised of 184 families), peasants have reported being constantly subject to cruel threats, although the origin of these threats is difficult to determine. At night there are gun shots intimidatingly close to the settlements. Recently on 25th February 2011 at 6:30 p.m. a group of four young men from the community were parked on the side of the Sinaloa highway fixing a car problem when they heard shots around them, as if they were being surrounded. Thus, they started the car and fled the area. The young men could see that they were private guards wearing blue uniforms. The community feels threatened as whenever they travel from one place to another the private guards point their guns at them. *"The community fears the Facussé guards and also the police, since they act complicity with the private guards and actually mistreat the people."* A total of 27 peasants affiliated to this cooperative are being prosecuted for usurping land.

The cooperative Flor del Campo reports that a month ago the businessmen's guards stopped a public transportation bus at 10:00 a.m. and boarded the bus with arms to perform an intimidating search. The peasants commented that they had filed a report but that this has not had any results.

⁴⁴

Threats and acts of harassment reported after the Mission:

20th April 2011, peasants from the cooperative La Confianza report that they were followed after taking out Money from a bank by three Toyota 3.0.vehicles, white, cream and grey colour. Mario Mejía, a peasant from another settlement, was chased, on the 14th of this month when he had taken out money, by three automobiles of similar colours, from which he was shot at. He was hit by one bullet in his ankle. The victims do not believe that these events correspond to the common group report, but rather that they were acts of intimidation by the landowners with whom they are in conflict.

2nd June 2011, the lawyer Antonio Trejo Cabrera, legal representative of the the Authentic Peasant Reclamation Movement of Aguan (Movimiento Auténtico Reivindicativo Campesino del Aguán) and in particular of the San Isidrio, Despertar, la Trinidad and San Esteban cooperatives, has received death threats on his cell pone aimed at him and his family. In his report before the General Administration of Criminal Investigation, the threatened lawyer held two businessmen in the area (Miguel Facussé y René Morales) whose private security forces have been identified as the principal perpetrators of crimes against the peasant communities, accountable for any attempts on his life, his family and his property.

The peasant leader of the La Confianza community, Yoni Rivas, receives threats by telephone constantly saying that he will lose his life. Guards patrol the streets with guns aimed at peasants as an intimidating threat. These threatening attitudes often turn into actual aggression: “a month ago, comrade Sergio Pineda in Quebrada de Agua, noticed that a car was following him. He entered the Confianza community and the vehicle kept following him. When he stopped, the persons in the vehicle shot at him two times (one bullet brushing his leg). They searched him and then left (the men were dressed in military garb). Comrade Sergio filed a police report on this incident.”

Jeremías Martínez Díaz, a member of the January 5th (5 de enero) and part of the La Concepcion cooperative, affirmed that the community was currently being accused of various crimes, and threatened by anonymous telephone calls and by shots fired by Facussé's guards.

José Ramos, 54 years old, reported that the community of San Esteban is constantly surrounded by René Morales's security guards, who travel in unlicensed luxury vehicles, and that he was chased by René Morales's guards on 22nd February 2011. Ramos sought refuge in Marañones, and as a result he now cannot see his family or tend his plot of land in San Esteban.

Franklin Molina, 32, lives in Marañones. Since he was named president of Brisas del Aguán, he has been receiving threats. On Saturday 19th February 2011 at 6:00 a.m. he was shot three times while travelling by motorcycle over a bridge located 2 km from Marañones. He was able to see that two people had shot at him. Since this attempt on his life, he is afraid to go out.

On 15th November 2010, the same day that five members of the Guadalupe Carney community died, **four women** were also victims of persecution and harassment. They were chased by Miguel Facussé's private security guards, despite being on the property July 14th (*14 de Julio*). They could not escape. Swarms of guards in blue uniforms (Facusse's guards' uniforms) with heavy arms surrounded them. After surrounding the women, the guards pulled their hair and pointed their guns at their faces. They forced the women into the palm trees, touching them while searching them. The guards asked the women for information regarding their colleagues, how many there were and if they had guns. The guards threatened to punch and burn them. “They used us as a defence or shield, they appeared to be thirsty, they told us to test the water so that they could drink it later on”. The guards threatened to kill the women if they ever returned to Facussé's property, “even though we were not on Facussé's property”. The women did not file a report on the incident out of fear, “if we report them, they will kill us”. They have spoken with representatives of the Special Attorney for Human Rights, but they were afraid to testify before the locally based District Attorneys.

Peasant families are under pressure constantly, whether within the settlements or on the streets and highways. According to their testimonies, the peasants are followed, stopped, and their money is often stolen.

Human rights defenders in the region and their families are subject to constant threats and harassment⁴⁵. Such is the case of **Blanca Azucena Espinoza**, President of the peasant

⁴⁵ Committee of the Families of Detained-Disappeared Persons in Honduras (COFADEH), see http://www.defensoresenlinea.com/cms/index.php?option=com_content&view=article&id=1230:denuncia-de-derechos-humanos-en-inminente-peligro-&catid=71:def&Itemid=166

cooperative Buenos Amigos de Saba, in the Colón department in the northern region of the country.

On 27th September 2010, Blanca Azucena Espinoza, led her colleagues in an occupation of the fallow lands in the Elixir Community. This same day she was attacked by a man armed with a machete working for businessman César Velásquez who claims that these lands are his. Since this day, Espinoza has faced a series of events that have put her life and that of her nine children at risk. On 31st December 2010, hooded men driving a green pick-up without license plates shot at a group from the community that was meeting with Blanca Espinoza.

On 4th January 2011, persons driving a gray car followed Espinoza in the municipality of Saba. Blanca was forced to seek refuge in the municipality. Three days later, on 7th January 2011, Roger Barahona, an employee of César Velásquez followed Blanca and her daughter along a street in the Elixir community and attempted to run over Blanca's daughter. On repeated occasions, armed men have pulled their guns on her threatening to shoot, and assuring her that they will kill her.

Since 30th January 2011, one of her daughters has been receiving text messages saying that Blanca is a dead woman. On 1st March 2011, at approximately 11:30 at night, two armed and masked men riding a motorcycle circled her house for about fifteen minutes. They left when a neighbour's car entered the street of Blanca Espinoza's house. In addition to ski masks, these people were also wearing hoods and military style boots. On 8th March 2011 at 10:30 p.m., the motorcycle riders appeared again at her house and stayed outside for half an hour.

Blanca and three members of the Directing Board are faced with a legal procedure for land usurpation. Legal authorities have also sent out an arrest warrant for one of her daughters, who is eleven years old, for the same charge. The constant presence of armed men and the text messages sent to her daughter have caused psychological trauma to her children who suffer from fear and insomnia.

Kidnapping and torture⁴⁶

The Mission also registered cases of torture and kidnapping involving the alleged participation of public as well as private agents operating in the region. This violates the international treaties signed by Honduras, which oblige the Honduran Government to supervise public security forces, and to scrupulously respect the prohibition of torture and cruel, inhuman and degrading treatment.

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Kidnappings and torture reported after the Mission's visit:

14th April 2011: Disappearance of Tarín Daniel García Enamorado and Carlos Alberto Acosta Canales, associates of the company Productores de Colón; they were found tortured and murdered on 20th April.

5th May 2011: Disappearance of José Paulino Lemus Cruz of the Cooperative Brisas del Edén, found murdered on 10th May .

10th May 2011: Alejandro Gómez of the Cooperative La Trinidad was kidnapped and tortured.

Missing since 15th May 2011: Francisco Pascual López of the Rigores Cooperative.

29th May 2011: Kidnapping of Olvin Gallegos and Secunino Gómez, both of the El Despertar Cooperative, both found murdered the same day.

One of the cases is that of **Oscar Giovanny Ramírez**, 17 years old, and a member of the peasant cooperative San Esteban. According to witnesses, Oscar was found dead on 20th June 2010 following an operation by the National Police and Cobra agents in the settlement La Aurora. The young man's body showed signs of torture.

The same day, several members of the settlement were stopped and beaten by police officers, and then taken to their headquarters in the city of Tocoa. Testimonies indicate that 4 of the arrested persons were tortured. "Two police patrol cars and a car belonging to Miguel Facussé's security guards were involved in the death of Giovanny Ramírez and the colleagues that were tortured and taken to police headquarters in Tocoa...the person in charge of the operation was an officer with the last name Rivera" (excerpt from a testimony, Tocoa 2011).

One of the most flagrant violations of the right to integrity is **kidnapping**. An emblematic case of kidnapping in the region was that of **Juan Chinchilla**, the Director of Public Relations at the Unified Peasant Movement in Aguán, MUCA. He has been part of this movement since May 2009, and has participated in land negotiations with President Porfirio Lobo Sosa, which resulted in the signing of the agreement on 13th April 2010. Since December 2009, Juan Chinchilla has been continuously persecuted.

"Security guards, police, military and paramilitary men have conducted violent evictions on the different estates that we recovered. Every time a peasant is murdered, I go and take photographs. I take note of what has happened and upload the pictures on the Internet so that people know about these events. On 15th November, when five peasants were murdered in El Tumbador, I went and took photographs. Police and military men saw me and one of them shot me in the hand and another said, "that guy will be the first to die". Facussé and René Morales's security guards were with the police and army and the Standard Fruit Company's security guards were also around".

Juan Ramón Chinchilla was kidnapped on 8th January 2011 and held captive until he managed to escape. During the time he was captive, Chinchilla was subject to interrogation, and physical and psychological torture. "When I was in the cellar they took off my hood and tied me up, and left six men to watch me. They were wearing Facussé's guards' uniforms. There were Cobra police and army officers with uniforms and ski masks. They asked me who put the information on the Internet and what decisions we were taking at MUCA" (excerpt from a testimony, 2011).

He was taken to another cellar where there were torture instruments (hoods, blades, tools for extracting fingernails or toenails, knives, switchblades, a wire grill), "they heated up the wire in a stove and put it on my right arm to burn me, I got angry and told them to let me go, they hit me with the butt of a rifle in my left ear".

Then they took him to a completely dark area, "they untied my hands and feet and we started to walk uphill, there were three groups. At about eight thirty at night I saw a small mountain and a forest and decided to run because I felt like it was time to escape. I started towards a cherry tree; only one of them had a spotlight on and they started shooting at me. Since there was a forest I started running and passed a big ravine. After a few minutes I didn't hear any shots but I heard them yelling that I had escaped and they were calling the other groups. I

didn't stop. I arrived at a hill where I could see the lights of Tocoa. I hid in some abandoned houses. Within about three minutes they were moving by motorcycle and car. In the morning, a women in another house let me make a call and people came to rescue me. I called someone I trusted and I asked that they call some colleagues at a peasant base so they would come and rescue me. They arrived quickly. I was gone in about 10 minutes. Strange cars and motorcycles arrived afterwards, the people who had let me make the phone call called to inform me. Later I was taken to another area and then moved to another region”.

After all this, Chinchilla continues to be watched, threatened and intimidated. For example, on the 29th and 39th of January 2011, there were vehicles outside Chinchilla's family homes; on 8th February 2011 two cars parked outside the place where he was in Sabá, Colón. On Wednesday 9th February, when he and four colleagues were coming from Tocoa, Colón, they were stopped in Elixir, Sabá, Tocoa, Colón. “It was about two in the morning, there were several police officers asking for our identification and they looked at our faces and then let us move on”. Also on Thursday 10th February at about eight at night, in an operation in the capital close to Valley Park, five people were stopped.

Additionally, during the beginning of March 2011, when Juan Chinchilla was with the Mission, he received death threats on this cell phone.

Sexual Violence

Four women in the Guadalupe Carney community also experienced sexual violence during an armed intervention on 15th November. There have been many other cases of sexual violations and abuse in addition to these cases, which are suffered not only by women but also by young male peasants in different settlements⁴⁷.

In conclusion: The right to personal integrity is continuously violated by different official forces and armed groups operating in the region. The State of Honduras fails to fulfill its obligation to protect the right to personal integrity within its national territory and to prevent any person from being physically wounded or attacked, or victim to mental or moral harm that would harm their psychological stability. To date, no steps at all have been taken to clarify and legally prosecute these violations.

3.3 The right the freedom of movement and personal security

Regulatory framework in force

The right to liberty and personal security is covered by article 9 of the International Covenant on Civil and Political Rights.

The right to freedom of movement is the right that all people have to move freely from one place to another. A trip need not be obligatory or the product of a higher power, except when limitations are imposed by law. This right is violated by being forced to remain in one place,

⁴⁷ Human right situation in the Valley of Aguán. Preliminary report from the Human Rights Mission, 8th December – 11, February 2011. All persons have requested that there names not be mentioned and none of them have presented reports to the District Attorney.

internal exile, compulsory homestay, the interruption of transit on public roads and the closing of roads as a means of protest.

The right to personal security refers to the right not to be detained outside of planned cases or for procedures different from those established by law, or from any other law that guarantees the respect of liberty and personal security (including arbitrary and illegal arrest).

Violations of the right to movement and personal security in Bajo Aguán

The right to free movement and security is continually violated by the presence of armed forces in Bajo Aguán. The violence imposed by the private security forces, working with the army and police support, has intensified against members of the peasant movement, resulting in fear to move freely in the region.

The first massive militarisation of the area took place in 2010 between 10th April and 20th May, directed particularly against the Guadalupe Carney community (MCA) and the MUCA settlements which were basically surrounded by military men and police throughout this period. Military officials and police officers detained and searched everyone who entered and left the peasant settlements⁴⁸.

On April 10th military and police officials departed from different points in the country and headed towards Bajo Aguán with the objective, according to Defence Secretary Oscar Alvarez's public statement, of combating "organised crime" in the area and the "disarmament of the general population". However, the facts demonstrate that they were actually seeking to terrorise the MUCA peasants who at the time were negotiating with Porfirio Lobo Sosa and the commission of ministries designated for this purpose.

On this date, the Guadalupe Carney community was also attacked by repressive armed State forces. For the first time in the ten years since the community's formation, police and army officials entered and provoked terror among the resident population. During the first days of the occupation, incidents ranging from illegal exactions to arrests and aggressions against the people were reported. Furthermore, the military officials established themselves in the community's school, effectively impeding the school from functioning for several weeks. The chairman of the parents in the Guadalupe Carney Community repeatedly demanded the withdrawal of the troops. On 20th May, the majority of troops withdrew, but a permanent military outpost has remained in the community since that time. The officer in charge on 27th February 2011, identified as Guillén, 20 years old, stated that he was fulfilling the orders of Coronel Funes of the fifth battalion. The officer said that their objective was to protect the residents of the community. However, the leaders and members of the Guadalupe Carney community assured the Mission that they did not permit or need this military presence⁴⁹.

After the murder of five MCA peasants in November 2010, government employees sent a considerable number of military and police officials from different parts of the country there with the objective of "disarming the population". This operation was cynically called "Operation Tumbador" (after the place where the five MCA peasants were murdered in November 2010). In this context, Lobo Sosa also ordered an intervention in the regional INA offices in the department of Colón, in Sinaloa, producing Decree 003-2010 on 22nd November 2010. This decree also named the retired military official Pompeyo Bonilla as president of the Commission. The Commission was established as being "responsible for the administration (of the office)...and to conduct an evaluation of said region in consultation with the Court of

⁴⁸ The Human Rights Situation in Bajo Aguán, Report from FIAN Honduras, May 2010.

⁴⁹ Testimony obtained during a visit to the Guadalupe Carney community 27/02/11.

Accounts. It “will have the legal authority to suspend and remove personnel (from this office) when deemed necessary, as well as all of the responsibilities inherent to the position of Regional Chief”. The Decree later adds that “an evaluation report must be submitted to the President of the Republic on the administrative and financial state of the institution with recommendations for the most adequate measures to improve the situation”⁵⁰.

As a result, the INA facilities became a military camp where only members of the Intervention Commission and the Armed Forces were allowed entry. Even the director of the INA, César Ham, did not have access to the offices. The INA employees were kept waiting, and they demanded to be allowed to return to their jobs.

The continued military and police occupation, and their repeated abuses and violations of human rights have led the peasant families, people's organisations and residents of the area, who are against such arbitrary actions, to occupy the road near the Guadalupe Carney community, a few kilometers from Trujillo in mid-December 2010. They were demanding the demilitarisation of the Valley, a solution to the agrarian problem and the return of the INA offices, among other demands. However, it wasn't until 20th January 2011 that military officials handed over the offices to Pompeyo Bonilla and he, in turn handed them over to Cesar Ham.

The INA employees then began to verify that the facilities had been totally destroyed and documents had been burned. The minister proposed that the INA employees, who are members of SITRAINA, denounce this situation before the District Attorney. However, they deemed this to be an ineffective measure, since they believe that the District Attorney only responds to business interests, such as those of the Inspection Commission⁵¹.

Although the Decree 003-2010 clearly requested that a public report on the intervention of the INA and the search for arms was released, such report was never published. As was the case with the March 2010 military and police operation, assurances were given that these actions were taken in order to tackle organised crime. At the moment, the area essentially continues to be militarised, albeit in a more discrete manner.

This situation is aggravated by the fact that the police and army are complicit with the private security companies that have been responsible for the murder, torture, kidnapping, and intimidation of peasants. This information was particularly alarming to the Mission. In all of the communities visited, the police, army and guards were referred to as three manifestations of the same repressive structure.

In conclusion: The militarisation of this area and the collusion of public and private security forces violates not only the right to free movement and security of person of the Bajo Aguán residents, but also in many cases implies the violation of other rights, such as the right to physical and psychic integrity, freedom of association, the right to education and the right to health. This militarisation has also been linked to the violation of the right to life for members of the peasant movements MCA and MUCA. Finally, the collaboration of public and private security forces has also resulted in violations of the right to access to justice, given that the very public authorities who are responsible for keeping law and order are considered to be complicit in the aggressions against peasants. Naturally this creates distrust among peasants who need to report aggressions to the local authorities.

⁵⁰ Based on the draft document: ‘Human Rights Situation in the Aguán Valley. Preliminary report from the human rights Mission, 8th December – 11th February 2011, and notes on the human rights mission's visit, Feb. – March 2011.

⁵¹ Testimony from the SITRAINA visit 25th February 2011.

The community of La Aurora (MUCA) associates the source of the threats that they receive with "anyone in a uniform". Every day on their way to work, guns are pointed at them. There are ample grounds for this association; in at least three cases, witnesses have mentioned the exchange of uniforms between military officials and private guards, in addition to having been pursued by "civilians" in police patrol cars. "About a month ago, (...) a colleague affiliated to the struggle in Quebrada de Agua noticed that a car was following him; he entered the community (...) and they shot at him two times. One bullet brushed past his leg. The men were wearing military garb. They searched him, and then left"⁵².

3.4 The right to freedom

Regulatory framework in force

Article 9 of the International Covenant on Civil and Political Rights includes the right to freedom and personal security. This is also the subject of Human Rights Committee study in the General Comment 8, 1982. This Comment emphasises the following:

- Paragraph 1 (prohibition of arbitrary arrests and arrests must always follow the legally prescribed procedures) is applicable to all forms of deprivation of liberty, be it as a consequence of committing a crime or for other reasons, such as mental illness, vagrancy, drug addiction, immigration control, etc.
- Paragraph 4 concerns the right to a trial so that the legality of one's imprisonment can be decided; this applies to all persons deprived of liberty by arrest or imprisonment.
- Paragraph 3 of article 9 stipulates that any person detained or imprisoned for a penal infraction will be taken "without delay" to a judge or civil servant authorised by law to exercise judicial functions. In the Committee's opinion, delays must not exceed a few days.
- Preventative detention must be an exception and for the shortest term possible.
- Even in cases where arrest is due to public security reasons, the same dispositions apply. This means that the arrest must not be arbitrary, it must follow the causes established by law and be realised according to the procedures established by law (par. 1). The person detained must be informed of the reasons for their arrest (par. 2) and they must have the right to a trial at their disposition (par. 4) as well as the right to demand reparations in the case that this right has been violated (par. 5). If, in addition, in said cases penal accusations are filed, full protection must be granted, as established in paragraphs 2 and 3 of article 9, as well as in article 14.

Regarding situations of arrest, General Comment 20, relating to the prohibition of torture, establishes that the prohibition laid out in article 7 is complemented by the positive provision in paragraph 1 of article 10, according to which "all persons deprived of their liberty will be treated humanely and with due respect for the inherent dignity in human beings".

⁵² Marañones Community. Interview with the human rights observation Mission. 26th February 2011.

Violations of the right to freedom in Bajo Aguán

During the tour of Bajo Aguán, the Mission was able to verify that the authorities use arrests and arrest warrants as a dissuasive measure and a way of trying to pressurize and instill fear in the peasant movement and weaken their demands, imprisoning them in their own territory.

Despite the agreement signed by MUCA and the Lobo government in April 2010 which agreed to the submission of 11 thousand hectares of land, and despite the government's promise to combat judicial and police persecution, in reality illicit arrest warrants continued to be issued for members of the peasant organisations. Names of members of different peasant movements appear on various police lists and evictions continue to happen arbitrarily. Even six settlements that have already been designated by the Lobo Sosa administration are under threat of eviction. Most of the time, these evictions are accompanied by arrests that do not meet legal requirements.

The illegal arrests of peasants in the Valley of Aguán have intensified under Lobo Sosa's government. This has been particularly true since families affiliated with MUCA demanded a timely solution to the agrarian conflict, in particular with businessmen Miguel Facussé, René Morales and Reynaldo Canales, and fulfillment of the Agreement. Despite the illegality of these detentions, the arrest warrants continue to be issued almost automatically.

In total, according to the testimony of the defence lawyer representing a large part of the peasants, **163 persons are being prosecuted**, primarily for the crime of usurpation. More than 80 peasants have been imprisoned on charges of stealing land and African palm tree fruit, and in some cases for possessing commercial firearms. There are peasants with up to 7 pending procedures, and some that date back to 1996-97 still have no trial date. For example, the leader of MUCA, Adolfo Castañeda, has been tried 11 times. He now has 9 legal procedures pending. In the La Aurora community alone, there are around 27 prosecutions for land usurpation. According to the interview testimonies, there are peasants who remain in prison despite the fact that, according to the Honduran legislation, they could be freed (as this crime has a sentence of 2 to 4 years of imprisonment).

In the case of Operation Tumbador, as was the case with Elixir, the authorities even arrested even minors that the officials tried to pass off as adults.

In the face of such arbitrary proceedings and abuses of authority, the INA is one of the few public institutions that attempts to intervene when they become aware of cases involving detained peasants. On these occasions, the INA contacts the judge and District Attorney to ensure that the cases resulting from forced evictions are not classified as usurpation.⁵³

In conclusion: The criminalisation and stigmatisation of the peasant movement through arbitrary arrests of the movement's members violates the right to freedom, the rules of due

⁵³ During the Mission's visit to this area, illegal forceful evictions and arbitrary evictions continued to take place. This Mission was able to converse with representatives from the Santa Cruz Yojoa community who were victims of these violations Sunday 27th February. According to the testimonies, heavily armed persons started to tie up the peasants, even children and elderly women. The entire evicted community was arrested. There were 65 people. Two women were separated from the group and taken to the Santa Cruz post, they left them in the park at midnight. There were three children, two 15-year-olds and one 17-year-old. The rest were 47 men and 13 women. No arrest warrants were ever presented. Now they are being prosecuted on charges of usurpation and 63 have precautionary measures.

process, and the prohibition of discrimination. This strategy clearly aims to silence the movement and keep the peasants trapped and fearful in their own homes.

3.5. *The right to freedom of association*

Regulatory framework in force

Article 21 of the International Covenant on Civil and Political Rights recognises the right to free and peaceful assembly and article 22 details the right to free association. The International Workers' Organisation (IWO) also includes two important agreements related to the association rights of workers and employees: No. 87 (Convention on Union Freedom and the Protection of the Right to Unionise) and no. 98 (Convention on the right to unionise and the right to collective bargaining).

The right to freedom of association means that individuals are free to legally come together and collectively express, promote, pursue and defend common interests. In a way it is an expression of the freedom of thought, expression and assembly and a manifestation of the rights of participation, in that political participation is preferably channeled through specific kinds of associations.

Violations of the right to free association in Bajo Aguán

Several media outlets, linked to sectors serving the economic and political interests of the promoters of the coup d'état, have begun to present the fight for land as a "crime". This is in line with the government's position which views the actions of the peasant movement as "politically destabilising acts".

The impact of the media on this agrarian conflict has led to feelings of exclusion and confrontation for a section of Honduran society. Many media outlets, during the militarisation and murders committed in the Guadalupe Carney community, presented these events as the result of a confrontation over land between a so-called "guerrilla cell" and Miguel Facussé's private guards.

This portrayal contributed to the murdered peasants' bodies being manipulated; weapons (AK47s) were placed on their bodies to take pictures of them, and then the guns were removed. These photographs were published in certain media outlets in order to defend their portrayal of the situation. Nevertheless, the district attorneys who were familiar with the case, made clear in their meetings with the Mission, that they do not support this media portrayal, which in their opinion lacks any foundation.

As already mentioned, the media's position is in line with that of the government and certain public institutions. For example, Samuel Reyes, presidential appointee, declared the day following the murder of the MCA peasants on the El Tumbador estate in *Tiempo* newspaper, 16th November 2010: that "some small peasants (sic) are motivated by the political conditions in the country and the Director of INA's ideology, perhaps this is where the idea comes from". The newspaper also reproduced the declaration of the presidential appointee and member of the Follow-Up Commission on the agreement signed by the government and the MUCA peasants in April of last year: "...I'm saying that in some cases certain actions have been contaminated by political aspects..."⁵⁴. The authorities also did not want to publicly deny

⁵⁴ Human Rights Situation in the Valley of Aguán. Preliminary Report from the Human Rights Mission, 8th – 11th December/February 2011.

finding weapons during the militarisation of the Guadalupe Carney community or the militarisation of the INA. In this instance, the authorities declared to the media that they were disappointed after having not found any weapons in the region, but they repeated that this was because the peasants were hiding them.

Furthermore, legal authorities continue to criminally prosecute the peasants for nonexistent crimes, and they are constantly followed and intimidated by the police, private security groups and the army. This reinforces the stigma and the social perception that the peasants are a violent guerrilla group. This not only adds to their poor public image and weakens the legitimacy of their struggle, but also provokes great social isolation.

This stigma is manifested by treatment provided by health service workers, among others. Healthcare workers discriminate against the peasants, treating them disrespectfully and even denying them medical attention.

Many peasants believe that they are mistreated in this way by healthcare services, due to the social stigma and the unjust arrest warrants that they suffer. On occasion this has led them to attend private clinics in order to avoid complications and the risk of arrest. This affects their access to public health services. Example: The nervousness of a driver, who was transporting peasants from La Lempira, felt intimidated by two army trucks (one in front of the bus and the other behind) caused the bus to flip over. The accident caused one death and many injuries, none of whom were given any help by the military officials who witnessed this accident. The victims were taken to a hospital in Trujillo, where nurses, realising that they were treating MUCA peasants said "...they'd be better off dead...". This occurred on 6th December 2010.

As the defence lawyer for majority of the prosecuted peasants points out, the authorities criminalise the peasants' struggle for land. Not only is the social protest criminalised by the judicial system, but also through the District Attorney, the army and the police. One example is the case of aggression in La Lempira estate, where a peasant was wounded by a private guard. When the District Attorney arrived, the case was filed as an injury and not as an attempted murder.

The district attorneys and other authorities maintain that the peasants are armed and violent. Hence, the authorities cannot work or go to sites to collect evidence in this region where they feel threatened and fear for their lives. There is a general assumption that the peasants are delinquents. This attitude was confirmed during interviews with the district attorneys in the city of La Ceiba. They insisted that the peasants have weapons. Conflicts are discussed without any recognition that the physical aggression is consistently committed by one party: the army, the police or the private security guards.

The assertions made by the District Attorney and judges create false victims, and obscure the real reasons for the communities' fear of police presence: the police participate in many of the violations where the peasants are victims and in many cases the public authorities collaborate with private security guards.

Children of members of the peasant communities also suffer due to this stigma. In the communities of Guadalupe Carney and La Lempira, testimonies reported that unidentified armed men keep a close relationship with the teachers at the school and are present in the center. This has affected the children's presence in the center, and has caused many of them to leave the school. According to the testimonies collected in the Panamá / Paso Aguán community, of about 200 children that attend school, around 50 have stopped attending.

A peasant leader from MUCA expressed his opinion on this matter: “the peasant movement’s fight for their rights is questioned by the citizens and the government’s media system demonises us. The region’s millionaires have blinded the population’s mind” (Tocoa, December 11th 2010).

This statement was confirmed by José Ramos, of the Marañones cooperative: who was forced to leave his family and seek refuge in the cooperative, while his family continue to live in San Esteban. This also means that he is unable to tend to his crops. Another MCA member attested to the same problem during a visit to Guadalupe Carney. He explained that he no longer leaves the community in order to avoid being arrested, as there is a warrant out for his arrest. These accusations about being a guerrilla cell prohibit the peasants from leaving for food. They are always being watched by a military unit. Assumptions about the guerilla nature of the peasants was created by Pepe Lobo in a report on the armed forces. There are 32 colleagues with arrest warrants and many argue that they feel like “prisoners in their own territory”.

Here the doctors treat us poorly, they say here come those worthless “tacamiches⁵⁵”, they insult us and treat us like animals. On one occasion, we took a comrade who had chemical poisoning to them, and they said “let all the tacamiches die” (Lempira cooperative, 10th December 2010). Marco Antonio Estrada Santos, member of the Marañones community, affirms that he was mistreated even in the health center while he was waiting to be seen after the forceful eviction of the La Suyapa estate, 8th February 2010. Three police officers attacked him while he was on a stretcher.

3.6. *The right to food and housing*

Regulatory framework in force (Right to food and housing)

The right to adequate food and housing is recognised in article 11 of the International Covenant on Economic, Social and Cultural Rights (ICESCR). General Comment 12 establishes the regulatory content of paragraphs 1 and 2 of article 11 of the ICESCR: “The right to adequate food is exercised when all men, women and children, as individuals or together with others, have physical and economic access at all times to adequate food and the means to obtain it.”

Regarding the right to food, the State must respect the following obligations:

- The obligation to respect: The State must abstain from all actions that deprive persons or groups from their access to food or their access to the means to obtain food.
- The obligation to protect: The State must protect persons and groups from attempts by third parties to deprive them of their access to food or their access to the means for obtaining food.
- The obligation to fulfil:
 - The State must facilitate access to means for obtaining access to food.

⁵⁵ The name given by the media to agricultural workers that confronted the Tela Railroad Co. on the banana plantation called Tacamiche, in 1994.

- The State must provide immediate access to food to people in situations where they are in danger of hunger.

3.6.1. The obligation to respect and protect the right to food and housing, the prohibition of forced evictions

In the first instance, the obligation to respect the right to food, as well as the right to housing includes a prohibition of forced evictions of vulnerable groups from their means of subsistence. This is defined by General Comment 7 of the Committee on Economic, Social and Cultural Rights, along with compensation and indemnity mechanisms that can be implemented in cases where forced evictions have occurred.

According to the definition in General Comment 7, a forced eviction is the “act of forcing persons, families and/or communities to leave the homes and/or lands that they occupy permanently or provisionally, without offering them the appropriate means of legal or other protection, nor permitting them access to these”⁵⁶. General Comment 7 clarifies that forceful evictions are, *prima facie*, a violation of Human Rights and that evictions are only justified when there is: a) Fulfillment of human rights international law; b) Compliance of national legislation with international law regarding evictions; c) Fulfillment of due process.

General Comment 7 establishes the following as mandatory measures that must be met before an eviction:

- An in-depth study of the case’s social history
- An in-depth study of the case’s cadastral register
- Authentic consultation with the interested parties
- Access to legal remedy and timely consultation prior to the eviction
- Exhaustion of all forms of peaceful and non-violent resolution (mediation)
- Existence of an adequate relocation plan

Regarding the execution of the eviction:

- Forceful evictions are prohibited when they will leave people without housing or will affect their other rights, for example their right to food
- Forceful evictions are prohibited when they involve the destruction of houses or harvests
- If the State lacks economic resources, it must use the maximum amount of available resources possible in order to facilitate access to housing and access to productive lands
- The victims of evictions must be compensated for damages suffered.

⁵⁶ Committee on Economic, Social and Cultural Rights, General Comment 7, [http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/959f71e476284596802564c3005d8d50?Opendocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/959f71e476284596802564c3005d8d50?Opendocument)

Forced evictions in Bajo Aguán⁵⁷

According to the information gathered by the Mission, at least 12 forced evictions of peasant communities in Bajo Aguán have been reported between January 2010 and March 2011. These have affected the settlements integrated in the Unified Peasant Movement of Aguan (MUCA) and the Authentic Peasant Reclamation Movement of Aguán (MARCA):

- Forced eviction executed on 8th January 2010 by police, army officials and security guards working for René Morales and Miguel Facussé against the Peasant Groups of the Agricultural and Livestock Cooperative July 21st, the Associative Business of Peasants December 9th, Associative Business of Peasants el Despertar, Associative Business of Peasants San Esteban, and all members of MUCA.
- Forced eviction executed 10th May 2010 against the San Isidrio Cooperative, and on 12th May 2010 against the El Despertar Cooperative, both members of MARCA.
- Forced eviction executed on 9th December 2010 of two peasant groups settled in El Paso Aguán (see box for detailed description) and the Panamá estate.
- Forced I eviction executed on 16th December 2010 of the El Despertar cooperative, member of MARCA.
- Forced eviction executed 12th January 2011 of the Campo Verde II Cooperative, and on 13th January 2011 of the Corfinito Cooperative, both members of MARCA.
- Forced eviction executed on 7th March 2010 of peasant groups affiliated with the El Despertar and Trinidad cooperatives, members of MARCA.

According to information provided by the judges and attorneys in Trujillo and Tocoa regarding these events, the evictions are conducted without adopting the measures established in General Comment 7 of the Committee on Economic, Social and Cultural Rights. In particular, the judges were not able to indicate to the Mission one single measure that had been taken in relation to the mandatory process prior to an eviction. Specifically in relation to the fulfillment of the indicated requirements:

- No in-depth socio-historical study of the case had been done;
- No in-depth study of the case's cadastral register had been done;
- The interested parties were not genuinely consulted prior to the eviction, and neither were the peasants or INA;

⁵⁷ **Acts of forced evictions reported after the International Mission:**

18th March 2011. Cooperative San Esteban of MARCA. Police, army and security guards accompanied by lawyer Roy Humaña.

21st March 2011. Cooperative San Esteban attacked by armed men in identifiable vehicles with police insignia.

23rd March 2011. Again the police and army attempt to evict the peasants from the San Esteban Cooperative.

5th May 2011. Attempt to evict the La Trinidad cooperative.

7th May 2011. Attempt to evict the El Despertar Cooperative.

24th of June 2011. Forced eviction, including destruction of homes, comunitarian infrastructure and crops, of the peasants' community Los Rigos.

- No accessibility to legal remedies were made available, and there was no timely consultation prior to the eviction. In some eviction cases, an eviction order was not even presented to the peasant communities.
- All forms of peaceful and non-violent resolution were not exhausted. In fact, forced evictions have been ordered and carried out despite the fact that certain cases (such as that of San Isidro) were in the midst of civil court litigation, or the fact that in all of the MUCA cases, a binding agreement exists between the government and the peasants.
- The courts and attorneys are not aware of the existence of an adequate relocation plan.
- Regarding the manner in which the forced evictions have been executed, the photographic evidence and testimonies gathered by the Mission and national human rights organisations show that the victims have suffered:
 - Violations of their right to food, as public and private security forces have destroyed their crops;
 - Violations of their right to housing, as public and private security forces have destroyed their houses;
 - Violations of other rights, due to the robbery and destruction of their belongings, threats and acts of violence. The Mission also found that where demands for compensation for damages suffered had been made, not a single one had been considered by the District Attorney or by a Court.

In conclusion: The forced evictions executed in Bajo Aguán in 2010 and until March 2011, were ordered and executed in a manner that violated the regulations established by international human rights law, particularly regarding the right to food and housing⁵⁸. According to the information received by the judicial powers and the District Attorney, there have been no sanctions in response to the violent manner in which these evictions were carried out, and no one has been punished for the destruction of goods and property during these events⁵⁹.

On 9th December national and international organisations accompanied by journalists and media from all over Honduras and European countries confirmed the eviction of MUCA peasant families settled in Paso Aguán⁶⁰.

During the eviction it was possible to observe the police and army officials intimidating the local population. Numerous police posts were found kilometers before arriving at the evicted settlements where the peasant families had been. This increased the number of people

⁵⁸ In the case of 120 peasant families, members of the peasant movement of Los Rigos, The forced eviction was executed on 24th of June 2011 by approximately 50 police under the order of judge Heber Izael Lopez Oseguera. During the forced eviction, the homes of the families who had lived and worked there for 11 years, were destroyed, the crops were burned and other buildings of the comunicatrias infrastructure, such as the school, the kindergarden and two churches were demolished, leaving the families without shelter and their means of life. A detailed assessment of damages was documented, including photo material, by the San Alonso Rodríguez Foundation.

⁵⁹ During the course of the International Misson's visit to Honduras, the Associative Business "9 de enero" (9th January) was also forcefully evicted, 25th February, 2011, in the Yojoa Lake.

⁶⁰ Human Rights Situation in the Aguan Valley. Preliminary Report from the human rights Mission, 8th December – 11th February 2011.

affected by the evictions. Many of the police officers were also heavily armed and had their faces covered with black masks.

According to the testimonies of some of the affected persons in El Paso Aguán, the military and police entered the estate violently, even to the point of beating some of the peasants: “the military, police, battalion members and Facussé’s guards arrived at about 6 in the morning to evict us - about one thousand well armed officers more or less - , we were getting up to go to work when 5 of the landowners’ security guards surrounded me and shouted at me -“get on the floor, turn in your AKs (referring to AK-47 rifles)”- they later broke the nylon and tore through my things. They took me out along with my family. One of Facussé’s guards kicked me in the stomach”.

“They shouted at all of us: Get down, we have an eviction warrant! And they demanded that we make a list of all the people there, with ID numbers, and they asked for the names of the settlement’s leaders. Some of us gave our names out of fear. They made us sign a paper although we didn’t know what it was, they forced us to sign it at gunpoint”.

Men and women reported the threats that they received. They stated: “10 leaders of the groups between the ages of 30 and 40 that lived in the settlement were threatened with death and they left immediately out of fear that the police, military officials and Facussé’s hired assassins would kill them: “All of the estates are full of hired assassins. There were about a thousand military officials and Facussé guards, until now when they realised that the media and human rights defenders were coming, so they are hiding”; “I am very afraid, I don’t want the same thing that happened to my 16-year-old brother to happen to me. Five months ago they arrested him and took him away, they tortured him and then the police from the Tocoa post killed him”; “we don’t want them to keep killing people, right now military officials are threatening to try and get information on some of the human rights people that are here. They told me that they would take me away from here to another place but they didn’t tell me where. I have an arrest warrant for usurping land”.

The Mission also observed that women and children were particularly vulnerable to the threatening attitudes of the uniformed men: “This was horrible, all the houses were surrounded by military officials and Facussé’s guards. The children, men and women were screaming and crying. They grabbed one woman who resisted and they let her go”. (Excerpt from a testimony of a young man in Paso Aguán, 9th December 2010).

The testimonies compiled by the organisations clearly demonstrate that this situation violates the human right to food and all of the rights in the ICESCR. “**They destroyed our house and we don’t know where to go**”, “I only made it to fourth grade because we didn’t have a stable place, and my siblings don’t go to school either” (16-year-old teenager); “my wife and I work in the on the estate ploughing the land which barely gives us enough to eat and send our children to school”, “I don’t have any other option but to return to my father’s house so that he can give us shelter. This means going back and suffering because there are a lot of us there and the house is small” (testimony from a mother of four children, all under 9 years of age, 9th December 2010).

3.6.2. The obligation to fulfil the right to food by facilitating access to land for landless peasant families

Regarding this obligation, the Mission evaluated the degree of fulfillment of the legal arrangements and political agreements which oblige State institutions to: transfer 11,000 hectares of land to the members of the cooperative the Unified Peasant Movement of Aguán (MUCA) before 13th April 2011; and to hand over the entire area of land formally used for the Regional Center for Military Training (CREM) to the peasant cooperatives belonging to the Peasant Movement of Aguán (MCA).⁶¹

a) The transfer of lands to the MUCA communities

According to the Deed of Commitment signed by MUCA and the government on the 13th April 2010, a framework has been defined for the transferral of a total of 11,000 hectares of land in favor of the peasant communities by the 13th April 2011.

The lands cultivating African palm trees and the uncultivated land will be transferred in the following manner:

- a) Three thousand (3,000) hectares currently cultivating African palm trees to be transferred immediately;
- b) Three thousand (3,000) uncultivated hectares to be transferred over the course of three months;
- c) One thousand (1,000) hectares cultivating African palm trees to be transferred over a maximum time period of one year from the signing of this contract;
- d) Four thousand (4,000) uncultivated hectares to be allocated over a maximum time period of one year. If this measure results in excess fallow lands, the total payment for improvements will be immediately awarded to MUCA, deducting the aforementioned 1,000 cultivated hectares.

The government has promised that, in addition to immediately transferring the first 3,000 hectares, it will then identify three thousand (3,000) uncultivated hectares to transfer over the next three months, that is, by 13th July 2010.

Social support was also quantified. The government would implement health and education projects, and they would begin a housing project for 100 homes to be built over two years. These measures would allow for an improved standard of living for the peasant families affiliated with MUCA.

⁶¹ In the case of the Authentic Peasant Reclamation Movement of Aguán (*Movimiento Auténtico Renovador de Campesinos del Aguán* or MARCA) that decided not to sign the agreement between MUCA and the government, as they were convinced that they should opt for recovering their lands through courts of law due to the legal validity of their land titles, the Mission observed that court proceedings have not advanced, however several groups affiliated to MARCA were affected by forced evictions (see chapter 3.6.1). In June, the National Agrarian Institute transferred a total amount of 471 hectares to the members of this peasant group, just after the three members of MARCA, Guillermo Recinos Aguilar, Joel Santamaria and Genaro Acosta were killed on 5th of June (see chapter 3.1).

Furthermore, the Deed specifies that “a technical legal commission will be formed with three government representatives and three MUCA representatives, with the objective of producing a report within 90 days on the legal and technical legitimacy and consistency of these sales”.

The deed, therefore, required the transfer of 11 thousand hectares to MUCA in three separate submissions once they abandoned the occupation of the 26 estates. In fact, in April 2010, the MUCA peasants had reduced their space to 6 estates, totaling 3,000 hectares which were clearly cultivating African palm trees.

The degree to which these agreements were implemented by the end of February 2011 is as follows:

- a) Regarding the three thousand (3,000) hectares currently cultivating African palm trees: INA specialists in African palm tree cultivation carried out a meticulous evaluation – plant by plant – and concluded that only 1,704 hectares of the plantation was in good condition.
- b) Regarding the 3,000 uncultivated hectares to be transferred over the course of three months, the established timeline was not met by July 13th 2010 and its fulfillment was still pending at the end of February 2011.
- c) Regarding the remaining 5,000 hectares to be transferred by April 13th:

In February 2011, the negotiations between Porfirio Lobo’s government and MUCA were ongoing, but with no agreement in sight. The peasants have expressed their opposition to Miguel Facussé’s proposition soliciting 350,000 lempiras per hectare for the Lempira and Concepcion estate, due to its proximity to Tocoa; and 135,000 per hectare for the rest of the estate considering the state of the African palm plantations.⁶²

In summary, the Mission observed that only a small part of the land agreement between the government and MUCA has been implemented, while the majority of it remained incomplete at the time the Mission visited the country⁶³. Worryingly, the Mission confirmed that the vast

⁶² On 23rd April 2011, the authorities recognised that they had not fulfilled the 13th April 2010 agreement between Porfirio Lobo and the representatives of the Unified Peasant Movement of Aguán (MUCA), and they renewed their promise to fulfill it. On 7th June 2011, the INA Defence Minister declared before the Council of Ministers that the failure to implement the Agreement is due to the lack of advancement in the legalisation of the land. According to INA, this is due to the “lack of political will on behalf of the landowners and, in the case Miguel Facusse Barjum, due to the fact that he has not agreed to accept the price of the land that was established in accordance with the law”. Therefore, “the Minister proposes utilising the Legislative Decree to expropriate these lands for public use in order to resolve this problem in Bajo Aguán” (Message from the INA Office of Public Relations, June 2010).

⁶³ On 16th June 2011, a three party agreement was signed by Miguel Facussé, MUCA and government, establishing that the company Exploradora del Atlántico sells 4.085 hectares at an initial price of 135.000 Lempiras per hectare. However, the final price can be different, based on a further assessment of three experts proposed by the Exploradora del Atlántico, MUCA and the government. The properties included into the agreement are “La Aurora”, La Confianza, la Isla I, la Isla II, Marañones, La Lempira and La Concepción (see “Términos y Acuerdos Mínimos de un Memorandum de Entendimiento entre la Exploradora de Atlántico S.A. de C.V. y el Movimiento Unificado Campesino del Aguán (MUCA)”). In case the new agreement is implemented, it would ratify that the previous agreement of 13th of April 2010, that foresaw the transfer of 11.000 hectares of land to the 2.500 peasant families, will stay with being implemented partially. It needs to be stressed that it is certainly not appropriate to say that the agrarian conflict in the Bajo Aguán is resolved by this new agreement. The agreement does not refer to the human rights situation and the need to investigate the crimes against the peasant communities. In addition, major parts of the agrarian conflicts remain

majority of families affiliated with MUCA are in a desperate state due to the lack of implementation of the agreement both in terms of land transfer and also regarding the healthcare, education and housing measures(see the following subchapters).

b) The transference of CREM lands to the MCA communities

It is important to note that the lands previously used by the Regional Center for Military Training (CREM) are, without question, State lands. This has been clarified by the General Attorney of the Republic since 1993, and has been recognised by all of the Honduran governments and the Congress of the Republic since this time, until the coup d'état⁶⁴.

In October 2000, the President of Honduras at the time, Carlos Flores Facussé, transferred the first part of the CREM land (1,500 hectares) to the peasant communities affiliated with the Peasant Movement of Aguán. Since then, the INA has progressively assigned lands to the MCA communities based on specific Congress decrees. These authorised the sum total of 105 million lempiras to resolve the case of CREM in the following manner: the State recovers the lands illegally sold by the Municipal Corporation of Trujillo to businesses, politicians and military officials in the region, and compensates them for any improvements made to the land. The State then transfers the recovered lands to the peasant communities affiliated with the MCA settled in the Guadalupe Carney community.

In general, in terms of implementing Decree 18-2008, the INA was able to advance the regularisation of the CREM lands and their transfer within the framework of the Agrarian Reform's legislation. Nevertheless, some of the businessmen, who are still illegally occupying the CREM lands, have rejected the INA's management.

This is precisely what has happened with the El Tumbador estate. Miguel Facussé's Cressida Corporation, cultivates African palm trees on approximately 550 hectares of this land which, according to the INA, falls within the limits of the former CREM.

As a means of putting pressure on the Cressida Corporation and as a result of the lack of State action to recover these CREM lands, the peasant members of MUCA occupied the El Tumbador estate on 6th April 2010. They worked this land for about three and a half months and were later evicted by Miguel Facussé's security guards. In the following months, conversations took place between the INA, MUCA and Miguel Facussé's representatives, but no conclusions were reached.

It was in this context that the murders took place in "El Tumbador" on the 15th November 2010. This incident was already described in Chapter 3.1: Five peasants were murdered and several peasants were injured. According to the information provided by the District Attorneys in Trujillo and La Ceiba, there were no injuries or deaths on the other side – presumably consisting of Miguel Facussé's private security guards⁶⁵.

In his public statements after the crime, as mentioned in Chapter 3.1, Miguel Facussé held the INA Minister-Director responsible for being the "murderous black bear" of the peasants for

without solution, the forced eviction of the Los Rigos community on 24th of June 2011 (see footnote 60 above) gives evidence of this situation.

⁶⁴ See box below: the land ownership history of the lands formerly used as the Regional Center for Military Training(CREM).

⁶⁵ See the Dinant Group's versión in footnote 41.

having maintained the position that the El Tumbador lands were part of the former CREM, and therefore State property. This position has been recognised by all administrations since.

It is important to add that since the 15th November 2010 the transfer process of the CREM lands to the peasant communities has been paralysed, including the El Tumbador estate.

The history of land ownership of the lands previously used as the Regional Center for Military Training (CREM)

On 21st April 1972, the INA handed over the title for full ownership of the property, 5,724 hectares, to Fausto Fortín Inestroza in exchange for 156, 851 Lempiras. On 1st March 1975 Fausto Fortín sold this property to Temístocles Ramírez de Arellano for the same amount of money.

The purchase made by Temístocles Ramírez was illegal since he is Puerto Rican by birth with US nationality, and the Constitution of the Republic of Honduras prohibits non-nationals from owning land of any kind within 40 kilometers of the Honduran border⁶⁶. The lands in question are located exactly 40 kilometers from the Atlantic coast.

In the context of the national security doctrine strategy, the Honduran government installed the Regional Center for Military Training (CREM) on the lands owned controlled by Temístocles Ramírez in 1983.

In 1987, Temístocles Ramírez appealed to the United States government, demanding compensation for "his" lands. The Rafael Callejas government responded with Executive Decree number 010-90 on 28th June 1990, approving the payment of 15,600,000 Lempiras (15 million six hundred thousand Lempiras), equal to \$7,800,000 USD (7 million eight hundred thousand dollars) for the agreed compensation⁶⁷.

Article 3 of the this Decree states that "the government of the United States of America (USA) declares that the payment of the sum mentioned in Article 1 removes all responsibility and obligation from the government of the Republic of Honduras towards representatives of the USA government, its subsidiary businesses, branches and affiliates, regarding the present Agreement, therefore satisfying the criteria of US public law...Article IV. The US government will be responsible for obtaining lands, whenever necessary, from US nationals affected by the present agreement and returning these lands to the Government of the Republic of Honduras. Article V. In light of the intergovernmental nature of the present Agreement and the fulfillment of Article IV, the existing obligation and any possible future ones between the government of the Republic of Honduras and any US nationals are satisfied as a consequence of the present Agreement."

⁶⁶ Article 107. Terrains, comunal cooperatives or private properties belonging to the State and located in areas bordering neighbouring states, or in the coastal areas of both seas in a tract of forty kilometers towards the interior of the country or the islands, islets, reefs, escolladeros, crags, rocks and sand banks, can only be acquired, possessed or owned by Honduran citizens by birth, or integrated societies with all Honduran members or by State institutions, under the penalty of nullifying the act or contract.

⁶⁷ The following arguments explain this decision: "[c]onsidering: that the government of the United States of America has treated the claim as that of a US citizen, and the cause as being damages suffered by Honduran societies, in which he had interest and originated in the construction of facilities for and the establishment of the Honduran Armed Forces in CREM...Considering: that in June 1987, the United States Congress passed a law...through which the Honduran government's funds, from the Economic Aid Program with the value of twenty million dollars, were frozen until the Honduran government agreed to recognise an *adequate compensation* (our emphasis) for the claim in question".

On the 5th July 1990, “as signed by the Consulate of Honduras in the city of Washington, D.C....Temístocles Ramírez, representing the company Ganador Trujillo, Inc. formalised the transfer to the State of Honduras, of the aforementioned 5,724 hectares of land...inscribed on March 1st 1991 under number 13 of Edition 62 of the Land and Mercantile Register of the Department of Colón”⁶⁸

The General Attorney of the Republic fulfilled the agreement by transferring the ownership of these lands in 1993 to the INA to be used for agrarian reform, as had been established. However, once again the legal process was affected by corruption: the Municipal Corporation of Trujillo illegally sold the lands to private holders. This was such an obviously illicit act that the District Attorney prosecuted all the members of this municipal corporation ⁶⁹.

3.7. The right to education

Regulatory framework in force

As General Comment 13 by the Committee on Economic, Social and Cultural Rights affirms, education is an intrinsic human right and one that is essential to the fulfillment of other human rights. Education is the primary process which allows economically and socially marginalised adults and children to escape poverty and fully participate in their communities. Education plays a decisive role in: women’s emancipation; protecting children from exploitative labour, dangerous work and sexual exploitation; the promotion of human rights; democracy; environmental protection; and the control of demographic growth. More and more people accept and support the idea that education is one of the best financial investments that a State can make.

The International Covenant of Economic, Social and Cultural Rights dedicates two articles to the right to education: articles 13 and 14 and there are two General Comments from the CESCR regarding this right: General Comments 13 and 11. This right is also found in the Convention on the Rights of the Child (paragraph 1, article 29). It is important to emphasise that:

- The prohibition of discrimination, addressed in paragraph 2 of article 2 in the Covenant, is not subject to a gradual implementation or the availability of resources; it is applied fully and immediately to all aspects of education and includes all internationally rejected motives for discrimination. The States Party must carefully supervise teaching in order to identify any occurrences of discrimination taking place and steps must be taken to remedy these. While the Covenant provides for gradual implementation of this right and recognises restrictions relating to limited resources, it also imposes obligations on States Party which are immediately effective.

Violations of the right to education in Bajo Aguán

Bajo Aguán is in alarming conditions. The militarisation, repression, persecution, stigmatisation, harassment, forced evictions, and murders have turned it into a “war zone” that

⁶⁸ Note taken from the District Attorney’s accusation of corruption against the Municipal Corporation of Trujillo, presented 7th December 2000.

⁶⁹ 7th December 2000 the assistant anti-corruption attorney, Grixel Marisol Villafranca Murillo accused the mayor, aldermen and the unión of the Municipal Corporation of Trujillo of transferring “the lands where CREM had been to a few private holders illegally”.

keeps the peasant population terrorised. This environment seriously affects the activities of children and adults and particularly their access to education.

Porfirio Lobo Sosa's government, by means of an agreement signed on 13th April 2010, made a special commitment to improving the education of communities affiliated with the Unified Peasant Movement of Aguán (MUCA). In later conversations, the communities demanded a minimum of 17 teaching placements for the children of the 2,500 families. However, the government only offered the family 7 teachers; and at the time of the Mission none of these placements had been filled. Thus, 10 months after the agreement was signed, it had still not been implemented, meaning that the right to education of these communities' children is being violated.

Violations of the right to education are not solely the result of a lack of teachers and infrastructure. During the visit, the Mission was able to gather testimonies, from the La Lempira community as well as from the Guadalupe Carney community, regarding the military presence and the armed patrolling of the school by Miguel Facussé's guards. These elements have contributed to a fearful atmosphere amongst the students. Furthermore, it is important to note that the military occupation of the school in the Guadalupe Carney community prevented classes from taking place for several weeks between 10th April and 20th May 2010.

In conclusion: the right to education of children, young people and adults in Bajo Aguán is being seriously violated. This is due to structural problems related to the exclusive State model. However, these failures have also been aggravated by the 2009 coup d'état and the current agrarian conflict in this area of the country.

In the Lempira settlement, close to the city of Tocoa, mothers have filed a report against the private business security guards for entering into the community school building, with the teachers' or principal's consent, where they proceed to terrorise the children identified as the sons and daughters of MUCA peasants: "the security guards come to school at 7 in the morning bearing arms and some of the children that live in the settlements have been mistreated by them" (testimony, 25th February 2011).

In the case of the Guadalupe Carney community, military officials have approached the minors to ask them about their parents' activities, their names and their place of residence.

In the Lempira settlement, as well as in Guadalupe Carney, this threatening military presence has led many school children to stop attending.

3.8. *The right to health*

Regulatory framework in force

Article 12 of the International Covenant on Economic, Social and Cultural Rights establishes that: "The States Party to the Covenant recognise the right of all people to enjoy the highest possible level of physical and mental health...".

As General Comment 14 from the Committee on Economic, Social and Cultural Rights affirms, the right to education is a fundamental human right and essential to the exercise of

other human rights. All human beings have the right to enjoy the highest possible level of health which allows them to live with dignity. Effective implementation of the right to health can be achieved through a number of complementary measures, such as creating health policies, implementing health programs elaborated by the World Health Organisation (WHO) and adopting specific legal instruments.

Numerous instruments of international law recognise the human right to health. For example, it appears in paragraph 1, article 25 of the Universal Declaration of Human Rights. The International Covenant of Economic, Social and Cultural Rights contains the most exhaustive article of international human rights law on the right to health (article 12).

The reference in paragraph 1, article 12 of the Covenant to “the highest level possible of physical and mental health” is not limited to the right to medical attention. On the contrary, the right to health includes a wide range of socio-economic factors that promote the conditions needed for people to have a healthy life. This right includes basic determining factors of health, such as food, nutrition, housing and access to clean drinking water and safe sanitary conditions, safe and healthy work conditions and a healthy environment.

Violations of the right to health in Bajo Aguán

As established by the General Comment, the right to health is closely linked to the exercise of other human rights and depends on the rights articulated in the International Declaration of Rights. In particular the right to health depends on the right to food, housing, work, education, human dignity, life, equality, privacy, access to information, freedom of association, assembly and movement, and to be free from discrimination, and torture. These, along with other rights and freedoms are integral components of the right to health.

In this sense, the situation regarding the right to health in Bajo Aguán is a faithful reflection of what happens in a country when the other rights that we have analysed are being violated. The majority of peasant communities live in shacks, in unsanitary conditions and without access to drinking water, drains, latrines, public health services, and without the necessary amount of food to guarantee good health. All of these factors constitute a depressing state of health and undermine the right to health of the peasant communities in Bajo Aguán.

Additionally, the leaders report discrimination in hospitals and health centers where peasants who have been victims of the repression go to seek medical attention. The reason for this discrimination is their involvement in the peasant movement and the stigma attached to this, thus also violating their right to be free from discrimination.

In conclusion: Throughout Honduran history, the right to health has been continually violated. The majority of people do not have access to health care, which reduces the life expectancy of the population. In addition to the system’s chronic deficiencies, the peasants of Bajo Aguán, face an accumulation of other issues to do with the mobility, harassment, discrimination, and the stigma that is attached to them and which negatively influences their access to basic medical services. This constitutes an alarming violation of the right to health for the population in this region.

Marco Antonio Estrada Santos, of the Marañones community, is a clear example of the peasants’ health care situation: After being shot in cold blood by a military official during the eviction of the La Suyapa estate on 8th February 2010, he was taken to the hospital in La Ceiba. Here he was mistreated by three police officers while waiting on a stretcher. Later he was hospitalised for 15 days in the Catarino Rivas hospital in San Pedro Sula. When he was

released he went to a family member's house in Crotés while continuing medical treatment and awaiting reconstructive surgery that never materialised. Currently, he suffers from intense pain, facial fractures, and a wound on his eye that has not healed due to lack of medical attention. His state of health prevents him from working.

On the La Confianza estate for example, the settlement is located in a flood zone that is unfit for residence. The “*government-MUCA*” agreement promises relocation of this settlement to a safe area with better housing and healthier conditions, however after almost a year this has still not happened. The promise of “*improved housing*” was also made to the following communities: January 5th, El Mochito, Los Laureles and Quebrada Onda. Currently there is no sign of this materialising.

The same government agreement also promised to improve the condition of the population's health. However, for the time being only four medical brigades have visited the region and, while there is a health center, like the rest of the country it lacks medicine meaning that its contribution to the community is very limited.

3.9. *The right to equality and access to justice*

Regulatory framework in force

The right to access to justice is found in article 14 of the International Covenant on Civil and Political Rights. It is also analysed by the Human Rights Committee in its General Comment 13, which includes the following relevant points:

- All of the provisions included in article 14 aim to guarantee the adequate administration of justice and thus, to affirm a series of individual rights including: equality before courts of justice; the right to be heard publicly; and with due guarantees that there will be a competent, independent and impartial jury, as established by law.
- The second paragraph of article 14 states that “all persons have the right to be heard publicly and with due guarantees”. Paragraph 3 details these guarantees in relation to penal processes. However, the demands of paragraph 3 are minimum requirements, the observation of which is not always sufficient to guarantee a process that meets the requirements laid out in paragraph 1.
- A public hearing is an important safeguard for the interests of the individual and for society in general.
- By virtue of the assumption of innocence, the burden of proof remains with the prosecutor while the defendant is given the benefit of the doubt. No one can be considered guilty unless the accusation against them is proved beyond all reasonable doubt. All public authorities have the obligation to not pre-judge during this process.
- The Committee observes that the right to be informed “without delay” of the accusation against you, means that this information must be provided in the described manner, as soon as a competent authority formulates the accusation.
- Section b) of paragraph 3 states that the defendant must have adequate time and means to prepare his/her defence and must be able to communicate with a lawyer of his/her

choice (...). Furthermore, this section stipulates that the lawyer must communicate with the defendant in conditions that guarantee the completely confidential nature of their communication. Lawyers must be able to consult with and represent their clients in accordance with their established professional criteria and regulations, and without any restrictions, influence, pressure or interference from any other party.

- Section c) paragraph 3 states that the defendant will be judged without undue delay.
- In order to safeguard the defendant's rights in accordance with paragraphs 1 and 3 of article 14, judges must have the authority to examine any allegation made by the defendant of violations of their rights during any phase of the process.

Violations of the right to freedom and access to justice in Bajo Aguán

The Honduran judicial system is supposed to resolve the agrarian conflict in Bajo Aguán and other regions of the country. However, the actions and decisions of this system are proof of violations of the peasant's rights to procedural equality as a judicial guarantee and to due process. For the peasants, this system creates an absolute state of procedural and judicial defencelessness, in addition to their economic and legal defencelessness, which results in further violations.

From the victims' testimonies it is very evident that judicial decisions and a lack of access to justice with equal procedural conditions for the peasants and their organisations are significant aggravating factors in the Bajo Aguán conflict.

The speed of judicial processes and prosecutors' requests against members of peasant movements.

According to the information provided by the legal defence team for the members of this movement, there are to date 112 persons with pending judicial proceedings in the Court of Original Jurisdiction of Tocoa, and 50 persons before the Court of Original Jurisdiction of Trujillo. This means that there are a total of **162 peasants being prosecuted** for multiple crimes, and some of them have various files accumulating. The number of files open against MARCA members is notorious both in the jurisdiction of Tocoa (27) and in Trujillo (14), where there is a total of 41 files since 2009.

The majority of these judicial processes involve peasants who have committed an "offense against" the exporting company *Exportador del Atlántico, Inc.*, owned by Miguel Facussé. The crime tends to be that of usurpation⁷⁰, among others. There are also judicial procedures underway for the crime of robbery⁷¹, and endangering the internal security of the State of Honduras through the possession of commercial arms. As the peasants' defence lawyer explained, the role played by the Public Ministry in this type of process is deplorable. They make pro-prosecution requests for the *Exportadora del Atlántico, Inc.* company even for crimes like robbery, which should be dealt with through private prosecutions.

⁷⁰ Crime of usurpation. See article 227 of the Honduran Penal Code, considered by the judges interviewed to be a minor crime with a prison sentence of 2 to 4 years.

⁷¹ To date, 80 peasants have been tried for robbery of fruit, and for the crime of illegally transporting arms in the Marañones section on the left bank of the Aguan River alone (Report from the Legal Defence).

The properties subject to criminal cases for both the MARCA and the MUCA cooperatives are legally under question. The Mission confirmed however, despite this fact, prosecution requests that are submitted for usurpation and robbery of African palm fruit have are "automatically" resolved by the courts and arrest and eviction warrants are sent out. This even happens prior to the initial hearing, the procedural step in which those persons being prosecuted are able to defend themselves against the District Attorney's accusations.

According to the first report from the Legal Defence of Case Follow-up, in the Jurisdiction of Tocoa, the majority of prosecution requests made to the Courts were made by one District Attorney, Arodi Maribel Reyes⁷². Later, many of these expedientes have been adjudicated by other District Attorneys under the instructions of the Local Coordinator that in this case is Arodi M. Reyes.

Currently, around 15 initial hearings have been conducted for all the files opened against MUCA members, and the majority of them are for the crime of robbery and the possession of fire arms. This is not the case for the proceedings around the usurpation cases.

Warrants for illegal and arbitrary evictions

The Mission confirmed during interviews with Judges from Tocoa and Trujillo, that eviction orders were sent out and executed solely on the basis of the "judicial and factual" criteria produced by the District Attorney and at their request. This occurs without any "consultation" or information of their own, and without even having listened to both parties at an initial hearing.

At no time, neither prior to nor during the eviction operations, were the corresponding judicial orders presented. An example of the eviction cases is that of the Lempira cooperative. They were victims of a violent eviction in 2010, during which the Police did not present a corresponding eviction warrant from a competent judge. The community only found out about it through the local media.

It is important to note the position of the judge that executes the evictions (*juez ejecutor*). In the interviews held with the Mission, Judges confirmed that usually employees of the big companies are nominated as "juez ejecutor" for the eviction, appointed by the Public Ministry. According to them, the reason for this is that "there is not sufficient personnel" in the courthouses.

According to internal regulations, Judges are obliged to produce a detailed report of the events occurring under their service. The judges have not "reported" unlawful conduct to the commission in any of these reports. The Judge of Trujillo therefore suggests that the victims appear directly before the Public Ministry, which is contrary to the actions of the serving Judge, and would be unlikely to have a positive result given the attitude of the Public Ministry towards the situation in Bajo Aguán.

It is important to note that the judges could not explain whether significant criteria existed to justify the military presence in the area or the magnitude of the evictions. As the judge of Trujillo affirmed, the legal grounds for army involvement in these evictions are in "an extrajudicial arrangement", an cooperative agreement between the police and the army.

Furthermore, the National Commission on Human Rights is not fulfilling its mandate as the institution responsible for protecting and defending the peasants' human rights before, during and after the eviction operations, by publishing reports and recommendations to the

⁷² Who has served as a local coordinator of prosecutors in Tocoa Colon since December 2009.

authorities indicated as responsible for these events. As affirmed by a Judge of the Court of Original Jurisdiction in Trujillo, the judges are then supposed to ratify these reports and guarantee that notification documents are presented when evictions are carried out.

Additionally, the defence lawyer confirmed that the peasants have no Public Defence, and that there is no evidence of their participation as defendants in the judicial proceedings related to the regional agrarian conflict..

The District Attorney of Tocoa's declarations prove that the eviction orders and their execution, as well as the arrest warrants, respond to a dynamic of pressure on the peasant groups derived from the agreement signed between the Lobo Sosa government and MUCA (April 2010). The lawyer Arodi Reyes, District Attorney of Tocoa, explains that there are eviction warrants for four of the seven estates taken in the area of her jurisdictions and that they have not been executed due to the fact that the Police director for eviction operations, Hector Villatoro, has told them to wait for a Presidential order.

Similarly, arrest orders are issued as a means of putting pressure on agreements, to hinder their implementation and dissuade the peasant movement from expressing any disagreement. According to the Defence, a high number of peasants have pending arrest orders and those who are able to get these charges dismissed do so on a provisional basis.

It is important to note that no representatives from the district attorney's office or the judicial authorities have received the promised report from the Executive branch on the possession of arms in the area, and according to their knowledge, no arms have been found with the peasants. .

The principle of officiousness for public prosecution, only for some cases.

According to the defence lawyer, the communities believe that "the District Attorney has played a supporting role for commercial companies" (agribusinesses). There is a perception that the judicial authorities are not willing to resolve the agrarian problems and that they are biased against the peasants.

"Why don't they do anything to him (Facussé), while they do to us? ...We are being persecuted and our human rights are being violated and people aren't talking about that". (Juan Chinchilla in a meeting with the Special Attorney for Human Rights).

When the District Attorneys assigned to the La Ceiba office were asked about their responsibility for the human rights violations incurred by the eviction operations, and about what official actions the Special District Attorney for human rights took in this regard, they argued that it was the victim's role to go to the District Attorney, to present evidence of damages and violations, in order for action to be taken. Even the District Attorney Urbina⁷³, argued that "they do not have evidence that this is happening during the evictions, and there aren't any pictures". Nevertheless, thanks to the media, the damages caused by the police, the army and the security guards on the evicted peasants' property is now widely and publically known.

Furthermore, according to testimonies from victims on the violent eviction in the Paso Aguán community (Panamá group), the community reported the situation to the District Attorney of Trujillo and the received in reply: "...that if Pepe Lobo couldn't solve it, they could not either...".

⁷³ Interview with the Coordinator of Attorneys in la Ceiba, and the Attorneys Bessi Villafranca and Yaskin Urbina, 28th February 2011.

In the case of Bajo Aguán, the principle of officiousness in criminal prosecutions is only applied when issuing injunctions for peasants usurpation. One judge stated in the interview with the Mission, that the peasants are committing a “flagrant offences” by occupying lands and as a result, arrest warrants and evictions are inevitable.

The slowness of the process and the lack of diligence in cases concerning violations of peasants’ human rights in Aguán is recognised openly, even by the Special Attorney for Human Rights, lawyer Sandra Ponce. She stated in the interview with the Mission that “the delays are generalised in investigations of violations of the right to life”.

In other cases, the authorities justify the situation with a lack of personnel and the peasant sector’s mistrust. This mistrust, rather than being understood as an alarming sign of the discredited judicial system (which is perceived to be persecuting peasant communities) is used to portray the victims as the guilty party. “For us, it was easier to seize arms and take declarations from suspects...but during the first visit it was impossible for us to get a declaration from any of the peasants...there was no declaration obtained or collaboration received from the peasant communities, I have to tell you” (District Attorney of La Ceiba).

It is important to note that the investigation of cases in Bajo Aguán is influenced by the authorities' perception of conflict. While they confirm that everything is proceeding normally, they consider Bajo Aguán as an out-of-control area, and one that therefore requires a high volume of security forces mobilised there. “Normally, it is not a case that we can handle with a police patrol car...we have to wait for the entire security team to be ready” (District Attorney of La Ceiba).

In conclusion: The justice system’s bias is demonstrated by the number of inappropriate cases open against the peasants and by the lack of diligence in all cases where their rights have been violated. The criminalisation of the peasants is hidden behind the actions of the authorities. The fact that cases of repression in the communities are treated with impunity is demonstrated by this comment from one member of the San Isidro cooperative: “Here in Honduras, the snake only bites the barefoot”⁷⁴.

⁷⁴ Peasant leader of the San Isidro cooperative. Interview with MARCA and the Mission, 26th February 2011).

4. CONCLUSIONS AND RECOMMENDATIONS

From the evidence collected, **the International Mission confirms that a severe human rights crisis exists in Bajo Aguán**, the principal elements of which are as follows:

- Since January 2010, until the end of the Mission, 23 peasants belonging to organisations in Bajo Aguán were murdered. Two more people (a journalist and his partner) were also murdered in a crime that is possibly linked to the agrarian conflict in the region and to the reports of continued violations.⁷⁵
- According to the District Attorney, no arrest warrants have been presented for any of these cases. In the majority of cases, an initial investigation has not even taken place; there is therefore a high risk that all of these cases will result in complete impunity.
- Multiple violations of the right to personal integrity continue to occur, including threats and harassment towards the directors and members of peasant organisations. These are committed by public security forces and military bodies, as well as by private security forces who guard the properties of local businessmen. Additionally, the Mission documented cases of kidnappings and torture, multiple injuries and sexual abuse. These violations of personal integrity are similarly not under any judicial investigation⁷⁶.
- Forced evictions, violating the right to food, housing and health, continue to occur in peasant settlements, in flagrant violation of the standards established by international law and due process. Between January 2011 and March 2011 at least 12 forced evictions took place under these circumstances in Bajo Aguán⁷⁷.
- Instead of creating solid policies and measures to resolve agrarian problems in the area, there is a process of stigmatisation and criminalisation of the peasant struggle. This includes arbitrary arrests, 162 prosecutions, and the systematic persecution of peasant leaders.
- The State is in breach of the legal dispositions and political agreements that oblige its institutions to: transfer the entire terrain of the former Regional Center for Military Training (CREM) to the peasant cooperatives comprising the Peasant Movement of Aguán (MCA); transfer a total of 11,000 acres to the cooperatives participating in the Unified Peasant Movement of Aguán (MUCA) before April 13th 2011; and to respect and guarantee the right to land for the cooperatives of the Authentic Peasant Reclamation Movement of Aguán (MARCA).
- Similarly, the State promises included in the agreement with MUCA to guarantee the right to education, health and housing have not been fulfilled to date.

⁷⁵ According to the information received and verified by national human rights organisations, 9 peasants have been murdered since April 2011, all affiliates of one of the three organisations in Bajo Aguán: the Peasant Movement of Aguán (MCA), the Unified Peasant Movement of Aguán (MUCA), and the Authentic Peasant Reclamation Movement of Aguán (MARCA).

⁷⁶ Following the completion of the Mission, during the month of May, at least 6 peasants were seriously injured during eviction operations against the peasant movement. Additionally, 7 kidnappings have been reported between April and June 2011, of which (by 7th of June) three appeared dead in the days following their disappearance.

⁷⁷ At least 6 forced evictions have been reported since the Mission finished.

The Mission confirms with concern that repressive violence against community members and peasant organisations continues. These groups are unprotected and have no recourse to defence in the face of the authorities' actions and omissions. The crimes committed against life in Bajo Aguán are on their way to being treated with complete impunity, enabling the repetition of such crimes in the future.

The bias of the actions of the authorities was evident when the Mission examined the speed of investigations, particularly those related to the crime of land usurpation (from private landowners) in comparison to the obligatory investigations that must be carried out in the cases of (peasant) deaths.

As the collected testimonies demonstrate, this only serves to increase mistrust amongst the peasant movements, a feeling which is already prevalent in these communities due to the close relationships that exist between the public security forces (the police and the army) and private business security forces. The affected communities live in a state of violence and defencelessness, afraid to leave their land and in fear of being harassed by public security forces and private guards.

The criminalisation of social protests, and particularly of the peasant movement, has fallen on the community leaders. These attacks, in addition to the unquestionable bias of certain media outlets has led to the stigmatisation and criminalisation of the peasants in Bajo Aguán. They are seen as members of "conflictive communities" and are even called "guerrilla cells" by the media and the authorities, who continue to talk about the peasants' possession of arms. However, the Mission notes that all of the public authorities interviewed recognised that during various military operations and searches in the region, no arms had ever been found in the possession of peasant communities.

This stigma directly affects the peasants' access to and enjoyment of their most basic rights, such as health and education. Minors are particularly affected by the conflict and the climate of harassment towards the peasant communities. Cases of discrimination against children identified as the sons and daughters of the 'guerilla' families have been documented in schools. Many do not even have access to education centers. Similar cases of discrimination occur when these communities try to exercise their right to health. Peasants and their families are pointed out in public health centres and sometimes they are even rejected by healthcare personnel there. Forced evictions are still occurring in a manner contrary to the international standards on the prevention, execution, and follow-up of such processes, and on the grounds that these actions should only happen in exceptional circumstances. The Mission verified that the evictions continually involve violence and the excessive use of force. In the majority of cases, there have also been reports of houses being burnt and crops and personal belongings being destroyed. These abuses are committed by the authorities and they remain unpunished.

Recommendations

1. For the Honduran authorities

The national Honduran authorities, be they de facto or even considered illegitimate, must comply with the obligations that they acquired by becoming a State Party to the principal instruments of public international law: to respect, protect and guarantee human rights. The Honduran Political Constitution specifies that once international treaties signed by Honduras and other States come into force, they must define and become part of domestic law. Therefore, the Honduran authorities must:

- a. Fulfill their obligation to investigate and efficiently sanction all crimes and violations against human rights committed in Bajo Aguán, and criminally prosecute the organisers and perpetrators of these crimes.
- b. Immediately cease the repression and violence against the peasant movement, particularly in stopping forced evictions, and adopt effective measures in order to provide protection to persons at risk.
- c. Fulfill legal provisions and political agreements that oblige State institutions to transfer the entire territory of the former Regional Center for Military Training (CREM) to the peasant cooperatives in the Peasant Movement of Aguán (MCA); to transfer a total of 11,000 hectares to the cooperatives participating in the Unified Peasant Movement of Aguán (MUCA) before 13th April 2011; and to respect and guarantee the right to land to the cooperatives of the Authentic Peasant Reclamation Movement of Aguán (MARCA).
- d. Implement the promises included in the Agreement with MUCA to guarantee the right to education, health and housing that are currently still pending.
- e. Take political and legislative steps towards the fulfillment of their national and international obligations regarding human rights, and in particular access to justice, and the right to food, housing and education.
- f. Guarantee the identification of public security agents (the national police and the army), particularly in the area of Bajo Aguán, and conduct a rigorous and independent international investigation of the role that private security businesses have played in the Bajo Aguán region.
- g. Withdraw the military base from the Guadalupe Carney community and abstain from any further militarisation in the region.
- h. The Special Attorney for Human Rights must assiduously investigate the 25 murders that have occurred since January 2010 and of all those committed to date. There must also be more coordination with the different District Attorneys in the region, regaining trust by effectively fighting against impunity.
- i. Redefine the orientation of existing rural development by changing the current model, based on agribusiness and land grabbing, to policies that foster sustainable peasant agriculture. Honduras also has a constitutional mandate to create policies that enable comprehensive agrarian reform.

- j. Comply fully with the precautionary measures prescribed by the International Commission in order to guarantee the personal integrity of various actors and their freedom to act professionally.

2. For the International Community (States and international bodies)

The international community also plays a fundamental part in the protection and promotion of human rights in Honduras. They must therefore:

- a) Contribute specific and forceful measures to provide greater protection for persons at risk, and particularly in relation to Bajo Aguán. Actions could include the following measures:
 - i. Visit the offices of activist organisations who are at risk, and maintain regular information exchanges with them.
 - ii. Provide logistical support on security matters.
 - iii. Implement an alarm and immediate emergency system for persons at risk. Make specific and public declarations about cases of human rights violations.
- b) Ensure that the financial cooperation provided by the Honduran State to private companies does not contribute to human rights violations, and guarantee that their international, bilateral or multilateral cooperation is based on an unconditional respect for human rights.
- c) Those cooperating internationally with the state and multilateral banks should review all financial cooperation agreements with the public security forces and with the private companies that are allegedly involved in acts of violence, harassment and human rights violations in the region.
- d) Establish constant monitoring of the situation in Bajo Aguán and particularly of the results to the agrarian conflict, and around the investigation and punishment of those responsible for the murders committed in the context of the conflict. Formulate recommendations for the national authorities.
- e) Guarantee effective implementation of the local strategy around the EU guidelines for the protection of human rights defenders, including the assignment of a budget and a calendar of planned activities. In particular, a Filter Group should be created, in order to examine cases of threats to, and attacks on human rights defenders and social and peasant leaders, and guarantee a swift EU reaction (including going to the region) in the case of emergencies.
- f) Establish a permanent office of the UN High Commissioner for Human Rights in Honduras.
- g) UN special rapporteurs, the Inter-American Commission on Human Rights and the International Criminal Court should conduct *in situ* visits, according to their specialties, to gather first-hand information on human rights violations and breaches of international criminal law that have been committed and continue to occur in Bajo Aguán.