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# “There Are No Investigations Here”

Impunity for Killings and Other Abuses in Bajo Aguán, Honduras



## **“There Are No Investigations Here”**

**Impunity for Killings and Other Abuses in Bajo Aguán, Honduras**

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## CITIES IN THE BAJO AGUÁN REGION, HONDURAS





## Summary

Since 2009, the fertile Bajo Aguán region in northern Honduras has been the setting for a series of bitter and often violent land disputes. Many of the conflicts stem from changes made to the country's agrarian law in 1992 allowing for the sale of large tracts of land that previously could only be held collectively. Since then, thousands of acres of land have been transferred from campesino communities—made up of small-scale farmers—to large agro-industrial firms. In many cases, campesino communities in Bajo Aguán have disputed the legality of these land sales, claiming that they are still the rightful owners of the land.

In some instances, campesino organizations in Bajo Aguán have used the courts to challenge controversial land purchases by private firms from individuals or groups. In others, they have filed appeals using administrative channels provided by the reformed agrarian law. And in other cases, they have opted to physically occupy contested land, setting up temporary housing and at times even schools on the property. Frequently, campesino groups have pursued a combination of these strategies.

All too often, the disputes over contested territory in Bajo Aguán have been accompanied by intimidation, threats, and acts of violence—including beatings and killings—involving peasants and private security guards employed by landholding firms. At times, government security forces sent to restore order have committed human rights violations, including arbitrary detentions, torture, and forced evictions.

The toll of the violence has been significant: according to a report by the National Human Rights Commissioner of Honduras, 92 people were killed in the land disputes in Bajo Aguán from 2009 through 2012. Most of the victims have been active members of peasant organizations.

The violence in the region has reached such alarming levels that—even in a country afflicted by what the UN has deemed the world's highest murder rate—then-President Porfirio Lobo (Jan. 2010 – Jan. 2014) called the situation in Bajo Aguán a national security crisis. After taking office in January 2010, Lobo repeatedly pledged that his administration would develop a “comprehensive plan” to resolve the disputes and address the serious crimes that have occurred there.



The government has made some efforts to mitigate the disputes in Bajo Aguán by pledging to hand over land to the campesino organizations. In April 2010, the government purchased thousands of hectares of land which it said it would be given to a campesino group. Similar pledges were made in June 2011 and June 2012 but only some of the pledged land has actually been transferred to the groups.

Nonetheless, the Lobo administration's predominant strategy for dealing with the problem was to send in more security forces. Lobo deployed the army to Bajo Aguán three times since 2010—an infusion of troops that was not complemented by an increase in prosecutors or investigators to look into the crimes that have occurred there. Not surprisingly, this strategy failed to resolve the ongoing conflict in the region or bring those responsible for serious crimes to justice.

To investigate the violence in Bajo Aguán and the government's efforts to address it, Human Rights Watch conducted two fact-finding trips to Honduras between February and April 2013. During the trips, we met with victims of violence, their families, peasant organizations, prosecutors, police, the military, large-landowning firms, human rights defenders, journalists, and others. We examined 29 killings and two alleged abductions, as well as a handful of cases of excessive use of force, torture, and cruel and inhuman treatment attributed by victims to government security forces. Virtually all of these crimes are related directly or indirectly to the land conflict, according to campesino groups, landowners, and government officials interviewed by Human Rights Watch.

We found that, regardless of whom the victims or suspected perpetrators were, or whether the crime appeared to be linked to land disputes, prosecutors and police consistently failed to carry out prompt and thorough investigations. Indeed, public prosecutors, police, and military officials acknowledged in meetings with Human Rights Watch that investigations into these cases had been inadequate or nonexistent.

Honduras is notorious for ineffective investigations. In April 2013, then-Attorney General Luis Alberto Rubí told the Honduran Congress that 80 percent of homicides in Honduras go unpunished because “investigative organs don't have the capacity to respond” (los órganos de investigación no tienen capacidad como para darle respuesta) to such crimes. Yet even in a country notorious for weak prosecutions and impunity, officials' failure to

make even minimal efforts to investigate crimes believed to be linked to land disputes in Bajo Aguán was striking.

Prosecutors provided a range of explanations for the lack of investigations: a dearth of personnel and critical resources; resistance by police to carrying out investigative steps requested by prosecutors; and distrust and resulting lack of cooperation of witnesses. While these obstacles pose a real impediment to investigations, Human Rights Watch found that in the vast majority of cases police did not perform the most basic investigative steps necessary to identify suspects and bring them to justice. For example, prosecutors and police waited days before going to crime scenes, if they went at all, and neglected to search areas singled out by victims' families as the likely location of the bodies of people who had gone missing. In some cases, authorities did not conduct autopsies on victims' bodies or collect key pieces of evidence such as weapons used in killings. In one case, a prosecutor investigating alleged police abuses against a 16-year-old in detention said his superiors refused to allow him to travel to location of the incident to conduct fact-finding that may have helped identify the offending officers.

In a few exceptional cases, the Lobo administration deployed additional prosecutors and police from the capital, Tegucigalpa, to assist in individual investigations into crimes suspected of being tied to land disputes in Bajo Aguán. Among them was the killing of a human rights lawyer who had repeatedly been threatened for representing campesino groups. However, these interventions have been limited to a few high-profile cases that have drawn international condemnation, and have not been sustained.

The fact that prosecutors operate with virtually zero transparency further hinders accountability for serious crimes. Victims and their families have very limited contact with justice officials and little idea of what is happening in investigations. When Human Rights Watch asked officials about specific cases, most of them refused to provide any information, pointing to confidentiality protections for pending investigations in Honduras's criminal procedure laws. We received no response to repeated requests—made in writing and in person over several months—to the Attorney General's Office and other institutions for information on the status of investigations related to killings in Bajo Aguán.

The consequence of inadequate investigations and lack of transparency has been virtually complete impunity for crimes tied to land conflicts or believed tied to such disputes in

Bajo Aguán. For example, the Honduran government recorded 73 killings linked to land conflicts in a February 2013 report. In only seven cases had the investigation been brought to trial, and not a single case had resulted in a conviction.

Effective prosecution is one of the best ways to deter violence because it sends a message to would-be perpetrators that their transgressions have serious consequences, and because it deters repeat offenders from committing more violent crimes. Conversely, weak or nonexistent efforts send the dangerous signal that authorities are indifferent to or even condone such violence. Moreover, in Bajo Aguán and across Honduras, the government's failure to competently investigate crimes—together with inadequate protections for witnesses—discourage victims, their families, and others with relevant information from collaborating with authorities.

Distrust is particularly acute among peasant organizations in Bajo Aguán, whose members routinely expressed to Human Rights Watch the belief that government officials were at best incompetent, and at worst directly collaborating with private landholding firms. In a vicious cycle, the more crimes that go unpunished, the more reluctant campesino organizations and the families of victims are to cooperate with official investigations; and the less willing such groups and individuals are to cooperate, the more authorities lose access to critical leads needed to solve crimes.

The lack of adequate investigations has not stopped authorities from assigning responsibility for the crimes in Bajo Aguán. Lobo pinned much of the violence on organized crime, illegal armed groups, and infiltrators from neighboring countries. A ranking military official in the region told Human Rights Watch that campesino organizations were contracting armed “criminal groups” to help them seize land illegally. Several local prosecutors similarly said that peasant groups were responsible for most of the violence. It is possible that members of peasant groups have committed serious acts of violence. And a handful of campesino families told Human Rights Watch they suspected that attacks on their relatives resulted from disputes among or within peasant groups, or were not linked to land disputes. Nonetheless—given that virtually none of the crimes are properly investigated, let alone solved—the assertion that campesino organizations are the main responsible party for land-related violence in Bajo Aguán lacks any evidential foundation, and only serves to reinforce peasant organizations' distrust in the government.

Noticeably absent from these official explanations for the violence is the possible involvement of private security firms, which are widely employed by private landholding firms in Bajo Aguán and other rural areas. In 13 of the 29 of killings investigated by Human Rights Watch, and one disappearance, evidence suggests the possible involvement of private guards. The UN working group on the use of mercenaries, after visiting Honduras in February 2013, expressed concern regarding the “alleged involvement of private security companies hired by landowners in widespread human rights violations including killings, disappearances, forced evictions and sexual violence.”

The alleged involvement of guards working for private landholding corporations in crimes in Honduras has led to an investigation by the International Finance Corporation’s accountability mechanism, the Compliance Advisor/Ombudsman (CAO). The International Finance Corporation, the private-sector lending arm of the World Bank Group, which had previously awarded a loan to one of the corporations, has rules regarding its clients’ hiring, deployment and supervision of private security, particularly in the face of credible allegations of abuse.

While not binding, there is also a well-established body of UN and industry standards that address the human rights responsibilities of companies to prevent abuses by private security that they hire and to press for accountability when allegations of abuse arise.

While private security guards in Honduras are not government officials, they are bound by the same standards and national laws (including the *Ley de Policía*) on the use of lethal force, and are obligated to respect the rights of citizens. And when private guards violate these laws, it is the government’s responsibility to investigate and prosecute them, and to provide an effective legal remedy for the victims. Yet we found police and prosecutors routinely failed to take adequate steps—such as requisitioning work records to determine which guards were on duty at a given time, or inventories of weapons from private security firms—to ascertain the possible involvement of private security guards in serious crimes.

Making matters worse, the government has failed to take preventive steps to protect those at risk, even in cases where the evidence strongly suggests violence is likely to occur. In at least two instances since 2010, individuals who had been granted formal protection measures by the Inter-American Commission on Human Rights for their activities related to Bajo Aguán were killed; another person was killed shortly after his petition for protection

was formally received by the Commission. In our investigations we found no evidence that any of the three were receiving protection by the Honduran government at the time they were killed. In other cases in which communities and individuals in Bajo Aguán had repeatedly received credible threats, authorities did not intervene to investigate the source or provide adequate protection.

On January 27, 2014, Juan Orlando Hernández was inaugurated as Honduras's new president. The experience of his predecessor demonstrated that—absent the commitment of resources and political will necessary to effectively investigate violence tied to land disputes in Bajo Aguán—widespread impunity will persist. If the Hernández administration does not take comprehensive steps to address this serious problem, not only will killings and other grave crimes continue to go unpunished, but the climate of impunity in Honduras will deepen and more violence is all but certain to occur.

# Recommendations

## To the Government of Honduras

- Conduct prompt, thorough, and impartial investigations into all cases of alleged human rights violations by authorities in Bajo Aguán, including those documented in this report, with a view to prosecuting all parties responsible for the crimes under national and, when applicable, international law.
- Conduct prompt, thorough, and impartial investigations into all crimes allegedly tied to the land conflict in Bajo Aguán—such as killings, abductions, and unlawful displacement, including those documented in this report—with a view to prosecuting all parties responsible for the crimes under national law.
- Create a special unit with a multi-year mandate composed of prosecutors, police, and investigators to investigate homicides, abductions, and other serious crimes in Bajo Aguán in which evidence suggests a connection to the land conflict. Ensure the unit has sufficient resources to fulfill its mandate, and require the unit to issue regular reports on its progress.
- Ensure that all evictions are carried out in strict compliance with the guidelines for such acts set out by the UN Committee on Economic, Social and Cultural Rights, which include that “all feasible alternatives are explored in consultation with the affected persons, with a view to avoiding, or at least minimizing, the need to use force”; that those affected have full access to legal remedies; and, in cases where evictions are considered justified, that authorities provide adequate relocation plans and compensation to those affected, among other guidelines (General Comment 7).
- Put in place requirements for executor judges (juez executor)—who are responsible for implementing eviction requests—to guarantee their professional competence, training, and independence.
- Ratify the Inter-American Convention to Prevent and Punish Torture.

## To the Public Prosecutor’s Office

- Promptly conduct comprehensive autopsies in all homicide cases. Ensure that victims’ relatives have access to autopsy reports if they choose and at no cost to them.

- Establish a team of forensic anthropological experts who can evaluate human remains that have been buried, whether clandestinely or intentionally by victims' relatives, for substantial periods of time prior to their examination. Such evaluations can provide important evidence in criminal investigations.
- Move beyond a case-by-case approach in investigating crimes in Bajo Aguán, and instruct prosecutors to complement individual investigations with search for broader patterns. Examine connections between crimes that may relate to the same piece of land, community, campesino group, private security firm, or other common factors to aid in investigating crimes.
- Fully integrate the office of the Special Public Prosecutor for Human Rights into the investigation and prosecution of human rights violations reported to the Public Prosecutor's Office in Bajo Aguán.
- Respect the right of victims, established by both national law and international human rights standards, to be informed of the results of investigations in progress. In particular, issue an internal directive ensuring that all people who file a criminal complaint be offered an official copy of the complaint without delay and at no cost to them.

### **To the Ministry of Human Rights and Justice**

- Develop and implement a robust mechanism in line with the recommendations of the UN special rapporteur on the situation of human rights defenders that provides timely, effective protection to persons or groups at risk of violence in the land conflict, particularly human rights defenders, journalists, and members of campesino organizations who have received repeated threats, or anyone subject to precautionary measures from the Inter-American Commission on Human Rights. Ensure that the mechanism is adequately staffed and funded, and that clear protocols are put in place to evaluate its performance and improve its response to situations of risk.
- Ensure that the witness protection program has adequate personnel and resources to fulfill its mandate and provide sufficient protection to give witnesses the confidence to provide evidence.
- Issue an internal directive ensuring that families of homicide victims be offered a copy of the autopsy report and death certificate without delay and at no cost to them.
- Ensure that the government fulfills its obligation to cover the cost of transporting the bodies of homicide victims to and from forensic facilities, and that officials refrain from charging families for these transportation costs.

- Issue an internal directive to ensure that the search for a missing person begins immediately after a case of abduction is reported.

### **To the Ministry of Security**

- Ensure that investigators from the Dirección Nacional de Investigación Criminal (National Criminal Investigation Division, or DNIC) report to and follow the instructions of public prosecutors when investigating killings and other acts of violence.
- Ensure that all private security firms are registered with the ministry, and that lists of personnel employed and firearms possessed by private security firms are up-to-date, in accordance with national laws (such as the *Ley Orgánica de la Policía Nacional de Honduras*, or the Organic Law of the National Police).
- Impose penalties, such as fines, on firms that fail to comply with these requirements. If firms still fail to comply, revoke their operating licenses. This process should be subject adequate safeguards, including a right of appeal. Ensure that private security firm personnel and firearms lists are fully and easily accessible to prosecutorial authorities investigating crimes.

### **To Landowners, Corporations, and Private Security Firms**

- Landowners and corporations should only employ private security firms that are registered with the Honduran government.
- Ensure that private security firm personnel and firearm lists are kept fully up-to-date and are otherwise in full compliance with national laws. Keep daily records of which personnel are assigned to which properties.
- Cooperate fully and promptly with police, public prosecutors and investigators investigating crimes allegedly involving members of private security firms.

### **To Concerned Governments**

- Press the Honduran government to investigate and prosecute killings, abductions, and other serious crimes in Bajo Aguán.
- Provide training and support to strengthen the capacity of prosecutors and investigators.



## Methodology

This report is based on two fact-finding trips: the first in late February and early March 2013 to Bajo Aguán, including the cities of Tocoa, Trujillo, La Ceiba, San Pedro Sula, and El Progreso, as well as other smaller villages; and the second in late March and early April 2013 to Tegucigalpa, the country's capital, and La Ceiba. During the first visit, two Human Rights Watch researchers interviewed families and associates of victims as well as witnesses to crimes that were carried out in Bajo Aguán. We also met with public prosecutors, police, judges, military personnel, lawyers, and human rights activists, as well as a delegate of the government's National Human Rights Commissioner.

In some of the interviews conducted by Human Rights Watch, victims, their relatives, witnesses, and officials requested that their names be omitted to protect their identities, out of fear of reprisals. In such cases we have eliminated the name of the source, as indicated in the relevant citations. Driven by similar concerns, others interviewed asked that the cases they shared not be included in the report—a request that we have honored. Still, these cases helped inform our analysis of the patterns of violence, impunity, and the climate of fear in Bajo Aguán.

Individual farmers usually refer to each other as *campesinos*, roughly translated here as “peasants” or “small-scale farmers.” In Honduras, the term refers as much to a person's working-class standing as it does to his or her occupation. These campesinos often come together to form collective groups, usually called cooperatives or associations, to represent their joint interests.

Where possible, Human Rights Watch used court documents and written complaints to non-governmental organizations to supplement eyewitness and victim accounts of alleged crimes. We also reviewed written requests from human rights groups to the government requesting protection for individuals.

While this report documents cases of serious violence, it does not seek to assign responsibility to individuals or groups responsible for these acts. Rather, this report aims to evaluate whether the government of Honduras fulfilled its duty to investigate and

prosecute these crimes, to provide a remedy for the victims, and to deter similar crimes from occurring in the future.

Under Honduran law, documents regarding investigative steps taken by police are kept confidential while investigations are in progress. This legal requirement is interpreted by police, prosecutors, and the Ministry of Justice as prohibiting them from discussing investigations with outside parties, including with the relatives of victims, until charges have been filed against alleged perpetrators.

Human Rights Watch asked for information on the status of key homicide and abduction investigations in Bajo Aguán from the Public Prosecutor's Office in Tegucigalpa, once by email and twice in person. We did not receive a response. Human Rights Watch also sought documents from the Public Prosecutor's Offices in Tocoa, La Ceiba and Tegucigalpa, but was told by several officials that we could not see the documents while the cases were pending, so as not to prejudice the investigations. In addition, we sent letters to federal officials requesting updates on the status of key cases from Bajo Aguán, including one addressed to then-Attorney General Luis Alberto Rubí, and another following his resignation to the transitional Inspector's Commission at the Attorney General's Office (Comisión Interventora del Ministerio Público). We received no response to the letters.

It was therefore impossible, unless charges had been filed, to verify from official sources the current status, progress, or outcome of any given investigation. Only one homicide case documented by Human Rights Watch, which involved the killing of five peasants, had reached the judicial stage. Lacking official documents in many cases, we were often forced to rely on our interviews, media reports, and accounts from witnesses and family members, who had direct dealings with the investigators tasked with investigating crimes.

In our research, we focused on cases that existing evidence suggested were likely related to the land conflict and for which we were able to speak directly with witnesses or families of the victims. In some cases which human rights groups and peasant organization supporters identified as linked to the land disputes, relatives denied or cast doubt on whether such connections existed, although they often could not produce firm evidence of other motives. We have included these cases in our analysis because the very uncertainty over motives and identity of the perpetrators of crimes demonstrates the need for clear and conclusive investigations.

Human Rights Watch made several efforts—through employers of private security guards and officials in contact with them—to meet with the relatives of guards who had been killed, but we were not granted meetings with these families.

Human Rights Watch wrote a letter to Corporación Dinant in October 2013 requesting information about the alleged involvement of security guards in specific incidents of violent crimes and abuses (both as alleged perpetrators and victims), its security practices, as well as its general human rights policies and procedures.<sup>1</sup> The corporation responded in a detailed letter with answers regarding both individual cases and general human rights practices, policies, and procedures.<sup>2</sup> Information provided in the letter has been included in relevant cases in this report. Full versions of our letter and Corporación Dinant’s responses are available on Human Rights Watch’s website in an online annex to this report.

During our research we also spoke to a spokesperson from Corporación Dinant about several cases in this report.

Human Rights Watch did not attempt to verify the legality of land sales in Bajo Aguán, a subject that has been a major source of conflict since 1992. Nor did Human Rights Watch attempt to ascertain the guilt or innocence of people suspected of any given homicide.

Our researchers conducted all of the interviews in Spanish. All were conducted individually in private settings.

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<sup>1</sup> Letter from Human Rights Watch to Miguel Facusse, president, Corporación Dinant, October 3, 2013. A copy of the letter is available in an online annex to this report on Human Rights Watch’s website:

[http://www.hrw.org/sites/default/files/related\\_material/Letter%20from%20Human%20Rights%20Watch.pdf](http://www.hrw.org/sites/default/files/related_material/Letter%20from%20Human%20Rights%20Watch.pdf).

<sup>2</sup> Letter from Roger Pineda Pinel, corporate and banking relations director, Corporación Dinant, to Human Rights Watch, October 18, 2013. A copy of the letter is available in an online annex to this report on Human Rights Watch’s website:

[http://www.hrw.org/sites/default/files/related\\_material/Response%20from%20Dinant.pdf](http://www.hrw.org/sites/default/files/related_material/Response%20from%20Dinant.pdf).

## Background: Land Disputes in Bajo Aguán

The Aguán River in northern Honduras runs through a lush valley that extends from south of the Caribbean coastal town of La Ceiba northeast to the Caribbean Sea coast east of Trujillo. Generally, the lower part of the valley is known as the Bajo Aguán, although no official boundaries define the region. Beginning with a land reform program in 1972, ownership of tracts in the valley was transferred to peasant farm cooperatives and associations. In the ensuing two decades, the government turned over an estimated 120,000 hectares in the Aguán valley to peasants who had migrated from the south of the country.<sup>3</sup>

The original land reform project—designed to provide land to poor farmers—contained controls implemented by the Instituto Nacional Agrario (National Agrarian Institute, or INA) that ensured that the lands could only be resold to fellow peasant associations. That regulation was altered in 1992, when the Honduran government launched a new agricultural program which allowed, and even encouraged, the sale of lands owned by cooperatives to individual land owners and private corporations. The measure—the *Ley para la Modernización y Desarrollo del Sector Agrícola* (Agriculture Sector Modernization and Development Act, or LMDSA)—resulted in sales of some tracts in Bajo Aguán to agro-industrial businesses and, at least during its first decade, the concentration of land in fewer hands.<sup>4</sup> With the sales, the valley became the locus of large-scale cultivation of African palm oil, a lucrative export product used in cooking oil and biofuels.

Not long after the law went into effect, peasant organizations began to challenge some of the sales before the courts and through administrative proceedings before the INA. Others engaged in direct negotiations with the government. In 2001, an organization called the Movimiento Unificado Campesino del Aguán (Unified Peasant Movement of the Aguán, or MUCA) was formed to challenge post-1992 land sales on fraud and corruption grounds. In 2008, then-President Manuel Zelaya issued a decree laying out a series of steps to address the land conflict; in June 2009, his administration signed an accord with MUCA to

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<sup>3</sup> International Federation for Human Rights, “Honduras: Human Rights Violations in Bajo Aguán,” No. 572a, September 2011, <http://www.fidh.org/IMG/pdf/honduras572aeng.pdf> (accessed August 22, 2013).

<sup>4</sup> Bradford Barham, Stephen Boucher, and Pilar Useche, “The Long and Grinding Road of Inegalitarian Agrarian Structure in Honduras: Impacts of Market Reforms and Hurricane Mitch,” *Latin American Studies Association Congress*, July 2002, <http://siteresources.worldbank.org/DEC/Resources/LongandGrinding.pdf> (accessed June 22, 2013).

begin a dialogue on land distribution. However, a military coup d'état ousted Zelaya shortly thereafter, on June 28, and the *de facto* government that took over failed to implement the decree or the subsequent accord. In December 2009, MUCA and some other campesino organizations turned to land occupations—in which peasants took over tracts they believed were rightfully theirs under the 1970s land reform program.

Land occupations by peasant movements continued under the government that assumed power after Zelaya's overthrow, and on through the administration of President Porfirio Lobo, who took office in January 2010 after winning an election organized by the *de facto* government.<sup>5</sup> The Lobo administration signed several agreements with peasant organizations with the aim of resolving land disputes and granting territory to farmers. On April 17, 2010, for example, the Lobo administration signed an accord pledging 11,000 hectares of farmland to MUCA.<sup>6</sup> According to media reports, only approximately 4,000 of those hectares had been transferred by the government as of mid-2013.<sup>7</sup>

Other groups opted for different strategies. The Movimiento Auténtico Reivindicador Campesino del Aguán (Authentic Peasant Reclamation Movement of the Aguán, or MARCA), a group of more than a dozen farming associations, decided against entering agreements with the government and chose instead to contest the disputed property in the courts.<sup>8</sup> On July 17, 2012, a court awarded ownership of three farms—La Despertar, San Isidro, and La Trinidad—to MARCA. On September 22, 2012, gunmen shot and killed Antonio Trejo, the lawyer who argued and won the case on the peasant groups' behalf. At the time of writing, the court's ruling was under appeal.

Another peasant organization, the Movimiento Campesino del Aguán (the Aguán Peasant Movement, or MCA), campaigned for land that was the site of the Centro Regional de Entrenamiento Militar (Regional Center for Military Training, or CREM), once used as a joint

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<sup>5</sup> "Lobo Meets with MUCA on the Crisis in Bajo Aguán," (Lobo reunido con el MUCA por Crisis en Bajo Aguán), *La Prensa*, April 13, 2010, <http://archivo.laprensa.hn/Ediciones/2010/04/13/Noticias/Lobo-reunido-con-el-Muca-por-crisis-en-Bajo-Aguan> (accessed May 10, 2013).

<sup>6</sup> "MUCA Asks that the Agreement in the Aguán Be Fulfilled," (MUCA solicita se cumpla el acuerdo en el Aguán), *La Tribuna*, January 12, 2011, <http://old.latribuna.hn/2011/01/12/muca-solicita-se-cumpla-el-acuerdo-en-el-aguan> (accessed May 9, 2013).

<sup>7</sup> "Constant Invasions Cause Dinant Millions in Losses," (Millonarias pérdidas causa a Dinant constantes invasiones), *Tiempo*, May 6, 2013, <http://tiempo.hn/portada/noticias/millonarias-perdidas-cause-a-dinant-constantes-invasiones> (accessed August 13, 2013).

<sup>8</sup> International Federation for Human Rights, "Honduras: Human Rights Violations in Bajo Aguán," No. 572a, September, 2011, <http://www.fidh.org/IMG/pdf/honduras573ang.pdf> (accessed August 22, 2013).

US-Honduran training camp for Salvadoran soldiers fighting guerrillas in that country's brutal civil war. The land was slated to be turned over to peasants after the base closed, but the handover was never fully completed and MCA began to use land occupations to press its claims to it.

Over the past few years, several other peasant organizations have emerged to contest land transfers throughout the valley, among them: Movimiento Campesino Recuperación Nacional del Aguán (Peasant Movement for the National Recovery of the Aguán, or MCRNA); Movimiento Campesino Refundación Gregorio Chávez (Peasant Movement for Reestablishment Gregorio Chávez, or MCRGC, named posthumously for a campesino killed in 2012); and the Movimiento Organizado Campesino Recuperación del Aguán (Organized Peasant Movement for the Recuperation of the Aguán, or MOCRA).<sup>9</sup>

As land disputes intensified, landowners and corporations often turned to private security firms to guard their properties and, in some cases, evict those who had settled on them. There are more than 700 private security firms registered in Honduras, as well as many more unregistered ones, according to the UN working group on the use of mercenaries; private security guards outnumber police officers in the country by a ratio of 5 to 1, according to the working group.<sup>10</sup>

While Honduras has a regulatory framework for registering and monitoring the activities of such firms—such as keeping records of their personnel and arms—international legal experts have repeatedly raised concerns about the lack of effective oversight of these groups. In February 2013, the UN working group expressed concern about the “alleged involvement of private security companies hired by landowners in widespread human rights violations including killings, disappearances, forced evictions and sexual violence against representatives of peasant associations in the Bajo Aguán region.”<sup>11</sup>

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<sup>9</sup> Rights Action, “Human Rights Violations Attributed to Military Forces in the Bajo Aguán Valley,” February 20, 2013, [http://rightsaction.org/sites/default/files/Rpt\\_130220\\_Aguan\\_Final.pdf](http://rightsaction.org/sites/default/files/Rpt_130220_Aguan_Final.pdf) (accessed August 22, 2013).

<sup>10</sup> “Private military and security companies in Honduras need robust and effective monitoring, says UN expert group,” press release, UN working group on the use of mercenaries, February 25, 2013, <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=13032&LangID=E> (accessed September 5, 2013).

<sup>11</sup> *Ibid.*; International Federation for Human Rights, “Honduras: Human Rights Violations in Bajo Aguán,” No. 572a, September 2011, <http://www.fidh.org/IMG/pdf/honduras573ang.pdf> (accessed August 22, 2013).

These land disputes and the dynamics surrounding them (including the emergence of new campesino organizations and the growing use of private security firms) provide the backdrop for many of the violent crimes committed in Bajo Aguán analyzed in this report. While some killings were the result of direct confrontations between peasant organizations and private security guards on contested lands, the majority took place away from disputed properties. These cases tend to fit a pattern in which individuals or small groups are attacked by unknown assailants.

## National Context: Lack of Accountability for Post-Coup Abuses

The turbulence in Bajo Aguán was exacerbated by political unrest, violence, and impunity that followed the June 28, 2009 coup that deposed democratically elected President José Manuel Zelaya. Following the coup, the de facto government suspended key civil liberties, including freedom of the press and assembly. In the ensuing days, the military occupied opposition media outlets, temporarily shutting down their transmissions. Police and military personnel responded to generally peaceful demonstrations with unnecessary or excessive force. The use of lethal force led to several deaths and scores of injuries, and resulted in thousands of arbitrary detentions.

A December 2010 report by Human Rights Watch, entitled *After the Coup: Ongoing Violence, Intimidation, and Impunity in Honduras*, documented the government's failure to ensure accountability for abuses committed under the country's de facto government in 2009.<sup>12</sup>

In July 2011, a truth commission, established by President Porfirio Lobo's administration to investigate events before and after the coup, issued a report documenting 20 cases of excessive use of force and killings by state security forces unrelated to land disputes in Bajo Aguán. The commission also found police and army officials responsible for "systematic obstruction" of investigations. Honduras has made very limited progress in prosecuting these abuses. Of 86 recommendations that the commission made to the government, only 26 had been implemented by February 2013.<sup>13</sup>

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<sup>12</sup> Human Rights Watch, "After the Coup: Ongoing Violence, Intimidation, and Impunity in Honduras," report, December 21, 2010, <http://www.hrw.org/news/2010/12/19/honduras-prosecute-post-coup-abuses>.

<sup>13</sup> "Truth Commission: Of 84 Recommendations, Only 26 Have Been Completed" (Comisión de la Verdad: De 84 recomendaciones solo 26 se han cumplido), *Tiempo*, February 17, 2013, <http://www.tiempo.hn/portada/item/8835-comisi%C3%B3n-de-la-verdad-de-84-recomendaciones-solo-26-se-han-cumplido> (accessed September 5, 2013).

In its 2012 Annual Report, the Inter-American Commission on Human Rights said it had been informed “that since the coup of June 28, 2009, the number of deaths, threats and acts of intimidation against peasant farmers in the [Bajo Aguán] region has reportedly increased and the agrarian conflict has been stigmatized and criminalized.”<sup>14</sup> It also reported that, “According to information provided by the Office of the Special Prosecutor for Human Rights, these crimes have not been properly investigated.”<sup>15</sup>

## The International Finance Corporation Loan and Investigation in Honduras

The land conflicts and violence in Honduras have received international attention, in part because of World Bank Group involvement with one of the land-holding companies whose security guards allegedly were involved in some of the violence.

In 2008, International Finance Corporation (IFC), the private-sector lending arm of the World Bank Group, awarded a US\$30 million loan to Corporación Dinant (hereafter Dinant), a Honduran palm oil and food company.<sup>16</sup> Following the IFC loan, allegations were brought to its attention by campesino organizations and other local and international civil society groups that security personnel employed by Dinant may have been involved in acts of violence, including in the Bajo Aguán region.<sup>17</sup> As a result, the IFC wrote to and visited Dinant (in December 2010 and January 2011). In addition, then-Executive Vice-President Lars Thunell wrote to and then met with President Lobo (in January and August 2011) to urge a “negotiated solution” to the land disputes in the Bajo Aguán.<sup>18</sup> While the IFC disbursed US\$15 million of the loan to Dinant in November 2009, at this writing it has not yet disbursed the remainder of the loan.<sup>19</sup>

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<sup>14</sup> Inter-American Commission on Human Rights, Organization of American States, “Inter-American Commission on Human Rights 2012 Annual Report”, March 5, 2013, <http://www.oas.org/en/iachr/docs/annual/2012/TOC.asp> (accessed April 16, 2013); Inter-American Commission on Human Rights, Organization of American States, “Preliminary Observations of the Inter-American Commission on Human Rights on its Visit to Honduras”, May 5 to 18, 2010, <http://www.cidh.org/countryrep/Honduras10eng/Honduras10.Situation.htm> (accessed June 23, 2013).

<sup>15</sup> Ibid.

<sup>16</sup> “Corporación Dinant S.A. de C.V.: Summary of Proposed Investment,” International Finance Corporation, <http://ifcext.ifc.org/ifcext/spiwebsite1.nsf/o/2F9B9D3AF1F894852576BA000E2CDo> (accessed September 24, 2013).

<sup>17</sup> See for example letter from Annie Bird and Grahame Russell, Rights Action, to Robert Zoellick, president, The World Bank, November 17, 2010, [http://www.rightsaction.org/articles/Honduras\\_WB\\_&\\_massacre\\_112110.html](http://www.rightsaction.org/articles/Honduras_WB_&_massacre_112110.html) (accessed October 29, 2013).

<sup>18</sup> International Finance Corporation, Office of the Compliance Advisor/Ombudsman, “Appraisal Report: Corporación Dinant S.A. de C.V. Honduras,” August 13, 2012, [http://www.cao-ombudsman.org/cases/document-links/documents/CAOAppraisalReport\\_Dinant\\_August132012.pdf](http://www.cao-ombudsman.org/cases/document-links/documents/CAOAppraisalReport_Dinant_August132012.pdf) (accessed September 25, 2013).

<sup>19</sup> International Finance Corporation, Office of the Compliance Advisor/Ombudsman, CAO Audit of IFC Investment in Corporación Dinant S.A. de C.V./Honduras,” Ref: C-I-R9-Y12-F161,” December 20 2013, <http://www.cao->



IFC also asked Dinant to hire an independent security specialist to audit its security operations; evaluate compliance with IFC's security and human rights standards; develop security and other policies consistent with the Voluntary Principles on Security and Human Rights; and develop new mechanisms to mitigate risks and address grievances in the community. The audit was completed in March 2011, and IFC staff conducted monitoring visits in March 2011 and April 2012, during which they met with local groups, among others.<sup>20</sup>

On April 17, 2012, the IFC's Compliance Advisor/Ombudsman<sup>21</sup> (CAO) initiated an investigation to determine whether IFC adequately followed its own policies regarding security and human rights in reviewing the project, including whether IFC adequately responded to the "intensifying social and political conflict."<sup>22</sup> The CAO opened a related investigation on August 21, 2013 into the IFC's lending to Honduras' third largest bank, Ficohsa, related to its "significant exposure to Dinant, and other potentially high risk sectors and projects."<sup>23</sup>

On January 10, 2014, the World Bank Group made public the CAO's December 20, 2013, report which concluded that IFC staff did not adequately assess and respond to risks of violence and forced evictions in the investment or adequately supervise the investment, in violation of the IFC's performance standards.<sup>24</sup> At the same time it made public the IFC's

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ombudsman.org/cases/document-links/documents/DinantAuditCAORefC-I-R9-Y12-F161\_ENG.pdf (accessed January 15, 2013), p. 2,3.

<sup>20</sup> International Finance Corporation, "IFC Committed to Working with the Compliance Advisor Ombudsman in relation to Corporación Dinant," undated, [http://www.ifc.org/wps/wcm/connect/REGION\\_\\_EXT\\_Content/Regions/Latin%2oAmerica%2oand%2othe%2oCaribbean/Strategy/Corporacion\\_Dinant](http://www.ifc.org/wps/wcm/connect/REGION__EXT_Content/Regions/Latin%2oAmerica%2oand%2othe%2oCaribbean/Strategy/Corporacion_Dinant) (accessed September 25, 2013); and International Finance Corporation, Office of the Compliance Advisor/Ombudsman, "Appraisal Report: Corporación Dinant S.A. de C.V. Honduras," August 13, 2012, [http://www.cao-ombudsman.org/cases/document-links/documents/CAOAppraisalReport\\_Dinant\\_August132012.pdf](http://www.cao-ombudsman.org/cases/document-links/documents/CAOAppraisalReport_Dinant_August132012.pdf) (accessed September 25, 2013).

<sup>21</sup> The CAO is an independent body within the IFC that investigates allegations of social or environmental harms by IFC clients or in IFC projects.

<sup>22</sup> International Finance Corporation, Office of the Compliance Advisor/Ombudsman, "Terms of Reference IFC Investment in Corporacion Dinant S.A. de C.V./Honduras," Ref: C-I-R9-Y12-F161, November 20, 2012, [http://www.cao-ombudsman.org/cases/document-links/documents/TOR\\_Dinant\\_Audit\\_Nov\\_20\\_2012.pdf](http://www.cao-ombudsman.org/cases/document-links/documents/TOR_Dinant_Audit_Nov_20_2012.pdf) (accessed September 25, 2013).

<sup>23</sup> International Finance Corporation, Office of the Compliance Advisor/Ombudsman, "Honduras / Ficohsa-01/ CAO Vice President Request," [http://www.cao-ombudsman.org/cases/case\\_detail.aspx?id=209](http://www.cao-ombudsman.org/cases/case_detail.aspx?id=209) (accessed January 15, 2014).

<sup>24</sup> International Finance Corporation, Office of the Compliance Advisor/Ombudsman, CAO Audit of IFC Investment in Corporacion Dinant S.A. de C.V./Honduras," Ref: C-I-R9-Y12-F161," December 20 2013, [http://www.cao-ombudsman.org/cases/document-links/documents/DinantAuditCAORefC-I-R9-Y12-F161\\_ENG.pdf](http://www.cao-ombudsman.org/cases/document-links/documents/DinantAuditCAORefC-I-R9-Y12-F161_ENG.pdf) (accessed January 15, 2013). See also, Human Rights Watch, "World Bank Group: Inadequate Response to Killings, Land Grabs," January 10, 2014, <http://www.hrw.org/news/2014/01/10/world-bank-group-inadequate-response-killings-land-grabs> (accessed January 15, 2014)

response to the findings and an action plan committing to undertake steps in answer to a select number of those findings.<sup>25</sup>

The report found that IFC staff had underestimated risks related to security and land conflicts, and that they did not undertake adequate due diligence, even though concerns around the project had been raised publicly.<sup>26</sup> It also found that IFC project staff did not inform other IFC environmental and social risk specialists about the problems that they knew were occurring.<sup>27</sup> In addition, the CAO found that the IFC did not, as its policy requires, adequately oversee Dinant's obligations to investigate credible allegations of abusive acts committed by the company's security personnel and not to permit the use of force that goes beyond "preventative and defensive purposes in proportion to the nature and extent of the threat."<sup>28</sup>

The CAO also found gaps in project supervision at critical times and that IFC staff did not comply with its own requirement to "exercise remedies where appropriate" in a situation in which a client does not or is not able to re-establish compliance with environmental and social policies.<sup>29</sup> The CAO concluded that the IFC staff failure to comply with its own rules was largely due to how they interpreted the rules and their wide degree of discretion in applying them. The CAO found that the IFC deficiencies were in part due to its culture and incentives that measure results in financial terms, encouraging staff to "overlook, fail to articulate, or even conceal potential environmental, social, and conflict related risks," regardless of IFC's policies.<sup>30</sup>

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<sup>25</sup> Letter from International Finance Corporation to Compliance Advisor Ombudsman in response to CAO Audit report regarding Corporacion Dinant, January 3, 2013, [http://www.cao-ombudsman.org/cases/document-links/documents/IFCResponsetoCAOAuditofDinant\\_Jan32014.pdf](http://www.cao-ombudsman.org/cases/document-links/documents/IFCResponsetoCAOAuditofDinant_Jan32014.pdf) (accessed January 15, 2014). For discussion of the adequacy of this response and action plan, see, Human Rights Watch, "World Bank Group: Inadequate Response to Killings, Land Grabs," January 10, 2014, <http://www.hrw.org/news/2014/01/10/world-bank-group-inadequate-response-killings-land-grabs> (accessed January 15, 2014).

<sup>26</sup> International Finance Corporation, Office of the Compliance Advisor/Ombudsman, CAO Audit of IFC Investment in Corporacion Dinant S.A. de C.V./Honduras," Ref: C-I-R9-Y12-F161," December 20 2013, [http://www.cao-ombudsman.org/cases/document-links/documents/DinantAuditCAORefC-I-R9-Y12-F161\\_ENG.pdf](http://www.cao-ombudsman.org/cases/document-links/documents/DinantAuditCAORefC-I-R9-Y12-F161_ENG.pdf) (accessed January 15, 2014).

<sup>27</sup> *Ibid.*, p. 42

<sup>28</sup> *Ibid.*, p. 9, 44, 53.

<sup>29</sup> *Ibid.*, p. 9, 44, 54.

<sup>30</sup> *Ibid.*, p. 10, 59.

## Flawed Investigations of Violent Crimes

Prosecutors, law enforcement agents, human rights delegates, and other officials with whom Human Rights Watch spoke acknowledged that investigations into homicides and other serious crimes in Bajo Aguán are deficient or non-existent. The violence and lack of accountability in Bajo Aguán are reflective of systemic problems in Honduras, a country that the Inter-American Commission has consistently reported suffers “high rates of murder and impunity,” which the Honduran government has acknowledged.<sup>31</sup> In April 2013, then-Attorney General Luis Alberto Rubí told the Honduran Congress that 80 percent of homicides in Honduras go unpunished because “investigative organs don’t have the capacity to respond” to such crimes.<sup>32</sup>

Yet officials interviewed by Human Rights Watch said these problems are especially acute in the Bajo Aguán region. Many blamed lack of resources—human, technical, and material—to handle the large caseload, and inadequate training of prosecutors and police. Others pointed to the refusal of witnesses and relatives of victims to cooperate with investigations. And some prosecutors said that lack of political will and due diligence by police investigators posed an obstacle to effective investigations.

When asked by Human Rights Watch about the status of investigations into killings and the general lack of accountability for such crimes in Bajo Aguán, Germán Alfaró Escalante—commander of military unit Fuerza Xatruch III deployed to the region to aid police in fighting crime and resolving the land conflict—said, “There are no investigations here.”

“There is no criminal investigation, no use of technology,” said Juan Fraño, the delegate in Tocoa for Honduras’s National Human Rights Commissioner (Comisionado Nacional de Derechos Humanos de Honduras, or CONADEH)—a government institution assigned to receive human rights complaints and assist victims. He said all efforts to ensure

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<sup>31</sup> Inter-American Commission on Human Rights, Organization of American States, “Inter-American Commission on Human Rights 2012 Annual Report”, March 5, 2013, <http://www.oas.org/en/iachr/docs/annual/2012/TOC.asp> . (accessed April 16, 2013).

<sup>32</sup> “Fiscal general: 80% de los homicidios quedan impunes” (Attorney general: 80% of Homicides Go Unpunished) *El Heraldó*, April 11, 2013, <http://www.elheraldo.hn/Secciones-Principales/Pais/Fiscal-general-80-de-los-homicidios-quedan-impunes> (accessed October 28, 2013).

accountability for serious crimes and abuses have failed. “Crime scenes are contaminated. There is no DNA testing. No fingerprint bank. No logistics.”

Denis Erazo Paz, police commissioner in the city of Tocoa, told Human Rights Watch, “There’s too much work. And the peasants look at the police as their enemy.”

Several prosecutors said that police assigned to assist them in their investigations did not carry out the tasks assigned to them. Part of this problem is structural: while police investigators are charged with carrying out probes, they are not accountable to prosecutors, prosecutors told Human Rights Watch. As a result, police sometimes refuse to carry out crucial investigative tasks that prosecutors assign to them. For example, in a meeting with Human Rights Watch, an official from the public prosecutor’s office in Tegucigalpa read aloud excerpts of a letter from the coordinator of prosecutors in Tocoa to the local police chief. In it, the coordinator referred to an incident in which a police officer failed to show up to carry out a key part of an investigation, despite having previously agreed with a prosecutor to do so. The letter also recounted the police officer’s neglect in carrying out several other investigative steps requested by the prosecutor.

Regardless of the underlying cause, there is little doubt that investigations into serious crimes in Bajo Aguán are inadequate. In seven cases in which Human Rights Watch was able to review the case files of investigations, as well as many more in which we interviewed family members of victims, we found that police failed to perform the minimal investigative tasks necessary to effectively prosecute those responsible for the crimes. These deficiencies include failure to secure crime scenes and perform ballistics tests; unwarranted delays of hours or days before inspecting the scene of a crime; failures to secure weapons and other key evidence from possible suspects; failures to conduct autopsies in a timely fashion; failures to interview survivors, key witnesses, or the relatives of victims; and failures to conduct prompt, thorough searches for missing persons.

### **Killing of Five Peasants on El Tumbador Plantation, November 15, 2010**

At around 6:30 a.m. on Nov. 15, 2010, a group of approximately 160 peasants from the Movimiento Campesino del Aguán (Peasant Movement of the Aguán, or MCA), a land claims group, approached the El Tumbador plantation with the intention of occupying it.

Since the 1990s, the organization had been battling in court for the property, which was part of a former military training area.

Members of the group who participated in the attempted occupation told Human Rights Watch they carried no firearms.<sup>33</sup> “Some of us had machetes and food, that’s all. There was a bath of bullets. I ran and got shot in the mouth,” said a witness who showed a scar on the left side of his face, which he said was left by a gunshot wound inflicted by guards that day.<sup>34</sup>

The initial police report said that “a confrontation with firearms” had occurred that had taken the lives of campesinos Teodoro Acosta, 39; Raúl Castillo, 48; Ciriaco de Jesús Muñoz Aguilar, 50; Ignacio Reyes, 50; and José Luis Salcedo Pastrana, 25.<sup>35</sup>

According to a letter sent to Human Rights Watch by Corporación Dinant—a company based in Tegucigalpa whose business includes palm oil harvesting and processing—the El Tumbador property was “owned and operated” in November 2010 by a Exportadora del Atlántico, a Dinant affiliated company, which at the time was employing security guards on the site through a “third party contractor.”<sup>36</sup> The letter from Dinant said that on the day of the incident a group of approximately 160 people arrived at the plantation:

“...heavily armed with illegal assault weapons...They approached our security guards and announced that the Minister of National Agrarian Institute (INA) has told them that the plantation land belonged to them and that all of the Exportadora’s workers in the field had five minutes to leave the premises. After only 3 minutes the trespassers opened fire on our personnel and security guards, who repelled the attack.”

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<sup>33</sup> Human Rights Watch interview with witness, Guadalupe Carney community, March 1, 2013. The identity of the individual has been withheld out of concern for his/her safety. While several people who participated in the attempted occupation told Human Rights Watch the campesinos were unarmed, we could not verify this claim.

<sup>34</sup> Human Rights Watch interview with a second witness, Guadalupe Carney community, March 1, 2013. The identity of the individual has been withheld out of concern for his or her safety.

<sup>35</sup> “Remisión de Informe Preliminar,” Dirección Nacional de Investigación Criminal, Trujillo, December 4, 2010, p. 2, 3 (on file with Human Rights Watch).

<sup>36</sup> Letter from Roger Pineda Pinel, corporate and banking relations director, Corporación Dinant, to Human Rights Watch, October 18, 2013. According to the letter: “Our affiliated company Exportadora Del Atlantico owned and operated Tumbador Plantation in November 2010, and has been doing since it bought the site from the previous owners back in 1999.”

While Dinant agreed “deaths resulted from exchange of fire,” it said it believed the victims had been killed by shots fired by the peasants, who the letter refers to as “trespassers,” because the victims’ bullet wounds came from high caliber weapons that private security guards are not allowed to carry, but which were being carried by peasants that day.<sup>37</sup> Dinant said it had conducted an internal investigation that had concluded that private security guards “did not have a chance to avoid the confrontation,” and that they opened fire “in order to safeguard their own lives and the lives of unarmed employees.”<sup>38</sup>

Police arrived at El Tumbador in the early afternoon and inspected the dead bodies, according to a police report.<sup>39</sup> The day after the shootings, bodies of all the victims except Muñoz were taken in a pair of cars to La Ceiba, where a forensic unit is located. By the time police arrived at El Tumbador, the family of Muñoz had already transported his body to his native Olancho province and buried his body, according to the police report.<sup>40</sup> Autopsies indicated that victims Salcedo and Pastrana were shot from behind while Reyes and Acosta were shot from close range; Acosta’s body had seven gunshot wounds, all of which entered from the back.<sup>41</sup> Castillo’s body showed gunshot wounds from at least two different weapons, all from behind.<sup>42</sup>

A public prosecutor familiar with the case told Human Rights Watch that the bullet wounds of at least two of the victims showed they had been shot by high-caliber automatic or semi-automatic weapons.<sup>43</sup>

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<sup>37</sup> Ibid. “We do not believe that the 5 trespassers were killed from fire coming from our security guards, since the bodies struck by bullets from high caliber weapons which are illegal in Honduras. The security guards are only allowed to carry 12” shotguns or revolvers. The people who were carrying high caliber weapons were the trespassers; therefore we agree that deaths resulted from exchange of fire but do not agree that this fire came from our security personnel.”

<sup>38</sup> Ibid. According to the letter: “We did conduct such investigation and the main results are that: 1. The security guards did not have a chance to avoid the confrontation. 2. The security guards opened fire in order to safeguard their own lives and the lives of unarmed employees who were working in the field (field workers not related to security jobs). 3. The security guards immediately called for help from the authorities and from their security supervisor. 4. The security guards cooperated with the internal investigation as well as the police investigation.”

<sup>39</sup> Remisión de Informe Preliminar, report on Tumbador killings presented by the Dirección Nacional de Investigación Criminal in Trujillo to the Comité para los Derechos Humanos in Honduras, December 4, 2010, p.1 (on file with Human Rights Watch).

<sup>40</sup> Acta de Audiencia Inicial, Expediente 142-12, Trujillo, January 18, 2013, p. 2 (on file with Human Rights Watch)

<sup>41</sup> Ibid., p. 10.

<sup>42</sup> Ibid.

<sup>43</sup> Human Rights interview with public prosecutor, La Ceiba, April 4, 2013. The identity of the individual has been withheld out of concern for his or her safety. By law at least, only government security forces are allowed to carry or use automatic weapons. Article 8 of the Law for the Control of Firearms reads: “Prohibited weapons and ammunition are the following: (1) Automatic weapons of any caliber, silenced weapons, or high precision weapons whose use is reserved for the Armed Forces

A public prosecutor told Human Rights Watch that the security firm and Dinant had only handed over a partial list of guards and weapons to authorities after a number of requests and significant delay. “It took us a lot of work to get them to hand over the lists [of personnel and arms],” the prosecutor said. “Moreover, they didn’t have a registry of who had been working that day, only [a list of] the guards on staff.”<sup>44</sup> In its letter to Human Rights Watch, Dinant said all of its personnel cooperated fully with the official investigation into the incident.<sup>45</sup> The letter denies that any list of weapons was requested by police or the Public Attorney’s office.

It was not until December 3, 2010—over two weeks after the initial incident—that police finally confiscated firearms from the guards who were allegedly involved in the incident. Police seized four shotguns, which, according to defense attorneys, were the only weapons the guards carried.<sup>46</sup>

On December 21, 2012 in the town of Trujillo, a judge charged five security guards with homicide, ordered them to sign in at the court every Friday, and forbade them from leaving the country.<sup>47</sup> At the same hearing, all five suspects declined to make declarations to the court, exercising their right to remain silent.<sup>48</sup>

On Jan. 18, 2013, a judge ruled that prosecutors had presented insufficient evidence to order the initiation of a trial against the defendants, declaring a “provisional dismissal” (*sobreseimiento provisional*) of the case, and gave prosecutors five years to come up with

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and National Police and are subject to special regulations; (...)” Law for the Control of Firearms, Ammunition, Explosives, and Other Related Materials (Ley de Control de Armas de Fuego, Municiones, Explosivos y Otros Similares), 30-2000, art. 8.

<sup>44</sup> Ibid.

<sup>45</sup> Letter from Roger Pineda Pinel, corporate and banking relations director, Corporación Dinant, to Human Rights Watch, October 18, 2013. In response to the question from Human Rights Watch—“Did police investigators or prosecutors interview Corporación Dinant officials, employees or contracted personnel about the incident, and did Corporación Dinant cooperate fully with their investigation?”—Dinant wrote: “The police, as well as personnel from the Public Attorney’s office, came to the scene and interviewed the people on the site, including not only the security guards but also the field workers. All of our personnel cooperated fully with the investigation, including when they were requested by the court to appear. They showed up at the trial, submitted to the whole process and were acquitted.”

<sup>46</sup> Acta de Audiencia Inicial, Expediente 142-12, Juzgado de Letras (Court of the First Instance) Trujillo, January 18, 2013 (on file with Human Rights Watch). The Dinant letter says that “the weapons at the scene were surrendered to police authorities.”

<sup>47</sup> Acta de Audiencia, Declaración del Imputado, Expediente No.-146-12, Juzgado de Letras (Court of the First Instance), Trujillo, December 21, 2012 (on file with Human Rights Watch).

<sup>48</sup> Criminal Procedure Code, *La Gaceta-Diario Oficial de la República de Honduras*, May 20, 2000, [http://www.oas.org/juridico/MLA/sp/hnd/sp\\_hnd-int-text-cpp.pdf](http://www.oas.org/juridico/MLA/sp/hnd/sp_hnd-int-text-cpp.pdf), arts 2, 101(5).

more evidence.<sup>49</sup> In his ruling, the judge said that witnesses had failed to identify any of the five defendants—a task that would have been impossible if it true, as one witness testified, that the security guards were wearing masks.<sup>50</sup> Moreover, a defense attorney argued, and the judge concurred, that the victims had been killed by “arms of an unknown caliber since we lack substantiation”—which he said suggested that ballistics tests had not been carried out to analyze the bullets that killed the men.<sup>51</sup> This suggests that prosecutors failed to carry out a common sense investigative step that may have produced important evidence.

Further errors and omissions marred police investigation of the case and resulted in the loss of critical evidence, public prosecutors told Human Rights Watch and court records show. First, shortly after the arrival of police on the scene, security guards on duty handed the police an AK-47 rifle. The guards said peasants had abandoned the weapon inside the plantation, according to the initial police report.<sup>52</sup> However, security guards did not sign a “record of delivery” (*acta de entrega*), a police receipt form.<sup>53</sup> As a result, police in effect permitted the weapon to be provided anonymously. Court records inspected by Human Rights Watch show no indication that anyone was questioned about the rifle’s origins and the circumstances of its discovery.

Public prosecutors in Tegucigalpa acknowledged to Human Rights Watch that ballistic tests had not been conducted and that investigators had neglected to carry out a complete inventory of weapons assigned to guards. “It certainly is possible, even likely, that clandestine weapons exist on the farms,” said Juan Carlos Griffin, a public prosecutor for human rights<sup>54</sup> in Tegucigalpa.<sup>55</sup> Another prosecutor noted that, despite assertions soldiers may have worked with the security guards in the incident or worked as guards during their

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<sup>49</sup> Acta de Audiencia Inicial, Expediente 142-12, Juzgado de Letras (Court of the First Instance), Trujillo, January 18, 2013 (on file with Human Rights Watch).

<sup>50</sup> Ibid.

<sup>51</sup> Ibid.

<sup>52</sup> Remisión de Informe Preliminar, report on Tumbador killings presented by the Dirección Nacional de Investigación Criminal in Trujillo to the Comité para los Derechos Humanos in Honduras, December 4, 2010, p.2 (on file with Human Rights Watch).

<sup>53</sup> Ibid.

<sup>54</sup> The public prosecutor for human rights is in charge of investigating human rights violations by civil or military authorities.

<sup>55</sup> Human Rights Watch interview with Juan Carlos Griffin, human rights public prosecutor, Tegucigalpa, April 5, 2013.



off-hours, police investigators made no attempt to check the caliber of bullets against those used by military units stationed in the area.<sup>56</sup>

### **Killing of Gregorio Chávez, Paso Aguán Plantation, July 2, 2012**

Gregorio Chávez—a farmer and Catholic lay preacher unaffiliated with a peasant group—disappeared on July 2, 2012, near his house in the Panamá community in Bajo Aguán while tending a vegetable garden. When he did not return for dinner at 6 p.m., relatives became alarmed, said Gregorio’s brother, José Chávez, 60.<sup>57</sup> Relatives and friends first mounted a search on Gregorio’s farm but did not find him. Around 8 p.m., they found his machete, which he had been carrying with him when he left, near the adjacent Paso Aguán plantation. “I went crazy when they found it,” his daughter, Glenda, 30, said. “A campesino never puts down his machete.”<sup>58</sup>

Paso Aguán is located next to Gregorio’s home and was at the time under the control of the Exportadora del Atlántico, an affiliated company of Corporación Dinant, according to a letter sent by Dinant to Human Rights Watch.<sup>59</sup> Gregorio’s relatives told Human Rights Watch they did not enter the plantation that night to search for him because they were afraid of the armed private security guards there.<sup>60</sup>

On July 3, relatives and friends of Gregorio from the Movimiento Unificado Campesino del Aguán (Unified Peasant Movement of the Aguán, or MUCA), a group campaigning for land in Bajo Aguán, went to nearby Tocoa to ask police to search the Paso Aguán property, said Gregorio’s brother. In Tocoa, officials told them they had to travel to Trujillo, about 30 miles away by road, to request a search, because the Paso Aguán area was under the jurisdiction of the Trujillo police and public prosecutor. Officials did not offer to initiate an immediate search, losing a critical opportunity to collect potentially decisive evidence.

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<sup>56</sup> Human Rights Watch interview with public prosecutor, La Ceiba, April 4, 2013, The identity of the individual has been withheld out of concern for his/her safety.

<sup>57</sup> Human Rights Watch interview with José Chávez, Panamá community, February 25, 2013.

<sup>58</sup> Human Rights Watch interview with Glenda Chávez, Panamá community, February 25, 2013.

<sup>59</sup> Letter from Roger Pineda Pinel, corporate and banking relations director, Corporación Dinant, to Human Rights Watch, October 18, 2013.

<sup>60</sup> Human Rights Watch interviews with José Chávez, Gregorio’s father, and Glenda Chávez, Panamá community, February 25, 2013.

Relatives went to the police in Trujillo the next day, July 4, José Chávez said, but police did not go to Paso Aguán to search the property until two more days had passed, on July 6.

Searching along with the police, relatives and neighbors found Gregorio's buried body in an area of the plantation known as Lot 8. Peasant residents of the area told Human Rights Watch they had suspected Lot 8 because they had heard rumors that the remains of stolen animals slaughtered by guards for food were buried there.

"We saw a pile of fronds. We looked under and cried, 'Come, come!' We removed it and found him. Twenty guards who were on the plantation that day left, [and] didn't detain anyone," said Glenda Chávez.<sup>61</sup>

According to Corporación Dinant, a group of people, police, and "Public Attorney's representatives" came to the plantation "in the early days of July 2012" to search the premises for a missing person.<sup>62</sup> Dinant said after searching the property, authorities "asked [private security] guards to leave the area," which they did. "With the guards gone the property was invaded by a group of people, under the excuse that they were looking for Mr. Chávez' body," Dinant said. According to Dinant, during a couple of days, these people stole property and burned a warehouse-office, then left the property voluntarily after Dinant made a public complaint. The body was subsequently found on the plantation, Dinant said, adding that it believed the body had been moved there from another location when the plantation was not in Dinant's control.

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<sup>61</sup> Human Rights Watch interview with Glenda Chávez, Panamá community, February 25, 2013.

<sup>62</sup> Letter from Roger Pineda Pinel, corporate and banking relations director, Corporación Dinant, to Human Rights Watch, October 18, 2013. In response to the question from Human Rights Watch—"Does Corporación Dinant have a position on how Gregorio Chavez was killed, and/or on how his body allegedly came to be discovered on the plantation?"—Dinant wrote: "We do not believe the body was there while the plantation was in our control. We believe Mr. Chavez was killed elsewhere and the body was moved from a different location to the plantation and buried while we had no control of the plantation site. After the trespassers left the premises, the body was found. We cooperated in full with the authorities in the investigation process. The forensic report has not yet been placed at public disposal; therefore, it is not possible to prove our position or assumptions."

In response to the questions from Human Rights Watch—"Did the corporation carry out an internal investigation into the case? If so, what were the results?"—Dinant wrote: "Yes, an internal investigation was carried and the major findings were: 1) There were no previous indications that may lead to the conclusion that any employee of the company had any dispute with Mr. Gregorio Chavez, who had been a neighbor for more than a decade. 2) There were no indications that a body was buried into the plantation site. Neither our security personnel on their rounds at the plantation site, nor the technical personnel and field workers who work on the plantation saw any indication of a burial or grave during the time we were in possession of the plantation."

An autopsy was carried out in La Ceiba, according to relatives, but the results are unknown to the family. José Chávez said he asked for a copy of the autopsy in La Ceiba, but authorities there refused to provide it. The investigation is still open, though authorities refused to provide information as to who has been questioned or whether there are any suspects. As of this writing, no arrest orders have been issued.

### **Alleged Abduction of José Antonio López Lara near Paso Aguán Plantation, April 29, 2012**

Farmer José Antonio López Lara, 45, went missing on April 29, 2012, his daughter Sarahi Sarahi López, 27, told Human Rights Watch. He had left his home at dawn near the Paso Aguán plantation to go fishing, she said. When he did not return by 6 p.m., friends and neighbors began to search the area, but did not enter the plantation property, out of fear of a confrontation with the guards. The next day, relatives went to the Tocoa police to declare him missing, but police told them to go to the Trujillo police, which has jurisdiction over the area. In Trujillo, police told them not to approach the Paso Aguán plantation, saying it was dangerous.

On the third day after his disappearance, when José Antonio still had not appeared, police from Trujillo agreed to lead a search of the Paso Aguán plantation, but found nothing. Police did not allow the victim's relatives and the friends—who had accompanied them on the inspection—to search the entire property, Sarahi López said. According to Sarahi, it was not clear why certain areas were off limits to search, given the urgency of trying to find a missing person, or if police searched those areas without the victim's family.

On the fourth day after his disappearance, the victim's relatives received anonymous phone calls saying that that he had been killed for refusing to provide information on the activities of peasant organizations, and that his body was on the Paso Aguán plantation.<sup>63</sup> Despite informing police about these calls, relatives said, law enforcement officials refused to conduct additional searches of the Paso Aguán plantation, including by inspecting the areas that had been off-limits during their previous search.

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<sup>63</sup> Ibid.

At the time José Antonio disappeared, the plantation was under the control of Exportadora del Atlántico, an affiliated company of Corporación Dinant, according to a letter from Dinant to Human Rights Watch.<sup>64</sup> Yet Dinant said it was unaware of the case in 2012, and only learned of the victim's case from media reports in 2013.<sup>65</sup> Dinant said the plantation was in the hands of “trespassers” from early July 2012 to May 21, 2013. Dinant said it had not been contacted by police or prosecutors regarding the case.<sup>66</sup>

Approximately four to five months after his disappearance, relatives went to police in Trujillo to inquire about the case, Sarahi told Human Rights Watch. They were told, “Look, we have so many cases, what importance does yours have?” she said.

On April 23, 2013, almost a year after he went missing, members of the Movimiento Unificado Campesino del Aguán (Unified Peasant Movement of the Aguán, or MUCA), said they acted on an anonymous phone tip and found an unidentified body on the Paso Aguán property, at this point under the control of MUCA. It was found in an area of the Paso Aguán plantation called Lot 3, they said.<sup>67</sup>

During an interview with Human Rights Watch in Tegucigalpa, MUCA leader Johnny Rivas said he believed the body is that of José Antonio. However, community members refused to hand over the body to police to perform an autopsy or DNA test due to a lack of confidence in their impartiality. They demanded that a foreign forensic expert be allowed to examine the corpse, Rivas said.<sup>68</sup>

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<sup>64</sup> Letter from Roger Pineda Pinel, corporate and banking relations director, Corporación Dinant, to Human Rights Watch, October 18, 2013.

<sup>65</sup> Ibid. In response to the question from Human Rights Watch—“Does Corporación Dinant have any understanding as to how the person whose body was allegedly found on Paso Aguán plantation died, and/or how his body came to be on the plantation?”—Dinant responded, “We do not have any understanding of the situation in relation to that body, nor were we aware of the disappearance of Mr. Lopez Lara in 2012. The only involvement we have after the body was found were public statements in media appearances asking the authorities to come to the scene and conduct a proper investigation.”

<sup>66</sup> Ibid. Dinant said to Human Rights Watch, “Our affiliated company Exportador Del Atlantico, lost control of Paso Aguan Plantation on July 2012 and did not recover control of it until February 28th, 2013, for 6 days only until finally recovering control of the site on May 21st, 2013. We only operated and controlled the plantation between April 2012 and early days of July 2012 when the trespassers seized the land. We finally got control again on May 2013.”

<sup>67</sup> “Exhumed Remains in the Aguán Might Be of a Peasant Who Disappeared in 2012,” (Restos Exhumados en el Aguán Podrían Ser de Campesino Desaparecido en 2012), *Honduprensa*, April 26, 2013, <http://honduprensa.wordpress.com/tag/exhumacion/> (accessed May 09, 2013).

<sup>68</sup> Human Rights Watch interview with Johnny Rivas, president of the Movimiento Unificado Campesino del Aguán, Tegucigalpa, April 3, 2013.

On April 25, 2013, a team of forensic experts from the Fundación Antropología Forense de Guatemala (Guatemalan Forensic Anthropology Foundation), in an arrangement with the Honduran Human Rights Public Prosecutor's Office, exhumed the body.<sup>69</sup>

The body was transferred to Tegucigalpa for DNA testing, to check against the DNA of family members of missing people in the area. In a video shot at the scene where the body was exhumed, López Lara's wife said that the skeletal remains were her husband's. She said she recognized them by the clothing, the hat, the machete and a striped bag into which she said she had placed fishing lines the day of his disappearance.<sup>70</sup> As of July 5, 2013, authorities had not issued their findings.<sup>71</sup>

## **Alleged Abduction of Francisco Pascual López at Panamá Plantation, May 15, 2011**

On May 15, 2011, Francisco Pascual López, 37, a member of the Movimiento Campesino de Rigores (Rigores Peasant Movement, or MCR), a group of farmers claiming land in Bajo Aguán valley, disappeared, said Rodolfo Cruz, 38, the group's leader.<sup>72</sup>

According to Cruz, Pascual López went missing while in the company of a 10-year-old boy while grazing cattle near the Paso Aguán plantation. At the time, the plantation was under the control of Exportadora del Atlántico, an affiliated company of Corporación Dinant, according to a letter from Dinant to Human Rights Watch.<sup>73</sup> At about 3 p.m., the boy ran for help and told community members that López had been shot 10 meters away from the property's edge, Cruz told Human Rights Watch. Members of the MCR organized a search party, but when they arrived at the spot where the boy indicated the shooting had occurred, they only found a trail of blood leading into the plantation.

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<sup>69</sup> "MUCA: Exhumaciones en el Aguán en Búsqueda de la Verdad," (MUCA: Exhumations in the Aguán in Search of the Truth), *La Prensa*, April 25, 2013, <http://www.laprensa.hn/Secciones-Principales/Honduras/Apertura/Muca-Exhumaciones-en-el-Aguan-en-busqueda-de-la-verdad> (accessed May 09, 2013).

<sup>70</sup> "Exhumation at the Paso Aguán Plantation, Honduras," YouTube video, May 3, 2013, <http://www.youtube.com/watch?v=9VUCAowHe84> (accessed August 22, 2013).

<sup>71</sup> "Honduras: En aniversario de su muerte, claman justicia por campesino Gregorio Chávez," (Honduras: On the Anniversary of His Death, Demands for Justice for the Campesino Gregorio Chávez), *ConexiHonduras*, July 5, 2013, <http://clibrehonduras.com/site/noticia/derechos-humanos/derechos-humanos-conflicto-agrario-y-minero/honduras-en-aniversario-de-su> (accessed September 19, 2013).

<sup>72</sup> Human Rights Watch interview with Rodolfo Cruz, Rigores community, February 24, 2013.

<sup>73</sup> Letter from Roger Pineda Pinel, corporate and banking relations director, Corporación Dinant, to Human Rights Watch, October 18, 2013.

Cruz said they did not find the body,<sup>74</sup> which at the time of this writing had still not been discovered. Documents of the pending investigation are kept confidential and Human Rights Watch has been unable to ascertain if anyone working on the plantation was questioned or whether any other investigative steps were taken by police in this case. Asked by Human Rights Watch if it was aware of allegations that a trail of blood led from where the victim was last seen onto the plantation, Corporación Dinant responded: “We were not aware of these allegations, nor were we asked to investigate.”<sup>75</sup>

## **Killing of Four Security Guards, a Farmworker, and a Campesino, Paso Aguán Plantation, August 14, 2011**

Members of peasant groups have not been the only victims of violence in Bajo Aguán. A spokesman for the Corporación Dinant, Roger Pineda, provided Human Rights Watch with a list of six employees who had been killed and 16 wounded in alleged “invasions” of plantations in Bajo Aguán” since 2010, including four security guards and a farmworker killed in Paso Aguán, described below.

The four private security guards, a farmworker, and a campesino were killed, and 11 additional private security guards wounded, on August 14, 2011, during a shootout between guards and a group of peasants who, a Dinant spokesman said, were trying to take the Paso Aguán plantation.<sup>76</sup> The list provided to Human Rights Watch named the four guards as Marco Antonio Guillén, José Darling Guzmán, José de Jesus García Flores, and José Alfredo Aguilar. The farmworker was identified as Ramón Lobo.<sup>77</sup> The campesino was identified as Wilmer Javier Melgar Ramos, according to a joint statement by several international NGOs.<sup>78</sup> The four employees and farmworker were all employed by Dinant.

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<sup>74</sup> Human Rights Watch interview with Rodolfo Cruz, Rigores community, February 24, 2013.

<sup>75</sup> Letter from Roger Pineda Pinel, corporate and banking relations director, Corporación Dinant, to Human Rights Watch, October 18, 2013.

<sup>76</sup> Human Rights Watch interview with Roger Pineda, Tegucigalpa, April 5, 2013; Letter from Roger Pineda Pinel, corporate and banking relations director, Corporación Dinant, to Human Rights Watch, October 18, 2013. In the letter, Dinant wrote: “On August 14th, 2011 at approximately 6:00 AM during the security guards shift change, a violent forceful attempt to take possession of the Paso Aguán Plantation took place. This was carried out by a large group of people, presumably arriving from the Panama Community, who entered the premise opening fire at the guards with illegal heavy weapons that included AK-47s.”

<sup>77</sup> Ibid.

<sup>78</sup> “Demanding an End to the Violence in Bajo Aguán and Effective Investigations to Sanction those Responsible for Killings” (**Demandan cese a la violencia en el Bajo Aguán e investigaciones efectivas para sancionar a responsables de asesinatos**, press release, FIDH (Federación Internacional de Derechos Humanos), APRODEV (Asociación de Agencias de Desarrollo ligadas al Concejo Mundial de Iglesias), CIFCA (Iniciativa de Copenhague para América Central y México), FIAN

According to a letter from Dinant to Human Rights Watch, at least one of the private security guards killed “showed signs of being executed while facing the floor unarmed.” Dinant also said the farmworker was “captured, tortured, and executed,” and that “his ears were cut off.”<sup>79</sup>

Ramón Lobo, 44, had gone to work in the Paso Aguán plantation that morning, his father José told Human Rights Watch.<sup>80</sup> José said that when he heard about a shootout at the plantation later that day, he started to worry about Ramón. He tried calling his son but got no answer. Then he searched for his son around Paso Aguán, but could not find him.<sup>72</sup>

The next day, his father organized a search among friends of Ramón. They found his body on Paso Aguán plantation, covered with palm leaves.<sup>81</sup>

Ramón’s body showed wounds from two bullets to the face and one to the ribs, according to his father. His father took the body to a funeral home; police came two days later and asked permission to take the body for a forensic examination. The family refused to turn the body over, in part because of their anger at the police’s delay in coming to collect it, and in part because they were skeptical that police would take the investigation seriously, his father told Human Rights Watch.<sup>82</sup> His father said he later heard that his son had been caught in the crossfire between guards and campesinos.

Corporación Dinant said it conducted an internal investigation into the incident, which concluded:

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Internacional (Organización Internacional por el Derecho a la Alimentación), La Vía Campesina Internacional Rel-UITA (Regional latinoamericana de la Unión Internacional de los Trabajadores de la Alimentación, Agrícolas, Hoteles, Restaurantes, Tabaco y Afines), August 19, 2011, <http://www.fidh.org/es/americas/honduras/Demandan-cese-a-la-violencia-en-el> (accessed February 1, 2013). The letter from Dinant refers to the death of four Dinant employees, a “farmworker” (Ramón Lobo), and a “trespasser” (who is not named in the letter), in the incident.

<sup>79</sup> Letter from Roger Pineda Pinel to Human Rights Watch, October 18, 2013. According to the letter, “The event resulted in the death of 1 of the trespassers, 4 security guards of which at least one showed signs of being executed while facing the floor unarmed. Also, a Field Technician who was working at the field, was captured, tortured and executed. His ears were cut off and according to witness accounts they heard the executioners shout they were going to send the ears to Mr. Facusse. Also 11 security guards were wounded from the fire coming from the trespassers’ weapons.”

<sup>80</sup> Human Rights interview with José Lobo, Panamá community, February 25, 2013.

<sup>81</sup> Human Rights interview with José Lobo, Panamá community, February 25, 2013. In his account of finding his son’s body, José Lobo did not tell Human Rights Watch whether the body showed signs of mistreatment or whether his ears had been cut off, as the Dinant account of the incident said.

<sup>82</sup> Ibid.

- “1. That some of the leaders of the violent event were part of the MUCA peasant movement.
2. This was a calculated act that was carried out during the guard shift change.
3. Even though the timing of the attack meant that more guards would be present (two shifts, the one leaving the shift and the one entering the shift), the limited number of guns at the disposal of the guards would be the same. This meant that the assailants could cause more victims.
4. The movement that wanted to take possession of the plantation not only included people from the Panama Community, but also other outsiders from the Muca peasant movement and from a well-known criminal gang from the area.”<sup>83</sup>

While Dinant said its representatives had called police to report the incident and that its lawyer had presented a formal, legal complaint with the Attorney General’s Office, it told Human Rights Watch there have not been any follow-up interviews by police or prosecutors since the day of the events.<sup>84</sup>

In a report issued by the Public Prosecutor’s Office in Tegucigalpa on May 3, 2012, the case was listed as “in the process of investigation,” in the preparatory stage of the probe.<sup>85</sup> At the time of writing this report, no one had been charged in the case.

## **Killing of Henry Roney Díaz, El Despertar, May 2011**

Henry Roney Díaz, 26, was killed in May 2011. According to his wife, who spoke with witnesses to his death, he was killed during an attempted land takeover by peasants of

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<sup>83</sup> Letter from Roger Pineda Pinel, corporate and banking relations director, Corporación Dinant, to Human Rights Watch, October 18, 2013.

<sup>84</sup> Ibid. In response to the question from Human Rights Watch—“As far as Corporación Dinant is aware, did police or prosecutors interview any suspects in these killings?—Dinant wrote, “We are not aware that Police or any authorities have interrogated anyone (from the Trespassers’ side) associated with the events.”

In response to the question from Human Rights Watch—“Since the time of the incident, have police or prosecutors interviewed employees of the corporation or its security guards? If so, did Corporación Dinant cooperate fully with their investigation?”—Dinant wrote, “There has not been any follow up interviews by any authorities after the day of the events that we are aware of.”

<sup>85</sup> Public Prosecutor’s office, Republic of Honduras. Internal report on status of investigations linked with Bajo Aguán land conflict, May 3, 2012 (on file with Human Rights Watch).



the El Despertar plantation on May 7, 2011.<sup>86</sup> Díaz belonged to the Movimiento Auténtico Reivindicador Campesino del Aguán (Authentic Peasant Reclamation Movement of the Aguán, or MARCA), which has been contesting ownership of the land since 1994. Leaders of MARCA cited Díaz's death as one of a spate of attacks on its members that led it to appeal for police protection for its members.<sup>87</sup>

During an interview with Human Rights Watch, Díaz's wife, Sonia Molina, said his friends had told her that he was shot while inspecting the plantation occupied by the peasant organization, and died of gunshot wounds to the left shoulder, side, and hip.<sup>88</sup> The police visited her at her home after the killing, she said, but did not question her or offer information about the investigation. A month after the killing, she said, police exhumed his body and performed an autopsy. His wife does not know the results of the autopsy, and said she has not received any information about it or the investigation from authorities since that time.

### **Killing of Two People, El Despertar, November 1, 2011**

On November 1, 2011, approximately 20 members of the Movimiento Auténtico Reivindicador Campesino del Aguán (Authentic Peasant Reclamation Movement of the Aguán, or MARCA) from the farming cooperative of El Despertar went to a cemetery to clean burial sites. The clean-up is a common practice on the Day of the Dead in Honduras. When the group reached the cemetery around noon, the members found it had already been cleaned, so they decided to return to El Despertar. They left in two pickup trucks, each of which carried about 10 peasants. At around 2 p.m., a sedan carrying six men overtook one of the trucks and its occupants opened fire, witnesses said.<sup>89</sup>

Two passengers in one truck were struck by bullets: José Luis Lomo, 32, who was hit by five bullets and died five days later in Catalino Rivas Hospital in San Pedro Sula; and Catalino

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<sup>86</sup> "Desde Vehículo Asesinan otro campesino en el Aguán," (In the Aguán, They Kill Another Peasant in Drive-by), *Defensores en Línea*, May 18, 2011, [http://www.defensoresenlinea.com/cms/index.php?option=com\\_content&view=article&id=1384:desde-vehiculo-asesinan-otro-campesino-en-el-aguan&catid=54:den&Itemid=171](http://www.defensoresenlinea.com/cms/index.php?option=com_content&view=article&id=1384:desde-vehiculo-asesinan-otro-campesino-en-el-aguan&catid=54:den&Itemid=171) (accessed October 28, 2013).

<sup>87</sup> Written request from the Movimiento Auténtico Reivindicador Campesino del Aguán to the Comité Para la Defensa de los Derechos Humanos en Honduras (CODEH), June 13, 2011 (on file with Human Rights Watch).

<sup>88</sup> Human Rights Watch interview with Sonia Molina, San Esteban farm, February 28, 2013.

<sup>89</sup> Human Rights Watch interviews with two witnesses, San Esteban community, February 28, 2013. The identity of the individuals has been withheld out of concern for their safety.

López, 50, who died at the scene of the shooting. Police responded initially by coming to the crime scene and photographing the pickup truck that was attacked.

A woman who survived the attack told Human Rights Watch that she recovered from three gunshots sustained in the incident in a hospital in La Ceiba, and then returned to home to El Despertar.<sup>90</sup>

Four sons of Catalino López survived the attack unhurt, but police have not questioned them, according to one of the witnesses. A second witness said that people who survived the attack gave several names to the police the same day police inspected the crime scene.

A witness and member of MARCA said that the family of Catalino López had to pay 50,000 lempiras (US\$250) to have the body released and transported back from the forensic examination office in La Ceiba and returned to Tocoa. Public prosecutor Nolvía Montoya in Tocoa told Human Rights Watch that the release of a body and its transport ought to be covered by the government and not victims' families.

In its 2012 annual report to Honduras's Congress, the government's Comisionado Nacional de los Derechos Humanos (National Commissioner of Human Rights, or CONADEH) said that "supposed security guards" carried out the attack.<sup>91</sup> In May 2012, almost six months after the event, the Public Prosecutors Office in Tegucigalpa issued a report stating that the investigation had not advanced beyond police's initial inspection of the vehicle in which Catalino López was killed.<sup>92</sup> As of this writing, no one has been charged in this case.

## **Killing of Five People near San Isidro Plantation, August 15, 2011**

On August 15, 2011, five workers from San Pedro Sula contracted by a soft drinks distributor were painting advertisements for Pepsi Cola on kiosks and snack bars in the Bajo Aguán area. That afternoon, they finished painting the snack bar run by Migdalia

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<sup>90</sup> Human Rights Watch interviews with a witness, San Esteban community, February 28, 2013. The identity of the individual has been withheld out of concern for his/her safety.

<sup>91</sup> Comisionado de los Derechos Humanos, "General State of Human Rights in Honduras: Food Security," (Estado General de Derechos Humanos en Honduras: Seguridad Alimentaria), *Informe Anual 2012*, undated but URL refers to 2012, <http://app.conadeh.hn/Anual2012/seguridadalimentaria.html> (accessed August 22, 2013).

<sup>92</sup> Public Prosecutor's office, Republic of Honduras, Internal report on status of investigations linked with Bajo Aguán land conflict, May 3, 2012 (on file with Human Rights Watch).

Sarmiento, 53, on the grounds of the Instituto Nacional Agrario (National Agrarian Institute, or INA)<sup>93</sup> near Tocoa.

Sarmiento asked the workers if they could give her a ride to Tocoa on their way to San Pedro Sula, where they lived, according to a person close to her who witnessed the conversation.<sup>94</sup>

Sarmiento got in the workers' blue Isuzu truck around 2:30 p.m., the witness said. As the group drove by the San Isidro plantation, gunmen shot a hail of bullets at the truck. The truck careened off the road. Sarmiento and four of the workers died in the attack; the fifth worker was injured. The front window of the truck was hit by seven bullets, and the front grill by at least six more, according to press reports and a witness who visited the scene shortly after the shooting and observed the truck.<sup>95</sup>

Private security guards had been posted along the perimeter of the San Isidro plantation on the day of the killing, said a person who lives in the area and had seen them.<sup>96</sup>

Besides Sarmiento, the other victims were Eleuterio Lara Reyes, Bonifacio Dubón, Elvis Geovani Ortiz, and Karla Vanesa Cacho Castillo.<sup>97</sup> Forensic experts performed autopsies on all of the victims except for Cacho, whose family took her body and whose burial place “has not been determined,” according to a report issued May 3, 2012, by the Public Prosecutor’s Office in Tegucigalpa.<sup>98</sup> The report said that a court in Tocoa had “solicited” persons relevant to the case to give testimony, but it was not clear whether the interviews had taken place. Investigators had also drawn up a “site plan” of how the attack might have transpired, the report said.<sup>99</sup>

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<sup>93</sup> The INA is the government agency which is in charge of the land distribution and mediates land disputes and dispenses farm land to peasants.

<sup>94</sup> Human Rights Watch interview with person close to Sarmiento, Sinaloa community, February 26, 2013. The identity of the individual has been withheld out of concern for his/her safety.

<sup>95</sup> “Five Other People Killed in the Aguán,” (Matan a cinco otras personas en el Aguán), *La Prensa*, August 16, 2011, <http://archivo.laprensa.hn/Ediciones/2011/08/16/Noticias/Matan-a-otras-cinco-personas-en-el-Aguan> (accessed August 22, 2013); Human Rights Watch interview with witness at Sinaloa community, February 26, 2013. The identity of the individual has been withheld out of concern for his/her safety.

<sup>96</sup> Ibid.

<sup>97</sup> Public Prosecutor’s office, Republic of Honduras, Internal report on status of investigations linked with Bajo Aguán land conflict, May 3, 2012 (on file with Human Rights Watch).

<sup>98</sup> Ibid.

<sup>99</sup> Ibid.

Nolvia Montoya, the coordinator of public prosecutors in Tocoa, told Human Rights Watch that the killers fired from a car that overtook the victims' vehicle on the road, and not from the plantation itself as witnesses claimed. She said investigators had interviewed the attack's sole survivor, but that no one had been arrested or charged in the crime. She declined to show Human Rights Watch any files related to the case because, she said, "the documents are part of the investigation."<sup>100</sup>

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<sup>100</sup> Human Rights Watch interview with Nolvia Montoya, coordinator of public prosecutors, Tocoa, February 28, 2013.

## Failure to Protect Activists, Journalists, and Lawyers at Risk

In Bajo Aguán, several leading activists and members of peasant organizations told Human Rights Watch they had been the targets of harassment or threats as a result of their work. In many of these cases, individuals said, they did not report harassment out of lack of confidence in police investigators, particularly those in Bajo Aguán, or because they suspected that local officials were involved with or worked for the private landowners. In other cases, however, individuals reported harassment, expressed credible fear of attacks, and sought protection from the Honduran government or the Inter-American Commission on Human Rights.

When individuals sought help, the Honduran government routinely failed to provide adequate protection. In two cases, described below, the Inter-American Commission requested that the Honduran government provide protection for individuals at risk, but the government did not provide it, and the individuals were killed.<sup>101</sup> In a third case, also described below, a human rights lawyer who had reported receiving repeated threats to the government and had been told he would be granted protection was gunned down, unprotected, outside a church.

Honduras informed the Inter-American Commission on Human Rights in November 2012 that it had created a “special investigation unit” and a “national protection plan” to focus on crimes against journalists, human rights defenders, and other vulnerable groups.<sup>102</sup> In 2013, the Lobo government presented a bill to Congress to create a “Law for the Protection of Human Rights Defenders, Journalists, Media Workers, and Legal Practitioners,” but it has not been passed. Honduras has a law to protect witnesses, which grants protection to “[a]ny person who possesses information needed to solve a criminal investigation and

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<sup>101</sup> Inter-American Commission on Human Rights, precautionary measures, 1996-2013, <http://www.oas.org/en/iachr/decisions/precautionary.asp> (accessed August 22, 2013).

The Inter-American Commission for Human Rights, which monitors human rights conditions across the hemisphere, may request that a state “adopt precautionary measures to prevent irreparable harm to persons” under article 25 of the Inter-American Commission Rules of Procedures. There are no enforcement mechanisms to compel a government to comply.

<sup>102</sup> Inter-American Commission on Human Rights (IACHR), 2012 Annual Report, Chapter 4: Honduras, March 2013, para 240-241 (<http://www.oas.org/en/iachr/docs/annual/2012/TOC.asp>).

whose participation or possible participation in the criminal justice process presents a risk for himself or another person.”<sup>103</sup>

Nonetheless, Juan Fraño, the delegate for the government’s National Human Rights Commissioner in Tocoa, said of the government’s capacity to provide protection to activists facing threats, “There is really no protection program. You might get a police patrol to go by someone’s house, but only for a day or two.”<sup>104</sup>

In the wake of the September 2012 killing of lawyer Antonio Trejo, who was handling cases related to the Bajo Aguán land conflict, and the subsequent killing of a special prosecutor for human rights cases in Choluteca Department, Eduardo Manuel Díaz Mazariegos, the UN special rapporteur on the situation of human rights defenders, Margaret Sekaggya, highlighted the “unacceptable climate of insecurity and violence for defenders” in Honduras.<sup>105</sup> She added: “It is imperative that the Government establishes a national protection programme for human rights defenders as soon as possible.” To date, no such program has been implemented.

UN High Commissioner for Human Rights Navi Pillay echoed these calls, saying that the killing of the human rights lawyer and the subsequent killing of the public prosecutor were “far from isolated cases,” and were “emblematic of ‘the chronic insecurity’ facing lawyers, journalists and human rights defenders in the country.”<sup>106</sup>

## **Killing of Lawyer Antonio Trejo, September 22, 2012**

Antonio Trejo, 41, was a lawyer who had initiated and won three court cases that ended in palm oil plantation lands being awarded to the Movimiento Auténtico Reivindicador Campesino del Aguán (Authentic Peasant Reclamation Movement of the Aguán, or MARCA)

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<sup>103</sup> Protection Law for Witnesses in the Judicial Process (Ley de Protección a Testigos en el Proceso Penal), Decreto No. 63-2007, art. 14(3).

<sup>104</sup> Human Rights Watch interview with Juan Fraño, delegate of the Comisionado Nacional de Derechos Humanos, Tocoa, February 27, 2013.

<sup>105</sup> UN Office of the High Commissioner for Human Rights, “Honduras: UN experts shocked at killing of prominent human rights defender,” press release, October 1, 2012, <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=12612&LangID=E> (accessed August 22, 2013).

<sup>106</sup> UN Office of the High Commissioner for Human Rights, “Pillay urges action to confront ‘chronic insecurity’ facing lawyers, journalists and human rights defenders in Honduras,” press release, September 26, 2012, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=12581&LangID=E> (accessed August 19, 2013).

in June 2012.<sup>107</sup> For several years, Trejo had publicly considered himself at risk of assassination due to his work in Bajo Aguán, human rights activists who worked with him in Tegucigalpa said.<sup>108</sup>

On September 23, 2012, at around 9:15 p.m. gunmen ambushed Trejo in Tegucigalpa as he exited a church where a wedding was being held to answer a mobile phone call.<sup>109</sup> He died of multiple gunshot wounds at Escuela Hospital in Tegucigalpa shortly after 10 p.m., newspapers reported.<sup>110</sup>

Three days after Trejo's death, the Minister of Justice and Human Rights, Ana Pineda, released a statement to the media decrying Trejo's murder. Pineda acknowledged that at some point Trejo had expressed fears for his life, although she did not say when. Pineda also claimed the government had provided "special security measures" for Trejo. She didn't specify which institution was supposed to provide the measures, or what the measures were.<sup>111</sup> A day later, a spokesman for the Ministry of Security, the government ministry in charge of public security and police, told reporters he did not know if Trejo had received police protection.<sup>112</sup>

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<sup>107</sup> Giorgio Trucchi, "Historic Sentence in Bajo Aguán," (Histórica Sentencia en al Bajo Aguán), *Amauta*, July, 2012, <http://revista-amauta.org/2012/07/honduras-historica-sentencia-en-el-bajo-aguan/> (accessed May 9, 2013).

<sup>108</sup> Human Rights Watch interview with Andres Pavon, president of the Comité Para la Defensa de Derechos Humanos en Honduras (CODEH), Tegucigalpa, April 4, 2013.

<sup>109</sup> "Lawyer who Presented Cases Against Model Cities Killed," (Matan a Abogado Que Presentó Recursos Contra Ciudades Modelos), *El Heraldo*, September 23, 2013, <http://elheraldo.hn/Secciones-Principales/Sucesos/Matan-a-abogado-que-presento-recurso-contra-ciudades-modelo> (accessed May 9, 2013).

<sup>110</sup> "Police Silent on the Case of Lawyer Trejo," (Policía Hermética en el Caso del Abogado Trejo), *El Heraldo*, September 23, 2012, <http://www.elheraldo.hn/Secciones-Principales/Sucesos/Policia-hermetica-en-caso-del-abogado-trejo> (accessed May 10, 2013).

<sup>111</sup> "The Minister of Justice and Human Rights Condemns the Trejo Crime and Clarifies that Protective Measures Were Requested," (Secretaría de Justicia y Derechos Humanos Condena Crimen de Abogado Trejo y Aclara Haber Solicitado Medidas de Protección), Ministry of Justice and Human Rights, (Secretaría de Justicia Derechos Humanos), press release, September 25, 2012, [http://www.sjd.hn/?q=20120925\\_SJDH\\_condena\\_crimen\\_de\\_abogado\\_Trejo\\_y\\_aclara\\_haber\\_solicitado\\_medidas\\_de\\_proteccion%20](http://www.sjd.hn/?q=20120925_SJDH_condena_crimen_de_abogado_Trejo_y_aclara_haber_solicitado_medidas_de_proteccion%20) (accessed August 22, 2013).

<sup>112</sup> "Lawyer Trejo Did Not Receive Precautionary Measures," ("Abogado Trejo No Recibió Medidas Cautelares"), *La Prensa*, June 26, 2012, <http://m.laprensa.hn/Secciones-Principales/Honduras/Tegucigalpa/Abogado-Trejo-no-recibio-las-medidas-cautelares> (accessed October 29, 2013);

"The Application of Precautionary Measures Failed for Lawyer Trejo," (Fallo Aplicación de Medidas Cautelares para el Abogado Trejo), *El Heraldo*, September 27, 2012, <http://www.elheraldo.hn/Secciones-Principales/Pais/Fallo-aplicacion-de-medidas-cautelares-para-abogado-trejo> (accessed May 10, 2013).

Trejo had received death threats on multiple occasions in June 2011, according to a report issued by various international and national nongovernmental organizations that conducted a fact-finding visit to the Bajo Aguán in 2011.<sup>113</sup> Trejo filed a formal complaint regarding the threats with the federal authorities in the Dirección General de la Investigación Criminal (General Directorate for Criminal Investigations, or DGIC), the report said.<sup>114</sup>

In addition, members of MARCA, the group which Trejo represented in several cases, had been granted precautionary measures by the Inter-American Commission in September 2011.<sup>115</sup> A decision to grant “precautionary measures” means the IACHR believes the individual faces a serious risk of harm and the government should immediately take steps to protect him or her.

The measure followed the killing of one member of the group and what the Commission called “the context of persecution against the members of MARCA.” The commission ordered that the Honduran government grant protection to eight of the group’s members.

On September 28, 2012, the Inter-American Commission on Human Rights condemned Trejo’s killing and noted that “he had received several death threats, which he had reported to authorities.”<sup>116</sup>

On October 1, 2012, three UN special rapporteurs—the rapporteur on human rights defenders, Margaret Sekaggya; the rapporteur on extrajudicial, summary, or arbitrary executions, Christof Heyns; and the rapporteur on freedom of expression, Frank La Rue—

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<sup>113</sup> International Federation for Human Rights, “Honduras: Human Rights Violations in Bajo Aguán,” No. 572a, September, 2011, <http://www.fidh.org/IMG/pdf/honduras573ang.pdf> (accessed August 22, 2013).

<sup>114</sup> “Honduras: Investigate Murder of Rights Lawyer,” Human Rights Watch, press release, September 24, 2012, <http://www.hrw.org/news/2012/09/24/honduras-investigate-murder-rights-lawyer>; “International Organizations Condemn the Murder of a Peasants’ Human Rights Lawyer and Defender From the Lower Aguán and of the Special Prosecutor for Human Rights,” FIAN International, international statement, October 1, 2013, [http://www.fian.org/fileadmin/media/publications/News\\_-\\_2012.09.30\\_\\_Joint\\_statement\\_condemning\\_killings\\_of\\_HR\\_defenders\\_Honduras.pdf](http://www.fian.org/fileadmin/media/publications/News_-_2012.09.30__Joint_statement_condemning_killings_of_HR_defenders_Honduras.pdf) (accessed June 1, 2013).

<sup>115</sup> Precautionary Measures 240/11: “Eight members of the Movimiento Auténtico Reivindicador de Campesinos Aguán (MARCA) (Pedro Rigoberto Moran, Junior López, Julián Hernández, Antonio Francisco Rodríguez Velásquez, Santos Misael Cáceres Espinales, Eduardo Antonio Fuentes Rossel and Santos Eliseo Pavón Ávila), Honduras,” Inter-American Commission on Human Rights, September 8, 2011, <http://www.oas.org/en/iachr/decisions/precautionary.asp> (accessed August 19, 2013).

<sup>116</sup> “IACHR Condemns Murders of Human Rights Defenders in Honduras,” Inter-American Commission on Human Rights, press release, No. 121/12, September 28, 2012, [http://www.oas.org/en/iachr/media\\_center/PReleases/2012/121.asp](http://www.oas.org/en/iachr/media_center/PReleases/2012/121.asp) (accessed June 23, 2013).



condemned Trejo's death as "totally unacceptable."<sup>117</sup> Sekaggya said that during her official visit to Honduras in February 2012, she had met with Trejo. "During the meeting," the rapporteur said that Trejo, "Indicated that he had repeatedly received death threats as a result of his work."

Navi Pillay, the UN high commissioner for human rights, speaking of Trejo's killing and that of human rights prosecutor Eduardo Manuel Díaz Mazariegos, who was killed days later in the city of Choluteca, said:

Sadly, these deplorable killings are far from isolated cases. There is a menacing climate of insecurity and violence in Honduras, and human rights defenders have been targets of threats, harassment, physical assault and murder. The impunity that surrounds these violations is unacceptable. When the perpetrators know they are very likely to get off scot-free, there is nothing to deter them from killing off more of the country's finest human rights defenders.<sup>118</sup>

Pillay added, "It is essential that the people who commit these crimes are brought to justice."

As of this writing, no one has been charged in the Trejo killing, which is still under investigation.

## **Killing of Activist Secundino Ruiz, August 20, 2011**

On June 13, 2011, Secundino Ruiz, head of the Movimiento Auténtico Reivindicador Campesino del Aguán (Authentic Peasant Land Reclamation Movement of the Aguán, or MARCA), a land claims movement, together with seven other members of the group, asked the Comité para la Defensa de Derechos Humanos (Committee for the Defense of Human Rights in Honduras, or CODEH), an independent human rights organization, for help in

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<sup>117</sup> "Honduras: UN experts shocked at killing of prominent human rights defender," Office of the High Commissioner for Human Rights, press release, October 1, 2011, <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=12612&LangID=E> (accessed June 27, 2013).

<sup>118</sup> "Honduras: UN Official Urges Action to Tackle Chronic Insecurity for Lawyers, Journalists," *UN News Center*, September 26, 2012, <http://www.un.org/apps/news/story.asp?NewsID=43030&Cr=honduras&Cr1=> (accessed June 23, 2013).

“obtaining security and protection measures for our lives.” In the request, the applicants cited deaths of organization members in Bajo Aguán as the reason for their fears.<sup>119</sup>

On July 6, 2011, CODEH asked the Inter-American Commission on Human Rights for “immediate and urgent adoption of precautionary measures” for the members.<sup>120</sup> As noted above, the Inter-American Commission granted precautionary measures to eight members of MARCA, Ruiz’s organization, on September 8, 2011, noting that Ruiz had been killed on August 20, 2011.<sup>121</sup> One of those MARCA members told Human Rights Watch in February 2013, more than a year after the IACHR decision, that he had never received protection from the Honduran government.<sup>122</sup>

On the morning of August 20, 2011, a gunman shot dead Secundino Ruiz, 44, and wounded Eliseo Pavón, then treasurer of MARCA. The shooting took place in Tocoa as they were returning to the organization’s office from a bank carrying 195,000 Honduran Lempiras (about \$10,000 USD) in payroll money, which was stolen.

Two masked gunmen pulled up on a black motorcycle alongside Ruiz’s car and opened fire with handguns, according to a witness interviewed by Human Rights Watch.<sup>123</sup> Ruiz, who was driving, lost control of his vehicle and died of a gunshot to the neck before reaching a hospital. Pavón was struck by a bullet in the arm but survived the attack. The shootings took place only few blocks away from the main police station in Tocoa.

Police in Tocoa quickly told the media that Ruiz’s killing had nothing to do with the land conflict, even though the investigation had only just been opened and no suspects had

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<sup>119</sup> Request from the Comité para la Defensa de los Derechos Humanos en Honduras (CODEH) in a letter to the Inter-American Commission on Human Rights, June 6, 2011 (on file with Human Rights Watch).

<sup>120</sup> Ibid.

<sup>121</sup> Comisión Inter-Americana de Derechos Humanos, “Informe Anual 2011 de la CIDH,” OEA/Ser.L/V/II. Doc. 69, December 30, 2011, <http://www.oas.org/es/cidh/docs/anual/2011/indice.asp> (accessed August 22, 2013); Precautionary Measures 240/11: “Eight members of the Movimiento Auténtico Reivindicador de Campesinos Aguán (MARCA) (Pedro Rigoberto Moran, Junior López, Julián Hernández, Antonio Francisco Rodríguez Velásquez, Santos Misael Cáceres Espinales, Eduardo Antonio Fuentes Rossel and Santos Eliseo Pavón Ávila), Honduras,” Inter-American Commission on Human Rights, September 8, 2011, <http://www.oas.org/en/iachr/decisions/precautionary.asp> (accessed August 19, 2013).

<sup>122</sup> Human Rights Watch interview with MARCA member, Tocoa, February 25, 2013. The identity of this individual has been withheld out of concern for the individual’s safety.

<sup>123</sup> Ibid.

been identified.<sup>124</sup> Movement associates and relatives say that Ruiz had been working to clean up corruption among some members of his peasant movement,<sup>125</sup> further complicating the issue of who killed Ruiz and why.

Nine months after the killing, the investigation was still in the “preparatory” stage, according to a report by the public prosecutor’s office.<sup>126</sup> As of this writing, no one has been charged in the case.

## **Killing of Journalist Nahúm Palacios, March 14, 2010**

Following the overthrow of President Manuel Zelaya on June 28, 2009, Nahúm Palacios, 34—a television journalist for Channel 5 in Tocoa—produced broadcasts opposing the coup. In response, police and soldiers raided his home, confiscated his broadcasting equipment, and at one point held Nahúm’s children at gunpoint, according to his father, José Palacios, 65, and information published by the Inter-American Commission on Human Rights.<sup>127</sup>

José Palacios told Human Rights Watch that his son said soldiers detained him and made him lie down in a courtyard all day. The son said he was threatened with death if he mentioned a coup again, his father said.<sup>128</sup>

On July 24, 2009, the Inter-American Commission on Human Rights called on Honduras to provide “precautionary measures...to ensure the life and personal integrity” of Nahúm.<sup>129</sup>

On March 14, 2010, a pair of gunmen shot Nahúm and his girlfriend, Yorleny Sánchez, 30, a gynecologist, in front of his home in Tocoa. Nahúm had visited his father’s house in Trujillo along with Sánchez at about 7:30 p.m. They returned to Nahúm’s house in Tocoa at about

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<sup>124</sup> “Tocoa: Shooting the President of the MARCA Peasant Group,” (Tocoa: Acribillan a presidente del grupo campesino MARCA), *Proceso*, August 20, 2011, <http://www.proceso.hn/2011/08/20/Nacionales/Tocoa.A.Acibillan/41303.html> (accessed May 10, 2013).

<sup>125</sup> Human Rights Watch interviews with relative and an associate of Secundino Ruiz, March 1, 2013. The identities of the individuals have been withheld out of concern for their safety.

<sup>126</sup> Public Prosecutor’s office, Republic of Honduras, Internal report on status of investigations linked with Bajo Aguán land conflict, May 3, 2012, (on file with Human Rights Watch).

<sup>127</sup> “IAHCR Deplores Murder of Journalist in Honduras,” Inter-American Commission on Human Rights, press release, No. 31/10, March 16, 2010, <http://www.cidh.org/Comunicados/English/2010/31-10eng.htm> (accessed July 2, 2013).

<sup>128</sup> Human Rights Watch interview with José Heriberto Palacios, Rigores community, February 24, 2013.

<sup>129</sup> Precautionary Measures 196-09: “Amplification of Precautionary Measures, Honduras,” Inter-American Commission on Human Rights, July 10, 2009, <http://www.oas.org/en/iachr/decisions/precautionary.asp> (accessed August 22, 2013).

10:30 p.m., and gunmen shot at Nahúm's vehicle, according to press reports.<sup>130</sup> He died on the spot; Sánchez died two weeks later in a San Pedro Sula hospital.<sup>131</sup>

In addition to opposing the coup, Nahúm had campaigned on behalf of peasant land groups, his father and the Committee to Protect Journalists reported.<sup>132</sup> Three days before his death, he told his father someone phoned him to ask, "How much are the peasants paying you to say this? If you don't die for politics, you'll die for getting involved in this peasant issue."

In response to Nahúm's killing, the Inter-American Commission on Human Rights noted that it had asked the state of Honduras to "adopt the necessary measures to protect his life and personal integrity," but lamented that "these measures were not implemented."<sup>133</sup>

The investigation into Nahúm's death fit a pattern of omissions and negligence. Police gathered no evidence and took no pictures of the crime scene, and officials did not perform an autopsy on his body until three months after his death.<sup>134</sup>

In the three years since the double murder there has been no serious investigation.<sup>135</sup> The investigation is still technically open, but his father said he has heard no news from investigators for more than two years.<sup>136</sup>

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<sup>130</sup> "IAHCR Deplores Murder of Journalist in Honduras," Inter-American Commission on Human Rights, press release, No. 31/10, March 16, 2010.; <http://www.cidh.org/Comunicados/English/2010/31-10eng.htm> (accessed July 2, 2013); "Journalist from Colon Shot to Death," (Periodista de Colon Muera Acribillado), *IFEX*, March 16, 2010, [http://www.ifex.org/honduras/2010/03/16/palacios\\_artiaga\\_killed/es/](http://www.ifex.org/honduras/2010/03/16/palacios_artiaga_killed/es/) (accessed August 22, 2013); "Tercer periodista hondureño asesinado en dos semanas," Committee to Protect Journalists, press release, March 16, 2010, <http://cpj.org/es/2010/03/tercer-periodista-hondureno-asesinado-en-dos-seman.php> (accessed October 23, 2013).

<sup>131</sup> Human Rights Watch interview with José Heriberto Palacios, Rigores community, February 24, 2013; "Fiancée of the Murdered Journalist Dies," (Muere Prometida de Periodista Asesinado), *La Prensa*, March 28, 2010, <http://archivo.laprensa.hn/Sucesos/Ediciones/2010/03/29/Noticias/Muere-prometida-de-periodista-asesinado> (accessed May 9, 2013).

<sup>132</sup> Human Rights Watch interview with José Heriberto Palacios, Rigores community, February 24, 2013; Committee to Protect Journalists, "Journalists Killed, Honduras: Nahúm Palacios Arteaga," undated, <http://www.cpj.org/killed/2010/nahum-palacios-arteaga.php> (accessed August 13, 2013).

<sup>133</sup> "IAHCR Deplores Murder of Journalist in Honduras," Inter-American Commission on Human Rights, press release, No. 31/10, March 16, 2010.; <http://www.cidh.org/Comunicados/English/2010/31-10eng.htm> (accessed July 2, 2013).

<sup>134</sup> Committee to Protect Journalists, "Journalists Killed, Honduras: Nahúm Palacios Arteaga," undated, <http://www.cpj.org/killed/2010/nahum-palacios-arteaga.php> (accessed August 13, 2013).

<sup>135</sup> *Ibid.*

<sup>136</sup> Human Rights Watch interview with José Heriberto Palacios, Rigores community, February 24, 2013.

## Allegations by Military Put Activist in Danger, December 12, 2013

In December 2013, a Honduran army colonel claimed that Annie Bird, co-director of the US-based nongovernmental organization Rights Action, was working to destabilize the Bajo Aguán region.<sup>137</sup>

Col. German Alfaro Escalante, the commander of Operation Xatruch III—a military-police task force based in the Colón province, which includes Bajo Aguán—publicly accused Bird of destabilizing the area by “questioning the methods of the Honduran justice system” and making false claims about security forces operations.<sup>138</sup> The allegations were published on December 12, 2013, in the newspaper *La Tribuna*, which quoted Alfaro as saying: “We are in the process of investigating a complaint against a supposed American named Annie Bird, who is going around doing destabilizing work here in the Aguán sector, meeting with various campesino leaders.”<sup>139</sup> *La Tribuna* also reported that Alfaro said that Bird had pressured campesinos in the region to rebel against security forces.

Alfaro’s comments were reproduced in national media, accompanied by photos of Bird.<sup>140</sup> An article on the colonel’s comments, published online, has attracted comments from readers that include death threats against Bird.<sup>141</sup>

Bird has reported on human rights issues in Honduras for 12 years, and has written several reports on the country for Rights Action. She said she considered Alfaro’s statements to be a response to her efforts to document abuses alleged to have been committed by government security forces, particularly in the week prior to the colonel’s public accusations.<sup>142</sup> On December 11, Bird accompanied a group of local people to the government human rights prosecutor’s office to report alleged abuses by members of Xatruch task force, which is officially assigned to bring security to the region. On December

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<sup>137</sup> Human Rights Watch, “Accusations by Military Endanger Activist,” press release, December 19, 2013, <http://www.hrw.org/news/2013/12/19/honduras-accusations-military-endanger-activist>.

<sup>138</sup> “We Are Investigating Complaint that an American Is Destabilizing the Aguán” (Estamos investigando denuncia que una norteamericana desestabiliza en el Aguán), *La Tribuna*, December 12, 2013, <http://www.latribuna.hn/2013/12/12/estamos-investigando-denuncia-que-una-norteamericana-desestabiliza-en-el-aguan/> (accessed December 15, 2013).

<sup>139</sup> *Ibid.*

<sup>140</sup> “Controversial Presence of Human Rights Defender in Bajo Aguán Region” (Polémica presencia de defensora de DDHH en zona del Bajo Aguán), *El Tiempo*, December 16, 2013, <http://www.tiempo.hn/portada/noticias/polemica-presencia-de-defensora-de-ddhh-en-zona-del-bajo-aguan> (accessed December 17, 2013).

<sup>141</sup> *Ibid.*

<sup>142</sup> Human Rights Watch telephone interview with Annie Bird, December 18, 2013.

10, she had given an interview to a local radio station in which she described her work to document abuses and report them to international bodies.

Bird told Human Rights Watch that in the aftermath of Alfaro's comments, she feels under threat, and is concerned about returning to Honduras following the incident, particularly as her photograph has been so widely published.<sup>143</sup>

Col. Alfaro's allegations against Bird followed similar attacks leveled in a February 18, 2013, news release from the Xatruch task force. The news release accused prominent campesino leaders, including Yoni Rivas and Vitalino Alvarez, of carrying out a "systematic and well-planned campaign of misinformation" to "denigrate" the task force through false accusations that "damage the image of the Honduran nation."<sup>144</sup> The task force called on the "hard-working population of Colón" to organize against a "minority group" that it said was provoking instability and disrespect for the law.<sup>145</sup> (The statement followed allegations by the campesino organizations of a campaign of violence against them, as part of the ongoing land disputes.)

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<sup>143</sup> Ibid.

<sup>144</sup> Press release (Comunicado de Prensa), Task Force "Xatruch" (Fuerza de Tarea Conjunta "Xatruch"), Tocoa, Colon, February 18, 2013, <https://www.facebook.com/photo.php?fbid=493396927363995&set=a.493396904030664.98328.122010004502691&type=3&permPage=1> (accessed online January 5, 2014).

<sup>145</sup> Ibid.

## **Failure to Investigate Human Rights Violations**

In many of the killings and other crimes in Bajo Aguán analyzed by Human Rights Watch, the lack of progress in the investigations and the limited evidence made it impossible to determine whether state actors had participated in the crimes. In three cases in Bajo Aguán, however, Human Rights Watch documented evidence that strongly suggests that state actors committed human rights abuses. In none of these cases has anyone been held accountable.

All three cases, detailed below, relate to land conflicts. Two of them took place in a community in which members of a peasant movement were involved in a long-running dispute over ownership of farm land. And the third took place at a demonstration related to land disputes in Bajo Aguán.

Government failure to investigate these incidents and hold those responsible to account has reinforced a sentiment among campesinos that security forces are above the law. Such distrust, in turn, has discouraged victims of abuses and witnesses to other crimes from coming forward, fueling a cycle of impunity.

### **Evictions and Destruction of Homes, a School, and Churches, Rigores,**

**June 24, 2011**

Rigores is a farming community of approximately 120 families whose members belong to the Movimiento Campesino de Rigores (Rigores Peasant Movement, or MCR). The community was founded more than a decade ago on a disputed tract of land claimed by a private owner. Prior to its destruction, residents had built houses, a school, and two churches on the land.

At about 9:00 a.m. on June 24, 2011, police and military personnel along with men in plainclothes entered the Rigores community and gave residents a few hours to remove belongings from their homes. Then they began setting houses on fire and razing buildings with a bulldozer, witnesses told Human Rights Watch.<sup>146</sup>

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<sup>146</sup> Human Rights Watch interview with two witnesses, Rigores, February 24, 2013. The identities of the individuals has been withheld out of concern for their safety.

María Hilda, 32, who lived in the community and witnessed the eviction, told Human Rights Watch that the ouster “came as a surprise” and that she and other residents had not been informed by police or any other official in advance. (She said she learned later that one community member, whom she did not name, had been told in advance of the raid, but kept the information to himself and had not informed the rest of the community.) Before soldiers and police began to burn and raze the homes, she said, one of the officials on the scene showed her a legal eviction order “on yellow paper.” Residents were given until noon to collect belongings and evacuate the area, she said.

Sofía López, 30, an elementary school teacher in Rigores, said that the raid had been carried out by armed police officers in blue uniforms. Some came to her house at the entrance of the settlement and told her they were looking for three women who possessed weapons. She could not identify the men, who wore vests covering their dark blue uniforms.<sup>147</sup>

The police ordered her to accompany them as they made their rounds among the houses. She was set free in the afternoon, she told Human Rights Watch. She said that police were setting fire to straw roofs with cigarette lighters. Residents took shelter in a community center at an adjacent settlement. A video news story produced by an independent media outlet on the incident includes footage, purportedly taken during the evictions and razing and the immediate aftermath, which appears to support the accounts provided by residents.<sup>148</sup>

The alleged abuses, which include arson and other property destruction, illegal forced eviction and, in the case of Sofía López, arbitrary detention, are very serious. In an interview with Human Rights Watch, José Antonio Maradiaga, the coordinator of public prosecutors in Trujillo said he was aware of the Rigores eviction, but did not order police to investigate any alleged abuses committed by those who carried out the eviction, or whether the executor judge (*juez ejecutor*) who issued the eviction order had a lawful basis to do so.<sup>149</sup> Under Honduran law, police may investigate a case on their own initiative, even if there is no formal complaint from a victim or witness.<sup>150</sup>

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<sup>147</sup> Human Rights Watch interview with Sofía López, Rigores community, February 24, 2013.

<sup>148</sup> Jesse Freeston, “Honduran Police Burn Community to the Ground,” video report, The Real News, July 31, 2011, [http://therealnews.com/t2/index.php?option=com\\_content&task=view&id=31&Itemid=74&jumival=711](http://therealnews.com/t2/index.php?option=com_content&task=view&id=31&Itemid=74&jumival=711) (accessed June 22, 2013).

<sup>149</sup> The *juez ejecutor* is the legal authority who directly oversees evictions. Despite the label “executive judge,” the person need not have a legal background or other qualifications. The *juez ejecutor* also has the power to order the police to use



Maradiaga told Human Rights Watch that no houses had been burned, and so no investigation was warranted. When told there was a video of the apparent destruction, he said that peasants were to blame for the violence, if there was any.<sup>151</sup>

## Torture, Beatings, Arbitrary Arrests, and Other Abuses, Rigores, September 19, 2011

Shortly after the June 24 evictions and destruction of homes in Rigores, MCR members reoccupied the contested property. Roughly 10 weeks later, on September 16, 2011, according to accounts provided by government officials, unknown attackers ambushed a joint police and military patrol near Rigores. One policeman died; three soldiers and another policeman were wounded.<sup>152</sup>

Three days later, on September 19, police entered Rigores, arrested and subsequently released without charge more than 20 members of the MCR, and again forcibly evicted the residents.<sup>153</sup>

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force. According to witnesses in this case, an employee of the landowner involved in the dispute was the *juez ejecutor* in the case and presided over the destruction of the houses and school, which if true would clearly undermine the judge's ability to serve as an impartial arbiter. Criminal Procedure Code, art. 213; Amparo Law (Ley de Amparo), Centro Electrónico de Documentación e Información Judicial, 1967, <http://www.poderjudicial.gob.hn/juris/Leyes/Ley%20de%20Amparo.pdf> (accessed September 5, 2013), arts. 14, 15, 22, 34.

<sup>150</sup> National Police Law (Ley Orgánica de la Policía Nacional de Honduras), *Congreso Nacional*, N.º 67-2008, [http://www.poderjudicial.gob.hn/juris/Leyes/Ley%20Org%C3%A1nica%20de%20la%20Policia%20Nacional%20\(09\).pdf](http://www.poderjudicial.gob.hn/juris/Leyes/Ley%20Org%C3%A1nica%20de%20la%20Policia%20Nacional%20(09).pdf), art. 64, para.1. Paragraph 1 of the article empowers investigators to investigate crimes “de oficio”—or on its own initiative—without orders of a prosecutor or a complaint filed by a victim.

Police are also obliged under national law to immediately inform the Attorney General's Office whenever they have detained an individual or initiated an investigation, or at the latest to do so within six hours. This requirement presupposes a subordination of law enforcement bodies to the Attorney General's Office with respect to criminal investigations, and allows prosecutors to control the investigation and, in particular, arrests carried out by the police. National Police Law, arts. 3, 24 (párr. 10), 35, 64; Criminal Procedure Code, art. 175.

<sup>151</sup> Human Rights Watch interview with José Antonio Maradiaga, Trujillo, February 28, 2013.

<sup>152</sup> Comisionado Nacional de los Derechos Humanos, “General State of Human Rights in Honduras: Police Deaths” (Estado General de los Derechos Humanos en Honduras: Muertes de Policías), *Informe Anual 2012*, <http://app.conadeh.hn/Anual2012/muertespolicias.html> (accessed August 22, 2013).

<sup>153</sup> *Ibid*; “Repression Against the Rigores Community Continues,” (Continua Represión Contra la Comunidad de Rigores), FIAN Honduras, press release, September 20, 2011, [http://www.fian.hn/v1/index.php?option=com\\_k2&view=item&id=823:continúa-represión-contra-la-comunidad-de-rigores&Itemid=5](http://www.fian.hn/v1/index.php?option=com_k2&view=item&id=823:continúa-represión-contra-la-comunidad-de-rigores&Itemid=5) (accessed June 23, 2013);

“Rigores Peasant Movement Members Dislodged,” (Desalojados los Miembros del Movimiento Campesino de Rigores), FIAN Honduras, June 24, 2011, [http://www.fian.hn/v1/index.php?option=com\\_k2&view=item&id=560:desalojados-los-miembros-del-movimiento-campesino-de-rigores&Itemid=5](http://www.fian.hn/v1/index.php?option=com_k2&view=item&id=560:desalojados-los-miembros-del-movimiento-campesino-de-rigores&Itemid=5) (accessed August 27, 2013).

Santos Bernabé Cruz, 18, was 16 at the time of the second eviction. His father, Rodolfo Cruz, was the head of the MCR at the time (and continues to be). Santos told Human Rights Watch that he was sitting at home at around 3:00 p.m. when approximately 20 police entered his house and forced everyone but him to leave. Then they told him to take off his shirt and bound his hands with his shoelaces.<sup>154</sup>

The police called Santos a criminal and accused him of having a hand in the September 16 ambush that resulted in the death of policeman.<sup>155</sup> They marched him along a road to the cemetery and beat him with riot helmets along the way. The assailants were wearing blue police uniforms, he said.

He told Human Rights Watch the police kept asking him where the arms were that had been used in the ambush, and whipped him with a hose. They also beat him with guns and jumped up and down on his body while he was on the ground. Then, he said, they doused him gasoline and told him they would burn him alive if he did not tell the truth. They also made other death threats. “They said they would kill me, tie me to stones and throw me into the Aguán River,” he said.<sup>156</sup>

Next, police gagged his mouth with his T-shirt, put a plastic bag over his head, loaded him into a patrol car, and drove him around for approximately two hours. During the drive, he said, they threatened to leave him buried under palm leaves on one of the plantations.

Eventually, Santos was taken to the police station where, he said, a police officer mocked him by asking him why he was covered in gasoline. He was put in a holding cell. At around 10:00 p.m., a police officer came and—standing outside in front of Santos—cocked his weapon, in an apparent threat. At no point in his detention was Santos allowed to notify his family that he had been detained. The treatment to which Santos said he was subjected, including credible death threats and mock execution, would amount to torture.

Santos said that after holding him overnight in detention, police forced him to clean the station’s bathroom. Two officers then had a conversation standing in front of him. One

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<sup>154</sup> Human Rights Watch interview with Santos Bernabé Cruz, Rigores community, February 24, 2013.

<sup>155</sup> Testimony of Santos Bernabé Cruz to the Comité de Familiares Desaparecidos en Honduras (COFADEH), October 5, 2011 (on file with Human Rights Watch).

<sup>156</sup> Human Rights Watch interview with Santos Bernabé Cruz, Rigores community, February 24, 2013.

policeman asked the other: “What should we do with him?” The other responded, “Release him, under the condition that he stops getting involved in this stuff.” He was released without being charged with any crime and says he went to Tocoa hospital where he was examined by a doctor.

Before Santos’s release, the Comité de Familiares de Detenidos - Desaparecidos en Honduras (Committee of Relatives of Detained - Disappeared in Honduras, or COFADEH), an independent human rights monitoring group, filed a petition of habeas corpus to the court of first instance in Tocoa demanding information about his whereabouts.<sup>157</sup> It is not clear whether the police, in freeing Santos, were acting on the request. The organization also filed a petition to the government’s Human Rights Public Prosecutor’s Office asking for an investigation and for charges to be brought against those responsible for his treatment.<sup>158</sup> Santos Bernabé Cruz and four other alleged victims also gave testimony of their treatment to the Human Rights Public Prosecutor’s Office.<sup>159</sup>

“The case is paralyzed. There hasn’t even been any indictment,” said Bertha Oliva, who heads COFADEH, and petitioned on Santos’ behalf and has provided legal accompaniment to his family.<sup>160</sup>

A public prosecutor in Tegucigalpa told Human Rights Watch that his “superiors” had not allowed him to travel to Rigores to search for and interview witnesses who might be able affirm the account Santos gave to officials.<sup>161</sup>

Another Rigores resident, José Amendares Bernabé, 51, said he was arbitrarily detained on September 16, 2011—the day the police officer was killed. He said more than 20 people were rounded up that day along with him, allegedly in relation to the ambush.<sup>162</sup>

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<sup>157</sup> Letter from Comité de Familiares de Detenidos - Desaparecidos en Honduras (COFADEH) to the office of Republic of Honduras’s Fiscalía Especial de Derechos Humanos (Special Prosecutor for Human Rights), September 19, 2011 (on file with Human Rights Watch).

<sup>158</sup> Letter from Comité de Familiares de Detenidos - Desaparecidos en Honduras (COFADEH) to the Republic of Honduras’ Fiscalía Especial de Derechos Humanos (Special Prosecutor for Human Rights), October 5, 2011 (on file with Human Rights Watch).

<sup>159</sup> “Estado de la Investigación,” summary of police report on Santos Bernabé abuse case provided by Honduras’s Fiscalía Especial de Derechos Humanos (Special Prosecutor for Human Rights), no date (on file with Human Rights Watch).

<sup>160</sup> Human Rights Watch interview with Bertha Oliva, Tegucigalpa, April 5, 2013.

<sup>161</sup> Human Rights Watch interview with prosecutor Tegucigalpa, April 5, 2013. The identity of the individual has been withheld out of concern for his/her safety.

<sup>162</sup> Human Rights Watch interview with José Amendares Bernabé, Rigores community, February 24, 2013.

Amendares said police bound his hands with his shoelaces, tied him to four other men, and took him to police headquarters in Tocoa. “Police hit me and punched me in the ribs,” he said. He was released the same day. He said he suffered a fractured rib. He said he did not file a complaint with authorities out of fear of reprisals.<sup>163</sup>

## **Excessive Use of Force on Demonstrators, Planes, March 30, 2011**

Peasants and school teachers gathered on the Pan-American Highway at a location called Planes at 7:30 a.m. on March 30, 2011, to protest land and education issues in Bajo Aguán.<sup>164</sup> At about 1:00 p.m., as the demonstrators were preparing to leave, police and soldiers began to launch tear gas at the crowd, according to an official request by the prosecutor’s office to a judge to open a criminal trial, which contained a preliminary official account of the incident.<sup>165</sup>

After the tear gas had cleared, the demonstrators who had retreated returned and threw stones at police and soldiers. A police commander gave an order to fire on the demonstrators, who began to flee when shots rang out, the prosecutor’s request said. The request also said that Cima TV, a local station, recorded the encounter, and that at least seven people were wounded by gunfire as the crowd dispersed.<sup>166</sup> Human Rights Watch interviewed one of the victims, Neptalí Esquivel, 32, who said he was shot a close range by a member of the security forces.<sup>167</sup>

Three or four police patrols, with about 20 policemen in each, were involved in responding to the demonstration, along with soldiers, according to Esquivel.<sup>168</sup> After a commander said he wanted the demonstrators to leave, security forces began to throw tear gas canisters into the crowd. After the tear gas, protestors regrouped and a commander ordered his men to shoot at them.<sup>169</sup> Esquivel said he left the scene of the demonstration

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<sup>163</sup> Ibid.

<sup>164</sup> Requerimiento Fiscal al Juez de Letras de lo Penal de la Sección Judicial de Tocoa, Colón, (Initiation of Prosecution in front of the Criminal Court Judge in the Judicial Section of Tocoa, Colón), April 26, 2012 (on file with Human Rights Watch). The document presents findings based on a police report, accounts of the incident and of the military and police response, witness testimony, forensic examinations of victims, and a video that purportedly recorded the event.

<sup>165</sup> Ibid.

<sup>166</sup> Ibid.

<sup>167</sup> Ibid.; Human Rights Watch interview with Neptalí Esquivel, La Confianza farm, February 25, 2013.

<sup>168</sup> Ibid.

<sup>169</sup> Ibid.; Requerimiento Fiscal al Juez de Letras de lo Penal de la Sección Judicial de Tocoa, Colón (Initiation of Prosecution in front of the Criminal Court Judge in the Judicial Section of Tocoa, Colón), April 26, 2012 (on file with Human Rights Watch).

briefly to wash tear gas from his eyes and that, shortly after he returned, security forces opened fire on the demonstrators. He then tried to run away but was shot in the left leg.<sup>170</sup> Members of security forces then kicked and beat him, and he heard one say, “Finish him off” before losing consciousness.

He said he recovered from the gunshot wound, a fractured hip, and severe bruises on his face in La Ceiba hospital, where he spent 15 days. Esquivel said that during his hospital stay, and with the help of the Comité de Familiares de Detenidos - Desaparecidos en Honduras (Committee of Relatives of Detainees - Disappeared en Honduras, or COFADEH), an independent human rights organization, he filed a complaint with a public prosecutor in La Ceiba.<sup>171</sup>

Esquivel told Human Rights Watch that after two days in the hospital six uniformed security agents (three police and three members of the military) came to the hospital to look for him. Esquivel said that, according to the nurse, “[the military and police officers] asked for me and said they were my cousins and that they had come to take me away.” But the nurse, who later informed him of the visit, told him that the hospital had mistakenly recorded his last name as Ezequiel rather than Esquivel and that, as a result, hospital workers had told the officers that no one named Esquivel was there.

On April 26, 2012, prosecutors charged two policemen with crimes including abuse of power, attempted murder (*homicidio en su grado de ejecución de tentativa*), and illegal detention, and brought them before a judge. The prosecutor also accused a pair of military officers of abuse of authority, attempted murder (*homicidio en su grado de ejecución de tentativa*), and inflicting harm upon citizens, but they were never formally charged or put on trial.<sup>172</sup>

At the January 22, 2013, initial hearing for the policemen, a judge dismissed the charges against them on the grounds that none of the witnesses had specifically identified the shooters or who had ordered them to fire.<sup>173</sup> The judge declined to view the video from

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<sup>170</sup> Ibid.

<sup>171</sup> Human Rights Watch interview with Neptalí Esquivel, La Confianza farm, February 25, 2013.

<sup>172</sup> Requerimiento Fiscal al Juez de Letras de lo Penal de la Sección Judicial de Tocoa (Initiation of Prosecution in front of the Criminal Court Judge in the Judicial Section of Tocoa, Colón), April 26, 2012 (on file with Human Rights Watch).

<sup>173</sup> Audiencia Inicial. Sectional Court of First Instance (Juzgado de Letras Seccional), Tocoa, Colón. January 22, 2013 (on file with Human Rights Watch).

CIMA TV depicting the violent encounter on the grounds that the courtroom did not have the necessary equipment to view it.<sup>174</sup>

On January 25, 2013, prosecutors appealed the provisional dismissal, arguing that the video should have been shown and that, even if witnesses could not identify which individuals shot the people who were wounded, the commanders should be held responsible under the theory of command responsibility.<sup>175</sup> According to prosecutors in Bajo Aguán that Human Rights Watch met in April, the appeal was pending. The Attorney General's Office and Lobo administration officials did not respond to subsequent requests from Human Rights Watch for updated information on this and other cases.<sup>176</sup>

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<sup>174</sup> Ibid. Given the potential relevance of the footage to the charges in the case (as alleged by the prosecutor), it would have been reasonable for the judge to seek an alternative means of viewing the video, such as viewing it in another location or delaying the proceedings until the court could find a way to review it during the hearing.

<sup>175</sup> Recurso de Apelación, Sectional Court of First Instance (Juzgado de Letras Seccional), Tocoa, Colón. January 25, 2013 (on file with Human Rights Watch).

<sup>176</sup> See "Methodology" section.

## The Cost of Impunity

Only one homicide investigation analyzed by Human Rights Watch in Bajo Aguán has resulted in prosecution before a court, according to information provided by authorities.

More often than not, homicide investigations in Bajo Aguán fail to advance beyond the earliest stages. Sometimes, they consist of nothing more than “recognition of the cadaver”—identifying a victim’s body and declaring that the cause of death was murder. In other cases, prosecutors fail to complete basic steps to identify possible motives and suspects, such as delaying visits to crime scenes until days or weeks after killings have taken place. As a result, investigations stall, lines of inquiry dissipate, and evidence critical to solving crimes and holding those responsible accountable is lost.

Because of authorities’ lack of transparency regarding pending investigations, including the overly broad interpretation by police and prosecutors of the legal requirement to keep ongoing investigations confidential, families of victims have virtually no information on the status of cases. Dossiers of ongoing investigations are withheld from families and the public at large until charges are brought and the case goes to court. Human Rights Watch was allowed to view investigation reports only in the tiny fraction of cases from Bajo Aguán that had gone to court.

For families of victims, as well as members of affected peasant groups and communities, the lack of follow through and transparency further undermines their already low confidence in authorities. Many told Human Rights Watch that the inaction of authorities suggested that the lives of their relatives and colleagues had no value to the government, and that speaking out to demand justice was not only useless but dangerous. Many more expressed reluctance to cooperate with law enforcement and justice officials. Meanwhile, the few who had taken on the risk of denouncing crimes and abuses expressed a strong fear that those responsible for killings, all of whom were still at large, would find out they had spoken and take revenge against them. During our research we frequently encountered in affected communities suspicions about official cover-ups, influence peddling and complicity, perceptions that were linked to the failure to investigate.

Nor are campesino groups and communities the only ones who feel authorities have failed to do their duty to investigate violent crimes in Bajo Aguán. When asked by Human Rights Watch whether it felt police and public prosecutors adequately investigated crimes in which its employees were allegedly the victims, the representative of a corporation that owns large plantations in Bajo Aguán wrote to Human Rights Watch, “Where our employees have been victims, there has been no justice and the prosecutors have not fulfilled their duties.”<sup>177</sup>

In two cases, victims’ families expressed frustration because—although deaths were categorized as related to land conflicts—they felt the real motive behind the killing may have been something else. In these and other cases, lack of investigation feeds suspicion which can extend not only to authorities but also to fellow community members whom relatives suspect may have had a hand in killings.

Despite the fact that thorough, timely investigations are extremely rare and convictions for serious crimes in Bajo Aguán are nonexistent, some police and politicians have shown a predisposition to blame campesinos, organized crime, or common criminals for the deaths of community members. Last year, President Lobo declared the wave of killings in Bajo Aguán the work of “criminal gangs” (*bandas criminales*).<sup>178</sup> Colonel Germán Alfaro, who heads the Xatruch III military unit that patrols the area and reinforces local police, said that “criminal bands” armed with AK-47 rifles were taking over farms and, in return for 150,000 Lempiras (US\$7,500), turning occupied property over to peasant groups, an accusation for which he provided no evidence.<sup>179</sup>

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<sup>177</sup> Letter from Roger Pineda Pinel, corporate and banking relations director, Corporación Dinant, to Human Rights Watch, October 18, 2013.

<sup>178</sup> “The President Advises that Criminal Bands that Operate in the Bajo Aguán Will Be Pursued,” (Presidente Advierte Que Perseguirán a Bandas Criminales Que Operan en Bajo Aguán), *Proceso Digital*, March 28, 2012, <http://proceso.hn/2012/03/28/Caliente/Presidente.advierte.que/49991.html> (accessed August 26, 2013).

<sup>179</sup> “Armed Groups Evolve in Bajo Aguán,” (Grupos Armados Evolucionan en el Bajo Aguán), *La Prensa*, April 1, 2013, <http://www.laprensa.hn/Secciones-Principales/Honduras/Apertura/Grupos-armados-evolucionan-en-el-Bajo-Aguan> (accessed May 11, 2013).



# Honduras's Obligations under International Law

## Obligation to Deter, Prevent, and Investigate Abuses

Honduras is party to several international treaties that impose an obligation to respect, protect, and fulfill human rights.<sup>180</sup> These treaties also impose on the Honduran state the obligation to deter and prevent violations of those rights, to investigate and prosecute offenders, and to provide remedies to victims.<sup>181</sup>

The obligation to deter and prevent is, in part, a corollary to the obligation to respect, protect, and fulfill the human rights, reflecting the view that effective protection and prevention require investigation and prosecution when a right has been violated. The Inter-American Court of Human Rights, for example, has held that “the State has the obligation to use all the legal means at its disposal to combat impunity, since it fosters chronic recidivism of human rights violations and total defenselessness of victims and their relatives.”<sup>182</sup>

The duty to investigate and punish abuses also derives from the right to a legal remedy that these treaties extend to victims of human rights violations. Under international law, governments have an obligation to provide victims of human rights abuses with an effective remedy, including justice, truth, and adequate reparations. Under the International Covenant on Civil and Political Rights (ICCPR), governments have an obligation “to ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy.”<sup>183</sup> The ICCPR imposes on states the duty to ensure that any person shall

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<sup>180</sup> Parts of this section were previously published in Human Rights Watch, *After the Coup: Ongoing Violence, Intimidation, and Impunity in Honduras*, December, 2010, [http://www.hrw.org/node/94957/section/6#\\_ftn274](http://www.hrw.org/node/94957/section/6#_ftn274) (accessed May 12, 2013) and in *Uniform Impunity: Mexico's Misuse of Military Justice to Prosecute Abuses in Counternarcotics and Public Security Operations*, April 2009, <http://www.hrw.org/reports/2009/04/28/uniform-impunity> (accessed May 12, 2013).

<sup>181</sup> International Covenant on Civil and Political Rights (ICCPR), adopted December 16, 1966, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force March 23, 1976, ratified by Honduras on August 25, 1977.; American Convention on Human Rights (ACHR) (“Pact of San José, Costa Rica”), adopted November 22, 1969, O.A.S. Treaty Series No. 36, 1144 U.N.T.S. 123, entered into force July 18, 1978, reprinted in Basic Documents Pertaining to Human Rights in the Inter-American System, OEA/Ser.L.V/II.82 doc.6 rev.1 at 25 (1992), ratified by Honduras on October 5, 1977; UN Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment (Convention Against Torture), adopted December 10, 1984, G.A. res. 39/46, annex, 39 U.N. GAOR Supp. (No. 51) at 197, U.N. Doc. A/39/51 (1984), entered into force June 26, 1987, ratified by Honduras on April 16, 1996, arts. 2(1), 11, 16.

<sup>182</sup> Inter-American Court of Human Rights, Paniagua Morales et al., Judgment of March 8, 1998, Inter-Am Ct. H.R., (Ser. C) No. 37 (1998), para. 173.

<sup>183</sup> ICCPR, art. 2(3)(a).

have their right to an effective remedy “determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy.”<sup>184</sup>

The United Nations Human Rights Committee has emphasized the obligation on the states to prevent abuses by non-state actors:

“[T]he positive obligations on States Parties to ensure [ICCPR] Covenant rights will only be fully discharged if individuals are protected by the State, not just against violations of Covenant rights by its agents, but also against acts committed by private persons or entities that would impair the enjoyment of Covenant rights...”<sup>185</sup>

The right to an effective remedy is well established in international human rights law.<sup>186</sup> At the regional level, the American Convention on Human Rights (ACHR) states that every individual has “the right to simple and prompt recourse, or any other effective recourse, to a competent court or tribunal for protection against acts that violate his fundamental rights recognized by the constitution or laws of the state concerned or by this Convention, even though such violation may have been committed by persons acting in the course of their official duties.”<sup>187</sup> The Inter-American Court of Human Rights has held that this right imposes an obligation upon states to provide victims with effective judicial remedies.<sup>188</sup>

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<sup>184</sup> ICCPR, art. 2(3)(b).; Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of international Human Rights Law and Serious Violations of International Humanitarian Law, March 21, 2006 adopted by the 6th session of the United Nations General Assembly, A/RES/60/147, principle II.3.(d): “The obligation to respect, ensure respect for and implement international human rights law and international humanitarian law as provided for under the respective bodies of law, includes, inter alia, the duty to: (d) Provide effective remedies to victims, including reparation, as described below.”

<sup>185</sup> Human Rights Committee, General Comment 31, Nature of the General Legal Obligation on States Parties to the Covenant, U.N. Doc. CCPR/C/21/Rev.1/Add.13 (2004), para. 8.

<sup>186</sup> UDHR, art 8 ;ICCPR, art.2.; Convention of Belém do Pará, arts. 4(g), 7 (f).; as well as the American Declaration arts. XVIII and XXVI; ACHR, art. 25. Article 25 of the American Convention on Human Rights refers to the “right to judicial protection.”

<sup>187</sup> ACHR, art. 25. Similarly, the Inter-American Convention to Prevent and Punish Torture (Inter-American Convention to Prevent and Punish Torture, O.A.S. Treaty Series No. 67, entered into force February 28, 1987.) requires states to “take effective measures to prevent and punish torture” and “other cruel, inhuman, or degrading treatment or punishment within their jurisdiction” (Article 6). It also requires states parties to guarantee that “any person making an accusation of having been subjected to torture within their jurisdiction shall have the right to an impartial examination of his case,” and that “their respective authorities will proceed properly and immediately to conduct an investigation into the case and to initiate, whenever appropriate, the corresponding criminal process” (Article 8).

<sup>188</sup> Inter-American Court of Human Rights, Velásquez Rodríguez Case, Judgment of July 29, 1988, Inter-Am Ct. H.R., (Ser. C) No. 4 (1988), paras. 166, 174, 176.; Inter-American Court of Human Rights, Loayza Tamayo Case, Judgment of November 27, 1998, Inter-Am Ct. H.R., (Ser. C) No. 33 (1998), para. 169.

Some of the rights enlisted in these treaties include: the right to life,<sup>189</sup> the right to liberty and security of one's person,<sup>190</sup> as well as the right to physical and mental integrity.<sup>191</sup> Honduras also has specific obligations to prevent and punish torture and to ensure that whenever torture occurs there is effective investigation and prosecution and a proper remedy for the victim.<sup>192</sup>

While a state may not be directly responsible for common crimes, the Inter-American Commission on Human Rights (IACHR) has held that states have a “normative core” obligation “demanding the protection of rights particularly vulnerable to criminal or violent acts that citizen security policies are intended to prevent and control,” specifically: “the right to life; the right to physical integrity; the right to personal liberty; the right to due process and the right to peaceful use of property and possessions.”<sup>193</sup>

The state also has a clear duty to seriously investigate common crimes, the IACHR says, and, “This investigation must be carried out, without delay, by all available legal means with the aim of determining the truth and the investigation, prosecution and punishment of the perpetrators.”<sup>194</sup>

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<sup>189</sup> Universal Declaration of Human Rights (UDHR), adopted December 10, 1948, G.A. Res. 217A(III), U.N. Doc. A/810 at 71 (1948), art. 3.; ICCPR art. 6(1).; Convention on the Rights of the Child (CRC), adopted November 20, 1989, G.A. Res. 44/25, annex, 44 U.N. GAOR Supp. (No. 49) at 167, U.N. Doc. A/44/49 (1989), entered into force September 2, 1990, ratified by Honduras on August 10, 1990, art. 6(1).; Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women (Convention of Belém do Pará), adopted June 9, 1994, OAS/ser.L/II.2.27, CIM/doc.33/94, entered into force March 5, ratified by Honduras on July 12, 1995, arts. 3 and 4.; American Declaration of the Rights and Duties of Man (American Declaration), adopted in 1948 by the Ninth International Conference of American States, Bogotá, Colombia art. 1; ACHR, art. 4.

<sup>190</sup> UDHR, arts.3 and 5; ICCPR, arts.7 and 9.; CRC, art. 37; Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture), adopted December 10, 1984, G.A. res. 39/46, annex, 39 U.N. GAOR Supp. (No. 51) at 197, U.N. Doc. A/39/51 (1984), entered into force June 26, 1987, ratified by Honduras on December 5, 1996, arts. 1 and 2; Rome Statute of the International Criminal Court (Rome Statute), U.N. Doc. A/CONF.183/9, July 17, 1998, entered into force July 1, 2002, ratified by Honduras on July 1, 2002, art. 7; Convention on the Rights of Persons with Disabilities, adopted December 13, 2006, G.A. Res. 61/106, U.N. Doc. A/Res/61/106, entered into force on May 3, 2008, Honduras ratified on April 14, 2008 arts. 14 and 15; Inter-American Convention to Prevent and Punish Torture, arts. 1 and 2.; Convention of Belém do Pará, arts. 3 and 4; American Declaration, arts., I, XXV and XXVI).; IACHR, arts. 5 and 7.

<sup>191</sup> UDHR, art. 5; ICCPR, art. 7; ACHR, art. 5. The ACHR also refers to “moral integrity.”

<sup>192</sup> Convention against Torture, arts. 4-6 and 12-14; Honduras signed the Inter-American Convention to Prevent and Punish Torture in 1986 but had not ratified it at this writing.

<sup>193</sup> Inter-American Commission on Human Rights, “Report on Citizen Security and Human Rights,” OEA/Ser.L/V/II. Doc.57, December 31, 2009, <http://www.oas.org/en/iachr/docs/pdf/CitizenSec.pdf> (accessed August 21, 2013), Chapter II-18.

<sup>194</sup> *Ibid.*, Chapter IV-3-45.

In the case of Honduras, the IACHR has noted, “the lack of citizen security is one of the most serious problems affecting Honduran society, a situation that has a profound impact on the protection of human rights.”<sup>195</sup>

The IACHR has noted that it “is also necessary to emphasize the importance of administrative and disciplinary mechanisms of accountability in those cases that may involve a responsibility of police forces for abuse of authority, violence or the disproportionate use of force. (...) Therefore, the proceedings must be handled by independent authorities; any state agents or state agencies directly or indirectly involved in the facts under investigation should abstain from intervening; and victims must have the opportunity to participate in the proceedings.”<sup>196</sup>

The IACHR has also noted that “states violate their obligations to protect and ensure human rights when the system for the administration of justice is not an effective and efficient tool to provide satisfaction to victims of violence and crime.” The Commission has observed that the proper administration of justice is an essential element in ensuring that individuals responsible for violations of the right to life and other rights are identified held responsible and punished.<sup>197</sup>

## Standards on the Use of Force

Force used by law enforcement is considered excessive when it contravenes the principles of absolute necessity or proportionality, as interpreted in the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and the UN Code of Conduct for Law Enforcement Officials.<sup>198</sup> In particular, security forces may only use lethal force where it is absolutely necessary to prevent loss of life and serious injury to themselves or others, provided the force is proportionate to the threat posed.

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<sup>195</sup> Inter-American Commission on Human Rights, “2012 Annual Report,” March 5, 2013, <http://www.oas.org/en/iachr/docs/annual/2012/TOC.asp>.

<sup>196</sup> Inter-American Commission on Human Rights, “Report on Citizen Security and Human Rights,” OEA/Ser.L/V/II. Doc.57, December 31, 2009, <http://www.oas.org/en/iachr/docs/pdf/CitizenSec.pdf> (accessed August 21, 2013), para. 163.

<sup>197</sup> *Ibid.*, para. 165.

<sup>198</sup> UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, August 27 to September 7, 1990, U.N. Doc. A/CONF.144/28/Rev.1 at 112 (1990), arts. 4, 5, 7, 9; United Nations Code of Conduct for Law Enforcement Officials, adopted December 17, 1979, G.A. res. 34/169, annex, 34 U.N. GAOR Supp. (No. 46) at 186, U.N. Doc. A/34/46 (1979), art. 3; U.N. Office of the High Commissioner for Human Rights (OHCHR), “Fact Sheet No. 11 (Rev. 1), Extrajudicial, Summary, or Arbitrary Executions,” <http://www.ohchr.org/Documents/Publications/FactSheet11Rev.1en.pdf> (accessed September 19, 2011).

Extrajudicial killings violate basic human rights—including the rights to life, liberty and security of the person, and a fair trial—as well as the prohibition on torture and cruel, inhuman, and degrading treatment or punishment.<sup>199</sup> Under international law, Honduras has an obligation to criminalize and prevent extrajudicial executions. It is also obligated to ensure that any potential violations are promptly, thoroughly, impartially, and independently investigated, that perpetrators are held accountable for their actions, and that victims and/or relatives are provided fair and adequate compensation. These obligations derive from international human rights law, including treaty-based obligations in the International Covenant on Civil and Political Rights (ICCPR), and the American Convention on Human Rights (ACHR).<sup>200</sup>

## Standards on Forced Evictions

The practice of forced eviction is defined by the UN Committee on Economic, Social and Cultural Rights as “the permanent or temporary removal against their will of individuals, families and/or communities from the homes and/or land which they occupy, without the provision of, and access to, appropriate forms of legal or other protection.”<sup>201</sup> According to international standards, the practice of forced eviction constitutes a gross violation of human rights. These include the rights to adequate housing, freedom of movement, privacy, and equality of treatment.<sup>202</sup> In November 2010, the Inter-American Commission on Human Rights granted precautionary measures for a group of internally-displaced people in Haiti at risk of forced displacement, underscoring the protection against forced eviction under the American Convention.<sup>203</sup>

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<sup>199</sup> UN Human Rights Council, Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Philip Alston, A/HRC/14/24, May 20, 2010, <http://www2.ohchr.org/english/issues/executions/annual.htm> (accessed December 17, 2010). (In particular, see “Killings by Law Enforcement Officials or Other Security Forces.”)

<sup>200</sup> ICCPR; ACHR; Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, Recommended by Economic and Social Council resolution 1989/65 of 24 May 1989, <http://www.ohchr.org/Documents/ProfessionalInterest/executions.pdf> (accessed October 11, 2013).

<sup>201</sup> Committee on Economic, Social and Cultural Rights, General Comment 7, Forced evictions, and the right to adequate housing (Sixteenth session, 1997), U.N. Doc. E/1998/22, annex IV at 113 (1997), reprinted in *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, U.N. Doc. HRI/GEN/1/Rev.6 at 45 (2003).

<sup>202</sup> UN Commission on Human Rights, “Forced Evictions,” Resolution 1993/77, E/CN.4/RES/1993/77; UN Sub-Commission on Promotion and the Protection of Human Rights (formerly Sub-Commission on Prevention of Discrimination and Protection of Minorities), “Prohibition of forced evictions,” Resolution 2003/17, E/CN.4/Sub.2/RES/2003/17; *The practice of Forced Evictions: Comprehensive Human Rights Guidelines on Development- Based Displacement*, adopted by the Expert Seminar on the Practice of Forced Evictions, Geneva, June 11-13, 1997, UN Doc. E/CN.4/Sub.2/1997/7, para. 4.

<sup>203</sup> Inter-American Commission on Human Rights, Press Release: IACHR Expresses Concern Over Situation In Camps For Displaced Persons In Haiti, November 2010, <http://www.cidh.oas.org/Comunicados/English/2010/115-10eng.htm> (accessed October 21, 2013).

Any eviction that is otherwise deemed lawful should be carried out in a manner that does not violate any of the human rights of those evicted.<sup>204</sup> According to the UN Committee on Economic, Social and Cultural Rights, that includes ensuring that “all feasible alternatives are explored with the affected persons, with a view to avoiding, or at least minimizing, the need to use force.” To that end, the Committee recommends:

(a) an opportunity for genuine consultation with those affected; (b) adequate and reasonable notice for all affected persons prior to the scheduled date of eviction; (c) information on the proposed evictions and where applicable, on the alternative purpose for which the land or housing is to be used, to be made available in reasonable time to all those affected; (d) especially where groups of people are involved, government officials or their representatives to be present during an eviction; (e) all persons carrying out the eviction to be properly identified; (f) evictions not to take place in particularly bad weather or at night unless the affected persons consent otherwise; (g) provision of legal remedies; and (h) provision, where possible, of legal aid to persons who are in need of it to seek redress from the courts; that those affected have full access to legal remedies; and, in cases where evictions are considered justified, that authorities provide adequate relocation plans and compensation to those affected, among other guidelines.<sup>205</sup>

## International Human Rights Obligations Related to Businesses

Companies are the subject of a number of international human rights standards. These include international norms that elaborate the respective roles of governments and companies in upholding human rights and avoiding complicity in violations, as well as standards developed to specifically address concerns related to security and human rights.

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<sup>204</sup> UN Commission on Human Rights, “Prohibition of forced evictions,” Resolution 2004/28, E/CN.4/RES/2004/28.;

<sup>205</sup> UN Committee on Economic, Social and Cultural Rights General Comment 7, Forced evictions, and the right to adequate housing (Sixteenth session, 1997), U.N. Doc. E/1998/22, annex IV at 113 (1997), reprinted in *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, U.N. Doc. HRI/GEN/1/Rev.6 at 45 (2003), para. 16, <http://www1.umn.edu/humanrts/gencomm/escgencom7.htm> (accessed October 29, 2013)

## *UN Framework and Guiding Principles*

In 2008, then Special Representative of the UN Secretary-General on Business and Human Rights John Ruggie elaborated the “Protect, Respect and Remedy” framework for business and human rights, which was further supplemented by a set of “Guiding Principles on Business and Human Rights” (Guiding Principles) endorsed by the United National Human Rights Council in 2011.<sup>206</sup> This framework sets out 1) the state duty to *protect* human rights, 2) the corporate responsibility to *respect* human rights, and 3) the need for a *remedy* for victims of business-related human rights abuses.<sup>207</sup>

Governments have a duty to protect against human rights abuses by third parties subject to their jurisdiction, including businesses. Among other elements, this entails ensuring that the government appropriately regulates and monitors the conduct and use of private security firms. When members of security firms violate national laws, it is the government’s responsibility to investigate and prosecute them. The government also has a responsibility to provide an effective legal remedy for the victims, consistent with the third pillar of the UN Framework.

In Honduras, although national law sets out for a framework for regulating and monitoring private security firms, oversight and enforcement has been weak, and remedies have been inadequate, according to the UN working group on the use of mercenaries, which visited Honduras in February 2013. In its 2006 report on Honduras, the working group noted:

The fact of delegating what are normally functions of the State to private entities does not relieve Honduras of its obligation to guarantee security, law and order, the rule of law and respect for human rights, or of its responsibility to uphold the principles of international law.<sup>208</sup>

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<sup>206</sup> UN Human Rights Council, “Report of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises,” John Ruggie, A/HRC/17/31, March 21, 2011, <http://www.business-humanrights.org/media/documents/ruggie/ruggie-guiding-principles-21-mar-2011.pdf> (accessed August 20, 2013).

<sup>207</sup> UN Commission on Human Rights, “Report of the Special Representative of the Secretary-General, Annex, I.A.1,” March 2011, [http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR\\_EN.pdf](http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf) (accessed August 20, 2013).

<sup>208</sup> United Nations Human Rights Council, Report of the working group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination, Addendum MISSION TO HONDURAS, A/HRC/4/42/Add.1, February 20 2007, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/Go7/109/69/PDF/Go710969.pdf?OpenElement> (accessed October 11, 2013).

Companies have human rights responsibilities, too, as reflected in the second pillar of the UN's "Respect, Protect, Remedy" framework. The UN Guiding Principles elaborating on this framework place particular emphasis on the concept of corporate human rights due diligence. This refers to the idea that all businesses should have adequate policies and procedures in place to identify, prevent, mitigate, and account for their impact on human rights. To meet its human rights responsibilities, a company should carefully assess potential human rights risks, monitor the impact of their activities on an ongoing basis, seek to prevent or mitigate harm, and adequately address any adverse human rights impacts it causes or to which it has contributed.

### *Voluntary Principles on Security and Human Rights*

The Voluntary Principles on Security and Human Rights provide a key international benchmark for companies that rely on public or private security for protection.<sup>209</sup> The initiative was founded in 2000 to address serious human rights abuses arising from security arrangements in the oil, gas and mining industry. It is a multi-stakeholder effort that brings together governments, NGOs, and companies around standards requiring companies in the extractive industries to prevent and address abuses by security forces that protect their operations. Although the Voluntary Principles specifically relates to companies in one sector, the underlying principles have become a baseline standard defining how companies in other sectors should deal with the human rights risks posed by their security arrangements.

The Voluntary Principles outline a number of steps companies should take to ensure that their security arrangements are human rights compliant. Its provisions are organized into three categories: risk assessment, relations with public security forces, and relations with private security providers. The principles identify how companies should seek to prevent human rights abuses by security providers, as well as how companies should respond when abuses are credibly alleged to have occurred, including by reporting allegations to authorities and pressing for their resolution.<sup>210</sup>

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<sup>209</sup> The Voluntary Principles on Security and Human Rights, <http://www.voluntaryprinciples.org/>

<sup>210</sup> For example, the Voluntary Principles provide that companies should adequately vet and monitor their private security providers. They also call for the security providers to act lawfully and in keeping with international guidelines, including the UN Principles on the Use of Force and Firearms by Law Enforcement Officials and the UN Code of Conduct for Law Enforcement Officials. Other provisions identify the need, inter alia, for monitoring by the company, investigations of alleged misconduct and imposition of disciplinary measures as well as procedures to report alleged abuses to local law enforcement



## *IFC Performance Standards*

The International Finance Corporation has specific requirements—known as IFC Performance Standards—for how its clients should manage social and environmental risks. IFC Performance Standard 4 defines the obligations of IFC clients in relation to security, community health, and safety.<sup>211</sup> The security provisions are adapted from the Voluntary Principles. According to Standard 4, IFC requires its clients to (among other obligations):

- conduct a risk assessment regarding its security arrangements (whether security personnel are hired as employees or contractors) “guided by the principles of proportionality, good international practices in terms of hiring, rules of conduct, training, equipping and monitoring of such personnel, and applicable law”;
- make reasonable efforts to screen security personnel for past abuses, provide adequate training in the use of force (and, where applicable, firearms) and appropriate conduct toward workers and the local community, and make available a grievance mechanism for community complaints about security arrangements or personnel; and
- investigate any credible allegations of unlawful or abusive acts of security personnel (whether private or public) and, when appropriate, take action or urge appropriate parties to take action to prevent recurrence, as well as report misconduct to government authorities.

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authorities as appropriate. The Voluntary Principles on Security and Human Rights, [http://www.voluntaryprinciples.org/wp-content/uploads/2013/03/voluntary\\_principles\\_english.pdf](http://www.voluntaryprinciples.org/wp-content/uploads/2013/03/voluntary_principles_english.pdf) (accessed September 26, 2013).

<sup>211</sup> IFC, Performance Standards and Guidance Notes - 2006 Edition, at [http://www.ifc.org/wps/wcm/connect/Topics\\_Ext\\_Content/IFC\\_External\\_Corporate\\_Site/IFC+Sustainability/Sustainability+Framework/Sustainability+Framework++2006/Performance+Standards+and+Guidance+Notes/](http://www.ifc.org/wps/wcm/connect/Topics_Ext_Content/IFC_External_Corporate_Site/IFC+Sustainability/Sustainability+Framework/Sustainability+Framework++2006/Performance+Standards+and+Guidance+Notes/) (accessed September 26, 2013). A new edition applies as of 2012.

# Honduran Government Obligations under National Law

## Obligations under National Laws to Respect Human Rights

The Constitution of Honduras affirms that all international treaties signed by Honduras constitute laws of the republic;<sup>212</sup> all rights and obligations set forth in those instruments are considered binding norms.<sup>213</sup>

The Constitution guarantees basic rights including equality before the law,<sup>214</sup> life,<sup>215</sup> personal integrity,<sup>216</sup> liberty,<sup>217</sup> property,<sup>218</sup> and housing.<sup>219</sup>

## Obligation to Investigate and Prosecute Crimes

Under Honduran law, information collected during investigations is required to be kept confidential—including everything from ordering autopsies to gathering testimony to collecting physical evidence—until it is presented to a court by public prosecutors at the end of the initial investigation stage.<sup>220</sup> This legal requirement is interpreted by police, prosecutors, and the Ministry of Justice as prohibiting them entirely from discussing investigations with outside parties, including with the relatives of victims, until charges have been filed against alleged perpetrators.

While some restrictions may be necessary for the integrity of investigations and for the rights of defendants to a fair hearing, the narrow interpretation adopted by authorities in Honduras on access to information during an investigation infringes upon the rights of victims under Honduran law, which guarantees the right of victims to be informed of the

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<sup>212</sup> Constitution of the Republic of Honduras, No. 131 of 1982, [http://www.oas.org/dil/esp/Constitucion\\_de\\_Honduras.pdf](http://www.oas.org/dil/esp/Constitucion_de_Honduras.pdf), art. 16.

<sup>213</sup> As an example to implement the International Covenant of Economic, Social and Cultural Rights, Honduras adopted the Decree No. 961-80; and the Decree No. 64-95 to implement the International Covenant of Civil and Political Rights.

<sup>214</sup> Constitution of the Republic of Honduras, arts. 60-61.

<sup>215</sup> *Ibid.*, art. 65.

<sup>216</sup> *Ibid.*, art.68.

<sup>217</sup> *Ibid.*, art.71.

<sup>218</sup> *Ibid.*, arts. 61, 103.

<sup>219</sup> *Ibid.*, art.178.

<sup>220</sup> Criminal Procedure Code, arts. 275, 278; The Law of the National Police of Honduras, arts. 24 (12), 30.

results of investigations while they are in progress.<sup>221</sup> It is also incompatible with the government’s obligation to provide an effective remedy for victims, which includes the right of relatives to know the fate of their loved ones.<sup>222</sup>

The obligation to investigate and prosecute those responsible for committing criminal acts and abuses derives not only from international treaties but also from national laws, including the Constitution.<sup>223</sup>

Victims can present criminal complaints to the Public Prosecutor’s Office or the National Police.<sup>224</sup> In the latter case, the police are obligated to inform the Public Prosecutor’s Office that information has been received.<sup>225</sup> Any individual who presents a criminal complaint has the right to be given a copy of the act that contains his or her complaint.<sup>226</sup>

However, victims and their families in Bajo Aguán said officials consistently failed to provide them with copies of their complaints, even when they requested them. This failure is a violation of the rights of victims and their families to an effective remedy.

The Public Prosecutor’s Office is in charge of investigations and can bring charges against suspects.<sup>227</sup> Members of the Dirección Nacional de Investigación Criminal (National Criminal Investigation Division, or DNIC) carry out investigative tasks—such as visiting crime scenes and interviewing witnesses—and are required to act in accordance with instructions provided by public prosecutors.<sup>228</sup> Members of the National Police are also compelled to comply with tasks assigned by prosecutors when performing investigative duties.<sup>229</sup>

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<sup>221</sup> Criminal Procedure Code, art. 16.

<sup>222</sup> UN Commission on Human Rights, Updated Set of principles for the protection and promotion of human rights through action to combat impunity, E/CN.4/2005/102/Add.1 , February 8, 2005, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G05/109/00/PDF/G0510900.pdf?OpenElement> (accessed October 11, 2013).

<sup>223</sup> Constitution of the Republic of Honduras, art. 326; Criminal Procedure Code, arts. 8, 272, 273.

<sup>224</sup> Criminal Procedure Code, art. 267.

<sup>225</sup> *Ibid.*, art. 268.

<sup>226</sup> *Ibid.*, art. 270.

<sup>227</sup> *Ibid.*, arts. 25, 26, 92. The Criminal Procedure Code also establishes that “any person” has the right to act as a private plaintiff (*acusador privado*) against, “the officials or public employees that, in the exercise of their duties or while carrying them out, have violated human rights”; art. 96, párr. 3.

<sup>228</sup> *Ibid.*, arts. 279, 280, 283; Law of the National Police of Honduras, No.25 of 2013, <http://www.tsc.gob.hn/biblioteca/index.php/leyes/62-ley-organica-de-la-policia-nacional-de-honduras> (accessed September 18, 2013), arts. 64-65. Art. 283 of the Criminal Procedure Code and art. 35 of the Law of the National Police of Honduras impose the obligation to communicate to the public prosecutors within the next 6 hours of any *notice criminis*.

<sup>229</sup> Criminal Procedure Code, arts. 279, 281; Law of the National Police of Honduras, arts. 24 (10), 62.

If, upon reviewing the evidence, a judge decides that there are still doubts about the participation of the suspect in the crime and there is a possibility that additional evidence could be produced in the future, a provisional dismissal (*sobreseimiento provisional*) is issued, giving public prosecutors up to five years to submit additional evidence.<sup>230</sup>

In cases of violent death, Honduran law requires that authorities identify the body (*levantamiento*) before it can be removed from the crime scene.<sup>231</sup> For that to occur, a public prosecutor and forensic doctor should be present with police to identify the body and undertake a preliminary investigation. Only after the identification has occurred should the body be transferred to a forensic expert for an autopsy.<sup>232</sup> Honduran law also mandates that autopsies be carried out in hospitals,<sup>233</sup> and provides for witness protection when necessary.<sup>234</sup>

In cases where the preliminary investigation fails to specify the cause of death, an autopsy is required to determine the nature of the injuries, the instruments or weapons with which they were inflicted, and the circumstances and cause of death. The results must be in writing.<sup>235</sup> In practice, relatives of homicide victims said they were rarely given copies of autopsies or an explanation of their results by officials. This is a violation of the right to an effective remedy, and the right of relatives to know the fate of their loved ones.

The rights of the accused are set forth in the Code of Criminal Procedure and include the right to remain silent and against self-incrimination.<sup>236</sup> Honduran law requires that witnesses comply with requests to testify in criminal cases.<sup>237</sup>

## Standards on Excessive Use of Force

Excessive use of force is expressly prohibited under Honduran law.<sup>238</sup> The use of force by security forces is legitimate only when “strictly necessary” to fulfill their duties. The use of

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<sup>230</sup> Criminal Procedure Code, art. 295.

<sup>231</sup> *Ibid.*, art. 204.

<sup>232</sup> *Ibid.*

<sup>233</sup> Ley de Autopsia Médica Obligatoria No. 182 de 1984 (Law on Mandatory Medical Autopsies, No. 182 of 1984).

<sup>234</sup> Ley de Protección a Testigos en el Proceso Penal, No.63 de 2007 (Law on Witnesses Protection During the Trial, No. 63 of 2007). In addition to the stipulated in article 237 of the Criminal Procedure Code.

<sup>235</sup> Criminal Procedure Code, art. 205

<sup>236</sup> Criminal Procedure Code, art. 101 (5).

<sup>237</sup> *Ibid.*, art. 176, 226, 348.

firearms by security forces is considered legitimate only: in the context of a “severe, imminent, or rational risk” to the life or personal integrity a police officer, detainee or third party”; in a situation when it is reasonable to presume “a severe threat to public order”; when there is no less dangerous or more efficient way to avoid the commission of another crime; or in self-defense. It should also be proportionate to the risk posed, and aimed at inflicting “the minimal physical and mental injury possible.”<sup>239</sup>

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<sup>238</sup> Law of the National Police of Honduras, arts. 31, 33.

<sup>239</sup> *Ibid.*, art. 31.

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# “There Are No Investigations Here”

## Impunity for Killings and Other Abuses in Bajo Aguán, Honduras

Since 2009, at least 92 people have been killed in violence related to bitter land disputes in the Bajo Aguán region of Honduras. Yet not a single suspect has been convicted for these crimes. Most of the victims have been *campesinos*—small-scale farmers—whose cooperatives and associations have contested land sales to agro-industrial businesses. Security guards employed by private firms on these lands have also been killed.

Human Rights Watch researched the state response to 29 cases of homicides and two abductions believed to be tied to land conflicts, as well as additional cases of torture and excessive use of force attributed by victims to soldiers and police.

*“There Are No Investigations Here”* finds that police and prosecutors failed to take basic steps to investigate these crimes and bring those responsible to justice. The widespread impunity for killings and other abuses, coupled with a near-total lack of transparency surrounding the investigations, has created an atmosphere of fear and deep mistrust in Bajo Aguán.

While the previous administration of President Porfirio Lobo made some efforts to mitigate disputes through mediation and land purchases, its predominant strategy for dealing with the violence in Bajo Aguán was deploying additional security forces and blaming the violence on criminal groups. Meanwhile, the government failed to take preventive steps to protect individuals at risk, even when evidence suggested they might be targeted.

*“There Are No Investigations Here”* recommends that the government of newly elected President Juan Orlando Hernández work together with the Public Prosecutor’s Office to ensure that these crimes are thoroughly investigated and those responsible brought to justice. The government should also improve its monitoring of private security firms and hold accountable those that fail to comply with national laws, such as those requiring up-to-date lists of personnel employed and firearms.



*Rigores, Bajo Aguán, August 15, 2011—  
Funeral of a campesino killed on August 14,  
2011, in an armed confrontation on the  
Paso Aguán plantation.*

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