**Statement by Irene Khan, Special Rapporteur on Freedom of Opinion and Expression**

 **Visit to Honduras, 16-27 October 2023**

**Tegucigalpa, 27 October 2023**

At the invitation of the Government of Honduras I visited the country from 16 to 27 October 2023. In addition to Tegucigalpa, I was in San Pedro Sula, La Ceiba, Jutiapa (Nueva Armenia) and El Progreso.

I would like to thank the Government for the invitation and for its cooperation and support during my stay.

Today, as I end my mission, I would like to share my preliminary findings. A full, written report with detailed recommendations will be submitted to the United Nations Human Rights Council in June 2024.

The purpose of my visit was to examine the state of freedom of opinion and expression in Honduras, identify challenges and opportunities, and make recommendations to the government and other stakeholders.

I met high level representatives of the Executive, including the Minister for Human Rights, the Minister for Security, the Minister in the President’s Secretariat and the Attorney General (PGR) as well as the Vice Ministers for Foreign Affairs, Defence and Women’s Affairs, and senior officials in their Ministries, the Directorate of the National Protection Mechanism in the Human Rights Ministry, the Special Prosecutor for Crimes against Life, the Special Prosecutor for Human Rights and the Special Prosecutor for Human Rights Defenders in the Public Ministry, senior officials from the Press Ministry and Directorate General of Information and the Press, the head of CONATEL and staff from *Canal 8*.

I was received by the President and members of the Supreme Court, and the President of the Congress and the Presidents of the Congressional Commissions on Human Rights, Security and Constitutional Affairs.

I met the National Human Rights Institution (CONADEH) and the Institute for Access to Public Information (IAIP).

I also met with a wide range of civil society actors, including human rights defenders, journalists from established and independent media, social communicators, activists, and members of peasant and indigenous communities from across the country.

I am very grateful to all whom I have met for the time they gave me, the information, analysis and insights they provided, and their patience in answering my numerous questions. The discussions have been frank and substantive. The engagement has been open, warm and constructive.

I have been particularly impressed and humbled by the courage, resilience and commitment of human rights defenders, social activists, independent journalists, and the people in the indigenous communities.

**Let me start by making some overall observations**

Honduras faces complex and deep-rooted human rights problems, going back many years, and marked by high levels of poverty, inequality, corruption and organized crime, marginalization of peasant and indigenous communities, entrenched patriarchal values that impede gender equality and respect for the rights of gender non-conforming individuals, and alarmingly high levels of violence and impunity for crimes against human rights defenders, journalists, social communicators and activists.

Twelve years after the military coup, the election of the current government in 2021, headed by the first woman President of Honduras, identifying with “the resistance on the streets” and promising major political, social and economic reforms, raised high expectations among the people of Honduras that much needed changes would be made to strengthen human rights and the rule of law and promote equality and justice for all.

Among other things, the enhanced cooperation of the government with the international and regional human rights bodies, including the Office of the High Commissioner for Human Rights, the openness of the government to international scrutiny, as shown by its invitations to the Special Procedures of the Human Rights Council, including myself, and the introduction of some positive measures, such as the repeal of the Official Secrets Act, are welcome developments.

At the same time, there is a sense of disappointment among civil society and in indigenous and grass roots communities at the slow pace of reforms, the lack of clear direction on human rights issues and the failure of sustained efforts to promote institutional reforms. There is also growing concern about the mixed messages on human rights coming from some senior officials and a dangerous tendency on their part to attack journalists and label critical reporting as “fake news”. Some government officials have acknowledged candidly that the political environment is highly polarized, eroding trust in the integrity of information and leaving very little space for tolerance of dissent and plurality of views.

The risks to freedom of expression are high in such an environment. I believe it is in the interest of the government of Honduras to take concrete steps to protect and uphold freedom of expression as a vital aspect of its political and development goals. By empowering individuals, communities and civil society, freedom of expression enables inclusive development which this government has prioritized. By encouraging public debate and nurturing media freedom and pluralism, it embeds democracy which this government wishes to advance.

**Now let me highlight six key findings:**

1. **Threats to safety of human rights defenders, journalists and social communicators**

Violence, threats, online attacks, intimidation, criminalization and judicial harassment of human rights defenders, journalists and social communicators remain alarmingly high.

Immediately on my arrival in Tegucigalpa on 16th October, I learnt that the land rights defender, Kevin Meza had been killed the day before during a protest over land ownership in the Bajo Aguán region. Unfortunately, the case of Kevin Meza is not an isolated one.

Throughout the country, human rights defenders, journalists, social communicators and activists are being attacked for their work. The Office of the High Commissioner for Human Rights registered 944 victims of attacks against journalists and human rights defenders between January 2021 and September 2023, including the killing of 36 human rights defenders and 4 journalists.

Honduras has been long known as one of the most dangerous countries in the world for human rights defenders, journalists and social communicators.

Those working on issues related to land, environment, corruption, organized crimes, agrarian and mining conflicts are at high risk of violence, threats and judicial harassment.

I met with members of the Garifuna community who have been targeted, attacked, threatened, stigmatized and criminalized for their struggle for land rights and environmental protection. The continued threats and attacks on the life of the Garifuna community leader, Miriam Miranda is emblematic of the violence faced by this community. The targeting of the Garifuna community radios, including the burning down of a radio station `Faluma Bimetu` in Triunfo de la Cruz, is just one example of the way in which the voices of indigenous communicators are being threatened and silenced.

In this context of heightened risks to indigenous and peasant communities and those who defend their rights or amplify their voices, the failure of the State to investigate and prosecute perpetrators and provide adequate protection is of particular concern, as are the repeated extensions of “states of exception”, introduced in December 2022 granting extensive powers to the security forces and limiting fundamental rights without adequate independent scrutiny.

Digital technology, including online attacks, surveillance of communications and hacking of electronic devices of journalists, has added a new dimension to the existing threats.

Another worrying trend is the use of “smear campaigns,” vicious verbal attacks and accusations of “fake news” as a way of discrediting and delegitimising journalists and making them more vulnerable to threats and attacks.

Public debates on sexual and reproductive health and rights have been particularly heated, with representatives of the LGBTIQ+ community being targeted with online hate and smear campaigns, sometimes encouraged and instigated by political and religious figures.

Women and gender diverse persons, including journalists and social communicators belonging to the LGBTIQ+ community, reported being threatened, attacked, and subjected to gendered threats and misogynistic speech and smear campaigns, offline and online. In a survey conducted by CONADEH in 2022 in 5 different regions, 54 percent of women human rights defenders indicated they had suffered aggression, including rape threats and other forms of gender-based attacks, as a result of their work. The objective was to silence women’s voices.

Among the many testimonies I heard, let me highlight the cases of five of the ten journalists working for *Reportar sin Miedo who* have faced insults, robberies, threats of kidnapping and physical violence and cyber-attacks. They have been targeted by hate speech both for their gender identity and for their work as journalists by senior officials in the city of San Pedro Sula. When they approached the Protection Mechanism and the Public Ministry, they were denied access to justice and proper protection, and received calls from the perpetrators warning them that they and their families would be killed if they proceeded with their complaints.

CONADEH reported registering 107 complaints from displaced journalists or journalists at risk of being displaced as a result of threats and attacks, including attempted homicide, over a period of seven years, and found this year be the one with the most complaints since 2016.

Almost all journalists to whom I spoke, whether in mainstream media, online media outlets, or community radio, male, female or gender diverse, claimed that intimidation has reached such a high level and the measures offered by the Protection Mechanism are so inadequate that they feel compelled to self-censor in order to protect themselves and their families.

1. **Prosecution and protection measures**

Honduras has an elaborate system of Special Prosecutors for Crimes against Life, for Human Rights, and for the Protection of Human Rights Defenders, Journalists, Social Communicators and Justice Operators. Nevertheless, according to the National Commissioner for Human Rights (CONADEH), 96 cases of murder of journalists have been recorded since 2001 but only 8 cases have been investigated and prosecuted. In other words, there is over 90% impunity, which is similar to the overall impunity rates for homicides. The Special Prosecutor for the Protection of Human Rights Defenders have not prosecuted a single case in five years.

I believe these statistics reflect a colossal lack of political will and abject failure of the legal and judicial system.

In 2015, Honduras created a National Protection System for Human Rights Defenders, Journalists, Social Communications and Justice Actors. According to the Directorate of the Mechanism, as of September 2023, a total of 185 cases, comprising 138 human rights defenders, 15 journalists, 16 social communicators, and 16 justice operators are being assisted under the mechanism, (of which 33 cases were referred by the inter-American system).

I received extensive information on the Mechanism from the Directorate of the Protection Mechanism, the Minister of Human Rights and Security and their officials, as well as civil society organizations and at least twenty-five individuals who are receiving, have received or have sought the assistance of the Mechanism.

The Protection Mechanism appears to be insufficiently funded, inadequately staffed, lacks the necessary technical expertise and experience as well as effective coordination, strategic leadership and proper system of accountability.

The individuals and civil society organizations were unanimous in their view that the Mechanism is not working and staffing issues have been poorly managed. Many of the individuals gave concrete examples of long delays in response or no response at all, risk assessments that fail to take into account the context and environment in which the individuals live, work and are endangered, and the absence of gender considerations although many of those seeking support are women or LGBTQI individuals.

Several CONADEH employees applied for protection from the Mechanism because of surveillance and threats but were turned down on the ground that they did not qualify under the Law for the Protection of Human Rights Defenders, Journalists, Social Communicators and Justice Operators.

Repeatedly, I heard from those for whom the Protection Mechanism has been created that they do not trust it because of its heavy reliance on the same law enforcement and security authorities that are often investigating and harassing them.

1. **Access to information**

While some progress has been made in expanding the right to information, much more must be done to make access to information meaningful.

I welcome the repeal of the Official Secrets Act through Decree 12-2022 in March 2022 as a critical measure to promote transparency and public access to information.

The Access to Information Institute informed me about some measures it has taken to modernize the information infrastructure and develop online information portals for the pro-active disclosure of information by government bodies, local authorities and public entities (*Portal Unico de Transparencia* and the *Sistema de Información Electrónico de Honduras (SIELHO)*. I was informed that a total of 12,450 requests for information were made in 2022, and were met with an average compliance rate of 69%.

However, the Institute admitted that important challenges remain in promoting the right to information. For a start, the Institute for Public Access to Information has no presence outside Tegucigalpa, which is a major obstacle for access to information for populations living outside the capital city, and especially those in remote areas where internet connectivity is low.

Furthermore, in my meetings with civil society, I learnt that often information requests are not met in time or are answered with simple referrals to general portals that do not contain the requested information, or the data provided is not accurate or of the required quality. CONADEH complained that it has been denied information by various state institutions despite its legal mandate to request information from any state entity.

An important barrier to accessing information is the digital divide, one of the highest in central America and disproportionately affecting women and girls, as well as indigenous and afro Honduran communities. According to CONADEH only about 46% of the population has access to the internet. I understand that steps are underway by the government to expand internet access, meaningful connectivity and digital literacy.

Another barrier is the absence of information in indigenous languages, despite a recommendation from my predecessor during his visit to Honduras twelve years ago.

1. **Legalization of community media**

Community media, especially community radio, play an important role in Honduras. It is the primary means by which people in rural areas receive information, especially with regard to issues of interest to local communities. It is also an important vehicle for the preservation and development of indigenous languages and culture. However, the telecommunications regulatory authority, CONATEL informed me that of the 815 radio stations operating on the regulated radio frequency spectrum, barely 4% are community radio.

Community media is at risk in multiple ways. Firstly, those working for community radio are exposed to threats and violence, often because of their critical reporting on public issues that threaten powerful political and economic interests. Secondly, community media are often not officially recognized. This means that, generally, they lack legal personality, which impedes funding and advertisement, denies them legal access to radio frequencies and exposes them to aggravated risk of extortion. (Representatives of community media informed me that frequencies are reserved for big corporate media).

I was pleased to note from CONATEL that the allocation of frequencies for community radio is one of its priorities and that a law is being discussed in Congress to allow greater allocation of frequencies to community radio. However, I noted concerns on the side of community radio workers that the requirements of CONATEL could be too onerous for them to fulfil.

**E. Legal reforms to strengthen freedom of expression**

My concerns are three-fold: first to abolish the criminalization of expression, secondly to strengthen the right to information and participation, and thirdly, to ensure that any restrictions of freedom of expression are in line with international human rights law.

I am concerned about the criminalization of freedom of expression through `crimes against honour`, covering slander and libel in the Criminal Code. According to data received from the supreme court of justice, there have been 14 convictions on the basis of the crimes against honor in 2022 and 2023.

In line with recommendations of the Human Rights Committee, I urge Honduras to repeal the crime against honour, as such acts can be handled more effectively under the civil law. I understand that important steps have been taken towards decriminalization but that the proposal has stalled in Congress. I call on all members of Congress to take responsibility and find consensus around the decriminalization of the crimes against honour.

My office stands ready to advise the Government of Honduras in the process of revising national laws to ensure full compliance with international standards for freedom of opinion and expression.

I am also concerned about the use of the crime of **usurpation** to criminalize land rights defenders, peasants and members of the Garifuna community. I note that Article 378, which contains the crime of usurpation, does not contain an `intent` to appropriate land or property. This broad and vague wording allows for abuse of this provision to criminalize those protesting peacefully or expressing their freedom of expression in defence of their land rights and the protection of their livelihoods. It affects indigenous peoples, afro-Hondurans and peasants. I call on the government to revise this provision.

In my thematic report on freedom of expression and sustainable development (A/HRC/53/25) I have underlined the importance of `informed public participation` and the protection of human rights defenders and activists as facilitating sustainable development. I urge Honduras to accede to the Escazu Agreement, which not only strengthens access to information, promotes open, inclusive public participation in all aspects of environmental decision-making, and also specifically protects human rights defenders working on environmental issues.

1. **Concerns about disinformation**

Finally, I want to address the phenomenon of disinformation or the manipulation of false information to cause harm. It has been raised as a matter of concern by both governmental officials as well as journalists and human rights defenders. Both sides consider themselves to be the targets of disinformation campaigns by the other, indicating a lack of trust in a polarized political environment.

Research shows that a good way for governments to counter disinformation is by proactively providing reliable, verifiable information. States have an obligation to provide truthful, factual information. Needless to say, States themselves should not sponsor, encourage or disseminate information that they know to be false. Nor should they label opinion critical of their own policies to be “false” but should address it on its merits. In a democratic society, criticism of public policies and political figures is a legitimate exercise of the right to freedom of expression. It is not disinformation.

Restricting media freedom or criminalizing online speech on grounds of falsity alone is not only contrary to international law but also counterproductive in combating disinformation. Stopping the free flow of diverse sources of information or news creates more distrust and suspicion. Free, independent, diverse and pluralistic media is an important fact-checker.

Finally let me list some preliminary **recommendations**. Firstly, human rights defenders, journalists and social communicators serve a useful purpose in society. They deserve to be valued for the work they do, not attacked and stigmatized. Public officials must refrain from stigmatizing and attacking them in ways that endanger their safety.

Secondly, serious investments must made be in strengthening the capacity and independence of the Special Prosecutors to ensure they can function free of any political interference and deliver their mandate effectively.

Thirdly, a major overhaul of the Protection Mechanism should be undertaken, through a multistakeholder process, involving civil society as well as the State entities and the OHCHR, with a view to strengthening its leadership, coordination and accountability as well as demonstrated political will of all state entities to deliver results for those who need protection.

Fourthly, the Institute on Access to information should be strengthened with additional resources and empowered as an independent state institution with the authority to enforce compliance by all public entities and promote public’s right to information.

Fifth, indigenous languages should be able to use their own language in public institutions to enable their participation and access to information of indigenous communities.

Sixth, the government should take the necessary measures to ensure that community radio has a space in the radio spectrum,an adequate legal framework, and simplified procedures that enable them to operate properly.

Seventh, Congress should prioritize the de-criminalization of crimes of honor and revision of the crime of usurpation to protect the right to freedom of expression and freedom of peaceful assembly

Eighth, Honduras should ratify the Escazú Agreement.

Finally, the government should promote freedom of expression as an enabler of sustainable, equitable development and should not restrict it except in strict conformity with its international and regional obligations.