



Honduras: Serious Irregularities Create Obstacles to Truth and Justice in Berta Cáceres Case

Tegucigalpa, October 25, 2018.- The Legal Observer Mission that is observing the trial for the assassination of human rights defender Berta Cáceres expresses its serious concern about the recent exclusion from the case of the victims' private attorneys. This action compromises the principles of a fair and impartial trial, and is the latest in a series of decisions in the case that create obstacles to access for justice to the victims. The Mission has been observing the trial since August 31.

The victims in the case had been participating in the process through private prosecutors, or victims' attorneys, as permitted by Honduran law. Three groups of private prosecutors—representing Berta Cáceres' son, her daughters and mother, and Gustavo Castro, victim of attempted murder in the same case—had been representing the victims' interests. The victims had filed a request for recusal against the judges based on a criminal complaint accusing them of abuse of authority, concealment, denial and delay of justice and violating the duties of public servants. Among the grounds cited for recusal, the court had rejected the petition by COPINH (the indigenous organization led by Berta Cáceres) to appear as a victim, limited the publicity of the case, and rejected key evidence, in addition to procedural irregularities.

The victims' attorneys had informed the court that they did not attend the opening of the trial on October 19 because an appeal (constitutional challenge) on the request for recusal was still pending, which the attorneys alleged made it illegal for the trial to begin. Despite this, the judges declared that the victims' attorneys had abandoned the case and that going forward, the victims would be represented only by the public prosecutor's office ("Ministerio Público"). The judges issued this ruling without giving any other options or obtaining the victims' consent.

This decision is also troubling because the victims have presented at least two criminal complaints against the public prosecutor's office—most recently just a few hours before the judges declared that they had abandoned the case on October 19 - for abuse of authority, violating the duties of public servants, not complying with judicial orders, and violating the rights of the victims. The victims had also previously denounced the failure to diligently investigate the case and for blocking the victims' access to information and evidence.

The Legal Observer Mission, consisting of national and international organizations and experts in human rights, international law, and criminal law, expresses its concern about the decision by the judges of the First Tribunal to exclude the victims' attorneys. The Mission further expresses concern that the motivation of this decision could be to silence the victims in their legitimate demand for justice. The de facto result of not allowing the victims to have

adequate, independent legal representation is to compromise the rights that victims of serious human rights violations have to due process, discovery of the truth, and effective justice under international standards as developed under articles 8 and 25 of the American Convention on Human Rights.

The request for recusal--and accompanying criminal complaint filed by the victims against the judges for abuse of authority, concealment, denial and delay of justice and violating the duties of public servants—require a deliberate, reasoned, prompt, and appropriate response from the justice system. This response should be consistent with the Inter-American Court of Human Rights decision in Luna López v. Honduras that “the judges who are in charge of directing the proceeding have the duty to direct and channel the judicial proceeding with the aim of not sacrificing justice and due legal process in favor of formalism and impunity,” which otherwise “leads to a violation of the international obligation of the State to prevent and protect human rights and it abridges the right of the victim and the next of kin to know the truth of what happened, for all those responsible to be identified and punished and to obtain the attendant reparations.” (Paragraph 156).

The Mission hopes that the irregularities in the process to date, which have been denounced by the parties, will be legally resolved. We exhort the State to respect the basic standards of due process in order to try and punish the material and intellectual authors of the Cáceres murder and guarantee the victims and all of Honduran society their right to truth, justice, and reparation.

Signed:

- Abogados Sin Fronteras Canadá – Canadá
- Canadian Centre for International Justice – Canadá
- Centro de Asistencia Legal a Pueblos Indígenas (CALPI) – Nicaragua
- Centro de Accion Legal para los Derechos Humanos (CALDH) - Guatemala
- Centro de Investigacion y Promocion de los Derechos Humanos (CIPRODEH) – Honduras
- Centro por la Justicia y el Derecho Internaiconal (CEJIL) – Regional
- Corporación Colectivo de Abogados José Alvear Restrepo (CAJAR) – Colombia
- Comisión Internacional de Juristas – Internacional
- Due Process of Law Foundation - Estados Unidos
- Equipo de Reflexión, Investigación y Comunicación (ERIC) – Honduras
- Federación Internacional de Derechos Humanos (FIDH), en el marco del Observatorio para la Protección de Defensores de Derechos Humanos – Internacional
- Organización Mundial Contra la Tortura (OMCT), en el marco del Observatorio para la Protección de Defensores de Derechos Humanos – Internacional
- Guatemala Human Rights Commission (GHRC-USA) – Estados Unidos
- Impunity Watch – Holanda
- Joseph P. Berra del Promise Institute for Human Rights de UCLA – Estados Unidos
- National Lawyers Guild, International Committee – Estados Unidos
- Observatoire International des Avocats – España/Francia/Italia/París
- Plataforma Internacional Contra la Impunidad – Ginebra

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