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The MACCIH Monitor

Independent Update and Analysis of the OAS
Mission to Support the Fight against
Corruption and Impunity in Honduras

November 1 through December 31, 2017

This publication is intended to provide a regular, independent analysis of the work of MACCIH. It is intended for the use of people who are already familiar with the two-year mandate and general history and work of MACCIH. The Monitor will be available only online, in Spanish and English. Please cite it as “American University Center for Latin American & Latino Studies, The MACCIH Monitor, Issue 2, December 31, 2017.”



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Background and Sources

The Team. *The MACCIH Monitor* is produced by the American University's Center for Latin American & Latino Studies (CLALS), and is part of a project on [Monitoring MACCIH and Anti-Impunity Efforts in Honduras](#), generously funded by Open Society Foundations. It is the product of a team led by Prof. Charles T Call that includes Dr. Hugo Noé Pino; Profs. Fulton Armstrong and Eric Hershberg; and Aída Romero and Alexandra Vranas. The team's researcher in Honduras, Mario Cerna, has provided regular and invaluable inputs to this product. CLALS is grateful to Open Society Foundations for their support of this project and publication.

Sources. This product is based on public sources, including news coverage, tweets, and press conferences, as well as private interviews with key informants inside and outside Honduras. These sources include independent observers, journalists, and academics; government officials of Honduras, the United States of America, and others; Honduras-based and U.S.-based non-governmental organizations, and officials of the OAS and MACCIH.

This is the second issue, and feedback is welcome to call@american.edu or vranas@american.edu. For background information on MACCIH, see [The MACCIH Monitor Issue 1](#).

General Considerations

While the country was seized with election preparations and their aftermath, MACCIH sought to remain focused on its authorized mission. Two of its highest profile cases to date came to public light.

The first case, presented by the Special Fiscal Unit Against Impunity and Corruption (UFECIC, its acronym in Spanish), a unit within the Public Ministry that investigates corruption cases alongside MACCIH, has garnered the most attention during this period. The case, presented two weeks after the presidential elections and three months after UFECIC was created, is known as the "Network of Legislators" (*Red de Diputados*). Initially, UFECIC accused five members of Congress of having taken public funds (L.[8.3 million](#), approximately US\$352,000) that were designated for public works. MACCIH and the judicial authorities engaged in public feuding after MACCIH criticized the judge in



the case for moving too slowly and then refusing to issue arrest warrants for the accused, instead permitting them to voluntarily present themselves to authorities, which they did.

The Mission was criticized over the Network of Legislators case. On the one hand, some NGOs suggested that the Mission should have ensured that indictments in the *Red de Diputados* case occurred before the presidential election. Other sectors, especially the opposition to the current government, have portrayed this action as a distraction, with MACCIH putatively using it to divert attention from the post-election crisis. These reactions came on top of broader criticism of MACCIH for not having made enough headway against corruption to stop the incumbent President from stealing the election.

The second of these cases involved the announcement by the Attorney General's office of charges of misappropriation of funds against the former First Lady, Rosa Elena de Lobo. Mrs. de Lobo allegedly transferred L.12 million from a government bank account to her own personal account six days before her husband's presidential term ended in 2014. Because ex-President Lobo remains an influential figure in the governing party, the news of an investigation into his wife is considered a potential blow against the country's political elite.

MACCIH and the Public Ministry are also formally investigating alleged links between ex-President Lobo, various of his ex -ministers and *Los Cachiros*, a transport group considered to be one of the most important drug trafficking organizations in the country. In addition, on November 19, Univision ran a story on the links between *Los Cachiros* and high-level politicians, specifically Antonio "Tony" Hernández, President Juan Orlando Hernández's brother. This Univision report, which captured the attention of those who follow narco-politics in Honduras, had little coverage in the local media outlets.

Despite progress in key cases, MACCIH continues to face a public impression that it has not had sufficient impact. During the electoral period, it kept its distance from the OAS Electoral Observer Mission, which may have enhanced the perception of independence of MACCIH from the vicissitudes of the controversial election, especially once the Secretary General called for a second round but was undercut by Member States that recognized the decision of the TSE in favor of Juan Orlando Hernández's reelection. Some see Juan Jiménez Mayor as too active on [social media](#) and the Mission as too slow on tangible progress on high-impact cases. However, civil society leaders still expressed to CLALS researchers support for Jiménez Mayor and his generally sincere efforts to advance cases, and several NGOs met with the Mission in December to urge MACCIH to investigate corruption in the election itself.

In addition, MACCIH's internal tensions received attention. News media suggested that the November departure of Jan-Michael Simon from the Mission would "weaken" it. Simon had been Senior Adviser to MACCIH spokesman Juan Jiménez Mayor, and had helped design MACCIH drawing on his experience with Guatemala's CICIG.



Monitoring Specific Areas of MACCIH's Mandate

1. High-Impact Prosecutions and Convictions

The popular impression of MACCIH, especially among the political opposition, remains one of skepticism, principally because Hondurans want to see more high-impact prosecutions come to fruition. Since many Hondurans believe that top politicians, including President Juan Orlando Hernández, remain corrupt and above the law, the Mission's failure to make a dent in his ability to obtain a second term emblemizes MACCIH's limited impact. A [poll](#) released on January 16 (after this report period) showed that 78% of those interviewed thought MACCIH had done a "poor" job, while only 12% reported a "good" job.

At the same time some important investigations sparked increased interest and hope for the Mission during this period. The UFECIC has quickly come up to speed since its creation in October 2017. As of mid-December, the unit was investigating nine cases. Some of the most important cases are analyzed here.

The "Network of Legislators" Case.

The most discussed and important case announced by UFECIC was its first case to be sent to a judge—the "Network of Legislators" case. The indictment accused five congressmen of having received L.8.3 million in public funds meant for social projects, channeled through an NGO called the National Association of Producers and Industrials in Neighborhoods (ANPIBCH, its acronym in Spanish).

The accused congressmen are: Héctor Enrique Padilla Hernández, Audelia Rodríguez Rodríguez, and Augusto Domingo Cruz Asencio of the political party *Vamos*; Dennys Antonio Sánchez Fernández of the Liberal Party; and Eleázar Alexander Juárez Saravia of the *Libre* Party. None of the accused were re-elected for the upcoming term, but Cruz Asencio [was elected](#) to the Central American Parliament. Staff members of ANPIBCH have also been accused in this case: Jeremías Castro Andrade, ANPIBCH's treasurer; José Napoleón Panchamé Banegas, the executive director of ANPIBCH and Geovanny Castellanos Deras, operations coordinator, informed [La Tribuna](#).

The case encountered a hiccup when the judge assigned to the case, [Alma Consuelo Guzmán García](#), let the accused voluntarily appear before the court, rather than ordering their immediate arrest to prevent their flight and thus signaling that legislators are not above the law. This decision led to tensions between MACCIH and the Supreme Court of Justice (CSJ, its initials in Spanish). Juan Jiménez Mayor, the spokesman for MACCIH, used his Twitter account [to question the delay](#) of the CSJ on issuing arrest warrants for the accused, and in response, the CSJ emitted a statement [condemning](#) any sort of external pressures on its institution. Not one to remain silent, Juan Jiménez Mayor sought to remind the population at large that both MACCIH and the Public Ministry are prosecutors, and so cannot remain [neutral](#) in cases of corruption.



This case could be a glimpse into a well-established network of bribery used to influence the way Congress votes. According to *El Heraldo*, at least [100 additional congressmen and congresswomen](#) are being investigated for questionable practices. An editorial column in this same newspaper said this will be a [litmus](#) test for MACCIH and UFECIC.

The case threatens to open up the Congress to greater scrutiny, particularly since it is bringing to light the ease of channeling social project funds into personal accounts. One legislator admitted that in the Honduran Congress, “[consciencas](#)” are easily bought: through gifts, funds, travel and per diem, and other types of royalties. The case raised fears that the Congress now will be more inclined to use its powers to name a new Attorney General who will curb further investigations of themselves. Juan Jiménez Mayor denounced that there are rumors about Congress trying to meddle in the Public Ministry, rumors to which he stated “[if you mess with Attorney General Chinchilla, you are messing with the MACCIH.](#)” And in a gesture seen as signaling support for the Attorney General, the Chargé d’Affaires of the U.S. Embassy in Honduras, Heide Fulton, said in her [Twitter](#) account that the strong partnership between MACCIH and the Public Ministry is paying off.

The Rosa Elena de Lobo Case

The Rosa de Lobo case came to light in early November after the non-governmental National Anticorruption Council (CNA) announced that, six days before the end of the presidential term of Porfirio Lobo in 2014, an official had transferred L.12 million into her own account from government accounts originating in the executive branch and Congress. MACCIH’s spokesman, Juan Jiménez Mayor, said that the case would be handed over to the UFECIC, and said that this announcement was “[extremely serious](#)” and “demanded a thorough investigation.” After the CNA initiated the investigation and brought it to the Attorney General’s office for official investigation and prosecution, the Attorney General’s office then passed it along to the UFECIC, citing the high impact of the case.

Ex-President Lobo and others called for CNA or the Attorney General’s office to release the name of the official, while others, including the NGO Asociación para una Sociedad más Justa ([ASJ](#)) justified suppression of the name based on “strategic” considerations. The identity of Rosa Elena de Lobo was only released after the elections, raising questions about whether there were political motives behind the suppression of the name.

The Public Ministry, through UFECIC, confirmed that one of Rosa de Lobo’s bank accounts was frozen, and they also confirmed the beginning of an investigation of L.100 million assigned to her office when she was First Lady, in 2013. Rosa de Lobo denied having pocketed public funds. This case is considered an important test of the ability of the justice system to hold to account someone not just from the nation’s top political elite, but someone with ties to the National Party that now controls all branches of government.



Los Cachiros Case

Since April 2017, MACCIH has been investigating politicians linked to drug trafficking, and the Mission recently handed UFECIC the case known as “*Los Cachiros*.” According to a Univision report on November 19, 2017, there is evidence of links between Honduran ex-president [Porfirio Lobo Sosa](#) (2010-2014) and some of his former government officials with the criminal group *Los Cachiros*.

HRN Radio noted, a day after Univision report came out, that the people signaled by *Los Cachiros* are Oscar Álvarez, former Security Minister, and Colón Congressman Óscar Nájera, both of the National Party. Members of the Liberal Party have also been mentioned in these circles, specifically Olancho Congressman Fredy Renán Nájera, and candidate for Congress from Colón, Midence Oquelí, among others.

Univision also published a report in which an ex-captain of the Armed Forces, Santos Rodríguez, pointed out that a 2014 confiscated helicopter, which was believed to be used for drug trafficking, was linked to [Antonio “Tony” Hernández](#), brother of current Honduran President Juan Orlando Hernández. Tony Hernández traveled to United States in [October of 2017](#), seemingly to meet with U.S. government authorities. He has been declared a person “[of interest](#)” by the U.S. government, according to InSight Crime. Santos Rodríguez was also been mentioned by the U.S. Embassy in Honduras in [October 2016](#), as an individual who was being investigated for corruption and drug trafficking.

Other cases.

A number of other investigations of corruption also unfolded during this two-month period, some unrelated to MACCIH. The Tribunal Superior de Cuentas (TSC), the public accounting and auditing authority, stated that 16 former government officials are being investigated for different alleged crimes. These investigations would include, according to [Confidencial.hn](#), ex-presidents Manuel Zelaya Rosales (2006-2009) and Porfirio Lobo Sosa (2010-2014).

UFECIC has received documentation linking to 420 cases of splitting of contracts to keep the quantity under a maximum allowed per contractor. These [420 contracts](#) have been awarded by high-ranking officials in the Family Assignment Program (PRAF, its acronym in Spanish) to three companies. The case was handed over to the Public Ministry after investigation by the National Anticorruption Council.

The Court of Appeals authorized a trial for Delmy López, a magistrate of the civil courts, who colluded with former official Teodoro Bonilla to benefit their family members, according to [Confidencial.hn](#).

Benjamín Bográn, ex director of the Honduran Council for Private Enterprises, and member of the board of directors of the Honduran Institute for Social Security (IHSS), will be on trial in the Second Courtroom of the Sentencing Tribunal on May 28, 2018. ([Confidencial.hn](#)). Bográn has been accused of receiving bribes to approve IHSS’s contracts to benefit the Multiple Service Company, COSEM.



2. Institutional Strengthening

The first announcement of investigations by the Public Ministry's new UFECIC, and its first case to be presented to a judge, marked an important advance in the ability of MACCIH to catalyze high-impact prosecutions for corruption.

In the face of the TSE affirming the reelection of President Juan Orlando Hernández and of the National Party's gaining a majority of congressional seats, all three branches of government will remain in the hands of the governing party for the next four years. Given this political context, observers turned new attention to the election by Congress of the next Attorney General. Óscar Chinchilla was named Attorney General by the National Congress on August 31, 2013, for a period of [five years](#). MACCIH's success and progress depends heavily on the Public Ministry's actions and willingness to undertake actions. So far, Attorney General Chinchilla has cooperated significantly with the Mission.

The election of the new Attorney General (and deputy Attorney General) will lie in the hands of the new Congress, now that President Hernández's new administration (2018-2022) has taken over. Some sectors expressed concerns to CLALS that the Attorney General could be replaced before his term is up in August 2018, putting in danger the sound working relationship with MACCIH. Because MACCIH cannot investigate cases independently of the Public Ministry, its success rests largely on the Public Ministry's performance. "Honduras deserves a '[strong and solid](#)' Public Ministry," said Chinchilla.

Other Honduran investigations, aside from those undertaken by UFECIC, have also proceeded against corruption. The National Jurisdiction of Criminal Courts in Matters of Corruption had their initial hearing for nine individuals involved in the embezzlement of millions of lempiras from the pension system of the Association of Lawyers in Honduras, informed [La Prensa](#). Some estimated the embezzlement might surpass [L.500 million](#). A [public prosecutor](#) has also been arrested due to this scandal.

In addition, the Public Ministry presented [178 investigative agents](#) who will be assigned to the Criminal Investigation Technical Agency (ATIC) and to the Direction for Fighting Drug Trafficking (DLCN). Juan Jiménez Mayor was named the "[godfather](#)" of the graduating class.

3. Propose Reforms to the Justice System

No developments to report during this period.

4. Campaign Financing Reform

In retrospect, the focus of MACCIH's electoral work on campaign finance—and the "Clean Politics" law that it helped push through the Congress in 2016—were too narrow to address the deficiencies of



the country's electoral system. Campaign finance reforms failed to confront serious issues such as broad questioning of the quality of the election, widespread belief that the election was stolen by the National Party, and serious questions about the integrity of the Supreme Electoral Tribunal (TSE) and the performance of the firm hired to manage the vote tabulation process.

Nevertheless, there were some campaign finance reform gains. The Clean Politics Unit, which reports to the TSE, has for many months worked to both monitor compliance with the law's requirements and enforce its sanctions.

The campaign finance law shifted reporting requirement from the parties' reporting on the overall income and expenses to the candidates, who had to open a separate bank account and report individually on their campaign income and expenses after the election, keeping them below a specified ceiling. Most observers informally concur that there were notably fewer campaign ads in this electoral cycle than the 2013 cycle. In addition, data confirmed one important indicator of the law's success: fewer campaign ads in the general election than during the primary elections earlier in 2017. Commissioner Aguirre cited media outlets reporting that the political campaign expenses of the general elections were much less—up to 75% according to another Commissioner—than the expenses of the earlier internal (within-party) races. He offered as an example a television channel that billed [L.40 million](#) in advertising in the internal elections, but only L.10 million in the general election. He also cited one radio station that was paid L.3 million in the internal elections, but only L.1 million in the general elections.

The Clean Politics Unit stated in early November that [95-98%](#) of the candidates at the legislative and mayoral level of the three main party coalitions—the National Party, the Liberals and the Opposition Alliance—had fulfilled the requirement to establish a separate bank account for campaign income and expenses. The Unit estimated that those required to do so numbered around 1,850. *[Note: In an interview with CLALS on December 18, the MACCIH Political-Electoral Finance Unit reported that, out of some 30,000 candidates, most (such as vice-mayoral, aldermen, and substitute congressional candidates) were not obliged to open bank accounts, leaving some 3,600 candidates in the pool of those who should open accounts. Of these, candidates who did not actually have campaign expenses (such as candidates way down the congressional slate who had little hope of election) did not have to open accounts].*

One of the most important mechanisms for accountability for campaign finance introduced by the new law was a post-campaign report detailing all income and expenses of each candidate's campaign. This was the first election requiring individual candidates, rather than the parties, to submit such reporting. Initially due December 11, the Clean Politics Unit decided to extend this deadline due to the prolonged controversy over the presidential election outcome, which occupied the parties. An initial postponement to December 21 was eventually extended to January 15, and a full compliance report is pending.

Unit Commissioner Kelvin Aguirre announced that the Unit had called ten candidates to render accounts based on complaints, including unlawful fundraising and failure to file required reports. Aguirre noted in [La Prensa](#) that during the final campaigning blackout period, the Unit was not able to



monitor any potential campaign activities that took place on social media. The Clean Politics unit is also investigating 40 mayors who have been asked to explain irregularities or inconsistencies in the administration of their offices.

Despite positive reporting on the new Clean Politics Law (see, for example, the Spanish [periódico.com](#) and the Nicaraguan [Nuevo Diario](#)), others criticized the law. In a piece called “[JOH and the Reelection Arms](#),” Javier Suazo criticized MACCIH for its inability to advance the process of cleaning up the country’s institutions. He also scored the Clean Politics Law for not requiring information about the sources of the funds for political campaigns, which could include narco-money. In an [editorial](#) called “Shadows over the Electoral Process,” *El Heraldo* cited the case of mayoral candidate for El Paraíso, Geffry Darío Guzmán, who was recently detained in response to an extradition request from the U.S., to ask: “How many candidates made a joke out of the oversight of the Unit created to impede dirty money entering campaign finance?”

5. Public Security Reforms

Most of the advances on public security in 2017 were not driven by MACCIH but principally by a Special Commission for the Purge and Transformation of the National Police. That Commission expressed regret that the opposition candidate Salvador Nasralla indicated that he would, if President, restore to their positions many of those police officers expelled by the Commission’s purge process ([La Prensa](#)). The Commission has purged 4,445 police officers, for various reasons, including violations of the law and of regulation, since its inception in April 2016 ([complete statement here](#)). There remains no report detailing how many cases of purged officers have been referred to the Public Ministry for prosecution.

The former Rector of the National Autonomous University of Honduras, Julieta Castellanos—seen as an ally of President Hernandez—said she was disappointed that Nasralla had introduced the police purge as a [political issue](#). Seeking “to continue and not to [politicize](#)” the process of the Purge Commission, Luis Larach, the President of Consejo Hondureño de la Empresa Privada (COHEP), echoed the desire in some quarters to continue the Commission’s mandate, which expires in late January.

Commission member Omar Rivera [dismissed](#) the notion that the police officers who initiated a labor strike during post-electoral violence would be purged, since they [returned](#) to work after several hours of negotiations.

6. Accountability

One of the novelties of the government’s agreement with the OAS creating MACCIH was the creation of an observatory to monitor and assess progress of the criminal justice system. MACCIH staff members to support this line of work arrived in the first half of 2016, but the Criminal Justice



Observatory has been slow to get off the ground. Finally, on November 16, the Criminal Justice Observatory of MACCIH convened an assembly of over 40 civil society organizations to approve the statutes and elect a leadership team. The meeting did not result in an agreement on these items, as some sectors were unrepresented. However, those present elected a [transitional commission](#) to receive suggestions on the Observatory's documents and plan for a fuller assembly. That assembly, initially slated for December 6, was postponed due to the election controversy.

7. Relevant Miscellanea

Recently, MACCIH had a meeting with representatives of donor countries and international development cooperation agencies in Honduras, to inform them of the Mission's progress and achievements during 2017 and lay out their plans for 2018. In this meeting, the international donors expressed their total support for MACCIH and its mission ([Criterio.hn](#)).

[Forbes](#) magazine published an article on a recent trend in the Americas: some countries are analyzing the formula applied by the OAS to establish MACCIH in Honduras and are aiming to establish similar missions to aid the fight against corruption in their public institutions. The article does not mention the countries analyzing this possibility, but does detail the legal framework MACCIH has created as one of the main reasons there have been achievements in these last 18 months in Honduras.

Juan Jiménez Mayor, while visiting Mexico, stated that the Odebrecht case which spans several countries in Latin America is a great "challenge" to the Latin American anticorruption systems, according to a report from [Debate.com.mx](#).

According to [Confidencial.hn](#), Darío Cardona Valle, who is accused of improperly granting the environmental license for the hydro-electric project Agua Zarca, had his pre-trial detention extended for six months by the Judicial Branch.

José Ugaz, former president of Transparency International, noted that Latin America is exporting interesting corruption fighting models, and mentioned MACCIH, comparing it to Guatemala's CICIG model, but with lesser faculties, reported [El Diario](#) of Spain.