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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

January 1 through February 28, 2018

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 3, March 22, 2018.”



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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 third issue, and feedback is welcome to call@american.edu or vranas@american.edu. For background information on MACCIH, see [The MACCIH Monitor Issue 1](#) and [The MACCIH Monitor Issue 2](#).

General Considerations

This period was marked by the most significant turbulence yet to confront the Mission, as Juan Jiménez Mayor, MACCIH's spokesperson and special representative of the Secretary General of the OAS, resigned. Lead prosecutor Julio César Arbizu and Chilean judge Daniel Urrutia also resigned from MACCIH. Jiménez Mayor published an open letter of resignation on Twitter on [February 15](#), in which he described some of the obstacles presented by the Honduran government in conducting their investigations, but focused most of his five-page letter on the lack of support by the Secretary General of the OAS, Luis Almagro Lemes. In a letter to Honduran President Juan Orlando Hernández the day before, Almagro had said that "despite having had the resources and full freedom of action of the



Secretary General,” MACCIH had “not been able to deliver the results that we and the Honduran people desired in investigations and in prosecutions for cases of corruption.” In his resignation letter, Jiménez Mayor complained that the OAS Secretary had delayed hiring actions, had employed almost 25% of the Mission posts in Washington, withheld budgetary information, and undercut his leadership of the Mission. Almagro accepted Jiménez Mayor’s resignation, and appointed Ana María Calderón Boy as [interim spokesperson](#) for MACCIH. He then countered Jiménez Mayor’s claims. A striking back and forth ensued that diminished the respectability and credibility of the OAS and of Almagro himself, given that Jiménez Mayor presented emails that contradicted Almagro’s claims. Civil society organizations in the United States called for a meeting with the Secretary General to express their concern for MACCIH and request the new leader of MACCIH have more authority and support. The State Department also requested that Jiménez Mayor’s replacement have greater authority and autonomy.

In Honduras, expressions of [public support](#) for MACCIH and particularly, for Jiménez Mayor, came pouring in, even from previously harsh critics. [Asociación para una Sociedad Más Justa](#) (ASJ); [Pierre Christian Soccoja](#), French Ambassador to Honduras; Alessandro Palmero, European Union Ambassador to Honduras; [CNA](#); the [Liberal Party](#); the Federation of NGO’s for the Development of Honduras; the COHEP (*Consejo Hondureño de la Empresa Privada* ([Honduran Council for the Private Enterprise](#))); the [Honduran Medical Association](#); the Social Forum for External Debt and Development of Honduras ([FOSDEH](#)); the [Honduran Lawyers Association](#); and even President Juan Orlando Hernández requested Jiménez Mayor stay with MACCIH, and expressed their support for his work. After his resignation, Jiménez Mayor declared: “Great things are coming for MACCIH” and asked Honduran citizens to not abandon MACCIH.

The Honduran traditional media outlets focused more on Jiménez Mayor’s reproaches of the OAS than on his critical stance of the Honduran government. Newer outlets emphasized the obstacles put up by the Honduran government, such as the modifications to Congress’ budget law; the pushback from certain officials on MACCIH’s supposed intrusion on the sovereignty of the country; attacks and investigations of Jiménez Mayor; the fact that the *Ley de Colaboración Eficaz* has yet to be approved; and the reduction of the length of corruption sentences. It is interesting to note the differences in what the media considered noteworthy.

The OAS now faces the challenge of naming a new leader of MACCIH who fulfills the public and the international community’s expectations and is genuinely interested in fighting corruption and impunity, and might have to do so without full OAS support. The OAS depends on the Member States, some of whom fear initiatives like MACCIH in their own countries. In his letter criticizing MACCIH, Almagro indicated he had asked former Guatemalan President Álvaro Colom to mediate a dialogue on political-electoral reforms in Honduras. However, the announcement by CICIG and Guatemala’s Public Ministry that Colom is being indicted for corruption put a hold on that role. Subsequently, the UN moved to the center of efforts to broker a dialogue related to the disputed elections.

Contrasting developments occurred regarding two of MACCIH’s highest profile investigations in this period. First, the “*Red de Diputados*” case suffered a serious setback. In December, MACCIH and the



Public Ministry announced the indictment of five outgoing members of Congress for misappropriation of funds. Jiménez Mayor later suggested that 60 and then up to 140 legislators were under investigation. Shortly after the investigation was announced, Congress approved reforms to its articles 16 and 131-A of the Budget Law. They put a hold on MACCIH from providing support to the Public Ministry in the *Red de Diputados* case, authorizing an audit of the use of public funds by the *Tribunal Superior de Cuentas* (TSC), a government agency which will conduct an audit of funds congressmen and congresswomen have received from 2006 to the present. This audit may take up to three years, and during this period, no administrative, civil, or penal action shall be undertaken. All the related documents to the audit will be seized by TSC and will remain in their custody.

The judge overseeing the *Red de Diputados* case cited this law as her reason for postponing the trial and releasing the five arrested congresspersons. Ruling party stalwarts dominate the TSC, appointed by Congress in a process that MACCIH objected to in its first year. U.S. Charge D'affaires Heide Fulton said via Twitter that this reform constituted a "[monumental revers\[al\]](#)" in the fight against corruption. Government representatives of Canada and the United Kingdom joined the U.S. petition to overturn these [reforms](#). In addition, it was revealed (and publicized by Jiménez Mayor) that a key paragraph had not been approved by Congress but was added by the "style" committee prior to being published in the official newspaper *La Gaceta*, something the Public Ministry is investigating.

In a positive development, Rosa Elena de Lobo, First Lady of Porfirio Lobo's Administration (2010-14), was arrested on February as a result of investigations by the National Anti-Corruption Council (CNA), UFECIC, and MACCIH. The case has been dubbed "*La Caja Chica de la Dama*" (The Lady's Petty Cash), given the casual and personal way public funds were being treated by the officials involved, possibly up to nine. Officials clarified that the modifications to the Budget Law would not interfere with this investigation or that of IHSS ex-director Mario Zelaya in the high-profile Social Security Institute case. Because of her high status, the arrest of Rosa Elena de Lobo has generated hope in Honduran citizens that high profile former and current government officials can be imprisoned for corruption.

MACCIH's fate was tied to the broader sense of political crisis in Honduras after the controversial elections of November. Internally, a broad sense of lack of legitimacy of the president's reelection is widespread, with observers telling CLALS researchers that the most popular position in the country is "*Fuera JOH*" ("Out with Juan Orlando Hernández"). The *Alianza de Oposición contra la Dictadura* (Opposition Alliance against the Dictatorship) mobilized a multitude of street protests, which led to acts of repression from the military police and the military forces in Honduras. More than thirty Honduran civilians have been killed. The Honduran government called for a dialogue to restore the peace, to which the opposition only haltingly agreed, insisting that any dialogue be mediated by an international organization like the [United Nations](#). The UN responded by sending an exploratory mission at the beginning of February, and in the final week of February the mission delivered a report which provides suggestions for improving human rights conditions, political reforms, and the [rule of law](#). Given the governing National Party's control now over the executive, the judiciary, and the legislature, some analysts see MACCIH serving as a key independent source of accountability, at least concerning the corrupt abuse of power.



However, the future impact of MACCIH will depend greatly on who is named as successor, and what powers that person holds. Currently the haste to name the Mission's successor is being balanced by the demands by donors and civil society to see the successor of Jiménez Mayor truly be the leader of the Mission, with control over hiring and the budget. Ensuring that crucial change should be done before a successor is named.

Monitoring Specific Areas of MACCIH's Mandate

1. High-Impact Prosecutions and Convictions

MACCIH then-Spokesman Jiménez Mayor indicated to CLALS researchers that MACCIH was jointly investigating with UFECIC nine high-impact cases as of mid-December 2017. Following the resignation of Jiménez Mayor, MACCIH and UFECIC indicated they were continuing with their work, including possibly opening new investigations. As noted above, there was an arrest in the Rosa de Lobo case. We address the most advanced of those cases, generally where indictments have been issued (*casos judicializados*).

The Rosa de Lobo Case.

One of MACCIH's highest profile cases to date, "[La Caja Chica de la Dama](#)" (The Lady's Petty Cash), involves former First Lady Rosa Elena de Lobo, wife of ex-president Porfirio Lobo Sosa, who was arrested and incarcerated on February 28, 2018. Rosa de Lobo is being accused of embezzlement of public funds, money laundering, and illicit association, which she supposedly committed during her husband's administration (2010-2014), an even up to a year afterwards.

Rosa Elena de Lobo's was arrested by the Military Police, the ATIC (*Agencia Técnica de Investigación Criminal*), and UFECIC (Special Prosecutor Unit for investigating Corruption and Impunity). The arrest has been reported by international media, such as the [Associated Press](#), [New York Times](#), [EFE](#), and [InSight Crime](#). She is currently being held at [CEFAS](#) (*Centro Femenino de Adaptación Social*), in what some have termed a VIP suite.

Although the case was initially undertaken by CNA, UFECIC continued with the investigation of embezzlement charges with MACCIH support. Rosa de Lobo is being charged with having withdrawn [L.16 million](#) (approximately USD\$680,000) from the Office of the First Lady and depositing them in her personal bank account. She is accused of appropriating L.6.9 million (approximately USD\$250,000) destined for the purchase of shoes and school uniforms for children.

Porfirio Lobo's son, Fabio Lobo, was sentenced by a court in New York last September for [drug trafficking](#) and associating with the criminal band "*Los Cachiros*." Lobo Sosa himself is being investigated by MACCIH for his association with "*Los Cachiros*," and has publicly stated he is not afraid of MACCIH's investigations.



Ana María Calderón Boy, interim spokesperson for MACCIH, gave a press conference on the same day of Rosa de Lobo's arrest, explaining the motives behind the arrest. Calderón Boy spoke about a [laundering network](#) created by Rosa de Lobo and associates for draining public funds. This network involves nine others (three of them already accused, including Rosa de Lobo) who embezzled funds during 2011-2015. All of them cashed at least 70 checks (45 of them were cashed after the First Lady left office) by falsifying contracts to give the appearance of legality. MACCIH's press conference also revealed the former First Lady opened a bank account at [Banco Ficohsa](#) in her name, and on that same day deposited a L.12 million check made out to the Community Development Unit of the Office of the First Lady (UDECO, *Unidad de Desarrollo Comunitario del Despacho de la Primera Dama*). Calderón Boy [noted](#) that this is the first case that has been undertaken by the new anti-corruption jurisdiction designed by MACCIH last fall.

Before leaving Honduras on February 24, Juan Jiménez Mayor stated: "MACCIH has cases that will [surprise Honduras](#)." Once Rosa de Lobo's arrest became public, MACCIH's former spokesperson tweeted from his native Peru saying the action was "[important gain](#)" of the MACCIH and UFECIC, exposing corruption at its highest levels.

The former First Lady's arrest has been lauded by many as evidence of a true will to attack corruption, as can be seen in the declarations given by the [Gobierno de la República](#) and the [Consejo Nacional Anticorrupción](#).

The Network of Legislators Case

As described above, MACCIH and the Public Ministry's authority to investigate corruption by members of the Congress was limited by the prior Congress advancing their own impunity by amending the budget law to send such investigations to the *Tribunal Superior de Cuentas* (TSC). Legislators of all the main parties supported the amendment. Despite the clamor generated by the international community and the national press for this appalling gesture of self-protection for corrupt behavior, the newly elected Congress has not reversed the law. The initial hearing for the eight accused in the "*Red de Diputados*" case was delayed by the judge until the congressional amendment passed and she then set the accused free. This is seen as a harsh [blow](#) for MACCIH and suggests that there is a limit to MACCIH's ability in attacking corruption effectively.

Porfirio Lobo and the National Party

According to [Insight Crime](#), and a report published by *El País* on February 5, MACCIH has evidence linking former president Porfirio Lobo and officials of the National Party to business transactions with "*Los Cachiros*," which allowed the drug group to conduct business with the State in hydroelectric projects.

"Impunity Pact" in the published version of the Budget Law



A so-called “Impunity Pact” that mysteriously appeared in the published version of the Budget Law that Congress approved on January 18 – if not reversed – represents a major setback for MACCIH and other anti-corruption activities. The one-paragraph amendment postpones any investigation of Congress until after the TSC completes an audit. The reform states that the TSC will audit the funds received by Congress and can take up to three years to complete said audit.

The audit retroactively covers the past three congressional sessions (2006-2010, 2010-2014, and 2014-2018). This change is broadly perceived as a political maneuver and response by Congress to the “Legislators Network” (“*Red de Diputados*”) case presented by UFECIC and MACCIH against five congressmen and women for embezzlement of public funds. The ATIC and UFECIC have [seized](#) documents at the National Graphic Arts Company (in charge of editing and publishing the Official Journal *La Gaceta*, where all laws and reforms that have been approved by Congress must be published) to ascertain who might be [responsible](#).

The TSC received the first report of fund liquidation from the Department Fund between the years of 2012 and 2017, and this report will be analyzed in the first audit report, according to [La Prensa](#). The TSC granted a [30 day period](#) to all congressmen and women to justify their expenditures of their Department Funds. The TSC also announced the creation of a special unit to audit all congressmen and women, approximately [750](#) according to official numbers, who received funds in the years the reforms to the Budget Law stipulated.

In an interview with [El País](#) of Spain, Jiménez Mayor, as spokesperson for MACCIH, said the “Legislators Network” could encompass as many as 140 congressmen and women. MACCIH also announced the creation of [an anti-impunity block](#) with civil society organizations.

[ASJ](#), the [CNA](#), and the [Public Ministry](#) presented unconstitutionality appeals against the amendments to the Budget Law. The Supreme Court dismissed the first two appeals, leaving only that of the Public Ministry pending.

IHSS

Mario Antonio Rojas Rodríguez was [found guilty](#) by a sentencing court for money laundering to the detriment of the state of Honduras. The hearing for the sentence was scheduled for March 7, 2018, and the Public Ministry is asking he be given the maximum sentence of a 20-year imprisonment.

So far, the following individuals have received a guilty verdict in the IHSS case: Natalia Ciuffardi Castro (who is serving out her sentence of supervised freedom in Chile); José Bertetty Osorio (who was sentenced to a 22-year imprisonment); Henry Adalberto Gómez Barahona (who was sentenced to a 4.5-year imprisonment which he was able to commute); Gustavo Adolfo Linares Varela (who was sentenced to 11 years in prison); Ilsa Vanessa Molina Aguirre (who was sentenced to 12 years in prison); and Mario Roberto Zelaya Rojas who was sentenced to a 25-year imprisonment.



DESA / Berta Cáceres

Public Ministry prosecutors indicated to CLALS researchers that the unit continues to investigate allegations of corruption involving senior Desarrollos Energéticos, S.A. (DESA) officials in cases that came to light largely as a result of the case of homicide against environmental activist Berta Cáceres.

Perhaps because MACCIH has announced it is not investigating the homicide of Cáceres, only the corruption that emerged as a result, a homicide prosecutor [denied](#) MACCIH information related to Cáceres' murder, according to statements by Jiménez Mayor.

It is worth noting that on March 2, Honduran authorities arrested [Roberto David Castillo Mejía](#), ex-president of DESA, who is accused of being one of the masterminds of Cáceres' murder. Castillo Mejía is the ninth person to be linked to and arrested for the crime. Cáceres' mother, Austra Berta Cáceres, expressed her [satisfaction](#) at Castillo Mejía's arrest, but calls for further investigations to lead to higher-level intellectual authors of her daughter's murder.

2. Institutional Strengthening

Several civil society organizations have publicly expressed their desire for Oscar Chinchilla, Attorney General, to [continue](#) in his current role, which is set to end in September of this year. One is the [Plataforma Ciudadana](#), which is comprised of a dozen civil society organizations. Julieta Castellanos, former rector of the UNAH, said the [results obtained](#) so far back Chinchilla to continue leading the Public Ministry. MACCIH has expressed its willingness to continue working with Chinchilla as Attorney General, and would view his [reelection](#) favorably. Jiménez Mayor declared that "[Honduras was playing with its future with the election of the Attorney General](#)"; this is not just another process, it is key for the history of this country and the fight against corruption and impunity."

On February 21, Chinchilla presented a report titled: "[Hechos Relevantes del Ministerio Público 2013-2017](#)" in which he exhibited more than 50 high-impact operations against organized crime and corruption networks.

3. Propose Reforms to the Justice System

MACCIH has not had much progress in judicial reforms. The "*Ley de Colaboración Eficaz*" was handed to Congress 15 months ago, but has not been approved yet. The setback to MACCIH's powers in the "Impunity Law" were analyzed above.

4. Campaign Financing Reform



The Clean Politics Unit (*Unidad de Política Limpia*) of the Supreme Electoral Tribunal has audited more than L.[136 million](#) used in political campaigns by the 261 candidates who participated in the November elections. Commissioner German Espinal indicated a 30-day [extension](#) until March 19 for the political parties to present their final report. The Clean Politics Unit had previously given an extension to the individual candidates to present their financial reports.

These delays only serve to weaken the Clean Politics Unit, according to [Proceso Digital](#), since results cannot be examined if they are not submitted as a whole. In addition, it further complicates the scrutiny of whether there was drug money involved in the campaigns. During this period, the sole remaining MACCIH official within the Political-Electoral Unit, Salvador Romero of Bolivia, concluded his contract and departed the country. DC-based OAS officials and Juan Jiménez had previously indicated to CLALS researchers that they considered this line of effort to be concluded with the passing of the Clean Politics Law and its implementation during the 2017 elections.

5. Public Security Reforms

The Purge and Transformation Commission of the National Police was slated to terminate its mandate in January 2018. However, with the extension in office of President Hernández, the Police Purge Commission's mandate was extended for another year, focusing especially on institutional transformation.

The *Policía Nacional* (National Police) has promoted 144 officials. The recently appointed Director of the National Police, José David Aguilar Morán, was [honored](#) at this ceremony. A report by the Associated Press linked Aguilar Morán to drug capo Wilter Blanco, whom he allegedly permitted to traffic [780 kilos of cocaine](#) in 2013. The Purge Commission is investigating this claim (as well as possible sources of the AP story) since January, but reported no results. The National Police requested the [Public Ministry](#) officially investigate the allegations presented in the Associated Press [report](#), and were also investigating how the AP obtained the internal report upon which its story was based.

The Anti-Impunity Coalition presented a [report](#) of the human rights violations that have occurred between November 26, 2017 and January 23, 2018. According to this report, 33 civilians were killed during protests. The killings are attributed to FUSINA (National Inter-institutional Security Force) and the Military Police, as well as the Armed Forces.

Several international organizations, including [Amnesty International](#), have publicly called out the Honduran government for using excessive force and repressing protesters. The current government's response has been to state that they are not peaceful protesters, but gang members, and that human rights of Hondurans have always been respected. This response has been widely refuted by observers both nationally and internationally.

6. Accountability



In light of the repeated acts by Congress to water down and delay passage of key laws, and its derailing of investigations of corruption into its own members, a sense of disillusion and disappointment has followed the controversial elections in terms of accountability of Honduran officials for potential acts of corruption and abuse of power.

The Civil Society Transition Committee for MACCIH's Criminal Justice Observatory presented a formal request to the OAS to [remove](#) Martha Pachioti and Jacobo Domínguez from their appointments within MACCIH. To back their request, the Committee presented a recording that had recently become public of both MACCIH officials using language that is offensive to indigenous and Afro descendant groups in Honduras.

Martha Pachioti subsequently resigned and Jacobo Domínguez's contract will not be renewed, according to a March letter by the Secretary General. Some civil society groups indicated to CLALS researchers that they see these changes and the possibility of a new MACCIH leader as an important opportunity to give life to what has been a largely disappointing and dormant Observatory. Almagro indicated that civil society groups would have a say in the selection of the next head of MACCIH's Criminal Justice Observatory.

7. Relevant Miscellanea

Nikki Haley, the U.S. Ambassador to the United Nations, visited Honduras and met with President Juan Orlando Hernández. She praised the President for his vote to move Honduras' embassy in Israel to Jerusalem, and emphasized the issues of cooperation on security issues and the importance of strengthening the fight against [corruption](#). Sending a signal of support, Ambassador Haley met with the acting spokeswoman of MACCIH, the head of the Supreme Court, and the Attorney General.

The National Anticorruption Council (CNA) released a [report](#) on February 22, in which it presented 67 corruption cases under investigation since 2014. The result of the corruption in these cases has caused the Honduran state a loss of L.2,945 million (approximately USD\$123 million). Among the cases and individuals, they mentioned: [Rosa de Lobo's case](#), as well as investigations of public officials from the *Empresa Nacional de Energía Eléctrica* (ENEE, the national electricity provider), the *Instituto de Formación Profesional* (INFOP) and the *Secretaría de Salud* (Ministry of Health). CNA stated that these cases have been presented to the Public Ministry since 2014 and no progress had been made. After the release of this report, an alternative news site [Kaos en la red](#) published a letter by the CNA in which it denounces a media campaign meant to tarnish Gabriela Castellanos's reputation, to weaken the work of the CNA.

According to a Transparency International's Corruption Perception Index (CPI), Honduras has dropped 12 places in the ranking, from 123rd in 2016 to 135th in [2017](#).

Current government officials have requested previous administrations also be investigated. Jesús Mejía, head of ENEE, specifically mentioned the need to investigate ex-president Manuel Zelaya's management of [Petrocaribe](#) funds.



The U.S. government has accused Congressman Fredy Najera of conspiring to import cocaine into its territory, and crimes associated to the possession of machine guns and other weapons (he turned himself into U.S. authorities on March 15). This accusation almost coincided with Yankel “Yani” Rosenthal’s sentence of 29 months in jail and a penalty of USD\$50,000 for facilitating financial services to known drug traffickers. Jiménez Mayor, while still a spokesperson for MACCIH, gave an interview to [El Heraldo](#) about his meeting with representatives of the U.S. Department of Justice to follow up investigations of politicians linked to drug trafficking.

Honduras has a 95% impunity rate in cases of violence against women. Of the 417 cases presented in 2017 and early 2018, only 15 have been investigated and only two have obtained a guilty verdict, according to the data provided by the CDM (*Centro de Derechos de la Mujer*) to [Proceso Digital](#).

The Inspection Tribunal ordered that findings regarding a lawsuit against the National Agriculture University (UNA) be sent to MACCIH and the Public Ministry, reported [El Heraldo](#). The accused of embezzling state funds are two former university officials.

The magistrates of the Supreme Court of Justice (*Corte Suprema de Justicia*) agreed to reform Article 99 of the Penal Code so that extradited Hondurans who have committed crimes in Honduras be subjected to the judicial process in Honduras, according to [Confidencial.hn](#). This measure seeks to curb impunity of crimes committed in Honduran territory, since in many extradition cases, the accused are able to reduce their prison sentences by helping a foreign government, but do not pay the price for their crimes in Honduras.