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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

March 1 to April 30, 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 4, May 18, 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 fourth issue, and feedback is welcome to call@american.edu or vranas@american.edu. For background information on MACCIH, see [The MACCIH Monitor Issue 1](#), [The MACCIH Monitor Issue 2](#), and [The MACCIH Monitor, Issue 3](#).

General Considerations

MACCIH is under serious threat. Following the loss of its spokesperson, Juan Jiménez Mayor, the Mission has experienced one setback after another. The most important judicial cases MACCIH has worked on, which represented its biggest achievements, are facing significant obstacles going forward. Moreover, the public prosecutor proposed by the Organization of American States (OAS) to head MACCIH has not yet been accepted by the Honduran government, and critics charge that OAS Secretary General Luis Almagro has failed to adequately support MACCIH and mismanaged its funds. Furthermore, the Constitutional Chamber of the Supreme Court agreed to hear a challenge to the agreement that created MACCIH submitted by the lawyers of imputed legislators. The Public Ministry



recused itself from responding to this appeal, since it allegedly lacks the legality to do so. If found to be unconstitutional, MACCIH could be dismantled despite widespread international support for the Mission. The Frente Parlamentario de Apoyo a la MACCIH (FPMA) quickly rallied around MACCIH, and publicly stated that the Supreme Court (CSJ) had approved the creation of MACCIH and cannot rescind its approval. The Liberal Party also condemned the action of the CSJ, and requested that the OAS give more autonomy, authority and responsibility to the new spokesperson. Even Libre leader Manuel Zelaya expressed his support for MACCIH. The U.S. Embassy in Tegucigalpa, through a press release, underscored its support for MACCIH, and expressed concern over the legal action being taken against the Mission.

The investigation and arrest of former First Lady Rosa Elena Bonilla de Lobo (which the Honduran press calls the “Caja Chica de la Dama” case) has figured prominently in the news media, particularly the latest development in which the Court of Appeals revoked the crimes de Lobo had been charged with. This decision resulted in Rosa de Lobo only being charged with fraud and illegal appropriation, and her possessions, which had been in custody of the OABI (Oficina Administradora de Bienes Incautados), being returned to her family’s custody. Since the charges against her were also downgraded, de Lobo’s lawyers are petitioning for their client to be released pending trial. MACCIH has not made any public statements on the issue, but the National Anticorruption Council (CNA) quickly and manifested its outrage on the decision by the Court of Appeals.

The “Red de Diputados” case, MACCIH’s second most-important achievement, is stalled, thanks to the “Impunity Pact” that Jiménez Mayor publicly denounced prior to his February 15 resignation. The Pact refers to the retroactive reforms in Congress’ Budget Law which state that congressmen and congresswomen will not be subjected to a criminal investigation or proceedings until administrative audits, led by the High Court of Auditors (Tribunal Superior de Cuentas, TSC), have been exhausted first. The TSC audits may take up to three years, and the “Impunity Pact” stipulates that during this period, no administrative, civil, or penal action shall be undertaken. The law further establishes that all the related documents to the audit will be seized by TSC and remain in its custody, impeding further investigation by MACCIH.

MACCIH’s interim spokesperson, Ana María Calderón Boy, has not had a strong media presence since Jiménez Mayor resigned, other than the press conference she led after the capture of Rosa de Lobo. Although some sectors of the country requested she be named official spokesperson and given more authority over MACCIH, OAS Secretary General Luis Almagro announced Brazilian Luiz Guimaraes as his proposed new spokesperson and chief of MACCIH. In an interview during the Summit of the Americas in Perú, Almagro said that the Honduran government had been notified of this designation on March 10. The Ministry of Foreign Affairs manifested its surprise at Almagro’s statement, and emitted a press release stating that it had received official notice of the designation on April 10. The Honduran government’s position on Luiz Guimaraes was not made clear: the official press release stated that per the agreement which created MACCIH, the Honduran government had the legal authority to reject Almagro’s appointee, but it did not clearly do so. This apparent impasse between the government and the OAS further weakens an already damaged MACCIH.



Almagro is also facing scrutiny in the region due to the criticism he has received for the lack of support he has given MACCIH, and allegations from former MACCIH representatives Julio Arbizú and Daniel Urrutia of mismanagement of MACCIH funds. Arbizú and Urrutia also accused Almagro of having an “impunity pact” with Honduran President, Juan Orlando Hernández. In the face of serious questions regarding the OAS and MACCIH’s internal affairs, two audits are taking place according to what an OAS official told CLALS researchers in May. The first is a standard audit by the OAS Inspector-General’s office into the management and finances of MACCIH. The second is an audit proposed and funded by donors, to be carried out by an outside firm.

Meanwhile, the dialogue promoted by the United Nations (UN) following the contested outcome of the November 2017 election is stalled, after representatives from the Alianza de Oposición withdrew. Igor Garafulic, UN representative in Honduras, expressed his desire for the dialogue to continue with the participation of all the interested parties. Independent observers told CLALS researchers in March that even some moderates of the National Party believe the November election was stolen, and references to “dictatorship” are common. Few have confidence in the UN-sponsored dialogue having a concrete effect on current conditions in Honduras.

In light of MACCIH’s lower profile, the CNA has maintained its high profile in fighting corruption, presenting several new investigations into corrupt dealings in government institutions, particularly in the Ministry of Health. According to the CNA, during 2009-2014 three hundred and twenty-nine Ministry of Health employees were involved in corrupt acts, acting in concert with Astropharma, deliberately increasing the price of medicines by up to 47%.

Monitoring Specific Areas of MACCIH’s Mandate

1. High-Impact Prosecutions and Convictions

We here provide an update on MACCIH’s criminal investigations during March and April.

The “Caja Chica de la Dama” case

The Corruption Appeals Court revoked the charges presented against Rosa de Lobo, specifically the *lavado de activos* (asset laundering) and misappropriation of public funds. She is charged with unlawful appropriation and fraud. Her possessions, which had been confiscated and under OABI’s custody, were returned to her family. Former President Porfirio Lobo had handed his family’s home to the OABI on April 3, following orders from the sentencing tribunal judge. He has insisted to the media that his wife was “sacrificed by five high ranking officials in Casa Presidencial” and has made vague yet ominous remarks about his party members, which many have interpreted to be threats that eventually led to the Appeal’s Court decision. Lobo also singled out the judge handling his wife’s case, and some media reported this being a veiled threat.



The decision to revoke the charges was based partly on the controversial position that Rosa de Lobo was not a public official within the *Poder Ejecutivo*, so certain charges could not be applied to her. This measure also benefited her brother-in-law and director of her community development office Mauricio Mora Padilla and her private secretary Saúl Escobar Puerto, although they are facing other charges as well.

On April 3, the *Poder Ejecutivo* vetoed a reform to the Ley de Privación Definitiva de Dominio de Bienes de Origen Ilícito. This reform had been perceived as a way to protect de Lobo's properties, and the veto was well received by the U.S. Embassy, the CNA, and the civil society group Asociación para una Sociedad más Justa (ASJ).

IHSS

Mario Rojas Rodríguez, uncle of former IHSS director Mario Zelaya, was sentenced to 15 years in prison on March 14. Rojas was found guilty of asset laundering activities to the detriment of the IHSS.

Ilsa Damaris Flores, mother of Ilsa Molina who has already received a 12-year prison sentence, was recently arrested. She is accused of asset laundering to the detriment of the state of Honduras.

The Public Ministry has also initiated 80 more investigations into IHSS corruption, 40 each in San Pedro Sula and Tegucigalpa. Some investigations come from a TSC report presented which reveals new corrupt acts in the financial modernization project of the IHSS.

DESA / Berta Cáceres

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

Perhaps because MACCIH has announced that 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 in February, according to statements by then-spokesman 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 called for further investigations to lead to higher-level intellectual authors of her daughter's murder.



2. Institutional Strengthening

The deadline for nominations for the new Attorney General (Fiscal General) was April 30. MACCIH has the status of observer of the process. The G-16 group has publicly called for the election to be transparent, and has backed approval of the “*Ley de Colaboración Eficaz*.” It has also requested that the Constitutional Court deny the MACCIH unconstitutionality appeal.

The selection council for the new attorney general and deputy attorney general (Junta Proponente del Fiscal General and Fiscal Adjunto), which consists of seven members and is led by Rolando Argueta, president of the CSJ, will present to Congress a list of the five most suitable candidates for the positions by June 15. The new Attorney General and Deputy Attorney General must be officially appointed by September 1 and will hold office for five years. The Democracy without Borders (DSF) Foundation is part of the selection committee and assured the public that it will make sure the process is transparent and within the framework of the law. MACCIH will also be part of the nomination committee. The selection criteria consists of 59 articles and will be approved in the next board meeting.

3. Proposed Reforms to the Justice System

The new Corruption Courts had their initial two trials on April 10. The courts were inaugurated last September. The two trials involve investigations of former directors of the National Institute for Magisterial Provisions (INPREMA) and an investigation into the embezzlement of the Lawyer’s Association of Honduras.

On March 15, a forum regarding the “*Ley de Colaboración Eficaz*” took place, sponsored by MACCIH, the National Autonomous University, and Konrad Adenauer Foundation (KAS). MACCIH and civil society representatives requested the Poder Ejecutivo present the “*Ley de Colaboración Eficaz*” proposal before Congress once more. MACCIH judge Marco Villeda reiterated the importance of approving the “*Ley de Colaboración Eficaz*.” Otherwise, the heads of the criminal structures will never be prosecuted, he affirmed.

The proposal for the “*Ley de Colaboración Eficaz*” was handed to Congress 18 months ago, but has not been approved yet.



4. Campaign Financing Reform

MACCIH's Political-Electoral Financing Division closed at the end of February. Although much work still need to be done to improve the electoral process and campaign finance, MACCIH's mission is complete with the approval of the Clean Politics Law and its implementation during the past electoral cycle.

The Clean Politics Unit (*Unidad de Política Limpia*) of the Supreme Electoral Tribunal (TSE) referred two files of former candidates for public office to the Drug Trafficking Prosecutors Office of the Public Ministry. Two files belonging to candidates who were up for reelection in municipal offices were referred to the TSC as well, since they were allegedly using city hall funds for their campaigns.

The Clean Politics Unit is investigating the case of the National Party Congressman Roy Dagoberto Cruz Pérez, after a lawyer publicly denounced him before the Supreme Electoral Tribunal (TSE). Cruz Pérez is related to the president of the Supreme Court of Justice, Rolando Argueta, and according to article 199 of the Constitution, no blood-relatives of magistrates of the Supreme Court can run for office.

The Clean Politics Unit launched its institutional website. The website will give the public transparent access to the auditing process of candidate financing. Approximately L.144 million have been audited (up to the end of April) and accounted for as campaign expenses for the 2017 election. Since this line of work will no longer be active within MACCIH, future issues of *The MACCIH Monitor* will not include this section.

5. Public Security Reforms

An April 15 report presented by the Reform and Restructuring Commission of the Ministry of Security revealed that during the last two years more than five thousand officers have left the institution, including six generals. The document highlights the approval of norms such as the Organic Police Law and Police Career Law.

The police "purification" continues. On April 6, the public learned that seventy more officers will leave the institution, and files corresponding to one thousand officers were referred to the Public Ministry to be investigated for criminal activity.



6. Accountability

On March 8, OAS Secretary General Almagro fired Jacobo Domínguez and Martha Pacchiotti from MACCIH. The Temporary Civil Society Commission for MACCIH's Criminal Justice Observatory had condemned both Domínguez and Pacchiotti for alleged offensive comments towards indigenous and afro descendent groups in the country. According to data given to CLALS researchers by the OAS, these departures and that of the spokesperson himself bring to eight professional staff and eight administrative staff the number of departures from MACCIH since February 15, when Juan Jiménez Mayor resigned. The audits mentioned earlier – one by the OAS Inspector General and another by an independent firm with support from donors – will take place.

7. Relevant Miscellanea

A Central American migrant “caravan” has garnered lots of media attention, particularly after President Trump used his Twitter account to denounce the caravan and later deployed the National Guard to protect the border between Mexico and the U.S. Kirstjen Nielsen, Secretary of the Department of Homeland Security, stated that “participating in a caravan does not give these individuals additional rights” and used the occasion to once again petition for a border wall. At no point in their public declarations have President Trump or Secretary Nielsen used the term refugees to refer to the migrants.

Fredy Najera, a former congressional representative, turned himself into U.S. DEA authorities, and his properties have been seized by the Honduran government. He has been linked to the murder of anti-drug czar Julián Arístides González.

The Public Ministry wants to interview two of the men found guilty in the Oderbrecht case, to verify the alleged bribes that would have been paid to Honduran former public officials.

The Public Ministry has also created a special prosecutor's office dedicated to the protection of human rights defenders, journalists, and justice operators, according to Criterio. Seventy-five communications professionals have been killed from 2001-2018. Only in six of those cases has there been a trial with a guilty verdict, according to Dagoberto Rodríguez, president of the Journalist's Association of Honduras.

According to HRN, Honduras loses approximately L.20,000 - L.22,000 million annually due to corruption. The sum is equivalent to 5% of Honduras' GDP, adding up to L.200,000 million in a decade.



The New York Times covered the capture of Roberto David Castillo Mejía, linked to the murder of Berta Cáceres and the alleged mastermind. Castillo Mejía was the CEO of the DESA, the company executing the Agua Zarca project Cáceres was protesting, and is the ninth person to be arrested for the case. According to the NYT, this arrest is further evidence of the links between the government, the military elites and the private sector in a country where corruption is the norm. Insight Crime asserted that Castillo Mejía's arrest is only a link in a large network of individuals involved in planning her murder. The UN has also signaled the urgency of this investigation leading to the true culprits of Cáceres' murder.

Pope Francis has invited Gabriela Castellanos, director of the CNA, to participate in a summit of women leaders of Latin America.

Estategia y Negocios reported that Julissa Villanueva won the Women of Courage Award of 2018, award. Villanueva has significantly contributed to the forensic sciences, a useful means to fight impunity.

Former President Rafael Leonardo Callejas is awaiting his sentencing court date in the U.S. for the FIFA corruption case, set to take place on September 12. Media reports have informed he is severely ill with leukemia.

MACCIH representatives participated in the VIII Summit of the Americas, which took place in Lima, Perú. They contributed to the forum "Democratic Governance in the face of Corruption," in which they shared their Honduran experience and their achievements and obstacles in their fight against corruption, as reported by EFE. President Juan Orlando Hernández also attended the event.