

**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS
RESOLUTION 12/2013**

PRECAUTIONARY MEASURE No. 416-13

Matter 18 members of Movimiento Amplio por la Dignidad y la Justicia and their families.

Honduras

December 19, 2013

I. INTRODUCTION

1. On November 20, 2013, the Inter-American Commission on Human Rights (hereinafter "the Commission", "Commission" or "IACHR") received a request for provisional measures submitted by the Movimiento Amplio por la Dignidad y la Justicia (MADJ) and the Center for Justice and International Law (CEJIL) (hereinafter "the applicants"), requesting that the Commission request the Republic of Honduras (hereinafter "Honduras" or "the State") to protect the life and personal integrity of the members of the Movimiento Amplio por la Dignidad y la Justicia (MADJ) and their families (the "intended beneficiaries" or "members of MADJ"). According to the request, members of the organization have received a series of threats, acts of harassment and violence because of their work in defense of the natural resources of indigenous peoples in the sector Locomapa, department of Yoro.

2. After analyzing the arguments of fact and law submitted by the applicants, the Commission considers that the information presented demonstrates *prima facie* that the 18 members of the Movimiento Amplio por la Dignidad y la Justicia (MADJ) and their families are in a situation of gravity and urgency, as their lives and personal safety would be threatened and at risk. Consequently, in accordance with Article 25 of the Rules of Procedure of the Commission, the IACHR requests that Honduras: a) Take the necessary measures to protect the life and personal integrity of the 18 members of the "Movimiento Amplio por la Dignidad y la Justicia" (MADJ) and their families, b) Arrange the measures adopted with the beneficiaries and their representatives; and c) Report on the actions taken to investigate the facts that led to the adoption of this precautionary measure to avoid repetition.

II. SUMMARY OF FACTS AND ARGUMENTS PROVIDED BY THE APPLICANTS

3. According to the request, the National Institute for Forest Conservation and Development (Instituto Nacional de Conservación y Desarrollo Forestal) is the institution responsible for the implementation of the Act of Forestry, Protected Areas and Wildlife (Ley Forestal, Áreas Protegidas y Vida Silvestre) in Honduras. The implementation of such legislation is allegedly causing a direct violation upon the rights of land of various indigenous peoples affected, in particular in the context of the creation of new protected areas and the exploitation of natural resources without the participation and consent of various indigenous communities. In those circumstances, the applicants argue that in the sector Locomapa, Municipality of Yoro, there is a raising environment of conflict, presumably as a result of various forest management plans and operational plans by the National Institute for Forest Conservation and Development. In this scenario, the "Movimiento Amplio por la Dignidad y la Justicia" (MADJ) composed by Locomapa indigenous leaders and human rights defenders, have been denouncing the alleged facts and carrying out a series of peaceful demonstrations on this concern, causing them to be subjected to threats, acts of harassment and violence. In the request for precautionary measures, the following alleged facts are noted:

a) On 18 August 2013, Ramón Matute, Dilma and José María Consuelo Pineda Soto, members of the organization, publicly denounced that they were receiving death threats, allegedly in retaliation to their opposition to mining projects in Locomapa, Department of Yoro. Specifically, the applicants detailed that they had been receiving threats via text messages on their cell phones, in which they requested them to "desist from their efforts to protect the environment" or "[they were] going to be the second people dead" (sic). In such statements, members of the MADJ "warned[ed] them on the possible consequences of the situation".

b) On August 24, 2013, José María Pineda publicly reiterated that leaders and members of the MADJ were being threatened to death. He also stated that neither the Attorney General's Office nor the National Police had attended his verbal complaints about it.

c) On 25 August 2013, two fully identified men, went to one of the protests of MADJ and requested the presence of José María Pineda, Ramon Matute and Dilma Consuelo Soto. Not being able to find them, they threatened the demonstrators, taking out their weapons, while the protesters have fled to seek refuge in the neighboring houses. The alleged "hitmen" chased the protesters and killed Henrietta Maria Matute, Ricardo Soto Fúnez Fúnez and Armando Medina, indigenous Tolupe leaders of Locomapa. Applicants state that they would have filed complaints with the relevant competent authorities, without a response to date.

d) Despite the alleged murders, applicants ensure that the risks for Tolupe MADJ leaders and members have not stopped. In this regard, on August 27, 2013, José María Pineda had requested state authorities, through a broadcast in a mass media, to provide him protection. Applicants claim that, in view of the lack of response from state authorities, José María Pineda and others had left the community.

e) On August 28, 2013, Dilma Consuelo Soto publicly denounced on national radio, assumptions that the killers that murdered her companions were now looking for other members of the MADJ, in order to kill them. Specifically, applicants indicate that they were looking for Olvin Love Javier Castellanos and Alberto Celso Matute.

f) On September 2, 2013, José María Pineda and his family received at their home the following death threat "prepare yourself, you have started the game, for not measuring your tongue [...] we know where he is, but we are going to strike you where it hurts the most [,] you don't know who you are messing with, this is going to ache [...] we are warning you with time [,] to eliminate someone we don't think" (sic). Mr. José María Pineda had again sought protection from State authorities. However, according to the applicants there has not been a response to the date.

g) On September 9, 2013, members of the organization had denounced, to the media, that "the killings, threats and aggressions" that its members were experiencing were performed by people linked to mining companies, without the involvement of State authorities in procuring measures to protect them.

h) Victor Fernandez, Coordinator of MADJ was harassed by strangers, days after his participation in the thematic hearing before the Commission on "Prior consultation and mega projects in Honduras", held in under the 149th session, on October 28, 2013 . Also, on November 6, 2013, Victor Fernandez was chased by a vehicle without license plates on the road to San Pedro Sula. This vehicle allegedly remained behind Mr. Fernandez truck turning on and off the lights for an important sector of the journey, from the town of Santa Cruz de Yojoa, allegedly clearly showing their presence and persecution behind the vehicle of lawyer Fernandez. Additionally, applicants submitted information indicating that "in recent days in the media [...] direct attacks on [...] Víctor Fernández [had been] made", likewise, political sectors alleged to had publicly attacked the intervention of the lawyer in the Commission, especially in the case of the Lenca Pueblo Rio Blanco, the alleged situation regarding the members of COPINH and the supposed situation of Tolupe Locomapa Peoples, among other situations.

III. ANALYSIS OF THE ELEMENTS OF GRAVITY, URGENCY AND IRREPARABILITY

4. The mechanism of precautionary measures is part of the Commission's function of overseeing Member State compliance with the human rights obligations set forth in Article 106 of the Organization of American States Charter. These general oversight functions are set forth in Article 41 (b) of the American Convention on Human Rights, in Article 18 of the Commission's Statute and the mechanism of precautionary measures is detailed in Article 25 of the Commission's Rules of Procedure. According to this Article, the Commission issues precautionary measures in situations that are serious and urgent, and where such measures are necessary to prevent irreparable harm to persons.

5. The Inter-American Commission and the Inter-American Court of Human Rights (hereinafter "the Inter-American Court" or "I/A Court H.R.") have repeatedly established that precautionary and provisional measures have a dual

nature, precautionary and protective. Regarding the protective nature, the measures seek to avoid irreparable harm and preserve the exercise of human rights. Regarding the precautionary nature, the measures have the purpose of preserving a legal situation while being considered by the IACHR. The precautionary nature aims to preserve those rights at risk until the petition in the Inter-American system is resolved. Its object and purpose are to ensure the integrity and effectiveness of the decision on the merits and, thus, avoid infringement of the rights at issue, a situation that may adversely affect the useful purpose (*effet utile*) of the final decision. In this regard, precautionary measures or provisional measures thus enable the State concerned to fulfill the final decision and, if necessary, to comply with the reparations ordered. As such, for the purposes of making a decision, and in accordance with article 25.2 of its Rules of Procedures, the Commission considers that:

- a. "serious situation" refers to a grave impact that an action or omission can have on a protected right or on the eventual effect of a pending decision in a case or petition before the organs of the inter-American system;
- b. "urgent situation" refers to risk or threat that is imminent and can materialize, thus requiring immediate preventive or protective action; and
- c. "irreparable harm" refers to injury to rights which, due to their nature, would not be susceptible to reparation, restoration or adequate compensation

6. In the present case, the Commission considers that the requirement of gravity is met, given the allegations of killings, threats, intimidations, harassment and violence against members MADJ, which would have extended to their family. Especially, the information received suggests that the alleged situation would be presenting, continuously in time, as retaliation and a form of intimidation because of the activities of the organization in the defense of natural resources of the territory in the Locomapa sector, department of Yoro. In this scenario, is of particular relevance the increase of the alleged act of harassment and persecution received by Víctor Fernández, Coordinator of MADJ, after participating in a thematic hearing before the Commission on "Prior consultation and mega projects in Honduras," held under the 149 session on October 28, 2013.

7. In its analysis of this requirement, the Commission notes that the information provided by applicants would be consistent with information, in general, the IACHR has received in the course of the hearings "Situation of human rights defenders human rights in Honduras"¹, "Prior consultation and mega projects in Honduras"², and "Implementation of precautionary measures in Honduras"³. Especially, the possible critical situations that face in Honduras those human rights defenders that work in the protection of natural resources. Similarly, the Special Rapporteur on the Situation of Human Rights Defenders of the United Nations, in its report on the situation of human rights defenders in Honduras, in 2012, said that "certain categories of human rights defenders are particularly at risk in Honduras, Included [a]s (...) indigenous and Afro-Honduran communities as well as those working on issues related to the environment and land rights "⁴.

8. Considering the mentioned information and the particular context in which it is presented, the Commission considers that it has established *prima facie* that the rights to life and personal integrity of the members of the "Movimiento Amplio por la Dignidad y la Justicia" and their families are in a risk, due to its many activities in the defense of natural resources.

¹ IACHR, *Situation of human rights defenders human rights in Honduras*, 141 ordinary period of sessions. March, 25, 2011. Available at <http://www.oas.org/es/cidh/multimedia/sesiones/149/1lunes28b.asp>.

² IACHR, *Prior consultation and mega projects in Honduras*, 149 ordinary period of sessions, October 28, 2013. Available at <http://www.oas.org/es/cidh/multimedia/sesiones/149/1lunes28b.asp>.

³ IACHR, *Implementation of precautionary measures in Honduras*, 149 ordinary period of sessions, October 28, 2013 Available at <http://www.oas.org/es/cidh/multimedia/sesiones/149/1lunes28b.asp>.

⁴ United Nations, Office of the High Commissioner for Human Rights, *La Relatora Especial de la ONU Margaret Sekaggya insta al gobierno de Honduras a proteger a los defensores de derechos de forma efectiva*, 14 de febrero de 2012. Available at <http://www.ohchr.org/SP/NewsEvents/Pages/DisplayNews.aspx?NewsID=11827&LangID=S>

9. Regarding the condition of urgency, the Commission believes that it is fulfilled, to the extent that the alleged threats and acts of violence have increased consistently, without measures that protect the rights of MADJ members and their families. In this regard, despite providing information to the competent authorities on the alleged risk, that has left a result of three tulupanes leaders being murdered, the authorities have not implemented any measures to protect their rights, which suggests that members and their families would be in a situation of vulnerability.

10. Regarding the requirement of irreparable harm, the Commission considers that is accomplished, to the extent that the possible effect to the right to life and personal integrity is the highest irreparable situation.

11. Under Article 25.5 the Commission normally requests information from the State before taking a decision on request for precautionary measures, except in matters as in the present situation where the immediacy of the potential harm does not allow delays⁵.

12. The Commission wishes to reaffirm the importance of the work of human rights defenders in the region. In this regard, the Commission has consistently indicated the importance of the work carried out by persons engaged in the promotion, monitoring and advocacy of human rights and the organizations to which many of them are affiliated. In this regard, the OAS General Assembly in its resolution AG/RES 2579 (XL-0/10) recognized the work that women human rights defenders are doing within the region and resolved to recognize that, in view of their gender-specific role and needs and the particular risks they face by virtue of the discrimination they have traditionally suffered, women human rights defenders should be accorded special attention to ensure that they are fully protected and effective in carrying out their important activities.⁶ In these circumstances, the Commission considers that acts of violence and other attacks against human rights defenders not only affect the guarantees of any human being, but they undermine their fundamental role in society and plunged into helplessness all those people for whom they work.

IV. BENEFICIARIES

13. The request was submitted on behalf of the members of “Movimiento Amplio por la Dignidad y la Justicia” and their families, who would represent a total of 38 people, fully identified in the lists submitted by the applicants.

V. DECISION

14. In view of the above-mentioned information, the Commission considers that this matter *prima facie* meets the requirements of gravity, urgency and irreparable harm contained in Article 25 of its Rules of Procedure. Consequently, the Commission requests that the Government of Honduras:

- a) Adopt all necessary measures to protect the life and personal integrity of the members of 18 members of “Movimiento Amplio por la Dignidad y la Justicia” (MADJ) and their family;
- b) Agree on the measures to be adopted with the beneficiaries and their representatives; and,
- c) Report on the actions taken to investigate the facts that gave rise to the adoption of this precautionary measure in order to prevent its repetition.

15. The Commission also requests the Government of Honduras to inform the IACHR, within 15 days from the date

⁵ IACHR. Rules of Procedure, Article 25.5, <http://www.oas.org/en/iachr/mandate/Basics/rulesiachr.asp>

⁶ OAS General Assembly, Human Rights Defenders: Support for Individuals, Groups, and Organizations of Civil Society Working to Promote and Protect Human Rights in the Americas, approved at the plenary session held on June 8, 2010.

of this resolution, on the adoption of the precautionary measures requested and update such information regularly.

16. The Commission emphasizes that, according to Article 25 (8) of its Rules of Procedure, the granting of this precautionary measure and its adoption by the State shall not constitute a prejudgment on any possible violation of the rights protected in the American Declaration of the Rights and Duties of Man or other applicable instruments.

17. The Commission orders the Executive Secretariat of the Inter-American Commission on Human Rights to notify the Government of Honduras and the applicants of this resolution.

18. Approved on the 19 day of December, 2013 by: José de Jesús Orozco Henríquez, President; Tracy Robinson, First Vice President; Rosa Maria Ortiz, Second Vice President; Commissioners Felipe González, Dinah Shelton, Rodrigo Escobar Gil and Rose-Marie Belle Antoine.