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To suspend United States security assistance with Honduras until such time as human rights violations by Honduran security forces cease and their perpetrators are brought to justice.

IN THE HOUSE OF REPRESENTATIVES
March 28, 2019

Mr. Johnson of Georgia (for himself, Ms. Kaptur, Mr. Serrano, Ms. Schakowsky, Ms. Ocasio-Cortez, Ms. Moore, Mr. Raskin, Mr. Foster, Mrs. Napolitano, Ms. Pingree, Ms. Speier, Ms. Bonamici, Mr. Panetta, Mr. Lowenthal, Ms. Omar, Mrs. Dingell, Ms. Eshoo, Mr. Rush, Mr. Tonko, Ms. Lee of California, Mr. Lynch, Miss Rice of New York, Mr. Khanna, Mr. Grijalva, Ms. Lofgren, Mr. McGovern, Ms. Haaland, Mr. Pocan, Mr. Cicilline, Mr. Blumenauer, Mr. Danny K. Davis of Illinois, Mr. Pallone, Ms. Jayapal, Mr. Thompson of Mississippi, Ms. Judy Chu of California, Ms. Norton, Mr. Cleaver, Mr. Himes, Ms. McCollum, Mr. Lipinski, Mr. Beyer, Mr. Kind, Mr. Payne, and Mr. Ted Lieu of California) introduced the following bill; which was referred to the Committee on Foreign Affairs, and in addition to the Committee on Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

A BILL

To suspend United States security assistance with Honduras until such time as human rights violations by Honduran security forces cease and their perpetrators are brought to justice.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Short title.

This Act may be cited as the “Berta Cáceres Human Rights in Honduras Act”.

SEC. 2. Findings.
Congress finds the following:

(1) The Honduran police are widely established to be deeply corrupt and commit human rights abuses, including torture, rape, illegal detention, and murder, with impunity.

(2) The New York Times revealed documents on April 15, 2016, indicating that top officials of the Honduran police ordered the killings of drug-crime investigators Julián Aristides Gonzáles and Alfredo Landaverde in 2009 and 2011, respectively, with the subsequent knowledge of top police and, evidently, high-ranking government officials. The Times suggested in a subsequent article that the revelations were being manipulated by the President of Honduras for his own corrupt purposes. Both cases remain in impunity.

(3) Individuals in the police with documented records of having committed gross human rights abuses with impunity continue to serve in, and be appointed and reappointed to high positions with the police. Former general in the Armed Forces Julian Pacheco Tinoco, the Minister of Security, was the highest ranking official in charge of the repression of protesters by the police following the November 27, 2017, election, and has been twice named in United States Federal court as overseeing drug trafficking. He was reappointed to his position by President Juan Orlando Hernández in December 2018.

(4) Other individuals who previously served in high-ranking positions and who are documented to have committed gross human rights abuses continue in impunity.

(5) International human rights bodies have reported that the Honduran military and police commit human rights abuses, including killings, with impunity. The Associated Press has documented death squad activity by police. Human Rights Watch has reported: “The use of lethal force by the national police is a chronic problem.”. In its report for 2018 it concluded that “Violent crime is rampant in Honduras”. It noted that: “Marred by corruption and abuse, the judiciary and police remain largely ineffective. Impunity for crime and human rights abuses is the norm.”

(6) The Department of State’s 2018 Human Rights Report for Honduras reported: “Civilian authorities at times did not maintain effective control over the security forces.”. It summarized: “The most significant human rights issues included alleged arbitrary and unlawful killings; a complaint of torture; harsh and life-threatening prison conditions; arbitrary arrest or detention; unlawful interference with privacy; killings of and threats to media members,” and other issues.

(7) Repeated efforts to clean up the Honduran police have largely failed. A recent commission charged with cleaning up the police reports that it has cleaned up over 5,000 members, but the great majority of those were separated for reasons of restructuring, retirements, or disabilities. Only approximately 100 cases of alleged criminal activity have been forwarded to the Public Ministry for prosecution. Few of those are being prosecuted. The actions and results of the
Police cleanup commission have not been independently verified, moreover, and its directors include Julian Pacheco Tinoco, the Minister of Security, named as a drug trafficker, and Vilma Morales, one of the top two negotiators for the leader of the 2009 coup. Long-lasting, fundamental reform of the police still needs to be enacted.

(8) Evidence indicates that topmost officials in charge of the police have been allegedly involved in drug trafficking. The National Director of the Police and his top two lieutenants have been documented by the Associated Press to have previously participated in cocaine trafficking. Julian Pacheco Tinoco, the Minister of Security, reappointed in December 2018, has been twice named in United States Federal court as overseeing drug trafficking.

(9) Rights Action has documented that the Fifteenth Battalion of the Honduran Armed Forces allegedly participated with police and private security forces in some of the killings of over 100 small-farmer activists in the Aguán Valley beginning in 2010. In 2015, Human Rights Watch confirmed that the killings of Aguán farmers were met with no consequences. To date there has been one confirmed conviction of a private security guard. Assassinations of key activists continue. In October 2016, José Angel Flores, the president of the Unified Campesino Movement of the Aguán (MUCA), and Silmer Dionisio George, another MUCA member, were assassinated, with impunity.

(10) Further examples abound of human rights abuses by the military: in July 2013 members of the Armed Forces shot and killed Tomás García, a Lenca Indigenous activist, and injured his son while they were peacefully protesting a dam project; in May 2014, nine members of the Ninth Infantry reportedly tortured and killed Amado Maradiaga Quiroz and tortured his son, Milton Noe Maradiaga Varela. The cases remain in impunity. In an emblematic case, on December 27, 2015, the Honduran Navy reportedly killed Joel Palacios Lino and Elvis Armando García, two Garífuna Afro-Indigenous men who were engaged in digging a car out of the sand on a beach. Ten members of the Honduran military were convicted of the killing of these 2 men, underscoring that egregious human rights are committed by state security forces.

(11) The current Government of Honduras has expanded the military’s reach into domestic policing, including the creation of a 4,300-member Military Police in clear violation of the Honduran constitution and with disastrous results, including the killings of a 15-year-old boy, Ebed Yanes, in 2012 and a student, Erlin Misael Carías Moncada, in 2014, after they had passed unarmed through checkpoints, and the January 2, 2017, killing of 17-year-old Edgardo Moreno Rodríguez. While one member of the armed forces was convicted and sentenced in the case of Yanes, the case of the United States-trained colonel who allegedly subsequently ordered a cover-up remains in impunity. Since the creation of the Military Police, “allegations of human rights abuses by the military have increased notably”, reports Human Rights Watch. The Military Police now count 9 battalions and plan 2 additional battalions.

(12) During the crisis that erupted following the highly contested November 2017 Presidential election, massive protests against electoral fraud and the disputed re-election campaign of
President Juan Orlando Hernández emerged throughout the country. The United Nations and the Committee of Families of the Detained and Disappeared in Honduras (COFADEH) have documented that in response, Honduran state security forces killed at least 16 people, many of them protesters and bystanders; one additional person remains forcibly disappeared by state security forces. The great majority of the victims, according to the UN and COFADEH reports, were killed by the Military Police. All these cases remain in impunity. In addition, 3 people accused of crimes while protesting remain in prison awaiting trial under dire, life-threatening conditions and a fourth remains in exile.

(13) The Military Police continue to commit serious human rights abuses. On November 30, 2017, Daniel Isaac Varela, age 12, was wounded by members of the military police in Comayagüela during a post-election demonstration while he was purchasing candy with friends and the military opened fire. On December 3, 2017, Manuel de Jesús Bautista Salvador disappeared while held in detention by the Military Police in Cofradía, Cortés, and his whereabouts remain unknown.

(14) The Honduran judicial system has been widely documented to be rife with corruption. Judges, prosecutors, and other officials are interconnected with organized crime and drug traffickers, contributing to near-complete impunity.

(15) The Department of State in its 2018 Human Rights Report for Honduras reports that “Corruption and impunity remained serious problems within the security forces.”. It noted that “Impunity existed in many cases … as evidenced by lengthy judicial processes, few convictions of perpetrators, and failures to prosecute intellectual authors of crimes.”

(16) Overall, the judicial system remains ineffective and corrupt. The Department of State reported for 2017 that it was “often ineffective, and subject to intimidation, corruption, politicization and patronage … Powerful special interests, including organized crime groups, exercised influence on the outcome of some court proceedings.”

(17) Summarizing the situation, Human Rights Watch reported for 2018 that “Judges face interference from the executive branch and others, including private actors with connections in government.”. It concludes: “Efforts to reform the institutions responsible for providing public security have made little progress. Married by corruption and abuse, the judiciary and police remain largely ineffective.”

(18) The March 2, 2016, assassination of prominent Lenca Indigenous and environmental activist Berta Cáceres, world-renowned recipient of the 2015 Goldman Environmental Prize for her work defending Indigenous land rights against a hydroelectric dam project, illustrates the human rights crisis in Honduras, and the deep complicity of the Honduran government. Cáceres, the leader of COPINH, the Council of Indigenous and Popular Organizations of Honduras, had reported to authorities 33 threats previous to her killing, but none had been investigated, and the government had failed to provide adequate protection measures as
mandated by the Inter-American Commission on Human Rights, with protection by Honduran security being withdrawn the day of her death.

(19) As of November 2018, seven men have been convicted in the killing of Cáceres. One of them was an active duty officer in the military at the time of his arrest and two others are former military. A third former officer and the president of the DESA Corporation, the dam construction company, has been charged and is awaiting trial. The convictions raise serious questions about the role of the Honduran military in her assassination, including the higher chain of command within the military as well as the identity of the intellectual authors of the assassination. Evidence in the documents in the case file indicate that members of the Honduran elite were responsible for ordering Cáceres’s assassination, and remain in impunity. Evidence also indicates possible involvement of individuals of higher rank in the military, but there is no indication that prosecutors are investigating these individuals.

(20) The Government of Honduras continues to unduly limit legally mandated access by Ms. Cáceres's family to participation in the prosecution as permitted under Honduran law. (21) In this context of corruption and human rights abuses, trade unionists, journalists, lawyers, Afro-Indigenous activists, Indigenous activists, small-farmer activists, LGBTI activists, human rights defenders, and critics of the government remain at severe risk; and previous human rights abuses against them remain largely unpunished.

(22) Journalists continue to be attacked with impunity. On May 2, 2016, prominent opposition journalist Félix Molina was shot multiple times in the legs hours after he had posted information potentially linking Cáceres’s killing to a top government official, members of an elite family, and one of the prosecutors in the case. Those who report on protests against the government are threatened and attacked by state security forces. On November 26, 2018, journalist Geovanny Sierra from the UNETV opposition television station was in the process of reporting on the repression by security forces of a protest marking the one-year anniversary of the disputed 2017 elections when he was fired upon by members of the police assigned to the National Penitentiary. He survived the attack but suffered extensive injuries to his right arm. Both cases remain in impunity.

(23) United States agencies allocated approximately $39 million that Congress appropriated through the Consolidated Appropriations Act, 2017, to the Honduran police and military for fiscal year 2017.

(24) The Inter-American Development Bank lent $60,000,000 to the Honduran police between 2012 and 2018, with United States approval.

SEC. 3. SUSPENSION AND RESTRICTIONS OF SECURITY ASSISTANCE EXTENDED TO REPUBLIC OF HONDURAS UNLESS CERTAIN CONDITIONS HAVE BEEN MET.
(a) Suspension of security assistance.—No funds may be made available to provide assistance for the police or military of the Republic of Honduras, including assistance for equipment and training.

(b) Loans from multilateral development banks.—The Secretary of the Treasury shall instruct United States representatives at multilateral development banks to vote no on any loans for the police or military of the Republic of Honduras.

SEC. 4. CONDITIONS FOR LIFTING SUSPENSIONS AND RESTRICTIONS.

The provisions of this Act shall terminate on the date on which the Secretary of State determines and certifies to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate that the Government of Honduras has—

(1) pursued all legal avenues to bring to trial and obtain a verdict of all those who ordered and carried out—

(A) the March 2, 2016, murder of Berta Cáceres;

(B) the killings of over 100 small-farmer activists in the Aguán Valley;

(C) the killings of 22 people and forced disappearance of 1 person by state security forces in the context of the 2017 post-electoral crisis; and

(D) the May 3, 2016, armed attack on Félix Molina, and the November 26, 2018, shooting of Geovanny Sierra.

(2) investigated and successfully prosecuted members of military and police forces who are credibly found to have violated human rights, and ensured that the military and police cooperated in such cases, and that such violations have ceased;

(3) withdrawn the military from domestic policing, in accordance with the Honduran Constitution, and ensured that all domestic police functions are separated from the command and control of the Armed Forces of Honduras and are instead directly responsible to civilian authority;

(4) established that it protects effectively the rights of trade unionists, journalists, human rights defenders, the Indigenous, the Afro-Indigenous, small-farmers, LGBTI activists, critics of the government, and other civil society activists to operate without interference; and

(5) taken effective steps to fully establish the rule of law and to guarantee a judicial system that is capable of investigating, prosecuting, and bringing to justice members of the police and military who have committed human rights abuses.