

HONDURAS DECREE 107-2026

Agrarian Reform, Garifuna Land Rights, and Constitutional Conflict

A legal analysis of how the new enforcement regime affects campesino communities, Indigenous and Garifuna territories, due process, protest, and binding international judgments

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ABOUT THIS ANALYSIS

This study was prepared for Garifuna communities in Honduras and the English-speaking diaspora, campesino organizations, Indigenous peoples, journalists, lawyers, students, investors, and public officials who need a clear explanation of what Decree 107-2026 does, why it is being resisted, and how it interacts with Honduran constitutional law and binding international obligations. Every statement about the statute was verified against the official text published in Diario Oficial La Gaceta No. 37,178. The analysis distinguishes the text of the law, verified facts, public allegations, and the author's legal conclusions.

1. Author's Position and Central Thesis

Decree 107-2026 entered into force in Honduras on June 26, 2026, presenting itself as a law to protect agroindustry, energy, tourism, livestock, and small agricultural producers. Its significance extends far beyond production. The decree creates a preferential enforcement regime for registered land and selected economic activity, authorizes immediate institutional intervention, places personal pressure on public officials, and sends competing agrarian and territorial claimants to court after possession may already have been restored to another party.

That structure is especially consequential in a country where campesino claims remain unresolved, collective Garifuna and Indigenous territories are incompletely titled or affected by overlapping registrations, and Honduras is already subject to four binding Inter-American Court judgments involving Garifuna communities.

I write as a Honduran attorney and as a Garifuna man. Those identities do not require me to choose between legal rigor and moral clarity. They require both. My purpose is to explain what the decree says, how it operates, which constitutional and international rules govern it, and why I conclude that repeal and replacement are the correct remedy.

Throughout this study, “campesino communities” means organized rural workers, small farmers, agrarian-reform beneficiaries, and land-dependent families. The debate surrounding the decree is

often presented as a simple choice between private property and unlawful occupation. That framing is incomplete. Honduras carries a long history of unresolved agrarian claims, incomplete collective titling, overlapping registrations, expansion of municipal urban boundaries into communal land, concessions granted without consultation, and judicial proceedings that remain unresolved for years. In that setting, a law that orders immediate protection for registered commercial interests operates on ground that is anything but neutral.

The decree does not merely protect property. It establishes a hierarchy of urgency: registered commercial interests receive immediate administrative and police protection, while historically dispossessed communities are told to litigate after the facts on the ground have already been changed.

This analysis examines one question: whether Decree 107-2026 provides a fair legal process for resolving credible agrarian, ancestral, and collective claims before coercive enforcement changes the facts on the ground. And it defends one principle: the State must examine the history of the land, the origin and scope of competing titles, collective rights, pending agrarian proceedings, and its own binding human-rights obligations before any community is branded an invader, removed by force, or placed inside an organized-crime narrative.

2. Executive Summary

1. Decree 107-2026 was published in La Gaceta No. 37,178 on June 26, 2026, entered into force the same day, and contains ten articles covering agroindustry, energy, tourism, livestock, and small agricultural producers. [1]
2. Article 2 declares qualifying land and improvements immediately and mandatorily shielded from affectation, a statutory immunity described in Honduran law as **inafectabilidad**, operating even against public-utility grounds, agrarian reform, or any other legal cause. [1]
3. Articles 5 and 6 direct authorities to protect logistics, clear roads, act immediately, neutralize alleged unlawful acts, carry out necessary evictions, and restore possession to whoever held the land before the alleged invasion. [1]
4. Articles 6 and 7 make delay, negligence, or refusal to intervene a serious offense and impose personal civil, administrative, and criminal liability on public officials. This is institutional pressure by design: the safest choice for a prosecutor, police officer, or administrator becomes intervention for the protected economic interest. [1]
5. Article 3 grants absolute administrative priority, cuts response deadlines to no more than half the ordinary term, and applies positive administrative silence, with express exclusions for environmental licenses and for proceedings involving environmental, health, territorial, or public-safety risks. [1]

6. Article 9 declares the measures preventive, prioritized, and immediately enforceable, in order to prevent irreversible damage to protected production. The asymmetry is the point: the statute guards production against irreversible harm and contains no equivalent guard for communities facing evictions whose human and cultural consequences are irreversible in fact. [1]
7. The decree's consultation clause is narrower than ILO Convention No. 169: it refers to communal land registered in the community's name and to recognized Indigenous and tribal territories, while the Convention protects lands traditionally occupied and requires consultation on legislative measures that may directly affect the peoples. [14]
8. The Constitution protects private property and simultaneously subjects it to its social function, makes agrarian reform an essential part of national development, requires effective campesino participation, and commands the State to protect Indigenous communities, especially their lands and forests. [2]
9. The bill predated the Rigores massacre of May 21, 2026. Four days after the killings, a favorable committee report advanced it, and the decisive legislative push unfolded while the rural movement mourned twenty victims reported by La Via Campesina, including five minors. [6][7][8]
10. Honduras faces four collective Garifuna community judgments from the Inter-American Court: Triunfo de la Cruz, Punta Piedra, San Juan, and Cayos Cochinos. Lopez Alvarez adds a fifth warning about the human cost of criminalizing Garifuna land defenders. [9][10][11][12][13]
11. My conclusion as a matter of legal opinion: repeal, followed by a replacement law that protects lawful production while preserving agrarian reform, collective property, consultation, judicial review, protest, municipal authority, and due process.

3. What Decree 107-2026 Is and How It Was Enacted

The official title is the Law for the Strengthening and Protection of the Agroindustrial Sector, Energy Projects, Tourism, Livestock, and Small Agricultural Producers of Honduras. It was enacted as Legislative Decree No. 107-2026 and published on June 26, 2026. [1]

The official legislative narrative is explicit. The recitals describe invasions as threats to legal security, investment, production, food supply, energy, prices, and social peace, and state that the Penal Code and the Code of Criminal Procedure require the State to neutralize usurpation through preventive evictions and restoration of possession. [1]

Congress initially approved the agroindustrial protection law on June 4. On June 9, through reconsideration of the legislative record, Congress extended it to energy and tourism and inserted language referring to consultation with Indigenous and tribal peoples. Congress itself publicly described the additions as protection for energy and tourism projects. [4] Supporters presented the

decree as a necessary response to unlawful invasions, losses to production, threats to employment, and weak legal security, and publicized statements from livestock and agricultural representatives who characterized many occupants as false campesinos or actors who profit from occupations. [5]

THE REAL LEGAL QUESTION

Lawful property and production deserve protection. The question this decree raises is different: whether a registered title or prior possession should trigger immediate police restoration before the State resolves credible agrarian, ancestral, collective, cadastral, or title-origin disputes.

4. Rigores: The Massacre That Framed the Final Legislative Push

On May 21, 2026, armed attackers killed agricultural workers at an African-palm property in Rigores, Trujillo, Colon. The Public Prosecutor's Office initially reported nineteen victims identified by forensic authorities. La Via Campesina Honduras reported twenty deaths: seventeen men and three women, including five minors. [6][7] Authorship and motive belong to the criminal investigation, and this analysis stays within the documented record.

The bill predated the killings. The legally significant fact is the sequence that followed: on May 25, four days after the massacre, the congressional Security and Citizen Prevention Commission issued a favorable report on the agroindustrial protection bill, and the decisive legislative process advanced while rural Honduras was burying its dead. La Via Campesina publicly connected that timing to a broader pattern in which rural communities bear the human cost of agrarian conflict while legislation strengthens corporate property enforcement. [8]

Rigores did not originate the bill. It exposed the direction of the State's response. The countryside had just suffered a mass killing, yet the legislative answer that advanced was not a structural mechanism for land regularization, protection of rural life, investigation of agrarian violence, or equal access to justice. It was a law designed to accelerate protection, eviction, and restoration of possession for selected economic sectors.

5. Article-by-Article Analysis and Legal Concordances

Each article is examined in four steps: what it does, its legal concordances, the legal comment, and the concrete impact on the ground. Two Honduran legal terms recur. **Inafectabilidad** is a statutory shield from agrarian reform, public-utility measures, and other forms of legal affectation.

Saneamiento territorial is territorial regularization: the removal or resolution of conflicting third-party occupations, overlapping titles, and other barriers to effective collective possession.

Article 1: National priority and protection

What the article does: Declares agroindustry, energy, tourism, livestock, agriculture, associated land, infrastructure, logistics, transportation, projects, and participating persons or entities to be

matters of public order, national interest, and national priority. It states that consultation applies to communal lands registered in the peoples' names and that the law will not apply in recognized Indigenous or tribal territories without prior consultation.

Legal concordances: Constitution arts. 1, 59, 60, 64, 328, 346; ILO Convention No. 169 arts. 2, 4, 6, 7, 13, 14; American Convention arts. 1.1, 2, 21, 23, 24, 25.

Legal comment: Article 1 creates a preferential legal status for selected sectors without an equally urgent mechanism for collective titling, agrarian adjudication, territorial regularization, or execution of international judgments. Its consultation clause is narrower than Convention No. 169, because under the Convention traditional occupation, not registration alone, is the source of protected territorial rights.

Concrete impact: A community whose collective land remains unregistered because of State delay may receive less practical protection than a tourism or energy project whose rights are already recorded.

Article 2: Mandatory statutory immunity (inafectabilidad)

What the article does: Declares qualifying land and improvements immediately and mandatorily shielded from affectation, including against public utility, agrarian reform, or another legal cause. Competing claimants must assert their rights exclusively before the courts.

Legal concordances: Constitution arts. 103, 104, 106, 320, 344, 345, 346, 347, 348; Agrarian Reform Law art. 1 and related provisions on agrarian investigation, adjudication, social function, and INA authority.

Legal comment: This is the decree's central conflict. The Constitution makes agrarian reform an integral, necessary, public-utility process and requires other economic policies to operate in harmony with it. An ordinary statute cannot use the label of immunity to empty a constitutional institution of effect. The reliance on registered title is most dangerous exactly where the dispute concerns overlapping titles, expansion of municipal urban boundaries, unlawful transfers, or the State's own failure to title collective land. A registered title is evidence; it is not the end of legal examination.

Concrete impact: The registered or prior possessor starts with a statutory shield. The campesino or Indigenous claimant starts with litigation, delay, cost, and the risk of losing possession before the case is decided.

Article 3: Administrative priority and abbreviated deadlines

What the article does: Grants absolute and preferential priority to protected projects and requires decisions within no more than half the ordinary deadline. Positive administrative silence applies

only where there are no environmental, health, territorial, or public-safety risks. Environmental licenses and permits are expressly excluded.

Legal concordances: Constitution arts. 60, 328, 345, 346; ILO Convention No. 169 arts. 6, 7; principles of equality, reasoned administration, participation, and environmental protection.

Legal comment: Article 3 creates an expedited administrative track for selected economic sectors without creating any comparable mechanism for collective titling, agrarian adjudication, territorial regularization, or compliance with international judgments. The inequality lies in the statutory allocation of urgency: a project receives abbreviated deadlines backed by disciplinary consequences for delay, while communities wait years for collective title, demarcation, cadastral correction, or execution of a judgment.

Concrete impact: The provision builds a fast administrative lane for selected economic activity and no parallel lane for unresolved rural and collective rights.

Article 4: Institutional protection against administrative restrictions

What the article does: Protects entities with legally issued environmental and operating licenses and nullifies administrative measures, including municipal tax-plan provisions, that obstruct or contradict protected projects.

Legal concordances: Constitution arts. 294, 298 on municipal autonomy; arts. 320 to 324 on legality and public-official responsibility; environmental, land-use, and municipal law.

Legal comment: A valid license provides legal stability. Article 4 converts it into standing immunity from later land-use rules, environmental protection, disaster-risk measures, and correction of unlawful acts, and it personalizes the risk to officials whose decisions affect protected projects.

Concrete impact: Municipalities and agencies may hesitate to regulate a licensed project even when new evidence, environmental conditions, public risk, or territorial rights require action.

Article 5: Logistics, road clearing, and the protest contradiction

What the article does: Guarantees continuous transport and orders authorities during strikes, demonstrations, protests, or road occupations to prioritize perishable goods, create safe corridors, and clear roads, ports, access points, and strategic routes immediately. Deliberate interference is declared not to be a legitimate exercise of rights, while the same article states that it does not intend to limit protest.

Legal concordances: Constitution arts. 64, 78, 79, 80, 81; American Convention arts. 13, 15, 16, 24; proportionality and necessity principles.

Legal comment: The article contradicts itself. A right to protest reduced to activity that produces no pressure, disruption, or public visibility is no longer a right to protest. Legitimate protection of

ambulances, essential supplies, and third-party safety requires individualized necessity and proportionality analysis; Article 5 replaces that analysis with a blanket economic-priority rule. The predictable result is a chilling effect: people stop exercising a right out of fear of its consequences, and at that point the right has already been impaired, even before anyone is prosecuted.

Concrete impact: The provision inhibits campesino and Indigenous mobilization, especially where road action is one of the few means available to obtain a response from distant institutions.

Article 6: Immediate intervention, eviction, and restoration of possession

What the article does: Prohibits administrative authorities from recognizing or tolerating occupation even when presented as social conflict, collective claims, protest, strike, or claims concerning land use and possession. It imposes an immediate, unavoidable duty on prosecutors, police, and administrative authorities to act. Where alleged occupants lack a final judgment authorizing possession, the law orders necessary evictions and restoration to the prior possessor.

Legal concordances: Constitution arts. 59, 60, 82, 89, 90, 293, 320, 346; American Convention arts. 5, 7, 8, 21, 24, 25; ILO Convention No. 169 arts. 8, 13, 14, 17, 18.

Legal comment: The provision prejudices the dispute. It treats collective claims as legally irrelevant to the initial intervention, although collective occupation, agrarian possession, territorial regularization, and ancestral rights may be the very issues requiring adjudication. The evidentiary imbalance is severe: occupants are expected to hold a final judgment, while the protected possessor receives restoration before any final ruling on the superior right.

Concrete impact: The law changes the physical reality first. Homes, crops, tools, access routes, fishing areas, and community presence may be lost before the court decides the deeper dispute.

Article 7: Personal liability of public officials

What the article does: Makes officials personally and directly liable for damage to the State, investors, workers, and third parties when they fail to perform obligations under the decree. Liability may be civil, administrative, and criminal.

Legal concordances: Constitution arts. 321 to 324; prosecutorial objectivity, legality, due process, and the duty to refuse unlawful orders.

Legal comment: This provision is institutionally coercive. It tells the official that caution, delay, mediation, verification, or refusal may carry personal consequences, and it creates no equally explicit liability for evicting the wrong community, ignoring an ancestral claim, relying on an overlapping title, or aggravating a binding international judgment. A prosecutor who acts under threat of personal liability for prudence is no longer an objective prosecutor; the statute converts prudence into a professional risk and service to the protected interest into a duty.

Concrete impact: The safest bureaucratic choice becomes intervention for the investor or registered possessor, followed by the statement that the displaced community may sue later.

Article 8: Full extension to the energy sector

What the article does: Extends the law to energy projects and associated real estate, infrastructure, easements, rights of way, transmission lines, substations, and generating facilities.

Legal concordances: ILO Convention No. 169 arts. 6, 7, 13, 14, 15; UN Declaration arts. 19, 26, 32; constitutional environmental, municipal, and Indigenous protections.

Legal comment: The territorial reach is broader than a power plant. Easements and rights of way can cross communal land, forests, water sources, farms, sacred spaces, and traditional routes. Consultation and impact assessment must occur before interference, not after police protection of an already authorized corridor.

Concrete impact: Indigenous and rural territories may be affected by linear infrastructure even when the principal facility is located elsewhere.

Article 9: Preventive character and immediate execution

What the article does: States that measures under the decree are preventive, prioritized, and immediately enforceable, and are intended to avoid irreversible damage to protected production, without prejudice to later judicial proceedings.

Legal concordances: Constitution arts. 82, 90; American Convention arts. 8, 25; effective judicial protection and precautionary-law principles.

Legal comment: The statute names its protected value with precision: production must be guarded against irreversible damage. It contains no mirror clause for the other side of the eviction. Immediate execution can create irreversible social, territorial, and cultural consequences before any judge examines the merits, and a later lawsuit is not effective judicial protection when the physical and cultural conditions of the community have already been destroyed.

Concrete impact: Judicial review risks becoming remedial rather than preventive, arriving after possession, housing, crops, or access have already changed.

Article 10: Immediate entry into force

What the article does: The decree took effect on the date of publication.

Legal concordances: ILO Convention No. 169 art. 6 on prior consultation; constitutional due process, legal certainty, and institutional coordination.

Legal comment: The law entered into force with no transition period, no implementing regulations, no Indigenous-territory protocol, no mandatory title audit, no prior judicial review mechanism, and no procedure for lands covered by Inter-American Court judgments.

Concrete impact: Institutions received immediate enforcement duties without a rights-protective framework capable of distinguishing ordinary trespass from complex agrarian or ancestral disputes.

6. Why the Decree Is Especially Harmful to Campesino Communities

Honduras does not have a land conflict because every rural claimant is a criminal. It has a land conflict because land concentration, incomplete adjudication, disputed titles, weak cadastral systems, agrarian violence, delayed institutional responses, and unequal access to courts have accumulated over decades.

Article 344 of the Constitution defines agrarian reform as an integral process intended to transform the agrarian structure, replace latifundio and minifundio, guarantee social justice in the countryside, and increase production and productivity. Article 345 makes agrarian reform an essential part of national development and requires other economic and social policies to operate in harmony with it. Article 348 requires effective participation by recognized campesino, farmer, and livestock organizations in agrarian decisions. [2] The Agrarian Reform Law itself joins transformation of land tenure, justice in the countryside, and greater agricultural production in a single objective. [3]

Decree 107-2026 reverses the order of inquiry. Instead of first asking whether land is national, ejidal, privately titled, subject to agrarian adjudication, above the statutory ceiling, improperly transferred, or failing its social function, the decree first asks whether a title is registered and whether the land is linked to a protected economic sector.

For a campesino group, the practical risks include:

12. Loss of possession before the INA or a court resolves the agrarian claim.
13. Use of police and criminal procedure where an agrarian investigation should come first.
14. A presumption that organized collective action is evidence of unlawful occupation rather than a form of rural association and petition.
15. A displaced burden of proof: the community must produce a final judgment, while the registered or former possessor receives immediate protection.
16. Increased cost, distance, delay, and fear, capable of dismantling campesino organizations without a single final conviction.

A FALSE CHOICE

Protecting genuine small farmers does not require suspending agrarian reform or giving immediate police superiority to any registered project. A rights-compatible law would distinguish small

producers, large corporate landholdings, national or ejidal land, agrarian-reform beneficiaries, collective titles, and unresolved title conflicts.

7. Why the Decree Creates a Distinct Legal Danger for Garifuna and Indigenous Territories

The danger to Garifuna and Indigenous peoples goes beyond the risk that their lands may be occupied by others. The Honduran State has repeatedly failed to complete the legal work required to protect collective territory, and the decree rewards formal registration in the very places where the absence, incompleteness, or distortion of registration is part of the violation.

ILO Convention No. 169 does not make collective rights depend exclusively on a conventional deed. Article 13 requires respect for the special cultural and spiritual relationship with lands and territories and defines territory as the total habitat used or occupied. Article 14 requires recognition of ownership and possession over lands traditionally occupied and protection of access to lands traditionally used for subsistence. Article 6 requires consultation through representative institutions whenever legislative or administrative measures may directly affect the peoples. [14]

The decree's references to communal land “registered” in the community's name and to “recognized” territories are therefore inadequate. They permit a basic contradiction: the State may fail to title, delimit, demarcate, or regularize territory, and then rely on that lack of formal completion when deciding whose claim receives immediate enforcement. The Inter-American Court has repeatedly found that Honduras failed to protect Garifuna collective property, allowed third-party interests to consolidate, delayed territorial regularization, or acted without adequate consultation. [9][10][11][12]

The State cannot create vulnerability by failing to title collective territory, allow private or municipal interests to consolidate during that failure, and later treat the resulting registration as unquestionable proof against the community.

8. Land Is Not Merely an Asset: Garifuna Territory, Culture, and Survival

Public debate often measures land only by its immediate market output. Under that lens, a beach without a hotel, a mangrove without a marina, or a field temporarily at rest is called unused. That lens is too narrow for Garifuna territory and for the law that protects Indigenous and tribal peoples.

Territory connects homes, family plots, fishing areas, beaches, rivers, mangroves, cemeteries, sacred and ceremonial sites, community paths, medicinal plants, future housing, and the places where language and oral history are transmitted. The collective character matters because the value is not exhausted by the market price of separate parcels. UNESCO recognizes Garifuna language, dance, and music as Intangible Cultural Heritage of Humanity and describes Garifuna songs and

oral traditions as repositories of knowledge concerning cassava cultivation, fishing, canoe building, and traditional housing that remain important to the life and survival of the people. [16]

Garifuna communities decide their own development priorities. ILO Convention No. 169, article 7, recognizes the right of peoples to determine their priorities for development when their lives, institutions, spiritual well-being, and lands are affected, to participate in decisions, to protect the territorial basis of their culture, and to receive a fair share of benefits. Tourism, construction, commerce, technology, and investment can all coexist with that right when they pass through it rather than over it. [14]

DEVELOPMENT WITH A PEOPLE, NOT OVER A PEOPLE

The relevant question is not whether development will occur. It is who decides, who owns, who is consulted, who bears the environmental and cultural cost, who receives the benefit, and whether the community can still exist on its territory after the project is built.

9. Four Collective Garifuna Judgments Against Honduras

Honduras faces four collective Garifuna community judgments from the Inter-American Court of Human Rights. Each case has distinct facts; together they form a consistent line of binding authority on collective property, consultation, effective protection, territorial regularization, culture, subsistence, and State responsibility.

Triunfo de la Cruz v. Honduras, 2015

The Court examined expansion of Tela's municipal urban boundary into claimed traditional land, sales of recognized traditional land, municipal transfers, creation of the Punta Izopo protected area, tourism projects, and threats and deaths affecting community members. The case demonstrates that urban growth, tourism, environmental regulation, and registered transactions cannot be treated as legally separate from collective property. [10]

Punta Piedra v. Honduras, 2015

The State granted collective titles in 1993 and 1999, but third parties occupied part of the titled territory. Honduras promised territorial regularization in 2001 and failed to carry it out, contributing to conflict, intimidation, violence, and a death. The case proves that a paper title is not enough: the State must make collective ownership effective on the ground. [11]

San Juan v. Honduras, 2023

The Court held Honduras responsible for violating collective property, participation in public affairs, and access to information because it failed to title, delimit, and demarcate the territory, did not guarantee effective use and enjoyment, and did not ensure community participation in matters affecting it. [9]

Cayos Cochinos v. Honduras, 2025

The Court found violations of collective property, participation, access to information, cultural identity, food, and personal integrity, due to the lack of free, prior, and informed consultation in the declaration and management of the protected area and the absence of effective guarantees for use of the communal territory and functional habitat. [12]

A FIFTH WARNING: LOPEZ ALVAREZ V. HONDURAS, 2006

Lopez Alvarez sits outside the four collective territorial judgments and completes the picture. Alfredo Lopez Alvarez, a Garifuna land-defense leader, was arbitrarily detained for more than six years. The Court found violations involving liberty, integrity, due process, expression, equality, and judicial protection. It is a binding warning about the human cost of using criminal proceedings against territorial leadership. [13] The Inter-American Court lists the collective Garifuna cases, including San Juan and Cayos Cochinos, as pending compliance in its supervision system. [21]

10. San Juan in 2026: A Judgment on Paper, a Police Operation on the Ground

On July 6, 2026, a large police operation entered San Juan, Tela, in connection with land claimed by a tourism company. Five community members were detained and prosecuted for aggravated usurpation. Community and human-rights organizations reported excessive force, destruction of a territorial-defense camp, and interference with agricultural and fishing tools; State authorities maintained that they were executing the law and protecting property. Resolving those competing factual accounts requires independent investigation and full access to the judicial and police records. [20]

The legal context is undisputed. San Juan already holds a binding Inter-American Court judgment establishing State responsibility for failure to title, delimit, demarcate, and protect the community's collective property and participation rights. [9] The application of Decree 107-2026 therefore raises a direct question of international responsibility: can Honduras rely on registered or prior private possession to remove members of a community from disputed territory while the State remains in breach of a judgment requiring effective territorial protection?

In my legal opinion, the answer is no, and Article 6 of the decree cannot supply a different one. Honduran judges and authorities must read the decree together with constitutional supremacy, treaty priority, the American Convention, Convention No. 169, and the binding San Juan judgment. A domestic law cannot erase an international judgment or authorize conduct that aggravates the violation already declared.

The criminal procedure requires equal scrutiny. Public reporting indicates that the case was transferred from the local court to a court with national territorial jurisdiction associated with organized criminality. A collective defense committee or community assembly is not a criminal organization merely because several people act together. The governing special-jurisdiction law

requires proof of a structured group, continuity over time, concerted action, and criminal purpose. Number of participants and community organization are not substitutes for those elements.

THE DOCUMENTARY RECORD A SERIOUS PROCEDURAL OPINION REQUIRES

The full judicial resolution declaring lack of jurisdiction, the prosecution request, the evidence supporting any organized-crime characterization, the notice to defense counsel, the eviction order, the title chain, the cadastral plan, the inspection record, the police report, and the receiving court's jurisdictional decision must all be obtained and examined before any individual judge is accused of a disciplinary or criminal offense. That is how a legal conclusion is built.

11. Beyond San Juan: Triunfo de la Cruz, Punta Piedra, Punta Gorda, Tornabe, and the Caribbean Coast

San Juan is one point on a longer line. The conflict runs along the Caribbean coast, where tourism, urban expansion, conservation regimes, energy corridors, private registration, and collective territory repeatedly intersect. Triunfo de la Cruz shows how municipal expansion, tourism, land sales, and public decisions can fragment a territory even after the State recognized its traditional character. Punta Piedra shows that titling without territorial regularization leaves a community exposed to third-party occupation and violence. [10][11]

Punta Gorda, on Roatan, provides a recent domestic example. In November 2022, police and military authorities evicted a Garifuna territorial-recovery camp and detained six defenders on usurpation allegations. Investigative reporting described an expedited preventive-eviction process based on the complainant's registered claim, without a deep title-chain examination before the operation. The dispute concerned approximately eleven acres in the first Garifuna settlement in Honduras, a community of profound historical and cultural significance. [19]

Tornabe and other Tela Bay communities face related pressure from coastal tourism, rising land values, municipal planning, private transactions, and generational housing needs. Their title histories differ and deserve individual treatment. The common legal issue is whether development and registration proceed before the State completes collective titling, territorial regularization, consultation, and participation. Decree 107-2026 intensifies that risk nationwide, because it covers tourism and energy as well as agriculture: the same police-first structure can be invoked around beaches, roads, rights of way, tourist projects, transmission infrastructure, and lands linked to production.

12. Common Claims in the Public Debate, and What the Law Actually Requires

Enforcement is preceded by a narrative. Public commentary around San Juan describes Garifuna people as newcomers, guests, invaders from the beginning, beneficiaries of excessive privilege, people who sold all collective land, or obstacles to tourism and employment. Some argue that only

Lenca, Tolupan, Maya, or other precolonial peoples can hold ancestral rights. Others insist that an individual deed ends every collective claim. These statements perform a legal and political function: they make displacement appear reasonable before the public sees the title chain, the collective history, the court judgment, or the limits of a private deed. Each claim has a legal answer.

“Tela existed before the Garifuna arrived.”

The founding date of a city is not a deed to every parcel within the municipality. Garifuna residents of San Juan, Tornabe, and Triunfo de la Cruz are also people of Tela. The relevant legal question is the history and status of the specific territory, not a racialized division between “Telenos” and Garifuna residents.

“Garifuna people arrived in 1797, so they cannot have ancestral land.”

Traditional territory does not require being the first human population in the entire modern State. Convention No. 169 protects lands traditionally occupied and used by a people. More than two centuries of continuous community life, subsistence, culture, cemeteries, fishing, agriculture, and collective organization establish traditional occupation; they cannot be reduced to recent trespass.

“A private deed proves the community is invading.”

A deed is important evidence and remains subject to examination. The legal inquiry may include origin of title, authority of the seller, communal restrictions, overlap, cadastral accuracy, expansion of the municipal urban boundary, State grants, collective proceedings, and international judgments.

“Individual titles and sales erased collective ownership.”

That conclusion requires parcel-by-parcel analysis: the exact land, the nature of the original title, whether the land was communal, who had authority to transfer it, whether collective restrictions applied, and whether a transfer could prejudice non-consenting community members. Individualization can fragment territory; it does not automatically extinguish every collective right.

“Tourism will create jobs, so beaches must be developed.”

Employment is a legitimate public interest, and it operates within the law rather than above it. Tourism can be community-owned, jointly developed, regulated, leased under fair terms, or built outside contested areas. Development must comply with property, environmental, consultation, and participation rights.

“Only criminals or false campesinos occupy productive land.”

Fraud and criminal profit exist and deserve individualized investigation and prosecution. Individualized is the operative word: collective identity, poverty, or political organization cannot substitute for proof, and a territorial-recovery movement is not converted into a criminal enterprise by assertion.

The public narrative creates the invader. The statute creates the immediate enforcement mechanism. The organized-crime label can then turn collective resistance into evidence against the community.

13. Criminalization: From “Invader” to “Organized Crime”

Criminalization is the misuse, distortion, or disproportionate use of criminal law to weaken legitimate defense of rights, intimidate communities, or convert social conflict into punishment without adequate attention to the underlying claim. Defenders remain subject to investigation like anyone else; criminalization begins where investigation ends and pressure begins.

The Inter-American Commission has identified defenders of land, environment, and natural resources, including Indigenous, Afro-descendant, and campesino leaders, as groups at particular risk of criminalization. It has documented the use of criminal proceedings in Honduras to intimidate territorial defenders and has called on the State to prevent criminalization of Garifuna defenders.

[17][18]

The pattern generally operates in stages:

1. Delegitimize the claim by calling the community foreign, unproductive, privileged, or opposed to development.
2. Describe the disputed presence as invasion before investigating collective or agrarian rights.
3. Identify leaders, committees, or assemblies as organizers of the alleged offense.
4. Apply aggravated usurpation, preventive eviction, arrest, restrictive measures, or special jurisdiction.
5. Force the community to spend years defending leaders rather than titling, producing, educating, or developing the territory.

The organized-crime characterization is especially serious. Communities must organize in order to function: they hold assemblies, select leaders, create land-defense committees, maintain watch systems, coordinate transportation, and make collective decisions. Those characteristics show community governance. Establishing organized crime requires the State to individualize conduct and prove who did what, when, with what intent, under what plan, and through what criminal structure. Ethnic identity, association, collective action, and territorial resistance are not presumptions of criminality.

14. Regional Precedent: Courts Have Struck Down Statutes Like This Before

In 2009, the Constitutional Court of Colombia declared the country's entire Rural Development Statute unconstitutional and expelled it from the legal order for a single defect: Congress adopted a national agrarian regime without prior consultation of Indigenous and Afro-descendant peoples

(Judgment C-175 of 2009). One year earlier, the same Court had annulled the General Forestry Law on identical grounds (Judgment C-030 of 2008). [24]

The parallel with Decree 107-2026 is direct: a national statute reorganizing land enforcement, adopted in months, with direct effects on Indigenous and tribal territories, enacted without a consultation process. In the Colombian cases, that defect called neither for interpretation nor for partial amendment. It invalidated the statute. The precedent matters for Honduras because both countries are bound by the same Convention No. 169 obligation, and because it answers the question every reader eventually asks: laws like this can fall, and in the region they already have.

The Inter-American Court's property jurisprudence points the same way. Since *Awas Tingni v. Nicaragua* (2001), the Court has held that traditional possession of Indigenous and tribal peoples equals full title granted by the State, and that later titles issued to third parties over ancestral territory do not extinguish the community's right. The registration that Decree 107-2026 treats as final is, under the law that binds Honduras, a document subject to examination.

15. Constitutional and Human Rights Implicated

Human dignity and the purpose of the State: Constitution arts. 1, 59. Economic policy is an instrument for human welfare, and the person and the community remain the superior value.

Equality and non-discrimination: Constitution art. 60; American Convention arts. 1.1, 24. A facially general law produces discriminatory effects where historic inequality makes one group systematically less able to produce formal title or access accelerated institutions.

Expression, assembly, association, and petition: Constitution arts. 78 to 80; American Convention arts. 13, 15, 16. Articles 5 and 6 of the decree inhibit collective protest and territorial advocacy.

Due process, defense, presumption of innocence, and the natural judge: Constitution arts. 82, 89, 90; American Convention arts. 7, 8. Immediate enforcement and special-jurisdiction theories require strict judicial control.

Effective judicial protection: American Convention art. 25. A later proceeding is ineffective where the eviction has already destroyed housing, crops, community access, or cultural use.

Private property and its social function: Constitution arts. 103, 104, 106. Private property is protected within its social function, eminent domain, public need, and lawful procedure.

Agrarian reform and rural participation: Constitution arts. 344, 345, 347, 348. Agrarian reform is part of the constitutional economic order, and other policies must harmonize with it.

Special protection of Indigenous communities: Constitution art. 346. The State must protect Indigenous interests, especially lands and forests.

Collective property and territory: American Convention art. 21 as interpreted by the Inter-American Court; ILO Convention No. 169 arts. 13 to 18.

Consultation and self-determined development: ILO Convention No. 169 arts. 6, 7; UN Declaration arts. 18, 19, 32.

Culture, food, livelihood, and integrity: Recognized in the Cayos Cochinos judgment, where territorial restrictions and lack of consultation affected cultural identity, food, and personal integrity. [12]

Municipal autonomy and legality of public administration: Constitution arts. 294, 298, 320 to 324. Article 4 of the decree must yield to legitimate municipal and environmental regulation.

Under Constitution articles 16 and 18, treaties form part of Honduran domestic law, and treaty obligations prevail where an ordinary statute conflicts with them. Article 320 requires application of the Constitution in the event of incompatibility with ordinary law. These provisions support constitutional and conventional review of the decree in concrete cases, and they oblige every Honduran judge, without waiting for a general ruling, to set the decree aside where it collides with the Convention and the Court's judgments.

16. Legal Opinion: Why Repeal Is the Proper Remedy

Several objectives of the decree are legitimate: protecting food supply, preventing violence, preserving lawful production, ensuring transport of perishables, and requiring public officials to perform their duties. The defect is the architecture. Articles 1, 2, 5, 6, 7, and 9 work together as a single system of preferential economic status, registered-title protection, immediate enforcement, restoration of possession, personal pressure on officials, and litigation after the fact. That harm survives any general sentence promising respect for ancestral lands and international treaties.

A narrow amendment would leave the core sequence intact:

- 6.** The protected project invokes registration, license, or prior possession.
- 7.** The State treats the matter as an urgent threat to national economic interest.
- 8.** Police, prosecutors, and administrators face personal pressure to intervene.
- 9.** Possession is restored and the community is removed.
- 10.** The deeper agrarian or collective claim is litigated afterward.

For that reason, repeal is the legally cleaner remedy, followed by a replacement law that protects lawful production while establishing safeguards for complex land disputes.

A State governed by law does not prove legal security by choosing the strongest document and the fastest police route. It proves legal security by determining the right fairly before it makes the damage irreversible.

17. Citizen Legislative Initiative and Minimum Replacement Safeguards

Article 213 of the Constitution grants legislative initiative to at least three thousand citizens under the citizen-initiative mechanism, developed by the Law on Citizen Participation Mechanisms. [23] A citizen initiative places a repeal bill before Congress; Congress retains the power to approve, amend, or reject it. The political value survives even a rejection: every representative must then vote, by name and on the record, on whether to maintain a law that evicts communities protected by international judgments.

A serious campaign includes a formal draft decree, statement of reasons, verified signatures and identity information, lawful custody of records, designated representatives, legal review, public education, and a congressional follow-up strategy.

A replacement statute should contain, at minimum:

- 11.** No administrative or prosecutorial eviction in a credible agrarian, communal, Indigenous, or tribal land dispute without prior judicial review.
- 12.** Mandatory participation of the INA and review of title origin, cadastral overlap, agrarian proceedings, and the social function of the property.
- 13.** Express exclusion of traditionally occupied, claimed, titled, demarcation-pending, regularization-pending, or judgment-protected Indigenous and tribal territories until the collective dispute is resolved.
- 14.** Consultation consistent with ILO Convention No. 169 for legislative and administrative measures that directly affect the peoples, regardless of whether the State has completed registration.
- 15.** Protection of peaceful protest subject only to individualized, necessary, and proportionate restrictions.
- 16.** Official liability applied equally to unlawful omission and unlawful intervention, with no special personal liability designed to pressure officials toward one side.
- 17.** Emergency corridors for ambulances, food, fuel, and genuinely essential services, with protest otherwise protected even when it is economically disruptive.
- 18.** Special rules for small producers that prevent large corporate projects from using the small-farmer label as political cover.
- 19.** Mandatory compliance review for land affected by Inter-American Court judgments or precautionary measures.

20. Accessible remedies, legal aid, interpretation, notice, and geographic access for rural and Indigenous defendants.

18. Conclusion

Decree 107-2026 did not create Honduras's agrarian or Garifuna territorial crisis. It entered a field already marked by unequal registration, delayed agrarian justice, incomplete collective titling, tourism and infrastructure pressure, violence, and repeated international judgments against the State. Instead of resolving those conditions, the decree gives them a faster enforcement mechanism. It grants selected economic interests priority, shields qualifying land from agrarian and public-interest mechanisms, commands immediate intervention, and tells the displaced claimant to litigate afterward.

For campesino communities, this converts unresolved agrarian rights into police cases. For Garifuna and Indigenous peoples, it transforms the State's own failure to title and protect territory into evidence against the community. For public officials, it makes caution personally dangerous. For democratic society, it narrows protest to activity that does not seriously inconvenience the protected economy.

The Garifuna struggle is a demand that the State recognize the legal consequences of more than two centuries of community life, collective occupation, culture, and resistance, and comply with judgments it is already bound to obey. Every Honduran history deserves that same seriousness before the law.

Defending territory is not organized crime. A registered title is not beyond legal examination. Development is not a license for displacement. And a later lawsuit is not justice when the community has already been removed.

About the Author

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This article provides general legal analysis and does not constitute legal advice for any specific person, community, company, or property dispute.

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