



Figure 1. A sign posted on reoccupied Garífuna land in Triunfo de la Cruz, which reads “*Exigimos El Cumplimiento de la Sentencia*,” or “We Demand Compliance with the Sentence,” referring to the unfulfilled 2015 Inter-American Court of Human Rights sentence.

Garífuna Territorial Reparation: A Report from the Field

Introduction

In January 2024, the Human Rights in Action Clinic of the Promise Institute for Human Rights at UCLA School of Law conducted field research in the Garífuna community of Triunfo de la Cruz, Honduras. The subject of the trip was the status of implementation of the 2015 Inter-American Court of Human Rights (IACtHR or the “Court”) ruling in the case of the *Garífuna Community of Triunfo de la Cruz v. Honduras*.¹ We examined the impact of the State’s failure to fully comply with the Court’s ruling. We conducted fieldwork in coordination with the Garífuna-led Black Fraternal Organization of Honduras (*Organización Fraternal Negra de Honduras-OFRANEH*)² and with the Triunfo community’s Committee for the Defense of Land and

¹ *Garífuna Community of Triunfo de la Cruz and its Members v. Honduras*, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 305 (Oct. 8, 2015).

² OFRANEH is a representative Organization of the Garífuna people working in the promotion and defense of their territories and human rights and in the reproduction of their culture and life.

Territory (*Comité de Defensa de la Tierra y Territorio-CODETT*) and Committee for Compliance with the Sentence (*Comité de Cumplimiento de la Sentencia*).³ During our fieldwork we also visited the nearby Garífuna community of San Juan to participate in a community assembly discussing the Court's more recent 2023 decision in the case of the *Garífuna Community of San Juan v. Honduras*.⁴

1. The 2015 Triunfo de la Cruz Sentence: Adjudication of Garífuna Territorial Rights

The Garífuna community of Triunfo de la Cruz, a distinct Afro-Indigenous people, is located on the Atlantic coast of Honduras, approximately two and a half hours from San Pedro Sula. It is one of 43 Garífuna communities on Honduras' northern (Atlantic) coast. The Garífuna community has long defended their ancestral lands from state and third-party intrusions, availing itself of the limited legal protections at their disposal in the settler state framework.

Beginning in the late 19th century and into the 20th, Garífuna lands were threatened by the incursion of North American banana companies on Honduras' Atlantic coast. During the same period, and possibly in response to these threats, Garífuna communities sought and obtained recognition of their collective property in the form of *ejidos*.⁵ This limited title and recognition of their territory was constrained by the legal framework of the time, which did not contemplate the Garífuna's conception of their territory or current standards for recognition of Indigenous collective property. Nevertheless, the community of Triunfo de la Cruz obtained ejidal title to a little over 380 hectares in 1950. During the agrarian reform of the 1970s, the community sought protection of their ancestral lands through the legal figure of the *garantía de ocupación*.⁶ Again, Triunfo de la Cruz obtained title in the form of a *garantía de ocupación* to an additional 126.40 hectares in 1979. It is worth noting that these protections for Garífuna communal property did not cover the full extent of the community's claim to their traditional and ancestral territory.⁷

Following the neoliberal reforms of the early 1990s, specifically the passage of the Law of Agricultural Modernization (*Ley de Modernización Agrícola*), which sought to regularize and liberalize the Honduran land market, the Triunfo de la Cruz community pushed for titling of their communal lands. This effort was aided in part by Honduras' ratification of the Indigenous and Tribal Peoples' Convention 169 of the International Labour Organization in 1995. This became the legal framework for demanding the delimitation, demarcation and titling of lands

³ Clinic Director Joseph Berra led clinic students Mollie Cueva-Dabkoski, Rita Kuckertz, Victoria Adouvi and Kelly Koehnen in the field research January 3-15, 2024 and returned August 1-8, 2024 and January 18, 2025 for follow up research. All students contributed significantly and collectively to the research and analysis. Mollie Cueva-Dabkoski worked as a research assistant during the fall of 2024 and co-authored this report based on our research with Joseph Berra. Rita Kuckertz deserves separate recognition as a contributing author for her write-up and analysis of parts of the field research that made its way into the "Business as Usual" section of this report below. Our findings and observations from these trips are presented throughout this report, identified both directly as fieldnote observations and otherwise,

⁴ *Garífuna Community of San Juan and its Members v. Honduras*. Merits, Reparations, and Costs, Judgment. Inter-Am. Ct. H.R. (Ser. C) No. 496 (Aug. 29, 2023).

⁵ *Ejidos* in the Spanish colonial legal system and subsequent Honduran legal system represent a form of communal property with usufruct rights for community members.

⁶ The *garantía de ocupación* protected property rights, in this case communal property rights, from affectation by the agrarian reform.

⁷ This has been used as a pretext by the state to blame the community for its failure to demarcate land adjudicated in the community's favor. The community has never ceded claims to its full ancestral territory and the Court did not require them to do so. The community's raising of its ancestral claim in the demarcation process does not relieve the state of its duty to demarcate and deliver clear title to those areas that were definitively adjudicated in their favor. See *Garífuna Community of Triunfo de la Cruz and its Members v. Honduras*, Monitoring Compliance with Judgment, Order of the Court, 2019 Rep. Inter-Am. Ct. H.R. 1, ¶ 15 (May 2019).

traditionally used and occupied by Indigenous peoples, including the Garífuna. However, pressures from both the state and private interests severely limited the titling process. The state's failure to adequately provide clear title and judicial security to their collective property led the Garífuna organization OFRANEH to file petitions in the Inter-American System of Human Rights alleging violations of Garífuna collective property rights in the communities most impacted by the state's failure. Among those communities were the Garífuna communities of Triunfo de la Cruz and San Juan, the focus of our January 2024 fieldwork.⁸

In October 2015, the Inter-American Court of Human Rights (IACtHR or the "Court") recognized that the Honduran state had violated the collective property rights of the Garífuna Community of Triunfo de la Cruz by failing to protect their collective title to their ancestral territory, requiring reparatory action in the form of recognition, demarcation and legal protection of Garífuna lands.⁹ Specifically, the Court ruled, among other things, that the Honduran state was required by law to fully demarcate and *sanear*, or deliver clear title to land previously granted to the community, in the 1990s titling process—land including and surrounding the population center of the community.¹⁰ Additionally, the ruling required the Honduran state to delimit, demarcate and deliver clear title to the land recognized by the state in the *garantía de ocupación*¹¹ within two years of the Court ruling.¹² The *garantía de ocupación* included a parcel identified in the ruling as lot A1 that the Municipality of Tela had attempted to annex in 1989 under the wave of neoliberal reforms at the time, as well as a parcel known as lot A-4 that overlaps with the state's designation of the Punto Izopo National Park. Regarding the latter, the Court ordered the state to engage in consultation with the Garífuna community to ensure access and use of their traditional lands within the boundaries of the National Park.¹³

⁸ OFRANEH currently has seven cases at various stages in the Inter-American Human Rights System:

López Álvarez v. Honduras, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 141 (Feb. 1, 2006). This case was decided by the Court in 2006 in favor of Alfredo López Álvarez, unlawfully detained leader of the Triunfo de la Cruz community.

Garífuna Community of Triunfo de la Cruz and its Members v. Honduras, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 305 (Oct. 8, 2015); Garífuna Community of San Juan and its Members v. Honduras, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 496 (Aug. 29, 2023); Garífuna Community of Punta Piedra and its Members v. Honduras, Preliminary Objections, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 304 (Oct. 8, 2015); Garífuna Community of Cayos Cochinos and its Members v. Honduras, Inter-Am. Ct. H.R., No. 12.614; Inter-Am., Comm'n H.R., Report No. 33/20. These cases were filed at the same time for the state's failure to recognize and secure the communities' territorial rights. The first three were decided by Court in favor of the communities and are in monitoring and compliance stages. Cayos Cochinos is pending before the Court.

Petition 1458-11. Admissibility. Garífuna Community of Travesía. Honduras (Feb. 25, 2020), Inter-Am. Comm'n H.R. Report No. 33/20. This case also deals with territorial rights and is pending before the Commission.

Petition 1364-11. Admissibility, Pueblo Garífuna de Honduras (Sept. 7, 2021), Inter-Am., Comm'n H.R., Report No. 197/21. This case challenges the 2004 Property Law as violative of Garífuna collective property rights and is pending before the Commission.

⁹ Garífuna Community of Triunfo de la Cruz and its Members v. Honduras, Merits, Reparations, and Costs.

¹⁰ Garífuna Community of Triunfo de la Cruz and its Members v. Honduras, Merits, Reparations, and Costs, "Resolutive Paragraphs," ¶ 6.

¹¹ *Id.* at ¶ 6-7.

¹² *Id.* at ¶ 6; Garífuna Community of Triunfo de la Cruz and its Members v. Honduras, Merits, Reparations, and Costs, "Reparations," ¶ 259.

¹³ Garífuna Community of Triunfo de la Cruz and its Members v. Honduras, Merits, Reparations, and Costs, "Resolutive Paragraphs," ¶ 11; *see also* Figure 12.

Specifically with regard to lot A1, the Court ordered the state to initiate a process of expropriation to comply with the territorial reparation.¹⁴ This process would also require just compensation (or indemnification) for those prejudiced by the process.¹⁵ As justification, the Court recalled its jurisprudence recognizing restrictions on individual private property where “necessary to achieve the collective objective of preserving cultural identities in a democratic and pluralistic society within the meaning of the American Convention.”¹⁶ The Court provided for an exceptional circumstance where, if for well-founded reasons, restitution of Garífuna land were not possible, the state in consultation with the community might confer title to the community of “alternative lands of the same size and quality than those not granted.”¹⁷

The Court found that the Honduran state must allow “free access, use, and enjoyment” where the community’s ancestral collective land overlaps with the adjacent Punta Izopo National Park within two years.¹⁸ The sentence noted that the Court maintains jurisdiction over the implementation of the ruling per the American Convention on Human Rights, and “will supervise full compliance with this judgment.”¹⁹ In its words, “[the Court] will close this case when the State has complied fully with all of its provisions.”²⁰ Because the state has not fulfilled its obligations, the Court retains jurisdiction for the monitoring of compliance.

2. Status of Compliance

Honduras has not implemented the most important provisions of the Inter-American Court of Human Rights (IACtHR or “the Court”) ruling regarding territorial reparation since its release in 2015. The state’s technical duties to recognize Garífuna land include the delimitation, demarcation and titling of their collective land, and *saneamiento* of compromised, third-party, or *tercero* held land in the community’s territory. The latter of these duties includes an obligation to regularize and deliver clear title to the lands recognized by the 2015 ruling as part of the Garífuna collective title.²¹ This is a multistage process governed by Article 72 of Honduras’ Property Law, which includes conducting a census of individuals on each parcel, compensating *terceros* if they have a right to indemnification, and titling and registering the property to the community as collective property.²²

Honduras’ obligation to demarcate Garífuna collective title requires a complex remedy of inter-institutional coordination and decision-making. So far, the Honduran state has made two

¹⁴ Garífuna Community of Triunfo de la Cruz and its Members v. Honduras, Merits, Reparations, and Costs, “Resolutive Paragraphs,” ¶ 7; Garífuna Community of Triunfo de la Cruz and its Members v. Honduras, Merits, Reparations, and Costs, “Reparations,” ¶ 261.

¹⁵ Garífuna Community of Triunfo de la Cruz and its Members v. Honduras, Merits, Reparations, and Costs, “Reparations,” ¶ 261.

¹⁶ Garífuna Community of Triunfo de la Cruz and its Members v. Honduras, Merits, Reparations, and Costs, “Reparations,” ¶ 261 (citing to Case of Yakye Axa Indigenous Community v. Paraguay, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. (ser C) No. 125, ¶ 148 (June 17, 2005)).

¹⁷ Garífuna Community of Triunfo de la Cruz and its Members v. Honduras, Merits, Reparations, and Costs, “Reparations,” ¶ 262. The state would later argue this exception as an excuse for not complying with its obligation of territorial reparation, an argument the Court rejected because the state had not fully engaged in a process of expropriation and did not present well-founded reasons for the exception. *See* analysis below of the Court’s 2019 and 2021 Monitoring and Compliance reports.

¹⁸ Garífuna Community of Triunfo de la Cruz and its Members v. Honduras, Merits, Reparations, and Costs, “Resolutive Paragraphs,” ¶ 11.

¹⁹ *Id.* at ¶ 17.

²⁰ *Id.*

²¹ Garífuna Community of Triunfo de la Cruz and its Members v. Honduras, Merits, Reparations, and Costs, “Duty to Adopt Provisions of National Law,” ¶ 191 n.202.

²² *Id.*

attempts to fulfill the sentence through inter-institutional commissions. The first, the Inter-Institutional Commission for Compliance with International Judgments (CICSI) failed, and the success of the second, the High Level Inter-Institutional Commission for Compliance with International Judgments (CIANCSI), remains to be seen (see discussion below).

As part of its own mandate to ensure compliance of the ruling, the IACtHR held two hearings on Honduran state compliance, in November 2018 and March 2021, and released two monitoring reports following those hearings, tracking the Honduran state's actions to comply with the sentence. The monitoring reports were released in May 2019 and April 2021.²³ Each detailed the Honduran state's limited compliance and substantial failures to implement the Court's sentence, particularly with respect to Garífuna territorial reparation.

The 2019 report made evident that the Honduran state's implementation process until that point had been ineffective, finding there had been no "significant progress" in the key provisions of demarcation and titling.²⁴ Importantly, the report noted that the state had failed to meet the two-year deadline for compliance ordered by the Court.²⁵ The Court did not indulge the state's justifications and attempts to lay blame on the community for its failure to comply with the ruling; in this regard, it reiterated the state's obligation.²⁶ The Court also rejected the state's allegation that indemnification of the developers of the expansive Playa Escondida resort²⁷ and the owners of luxury homes in the Marbella Club development²⁸ was "impossible" due to the high appraisals of the properties, and similarly rejected the state's assertion that the community should be required to accept the "exceptional" remedy of alternative lands instead of those they were entitled to.²⁹ The Court reminded the state that it had violated the community's territorial rights by failing to demarcate and title the land occupied by these developments in their favor.³⁰ The Court further noted that the state had failed to prove that it had realized appraisals in a manner following its own internal norms regarding expropriation.³¹ The state had not exhausted efforts to title and *sanear* the Garífuna lands in compliance with the Court's order of territorial reparation for the state's violation of the community's collective property rights over those same lands.³² Therefore, the state had failed to show that the exceptional remedy applied.

Finally, the 2019 report noted that the state's failure to comply with the Court's ruling represented a continuing violation of the community's territorial rights, giving rise to new affectations of those rights.³³ It contended that the state's failure also increased social conflict in the zone, including the homicides of four community members related to territorial issues.³⁴ The

²³ 2019 Monitoring Compliance with Judgment; Garífuna Community of Punta Piedra and Garífuna Community of Triunfo de la Cruz and its Members v. Honduras, Monitoring Compliance with Judgment, Order of the Court, 2021 Rep. Inter-Am. Ct. H.R. 1 (Apr. 30, 2021). The Court conducted a hearing and issued its report on both the Punta Piedra and Triunfo de la Cruz cases. Our fieldwork did not include the Punta Piedra case, and it is not addressed here.

²⁴ 2019 Monitoring Compliance with Judgment at ¶¶ 12.

²⁵ *Id.*

²⁶ *Id.* at 12-13.

²⁷ Playa Escondida Beach Club is a third party owned, luxury hotel development in the eastern side of Triunfo de la Cruz, on Garífuna land.

²⁸ The partially developed Marbella Club project is composed of 44 acres, which the Tela municipality allotted to a private company, IDETRISA, between 1993 and 1995, against the Garífuna's previously-granted right of occupancy to the area. Garífuna Community of Triunfo de la Cruz and its Members v. Honduras, Merits, Reparations, and Costs, "Facts," ¶ 74.

²⁹ 2019 Monitoring Compliance with Judgment at ¶¶ 20-23.

³⁰ *Id.* at ¶ 21.

³¹ *Id.* at ¶ 21-23.

³² *Id.*

³³ *Id.* at ¶ 24.

³⁴ *Id.*

Court also noted that the state’s failure had led to new intrusions, additional expansions, interferences and affectation by *terceros* limiting the community’s use and enjoyment of its territory.³⁵ Couched in the measured language of the Court, the 2019 report was a scathing rebuke of the state’s failure to comply.

The 2021 hearing and monitoring report followed the shocking forced disappearance of four community members, including the President of the Triunfo de la Cruz communal board or *patronato*, Sneider Centeno, in July 2020, which resulted in Court-ordered provisional measures of protection for the Triunfo community in September 2020.³⁶ The Court again found little in the way of actual implementation of the Court’s order, stating “there has been no substantial progress in the measures of reparation, land restitution and cessation of the violations.”³⁷ A key issue for the Court was the status of the state’s efforts at *saneamiento*, which the state framed again as an issue of “indemnification,” providing confusing information on what progress had been made and what funds had been allocated or spent in that process.³⁸ The Court criticized the actions and mechanisms chosen by the state to comply with the restitution of Garífuna lands as insufficient and too slow.³⁹ It required the state to consider the solution proposed by the community’s representatives to initiate legal processes of “expropriation” for the *saneamiento* rather than ad hoc “indemnification” based on the *terceros*’ own self-appraisals.⁴⁰ The latter process appears to have only led to incapacitation of the state’s ability to implement the sentence and its foregone conclusion that the only solution was to offer the community alternative lands, which the Court had criticized and rejected in its 2019 report.

Once again, the Court reiterated that the territorial reparation of demarcation, titling and *saneamiento* were “measures of cessation,” and the state’s failure to comply constituted a continuing violation of the community’s territorial rights.⁴¹ The concern that this failure would generate “new intrusions, additional expansions, interferences and affectation by *terceros* limiting the community’s use and enjoyment of their territory” and “endanger the members of the Community and contribute to an increase in social conflict in the area” was patently realized in the deaths and disappearance of members of the community.⁴² The Court made clear that these measures of territorial reparation—demarcation, titling and *saneamiento* of the Garífuna community’s territory—were unfulfilled.⁴³ Given this noncompliance with the IACtHR ruling, the Garífuna community in Triunfo de la Cruz is experiencing an ongoing violation of their land and territorial rights.⁴⁴

Nevertheless, little progress occurred following the 2021 hearing and report, which was released during an electoral year in Honduras. Elections were held in November 2021, and in January 2022, a new administration was installed. The community began yet another arduous journey of negotiations and engagements with the administration of President Xiomara Castro to demand and achieve full state compliance with the sentence.

During our fieldwork in January 2024, OFRANEH and the Garífuna communities of Triunfo de la Cruz and Punta Piedra actively engaged in advocacy to reconstitute an inter-institutional commission tasked with fulfilling the sentence. According to OFRANEH, the

³⁵ *Id.*

³⁶ 2021 Monitoring Compliance with Judgment at ¶ 5.

³⁷ *Id.* at ¶ 52.

³⁸ *Id.* at ¶¶ 36-38.

³⁹ *Id.* at ¶ 36.

⁴⁰ *Id.* at ¶ 37.

⁴¹ *Id.*

⁴² *Id.*

⁴³ *Id.* at ¶ 38.

⁴⁴ *Id.* at ¶ 38.

previous CICSI failed because the institutional representatives did not have decision-making authority or capacity.⁴⁵ They consistently deferred to their national offices or the ministers/directors of the respective ministries and agencies. There the initiatives languished, and the necessary directives to implement the demarcation and *saneamiento* were not forthcoming.⁴⁶ Therefore, OFRANEH and the impacted communities demanded the creation of the High Level Commission for Compliance with International Judgments (*Comisión de Alto Nivel para el Cumplimiento de las Sentencias Internacionales*) or CIANCSI.⁴⁷ They insisted on participation by governmental ministers and directors or similar institutional representatives with decision-making authority. Through direct action and advocacy OFRANEH pushed the government to create CIANCSI along those lines, including a massive mobilization in 2023 raising their demand. During our fieldwork in January 2024, we accompanied representatives of the communities of Triunfo de la Cruz and Punta Piedra and representatives of OFRANEH in meetings with the Honduran Foreign Minister, the Solicitor General, the Minister-Director of the National Agrarian Institute, and the Secretary of the Presidency to push for its creation. Due to their intense efforts, the CIANCSI was finally constituted by presidential decree in March 2024 and installed on April 12, 2024.

3. Structural Causes of the State's Failure to Comply: the Inertia and Weight of Settler Colonial and Neoliberal logics

Many obstacles currently confront the achievement of Garífuna territorial reparation in Triunfo de la Cruz and elsewhere in Honduras. The most significant of these is the irregular and contested process of land acquisition and occupation by *terceros*, which is an ongoing expression of settler colonial and neoliberal logics. Settler colonial logics underpin and explain the larger settler colonial process. Settler colonialism defines the practice of dismantling Indigenous society, institutions, norms, and structures for the establishment of the dominant settler society on the dispossessed land base.⁴⁸ Neoliberal logics, on the other hand, correspond to the dismantling of state regulation, in favor of market-based approaches.⁴⁹ Both structures, and the logics that support them, define the relationship between the Garífuna and the Honduran state.

The Honduran state's settler colonial logics favor *tercero* appropriation while failing to protect and respect the collective property rights of the Garífuna. It would seem that the Honduran state formally recognizes collective property rights. Honduras' Property Law, Decree No. 82-2004 of June 29, 2004 establishes that collective Garífuna land—and all other Indigenous and Afro-Descendant collectively owned land—is inalienable, non-seizable, and imprescriptible.⁵⁰ These principles were present in the earlier titling of Garífuna lands prior to the 2004 law, and are in line with standards articulated in ILO Convention 169 and subsequent international instruments on the rights of Indigenous peoples. Garífuna land under their customary law can be passed among other community members, but it can never be sold, seized,

⁴⁵ Fieldnotes, January 8, 2024.

⁴⁶ Fieldnotes, January 12, 2024.

⁴⁷ High Level Inter-Institutional Commission for Compliance with International Sentences.

⁴⁸ See generally Patrick Wolfe, *Settler Colonialism and the Elimination of the Native*, 8 J. Genocide Rsch. 387, 388 (2006).

⁴⁹ See generally David Harvey, *A Brief History of Neoliberalism* (2005).

⁵⁰ Decree 82-2004 of June 29, 2004, Property Act, Art. 100. It should be noted that Title V, Chapter III of the law on the titling of Indigenous and Afrodescendent lands has been criticized by OFRANEH and other Indigenous organizations for being too weak in its recognition and protection of Indigenous lands and for incorporating neoliberal logics by providing in the same Article 100 for potential parcelization and alienation of those lands if the community so decides, contrary to customary norms. In 2003, OFRANEH filed a petition with the Inter-American Commission for Human Rights alleging that the law as written violated their rights to land and territory.

and its title can never expire. However, Garífuna title has never been fully delivered and enforced under those norms.

Despite this domestic tenet, which the Inter-American system recognized in the Triunfo decision,⁵¹ Garífuna collective land title is not protected or respected by the Honduran state. Such state encroachment on Garífuna land includes the annexation in 1989 of parts of Triunfo's territory by the neighboring municipality of Tela and the national government's annexation of Garífuna ancestral collective land for the creation of Punta Izopo National Park in 2000.⁵² State actors, like the *catastro*, or the land registry office, and the National Institute of Property, both institutions responsible for registering individual and collective property in the country, have not conformed their technologies, practices or policies to comply with the sentence, and have favored recognition of land held by *terceros*, even after the Court's ruling.

As such, dispossession of Garífuna land by third parties has metastasized across the community since the sentence and existing conflicts with *terceros* remain unresolved, while new conflicts continue to arise. *Tercero* residents include wealthy elites who have built beachfront vacation homes across the community. Speculators and developers have appropriated Garífuna land for real estate or touristic development, as in the case of Club Marbella and Playa Escondida. Other individuals are traditional *terratenientes* or landholders seeking land for extensive agricultural or agro-industrial usage, such as cattle ranching and African palm cultivation, both of which have been introduced into the territory by *terceros*. Many of these land holdings have come about as the result of *tercero* bargaining, pressuring or intimidating Garífuna community members.⁵³ In addition to these forms of land holding, long-time *tercero* residents, who have a history of harmonious co-existence with the Garífuna and whose holdings are not aimed at large-scale development, also reside in the community. These various forms of *tercero* land possession underscore the state's complicity in facilitating land dispossession, in favor of a neoliberal market-based intrusions into Garífuna land.

The presence of third-party held land in Triunfo de la Cruz emphasizes various elements of settler-colonial and neoliberal dynamics at play: first, the Garífuna of Triunfo de la Cruz face continual outside pressure from larger Honduran society to relinquish collective Garífuna title for private gain, both individual and corporate. This includes pressures from third parties to purchase land for private benefit and broader de jure recognition by the Honduran state of *tercero* purchased Garífuna land, in violation of the 2015 IACtHR ruling.⁵⁴ Underpinning the state's de facto and de jure recognition of *tercero* purchased land and the expropriation of Garífuna land for the formation of Punta Izopo National Park, are settler state logics and mechanisms that are detailed below in Section 4, examining the state's infrastructure of noncompliance. The presence of third-party land holdings in the community illustrates unequal power relationships between the Garífuna and Honduran society, whereby the state and private actors have more social, political, and economic capital than the community. These unequal power relationships are also a product of the structural racism embedded in Honduran society.⁵⁵

⁵¹ Garífuna Community of Triunfo de la Cruz and its Members v. Honduras, Report on Merits No. 76/12, Inter-Am. Comm'n. H.R., Case No. 12.548, ¶ 198 (Nov. 7, 2012).

⁵² Garífuna Community of Triunfo de la Cruz and its Members v. Honduras, Merits, Reparations, and Costs, "Facts," ¶ 86.

⁵³ Fieldnotes, January 4-7, 2024.

⁵⁴ Garífuna Community of Triunfo de la Cruz and its Members v. Honduras, Merits, Reparations, and Costs, "Reparations," ¶ 264.37

⁵⁵ Loperena, Christopher A. "Settler violence?: race and emergent frontiers of progress in Honduras." *American Quarterly* 69.4 (2017): 801-807. In our interviews with officials, we encountered use of the term "los morenos," a racially charged and derogatory way of referring to the Garífuna.

This results in intrusions of the dominant society into Garífuna community structures and practices in support of land appropriation, whether by taking advantage of community goodwill or exerting undue influence to negotiate and undermine Garífuna land title. In the extreme, the latter dynamic is expressed in efforts to infiltrate and intimidate communal governance structures, threaten acts of violence against community leaders and land defenders, and the ability to carry out those threats with impunity.⁵⁶

As a practical matter, in the face of this complicated dynamic, Honduras is obliged to implement the Court’s decision recognizing the Garífuna’s right to territorial reparation and must resolve the problem of *terceros* occupying Garífuna land. As mandated by the Court, the state must strive to restore Garífuna title to their territory through legal processes of expropriation. Until that process is completed, the state must “refrain from acts that could lead agents of the State itself, or third parties acting with its acquiescence or tolerance, to affect the existence, value, use or enjoyment of the lands to be returned to them and of those lands to which they currently hold title.”⁵⁷ Nevertheless, local authorities continue to recognize *tercero* possession under a practice of “business as usual.”

4. ‘Business as Usual’: The State’s Infrastructure of Noncompliance

Our fieldwork uncovered how the continued dispossession of Garífuna community property has been facilitated by “business as usual” land titling procedures at the local level, which illustrate and evidence the larger settler colonial logics at play in the Honduran state. In effect, *tercero* appropriation is ongoing because of disconnects between the IACtHR ruling at the local level and the lack of appropriate administrative mechanisms to recognize and protect collective Garífuna land in Triunfo. On the contrary, mechanisms at the local level operate to perpetuate Garífuna land dispossession. Various elements compromise this outdated and non-compliant infrastructure.

a. Failure to preserve the status quo and prevent further dispossession

First, local state actors fail to recognize and protect Garífuna collective property, notwithstanding Honduras’ obligation to do so under the IACtHR decision. It was only recently, in May 2024, following institution of the CIANCSI, that the national office of the *Instituto de la Propiedad* or national Institute of Property (IP), the agency responsible for registering title to real property throughout the country, issued a directive to the local IP office in Tela to abstain from inscribing or registering real property or acts affecting real property (purchase or transfer of title to third-party holders, mortgages, construction permits, etc.) in Court-recognized territory of Triunfo de la Cruz.⁵⁸ Regarding the local office of the *catastro*, no such directive has been forthcoming, other than the occasional note sent by the local office of the IP.⁵⁹ Indeed, during our January 2024 fieldwork, officials responsible for identifying and registering land use and occupancy (*catastro*) or registering title and real property transactions (IP) at the local Tela offices reported not being familiar with the case ruling or its impact on land holdings. Only the

⁵⁶ Fieldnotes, January 4-7, 2024. 2021 Monitoring Compliance with Judgment at ¶ 5.

⁵⁷ Garífuna Community of Triunfo de la Cruz and its Members v. Honduras, Merits, Reparations, and Costs, “Reparations,” ¶ 264.

⁵⁸ Instituto de la Propiedad, Oficio No. SE-IP-190-05-2024, May 15, 2024. Fieldnotes, August 2, 2024.

⁵⁹ Fieldnotes, August 2, 2024.

recent mobilization of CIANCSI has brought a heightened awareness of the decision and its impact on their ministerial duties.

Furthermore, officials at IP's Tela office in January 2024 reported understanding the national IP as possessing the final word over local operations, including land titling and implementation of the IACtHR ruling.⁶⁰ They reported being unable to change land titling procedure or withhold their ministerial duties unless the national IP office commands them to cease registration of land transfers, as happened only recently. Until then, they feared being liable for "abuse of authority" if they prohibited or refused to register land transfers without an explicit directive from the national office.⁶¹ In effect, local officials shifted responsibility for the sentence's implementation to national bodies. Only now, at the instance of CIANCSI, has the national governing board of the IP provided guidance and directive for preserving the status quo while the state implements the Court's sentence.⁶²

Even so, the local IP lacks adequate institutional capacity to enforce the Court's injunction protecting the status quo. Despite the office's mandate to oversee the transfer and registry of property, staff do not possess the ability to locate or map individual tracts of land. The office uses an electronic registry system called the Unified Registration System (*Sistema Unificado de Registro* or SURE) to register title and land transfers since 2011. Any recording acts before that year were recorded by hand in serial *tomos* or books. Users can use both systems to research the chain of title for any given plot. However, neither SURE nor the physical record necessarily contain the exact, georeferenced location or metes and bounds descriptions of the land in question.⁶³ As a result, Tela's IP office cannot decipher whether a given land transfer is prohibited under the IACtHR opinion, as they cannot tell whether it falls within the sentence's geographic area. While they can see the plot's general location (e.g., "Tela" or "San Juan"), and have a description of the plot's size and the bordering properties, their current systems do not definitively map or register whether a plot of land is within the Garifuna community's Court-recognized territory.⁶⁴ In effect, as IP officials noted, they are "working blind" when it comes to the location of a plot of land.⁶⁵

Nonetheless, the municipal government's *catastro*, or physical land registry office, has that capacity. For example, it has established a process to verify whether a particular plot falls within a "protected area" that cannot be sold. They have previously employed this system to ensure that land recognized as ecological reserve territory, such as that which lies within the boundaries of Punta Izopo National Park, is not sold to third parties. To prevent such land transfers, the local IP office requires that parties obtain a certificate or *constancia* from the office of the *catastro*, certifying that the land does not fall within a protected area. Though the IP does not keep a record of a plot's location, the *catastro* can survey and map the GPS coordinates of individual tracts. After obtaining the *constancia*, the parties would present it to the local IP office, who would then approve the transfer if it did not fall within a protected area. At the time of our field research, a similar process had not been instituted with respect to the Garifuna territory.

As such, "business as usual" within this system of private land transfers repeatedly legitimizes illegitimate transfers of collective property. This is because the office of the *catastro*

⁶⁰ Fieldnotes, January 11, 2024.

⁶¹ *Id.*

⁶² Fieldnotes, August 2, 2024.

⁶³ Meeting with IP Tela, Fieldnotes, January 11, 2024.

⁶⁴ *Id.*

⁶⁵ Furthermore, their systems have no special designation recognizing collective land tenure. *Id.*

does not treat plots within the Triunfo de la Cruz community as protected, in spite of the Court's order to do so.⁶⁶

b. The state's sleight of hand in dispossessing Garífuna territory: Tela's municipal land grab

Original title to private property is acquired from the state in one of two ways: through the National Agrarian Institute for national land, or through the local municipality for land lying within an urban perimeter and jurisdiction. The latter authority exercised by the Municipality of Tela has been responsible for legitimizing much of the recent dispossession of Garífuna land by *terceros* following the unlawful annexation in 1989 of Garífuna territory within the *garantía de ocupación*. This enabled *terceros* to acquire title through registration of property with the *catastro*, the paying of taxes, the delivery of title by the municipal corporation, and registration of title with the IP. Instead of correcting this dispossession, municipal authorities have enabled its continuation.

Like the IP, the *catastro* utilizes a recordkeeping system that preferences Western notions of land tenure and ownership. What dominates are private land transfers of plots of land within the Garífuna territory without recognition of Garífuna title to collective property. When a third party seeks to regularize and obtain title over land thus obtained, they present a certified copy of the private purchase agreement (the *compra/venta*), a copy of their identification, witnesses that confirm they are in possession of the land, and a survey of the property showing boundaries or *colindancias* and the lot's area to the *catastro*.⁶⁷ The *catastro* may verify the lot and its boundaries in the field, but if the survey document matches the *catastro*'s existing geographic coordinates for that plot of land, the *catastro* generally gives their stamp of approval by issuing a certificate, or *constancia*, of possession with an assessment of the property tax. The party may then present the certificate to Tela Municipal Corporation, which if it falls within the Municipality's alleged urban perimeter or *casco urbano*, the Corporation can vote to extend full title to the third-party possessor on the condition that they pay the assessed property tax. If the *catastro* does not affirmatively identify the land as within the Garífuna title, the Municipal Corporation will approve.⁶⁸ The third party can then take the title extended by the Municipal Corporation to Tela's IP office, which approves and registers the transaction in the SURE system, as previously described.

In theory, the *catastro* possesses the expertise and technological capacity to determine whether an individual plot is within the geographic area recognized by the Court's sentence. Surprisingly, however, in the nine years since the Court's sentence, the office of the *catastro* has not created a georeferencing system or map that would allow them to do so. The *catastro* does not possess the coordinates of the areas recognized by the Court and the state of Honduras to be the traditional territory of the Garífuna community. The office uses this as an accountability shield, claiming that they have no way to confirm whether a plot falls within the Garífuna community's legally recognized territory. But these claims have little merit, as the office frequently sends its staff into the field to geographically survey or verify the boundaries of other plots. Indeed, the *catastro* estimates that half of the office's work is fieldwork related to land surveying. It is notable however that the office does not yet possess shape files that would allow mapping the survey data onto geographic data software such as Quantum Geographic Information System (QGIS). We were told that they were waiting for the National Agrarian

⁶⁶ Meeting with *Catastro* Tela, Fieldnotes, January 11, 2024.

⁶⁷ *Id.*

⁶⁸ *Id.*

Institute (INA) to conduct that technical field work and produce the shape files that would allow such mapping of the territory.⁶⁹ In sum, the failure to track whether a transfer violates the IACtHR sentence is related more to the office's political will than its resources or technological capacity, as in the case of the IP.

On a more structural level, the dispossession Garifuna land occurred primarily through the unlawful 1989 annexation, which extended Tela's urban municipality outward, infringing on the community's property. The Court found the expansion of the urban perimeter violated the Garifuna's territorial rights as recognized by the state in the *garantía de ocupación*. Since the ruling, the municipality and its office of *catastro* have minimized the possibility for protection of Garifuna lands by reducing the area it identifies as "Triunfo de la Cruz" to the population nucleus of the community. In what appears to be a settler colonial move, the expansive area east of the Cerro Triunfo de la Cruz became referred to as "Aldea el Boquete," highlighting the name for the *ladino* settlement near the turnoff from the CA-13 highway to Triunfo, rather than the traditional and recognized territory of the Garifuna community of Triunfo de la Cruz—a type of linguistic and physical erasure.

The second structural issue at work in the dispossession of Garífuna land is the practice of private land sales and transfers of parcels within the collective title. A western, neoliberal logic has dominated these transactions without adequate control by traditional community norms and customs. The intrusion of *terceros* upset the traditional forms of land tenure and use within the Garifuna territory. The community has made clear that it retains collective ownership of the territory, that any transfers must be approved by the community's governing board, that only usufruct rights are conferred, and that the parties must agree to abide by communal norms and practices with respect to the land and recognize the land as Garífuna collective property.⁷⁰ These norms have been difficult to enforce under the pressure for land exerted by *terceros* and the failure of the state to recognize and enforce them through its own institutions, which is an essential element to the protection of Garífuna title and implementation of the Court's sentence.

In fact, both the Municipality and the *catastro* have adopted the erroneous view that they only need to protect the Garifuna community members' domiciles or residential plots within the territory. As noted, by referring to the territory by a different name ("Aldea el Boquete") the *catastro* is thus legitimating by fiat the dispossession of collective property. The underlying problem, of course, is the failure to demarcate the Garifuna territory, but on top of that no effort is made to preserve the status quo or attempt to locate plots of land within the territory, even though they have the capacity to do so. On the contrary, the officials have resorted to mechanisms that protect third-party claims to land in prejudice to the community and their collective property.

The inner workings of Tela's local IP office and its *catastro* reveal that the municipal government operates within a "business as usual" framework that impedes progress toward the sentence's implementation. Though local bureaucrats view their authority as bestowed and circumscribed exclusively by national institutions, this understanding overlooks local bureaucrats' responsibility to honor international legal obligations and the character of Garifuna collective property. As a result, Tela's officials currently operate within a quasi-legal framework. They claim formal compliance with domestic law and procedures by pointing to national authorities like the IP or by recognizing the Municipal annexation over Garífuna land rights, but

⁶⁹ Fieldnotes, August 2, 2024.

⁷⁰ These cultural norms were described to us by the Committee for the Defense of the Land and Territory (CODETT) and evidenced by certifications issued by the communal governing board (*patronato*) for approved sale of usufruct rights on file with the Human Rights in Action Clinic.

in so doing they simultaneously and repeatedly violate their obligation as state agents to abide by the IACtHR's ruling.

Tela's municipal recordkeeping and title transfer systems perpetuate a settler colonial logic that prevents the recognition of collective property rights. According to both the IP and the *catastro*, once a plot of land has been registered in their municipal databases following certain formalities, that entry grants legitimacy to the tract's ownership and transfer history. As a result, decades of illegal transfers of Garifuna land were legitimized with the stroke of a pen. Such records were then used to justify subsequent illegal transfers of the same land, creating a self-reinforcing cycle that legitimizes the theft of collective property generation after generation. This is precisely what the IACtHR decision seeks to reverse and rectify.

To achieve any progress toward the sentence's implementation, municipal entities and their officials must unlearn how settler legal society has conceptualized property and how it has operated to prejudice and dispossess Garifuna collective property. They must engage with definitions of collective property and the Court's decision to better understand the Garifuna community's Court-adjudicated rights. Central government authorities need to coordinate and ensure this understanding and compliance. In the absence of this coordination and understanding, municipal authorities will continue to rely on systems of bureaucracy that preference third-party landowners and private interests over the Garifuna community, which will only further degrade their collective land title in Triunfo de la Cruz.



Figure 2. A sign in Triunfo de la Cruz warning against illegal third-party purchase of collective Garifuna land, per the 2015 IACtHR ruling

5. Consequences of Failed Compliance

The Honduran state's failure to comply with the IACtHR Court order has resulted in serious and differentiated harm to the Triunfo de la Cruz Garifuna community. As such, the community experiences a continued violation of their collective land rights. The ongoing presence of *tercero*-held land in Garifuna territory is a primary consequence of the state's failure to comply with the Court ruling. Additionally, the community faces complicated, and often

reduced, access to Punta Izopo National Park and increasing violence by third parties in their community as detailed below.

As noted, there are several types of *tercero*-held land in Triunfo de la Cruz, including beachfront vacation homes owned by individuals, larger scale real estate and touristic developments, traditional landholdings for agricultural or agro-industrial usage, and other popular, small business or working class settlement.⁷¹ Beachfront vacation homes, real estate and touristic development are particularly prevalent on the western end of the territory below the Cerro Triunfo de la Cruz, and on the eastern end between the Río Gama and the Río Plátano.⁷² The majority are within the A1 plot that per the 2015 ruling is part of the Garífuna title.⁷³ Community members detailed that *terceros* have often established these private vacation communities and homes amid threats to members of the community.⁷⁴ In at least two instances, the construction of these vacation homes destroyed arable in-use agricultural land used by members of the Garífuna Triunfo community.⁷⁵ As was observed in January 2024, these vacation homes are almost always gated and obstruct access to the beach.⁷⁶ *Tercero*-held properties exist throughout the community, not just on the far western or eastern portions of the territory, including on the land where the reoccupation occurred.⁷⁷ The expansion of these homes also threatens the Garífuna’s cemetery near the ocean, which has all but run out of space for its graves in its current plot. Community members noted that *terceros* have tried to dispossess the community of the plot of land next to the cemetery for private uses, including third-party owned homes used as vacation rentals, but the community has occupied that plot for their cemetery as a matter of public utility.⁷⁸ These threats to their cemetery are cultural threats as the cemetery is a spiritually significant site for the community.⁷⁹

⁷¹ In addition to these forms of third-party land ownership are a smaller contingent of third-party landowners in Triunfo who the community regards as non-intrusive because of their existing social connections with the community and because they do not seek to expand land ownership beyond what they currently occupy.

⁷² See Figure 12 for a map of the Garífuna territory of Triunfo de la Cruz.

⁷³ *Id.*

⁷⁴ Fieldnotes, January 11, 2024.

⁷⁵ Fieldnotes, January 11, 2024. This includes the partially developed Marbella Club project. Garífuna Community of Triunfo de la Cruz and its Members v. Honduras, Merits, Reparations, and Costs, “Facts,” ¶ 74.

⁷⁶ Fieldnotes, January 11, 2024.

⁷⁷ Fieldnotes, January 6, 2024.

⁷⁸ Fieldnotes, January 12, 2024.

⁷⁹ Fieldnotes, January 12, 2024.



Figure 3. An example of a gated waterfront *tercero*-owned home in the partially constructed Marbella Club project on former Garifuna agricultural lands, which are legally due to them per the 2015 ruling.



Figure 4. A third-party owned rental home encroaching on the Triunfo cemetery.

Large touristic developments are prolific on the western side of the collective title of Triunfo de la Cruz. Some of the constructions precede the 2015 ruling and some succeed it. But all are in violation of the ruling because they have developed on land that is legally recognized as

Garífuna collective property. The Garífuna communal title extends to the *Cerro de Triunfo* de la Cruz on the far western side of the territory.⁸⁰ At least one business enterprise, the Bar y Restaurante ISIENI, was constructed in the last three years.⁸¹ The bar sits at Triunfo's territorial waterfront, with extensive seating areas facing the water. It is under non-Garífuna ownership.⁸² It sits next to the Hotel Casa Piedras del Mar⁸³ and the Rosa Negra Bar, both of which are on Triunfo's lands.⁸⁴ Down the road is the luxury Playa Escondida development,⁸⁵ which was constructed before the 2015 ruling but is still subject to it.⁸⁶ According to its website, the development is composed of thirty condominiums.⁸⁷ Garífuna community members have made clear that this land is within the Garífuna territory.⁸⁸ Nightly reservations for their smallest condominiums start at \$249.00 USD.⁸⁹ Other tourist developments surround those.⁹⁰ Many of these developments and surrounding areas display posted signs declaring that they are private property.⁹¹



Figure 5. A private property sign in front of the *Cerro de Triunfo*, a hill on the western edge of the community. Private property signs on *tercero*-owned land are common in the western and eastern ends of the community.

⁸⁰ See Figure 5.

⁸¹ Fieldnotes, January 12, 2024.

⁸² Fieldnotes, January 12, 2024.

⁸³ Fieldnotes, January 12, 2024; see also *Bienvenidos a Casa Piedras del Mar*, Casa Piedra del Mar, Facebook (Sept. 6, 2020), <https://www.facebook.com/casapiedrasdelmar/videos/317694052864051/>; Figure 5.

⁸⁴ Fieldnotes, January 12, 2024; see also *Rosa Negra Bar*, Tripadvisor, https://www.tripadvisor.es/Restaurant_Review-g297578-d17848161-Reviews-Rosa_Negra-Tela_Atlantida_Department.html.

⁸⁵ Fieldnotes, January 12, 2024; see also *Playa Escondida Beach Club*, <https://www.playaescondidabeachclub.com/>.

⁸⁶ Fieldnotes, January 12, 2024; see Figure 7.

⁸⁷ *Playa Escondida Beach Club*, <https://www.playaescondidabeachclub.com/>.

⁸⁸ Allan Bu, *For Defending Their Land and Culture, Violence Struck the Garífuna People*, *ContraCorriente* (Aug. 16, 2020), <https://contracorriente.red/en/2020/08/16/for-defending-their-land-and-culture-violence-struck-the-garifuna-people/>.

⁸⁹ *Playa Escondida Beach Club Reservations Page*, <https://www.playaescondidabeachclub.com/reservaciones>.

⁹⁰ As of March 11, 2024, at least five other tourist developments existed on the eastern side of the community. See Google Maps, *Triunfo de la Cruz*, <https://www.google.com/maps/@15.8118157,-87.4261417,17.14z/data=!5m1!1e4?entry=ttu>.

⁹¹ Fieldnotes, January 12, 2024.

An additional form of third-party land occupation includes traditional landholdings for agricultural or agro-industrial usage, which in Triunfo has taken on the form of African palm cultivation and cattle ranching.⁹² The former has had serious impacts for water availability in the *community*. The African palm tree, used for palm oil harvest and sale—an economically lucrative venture that has captivated small and large landowners across the country—is extremely water intensive and threatens water supplies in the community,⁹³ just as it does across Honduras.⁹⁴



Figure 6. A picture of the Hotel Casa Piedras Del Mar bar in Triunfo de la Cruz.

Near the CA-13 highway at the entrance to the Garífuna territory is a significant concentration of *terceros*. While some are among the *terratenientes* and African palm cultivators, others appear to be agriculturalists, small businesspeople and possible working class individuals. Some of the *ladino* settlers scattered throughout the territory have been there for longer periods of time, accepted community norms and otherwise have not engaged in serious conflict with the Garífuna community. Community members expressed a willingness to negotiate the permanence of some of these *terceros* subject to recognition of Garífuna norms and customs and Garífuna title to the land.⁹⁵

Since the ruling, the community's access to Punta Izopo National Park has also been jeopardized by third-party threats. Punta Izopo National Park was established by the Honduran state in 2000 as a 18,820 hectare national park,⁹⁶ on land that the Garífuna claim is their ancestral territory.⁹⁷ Notably, the Honduran state established the park without prior consultation with the

⁹² Fieldnotes, January 6, 2024.

⁹³ Fieldnotes, January 6, 2024.

⁹⁴ Leonardo Guevara, et al., *Palm Oil, Fire Pushing Protected Areas in Honduras to 'Point of No Return,'* Mongabay (Dec. 30, 2019), <https://news.mongabay.com/2019/12/palm-oil-fire-pushing-protected-areas-in-honduras-to-the-point-of-no-return/>.

⁹⁵ Fieldnotes, January 6, 2024.

⁹⁶ Garífuna Community of Triunfo de la Cruz and its Members v. Honduras, Merits, Reparations, and Costs, “Facts,” ¶ 86.

⁹⁷ *Id.*

community.⁹⁸ While the Court refused to recognize full Garífuna title to the land absorbed by Punta Izopo National Park, the Court determined that the Honduran state must allow “free access, use, and enjoyment” where their ancestral collective land overlapped with the adjacent Punta Izopo National Park within two years.⁹⁹ Since the ruling, however, the state has failed to implement consultation over access to the park. Garífuna community members have been threatened by *terceros* for tending to their crops next to the park, and have in some cases, been forced to abandon their plots of land.¹⁰⁰

During the 2015 visit *in situ*,¹⁰¹ the Court traveled to Punta Izopo with community members and climbed to the top of the Cerro Punta Izopo. There, within the park’s nucleus, the Court witnessed first-hand the presence of a luxury home owned by a wealthy Honduran businessperson and a helipad which in the eyes of the community may have been used to move goods, possibly drugs or contraband, into the zone.¹⁰²



Figure 7. A picture of Playa Escondida, a luxury hotel on Triunfo de la Cruz’s waterfront.

Such threats are part of a larger trend of increased violence and threats of violence aimed at the community. In January 2023, Ricardo Arnaúl Montero, a member of the CODETT, was killed.¹⁰³ Montero was part of the security team for the Secundino Torres land plot, which is a previously dispossessed, since-reoccupied portion of the community’s ancestral territory.¹⁰⁴ His

⁹⁸ U.N. Special Rapporteur on the Rights of Indigenous Peoples on Her Visit to Honduras, ¶ 57, U.N. Doc. A/HRC/33/42/Add.2 (July 21, 2016).

⁹⁹ Garífuna Community of Triunfo de la Cruz and its Members v. Honduras, Merits, Reparations, and Costs, “Resolutive Paragraphs,” ¶ 11.

¹⁰⁰ Fieldnotes, January 11, 2024.

¹⁰¹ Garífuna Community of Triunfo de la Cruz and its Members v. Honduras, Merits, Reparations, and Costs, “Resolutive Paragraphs,” ¶¶ 15-16.

¹⁰² Fieldnotes, January 12, 2024, and subsequent communications with community leaders.

¹⁰³ Leonardo Aguilar, *Ofraneh Denuncia Asesinato en Medio de Exigencias Para que se Cumplan Sentencias de Corte-IDH*, Contra Corriente (Feb. 22, 2023), <https://contracorriente.red/2023/02/22/ofraneh-denuncia-asesinato-en-medio-de-exigencias-para-que-se-cumplan-sentencias-de-corte-idh/>.

¹⁰⁴ Leonardo Aguilar, *Ofraneh Denuncia Asesinato en Medio de Exigencias Para que se Cumplan Sentencias de Corte-IDH*, Contra Corriente (Feb. 22, 2023), <https://contracorriente.red/2023/02/22/ofraneh-denuncia-asesinato-en-medio-de-exigencias-para-que-se-cumplan-sentencias-de-corte-idh/>.

death is one of a series of attacks levied at those involved in the fight to secure the Garífuna's legal rights to their territory. In May 2023, Martín Morales Martínez, a leader in Triunfo de la Cruz, was found murdered in the river Gama after being reported missing by his family the day before.¹⁰⁵

Members of CODETT have also been threatened by *terceros* for their political involvement in the fight to save their land.¹⁰⁶ This includes Alfredo López Álvarez, a Garífuna land rights activist and community leader, who was threatened with death if he did not leave the community by an individual associated with the Playa Escondida hotel group in October 2022.¹⁰⁷ The threat was in response to his activism to preserve the cemetery's land from further dispossession by Playa Escondida.¹⁰⁸ The community has also faced forced disappearances. In 2020, armed teams of the Police National Directorate of Investigation¹⁰⁹ arrested Sneider Centeno, then president of the community's *patronato* or governing board, Milton Martínez, Suami Mejía y Gerardo Tróche, who never returned to the community.¹¹⁰ Community members allege that their disappearances were related to the Garífuna's defense of their territory in the face of third-party interests backed by the municipality of Tela.¹¹¹ Centeno had received specific threats on his telephone prior to his disappearance. Following the disappearances the Court ordered provisional measures which require the protection of the life and personal integrity of community leaders and activists defending the rights of the Garífuna people.¹¹² Both the Court and the U.N. Working Group on Forced and Involuntary Disappearances denounced the disappearances as related to the community's territorial disputes.¹¹³ The Honduran Supreme Court granted an *amparo*¹¹⁴ to the Garífuna Committee for Investigation and Search for the Disappeared of

¹⁰⁵ *Honduras: Killing of Human Rights Defender and Leader of the Garífuna Community of Triunfo de la Cruz*, Frontline Defenders (May 31, 2023), <https://www.frontlinedefenders.org/en/case/honduras-killing-human-rights-defender-and-leader-garifuna-community-triunfo-de-la-cruz-mart%C3%ADn>.

¹⁰⁶ *Honduras: Líder Garífuna Fiscal del Comité de Defensa de Tierras del Triunfo de la Cruz es Amenazado de Muerte*, Business & Human Rights Resource Center (Oct. 28, 2022), <https://www.business-humanrights.org/en/latest-news/honduras-1%C3%ADder-gar%C3%ADfuna-fiscal-del-comit%C3%A9-de-defensa-de-tierras-del-triunfo-de-la-cruz-es-amenazado-de-muerte/>. Alfredo López was unlawfully detained for six years between 1997 and 2003 for defense of the same territory. López won his case in the IACtHR, where the court found that the Honduran's state's conduct had violated the American Convention on Human Rights. See Maya Rozov, *López Álvarez v. Honduras*, 36 Loy. Int'l & Comp. L. Rev. 2053 (2014).

¹⁰⁷ *Honduras: Líder Garífuna Fiscal del Comité de Defensa de Tierras del Triunfo de la Cruz es Amenazado de Muerte*, Business & Human Rights Resource Center (Oct. 28, 2022), <https://www.business-humanrights.org/en/latest-news/honduras-1%C3%ADder-gar%C3%ADfuna-fiscal-del-comit%C3%A9-de-defensa-de-tierras-del-triunfo-de-la-cruz-es-amenazado-de-muerte/>.

¹⁰⁸ *Id.*

¹⁰⁹ *Dirección Nacional de Investigación (DNI)*.

¹¹⁰ Jorge Burgos, *Si No Cumplen el Fallo de la CIDH, Garífunas Demandarán al Estado*, Criterio Honduras (Aug. 7, 2020), <https://criterio.hn/si-no-cumplen-el-fallo-de-la-cidh-garifunas-demandaran-al-estado/>; Jorge Burgos, "Hay que Arrancar Esa Raíz la Podredumbre que Gobierna Honduras": Miriam Miranda, Criterio Honduras (July 28, 2020), <https://criterio.hn/hay-que-arrancar-esa-raiz-la-podredumbre-que-gobierna-honduras-miriam-miranda/>.

¹¹¹ Jorge Burgos, *Si No Cumplen el Fallo de la CIDH, Garífunas Demandarán al Estado*, Criterio Honduras (Aug. 7, 2020), <https://criterio.hn/si-no-cumplen-el-fallo-de-la-cidh-garifunas-demandaran-al-estado/>.

¹¹² Resolución de la Corte Interamericano de Derechos Humanos de 2 de Septiembre de 2020, Medidas Preliminarias Respecto a Honduras, Resolviendo No. 2.

¹¹³ *Id.*; U.N. Working Group on Forced and Involuntary Disappearances, "Observaciones preliminares del Grupo de Trabajo de las Naciones Unidas sobre Desapariciones Forzadas o Involuntarias al concluir la visita oficial a la República de Honduras" (20 al 29 de marzo de 2023). Available at: <https://www.ohchr.org/sites/default/files/documents/issues/disappearances/statements/2023-03-29-eom-honduras-wgeid-es.pdf>

¹¹⁴ An *amparo* is a legal proceeding to challenge the state's violation of fundamental rights.

Triunfo de la Cruz,¹¹⁵ finding that the state had failed to conduct an effective investigation, violating the rights to due process and access to justice of the victims and the community.¹¹⁶

6. Recuperation and Reoccupation

Partial and piecemeal implementation of territorial reparation has been achieved thanks to the community's persistent assertion of their rights and demand for implementation and the *ad hoc* participation of the state in the resolution of these demands. Among the areas of dispossession in Lot A1 reviewed by the Court was that given by the Tela Municipality to the Union of Municipal Workers for a housing development, known as the "22 *manzanas*."¹¹⁷ The National Agrarian Institute, in consultation with the community, was able to effectively expropriate the land and return it to Garífuna title. It is interesting to note, however, that settler colonial logics continue to operate at the local level with regard to this plot of land that the community has subdivided for its members. During our fieldwork, community leaders related how the Municipality has refused to approve permits for electrification of the property, even while it has approved them for neighboring properties of *terceros*, apparently in retaliation for their successful recuperation from the Municipality.¹¹⁸

The community's advocacy and public pressure with regard to the sentence has also effectively halted further development of the Marbella project on the eastern side of the territory. Club Marbella belongs to *Inversiones y Desarrollo de Triunfo, S.A.* (IDETRISA), a company formed by wealthy elites of San Pedro Sula.¹¹⁹

Another parcel on the eastern side of the community, between the Rio Gama and the Rio Plátano, is a 17.5 hectare (25 *manzanas*) plot discussed in the Court's decision¹²⁰ and originally held by a Garífuna women's agricultural cooperative that had been improperly mortgaged. Land under Garífuna title cannot be seized, but the Honduran Banco Atlántida repossessed and sold the land to another investment group, Izopo Resorts, which began construction of a luxury resort and development. After the Court decision and protests from the community, the project stalled and is currently abandoned. However, the lands have yet to be restored to Garífuna title.¹²¹

The increased pressure on the community since 2015, from growing third-party land possession to disappearances of community members, has pushed members to achieve sentence compliance through direct action. Most recently, on January 2, 2024, 124 community members, the vast majority of them between 16 and 30 years old, reoccupied approximately 16 hectares of their collective ancestral land that had been previously unavailable to the community, and to which the community was entitled by virtue of the Court's order.

¹¹⁵ Known as "SUNLA," the acronym derived from its Garífuna name.

¹¹⁶ Resolution, Supreme Court of Honduras, Constitutional Chamber, *Recurso de Amparo* SCO 1293-2022.

¹¹⁷ A *manzana* is equivalent to .7 hectares. 22 *manzanas* is approximately 15 hectares.

¹¹⁸ Fieldnotes, January 5, 2024.

¹¹⁹ Por Defender Territorio y Cultura, la Violencia le Llegó al Pueblo Garífuna," *Contra Corriente* (Aug. 2, 2020), <https://contracorriente.red/2020/08/02/por-defender-territorio-y-cultura-la-violencia-le-llego-al-pueblo-garifuna/>.

¹²⁰ Garífuna Community of Triunfo de la Cruz and its Members v. Honduras, Merits, Reparations, and Costs, "Resolutive Paragraphs," ¶ 84.

¹²¹ Fieldnotes, January 12, 2024, and subsequent conversations with community leaders.



Figure 8. A demarcated plot for community members in the reoccupied plot in central Triunfo de la Cruz.

7. The Unprecedented Court Decision in San Juan

On the west side of the municipality of Tela lies the sister Garífuna community of San Juan. The case of San Juan was filed in the Inter-American System at the same time as those of Triunfo de la Cruz and Punta Piedra, but was only decided by the Court in August 2023.¹²² The Garífuna community of San Juan is composed of approximately 8,000 individuals, although the state alleges the population is somewhere between 3,285 and 4,224.¹²³ The *ladino* or non-Garífuna community has increasingly encroached on the Garífuna’s traditional territory, primarily in the form of urban annexation and encroachment by the densely populated *barrio* of El Paraiso on the eastern side of the territory. According to the state, approximately 7,620 *ladinos* reside in El Paraiso and the other *colonias* in the territory.¹²⁴ On the western side of the territory, there are corporate land developments like the Indura Beach and Gold Resort, a large Hilton-held resort complex,¹²⁵ and the Shores Plantation development, an exclusive gated

¹²² Garífuna Community of San Juan and its Members v. Honduras, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 496 (Aug. 29, 2023).

¹²³ Garífuna Community of San Juan and its Members v. Honduras, Merits, Reparations, and Costs, “Facts,” ¶ 46.

¹²⁴ *Id.*

¹²⁵ Aimee Gabay, *Garífuna Land Rights Abuses Persist in Honduras, Despite Court Ruling*, MongaBay (July 17, 2024), <https://news.mongabay.com/2024/07/garifuna-land-rights-abuses-persist-in-honduras-despite-court-ruling/>.

community.¹²⁶ Throughout the territory there also exists third-party appropriation of land that is ostensibly dedicated to extensive agricultural enterprises such as cattle grazing.¹²⁷



Figure 9. The San Juan Garífuna central meeting hall.

Similar to the case of Triunfo de la Cruz, the Court found that the state had violated the community's right to its traditional territory, specifically for failing to adequately delimit, demarcate and deliver clear title to approximately 675 hectares of land recognized by the state during the process before the Court. However, in August 2023, the Court adopted an extraordinary remedy that favored the non-Garífuna possessors of Garífuna lands. While the Court recognized that the Honduran state had failed, as in Triunfo de la Cruz, to properly delimit, demarcate and title the recognized collective title of the community for decades, it stopped short of ordering territorial reparation in the form of returning third-party held land to the community, as it had in the Triunfo case.¹²⁸ Instead, the Court drew its own conclusion of exceptional circumstances, finding that third-party held land in the San Juan Garífuna's territory should stay in the hands of *terceros*, and the state should provide the community "alternative lands" or, alternatively, compensation for their loss of title.¹²⁹

¹²⁶ *Honduras: Garífuna Communities Threatened at Bay of Tela*, Orinoco Tribune (Oct. 27, 2022), <https://orinocotribune.com/honduras-garifuna-communities-threatened-at-bay-of-tela/>; Indura Beach & Gold Resort Curio Collection by Hilton, <https://www.hilton.com/en/hotels/teaibqq-indura-beach-and-golf-resort/>.

¹²⁷ Fieldnotes, January 12, 2024.

¹²⁸ *Garífuna Community of San Juan and its Members v. Honduras, Merits, Reparations, and Costs*, "The Right to Property, The Right of Access to Information, and Political Rights," ¶ 118; *Garífuna Community of San Juan and its Members v. Honduras, Merits, Reparations, and Costs*, "Resolutive Points," ¶ 7.

¹²⁹ *Garífuna Community of San Juan and its Members v. Honduras, Merits, Reparations, and Costs*, "Resolutive Points," ¶ 7.

Importantly, the Court ruled against the community even where it acknowledged that incomplete access to their ancestral land compromised their use and enjoyment of it.¹³⁰ The Court also recognized that the San Juan community had endured violence perpetrated by third-parties—including verbal and physical threats and, in the most severe of cases, murder—as a result of the increasing presence of *terceros* in their territory.¹³¹ In addition to the threats and actual acts of physical violence, the community also reported being coerced by *terceros* to sell their property. In at least one instance, a community member reported a stranger threatening to kill her where she refused to accept his monetary bribe in exchange for her signature on a document transferring her land to him.¹³²

Despite these factors at play, the Court found in favor of third-party land interests, holding that the state is responsible for providing “alternative” lands or indemnifying San Juan Garífuna members. Its decision appeared to rest on various factors, most prominently, the presence of as many as 7,620 *ladino* or non-Garífuna individuals, primarily living in the annexed and urbanized eastern portion of San Juan as an extension of the urban area of Tela into the community’s ancestral territory,¹³³ and whose “displacement... could lead to difficulties and humanitarian consequences.”¹³⁴ Additionally, the Court credited evidence of the “legitimate transfer” of Garífuna title to some third-party possessors and expressed concern that restoration of the community’s land title would “endanger the social fabric and coexistence between the Garífuna and ‘*ladino*’ communities.”¹³⁵

The Court’s sensitivity to potential future social conflict appears to derive from its unprecedented allowance of third-party testimony, which the Court factored into its decision-making process regarding the proper form of restitution.¹³⁶ The Court’s receipt of this evidence merits some analysis. Article 58 of the Court’s Rules of Procedure provides:

The Court may, at any stage of the proceedings:

- a. Obtain, on its own motion, any evidence it considers helpful and necessary. In particular, it may hear, as an alleged victim, witness, expert witness, or in any other capacity, any person whose statement, testimony, or opinion it deems to be relevant.¹³⁷

In this case, the Court received unsolicited communications from the Chamber of Commerce of San Pedro Sula and the Honduran Shores Plantation Neighborhood Association, and heard from third parties during its visit *in situ*.¹³⁸ While this may fit under the Court’s authority to receive evidence, there are no clear procedural safeguards for receiving, weighing and assessing such evidence from the perspective of the petitioners or presumed victims.¹³⁹

¹³⁰ Garífuna Community of San Juan and its Members v. Honduras, Merits, Reparations, and Costs, “The Right to Property, The Right of Access to Information, and Political Rights,” ¶ 116.

¹³¹ Garífuna Community of San Juan and its Members v. Honduras, Merits, Reparations, and Costs, “Test,” ¶ 64.

¹³² *Id.* at ¶ 64(6).

¹³³ Garífuna Community of San Juan and its Members v. Honduras, Merits, Reparations, and Costs, “Repairs,” ¶ 195.

¹³⁴ *Id.* at ¶ 206.

¹³⁵ *Id.*

¹³⁶ *Id.* at ¶ 195.

¹³⁷ Art. 58, Inter-Am. Ct. H.R. Rules of Procedure, <https://www.corteidh.or.cr/reglamento.cfm?lang=en>.

¹³⁸ Garífuna Community of San Juan and its Members v. Honduras, Merits, Reparations, and Costs, “Repairs,” ¶¶ 196-97.

¹³⁹ Art. 58, Inter-Am. Ct. H.R. Rules of Procedure, <https://www.corteidh.or.cr/reglamento.cfm?lang=en>.

When assessing third-party statements regarding social conflict in the territory, the Court is making a false equivalence of expressions of and responsibilities for that conflict. For example, it relies on an informational “note” sent by the Honduran Shores Plantation Neighborhood Association accusing the community of “threatening” and “violent” actions to factor into its analysis of social conflict and justification for the exceptional remedy.¹⁴⁰ There is no evidence that the note was sent in the form of a sworn declaration. The Court does not address the community’s contestation or account of these actions, nor is there any evidence that the community was given the opportunity to confront the allegations or the individuals making them.

In this regard, the Court’s analysis of “evidence” or information from third parties is inadequate with respect to the causes and source of such conflict lying in the state’s failure to demarcate and title Garífuna lands and failure to investigate and prosecute egregious violent crimes against Garífuna leaders and land defenders. The Court is clearly not naïve to this reality, but it fails to adequately locate the social positioning of the third-party actors and that of the Garífuna community as the primary victim of these egregious human rights abuses, and to incorporate that analysis into its reasoning.



Figure 10. The gated Shores Plantation housing development in San Juan, Honduras, on Garífuna land.

More to the point, the Court, in its finding of exceptional circumstances and its proposed remedy of compensation with other lands or indemnification to the Garífuna community, fails to distinguish between the third-party actors, their forms of tenure, and their role in the social conflict. The Court appears to have been moved principally by facts presented during their visit *in situ* concerning the densely populated, popular *colonias* on the eastern side of the Garífuna

¹⁴⁰ Garífuna Community of San Juan and its Members v. Honduras, Merits, Reparations, and Costs, “Repairs,” ¶ 196 n.191.

territory.¹⁴¹ Our field visit revealed, as should have been apparent to the Court in its own visit *in situ*, that the other disputed areas of third-party possession are very distinct. This includes more extensive, “vacant” or non-densely populated pastureland in the middle part of the territory held in many cases by politically and economically elite *terceros* from Tela. It also includes the high-end corporate residential and tourist developments on the western end of the territory, primarily that of the Shores Plantation group. These corporate and elite actors are not in the same position as the popular actors on the eastern side of the territory with modest lots used as primary residences and small businesses. They are speculators representing for-profit interests and investments. Moreover, as alleged by the Garífuna community, these elite political and business actors are the source of threats and violence against the community.¹⁴²

There is no reason land held by these elite and powerful parties should not be restored to Garífuna title in a process of expropriation, in line with the Court’s precedents in other Indigenous land rights cases and the case of Triunfo de la Cruz, specifically. In fact, there is a ruling from the state’s Ministry of Natural Resources and the Environment finding the Shores Plantation construction in violation of the state’s environmental laws, as it sits in the buffer zone of the Blanca Jeannette Kawas National Park where construction of cement infrastructure and permanent structures is prohibited.¹⁴³ The state should enforce an order of demolition with respect to this development and restore the land to Garifuna title.

In principle, this process of expropriation could include indemnification of these third parties or compensation for improvements to the land, provided there was no bad faith in the actors’ acquisition or exercise of possessory rights. However, the Court’s ruling is inviting increased conflict in the community by failing to make this distinction between third-party possessors and frustrating the recognition of Garifuna territorial rights in the Inter-American system by requiring the community to forego restitution of their rights in a sizable portion of their territory usurped by these speculators and developers.

Finally, any third party allowed to remain in possession of their land should do so as a result of consultation and consensus with the community and adherence to communal norms and customs prior to implementation of the exceptional remedy of exchange of land or monetary compensation. In order to respect Garífuna title and territorial reparation, any retention of possessory rights by third parties should be done with the consent of the community and limited to usufruct rights.

¹⁴¹ *Id.* at ¶ 195.

¹⁴² Fieldnotes, January 6, 2024.

¹⁴³ Secretaría de Recursos Naturales y Ambiente, Dirección General de Evaluación y Control Ambiental, Informe Técnico No. 73/2014.



Figure 11. *Tercero*-occupied Garífuna land in San Juan.

8. The Path Forward

As this report has demonstrated, the Honduran state has failed to implement the 2015 IACtHR ruling recognizing the collective land title of the Garífuna of Triunfo de la Cruz. As of October 2024, nine years have passed since the Court recognized Garífuna rights to their traditional territory as recognized by the state in their formal titles and *garantía de ocupación*, and ordered territorial reparation in the form of delimitation, demarcation and clear title to their land. In the face of noncompliance with the sentence, the community continues to endure the harm wrought by their land loss and dispossession.

In the past nine years, the Honduran government has taken initial but insubstantial steps to actualize the ruling. Aside from the reappropriation of the 22 *manzanas* in dispute with the Tela municipal workers union, the state has failed to effectuate any land transfer from *tercero* possession or title to community possession and title. Instead, since 2015, the community has endured repeated and recurring harm, in the form of protracted injury, including land loss, the encroachment of *tercero*-owned tourist and private developments, water shortages, and acute harm, like the threats towards and murders and disappearances of community members active in the land rights struggle. The Honduran state must endeavor upon several different steps to fulfill its obligations established by the IACtHR and respect and uphold the community's collective land title. The CIANCSI, in dialog with the Garífuna community and its representatives, is the vehicle now to achieve this compliance.

First, the state must publicize the IACtHR sentence and its relevant obligations therein in a more meaningful way than a one-time media publication. This obligation is a reparative measure and is coupled with the Court-ordered public act of acknowledgement by the state of its responsibility for violation of the Garífuna community's rights. While publication has formally

been fulfilled by the state, the public act of accountability has yet to happen.¹⁴⁴ Meager attempts to communicate the import of the decision to local officials and the community of Tela have taken place without the participation of or monitoring by the Garifuna community to ensure its proper socialization.¹⁴⁵

The state must engage in a process of public education, reaching the actors who are causing harm to the Garífuna community, which illustrates a commitment to respect and protect the rights of the Garifuna community vindicated in the IACtHR decision. The state must bring peace to the conflictive situation by asserting the justice of the Court’s decision and demonstrating the political will to effect Garífuna territorial reparation.

The Court should insist on compliance with this point, and CIANSCI should fulfill this obligation in a way that includes the consultation and consent of the community as to its form and content.¹⁴⁶ A renewed effort by the state to publicize and take responsibility for the sentence should affirm it to the public by teaching local communities that the territory of Triunfo de la Cruz is inalienable Garífuna collective land, which the state has long disrespected by sanctioning illegal *tercero* purchase of Garífuna collective title. This is one step towards broader education of speculative landowners and other *terceros* who may seek to illegally purchase land in Triunfo and local government officials who may be unaware of the prohibitions the ruling places on third-party purchases of Garífuna land in Triunfo de la Cruz. This involves a process of socialization of the Court’s ruling in the broader society. This also includes adopting adequate mechanisms for the protection of the life and integrity of community members, and effective investigation and justice in the most egregious cases of human rights violations.

The state must also commit to fully eliminating any vestiges of its outdated and incompliant technological or procedural infrastructure, as it has begun to do with its directive to the IP prohibiting any registration of land purchases and other acts affecting Garífuna land covered by the decision. According to community representatives, state officials, including one of the directors of the IP, possess land in the Garifuna’s territory.¹⁴⁷ The CIANSCI must go further to ensure the elimination of fraud and corruption in the transfer and titling of land in Garifuna territory. Without examination and mitigation, the state’s ‘business as usual’ settler colonial logics, which prioritize corporate and individual land possession and investment over the Garífuna’s collective land title, will prevent the sentence’s full implementation.

Most importantly, CIANSCI must set in motion the territorial reparation demanded by the sentence with concrete action. It must properly demarcate the land recognized as Garífuna title. This process *must* include *saneamiento* or clearing the title of third-party pretensions and possessions to be fully recognized as Garífuna collective property. This includes initiating processes of expropriation, assessment of third-party claims and, where appropriate, appraisal of any improvements to the land, indemnification and return of land to Garífuna title. An iron-clad protocol for this process should be developed in consultation with the Garífuna community.

The process of expropriation requires an analysis of how each third-party has acquired land or putative title in Garífuna territory, including which parcels have been obtained in good

¹⁴⁴ See Garífuna Community of Triunfo de la Cruz and its Members v. Honduras, Merits, Reparations, and Costs, “Reparations,” ¶¶ 270-274, Resolution Points No. 10; 2019 Monitoring Compliance with Judgment at ¶¶ 39-42 (discussing the obligation of the state to conduct a “public act of recognition and international responsibility”).

¹⁴⁵ Members of the community noted that they were informed the state was conducting a “workshop” on the decision but were not invited to participate in the planning or development of the workshop and do not know the outcome. When the community arrived to monitor one such event, they were told to leave under threat of calling the police. Fieldnotes, January 18, 2025.

¹⁴⁶ Garífuna Community of Triunfo de la Cruz and its Members v. Honduras, Merits, Reparations, and Costs, “Reparations,” ¶¶ 270-274, Resolution Points No. 10; 2019 Monitoring Compliance with Judgment at ¶¶ 39-42.

¹⁴⁷ Fieldnotes, January 18, 2025.

faith, which have been obtained through coercion or bad faith, and what role the state played in this process of dispossession and violation of the community's property rights. This should inform any appraisal process and indemnification under the expropriation procedure. The state must determine whether and how to compensate *terceros* who have purchased the land without force or undue influence, but which might have violated the norms of collective property and Garífuna customary law. Similarly, the state has an obligation to determine which land parcels were acquired by *terceros* in bad faith, to which individuals have no legitimate or colorable title.

Importantly, appraisals for improvements made on third-party held properties must be made by state appraisers as a reparative measure in the public interest. The appraisals must be regulated in the public interest and limited to improvements on the land, rather than dictated by the whims of self-appraisal by third-parties, which may be subject to arbitrary and self-interested inflation. The state must also determine, in consultation with the community and according to its norms and customs, under what conditions any *terceros* will remain in possession of collective property.

As a sign of its political will, CIANSCI must ensure the security of the technical teams carrying out this process with the Garífuna community. Finally, the state must fund the steps required for implementation of the sentence, including securing funds for indemnification of third parties, the hiring of experts to demarcate Garífuna land, and providing the necessary technological support and security. Without adequate funding, the demarcation and recognition process will be ever stymied. These conditions must be met for the state to fulfill the Court's mandate to delimit, demarcate, and deliver clear title to the Garífuna community.

These steps are only the beginning of a full-fledged alignment of Honduran domestic policy with the regional human rights Court, and its own domestic law. After nine years, the Garífuna are more than rightfully due legal recognition and protection of their ancestral collective land.

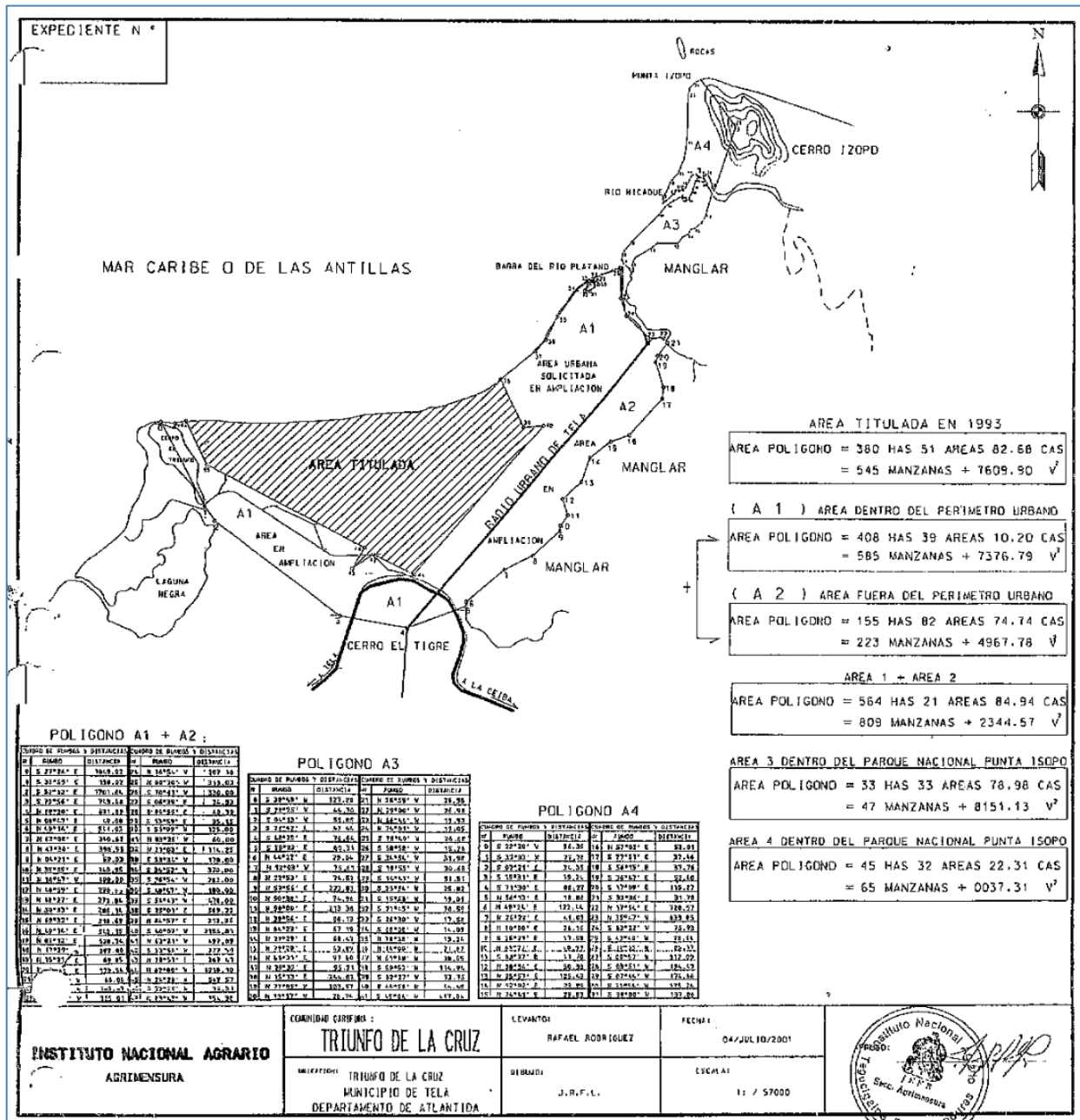


Figure 12. A map of Triunfo de la Cruz, included in the 2015 IACTHR ruling. The shaded area marks previously titled land due to the Garifuna community of Triunfo de la Cruz, per the 2015 ruling. The non-shaded A1, A2, A3 and A4 land parcels were also recognized by Court as pertaining to the Garifuna title, with A4 residing in Punto Izopod National Park. A1 is the area improperly annexed by the Municipality of Tela.