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Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General

Situation of human rights in Honduras

Report of the United Nations High Commissioner for Human Rights on the situation of human rights in Honduras^{*}, ^{**}

Summary

In the present report, the United Nations High Commissioner for Human Rights describes the situation of human rights in Honduras from 1 January to 31 December 2019. The High Commissioner highlights key human rights advances and challenges related to poverty and economic and social issues, corruption, business and human rights, migration, health, violence and insecurity, judicial independence and democratic space, with a focus on the situation of human rights defenders, journalists, individuals deprived of their liberty, indigenous peoples and persons of African descent, persons with disabilities, women and lesbian, gay, bisexual, transgender and intersex people. The report highlights some of the activities of the Office of the United Nations High Commissioner for Human Rights in Honduras and concludes with recommendations.

* The present report was submitted after the deadline so as to reflect the most recent information.

** The summary of the report is being circulated in all official languages. The report itself, which is annexed to the summary, is being circulated in the language of submission and in Spanish only.



Annex

Report of the United Nations High Commissioner for Human Rights on the situation of human rights in Honduras

I. Introduction

1. On 4 May 2015, the United Nations High Commissioner for Human Rights signed an agreement with the Government of Honduras to establish a country office with a mandate to monitor the human rights situation, assist State institutions to comply with international human rights laws and standards, and promote awareness and knowledge of human rights.

2. The present report is based on the information collected through the monitoring carried out by the Office of the United Nations High Commissioner for Human Rights (OHCHR) in Honduras in line with its mandate.

II. Context

3. During the period under review, Honduras remained marked by a profound social and political crisis, with high levels of poverty, violence and insecurity. The year was also marked by ongoing trials in domestic and foreign courts dealing with corruption cases and alleged collusion between members of the political establishment and criminal networks.

4. Given that the credibility of the electoral system was affected by the 2017 elections and in view of the recommendations of the international electoral observation missions (European Union and Organization of American States), electoral reforms were prevalent on the agenda of the legislature. In February 2019, the Congress adopted a decree splitting the former Supreme Electoral Tribunal into the National Electoral Council and the Electoral Justice Tribunal, and expanded the number of commissioners of the National Registry of Persons from three to five. The decree regulates the operation of the two new electoral entities and leaves the previous electoral regulation in force, which was not modified by the reforms. According to electoral experts who have visited Honduras, this has resulted in inconsistencies and ambiguities that represent challenges to ensuring a transparent process in the 2021 presidential elections. Furthermore, the decree did not address crucial issues relating to the re-election of the President and the second electoral round. On 24 September, Congress nominated the members of the two committees tasked with drafting two laws to regulate the functioning of the new electoral bodies. It is expected that Congress will adopt the new legislation during the first half of 2020.

5. In September, the appointment process of the electoral authorities, regulated by an ad hoc law adopted on 19 August,¹ was criticized by sectors of civil society because of its lack of civic participation and transparency, with party affiliation prevailing over any other criteria.²

6. In May, Congress published Decree No. 130-2017 on the new Penal Code, which in the view of OHCHR falls below international and regional human rights standards in the qualification of criminal offences on corruption and violence against women and affects the freedoms of expression and assembly.³ Among other concerns, the proposal lowers prison terms for crimes against the public administration, such as money laundering, fraud and embezzlement. The Mission against Impunity and Corruption in Honduras stated that such reduced sanctions, combined with the principle of retroactivity, which will enable the

¹ Ley Especial para la Selección y Nombramiento de Autoridades Electorales y Atribuciones, Competencias y Prohibiciones, Decree No. 71/2019.

² See <http://asjhonduras.com/webhn/tag/seleccion-de-autoridades-electorales/>.

³ See <https://oacnudh.hn/publicaciones/> (in Spanish).

application of more lenient criminal sanctions in ongoing corruption cases, undermine the fight against impunity.⁴

7. The decree also decreases prison terms for femicide by 15 years (from a maximum penalty of 40 years to 25) and foresees only a penalty of 1 to 4 years for a newly introduced criminal offence on violence against women. The prohibition of abortion in all circumstances, including in cases of rape or incest, or when the life and/or health of pregnant women is at risk and in cases of severe fetal impairment, was criticized by Articulación 611, an alliance of civil society organizations formed to analyse the new penal code. OHCHR is concerned about the negative impact of the new Penal Code on the right to freedom of opinion and expression, the continued criminalization of conduct as libellous or slanderous and the introduction of criminal responsibility for crimes committed through the media. Numerous constituencies, notably civil society, the private sector and academia, have called on Congress to repeal the decree or postpone its entry into force.⁵ The *vacatio legis* was extended to 10 May 2020.

8. The year saw several high-profile criminal cases in domestic and foreign courts against former and current State officials, directors of State companies and senior political figures and their relatives. In September, the Special Prosecution Unit on Corruption-related Impunity of the Office of the Attorney General filed its thirteenth case with the support of the Mission against Impunity and Corruption in Honduras, bringing to around 400 the number of individuals investigated for corruption. The Government announced that it would enter into discussions with the Organization of American States (OAS) on the next phase of the Mission,⁶ the current mandate of which expires on 19 January 2020. At the request of the Government, OAS issued an “integral evaluation” of its performance on 9 December, in which it recommended that the existing agreement be extended.

9. In October, a court in the United States of America condemned the brother of the President of Honduras and former member of Congress, Tony Hernández, on charges of possession and trafficking of drugs and weapons. The verdict attracted international attention. The prosecution referred to the infiltration of organized crime in Honduran institutions.⁷ In a note verbale on 15 October, the Ministry of Foreign Affairs of Honduras complained to the United States, arguing that the negative comments made during the trial of Tony Hernández and the negative depiction of Honduras affected the interests of the State.

III. Poverty and economic and social issues

10. Poverty levels remain high, with 59.3 per cent of households living in poor households in 2019.⁸ As of October 2019, no data were available on the prevalence of multidimensional poverty in 2018 and only preliminary data could be obtained for 2017 and 2018.⁹

11. Given the relatively high prices of the basic food basket, housing, water and electricity, poorer households were unable to access basic commodities and services, including health care and education. In addition, the social protection system remains

⁴ See www.oas.org/es/sap/dsdme/maccih/new/docs/Analis-Juridico-Del-Nuevo-Codigo-Penal-MACCIH2019.pdf (in Spanish).

⁵ See, for example, www.cna.hn/2019/09/05/nuevo-codigo-penal-permite-que-el-robo-de-un-celular-sea-mas-grave-que-robarse-el-presupuesto-de-una-secretaria/; <https://juecesporlademocracia.org/asociacion-de-jueces-por-la-democracia-presento-propuesta-de-ampliacion-de-vacatio-legis-y-reformas-al-nuevo-codigo-penal/>; and www.cejil.org/es/cejil-nuevo-codigo-penal-honduras-facilitaria-criminalizacion-defensa-derechos-humanos (all in Spanish).

⁶ See www.oas.org/es/centro_noticias/comunicado_prensa.asp?sCodigo=C-115/19.

⁷ See *United States of America v. Juan Antonio Hernández Alvarado*, available at www.insightcrime.org/wp-content/uploads/2019/09/Tony-Hernandez-Filing.pdf.

⁸ See National Statistical Institute, “Encuesta permanente de hogares de propósitos múltiples 2019”, available from www.ine.gob.hn/V3/ephpm/.

⁹ See <http://ipm.scgg.gob.hn/index.php/2019/07/31/serie-ipm-2012-2018/> (in Spanish).

inadequate because the Social Security Institute is running a default of 6.766 billion lempiras (approximately US\$ 273 million) vis-à-vis the private sector, the central Government and the municipalities.¹⁰ On the other hand, 39.6 per cent of the economically active population work in the informal sector, which implies that they neither contribute to nor receive social security services.¹¹

12. The index of inequality in income distribution remains the second highest in Latin America and the population has little confidence in the capacity of the State to promote a fair and inclusive economy. The various cases of corrupt practices involving the misappropriation of State funds by State officials, including funds allocated to poverty reduction, health and social security programmes, have further diminished its credibility.

13. In October, the President of the Central Bank revealed that in the first half of 2019, foreign direct investment was down by 39.3 per cent to US\$ 242 million compared to the same period in 2018, citing the social and political crisis in the country as key factors.

14. The Government adopted the 2030 national Agenda for Sustainable Development on 4 December, in which it prioritized all 17 Sustainable Development Goals, 68 of the 196 targets and 99 of the 232 indicators.¹² OHCHR supported the Office of the Chief of Staff of the Ministry of Government and the Ministry of Human Rights in linking the targets and indicators of the Sustainable Development Goals with the human rights recommendations made by international human rights mechanisms, an innovative practice that lays the foundation for the integration of the development agenda with the human rights agenda.

A. Business and human rights

15. The Government has reaffirmed its commitment to the development of a national action plan on business and human rights, based on the Guiding Principles on Business and Human Rights, as an instrument for sustainable development. During the year, the Ministry of Human Rights, with technical assistance from OHCHR, promoted a stakeholder dialogue and capacity-building based on the Guiding Principles and held a cycle of conferences on business and human rights with the participation of the Working Group on the issue of human rights and transnational corporations and other business enterprises.

16. At the end of its visit to Honduras from 19 to 28 August, the Working Group welcomed the commitment of the Government on this topic. Nonetheless, it highlighted the need for immediate and profound institutional and legal reforms, in particular to ensure the independence of the justice system, the participation of individuals and communities in decision-making, and the right of indigenous peoples to free, prior and informed consent.¹³

17. The Working Group also expressed concerns about gaps in the national anti-corruption framework, noting that it did not adequately prevent conflicts of interest of public officials and their family members vis-à-vis their business engagements. It also observed the non-compliance of public officials with the framework on disclosure of assets and incomes set out in the United Nations Convention against Corruption. The Working Group called on Congress to exercise due diligence in its signing of public contracts involving concessions for large-scale development projects.

B. Migration

18. Violence and insecurity, ongoing poverty and a lack of confidence in the willingness and capacity of the State to open up the economy and improve living standards remained

¹⁰ See www.laprensa.hn/honduras/1335698-410/impagable-mora-6766-millones-lempiras-arrastra-seguro-social-honduras (in Spanish).

¹¹ See National Statistical Institute, "Figures on the labour market 2019", available from www.ine.gob.hn/V3/ephpm/.

¹² "Agenda nacional 2030, objetivos de desarrollo sostenible" (December 2019), available from www.scgg.gob.hn/es/node/236.

¹³ See www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24932&LangID=E/.

the key drivers of migration. While in 2019 none of the so-called “caravans” of migrants of the size observed in 2018 left Honduras, OHCHR estimates that on average around 400 Hondurans left the country daily for Guatemala, usually with the goal of reaching the United States.¹⁴ An estimated 600,000 Hondurans reside in the United States, around half of them undocumented, and 80,633 of them benefit from temporary protection status which, according to the U.S. Citizenship and Immigration Services, is to be extended until 4 January 2021 in some cases.¹⁵

19. By 13 December 2019, owing to the hardened immigration policies of the United States and Mexico, 104,099 Hondurans had been returned to the country, including 22,916 children, an increase of 38.3 per cent compared to 2018. No official information was available on the percentage of voluntary returns.¹⁶ The increase in returnees has a direct effect on poverty levels, weighing on scarce economic opportunities and social resources.

20. In September, Honduras signed an agreement with the United States on cooperation in the examination of protection claims. National and international actors expressed concern about the capacity of Honduras to guarantee adequate protection to asylum seekers.¹⁷

C. National emergencies related to health and water

21. During the year, the Government declared two emergencies related to economic and social issues, which are also linked to the effects of climate change. On 2 July, it declared a national health emergency owing to a dengue epidemic. As of 24 November, the Ministry of Health reported 105,513 cases of dengue nationwide, a figure more than 96 per cent greater than the same period in 2018. In September, prolonged low precipitation resulted in the declaration of a nationwide water emergency, which affected the availability of water for productive use and human consumption. Owing to rationing, households in poor areas of Tegucigalpa did not receive water through water pipes for up to 43 days. The costs associated with having to replace household water provision through the purchase of water from tankers represented a serious financial burden for poor families, who had to pay almost 10 per cent of the minimum income for a barrel of water.

22. The water emergency took place in a context of high environmental vulnerability, as the country is greatly exposed to the effects of climate change. That was evidenced by the expansion of the so-called “dry corridor”, which covers the lowlands of Central America and stretches out from Panama to Guatemala including Honduras. The corridor covers 132 municipalities in the southern and central part of Honduras and is extremely prone to recurrent droughts and severe rainfall and floods.

IV. Violence and insecurity

A. Context

23. Between January and October, the national police recorded 3,083 violent deaths, 25 per cent of which took place in the departments of Francisco Morazán and Cortés, which host the cities of Tegucigalpa and San Pedro Sula respectively and is a higher figure than

¹⁴ This estimate is based on information gathered by OHCHR through its monitoring missions and meetings with civil society and the Honduran National Institution for Migration.

¹⁵ See www.pewresearch.org/fact-tank/2014/08/11/5-facts-about-honduras-and-immigration/ and www.uscis.gov/humanitarian/temporary-protected-status.

¹⁶ See www.conmigho.hn/direccion-general-de-proteccion-al-hondureno-migrante/retornados-2019/ (in Spanish).

¹⁷ See www.acnur.org/noticias/press/2019/10/5db06d9a4/posicion-del-acnur-frente-a-la-implementacion-del-acuerdo-de-asilo-bilateral.html (in Spanish).

the 3,029 deaths recorded for the same period in 2018.¹⁸ The homicide rate in 2019 was 43.63 per 100,000 inhabitants, which represents a two-point increase over 2018.¹⁹ The large number of deaths classified by the observatory on violence at the National Autonomous University as “unidentified” could further increase the homicide rate.²⁰

24. Various forms of violence against women and girls remained widespread. Between January and August 2019, 672 cases of sexual violence against women were processed by the judiciary, 60 per cent of which progressed to trial or reached sentence.²¹ According to the observatory on violence, during the same period, 185 women were killed. However, by August only 15 femicide cases had been processed, 4 of which had reached sentencing or progressed to trial. The other cases were dismissed in the preliminary phase of investigation.²² OHCHR was unable to obtain data on the number of complaints of femicide received by the Office of the Attorney General, but the low rate of prosecution and convictions in such cases raises concerns about the effectiveness of the criminal justice system. OHCHR appreciates the establishment of an inter-institutional commission to follow up on the investigation of violent deaths of women and femicides, at which it has observer status.

25. Violence and insecurity continued to drive people to flee their homes. Since 2013, the Government has recognized internal displacement caused by violence. On 28 March, a bill for the prevention and care of and protection against forced displacement was submitted to Congress but is still pending approval. As permanent adviser to the Inter-institutional Commission for the Protection of Persons Displaced by Violence, OHCHR has been coordinating with the Ministry of Human Rights to promote the approval of the bill. The establishment of a comprehensive protection mechanism for the estimated 247,000 internally displaced persons is still under discussion.

B. Security and defence

26. Honduras remains highly dependent on the military for a range of security-related functions from law enforcement to securing penitentiary centres, although it has committed to withdrawing the military from public security functions (see, for example, CAT/C/HND/CO/2, paras. 13 and 16). The increase in military expenditure by 14 per cent between 2016 and 2018²³ and the increase by 7.2 per cent of the budget of the Ministry of Defence in 2019 bring into question the firmness of the commitment of the Government to moving steadily towards civilian security. The prevention of violence appears as a low priority, with less than 6 per cent of the amount raised by the security tax allocated to it.²⁴

27. Reform of the national police and the Ministry of Security progressed, albeit slowly. The number of police officers increased by 1,079 in 2019, bringing the total number to 17,878. The Government has set a target of 26,000 police officers by 2022. The Directorate of Police Disciplinary Affairs under the Ministry of Security is in place and functioning but is seriously understaffed. By July, it reported that it was investigating 1,500 disciplinary complaints. It is unclear how this body coordinates with the Police Verification Commission, which has a mandate of civilian oversight of investigative and disciplinary bodies and processes.²⁵

¹⁸ See www.sepol.hn/artisistem/images/sepol-images/files/Estadistica%20Diaria%20Septiembre%202019--1.pdf (in Spanish).

¹⁹ See [www.sepol.hn/artisistem/images/sepol-images/images/777\(1\).PNG](http://www.sepol.hn/artisistem/images/sepol-images/images/777(1).PNG) (in Spanish).

²⁰ In 2018, the observatory estimated that unidentified deaths amounted to 17.5 per cent of the number of violent deaths. No data are yet available for 2019.

²¹ Data from the Electronic Centre for Documentation and Judicial Information.

²² Data from the Electronic Centre for Documentation and Judicial Information.

²³ See World Bank, military expenditure as a percentage of GDP, available from <https://datos.bancomundial.org/indicador/MS.MIL.XPND.GD.ZS?locations=HN>.

²⁴ See www.tasadeseguridad.hn/estadisticas.php?p=1 (in Spanish).

²⁵ Congress has extended the mandate of the Commission until 2022.

28. Working conditions within the national police remained an issue of discontent. In June, sectors of the police special forces declared a strike, protesting against poor labour conditions and low salaries. An agreement brokered by the Office of the National Commissioner for Human Rights not to adopt disciplinary measures against officers who had participated in the strike was reached on 20 June with the Ministry of Security. By September, however, disciplinary actions were being pursued against 92 officers and the Police Disciplinary Affairs Department had announced in an official communication that it was not bound by the agreement.

C. Persons deprived of their liberty

29. By 30 September 2019, there were 21,591 adults in detention in Honduras, including 1,171 women, compared to 20,583 in September 2018. The number of persons in pretrial detention remains high (55 per cent of male and 61 per cent of female inmates). The National Committee for the Prevention of Torture qualified the conditions of detention centres as “inhumane” and in some cases amounting to mental and physical torture. Aggravated by overcrowding, other issues included lack of hygiene, poor quality and availability of water, lack of food, limited sleeping arrangements, lack of access to health care and prolonged detention in cells with no access to natural light and air.

30. Despite harsh security surveillance, weapons continued to circulate in prisons, including in the penitentiary centres with maximum-security modules, such as Ilama and Morocelí. In some cases, weapons were used to commit targeted killings. For instance, on 26 October, the shooting and stabbing of Magdaleno Meza (real name Nery Orlando López Sanabria), a pretrial detainee related to the trial of the brother of President Hernández, caused an outcry. In January 2019, his lawyers had requested the National Penitentiary Institute to transfer him because of threats against his life, but to no avail. On 9 December, one of his lawyers, José Luis Pinto, was gunned down in the department of Copán. Another of Magdaleno’s lawyers, Carlos Chajtur, has been the subject of threats.²⁶

31. On 5 December, five inmates, reportedly members of the MS-13 gang, were killed inside the penitentiary centre of Morocelí. On 13 December, armed men shot and killed the Director of the Ilama centre, Pedro Ildefonso Armas. The Director was a primary witness to the assassination of Magdaleno Meza and appeared vividly in the video recordings of the killing. On 16 December, the Executive issued presidential Decree No. 068-2019, declaring a state of emergency in the penitentiary system and establishing an intervention commission composed of the National Inter-institutional Security Force, which includes five army Colonels and two national Police Commissioners. The penitentiary centres of Támara, Morocelí, El Porvenir and the national female penitentiary, which house 44 per cent of the overall population in detention, were already under the management of active military officers. Under the decree, control of the National Penitentiary Institute and the National Institute for Juvenile Offenders was transferred to the National Inter-institutional Security Force for a period of six months.

32. Following the entry into force of Decree No. 068-2019 on 20 December, 21 inmates were killed and at least 13 injured in the Tela male detention centre in the department of Atlántida. The National Inter-institutional Security Force had not taken control of the centre and the prison’s civilian authorities were suspended immediately. On 22 December, at least 19 inmates were killed inside the penitentiary centre of El Porvenir in Valle de Siria, in Francisco Morazán department. As at 23 December, according to data provided by the National Penitentiary Institute, 60 inmates had been killed in custody, 49 in December alone.²⁷

33. OHCHR recalls the obligation of the State to conduct prompt, effective, thorough, independent, impartial and transparent investigations into all incidents of death in custody, as well as into any allegations of torture or inhuman or degrading treatment or punishment of prisoners.

²⁶ See <https://tiempo.hn/chajtur-busca-asilo-en-otro-pais-por-amenazas-en-honduras/> (in Spanish).

²⁷ Investigations into the incidents are ongoing.

34. Lack of adherence to principles and procedures for transfers established in the law on the penitentiary system continued. Transfers continued to be made without notification to the families of the detainees and to the criminal enforcement judges.²⁸ The principle that inmates should be assigned to centres close to their family is frequently violated.²⁹ Decisions by criminal enforcement judges are often not implemented by the National Penitentiary Institute, or only with significant delays, as illustrated in the case of seven human rights defenders, who were held at the penitentiary centre of Morocelí from 3 September to 30 October 2019, despite a judicial order of 1 September for their transfer to the Olanchito centre.

35. Article 245 of the 2019 General Budget Act, whereby the relatives of persons deprived of liberty were exempted from paying for the documents necessary for the issuance of a visiting card, was often not adhered to. The visiting regulations process consequently remained long, costly and complex for many families.

36. The National Committee for the Prevention of Torture continued to face challenges in the implementation of its mandate. Weaknesses in the normative and administrative framework that hamper the independence and autonomy of the mechanism, including internal allocation of resources, remained unaddressed (A/HRC/40/3/Add.2, para. 38). With a budget representing 0.006 per cent of the national budget, the Committee was unable to strengthen its presence outside the capital, to support local committees and to hire technical staff, such as psychologists. Moreover, there are concerns related to the fulfilment of its mandate, considering that so far there has been no agreement either on the appointment or on the swearing-in of the Commissioners by the President, as required by law, including the Commissioner elected by civil society.³⁰

37. In September, in his annual report to the Human Rights Council, the Secretary-General reported on reprisals against the civil society Commissioner on the National Committee for the Prevention of Torture for her cooperation with the United Nations, which took the form of demeaning comments from public officials, including members of Congress, undermining her position and work (A/HRC/42/30, para. 56).

V. Justice

A. Judicial independence

38. The establishment of an independent governance structure for the judiciary and the strengthening of the judicial career are urgent priorities and require increased political commitment. In the course of 2019, the Supreme Court produced an initial text of the laws on the judicial council, the judicial career and the organic law of the judiciary, with significant technical assistance from international donors. International and regional mechanisms have for several years consistently expressed concern vis-à-vis the current framework, which they considered to be obsolete and inadequate, and hampering judicial independence (A/HRC/34/3/Add.2, para. 23, and CCPR/C/HND/CO/2, para. 34).³¹

39. The current framework, which has gaps in the regulation of appointments and promotions within the judicial career, leaves the judicial system exposed to interference by the executive and the legislature. The adoption of legislation regarding the appointment of high judicial officials is crucial, notably to prevent interference by the legislature (A/HRC/40/3/Add.2, para. 40).

²⁸ Law on the national penitentiary system, art. 92.

²⁹ *Ibid.*, art. 66.

³⁰ The mandate of the previous Commissioners expired on 16 September 2019. There are three Commissioners in total, with one designated by the executive, one by the legislature and one by civil society.

³¹ See also *López Lone y otros vs. Honduras*, Inter-American Court of Human Rights, judgment of 5 October 2015, available from www.corteidh.or.cr/docs/casos/articulos/seriec_302_esp.pdf (in Spanish).

40. The inclusion of the Office of the Attorney General and of the President of the Supreme Court in the National Council for Defence, which is led by the President, could open up space for interference by the executive and brings into question crucial democratic principles, such as the separation of powers.³²

B. Fight against corruption and impunity

41. During the year, the Special Prosecution Unit on Corruption-related Impunity of the Office of the Attorney General and the Mission against Impunity and Corruption brought corruption-related charges in five cases, involving over 40 high-profile defendants, including relatives of the former President, Porfirio Lobo, former ministers and directors of State companies. In August, a national court sentenced the wife of former President Lobo to 58 years in prison on a range of corruption-related charges. This was the first case filed by the Special Prosecution Unit with the support of the Mission against Impunity and Corruption that led to a sentence.

42. Another of the cases, known as “Corruption on wheels”, was filed in September against officials of the National Bank of Honduras for Agricultural Development for embezzlement of funds of the social protection programme “Bono 10mil”, with the complicity of staff of the Office of the President.

43. In October, the adoption by Congress of the Special Law on public funds³³ and the reform of the Law on Congress reinstating parliamentary immunity generated a public outcry. On 28 October, the Office of the Attorney General presented an appeal against the constitutionality of the Special Law, arguing that it promoted impunity for corruption for public officials.

44. In November 2018, seven individuals charged with the assassination of human rights defender Berta Cáceres were found guilty. On 2 December 2019, more than a year after the verdict, a tribunal issued a sentence condemning the perpetrators to penalties ranging from 30 to 50 years. The trial against the President of the company Desarrollos Energéticos S.A., allegedly involved in the planning and execution of the killing, continued.

C. Human rights violations by the defence and security forces

45. OHCHR is concerned about the ongoing impunity in cases of violations perpetrated by members of the defence and security forces.

46. By the end of October, only a fraction of the perpetrators of the serious human rights violations committed by the defence and security forces in the context of the protests against the results of the 2017 presidential elections had been brought to trial. OHCHR documented eight cases being prosecuted, but these concerned only 2 of the 22 homicides of civilians it had documented: a case against a police officer for the killing of a child aged 16 on 4 December 2017 in Agua Blanca, department of El Progreso;³⁴ and another against a sergeant of the Public Order Military Police for the homicide of David Octavio Quiroz Urrutia on 15 December 2017 in Villanueva, department of Cortés. As at October, the Office of the Attorney General reported that investigations were ongoing in relation to the other cases, including deaths, injuries and one case of enforced disappearance. By that time, it had brought charges related to assassination, attempted homicide, physical assault, torture and ill-treatment, unlawful detention and abuse of authority against 28 members of the security and defence forces. By September 2019, the judiciary had dismissed seven cases in the preliminary investigation phase.

47. Prosecutors handling reports of human rights violations involving army personnel indicated to OHCHR that they had faced obstacles in obtaining information crucial to their

³² See www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24911&LangID=E.

³³ Decree No. 116-2019.

³⁴ See OHCHR, “Human rights violations in the context of the 2017 elections in Honduras”.

investigations and described the conduct of the armed forces as obstructive. They indicated that investigators sent to brigades and battalions to retrieve potential evidence were left waiting for hours before receiving or being able to review evidence, or were denied access on the grounds that they had not followed the appropriate procedure, or that the officials responsible were not available.

48. In April, the Office of the Attorney General communicated through social media that the hierarchy of the Public Order Military Police was obstructing the work of its prosecutors, reminded all State officials that they had a duty to cooperate with it and that failure to do so could result in criminal charges.³⁵ In April, a judge in Tegucigalpa denied a motion by the Office of the Attorney General challenging the refusal of the armed forces to release information on an operation conducted in January 2018 to evict a picket mounted against a dam project in Reitoca, in which three members of the indigenous Lenca community were shot and injured. The armed forces invoked national security, refusing to disclose information to the investigators and quoting the law on the classification of public information on security and defence issues.³⁶ In September, civil society organizations presented an injunction before the Supreme Court challenging the refusal of the armed forces to release information and the decision of the judge.

49. The current pattern continues the historic accountability gap for human rights violations, which occurred in the 1980s and 1990s, including the disappearance of 184 individuals.³⁷ In August, the trial of two civilians for the death of Juan Humberto Sánchez in 1983 closed with their acquittal. In 2003, the Inter-American Court of Human Rights established the responsibility of the State of Honduras for his extrajudicial execution by military agents, as well as the lack of investigation and sanction of the culprits.³⁸ Regarding past human rights violations, impunity is pervasive, as shown by the insignificant progress made in the prosecution and trial of members of the security forces for the human rights violations committed after the coup d'état in 2009.

VI. Democratic space

A. Social dialogue

50. In 2019, multiple protests took place across the country, with peaks in the departments of Francisco Morazán, Cortés, Choluteca, Atlántida and Colón. Between 1 January and 30 September, the police recorded 1,825 protests, including roadblocks, occupations of installations, pickets, marches and assemblies. That represents an increase of 47 per cent over the 1,236 protests registered in 2018.³⁹ Among other motives, inequalities in the guarantee of rights, a perception of institutional incapacity, a lack of democratic representation and corruption prompted protests. Between May and July, opposition to the Government-led reforms of health and education took centre stage. Claims initially focused on a demand to repeal Decrees No. 026/2018 and No. 027/2018, considered by those groups as a means of privatizing the two sectors. While the Government withdrew the decrees and called for a dialogue, protests continued, and other sectors joined in. OHCHR intervened in several protests to diminish tensions.

51. OHCHR continued to document violations attributed to the Public Order Military Police and the army in the context of the policing of protests. To date, a soldier has faced trial for the killing of a child aged 17 who was shot with a service weapon on 20 June in Yarumela, department of La Paz, as he was fleeing after the disbandment of a roadblock.

³⁵ See www.elheraldo.hn/pais/1278211-466/ministerio-p%C3%ABablico-denuncia-obstaculizaci%C3%B3n-en-investigaci%C3%B3n-sobre-muertes-post-electorales (in Spanish).

³⁶ Decree No. 418/2014.

³⁷ National Commission on Human Rights, *The Facts Speak for Themselves: Preliminary Report about Disappeared Persons in Honduras, 1980–1993*, Guaymuras Editorial (2002).

³⁸ See Inter-American Court of Human Rights, *Juan Humberto Sánchez v. Honduras*, judgment of 7 June 2003.

³⁹ Data from the Directorate-General of the National Police.

On 24 June, military forces entered the premises of the National Autonomous University of Honduras, shooting and injuring five students. The University presented a formal complaint to the Office of the Attorney General, which remained under investigation at the time the present report was finalized.

52. It is a basic principle that the commitment to uphold human rights involves the obligation to adopt the measures necessary to ensure that violations cease and are not repeated. Calls on Honduras to restrict the circumstances of the deployment of military forces to perform civil security duties⁴⁰ and to ensure respect for the exercise of peaceful protests, aligning domestic law and protocols on the use of force in social protests with international standards, remain unmet (A/HRC/34/3/Add. 2, para. 12).

B. Human rights defenders and journalists

53. Human rights defenders and journalists remain exposed to surveillance, threats, harassment, smear campaigns, acts of violence and criminalization of their legitimate activities. In the course of the year, four members of the indigenous Tolupanés of the Locomapa communities in San Francisco Morazán were killed while engaged in the protection of land and territory from commercial logging. The Office of the Attorney General reported on the start of the investigation to clarify the facts.⁴¹

54. The Office of the Specialized Prosecutor for the protection of human rights defenders, journalists, media workers and justice system actors reported that it had received over 100 complaints in 2019. No official information is, however, available on trends and patterns, nor on any charges brought. OHCHR appreciates the existence of a specialized inter-agency group for the elaboration of a protocol for the investigation of crimes against human rights defenders and encourages efforts to finalize such a protocol as soon as possible, as recommended by the inter-American human rights system.⁴²

55. Between January and September, the National Mechanism for the protection of human rights defenders, journalists, media workers and justice system actors of the Ministry of Human Rights received 87 requests for protection measures, accepting 58 and dismissing 29. Thirty-seven of the requests accepted concerned human rights defenders, 13 media workers, 6 journalists, and 2 justice system actors. Nearly one third of the measures concerned defenders for the protection of the environment, the right to water and land. In 2019, the National Mechanism expanded the range of protection measures, adding emergency relocations, the provision of satellite phones, and reimbursement of medical expenses. It also began disaggregating all statistics by gender. As of September 2019, the National Mechanism had initiated the drafting of a protocol on gender and multiple discrimination and the development of a public policy on human rights defenders.

56. The abusive use of criminal law against human rights and land defenders continued. In August, nine human rights defenders were placed in pretrial detention, charged with unlawful association for their work in the defence of water in the area of the Botaderos National Park.

57. In the course of the year, organizations of journalists and media workers issued 117 alerts related to attacks or threats against individuals and media.⁴³ OHCHR documented the killing of seven journalists and media workers, in the departments of Valle, Copán, Cortés, Gracias a Dios and Olancho. Two of the journalists had reported threats against them owing to the exercise of their profession and one of the media workers was the target of stigmatization and harassment owing to his gender identity.

58. Between January and September, 19 media workers and journalists were granted protection measures by the National Mechanism, some reporting surveillance and assaults, which they linked to their coverage of anti-government protests. Journalists of Radio

⁴⁰ See also CCPR/C/HND/CO/2, paras. 20–21.

⁴¹ See www.oas.org/es/cidh/decisiones/pdf/MC416-13-Resolucion-es.PDF (in Spanish).

⁴² See, for example, <http://corteidh.or.cr/docs/casos/escaleras/acuerdo.pdf> (in Spanish).

⁴³ Data provided by the non-governmental organization (NGO) C-Libre.

Progreso faced threats, harassment and a kidnap attempt that might be related to the independent line of the radio. At the time the present report was finalized, 12 social communicators and 5 journalists were under the protection of the National Mechanism, while others had opted for non-State alternative measures.

59. In January, the Supreme Court confirmed a 2016 sentence to 10 years of detention of journalist David Romero Ellner, Director of Radio Globo and owner of the website “ConfidencialHN”, on charges of defamation and slander. On 21 March, the Inter-American Commission on Human Rights granted precautionary measures to Mr. Romero Ellner and requested the State of Honduras to suspend the execution of the sentence until the Commission had issued a decision on the case.⁴⁴ However, on 28 March the intelligence and special security response troops of the national police, a special force originally created to combat organized crime, arrested the journalist at the radio station.

VII. Equality and non-discrimination

A. Rights of indigenous peoples and Afro-Hondurans

60. The land and territorial rights of indigenous communities remain unprotected and the effects of lack of consultation and consent remain visible, as illustrated by the situation of the indigenous communities of Reitoca and Tornillito, amongst others. Reparations ordered by the Inter-American Court of Human Rights in 2015 concerning the Garifuna communities of Triunfo de la Cruz and Punta Piedra, namely demarcation and land titling, remained unimplemented, fuelling protests. In July, Miskito indigenous communities and organizations protested in the northern departments asking for effective action by the State to halt the invasion of indigenous lands by third parties.

61. During 2019, five Garifuna women and one man were murdered in the departments of Colón and Cortés; three of them were members of OFRANEH (Organización Fraternal Negra Hondureña), an organization that works to protect the economic, social and cultural rights of Garifuna communities, particularly with regard to the defence of their culture and territory. The emblematic human rights defender, Miriam Miranda, activist and director of OFRANEH, was also the object of threats and intimidations throughout the year.

62. On 23 May 2018, the Executive submitted to Congress a draft law on free, prior and informed consultation, which was before an ad hoc committee at the time the present report was finalized. In June 2019, the Committee asked OHCHR for technical assistance in the design of a consultation process. OHCHR reiterated recommendations it had previously made, together with other international mechanisms, in particular the need to carefully consider if the conditions existed for development of the law and that it would be necessary to engage in confidence-building. OHCHR warned Congress of the risk of heightened social unrest if such conditions were not met (see A/HRC/33/42/Add.2).⁴⁵

63. On 24 May 2019, the Inter-American Commission of Human Rights referred the case of Opario Lemoth Morris and others to the Inter-American Court of Human Rights, arguing that the State of Honduras had violated the right to life, personal integrity, equality and non-discrimination in relation to 34 Miskito divers.⁴⁶ Miskito deep-water divers continue to face exploitative and unsafe working conditions, as made evident by the deaths in July of 27 divers and the disappearance of 9 in the context of the sinking of commercial boats on which they worked. In 2019, the Labour inspectorate did not conduct any inspection of fishing vessels on the high seas.

⁴⁴ See www.oas.org/es/cidh/decisiones/pdf/2019/15-19MC75-19-HO.pdf (in Spanish).

⁴⁵ See also www.ohchr.org/EN/Issues/IPeoples/SRIndigenousPeoples/Pages/LegislationAndPolicy.aspx.

⁴⁶ See www.cidh.oas.org/annualrep/2009sp/Honduras1186-04.sp.htm (in Spanish).

B. Women's rights

64. Structural inequality persisted and women continued to experience discrimination in all spheres of life. Women in conditions of poverty, indigenous women and Afro-Hondurans, as well as transgender and lesbian women experienced multiple forms of discrimination. Numerous important initiatives remained pending in Congress, such as the draft laws on domestic work, on violence against women in politics, on shelters for victims of violence and a comprehensive draft law on violence against women. The State of Honduras has not ratified the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, thereby partially excluding women from the international protection system.

65. The very restrictive legislation on sexual and reproductive rights represented a major gap in the State's fulfilment of its international obligations. Between 2008 and June 2019, at least 47 women were prosecuted for abortion, including 28 since 2014. The majority were domestic workers or secondary school students. Honduras has the third highest teenage pregnancy rate in the Central American region, yet the use, sale, distribution and purchase of emergency contraception is prohibited. These restrictive laws contribute to high rates of maternal mortality and morbidity.⁴⁷

C. Children's rights

66. Children in Honduras represent 40 per cent of the population and are disproportionately affected by poverty and insecurity. Violence against children in its various forms, including physical and sexual violence, is widespread.⁴⁸ The poor quality and lack of inclusiveness of the education system remains a major obstacle to the development of the child. Ten per cent of children of primary school age and 70 per cent of children aged 15 to 17 do not attend school. Poverty, lack of parental support and insecurity are major causes for dropout.

67. Although the juvenile system has improved since the establishment of the National Institute for the care of juvenile offenders in January 2018, measures need to be taken to prevent human rights violations against children deprived of their liberty.⁴⁹ On 3 December, riots in the Renaciendo centre for juvenile offenders in the department of Francisco Morazán resulted in the death of four children and at least three were severely injured. As of 30 September 2019, 423 children were in detention, a figure similar to the previous year, while 1,184 enjoyed the benefits of alternative measures to detention.

D. Rights of lesbian, gay, transgender, bisexual and intersex persons

68. Many gaps and shortcomings hampered the recognition of sexual orientation and gender identity and the protection of the rights of lesbian, gay, transgender, bisexual and intersex persons. Lack of public awareness, prejudices and misconceptions contributed to continued discrimination in all areas of life and to violence. In the course of 2019 at least 31 lesbian, gay transgender, bisexual and intersex persons were killed.⁵⁰

69. No progress was made in the adoption of a law on gender identity and a law against discrimination, despite the efforts of civil society groups. Appeals filed in 2018 against the constitutionality of the prohibition of same-sex marriages remained pending before the Supreme Court.⁵¹ In May, the Constitutional Chamber dismissed an appeal alleging

⁴⁷ See UNFPA, *State of World Population 2017. Worlds Apart: Reproductive Health and Rights in an Age of Inequality*.

⁴⁸ See Government of Honduras and others, *Encuesta de Violencia Contra Niños, Niñas y Adolescentes, 2017* (April 2019).

⁴⁹ Figures from the National Institute for the care of juvenile offenders.

⁵⁰ According to the NGO Cattrachas, since 2009, 336 lesbian, gay, transgender, bisexual and intersex persons have been killed.

⁵¹ File numbers 233/2018 and 552/2018.

discrimination in the requirement to present a marriage or civil union certificate to allow conjugal visits for a lesbian, gay, transgender, bisexual or intersex couple in a detention centre because such certificates are not issued for such couples. Religious groups continued to play a critical role in preventing advances in protection of the rights of lesbian, gay, transgender, bisexual and intersex persons. The Ministry of Human Rights has reported on training sessions for the armed and security forces on the registration and detention of lesbian, gay, transgender, bisexual and intersex people.

E. Rights of persons with disabilities

70. Modest progress was made in the implementation of the 2017 recommendations of the Committee on the Rights of Persons with Disabilities (see CRPD/C/HND/CO/1). Legislation, public policies and programmes still contain provisions that do not comply with the human rights model of disability established in the Convention. The 2005 Act on Equity and Comprehensive Development for Persons with Disabilities has not been reformed, despite advocacy by organizations of persons with disabilities. During the year, two draft bills on disability rights were presented to the Congress. OHCHR considers that there is a need for an in-depth analysis of whether the draft bills conform to international norms and standards.

VIII. Activities of the Office of the United Nations High Commissioner for Human Rights

71. On 11 January, the Special Rapporteur on the situation of human rights defenders issued his report on his visit to Honduras, conducted in May 2018 (A/HRC/40/60/Add.2). On 8 May, the Working Group on the issue of discrimination against women in law and in practice issued a report on its visit of November 2018 (A/HRC/41/33/Add.1). In August, the Special Rapporteur on the independence of judges and lawyers and the Working Group on the issue of human rights and transnational corporations and other business enterprises visited Honduras.⁵²

72. In 2019, OHCHR conducted 75 missions throughout the country to monitor the situation of human rights.

73. Throughout the year, OHCHR implemented the technical cooperation programme agreed with the Ministry of Human Rights in December 2018 and the training programme on human rights for State officials, in which representatives of 35 State institutions participated, concluded. OHCHR supported the Ministry of Human Rights in various other areas, including in relation to the protection of human rights defenders, the harmonization of legislation with international human rights norms and standards, the development of human rights policies, education, the protection of internally displaced persons and business and human rights.

74. Through a letter of intent, OHCHR formalized a joint programme of cooperation with the Office of the National Commissioner for Human Rights.

75. From January to October, OHCHR participated as an observer in 41 sessions of the Council of the National Mechanism for the protection of human rights defenders and followed 36 cases that were filed before the Technical Committee.

76. OHCHR provided advice to Congress and civil society on international human rights standards, in particular on the draft law for the new Penal Code, the reform of the Law on Equity and Integral Development of Persons with Disabilities and the draft law on free, prior and informed consent of indigenous peoples. OHCHR provided training to women members of Congress through the Parliamentary Academy.

⁵² See www.ohchr.org/SP/NewsEvents/Pages/DisplayNews.aspx?NewsID=24910&LangID=S (in Spanish) and www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24925&LangID=E respectively.

77. OHCHR conducted an assessment of the National Committee for the Prevention of Torture, with the objective of supporting the development of an institutional plan outlining priority needs and interventions to strengthen the mechanism. The two organizations jointly trained members of the national police, the armed forces, penitentiary guards and representatives of the local torture prevention boards on international and domestic standards. The local boards also received a grant from the Special Fund of the Optional Protocol to the Convention against Torture in 2019 to strengthen their capacities.

78. Between September and December, OHCHR conducted a human rights training programme with the Public Prosecutor's School, in which 31 prosecutors participated.

79. OHCHR provided technical assistance to the Ministry of Foreign Affairs, the Ministry of Human Rights and the committees of relatives of missing migrants, in order to prevent and address this phenomenon.

80. OHCHR facilitated a national meeting of human rights defenders on the theme of "Between commitment, risk and challenges", which brought together more than 100 defenders from all over the country to share their experiences and views. OHCHR also supported a network of trade unions to implement a human rights approach to labour and trade union issues.

81. On 20 March 2019, OHCHR presented the report of the High Commissioner on the situation of human rights in Honduras for 2018 (A/HRC/40/3/Add.2). It further promoted human rights through press releases, interviews, editorials and social media, and launched campaigns, including on human rights defenders, on sexual orientation and on gender identity, in support of victims of torture.

82. OHCHR has been implementing projects financed by Canada, the Netherlands, Sweden, Switzerland and the United States of America.

IX. Recommendations

83. **The High Commissioner urges the authorities of Honduras to implement the recommendations made in previous reports and in the reports of United Nations human rights mechanisms.**

84. **The High Commissioner:**

(a) **Calls upon the Government and all stakeholders to agree on a reform agenda to strengthen the democratic space, the separation of powers, the rule of law and the independence of the judiciary, and safe and meaningful participation by all in public affairs, thereby ensuring access to public information and respect for the right to freedom of opinion and expression;**

(b) **Urges all relevant institutions to take concrete steps to combat corruption and impunity and break away from any acquiescence with groups and interests operating outside the law.**

85. **The High Commissioner calls upon the Government and relevant institutions to:**

(a) **Ensure the incorporation of a human rights-based approach in the implementation of the 2030 Agenda for Sustainable Development, guarantee that no one is left behind and continue its efforts to develop specific human rights indicators that include data disaggregated by indigenous peoples, Afro-Hondurans, persons with disabilities and gender;**

(b) **Address structural inequality, based on disaggregated data, and ensure access for all to the rights to food, water, sanitation, health, education and affordable housing;**

(c) **Protect displaced persons, migrants in transit and Honduran migrants and returnees, and take steps to investigate the deaths and disappearances of Hondurans abroad;**

- (d) Focus on violence prevention policies and the development of a professional and accountable civilian police force;
- (e) Take quantifiable measures to separate the functions of the police and the army, and adopt a plan for the demilitarization of law enforcement functions;
- (f) Ensure that the use of force by all defence and security actors, particularly in situations of protests, adhere to human rights law and that the use of lethal force is subject to stringent conditions and to transparent accountability mechanisms;
- (g) Address the deteriorating situation in detention centres, in particular prison conditions and policies, in line with international norms, and guarantee the security of protected persons in such institutions;
- (h) Respect the independence of the National Committee for the Prevention of Torture to ensure that its mandate can be fully implemented, and protect the commissioners;
- (i) Adopt the reforms necessary to ensure the development of an independent and professional justice system;
- (j) Take steps to design a comprehensive policy for the protection of human rights defenders and ensure the commitment of all entities, including the defence and security forces;
- (k) Adopt measures to protect women, lesbian, gay, transgender, bisexual and intersex persons and persons with disabilities from violence and discrimination, ensure the promotion and protection of gender equality, sexual orientation and sexual and reproductive rights and systematically prevent and punish gender-based violence, femicide, discrimination and stereotyping;
- (l) Adopt a legal framework to guarantee the rights of persons with disabilities to non-discrimination, inclusion, accessibility and equality before the law;
- (m) Extend the mandate of the Mission against Impunity and Corruption.

86. The High Commissioner calls upon the private sector to comply with all relevant international human rights norms and standards, especially the Guiding Principles on Business and Human Rights, particularly in relation to the rights of communities to lands and natural resources.

87. The High Commissioner calls upon the Congress to:

- (a) Ensure that the implementation of prior consultation is the subject of extensive discussion and consultation with indigenous peoples instead of ensuring the rapid adoption of a consultation law;
- (b) Implement an open, transparent and comprehensive consultation process to review provisions of the Penal Code that do not comply with international and regional human rights norms and standards.

88. The High Commissioner urges the institutions of the justice system to:

- (a) Strengthen and accelerate investigations and prosecutions of human rights violations committed by the security and defence forces and implement the recommendations made by OHCHR in its report on human rights violations in the context of the 2017 elections in Honduras;
- (b) Step up the investigation and prosecution of crimes against human rights defenders and prevent the misuse of criminal law by reviewing criminal cases that are pending against them and dismissing those that do not meet due process requirements.