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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*

The present report of the United Nations High Commissioner for Human Rights describes the human rights situation and the activities of her office in Honduras from 1 January to 31 December 2020. The report highlights key human rights advances and challenges in the promotion and protection of human rights, with a focus on population in a vulnerable situation and the human rights impact of the COVID-19 and hurricanes Eta and Iota. The report concludes with recommendations to various State institutions.

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\* The present report was submitted after the deadline in order to reflect latest developments.

## I. Introduction

1. The present report is submitted pursuant to article V(4) of the agreement signed between the Office of the United Nations High Commissioner for Human Rights (OHCHR) and the Government of Honduras on 4 May 2015. The report is based on the information collected and analysed by OHCHR through in situ and remote human rights monitoring and information provided by state authorities. It also includes information provided by civil society, victims and other stakeholders. OHCHR thanks the State for its responses to requests for information.

2. Despite the impacts of the COVID-19 pandemic, OHCHR remained fully operational throughout the reporting period, continued to monitor the human rights situation in the country and provided technical assistance for the promotion and protection of human rights. OHCHR conducted 29 field missions and 17 missions to detention centres to monitor in situ the human rights situation in the country, in addition to the permanent remote monitoring. At least 105 cases of alleged violations against human rights defenders, including environmental and land defenders, were followed up and 10 trials of emblematic human rights cases were monitored. OHCHR developed advocacy strategies, 25 technical assistance and institutional strengthening processes addressed to State Institutions, and organized 16 capacity building workshops and trainings with the participation of different stakeholders. OHCHR also provided support to more than 350 civil society organizations. The Office launched 8 public media and advocacy campaigns and issued one thematic report, 15 press releases and 59 messages on social media. OHCHR also developed strategic partnerships and strengthened its collaboration with civil society organizations, the United Nations System, the National Human Rights Institution (NHRI) and State authorities, including in the Judicial, Legislative and Executive branches. The Office's priorities included promoting the rule of law and accountability, citizen security and human rights, enhancing civic space, access to economic, social and cultural rights and equality and non-discrimination. In light of the impacts of the COVID-19 pandemic and other humanitarian emergencies, OHCHR advocated for placing human rights at the heart of the Government response.

## II. Context

3. In 2020, Honduras continued to face important human rights challenges, including high levels of poverty, violence, impunity, discrimination and lack of access to economic, social and cultural rights. The COVID-19 pandemic and hurricanes Eta and Iota exacerbated this situation.

4. On 15 March 2020, in response to the first confirmed cases of COVID-19, the Government adopted Executive Decree PCM-21-2020 declaring a state of emergency. The Decree posed disproportionate restrictions to freedom of expression and allowed for detention without judicial review for a period of over twenty-four hours. On 22 March 2020, the Government modified the decree in accordance with OHCHR's recommendations, which emphasized that emergency measures need to be based on the principles of necessity, legality, proportionality, and non-discrimination.

5. The state of emergency was regularly renewed and endorsed by the National Congress and remained in force as of 31 December 2020. Measures adopted by the Government in response to the pandemic included an absolute curfew allowing only essential movements and the closing of schools, universities, public offices and most private businesses. As of 1 June 2020, the police had reported 30,000 detentions for non-compliance of the curfew. The lack of clear legal requirements for administrative arrest, as well as its widespread use, raise concern over the arbitrary nature of some of these detentions.

6. The National Anti-Corruption Council and civil society organizations documented alleged irregularities in government procurement processes during the COVID-19 pandemic,

allegedly facilitated by emergency regulations.<sup>1</sup> According to a survey conducted in September 2020, 94 percent of the population believed that acts of corruption had occurred in the management of the pandemic.<sup>2</sup> The Public Prosecutor's Office is investigating<sup>3</sup> alleged irregularities and corruption related to the purchase of seven mobile field hospitals. The exhaustive, impartial and independent investigation of these cases is fundamental to ensure transparency and reduce public distrust related to the Government's response to the pandemic.

7. With a view to the 2021 general elections, OHCHR welcomes the adoption in 2020 of a legal framework aimed at increasing women's participation and political representation. OHCHR is concerned that delays in the approval of the new electoral law, which would regulate the details of the upcoming electoral processes in March and November 2021, as well as the allocation of a dedicated budget for its implementation may affect the legitimacy and public acceptance of the results. This could lead to unrest. OHCHR emphasizes that the prompt adoption of an electoral law and the necessary protocols for its implementation that ensure the right to vote and stand for elections is needed to guarantee a transparent electoral process.

8. On 5 November 2020, the Human Rights Council examined Honduras during the third cycle of the Universal Periodic Review (UPR).

### III. Rule of law and accountability

#### A. Impunity and access to justice

9. High levels of impunity for past and present human rights violations remain a major challenge. To date no significant progress was made in the investigation and punishment for crimes documented by the NHRI regarding at least 179 persons that were arrested, tortured and forcibly disappeared between 1980 and 1993 by the Battalion 3-16 of the armed forces.<sup>4</sup>

10. OHCHR monitored the implementation of the rights to justice, truth, reparation and non-recurrence of victims of human rights violations committed by the State in the context of the 2009<sup>5</sup> coup d'état and during the post-electoral crisis of 2017<sup>6</sup>, with a special focus on cases of excessive use of force by security forces and arbitrary detentions.<sup>7</sup> OHCHR is concerned about impunity for these crimes and calls upon the State to take all necessary measures to ensure accountability.

11. The COVID-19 pandemic negatively affected the functioning of a justice system that faced a pre-existing lack of effectiveness. OHCHR observed that reduced court operations caused delays in judicial proceedings and contributed to an increase in case backlogs. Absence of clear protocols related to the modalities of case hearings through videoconferencing affected the transparency and publicity of trials, posing concerns about the right to a fair trial. OHCHR called for publicity and broadcasting of the hearings, including in the case of David Castillo, the President of the company allegedly involved in the planning and execution of the murder of environmental defender Berta Cáceres in 2016.

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<sup>1</sup> ASJ, "Auditoría social a compras por emergencia durante la pandemia COVID-19: abril-julio 2020"; Consejo Nacional Anticorrupción, <https://www.cna.hn/category/la-corrupcion-en-tiempos-de-covid-19/>.

<sup>2</sup> <https://cespad.org.hn/2020/10/07/encuesta-del-cespad-hondurenos-con-temor-y-prudencia-por-la-pandemia-pero-descontentos-con-la-corrupcion-en-su-manejo/>

<sup>3</sup> According to the information provided by the State, the Attorney General's Office has processed 27 complaints regarding these allegations. Two cases are being prosecuted with suspects formally accused and awaiting trial without pre-trial detention.

<sup>4</sup> CONADEH, "Los hechos hablan por sí mismos: informe preliminar sobre los desaparecidos en Honduras 1980-1993", 1994.

<sup>5</sup> A/HRC/13/66.

<sup>6</sup> [https://www.ohchr.org/Documents/Countries/HN/2017ReportElectionsHRViolations\\_Honduras\\_EN.pdf](https://www.ohchr.org/Documents/Countries/HN/2017ReportElectionsHRViolations_Honduras_EN.pdf).

<sup>7</sup> [https://www.ohchr.org/Documents/Countries/HN/HondurasFollowupreportaccountabilityforHRviolations\\_FINALEN.pdf](https://www.ohchr.org/Documents/Countries/HN/HondurasFollowupreportaccountabilityforHRviolations_FINALEN.pdf).

The judicial process about the criminal responsibility of Mr. Castillo started in August 2020 but has been repeatedly delayed. OHCHR calls upon authorities to ensure the investigation, trial and due punishment of material and intellectual authors of the assassination.

12. As pointed out by the Special Rapporteur on the independence of judges and lawyers in his country visit report<sup>8</sup>, corruption remained a major threat to the stability and appropriate functioning of institutions in Honduras. OHCHR raises concerns over influence peddling and pressure on the judiciary, including from non-State actors, which continue to seriously impact judicial independence. The absence of clear and appropriate criteria and transparent procedures for the selection of candidates to judicial office added to low levels of public trust in the justice system.

13. OHCHR recognizes the efforts of the Special Prosecution Unit against Corruption and the anti-corruption judicial circuit with regard to progress in the case “Gualcarque Fraud”. The case relates to irregularities denounced by Berta Cáceres over the construction of a dam threatening the territory of the Lenca indigenous communities.

14. OHCHR takes note of the commitment by the Office of the Attorney General to strengthen its capacities to investigate and prosecute human rights violations.

15. OHCHR regrets the Government’s decision not to renew the agreement that established the Mission against Impunity and Corruption (MACCIH). The MACCIH strengthened the capacity of State institutions to independently investigate cases of corruption, resulting in 14 cases being filed by the Special Prosecution Unit against Corruption.

16. Despite some efforts by the Attorney General’s Office, OHCHR is concerned about the lack of accountability for cases related to corruption and calls upon the State to ensure the independence and adequate funding of the Special Prosecution Unit against Corruption. OHCHR is equally concerned about legislative initiatives presented to Congress, such as the new Criminal Code and the reform of the High Court of Auditors, which could undermine the legal framework to investigate and prosecute acts of corruption. During Honduras’ 2020 UPR review, a large number of delegations echoed these concerns in recommendations calling upon the State to address human rights violations resulting from the high levels of corruption in the country.

## **B. Persons deprived of their liberty**

17. According to the National Penitentiary Institute, as of 30 November 2020, 21,416 adults were deprived of their liberty, including 1,167 women. 55.4 percent were in pre-trial detention<sup>9</sup>. OHCHR remains concerned over the excessive use of pre-trial detention, which should remain an exceptional measure.

18. The Executive Decree PCM-051-2020 of 16 June 2020 extended the military administration of the penitentiary system until 31 December 2020. In a joint press release<sup>10</sup> issued on 16 September 2020, OHCHR-Honduras and the Inter-American Commission on Human Rights called upon the Government to adopt a plan for the progressive handover of security responsibilities to civilian authorities and ensure accountability for military staff that committed human rights violations in places of detention. During its 17 visits conducted to penitentiary centres in 2020, OHCHR documented overcrowding, lack of access to healthcare and absence of communication with relatives or legal counsel. OHCHR is also concerned that several penitentiary centres lacked adequate infrastructure to receive new detainees and comply with COVID-19 prevention, control and mitigation measures. OHCHR monitored with great concern repeated violent incidents in detention centres during the COVID-19 emergency. On 7 October 2020, the Metropolitan Sanitary Region of the Central District

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<sup>8</sup> Presented to the Human Rights Council in June 2020 (A/HRC/44/47/Add.2).

<sup>9</sup> [https://portalunico.iaip.gob.hn/portal/ver\\_documento.php?uid=ODY5OTgzODkzNDc2MzQ4NzEyNDYxOTg3MjM0Mg==](https://portalunico.iaip.gob.hn/portal/ver_documento.php?uid=ODY5OTgzODkzNDc2MzQ4NzEyNDYxOTg3MjM0Mg==).

<sup>10</sup> <https://oacnudh.hn/oacnudh-y-cidh-manifiestan-su-preocupacion-por-la-situacion-de-las-personas-privadas-de-libertad-en-honduras/>.

reported that the National Penitentiary Centre, which hosts around 30 percent of the overall penitentiary population, did not comply with basic biosecurity and preventive measures.<sup>11</sup>

19. OHCHR documented conditions of women detained in the National Women's Social Adaptation Penitentiary that raise specific concerns over access to the right to health, water and sanitation. In addition, on 23 May 2020, a prison riot in the National Women's Social Adaptation Penitentiary, in Támara, Francisco Morazán, resulted in the violent deaths of six women. Other incidents took place in the same centre in May, June and July 2020 and resulted in at least three additional violent deaths in the same centre.

20. OHCHR is concerned that the National Committee for the Prevention of Torture continued to face obstacles to independently implement its mandate. OHCHR witnessed instances where authorities hampered the work of the Committee, especially during unannounced visits to penitentiary centres, where at times their unfettered access to the premises and detainees was unnecessarily delayed. In 2020, the budget assigned to the Committee decreased, affecting the number of staff. OHCHR is also concerned that the position of one Commissioner remained vacant during the reporting period, which is in violation of the decree that established the National Committee<sup>12</sup>.

21. OHCHR welcomes efforts by the Judiciary to address the situation of persons deprived of their liberty in the context of COVID-19. OHCHR provided technical assistance to the Supreme Court of Justice on the adoption of measures to reduce the prison population with a special emphasis on persons in pre-trial detention. Throughout 2020, the Judiciary granted benefits such as early releases, paroles and releases due to terminal illnesses to 2,773 persons.

### C. New Criminal Code

22. A new Criminal Code, adopted by the Congress in May 2019, entered into force on 25 June 2020. OHCHR provided technical assistance to the Congress and proposed reforms related to violence against women, freedom of opinion and expression, peaceful assembly, and crimes related to corruption, to ensure their compliance with international human rights standards. Civil society organizations, academia and the private sector alleged that the new Criminal Code lacked consultation and included provisions promoting impunity for serious offences. Since its entry into force, several draft laws proposing amendments to the Criminal Code have been presented. The Constitutional Chamber of the Supreme Court of Justice has received a series of appeals based on grounds of violations of procedural rules and the regulation of some offense, including on the alleged un-constitutionality of life imprisonment.

23. On 24 December 2020, three UN special rapporteurs called<sup>13</sup> upon the State to review the new Criminal Code, amid concerns over several articles, including with regards to the alleged offences of terrorism, public disorder, illegal assembly and protests. OHCHR calls upon the State to engage in an inclusive public debate to reform the new Criminal Code and ensure its compliance with international human rights standards.

## IV. Citizen security and human rights

24. The Government has reported a decline in the homicide rate over the past nine years<sup>14</sup> and the implementation of a process to strengthen and restructure the national police. However, during the reporting period the military continued to exercise law enforcement and security functions. OHCHR is concerned that this poses serious risks to the rights to life and

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<sup>11</sup> Ministry of Health. Metropolitan Sanitary Region of Central District. Report of 7 October 2020.

<sup>12</sup> See Decree 136-2008, "Decreto núm. 136-2008 que dicta la Ley del mecanismo nacional de prevención contra la tortura y otros tratos crueles, inhumanos o degradantes", adopted on 31 October 2008.

<sup>13</sup> <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25791>.

<sup>14</sup> According to the information provided by the State, the homicide rate in 2020 is 37.57 per 100,000 residents.

security of persons, and recalls that the involvement of the military in citizen security should be restricted to the maximum extent possible. OHCHR observed that the Military Police regularly participated in security and law enforcement operations, including in response to demonstrations in the context of the COVID-19 pandemic. The Ministry of Defence received 47 percent of the budget assigned to prevention, security and defence, while the Ministry of Security, which administers the National Police, received 34 percent.<sup>15</sup> OHCHR also raises concerns over the fact that the military continues to be involved in the implementation of other public functions, hampering the development and funding of civilian public institutions and initiatives. For example, since 2019, the Ministry of Defence remains in charge of the programme of agricultural development to increase agricultural productivity and profitability.<sup>16</sup> Similarly, it is of concern that the National Inter-institutional Force appointed a military official as Director of the National Penitentiary Institute.<sup>17</sup>

25. OHCHR reiterates its call for the demilitarization of public functions, in particular citizen security and law enforcement, and urges the Government to strengthen the National Police and other specialized civilian institutions<sup>18</sup>.

26. OHCHR documented two cases of arbitrary killings by security forces during operations related to the state of emergency. On 24 April 2020, military police officers reportedly beat and shot two men at a checkpoint in the community of El Paraiso in Omoa, Cortés. The military police allegedly did not allow the victims to pass the checkpoint because they did not wear the mandatory facemasks. One of victims died in hospital as a result of his injuries. On 16 September 2020, the Office of the Attorney General charged a military police officer with homicide related to this case.<sup>19</sup> On 21 June 2020, during the timeframe included in the curfew, national police officers opened fire on a vehicle that did not stop at a checkpoint in San Esteban, Olancho resulting in the death of one individual. Four officers were charged for homicide<sup>20</sup>. OHCHR takes note of the steps taken by the authorities to ensure accountability in these cases and calls upon the State to ensure reparation for the victims, including guarantees of non-recurrence.

27. OHCHR received allegations of arbitrary detentions, ill-treatment and torture, enforced disappearances, and one extrajudicial killing allegedly committed in the context of a series of law enforcement operations by police and military officers on 31 July 2020 in Chamelecón, San Pedro Sula. The operations followed the killing of an officer of the National Police. According to the National Committee for the Prevention of Torture, the main suspect in the killing of the police officer had sustained severe injuries while being under the custody of the authorities. OHCHR has consistently highlighted risks linked to joint operations by military and police forces and calls upon the authorities to conduct a prompt, effective, independent and impartial investigation in accordance with the guidelines of the Minnesota Protocol and to ensure the safety of the witnesses, the victims and their relatives.

28. OHCHR documented cases of reported enforced disappearances concerning eight victims in Tegucigalpa, San Pedro Sula and Tela.<sup>21</sup> In all of these cases, OHCHR received information about the alleged acquiescence or involvement of the authorities in the disappearances. On 22 June 2020, a 19-year old man with a physical disability disappeared in Tegucigalpa. His car was found abandoned with broken windows. OHCHR noted that police investigators did not take the necessary actions to search for the victim and to investigate the disappearance. Following a law enforcement operation on 31 July 2020, two young men disappeared in Chamelecón, San Pedro Sula. On 18 July 2020, a group of over 30 heavily armed men reportedly entered the Garifuna community of Triunfo de la Cruz. The

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<sup>15</sup> Decree 171-2019.

<sup>16</sup> Executive Decree PCM-052-2019.

<sup>17</sup> Executive Decree PCM-068-2019.

<sup>18</sup> See in this regard also OHCHR's 2019 Annual Report (A/HRC/43/3/Add.2).

<sup>19</sup> <https://www.mp.hn/index.php/author-login/161-septiembre2020/6312-requerimiento-fiscal-paramilitar-por-homicidio-de-poblador-de-omoa>.

<sup>20</sup> <https://www.defensoresenlinea.com/mp-y-cofadeh-formalizan-acusacion-contracuatro-policias-responsables-de-dar-muerte-a-una-persona-en-san-esteban-olancho/>.

<sup>21</sup> The list of registered urgent actions of the Committee on Enforced Disappearance currently includes 22 victims from Honduras since 2018. The non-governmental organization COFADEH recorded at least 18 cases of disappearance between January and November 2020.

group broke into at least seven houses and abducted five members of the community, including four community-leaders. Eyewitness reports received by OHCHR, including with regards to the modus operandi of the operation and the use of vests of the Investigative Police Directorate, point at a potential involvement of State security forces in the incident. As of 31 December 2020, and despite the provisional measures issued by the Inter-American Court of Human Rights<sup>22</sup> after the events, the whereabouts of the disappeared remained unknown and no significant progress in the investigation was reported. OHCHR is concerned about the situation of extreme vulnerability of the victim's relatives, the witnesses and the members of the community of Triunfo de la Cruz and calls upon authorities to develop and implement specialized protocols to ensure coordinated and effective search and investigation processes for cases of enforced disappearances, which guarantee victims' participation and access to information.

## V. Civic space

29. Following the 2017 electoral crisis and subsequent social unrest, OHCHR observed an increasingly shrinking civic space in Honduras. This trend continued in 2020 and was exacerbated by the COVID-19 pandemic and its impact on the realization of several rights, especially the freedom of movement.

30. Since the declaration of the first state of emergency on 16 March 2020, OHCHR recorded 665 demonstrations in 89 cities.<sup>23</sup> The number of protests increased significantly in May and June 2020 and was particularly high in the departments of Francisco Morazán and Cortés. Calls by demonstrators related mainly to access to food, State subsidies and to return to work amid restrictions imposed in the context of COVID-19. OHCHR raises concern over excessive use of force by security forces against demonstrators, including disproportionate use of tear gas and water tanks to disperse protestors and ill-treatment during detentions. In one of these cases, two demonstrators were injured by live ammunition on 23 April 2020 in the community of Las Metalías, department of Atlántida.

31. In 2020, OHCHR observed that human rights defenders continued to be victims of harassment, surveillance, smear campaigns, threats, arbitrary detention, criminalization, physical assaults, disappearances and killings. Indigenous and Afro-Honduran defenders protecting their territories and natural resources from the implementation and proliferation of extractive industries, tourism projects and extensive monocultures were at particular risk of being targeted, as evidenced by high numbers of cases affecting Garifuna communities and other human rights and environmental defenders. OHCHR is concerned that the majority of these cases remain in impunity, contributing to the vulnerability of human rights defenders in the country and hampering guarantees of non-recurrence. The Specialized Prosecutor's Office for the Protection of Human Rights Defenders, Journalists and Justice Operators (FEPRODDHH) informed OHCHR that despite having received 199 complaints between March 2018 and October 2020, most of them referring to threats and abuse of authority, in none of them a judicial prosecution was started.

32. OHCHR documented the killing of at least eight human rights defenders in 2020 including three members of the Garifuna community. Antonio Bernárdez Suazo, who had presented the case of his community of Punta Piedra before the Inter-American Court of Human Rights in 2015, disappeared on 15 June 2020 and his body was located four days later. Two killings involved members of the Black Fraternal Organisation of Honduras (OFRANEH), which defends the rights of Garifuna people: Karla Ignacia Piota Martínez who died on 11 January 2020 following an attack suffered on 28 December 2019 in the community of Masca, and Edwin Fernández who was killed on 20 May 2020 in the community of Río Tinto. On 2 April 2020, private security agents reportedly killed human rights defender Iris Álvarez during a forced eviction in the municipality of Marcovia,

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<sup>22</sup> Inter-American Court of Human Rights, Case of the Garifunas communities of Triunfo de la Cruz y Punta Piedra vs. Honduras. Adoption of urgent measures, 6 August 2020, at: [https://www.corteidh.or.cr/docs/medidas/garifuna\\_se\\_03.pdf](https://www.corteidh.or.cr/docs/medidas/garifuna_se_03.pdf).

<sup>23</sup> OHCHR registers demonstrations through media monitoring. <https://datastudio.google.com/reporting/dc0665e9-8cc8-4c34-abdc-b294713d999e/page/PEdPB>.

Choluteca. Two men were charged with homicide and are awaiting trial. Additionally, OHCHR documented the killings of Scarleth Campbell on 10 July 2020, in Tegucigalpa, Francisco Morazán; Marvin Damián Castro on 13 July 2020 in Pespire, Choluteca; Arnold Morazán on 13 October 2020 in Guapinol, Colón; and Félix Vásquez López on 26 December 2020 in Santiago de Puringla, La Paz.

33. Journalists in Honduras faced increased risks and obstacles to perform their work independently. OHCHR documented the killings of at least three journalists: German Vallecillo and Jorge Posas on 1 July 2020 in La Ceiba, and Luis Almendares on 28 September 2020 in Comayagua. The killings are only the most visible face of a context of widespread violence faced by journalists. By the end of November 2020, the non-governmental organization C-Libre had documented 130 attacks against journalists.<sup>24</sup> OHCHR followed up on several of these cases, including the destruction of the equipment and arbitrary detention of journalists Roger David Iraeta, Onán Zaldivar and Edward Azael Fernández, while they were covering an operation of law enforcement forces that were dispersing a demonstration on 1 April 2020 in Santa Bárbara.

34. OHCHR is concerned about the misuse of criminal law, including the excessive use of a number of criminal provisions that lack compliance with the principle of legality, disproportionately affecting human rights defenders and generating a chilling effect within their communities.<sup>25</sup> A case of particular concern relates to the 12 defenders from the community of Guapinol, seven of which are awaiting trial in preventive detention since September 2019 and one since November 2018. OHCHR visited the detainees, monitored the judicial hearings and shared international human rights standards with the Judiciary, calling for an immediate review of their pre-trial detention and compliance with due process guarantees.

35. The journalist David Romero Ellner, who had been sentenced to 10 years in prison for the crimes of defamation and slander, died in prison on 18 July 2020. The authorities failed to provide information on the cause of death to his family and legal representatives. OHCHR recalls that according to international standards, the death of a person under custody of the State should be investigated *ex officio* by the authorities and the cause of death as well as the results of the investigation should be communicated to the relatives of the deceased.

36. By the end of October 2020, the National Mechanism for the protection of human rights defenders, journalists, media workers and justice system actors (hereinafter “the National Mechanism”) processed 33 requests for protection, a number significantly lower than in 2019. Throughout the year, OHCHR maintained its regular participation in the meetings of the National Protection Council and the Technical Committee of the National Mechanism, where protection plans are defined. The Office is concerned that many of the structural weaknesses previously identified, including those related to decision-making processes, continued and exacerbated. OHCHR is concerned about the fact that a large number of beneficiaries reported that measures granted were not implemented. OHCHR recalls that comprehensive efforts to strengthen the National Mechanism are needed so as to ensure its effectiveness and re-affirms its willingness to support the different stakeholders in this process.

37. While the COVID-19 pandemic generated important challenges for the functioning of the National Mechanism, OHCHR acknowledges that efforts were taken to ensure operations and adapt its procedures to the context. With technical assistance from OHCHR, the Ministry of Human Rights and the National Mechanism developed a protocol to facilitate access to special permits allowing human rights defenders to continue operating during the curfew. However, OHCHR received complaints indicating that during the pandemic various protection measures had been suspended and several risk assessment studies delayed.

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<sup>24</sup> <http://www.clibrehonduras.com/index.php/alertas/detencion-arbitraria/1275-periodistas-de-c-libre-detenido-ilegalmente-y-torturados-por-la-policia-nacional>.

<sup>25</sup> <https://oacnudh.hn/wp-content/uploads/2019/07/Observaciones-Co%CC%81digo-Penal-Nuevo-OACNUDH-ok.pdf>.



38. OHCHR welcomes that the National Mechanism adopted a manual on the application of gender and intersectional approaches and calls for its systematic and comprehensive implementation.

39. According to information received by OHCHR, spaces for dialogue that could allow for effective public participation in decision-making processes were scarce, despite the fact that different sectors showed willingness to cooperate with the authorities.

40. OHCHR remains concerned about the lack of a strong legal and institutional framework to ensure the right to access to information and promote transparency. The so-called “secrecy law”,<sup>26</sup> in force since March 2014 despite requests for constitutional review<sup>27</sup> and concerns voiced by international human rights mechanisms<sup>28</sup>, continues to restrict individuals’ access to comprehensive and reliable information about State affairs.

## VI. Economic, social and cultural rights

41. In 2020, Honduras continued to be affected by widespread poverty and structural socio-economic inequalities. According to the National Statistics Institute, in 2019 64.7 percent of the population lived in poverty, 72.2 percent of which live in rural areas.<sup>29</sup> OHCHR is concerned that the majority of measures taken by the Government to control the spread of COVID-19 disproportionality impacted people working in the informal economy and other people in vulnerable situations, including indigenous and Afro-Honduran peoples, people on the move, persons with disabilities, and LGBTI persons. Food insecurity increased both in rural and urban areas, as a considerable part of the population lost all income and became destitute. The COVID-19 crisis also highlighted the deficiencies of Honduras’ social protection system. Estimates indicate that, in 2019, 58 percent of the economically active population worked in the informal sector,<sup>30</sup> without access to formal health care, pension funds, unemployment benefits and other instruments of social protection. The impact of the pandemic and of the hurricanes Eta and Iota, which struck the country in November 2020, seriously aggravated this situation. Under the leadership of the Ministry of Human Rights, and with the technical assistance of OHCHR, an inter-governmental coordination mechanism to promote the social and economic rights of people in situation of vulnerability was established.

42. The pandemic has had a severe impact on the human rights situation in the country, pushing the health and other state structures to their limits. The first two cases of COVID-19 in Honduras were confirmed on 11 March 2020 and the epidemiological situation remained critical throughout the year. OHCHR is concerned that as in other countries, the Honduran health care system faced serious structural limitations prior to the outbreak of the crisis and was not prepared to respond effectively to the emergency caused by the coronavirus.

43. OHCHR calls on the government to strengthen existing health care structures and ensure the necessary conditions for medical personnel to safely perform their work. Health care personnel faced logistical constraints to perform essential activities, including the limited availability of Polymerase Chain Reaction (PCR) tests to allow the effective detection and monitoring of suspected cases of COVID-19. According to the information provided by the State, 65 health workers have died due to COVID-19 since the beginning of the pandemic until 31 December 2020. OHCHR registered multiple complaints and protests from medical staff about the lack of protective equipment, medical supplies, personnel and medicines across the country. OHCHR also monitored the precarious labour conditions of frontline health personnel. Access to non-COVID-19 related health care was also seriously affected.

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<sup>26</sup> Ley para la Clasificación de Documentos Relacionados con la Seguridad y Defensa Nacional.

<sup>27</sup> The NGO C-Libre presented an appeal that was not admitted, and a second one is pending resolution. ([http://www.clibrehonduras.com/images/Doc/Litigio\\_Constitucional\\_contra\\_Ley\\_Secretos.pdf](http://www.clibrehonduras.com/images/Doc/Litigio_Constitucional_contra_Ley_Secretos.pdf)).

<sup>28</sup> See: A/HRC/40/60/Add.2 and OEA/Ser.L/V/II.Doc146.

<sup>29</sup> Encuesta Permanente de Hogares de Propósitos Múltiples, <https://www.ine.gob.hn/V3/ephpm/>.

<sup>30</sup> International Bank for Reconstruction and Development/World Bank, “Honduras Labour Market Diagnosis”, 2019, p. 3, <https://openknowledge.worldbank.org/bitstream/handle/10986/33304/Jobs-Diagnostic-HondurasSP.pdf?sequence=4&isAllowed=y>.

The country's public health care network shut down ambulatory treatments in order to focus on COVID-19 patients and emergencies and prenatal services were also severely limited.

44. Despite of some measures adopted by the Government, the suspension of classes due to COVID-19 affected the education of children and adolescents. According to the National Pedagogical University of Honduras, about 48.27% of students with fewer resources -1.4 million out of total of 2.9 million students enrolled for the 2020 school year- were left out of online schooling, as they did not have access to internet due to the high cost for internet access.<sup>31</sup> This situation hampered the enjoyment of the right to education, especially of children in the most vulnerable situations, and could lead to long-lasting repercussions, including a significant increase in school dropouts.

45. In 2020, OHCHR continued to engage with State institutions, trade unions, civil society organizations and the private sector on the implementation of the UN Guiding Principles on Business and Human Rights through capacity building and the establishment of channels for technical cooperation and advocacy. On 20 January 2020, the Honduran Council of Private Business launched its policy on business and human rights.

46. OHCHR acknowledges the Government's commitment to advance in the implementation of the Guiding Principles, but notes that important challenges remain, including the absence of a robust legal and policy framework to protect against business-related human rights violations<sup>32</sup>. As pointed out by the UN Working Group on the issue of human rights and transnational corporations and other business enterprises, the impunity for human rights abuses and corruption have contributed to the erosion of confidence in the authorities and their ability to protect individuals and communities against business-related human rights abuses<sup>33</sup>. OHCHR is concerned about the lack of transparency, consultation and meaningful participation of communities affected by development and investment projects in decisions concerning business activities.

47. In 2013, Congress passed constitutional reforms and an Organic Law allowing for the creation of Employment and Economic Development Zones (known as ZEDE)<sup>34</sup>. According to the Organic Law, the ZEDEs are newly created administrative entities that have the possibility to autonomously implement their own administrative, judicial, security and tax systems. In 2014, the Committee on the Elimination of Racial Discrimination recommended Honduras to review the compatibility of this legislation with international human rights obligations, especially the rights of indigenous peoples and Afro-Hondurans.<sup>35</sup> The first ZEDE was established in May 2020 in Roatán. Local Afro-Honduran communities expressed their dissent to the project and denounced the absence of a consultation process to ensure free, prior and informed consent of affected communities.

48. OHCHR is concerned that the ZEDEs could result in excessive privatization of public services and delegation of administrative competencies to private companies, which could facilitate expropriations and reduce the protection of the rights of the affected communities.

49. OHCHR is concerned that the closing of the General Labour Inspection from March to August 2020 seriously affected the enforcement of labour rights. OHCHR followed up on several complaints about violations of labour rights, including the complaint of 800 miners of the *El Mochito* mine in Santa Barbara. OHCHR also monitored multiple cases of mass suspension of labour contracts and dismissals without payment of benefits to workers in the *maquila* and fast food industries. Following advocacy from OHCHR, an inter-union human rights network was established to monitor, report and follow up on labour rights violations during the COVID-19 crisis.

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<sup>31</sup> [https://postgrado.upnfm.edu.hn/files/VRIP/Publicaciones/2020/Presentaci\\_n\\_%20estudio%20padres%20y%20madres\\_UPNFM%20\(1\).pdf](https://postgrado.upnfm.edu.hn/files/VRIP/Publicaciones/2020/Presentaci_n_%20estudio%20padres%20y%20madres_UPNFM%20(1).pdf). See also: <https://www.efe.com/efe/america/sociedad/la-mitad-de-los-alumnos-en-honduras-sin-clases-por-covid-19-están-rezagados/20000013-4236192>.

<sup>32</sup> See in this regard also A/HRC/44/43/Add.2.

<sup>33</sup> *Idem*.

<sup>34</sup> Decrees No. 236-2012, 24 January, and 120-2013, 6 September.

<sup>35</sup> CERD/C/HND/CO/1-5.

## VII. Equality and non-discrimination

50. The consequences of the COVID-19 pandemic and hurricanes Eta and Iota have increased pre-existing socio-economic and structural inequalities, particularly affecting people in vulnerable situations including women, indigenous peoples and Afro-Hondurans, LGBTI persons, people with disabilities and persons on the move.

### A. Women's rights

51. OHCHR remained extremely concerned about *de jure* and *de facto* discrimination against women. Women living in poverty, in rural areas, indigenous and Afro-Honduran women, transgender and lesbian women, and women human rights defenders continued to experience multiple forms of discrimination.

52. By 10 November 2020, the emergency system (911) registered 90,547 reports of harassment, sexual abuse, and domestic, intra-family and gender-based violence. Records show that these cases increased in April and May 2020, the first two months after general lockdown, in comparison to February and March 2020. The National Observatory of Violence of the National Autonomous University of Honduras recorded 217 violent deaths of women nationwide between January and August 2020.<sup>36</sup>

53. OHCHR is concerned that the capacity of State institutions to address violence against women remained limited, especially regarding investigations of femicide. OHCHR echoes UPR recommendations calling upon the State to take prompt actions to end all forms of violence against women, including femicides, to ensure accountability, to improve the legislative framework to protect women and to strengthen the State's investigation and prevention capacity.<sup>37</sup>

54. OHCHR remains extremely concerned about institutional and legislative obstacles that hinder the fulfilment of sexual and reproductive rights of women, including the criminalization of abortion in all its forms and the prohibition of emergency contraception pills.

### B. Rights of indigenous and Afro-Honduran peoples

55. Indigenous and Afro-Honduran peoples continued to face discrimination, exclusion and high rates of poverty and violence. The COVID-19 pandemic further exacerbated their vulnerability, as restrictions on movement and other emergency measures affected their rights to food, healthcare and land. In many cases, strict police and military controls at the entrance of indigenous communities prevented indigenous peoples from accessing food supplies.

56. In early 2020, the National Congress took steps to approve a bill on free, prior and informed consultation. OHCHR notes that the bill did not meet international human rights standards nor recommendations from the Special Rapporteur on the rights of indigenous peoples.<sup>38</sup> Major concerns include: the inadequate representation of indigenous peoples in the Government's socialization process, which did not constitute a consultation processes in accordance with international standards; the lack of training and technical knowledge of government representatives that led the socialization workshops; and the lack of meaningful participation of indigenous peoples during the drafting process. OHCHR discussed the implication of the draft law with a large number of indigenous peoples' organizations and provided technical assistance to the Congress. As of 31 December 2020 the approval process remains suspended.

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<sup>36</sup> Infographic report No. 13, 25 November 2020, available at <https://iudpas.unah.edu.hn>.

<sup>37</sup> A/HRC/WG.6/36/L.8 Draft report of the Working Group on the Universal Periodic Review Honduras.

<sup>38</sup> A/HRC/33/42/Add.2, 21 July 2016, Report of the Special Rapporteur on the rights of indigenous peoples on her visit to Honduras, available at: <https://undocs.org/A/HRC/33/42/Add.2>.

### **C. Rights of lesbian, gay, bisexual, transgender and intersex persons (LGBTI)**

57. OHCHR is concerned about the situation of LGBTI persons, which continued to face widespread discrimination and violence related to their sexual orientation and/or gender identity or expression. The observatory for violent deaths of the non-governmental organization Cattrachas reported 20 killings of LGBTI persons: 3 lesbian, 9 gay, and 8 transgender persons, including one human rights defender.

58. OHCHR followed up on several cases, including one of a transgender woman human rights defender, who was shot and injured on 20 January in Tegucigalpa, despite being a beneficiary of the National Mechanism.

59. In the context of the public hearing of the Inter-American Court of Human Rights on the case *Vicky Hernandez and others v. Honduras* on 11 and 12 November 2020, OHCHR presented an *amicus curiae*, as it was the first time that the Court examines the killing of a transgender woman in the broader context of violence against transgender people in Honduras.<sup>39</sup> Vicky Hernández was a transgender woman human rights defender who was killed during a curfew that had followed the coup d'état in June 2009.

### **D. Rights of persons with disabilities**

60. OHCHR is concerned that there was no progress on legislative reform to enshrine the State's obligations under the Convention on the Rights of Persons with Disabilities, despite recommendation by the relevant Committee in 2017<sup>40</sup>, UPR recommendations and continued advocacy from civil society.

61. As of 31 December 2020, two draft laws on the rights of persons with disabilities presented to Congress in 2019 were still pending adoption. OHCHR continued to support the State and civil society organizations working on the reform of national legislation and calls on all actors to ensure that all initiatives taken in this regard comply with the applicable international standards.

### **E. People on the move**

62. Large movements of migrants, returnees, internally displaced persons and other persons with international protection needs continued in 2020, despite restrictions on freedom of movement, including the closing of all international borders to contain the spread of COVID-19. Restrictions to the freedom of movement disproportionately affected the human rights of migrants in transit who found themselves unable to cross borders to continue their journey for months. Authorities developed a humanitarian response plan to address their needs but the temporary closure of the Centres for the Attention of Irregular Migrants created precarious conditions and difficulties for migrants to access their basic rights and necessities, including water, shelter and food. Mixed migration movements increased after international borders reopened on 19 October 2020, regardless of ongoing lockdown and curfew measures. Hurricanes Eta and Iota further exacerbated the vulnerability of people on the move and generated an important increase in internal displacement.

63. Based on its remote and *in situ* monitoring, OHCHR remains concerned about the situation of people on the move, including their access to basic rights and necessities such as food, shelter and water. OHCHR noted a worrying increase in discriminatory and xenophobic behaviour against migrants, returnees and internally displaced persons, fostered by prejudices and narratives associating them with the spread of COVID-19.

64. In 2020, at least 7,500 people left the country as part of so-called "caravans" of migrants, generally in an attempt to reach Mexico and the United States of America. The largest caravan consisted of about 3,500 people and left San Pedro Sula on 30 September

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<sup>39</sup> [http://www.oas.org/en/iachr/media\\_center/PReleases/2019/112.asp](http://www.oas.org/en/iachr/media_center/PReleases/2019/112.asp).

<sup>40</sup> CRPD/C/HND/CO/1.

2020. According to official information, migration was motivated by economic reasons in 93.13 percent of the cases.<sup>41</sup> OHCHR notes that violence, insecurity, poverty and limited access to economic and social rights remained the main structural factors of forced human mobility.

65. Deportations from Mexico and the United States continued despite the international travel ban. According to official sources, 31,321 people were returned in 2020.<sup>42</sup> This number does not disaggregate the percentage of voluntary returns. OHCHR is concerned that many returns did not comply with the criteria of voluntariness, safety, dignity, humanity and respect for human rights. OHCHR also documented cases of collective expulsion and forced returns from Guatemala that could amount to a violation of the principle of non-refoulement.

66. OHCHR monitored the conditions in different migrant reception centres around the country and identified in particular challenges related to the right to health. OHCHR is also concerned about the lack of measures to guarantee returnees' sustainable reintegration and risks of discrimination and stigmatization upon return. The Centre for the Attention of Returned Migrants in Omoa had to close down temporarily because of protest by the local population against the arrival of returnees.

67. The Committees of Relatives of Disappeared Migrants continued to face important challenges to access justice regarding complaints about disappearances of migrants. OHCHR also received information about the lack of search protocols and challenges in coordination between judicial and consular authorities in Central America and Mexico as key factors impeding investigation and repatriation efforts.

68. The COVID-19 crisis and hurricanes Eta and Iota increased the vulnerability of internally displaced persons. According to a recent study, between 2004 and 2018 violence forcibly displaced 247,090 persons.<sup>43</sup> This figure does not include internal displacement caused by natural disasters. OHCHR regrets the absence of a comprehensive legal framework and strategy to address the root causes of internal displacement and work towards durable solutions.

69. OHCHR coordinated actions with State institutions, the NHRI, the UN system, the International Committee of the Red Cross, the Honduran Red Cross and civil society organizations to promote articulated and complementary initiatives to put human rights of persons on the move at the centre of the response. OHCHR recognizes steps taken by the authorities to address this issue, including the addition of the act to force people to move as a criminal offence in the new Criminal Code, in line with international recommendations. The Office also welcomes the submission of the draft law for the Prevention, Care and Protection of Forcibly Displaced Persons to Congress on 14 October 2020.

## VIII. Recommendations

70. The United Nations High Commissioner for Human Rights reiterates her commitment to supporting Honduras in enhancing the protection of all human rights for all people. OHCHR calls upon the authorities to implement recommendations of its previous reports and those of human rights mechanisms. In particular, the High Commissioner calls upon State authorities to:

(a) **Implement urgent and effective measures to prevent human rights violations and create transparent accountability mechanisms to ensure victims' access to their rights to justice, truth, reparation and guarantees of non-recurrence;**

(b) **Adopt a law on the council of the judiciary and the judicial career that strengthens the independence of the judiciary, and ensure a transparent selection of the members of the council, in line with international standards;**

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<sup>41</sup> <http://ceniss.gob.hn/migrantes/>.

<sup>42</sup> <https://www.conmigho.hn/direccion-general-de-proteccion-al-hondureno-migrante/>.

<sup>43</sup> CIPPDV, ACNUR, SEDH, "Estudio de caracterización del desplazamiento interno por violencia 2004-2018", 2019, <https://www.refworld.org/es/docid/5df3b7674.html>.

- (c) **Adopt an effective public policy against corruption, with a human rights-based approach, including increased support to the Special Prosecutor's Office and the anti-corruption judicial circuit, and removal of legislative obstacles that impede the fulfilment of their mandates;**
- (d) **Launch an inclusive public debate to reform the new Criminal Code and ensure its compliance with international human rights standards and ensure that all legislation that is adopted complies with the rights the rights to freedom of association, expression and peaceful assembly while reviewing existing laws to ensure they are in line with applicable international human rights standards;**
- (e) **Ensure that law enforcement officials, including armed forces personnel participating in law enforcement operations, adhere to international norms and standards on the use of force and human rights, particularly when managing protests;**
- (f) **Implement a gradual process of demilitarisation of public functions, especially with regards to citizen security, and ensure civilian management, including by strengthening and restructuring the national police;**
- (g) **Urgently address structural deficiencies in the penitentiary system, promote the work of the National Mechanism for the Prevention of Torture and advance towards a civilian management of the penitentiary system;**
- (h) **Ensure that the new electoral law is in compliance with international human rights obligations, in particular the right to vote and stand for elections;**
- (i) **Publicly recognize, at all levels of Government, the pivotal role played by human rights defenders, social leaders and journalists in a democratic society and condemn human rights violations and abuses committed against them;**
- (j) **Strengthen the investigation and prosecution of crimes against human rights defenders and prevent the misuse of criminal law against them, including by reviewing existing legislation as well as criminal cases to dismiss those that do not meet due process requirements;**
- (k) **Ensure the National Protection Mechanism for Human Rights Defenders, Journalists and Justice Operators has the required capacities, including sufficient budget and human resources, to effectively protect its beneficiaries;**
- (l) **Increase efforts towards the full realization of social and economic rights without discrimination,, including the rights to food, health, education, labour, water and sanitation, with a special focus on people in a vulnerable situation;**
- (m) **Place human rights at the centre of the National Reconstruction Plan in order to recover better from the impacts of the COVID-19 pandemic and the humanitarian emergency caused by hurricanes Eta and Iota, and to ensure that no one is left behind;**
- (n) **Adopt a regulatory and institutional framework to ensure equal and meaningful participation of civil society and affected communities in decisions regarding business projects from an early stage and ratify the Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean;**
- (o) **Review the compatibility of the legal framework of ZEDEs with international human rights obligations, including by ensuring free, prior and informed consent of affected indigenous peoples and Afro-Hondurans;**
- (p) **Adopt urgent measures to protect women and girls from gender-based violence, including femicide, gender discrimination and gender stereotyping, ensuring accountability and the implementation of preventive actions. Ratify the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women;**

(q) **Adopt urgent measures to protect lesbian, gay, bisexual, transgender and intersex persons from violence and all forms of discrimination, ensuring accountability and the implementation of preventive actions;**

(r) **Adopt a strong legal framework that guarantees the rights of persons with disabilities in line with the Convention on the Rights of Persons with Disabilities.**

(s) **Guarantee the rights of people on the move, including by ensuring the sustainable reintegration of returnees and adopt measures to guarantee effective access to justice for relatives of missing migrants;**

(t) **Approve the draft Law for the Prevention, Care and Protection of Forcibly Displaced Persons and create a comprehensive strategy to find durable solutions for internally displaced persons.**

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