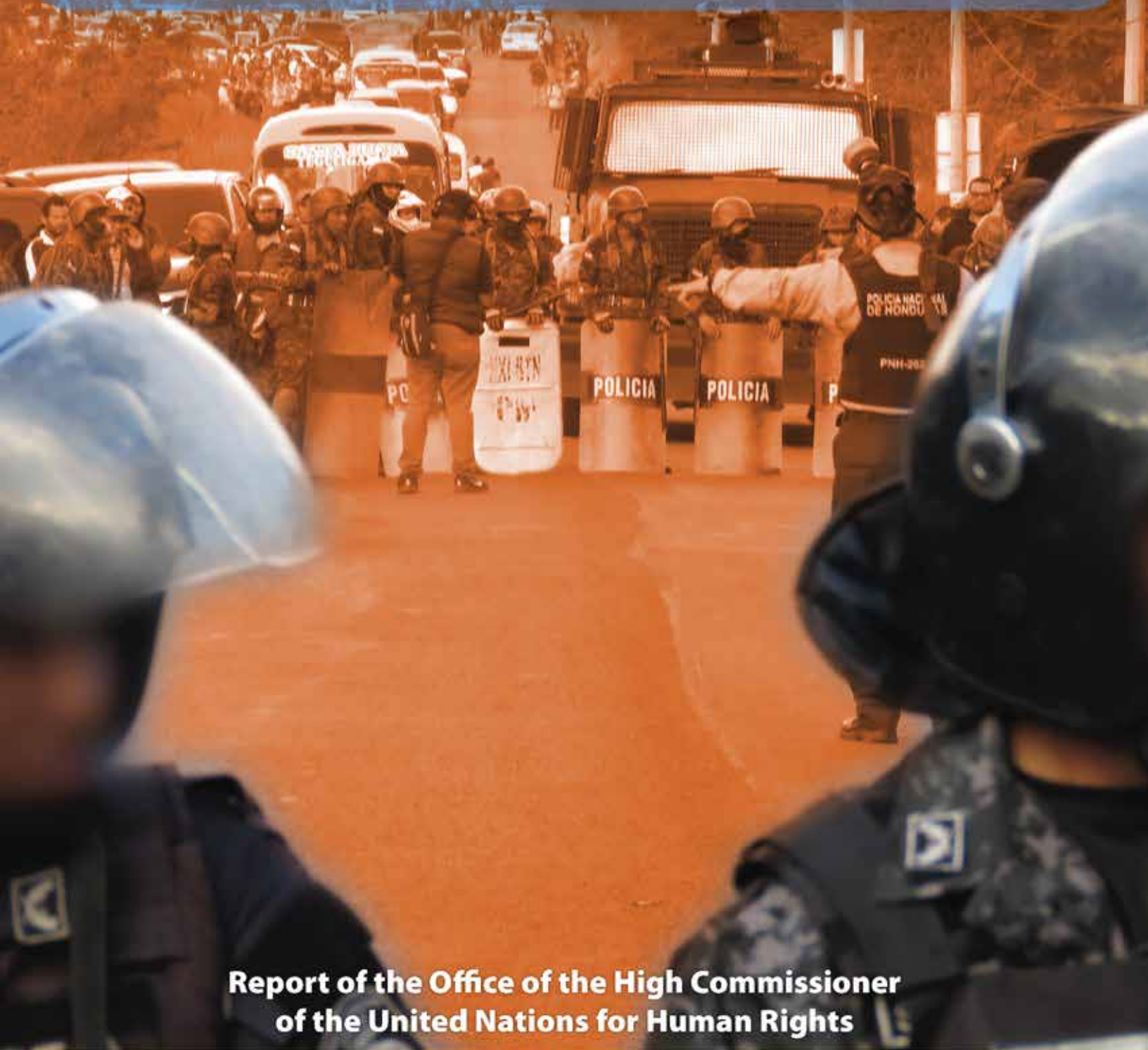


ACCOUNTABILITY FOR HUMAN RIGHTS VIOLATIONS COMMITTED IN THE CONTEXT OF THE 2017 ELECTIONS IN HONDURAS: PROGRESS AND CHALLENGES



**Report of the Office of the High Commissioner
of the United Nations for Human Rights**

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**Accountability for human rights violations committed in the context of the 2017
elections in Honduras: Progress and challenges**

**Report of the United Nations
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January 2020

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I. Executive Summary

The response of the State of Honduras to the protests that took place after the November 2017 elections following the presidential elections resulted in serious human rights violations. At the time, OHCHR found that elements of the security forces, especially the Military Police of the Public Order and the Army, used excessive force, including lethal force, to control and disperse protests, leading to the killing and wounding of protesters as well as passers-by. OHCHR had documented that at least 23 people were killed, including one police officer; at least 60 persons were injured by elements of the national security forces; mass arrests took place, as well as ill-treatment during arrest and detention.¹

In follow-up, this report provides an overview of the steps taken by the State of Honduras to provide redress and remedy to victims of human rights violations, including by investigating and prosecuting violations effectively, promptly and thoroughly; providing effective remedies to victims; and preventing further violations by adopting the appropriate legislative, administrative and other measures.

The analysis conducted by the OHCHR Office in Honduras reveals that the State of Honduras needs to urgently step up its efforts to redress and remedy human rights violations committed in the context of the 2017 presidential elections.

Two years after the events, no case of human rights violations has seen a verdict. The majority of serious violations documented by OHCHR, such as summary or extrajudicial executions and enforced disappearances, remain under investigation; several have not been investigated. Factors such as the weakness of the prosecutorial strategy adopted by the Office of the Attorney General and internal unaddressed staffing and coordination limitations contributed to this state of affairs. Victims found no support in accessing justice and several victims and witnesses expressed security concerns at participating in proceedings against members of the defense and security forces. Lack of cooperation of the Armed Forces with the investigations was also identified as a major obstacle to progress.

Furthermore, official recognition of the occurrence of human rights violations remains pending, as well as provision of adequate remedies to victims and their families and adoption of the reforms necessary to prevent the recurrence of human rights violations.

With the overall objective of supporting the State of Honduras in overcoming the current social and political polarization, the report concludes with recommendations aimed at preventing further violence and human rights violations.

¹ “Human rights violations in the context of the 2017 elections in Honduras”, available at https://www.ohchr.org/Documents/Countries/HN/2017ReportElectionsHRViolations_Honduras_EN.pdf.

II. Introduction

1. This report is produced within the mandate of the United Nations High Commissioner for Human Rights (OHCHR) under United Nations General Assembly resolution 48/141, and in line with the agreement between the High Commissioner and the Government of Honduras, signed on 4 May 2015, concerning the establishment of a country office.
2. The report provides an overview of the measures adopted and implemented by the State of Honduras to address the human rights violations that occurred in the context of the 2017 elections and documented by the Office of the United Nations High Commissioner for Human Rights (OHCHR) in a report published in March 2018.² It also highlights challenges and concerns to ensure accountability for these human rights violations.
3. Besides being a legal obligation, redressing human rights violations is essential to restore confidence in the institutions of the State and the rule of law and can contribute to overcome the prolonged political and social polarization that pervades the country.

III. Methodology

4. In preparing this report, OHCHR maintained a regular dialogue with senior representatives of the Office of the Attorney General, the Judiciary, and the Executive, in particular the Ministry of Human Rights, the Ministry of Defence and the Ministry of Security, and with representatives of the Armed Forces and the Military Police of the Public Order (MPOP). It conducted missions to the departments of Atlántida, Cortés, Yoro, La Paz, Choluteca, Colon and Francisco Morazán, where it met with judges and prosecutors, officials of the National Police of Honduras and of the Technical Investigation Agency of the Office of the Attorney General.
5. OHCHR engaged on a regular basis with victims of human rights violations committed in the context of the 2017 elections, their families and legal representatives, and with civil society organizations working on these cases. It exchanged information with the Inter-American Commission on Human Rights and United Nations human rights mechanisms.
6. OHCHR collected and verified information from a variety of sources, including judicial archives, trial monitoring and conversations with the victims, lawyers and judicial personnel, with the purpose of establishing the facts about the events and actions as a basis for dialogue to improve the human rights situation.³
7. OHCHR consistently communicated its observations and related recommendations to the authorities, to encourage them to take all the necessary steps to guarantee victims' right to remedies, which include: a) equal and effective access to justice, b) adequate, effective and

² "Human rights violations in the context of the 2017 elections in Honduras", available at https://www.ohchr.org/Documents/Countries/HN/2017ReportElectionsHRViolations_Honduras_EN.pdf.

³ OHCHR has monitored at least 25 hearings and taken cognizance of court proceedings in 15 court cases. It has monitored trials in which it gathered information on the proceedings in the hearings and the review of the files at a later date. OHCHR has interviewed victims and their families in the 15 cases that have been prosecuted. Official letters were sent to the corresponding courts in El Progreso, Choluteca, San Pedro Sula and Tegucigalpa, requesting access to the files and copies of them.

prompt reparations and c) access to relevant information concerning violations and reparations mechanisms⁴.

8. OHCHR welcomes improved dialogue with the Office of the Attorney General, and its sharing some information on progress and challenges encountered in the investigation and prosecution of cases, as explained in this report. In May 2018, OHCHR offered technical assistance in these areas to the Office of the Attorney General, but a response has not been received. In early 2019, dialogue resumed and in June 2019 OHCHR shared a written proposal to establish a Technical Working Group to provide advice on prosecution strategies, sharing terms of reference for such a Group. By the end of November 2019, the response of the Office of the Attorney General remained pending.

9. In May 2019, at the request of the Office of the Attorney General, OHCHR accompanied by the Resident Coordinator a.i. of the United Nations System in Honduras, met with the Chief of Staff of the Armed Forces to encourage cooperation with the ongoing investigations and open up access to information held by the Military. OHCHR received assurances of cooperation with the investigations by the Chief of Staff of the Armed Forces.

IV. Context

10. General elections took place in Honduras on 26 November 2017. In the run-up to the elections, large social sectors questioned the quality and reliability of the electoral system; the lifting by the Supreme Court of the constitutional prohibition of a second presidential mandate, and the ensuing candidacy of President Hernandez to a second term, generated widespread discontent. While polling day took place without major incidents, the reversal, on 29 November 2017, of preliminary results favouring the opposition candidate Salvador Nasralla was widely contested. Claims of electoral fraud took centre stage and calls by the Opposition Alliance for social mobilization triggered mass demonstrations countrywide. Protests continued well into January 2018 despite the imposition of a curfew and massive military and police deployment.

11. The response of the State of Honduras to the demonstrations led to serious human rights violations. OHCHR found that elements of the security forces, especially the Military Police of the Public Order and the Army, used excessive force, including lethal force, to control and disperse protests, leading to the killing and wounding of protesters as well as passers-by. Between 26 November 2017 and 27 January 2018, OHCHR documented that at least 23 people were killed in the context of the post-electoral protests, including one police officer; at least 60 people were injured, half of them by live ammunition; and at least 1,351 people were detained between 1 and 5 December 2017 for violating the curfew. OHCHR also documented cases of ill-treatment during arrest and/or during detention, as well as one disappearance.⁵

12. In his inauguration speech on 27 January 2018, the President of Honduras, Juan Orlando Hernandez, committed to a national reconciliation process, and requested the United Nations to

⁴ Basic Principles and Guidelines on the Right to Remedy and Reparations for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, paragraph 11, available at <https://www.ohchr.org/EN/ProfessionalInterest/Pages/RemedyAndReparation.aspx>.

⁵ Documented in the report " The violations to the human rights in the context of the elections of 2017 in Honduras ", available in <http://oacnudh.hn/wp-content/uploads/2018/05/EleccionesHonduras2017-InformeViolacionesDerechosHumanos.pdf>

facilitate a “National Dialogue”. Following a mission to Honduras in February 2018, the United Nations Department of Political Affairs published a report⁶ highlighting a long-standing political crisis, profound polarization of the society, and distrust vis-à-vis “traditional politics”. Noting the high levels of post-electoral violence, serious human rights challenges and the militarization of public security, it recommended that confidence-building measures precede a national dialogue. It specifically recommended the establishment of an independent investigation commission on the allegations of human rights violations that had occurred during the post-electoral period and recommended legal reforms to reinforce the accountability of the security sector, encompassing screening, disciplinary proceedings and regulation of the use of force.⁷

13. On 28 August 2018, the Government and three of the main political parties signed a joint “Commitment for Honduras: Reconciliation for Transformation”, and established a mechanism for inter-party dialogue, composed of four working groups, on the 2017 electoral process and the presidential re-election; human rights; constitutional reforms and the rule of law; and electoral reforms.⁸ The Working Group on Human Rights formulated several recommendations aligned with the recommendations of the High Commissioner for Human Rights and the United Nations Department of Political Affairs, including for legal reforms and to strengthen mechanisms for accountability of the defense and security forces.⁹ However, the recommendations of the four Working Groups were not endorsed at the political level and the National Dialogue closed on 11 December 2018 without any formal agreement.

14. Meanwhile, the Government of Honduras repeatedly stated publicly its commitment to addressing the reports of human rights violations “with responsibility and seriousness.”¹⁰

V. Main findings

15. In the course of 2018 and 2019, based on its own monitoring, OHCHR invested significant efforts in promoting the provision of effective remedies by the State of Honduras for victims of human rights violations committed in the context of the 2017 elections, through advocacy and technical assistance. The below reflects the findings of OHCHR.

⁶ The UN Department of Political Affairs (DPA) deployed, at the request of the Honduran Government, an exploratory mission to Honduras from 6 to 10 February 2018, available at <https://www.un.org/sg/en/content/sg/note-correspondents/2018-02-23/note-correspondents-report-united-nations-exploratory>.

⁷ Press release at <https://honduras.un.org/13898-nota-para-corresponsales-de-prensa-honduras>, at <https://www.undp.org/content/dam/unct/honduras/dialogo/Compromiso%20Por%20Honduras.pdf>; Report of the exploratory mission of the Department of Political Affairs (DPA) of United Nations to Honduras, available at <https://honduras.un.org/sites/default/files/2019-08/Informe%20del%20Departamento%20de%20Asuntos%20Politicos%20de%20la%20ONU%20-%20Recomendaciones.pdf>

⁸ <https://honduras.un.org/es/15239-lanzamiento-del-dialogo-politico-en-honduras>; and <https://honduras.un.org/sites/default/files/2019-08/Compromiso%20Por%20Honduras.pdf>.

⁹ The thematic table on human rights reached 45 consensus.

¹⁰ Chief of Staff of the Office of the President Government does not support the creation of a special commission to investigate post-election deaths” 23 May 2018, at <https://www.presidencia.gob.hn/index.php/gob/dialogo-nacional/4190-ministro-de-la-presidencia-gobierno-no-acompana-creacion-de-comision-especial-que-investigue-muertes-poselectorales>.

A. Justice and tackling impunity

16. States have a duty prosecute and punish violations of human rights that constitute crimes under both national and international law, in particular serious violations of human rights, including summary or extrajudicial executions, torture and other forms of cruel, inhuman or degrading treatment and enforced disappearances. The failure to investigate, prosecute and try such violations results in additional violations under human rights conventions.¹¹

17. OHCHR engaged extensively with both victims and justice system authorities in the investigation, prosecution and trial of the cases of human rights violations it documented in the context of the 2017 elections, with the following observations:

1. Cases in the justice system

18. By 10 September 2019, the Office of the Attorney General had filed criminal charges in relation to 20 cases it considered related to the post-electoral crisis. Based on its independent monitoring and documentation, OHCHR considers that five of these cases are unrelated to the post-electoral protests, despite having occurred during that period.¹²

19. The 15 cases that OHCHR deems related to the post-electoral protests concern 16 victims and involve 28 alleged perpetrators who are members of the security and defense forces of Honduras.¹³ The incidents occurred between 1 December 2017 and 22 January 2018 in eight departments. A total of 20 criminal charges were filed, including: five for crimes against “Life and Physical Integrity”,¹⁴ six for crimes against “Liberty and Security”,¹⁵ and nine for crimes against the “Public Administration”.¹⁶

20. By September 2019, the judiciary had dismissed at the preliminary phase 7 of the 15 cases which had been brought against 10 defendants and members of the defense and security forces, for charges of torture, abuse of authority, unlawful detention, mistreatment of protected person and unlawful entry into a private dwelling. The judges considered that the evidence presented by the Office of the Attorney General was not sufficient to open a criminal case. No new charges have been brought by the Office of the Attorney General on such cases.

21. As at October 31, 2019, 8 of the 15 criminal cases against the 18 accused were still in the preparatory and intermediate stages. The Public Ministry informed OHCHR that the investigations into other events were ongoing, as described in the following sections.

¹¹ United Nations Human Rights Committee, General Comment No. 31, para. 18.

¹² In OHCHR’s views, the following five cases are not related to the post electoral protests because they neither refer to crimes happened during the post-electoral demonstrations nor as a consequence of them: the killing of two police officers in December 2017, in Olancho; the death of an individual under arrest at the Police Station of Pespire, department of Choluteca, in January 2018; the assault, in February 2018, of a UNTV journalist by an individual with a mental or intellectual disability, in Tegucigalpa; threats against a human rights defender from the department of Choluteca; a complaint for abuse of authority against a staff of Office of the National Human Rights Institution (CONADEH) in Choluteca.

¹³ Three defendants of the Armed Forces are accused in more than one case, which brings the total number of defendants to 25.

¹⁴ One charge of murder, one of homicide, one of attempted homicide, two charges of bodily injuries.

¹⁵ One charge of unlawful detention, one of unlawful entry into a private dwelling, two charges of torture and two for threats.

¹⁶ Six charges of abuse of authority and three charges of violations of the duties of public officials.

1.1 Institutional arrangements for an effective investigation and prosecution strategy

22. The implementation of an effective investigation and prosecution strategy requires that the investigative body be properly targeted, adequately staffed, trained and resourced. In February 2018, the State of Honduras, through its Public Ministry, announced the creation of an inter-institutional team composed of staff from the Public Ministry's Directorate of Public Prosecutions, the Special Prosecutor's Office for Crimes against Life, Forensic Medicine, the National Police's Directorate of Investigations, the Special Prosecutor's Office for Human Rights, the Specialized Unit for Crimes Committed by the PMOP, and the Human Rights Department of the Secretariat of Security¹⁷, with the aim of "cross-checking information, monitoring the progress of investigations, verifying and linking cases with the electoral context.

23. OHCHR notes that the Inter-Institutional Team was informally established, that no additional resources were allocated to the participating entities, and that by the end of October 2019, the Team had not publicly released any information on its work and findings.

24. On many occasions, OHCHR offered its technical assistance to the Public Ministry to support the investigations. So far, the proposal is under analysis in the Legal Division for study and approval by the Attorney-General.

25. After repeated requests, in September 2019, OHCHR met with representatives of the Office of the Attorney General, the Specialized Prosecutor for Crimes against Life, the Specialized Prosecutor for Human Rights, the Specialized Unit on Crimes committed by MPOP, the National Police, and the Technical Agency for Criminal Investigation. In this meeting, the Office of the Attorney General provided feedback on a list of 74 cases monitored by OHCHR (23 killings, 25 injuries, 25 cases of torture and ill-treatment and one enforced disappearance) that the Office shared on 4 August¹⁸. The Office of the Attorney General informed OHCHR that it had faced obstacles and obstructions by the Armed Forces in the investigation of these violations, as explained in subsequent sections of this report.¹⁹

1.2 Identification of patterns of human rights violations

26. In addition to identifying the perpetrators, the first step of an effective investigation into human rights violations is to identify patterns of violations and the structures that support them. This includes patterns of behaviors in the chain of command of the security and defense forces, and gaps or breakdowns in legal and operational frameworks that allowed the occurrence of violations.

27. OHCHR documented specific incidents in which the conduct of members of security and defence forces during a given operation that resulted in multiple violations affecting multiple victims. However, it appears that the Office of the Attorney General has dealt with such cases separately rather than grouping them for investigation and prosecution according to strategic criteria.

¹⁷ SDH-0050-2018

¹⁸ The Public Prosecutor's Office does not agree with the number of complaints handled by the OHCHR, noting that the OHCHR has considered a variety of sources and the absence of formal complaints from victims.

¹⁹ See Section 6 (Delays in proceedings and cooperation with the investigation) of this report.

28. As an example, on 1 December 2017, in Choloma, department of Cortes, at least five persons were killed, including a 15-year old boy, and at least four were injured by the Military Police. So far, the Office of the Attorney General brought charges of attempted homicide against a second lieutenant of MPOP in relation to the shooting of a 22-year-old woman that was injured in this incident. The other cases related to injured individuals remain under investigation, handled by different prosecutors in different units of the Office of the Attorney General although they all relate to one incident, allegedly committed by the same unit, at the same time and at the same location.

29. In another incident, on 17 December 2017, in Choluteca, José Uriel Garcia died after being shot in the chest while driving by a protest that the security and defence forces were dispersing. This case remains under investigation. In August 2018, the Office of the Attorney General brought charges for mistreatment against six members of the Armed Forces in relation with assaulting a woman during the dispersal of the protest on the 17 of December. The Office of the Attorney General has not linked these cases for the purposes of its investigation.

30. OHCHR is concerned that having several prosecutors separately handling cases relating to the same incident might prevent prompt and effective proceedings.

1,3 Legal classification of cases

31. OHCHR considers that deficiencies in the investigation and prosecution strategy of the Office of the Attorney General have also impacted the legal qualification of human rights violations committed by the defense and security forces. The qualification directly impacts sentencing. Crimes against the administration of the State such as abuse of authority and harassment carry a detention sentence of up to six years; charges such as torture or assault against physical integrity carry more severe penalties of up to 15 years.

32. OHCHR documented six cases in which the victims were allegedly injured or ill-treated by members of defence and security forces. Yet those cases were prosecuted as ‘crimes against the administration of the State’ rather than as violations of the right to physical integrity and freedom from torture and other cruel, inhuman or degrading treatment or punishment.

33. On 22 January 2018, for example, members of MPOP beat a 19-year-old man while disbanding a demonstration in the Municipality of San Manuel, Department of Cortes. The victim consequently suffered from temporal disability, as per medical certificates on record in the judicial file. However, the Office of the Attorney General instead charged the alleged responsible officer of the MPOP with abuse of authority and mistreatment of a protected person. In a similar case, in El Progreso department of Yoro, on 20 January 2018, members of the National Police detained and beat a 16-year-old; the Office of the Attorney General charged a police officer with abuse of authority and illegal detention, despite stating in the charge that the victim was beaten on the neck and kicked in his stomach and ribs.

2. Individual criminal responsibility

34. Prosecutors face serious challenges to establish the individual responsibility of the material author of the crime. They mentioned various factors, such as contamination of the crime scene, the lack of identification numbers, or the removal of names from uniforms of the security and defense forces, the use of masks or balaclavas by uniformed personnel, and restricted access to official information. The Public Prosecutor’s Office reported that in four

cases, the relatives did not allow the corresponding autopsies to be performed, but that subsequent exhumations were carried out by a court order.

35. Due to such challenges, four of the five cases were dismissed at the preliminary hearing before the end of October 2019 because the Office of the Attorney General had not provided sufficient evidence to attribute the responsibility for the crime to the defendants.

36. A case brought against a sub-inspector of the National Police on charges of abuse of authority and illegal detention was also dismissed because no elements were produced to demonstrate the presence of the defendant at the police station where the crime took place. A second case brought against three MPOP was dismissed as the Office of the Attorney General, despite bringing video and witnesses demonstrating the violations committed by MPOP, was unable to establish the participation of the three defendants.

3. Command responsibility

37. The Office of the Specialized Prosecutor for Human Rights sought to apply the concept of command responsibility in the prosecution of the defense and security forces.

38. OHCHR highlights that commanding officers bear responsibility for the crimes committed by their subordinates²⁰, as long as they have control over the forces, and / or knowledge of the crime, and failed to prevent the act or punish the perpetrators.

39. OHCHR collected numerous accounts of victims and witnesses describing how defense and security forces acted against the law in an overall environment of, at the minimum, tolerance or acquiescence by the officers in charge of the operations. Accordingly, OHCHR held several meetings with senior officials of the Ministry of Defense and Security, as well as officers of the Armed Forces and of MPOP, at the peak of the protests and in the following months, to bring cases and concern to their attention, and received pledges concerning the adoption of preventive and sanctioning measures.

40. A first case concerned the beating of a young man, on 22 January 2018, in San Manuel, department of Cortes, during the disbandment of a demonstration by MPOP. In this case, the Office of the Specialized Prosecutor filed charges for abuse of authority and ill-treatment against the sergeant in charge of the MPOP patrol who, according to official files, was on duty at the time of the incident and failed to prevent or/and punish the perpetrators. The case investigated was ongoing as at the end of October 2019. In a second case, the concept of command responsibility was applied to argue the criminal responsibility of a sub-Inspector of the National Police whom the Office of the Attorney General presented as the officer in charge of a joint police-military operation, on 12 January 2018, in Tegucigalpa, in which protesters were beaten by MPOP. However, the judge considered that the elements put forward by the Office of the Attorney General to prove the hierarchical relation between the National Police and MPOP were insufficient, and no command responsibility could be attributed to the Inspector.²¹

²⁰ Command responsibility has been recognized and applied through national jurisprudence.

²¹ In relation to the difficulty of identifying lines of command, see paragraphs 30-31 of the report “Human rights violations in the context of the 2017 elections in Honduras”.

41. By 31 October 2019, the Office of the Attorney General had informed OHCHR that the Military Police and the Army had not referred any cases for judicial investigation.

Strengthening the role of prosecutorial services

42. The UN Guidelines on the Role of Prosecutors establish that prosecutors shall give due attention to the prosecution of crimes committed by public officials, particularly corruption, abuse of power, grave violations of human rights and other crimes recognized by international law and, where authorized by law or consistent with local practice, the investigation of such offences²². In March 2018, OHCHR recommended the Office of the Attorney General conduct “prompt, impartial, independent and transparent investigations” into all allegations of human rights violations, “prioritizing the deaths and injuries that took place in the context of the elections, including during protests, as well as cases of ill-treatment in detention”.²³ This also involves the obligation for the State to take appropriate measures to ensure individual criminal responsibility of perpetrators, by ensuring that those responsible for serious crimes under international law are prosecuted, tried and duly punished.²⁴

43. OHCHR offers the following observations on the ongoing efforts of the Attorney General’s Office:

Killings related to the protests

44. By 10 September 2019, trials were ongoing in relation to two killings that occurred in the context of the post-electoral violence. In September 2018, the Office of the Specialized Prosecutor for Crimes against Life filed charges of homicide against a member of the National Police for the killing of a boy of 15 years old on 4 December 2017, in Agua Blanca, department of El Progreso. In March 2019, the initial hearing took place for the killing of David Octavio Quiroz Urrutia, on 15 December 2017, in Villanueva, department of Cortés, with charges against a sergeant of the MPOP. Both defendants are detained on remand - the Police Officer is held at the penitentiary centre Marco Aurelio Soto, in the Valley of Tamara; and MPOP sergeant is at detention facilities located within the Third Infantry Battalion in Naco, department of Cortes.

45. In September 2019, the Office of the Attorney General informed OHCHR that investigations were continuing into 20 other deaths they considered to be related to the post-electoral context, out of an original batch of 43 cases. The victims are 17 civilians²⁵ and three

²² See United Nations Guidelines on the Role of Prosecutors, paragraph 15, available at <https://www.ohchr.org/Documents/ProfessionalInterest/prosecutors.pdf>

²³ “Human rights violations in the context of the 2017 elections in Honduras”, paragraph 125.

²⁴ Principle 19 of the UN Updated Set of Principles for the protection and promotion of human rights through action to combat impunity (E/CN.4/2005/102/Add.1/2005).

²⁵ The 17 civilian victims are: José Abilio Soto (46), killed in La Ceiba, department of Atlantida; Victor Evelio Martinez (23), Jose David Ramos Lambert (22), Roger Alberto Vasquez Reyes (36), Mauricio Jonathan Echeverria (23) and Michael Jair del Ponce Saucedo (15), all killed in the same incident in December 2017 in Choloma, department of Cortes; Kimberly Dayana Fonseca Santamaria (19), killed in the Colonia Pedregal, Tegucigalpa; Erick Javier Montoya Cruz (27), killed in the Colonia Francisco Morazán, Tegucigalpa; Delmer Josue Medina (28), killed in Las Limas, department of Cortes; Jose Uriel Garcia Hernandez (31), killed in Cholouteca; Raul Antonio Trimiño (35), killed in the Colonia Los Pinos, Tegucigalpa; Telmo Isauro Villareal Aguilar (62), killed in Saba, department of Colon; Ramon Fiallos (65), killed in Arizona, department of Atlantida; José Fernando Melgar (26), killed in Rio Danto, La Ceiba, department of Atlantida; Christian Fernando Hernandez Yanes (24), killed in the

National Police Officers²⁶. OHCHR considers that the killing of two police officers, on 3 December 2017, in Río Tinto, department of Olancho is not related to the post-electoral context.²⁷

Violations of the right to physical integrity during protests and ill-treatment during arrest and detention

46. By September 2019, the Office of the Attorney General had filed charges related to violations of the right to physical integrity against six members of the security and defense forces, in relation to four separate incidents involving five victims. Charges include attempted homicide (one); torture (one); and assault causing actual bodily harm (two). Twenty-one more incidents are reportedly under investigation. Also, six criminal cases in which the victims suffered physical injuries or mistreatment at the hands of the defense and security forces were prosecuted as crimes against the administration of the State under article 349²⁸ of the Penal Code.

47. OHCHR documented at least 21 other instances in which victims who suffered bodily harm, reportedly at the hands of the security and defense forces, filed complaints, either with the National Police or with the Office of the Attorney General. Yet the Office of the Attorney General could not locate the complaints and report on actions taken since.

48. OHCHR documented the cases of 10 individuals arrested on 1 December 2017, transferred to the National Inter-Institutional Security Force (FUSINA), and detained at the premises of the 105th Army Brigade in San Pedro Sula until the early morning of 4 December. After their release, OHCHR observed bruises and other marks on their bodies, which were also documented by the General Directorate of Forensic Medicine of the Office of the Attorney General and the National Mechanism for the Prevention of Torture (CONAPREV). OHCHR expresses concern at what appears to constitute acts of torture against the above-mentioned 10 individuals by the defense and security forces.

Enforced disappearance

49. OHCHR documented the disappearance of a student, Manuel de Jesús Bautista Salvador (22 years old), on 3 December 2017, in Naco, department of Cortes. Witnesses informed

Colonia Felipe Zelaya, San Pedro Sula, department of Cortes; Jesus de Maria Sanchez Euceda (43) killed in San Pedro Sula, department of Cortes; Domingo Ismael Hernandez (40), killed in Choloma, San Pedro Sula, department of Cortes.

²⁶ According to information provided in comments by the State of Honduras to this report received on January 14, 2020, it is stated that: "In this same post-electoral context, 253 police and military personnel were reported injured, 20 of whom filed complaints with the Public Prosecutor's Office for the crime of injury.

²⁷ Police officer Maikin Enoc Ramirez Varela Meza died on 22 December 2017 as a result of injuries to the head sustained during a crowd control operation in the Colonia Brisas de Ullua, El Progreso, department of Yoro. Two men were charged for the killing but released as the judge closed the case at the preliminary hearing. Police officers Milton Orlando Rivera Cortés and Israel Hernández Varela were killed on 3 December 2017 in Río Tinto, Catacamas, department of Olancho. Besides the fact that the killing took place during the state of emergency that was imposed on 1 December 2017, official information available does not present other elements linking this killing to the protests.

²⁸ Article 349 of the Criminal Code, which defines the offences of abuse of authority and violation of the duties of officials.

OHCHR that he had disappeared after his arrest by MPOP while being transferred in an army vehicle from the place where he was detained to a detention centre. The lawyers of his family submitted a request for urgent action to the United Nations Committee on Enforced Disappearance.²⁹ In early 2018, the Committee publicly informed that it had requested the State of Honduras “to take all the necessary measures, including interim measures, to locate and protect the person”. As of 31 October 2019, the case remained under investigation by the Prosecutor’s Office.

Investigation procedures

Delays in proceedings and lack of cooperation with the investigation

50. Prosecutors handling reports of human rights violations involving army personnel indicated to OHCHR that they faced significant obstacles in obtaining crucial information for their investigations, and qualified 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 reviewing the evidence, or were not allowed access on the grounds they had not followed the appropriate procedure or that responsible officials were not available.

51. In October 2018, the Office of the Attorney General announced through social media that it had requested the Armed Forces share information on the post-electoral incidents and deaths. It clarified that such information “was in the hands of the Chief of the Armed Forces who is legally obliged to hand it over to the Office of the Attorney General” and that the lack of “unrestricted access to the requested information prevents progress towards the truth”. That same month, the Chief of Staff of the Armed Forces publicly replied that they had already shared all available information.

52. In March 2019, Criminal Investigation Technical Agency (ATIC) officers from the Office of the Attorney General were prevented from entering the installations of MPOP within the Third Army Brigade in San Pedro Sula. They had gone to arrest a sergeant suspected of a killing. The suspect was eventually handed over to ATIC after several hours of standoff, and with the assistance of OHCHR encouraging dialogue.

53. In April 2019, the Office of the Attorney General declared in its social media that the MPOP hierarchy had obstructed the work of its prosecutors as they were collecting information held by the Unit of Information and Criminal Investigation of MPOP.³⁰ It stressed that all State officials had a duty to cooperate with judicial authorities and that failure to do so could result in criminal charges. So far, no charges have been brought on such grounds.

54. As of 20 September 2019, OHCHR had documented 21 hearings in 12 criminal cases, including eight preliminary hearings. No case on trial has yet resulted in a verdict.

55. In assessing the proceedings, OHCHR noted that the absence of notification of hearings to the defendants was a main cause for delay. For example, the hearing of three officers of the Armed Forces accused of injuring a boy in Choluteca, originally scheduled in October 2018,

²⁹ <https://www.ohchr.org/EN/HRBodies/CED/Pages/CEDIndex.aspx> .

³⁰ See <https://www.elheraldo.hn/pais/1278211-466/ministerio-p%C3%BAblico-denuncia-obstaculizaci%C3%B3n-en-investigaci%C3%B3n-sobre-muertes-post-electorales>

was adjourned five times over a period of eight months, due to the impossibility to notify the defendants. The notifying official was denied entry to the Battalion, informed that the defendants had been reassigned, not provided with their new duty station, and informed that the notification had to be re-processed and addressed to the Office of Internal Affairs of the Armed Forces. In another case, in San Pedro Sula, in April 2018, a judge ordered the arrest of a MPOP officer after he failed to appear in court three times. OHCHR is concerned at what appears to be tactic of obstruction by the armed forces. OHCHR is concerned about such practices which result in impediments to progress in establishing the truth.

56. OHCHR also observed delays in responses of the judiciary to requests from the Office of the Attorney General. For example, the hearing involving the testimony of a witness in the killing of a man in Tegucigalpa,³¹ took place in July 2019, six months after the request of the Office of the Attorney General. In other cases, delays resulted from the belated processing of expert evidence. This is particularly the case for ballistic evidence, due to limited resources and poor keeping of registries of weapons by the defense and security Forces. For example, in the course of the investigation of MPOP for incidents that occurred in December 2017 in Choloma, department of Cortes which resulted in the death and injuries of protesters and passers-by, MPOP referred over 100 weapons for ballistic tests, thereby clogging the limited capacity of technicians. The initial hearing in the case brought against a MPOP for the attempted homicide of a 22-year old woman in San Pedro Sula has not been held since its initial scheduling in January 2019. By September 2019, an expert had not been able to present a report on the location of the accused through cell phone data as the Office of the Attorney General had not yet handed in the records of the telephone company.

57. Such delays may affect both the right of the defendants to a fair trial as well as the right of victims to justice and fair treatment, including their right not to face unnecessary delay in the disposition of cases and prompt redress.³²

58. In December 2019, the Inter-American Commission on Human Rights, in its report on the human rights situation in Honduras, recommended: "To advance in an independent and impartial manner in the investigations that may identify and punish those responsible for the acts of violence, murders and ill-treatment in the context of the protests following the elections³³.

4. Protection of victims and witnesses

59. The ability of a victim, witness or other person to cooperate with criminal investigations and to testify without fear of intimidation or retaliation is an essential element in the fight against impunity and in the protection of human rights. Since 2007, a witness and victim protection programme has been in place within the Office of the Attorney General. Furthermore, the code of criminal procedure establishes measures protecting individuals cooperating with the judicial system, for example by means of concealment of the identity of

³¹ On January 2018, the Special prosecution unit of crimes committed by military police, requested the Judiciary to take the testimony of a witness through the procedures of anticipated evidence, considering the risks the witness was facing.

³² Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, adopted by the General Assembly resolution 40/34 of 29 November 1985, available at <https://www.ohchr.org/EN/ProfessionalInterest/Pages/VictimsOfCrimeAndAbuseOfPower.aspx>.

³³ <https://www.oas.org/es/cidh/informes/pdfs/Honduras2019.pdf>

the witness. However, United Nations human rights mechanisms expressed concern at the shortcomings in the victim and witness protection programme.³⁴

60. OHCHR observed that ongoing cases rely significantly on the testimonies of victims and witnesses, and that persons cooperating with the judicial system have at times reported to OHCHR or the authorities increasing concerns for their safety and their relatives'. A witness of the killing of Virgilio Jared Ávila (15 years old) informed the Office of the Attorney General he had received threats from the National Police. He was subsequently relocated through the witness protection programme. However, as the programme faces funding shortages and was not in a position to rent a safe shelter, the witness had to return to his residence and was again exposed to threats.

61. OHCHR documented the case of at least five victims and their families who left the country in search of asylum after reported threats and surveillance. In most cases, victims and families only received support from domestic and international civil society organizations.

B. The right to the truth

62. The right to the truth entitles the victim, his or her relatives and the public at large to seek and obtain all relevant information concerning the human rights violation(s), the process by which the violation(s) was / were officially authorized, or took place in the context of an official order or instruction, and, where relevant, the fate and whereabouts of the victim. In addition, victims and their representatives should be entitled to seek and obtain information on the causes leading to their victimization and on the causes and conditions pertaining to the gross violations of international human rights law and serious violations of international humanitarian law and to learn the truth in regard to these violations.³⁵ The right to truth requires States to establish institutions, mechanisms and procedures that contribute to the revelation of the truth, as a process to seek information and facts about what has taken place, to contribute to the fight against impunity, to the reinstatement of the rule of law and, ultimately, to reconciliation.

63. On 27 January 2018, in his inauguration speech, President Hernandez announced the establishment of a "Verification Commission" and referred to the right of victims and their families to know the truth.³⁶ In March 2018, the Ministry of Human Rights shared with OHCHR a proposal for the establishment of a "Verification Commission on the incidents of pre-and post- electoral violence in Honduras".

64. The proposal of the Ministry of Human Rights foresaw the establishment of a verification commission by Decree of the President. The verification commission was to be composed of national and international experts appointed by the President and mandated to assist the State of Honduras in the clarification/revelation of the facts and circumstances of the violence that surrounded the November 2017 elections. OHCHR provided technical advice to the Ministry on the proposal, and made recommendations to strengthen the independence of the proposed body. As the proposal foresaw that the Verification Commission mandate would extend to

³⁴ CAT/C/HND/CO/2 (CAT, 2016), para 31; A/HRC/22/47/Add.1.

³⁵ See para 24 of the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law.

³⁶ <https://www.presidencia.gob.hn/index.php/gob/el-presidente/3578-discurso-integro> .

“circumstances and facts related to violence which occurred prior and after the elections”, whether attributable to the State or other actors, OHCHR recommended the strengthening of the focus on human rights violations rather than common crimes. The Government put the proposal on hold.

65. Between April and June 2018, OHCHR and the Inter-American Commission on Human Rights recommended to the Government that it should seek international support to develop a truth-seeking process through an independent international or regional inquiry.

66. In December 2018, the Human Rights Working Group established in the context of the United Nations-supported National Political Dialogue recommended the establishment of a “Special Commission” to facilitate access to information in relation to investigations and trials of the cases of human rights violations that occurred in the electoral context. It advised that such a commission be composed of representatives of the National Congress, the Office of the Attorney General, the National Human Rights Institution (CONADEH), the Office of the Advocate of the State (Procuraduría General de la República), representatives of victims and their relatives, and produce periodic public updates on progress and challenges. However, the recommendations of the Working Group were not endorsed at the political level and therefore remain unimplemented.

67. The establishment of a truth mechanism on human rights violations that occurred during the post-electoral context remains pending, as does a public official acknowledgement of the violations that took place.

C. Reparations

68. Victims of serious human rights violations have a right to reparations for the harm suffered. They should be provided with effective reparation in the form of restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition³⁷.

1. Restitution

69. To the extent possible, victims should be restored to the original situation before the gross violations of international human rights law or serious violations of international humanitarian law occurred. Restitution measures include, inter alia, restoration of liberty, enjoyment of human rights, identity, family life and citizenship, return to one’s place of residence, restoration of employment and return of property.

2. Compensation

70. The right to compensation is foreseen for any economically assessable damage, such as physical or mental harm, moral and material damage, loss of earnings, costs for legal assistance, medicine and medical services, as well as the right to rehabilitation, medical and psychological care. It complements the right to the highest attainable standard of physical and mental health, to an adequate standard of living, to social security and work, and other rights, to which all human beings are entitled.

³⁷ See Basic Principles and Guidelines on the Right to a Remedy and Reparation, paras 19-22.

3. Rehabilitation

71. Rehabilitation measures should include medical and psychological care, as well as legal and social services.

72. Many victims of post-electoral violence experienced short and long-term physical and psychological impairments. Some became physically disabled; others lost their work. For many victims and their families, the human rights violations experienced resulted in increased poverty, because of the cost of accessing health care and rehabilitation, and loss of income. Students and children missed out on their education, as they were hospitalized for long periods or unable to access educational facilities due to physical impairment.

73. At the peak of the crisis, between 30 November 2017 and 3 December 2018, OHCHR documented the admission of 36 patients at the School Hospital in Tegucigalpa only, including 21 with firearm wounds. Although health care at this hospital is free of charge, families of patients had to pay or provide all necessities, including gloves and syringes as these were not available. After receiving emergency treatment, many victims required periodic care and treatment, as well as surgery. With social security covering only 40 per cent of actively employed individuals and their dependents – namely 18 per cent of the total population³⁸ - the cost of treatment represents a barrier to accessing health care for many victims.

74. An 18-year-old girl who was injured by multiple bullets in her right arm and lung on 30 November 2017 in Tegucigalpa, for example, is unable to access further treatment as she is no longer covered by her mother's social insurance, having reached adult age. A man who became paraplegic and partially blind after being shot in Choloma in December 2017 was only granted a disability pension in June 2019 due to delays in processing his file.

4. Satisfaction

75. Satisfaction measures encompass a wide range of measures, including, inter alia, effective measures aimed at the cessation of continuing violations, the search for the whereabouts of the disappeared, public apology, including acknowledgement of the facts and acceptance of responsibility, judicial and administrative sanctions against persons liable for the violations, commemorations and tributes to the victims and others.

76. Satisfaction may also include the right of families to access pensions. The families of the deceased have faced obstacles in accessing pensions. The family of a factory worker killed in Choloma in February 2018 applied for a survivor's pension. By the summer of 2019, the application was still being reviewed by the Honduran Institute of Social Security (IHSS), as the family faced difficulties in obtaining forensic documents proving the death and the lack of financial resources hindered their ability to seek expert support. On the other hand, the family of a person who was allegedly the victim of an enforced disappearance had been unable to access his pension, in the absence of legislation defining the legal status of disappeared persons.³⁹ Existing procedures require waiting a period of five years until a certificate of legal presumption of death can be obtained.

³⁸ <https://www.paho.org/salud-en-las-americanas-2017/?p=4280> .

³⁹ CED/C/HND/CO/1

77. In February 2019, OHCHR wrote a letter to the Minister of Human Rights expressing concern about challenges in accessing health and social security for victims of human rights violations committed in the context of the elections. OHCHR urged the Government to establish a scheme to provide comprehensive assistance and reparations to victims.

78. The situation of victims is all the more challenging as no civil action for damages can be filed until individual criminal responsibility is established.

5. Guarantees of non-recurrence

79. The commitment to uphold human rights involves the obligation to adopt the measures necessary to ensure that violations cease and are not repeated.⁴⁰ The right of victims is therefore closely linked to the obligation of the State to reduce the likelihood of further violations, to the benefit of the victims and of society at large. The nature and content of such measures are context and time specific and range from ratification of international treaties, constitutional reforms as well as of legislation and policies, such as in the areas of security and justice.

5.1. Security sector

80. Human rights mechanisms have highlighted that crucial reforms in the security sector aimed at the prevention of violations include a clear definition of the respective roles of the police, the military and the intelligence services; and the establishment or strengthening of civilian control over the armed forces.⁴¹

81. In 2016, the High Commissioner for Human Rights called on the Government of Honduras to adopt preventive measures and ensure that the deployment of military forces to perform civil security duties would take place only under exceptional circumstances, be limited in time and be under strict civilian control.⁴² In July 2017, the United Nations Human Rights Committee warned against the militarization of law enforcement and recommended strengthening the national police force and withdrawing any law enforcement functions from the armed forces.⁴³ In 2018, the High Commissioner for Human Rights advised Honduras to reform the Law on the Military Police of the Public Order, restrict the circumstances of its involvement in civilian policing, and adopt comprehensive legislation to regulate the use of force by all security and law enforcement agencies, in accordance with applicable international human rights norms and standards.⁴⁴

82. In December 2018, the Human Rights Working Group established in the context of the United Nations-supported National Political Dialogue, formulated recommendations consistent with those of international human rights mechanisms. These included the review of the role of MPOP in public order functions; the strengthening of the National Police so that it would take over public order functions; the reform of the normative framework on the use of force and the review of the operational protocols; the creation of a registry of the weaponry assigned to the security forces; and the strengthening of internal disciplinary mechanisms.

⁴⁰ Para 18, <https://www.ohchr.org/Documents/Issues/Truth/A-HRC-30-42.pdf>.

⁴¹ <https://www.ohchr.org/Documents/Issues/Truth/A-HRC-30-42.pdf>

⁴² A/HRC/34/3/Add. 2, para. 12.

⁴³ CCPR/C/HND/CO/2, paras. 20–21.

⁴⁴ “Human rights violations in the context of the 2017 elections in Honduras”.

83. OHCHR welcomed the entry into force, in January 2018, of the laws on the Ministry of Security, on the national police and on the police career⁴⁵. The number of police officers increased by almost 4,000 between 2018 and 2019, bringing the total number of police officers to 17,878, with a target of 26,000 officials set for 2022⁴⁶.

84. However, no steps have been taken to review the role and the deployment of the Armed Forces and MPOP in internal security functions, nor to review the legal and operational framework on the use of force. Following the events related to the 2017 electoral period, OHCHR has continued to document human rights violations resulting from excessive use of force in the context of the policing of assemblies, such as in June 2019 when the Armed Forces entered the premises of the National Autonomous University of Honduras, shooting and injuring unarmed students.

85. OHCHR reiterates the importance of reviewing the 2014 law on classification of public documents related to security and national defence⁴⁷, in compliance with the recommendations of national, regional and international bodies, which would allow transparency and accountability over the handling of the security budget.

5.2. Justice sector

86. The strengthening of the justice sector is an urgent priority to ensure it effectively contributes to the protection of human rights.

87. Since the abrogation in 2016 of the Law on the judicial council,⁴⁸ there is no adequate framework regulating the judicial career and its administration. In 2016, the report of the High Commissioner for Human Rights on the situation of human rights in Honduras observed that the remaining legislation was inadequate and hampered judicial independence.⁴⁹ At the end of his visit to Honduras in August 2019, the Special Rapporteur on the Independence of Judges and Lawyers urged the adoption of urgent actions to reinforce the independence of the judicial system, noting that its independence and other crucial democratic principles, such as the separation of powers, remained a great challenge.⁵⁰ International and regional human rights mechanisms have expressed concern over the composition and functioning of the National Council for Defense and Security, considering that the presence of the President of the Supreme Court and the Attorney General in its deliberations undermine the separation of powers between the branches of the State and judicial independence.⁵¹

⁴⁵ Decree 018-2017 which issued the Organic Law of the Secretary of State in the Office of Security and the National Police. Decree 069-2017 issued the Law on Police Careers in order to guarantee members of the National Police their professionalization and respect for their rights as recognized in the special regime established by the Constitution of the Republic of Honduras.

⁴⁶ Information provided in comments by the State of Honduras on this report received on 14 January 2020.

⁴⁷ Decree 418-2013

⁴⁸ <http://www.poderjudicial.gob.hn/transparencia/regulacion/diariooficiallagaceta/Documents/Recurso%20de%20Inconstitucionalidad%20Ley%20Consejo%20de%20la%20Judicatura.pdf/> .

⁴⁹ A/HRC/34/3/Add.2, paragraph 23.

⁵⁰ <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=24911&LangID=E>

⁵¹ <https://www.oas.org/es/cidh/informes/pdfs/Honduras2019.pdf>, paragraph 93; <https://oacnudh.hn/relator-especial-de-las-naciones-unidas-sobre-la-independencia-de-los-magistrados-y-abogado-sr-diego-garcia-sayan-observaciones-preliminares-sobre-la-visita-oficial-a-honduras>

88. Furthermore, the scarcity of prosecutors, judges, forensic doctors and public defence attorneys; weak selection processes vulnerable to external influences; limited funding; and lack of a solid career path favouring skills development all contribute to undermining the capacity of the judicial system to function independently. The lack of dedicated protocols to investigate unlawful deaths and cases of torture and other cruel, inhuman or degrading treatment or punishment, aligned with the Istanbul⁵² and Minnesota protocols remains a concern.⁵³

D. Prosecution of individuals accused of crimes committed during the protests

89. OHCHR documented that criminal charges were brought against at least 114 individuals for their alleged involvement in crimes committed during the protests. Offences include crimes against the security of the State and public order, against property (damage, arson, production of explosive material and robbery), or unlawful possession of weapons.

90. By 27 January 2018, 96 persons were on trial, and the number reduced to 77 in August 2019 following the dismissal of several cases at the preliminary hearing phase, mostly on the grounds of the weakness of elements put forward by the Office of the Attorney General to attribute the individual criminal responsibility.

91. Following Gustavo Cáceres' acquittal on 14 November⁵⁴, there are no persons in pre-trial detention. By the end of October 2019, 76 defendants had been granted non-custodial measures pending trial.

92. The trial of Edwin Robelo Espinal and Raul Alvarez by the specialized national jurisdiction circuit, competent to deal with high impact crimes committed by organized criminal groups, remains a particular concern. In March 2018,⁵⁵ OHCHR alerted that charges brought against the two defendants⁵⁶ did not fall within the competence of that jurisdiction, and that the lack of clarity concerning the substantive grounds of the assignment of the case raised questions of trial fairness. In February 2018, the lawyers of the defendants filed an application challenging the jurisdiction of the specialized national jurisdiction circuit. The Appellate Court resolved it in June 2019, returning the case to the national circuit on the grounds of procedural errors, including the belatedness of the challenge. The holding of hearings at the national jurisdiction circuit, located within the premises of the Fuerte General Cabañas of the Armed Forces, in Tegucigalpa, limited the publicity of the hearings and access by the public, including national and international observers, because of the need to obtain a specific authorization in order to access the premises and courtroom.

93. Their pre-trial detention for over 18 months in the maximum-security penitentiary of La Tolva in Moroceli was a concern, for its length and substandard conditions of detention, which both OHCHR and CONAPREV documented and brought to the attention of the authorities. In June 2019, a judge tasked with overseeing conditions of detention recommended to the National Penitentiary Institute (INP) their transfer to another centre, in order to protect their life and physical integrity. In July 2019, CONAPREV reiterated the recommendations, upon which

⁵² <https://www.ohchr.org/Documents/Publications/training8Rev1en.pdf>.

⁵³ <https://www.ohchr.org/Documents/Publications/MinnesotaProtocol.pdf>.

⁵⁴ Gustavo Cáceres was in pre-trial detention from December 2017 until August 2019 for charges of possession and carrying of explosives. He was acquitted after trial in November 2019.

⁵⁵ "Human rights violations in the context of the 2017 elections in Honduras", paragraph 112.

⁵⁶ Serious damages, arson and use of explosive material.

no action had been taken. On 9 August 2019, the Judiciary reviewed the pre-trial detention measure and replaced it with non-custodial measures.

94. The last person facing criminal proceedings for possession and carrying of explosives was acquitted on 14 November and released. During his pre-trial detention that lasted almost two years, three assessments conducted by health and social services in September 2018 and July 2019 evaluated that he suffered a mental or intellectual impairment. OHCHR has not been able to identify the measures adopted to guarantee his right to a fair trial and the grounds that warranted his continued detention pending trial.

VI. Conclusions and recommendations

95. OHCHR urges the State of Honduras to accelerate prompt and effective progress to ensure the judicial accountability of perpetrators of human rights violations committed by the security forces in the context of the 2017 elections.

96. Two years after the events, the majority of the serious human rights violations in which a judicial case has been opened, including summary or extrajudicial executions, torture and enforced disappearance, remain under investigation and have not led to judicial accountability for the perpetrators, or justice for the victims. In many more cases that have been documented by OHCHR, including violations of the right to physical integrity or freedom from torture and ill-treatment, the Office of the Attorney General has not taken any action and no investigation has been opened.

97. The absence of official recognition of the human rights violations committed, of adequate remedies to victims and their families, the delays in adopting reforms necessary to prevent repetition of violations, and the lack of progress on accountability fuel distrust towards authorities.

98. OHCHR formulates the following recommendations, reiterating those issued in its report on the violations of human rights in Honduras in the context of the 2017 elections.

99. To the Executive:

- a) Impart clear orders to all commanders to fully cooperate with judicial authorities;
- b) Strengthen the commitment already expressed to responsibly and seriously address human rights violations in the context of the 2017 elections; and establish a truth-seeking mechanism and inform victims, families and the general public;
- c) Refrain from deploying the Armed Forces and the Military Public Order Police to monitor protests and demonstrations, pending the adoption of the necessary reforms to restrict their intervention in public order functions;
- d) Accelerate the implementation of the reform of the National Police and the Ministry of Security, and efforts to reach police deployment targets;
- e) Initiate the reform of the Law of the national council on defense and security; the Law on the classification of public information on security and defense issues; and the legislative frameworks on the use of force, ensuring their compliance with international human rights norms and standards;

- f) Review and revise protocols and manuals on the “handling of crowds” and the use of force, so that they fully reflect relevant international human rights norms and standards; and
- g) Adopt and implement comprehensive assistance and reparation programmes for victims of human rights violations and their families.

100. To the National Congress:

- a) Initiate the adoption of a law on protecting the independence of the judiciary and the reform of the National Council for Security and Defence, ensuring separation of powers in the administration of the State;
- b) Promote the adoption of legal reforms to strengthen the justice sector and its independence, including in relation to the judicial career, the judicial council and the election of high level judicial authorities;
- c) Promote and oversee legal reforms to improve the human rights performance of the security forces, such as by restricting the use of the Armed Forces in law enforcement functions and reform legislation and protocols on the use of force by all security and law enforcement agencies;
- d) Promote transparency protocols and accountability by the defense and security sector by reforming the Law on the classification of public information on security and defense issues, ensuring compliance with applicable international human rights standards; and
- e) Exercise oversight of the Armed Forces; periodically hold hearings with and concerning the Armed Forces, including with relevant Ministers, military and civil servants, and civil society; promote inquiries on priority defense and security issues; exercise due diligence over defense and security spending.

101. To the Office of the Attorney General and the Judiciary:

- a) Intensify efforts to investigate, prosecute and try cases of human rights violations; adopt an effective prosecutorial strategy to expedite the appropriate resolution of cases; identify patterns of violations and systemic gaps and deficiencies that allowed the occurrence of violations;
- b) Assign dedicated expertise and establish a pool of investigators and prosecutors to handle these cases, and seek regional and international technical assistance to that end;
- c) Intensify the efforts made to adapt the Protocol to investigate potentially unlawful deaths in line with the Minnesota Protocol, which is being developed with the cooperation of OHCHR, as well as the process of adapting the Istanbul Protocol for cases of torture and other cruel, inhuman or degrading treatment or punishment;
- d) Recognize the right of victims to access justice and participate in criminal proceedings; establish a mechanism to maintain dialogue and share information on incidents and cases with the victims, their families and lawyers; strengthen protection mechanisms for victims and witnesses; periodically inform the public on advances in, and challenges to, investigations.

102. To the International community:

- a) Engage and support the State in the implementation of these recommendations, and participate in the monitoring of their implementation;
- b) Provide targeted technical and financial assistance to the institutions of Honduras, in particular the rule of law institutions and the security sector, to support these recommendations.

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