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مجلس حقوق الإنسان

الدورة الثانية والخمسون

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البند 2 من جدول الأعمال

التقرير السنوي لمفوض الأمم المتحدة السامي لحقوق الإنسان

وتقارير المفوضية السامية والأمين العام

حالة حقوق الإنسان في هندوراس

تقرير مفوض الأمم المتحدة السامي لحقوق الإنسان **

موجز

يصف مفوض الأمم المتحدة السامي لحقوق الإنسان في تقريره هذا حالة حقوق الإنسان وأنشطة مكتب المفوضية السامية في هندوراس في الفترة من 1 كانون الثاني/يناير إلى 31 كانون الأول/ديسمبر 2022. ويسلط التقرير الضوء على أوجه التقدم الرئيسية والتحديات الماثلة في مجال تعزيز حقوق الإنسان وحمايتها، ويُختتم بتوصيات موجهة إلى الدولة المعنية.

* قُدِّم هذا التقرير بعد الموعد النهائي بغية تضمينه آخر المستجدات.

** يعمم موجز هذا التقرير بجميع اللغات الرسمية. أما التقرير نفسه، المرفق بهذا الموجز، فيعمَّم باللغة التي قُدِّم بها وبالإنكليزية فقط.



الرجاء إعادة الاستعمال

Annex

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

I. Introduction

1. The present report is submitted pursuant to article V (4) of the agreement signed by the Office of the United Nations High Commissioner for Human Rights (OHCHR) and the Government of Honduras on 4 May 2015. The report and the analysis contained herein are based on information gathered by OHCHR in the country and information provided by State authorities, civil society and victims.

2. OHCHR continued to monitor the human rights situation on site in Honduras and to provide technical assistance for the promotion and protection of human rights. Its thematic priorities included: strengthening the rule of law, particularly access to justice; promoting civic spaces and citizen participation; promoting economic, social and cultural rights and measures to progressively give full effect to these rights; promoting equality and non-discrimination against vulnerable persons; and preventing, and providing early warning of, social conflict and human rights violations.

3. OHCHR conducted 95 field missions to monitor the human rights situation, including visits to detention centres. It established 80 technical assistance and institution-building processes aimed at State institutions as well as organizing and providing support for 69 workshops and training sessions on human rights. It also monitored 47 judicial proceedings, including emblematic human rights cases. OHCHR provided technical support to more than 400 civil society organizations and launched 13 communication campaigns to promote human rights.

II. Context

4. The assumption of power, on 27 January 2022, by a new Government led by the first woman president in the country's history and with political will in the area of human rights and the fight against corruption set a new stage for human rights work in Honduras. The Government took office amid existing structural problems that had resulted in human rights violations including poverty and inequality, land disputes, violence, insecurity, impunity, institutional weakness and a patriarchal culture. The resolution of these issues requires short-, medium- and long-term measures.

5. OHCHR acknowledges the advances achieved by the State in 2022, many of which related to compliance with the recommendations made by our Office. The advances included the adoption of a legal framework to strengthen the independence of the judiciary, the start of the progressive demilitarization of the prison administration, the repeal of the Act on the Classification of Public Documents relating to Security and National Defence, known as the Secrecy Act, the repeal of all regulations related to employment and economic development zones and progress on environmental matters.

6. The enjoyment of socioeconomic rights continues to be hindered by high pre-existing levels of poverty and inequality. The high incidence of conflict linked to access to land and natural resources had a significant negative impact on the effective guarantee of human rights, particularly for Indigenous Peoples, Afro-Hondurans and campesino communities.

7. The Government has signed an agreement with the campesino movement in Bajo Aguán with the aim of seeking lasting solutions that address the structural causes of the agrarian conflict in the area.

8. The murder rate was 35.83 per 100,000 inhabitants,¹ the lowest for 10 years. Although this figure has fallen since 2021, violence and insecurity have continued to affect the country, with their impact on women and lesbian, gay, bisexual, transgender and intersex persons being particularly severe.

9. OHCHR provided technical assistance for the drafting and implementation of the Special Act on the Organization and Functioning of the Nominations Committee for the Nomination of Candidates to the Supreme Court of Justice (Decree No. 74-2022), which was adopted by the National Congress in July. This legal framework establishes objective selection criteria based on international standards for judicial independence and provisions that guarantee transparency, oversight and citizen participation and greater gender equity in the Court's composition.

10. On 24 November 2022, the President of Honduras, Xiomara Castro, declared a state of national emergency to combat the extortion being perpetrated by organized criminal gangs. By means of Decree No. 29-2022, on 6 December, a state of emergency came into force in the 162 neighbourhoods with the highest crime rates in Tegucigalpa and San Pedro Sula. The main measures taken were the suspension of the rights to personal liberty, freedom of association, freedom of assembly and freedom of movement. The measures also granted the police powers to carry out arrests and raids without a warrant. OHCHR reiterates the need to adopt a comprehensive security policy that focuses on prevention and investigation and addresses the root causes of violence.² The Office welcomes the establishment of a high-level inter-agency round table to follow up on the implementation of the state of emergency.

III. Development and economic, social, cultural and environmental rights

11. In April, the National Congress repealed Legislative Decree No. 263-2012, on the creation and organization of employment and economic development zones, and all related regulations.³ The Government has announced that zones already in operation will be required to register under existing special regimes. OHCHR welcomes this repeal, which responded to recommendations made by the Office and human rights mechanisms, and urges the State to adopt measures to implement it with the effective participation of the communities in the territories concerned and to guarantee the right to prior, free and informed consultation of Indigenous Peoples and Afro-Honduran communities.

A. Access to economic, social, cultural and environmental rights

12. The enjoyment of these rights continues to be affected by the high pre-existing levels of poverty and inequality and by the socioeconomic effects of the coronavirus disease (COVID-19) pandemic and climate change, including the effects of the tropical storms that have hit the country. In July 2022 it was reported that 73.6 per cent of the population was living in poverty, with 53.7 per cent in extreme poverty.⁴ In February, the National Congress declared a fiscal and financial emergency in the public sector in order to address the public debt of more than 197 billion lempiras accumulated by previous governments.⁵ The Government has established the Ministry of Social Development to promote social development and protection and the Solidarity Action Programme to ensure support for vulnerable persons.

13. Influenced by global trends, high year-on-year inflation also affected the purchasing power and consumption of Honduran households. The Office welcomes the amendment to

¹ See [http://www.sepol.hn/artisistem/images/sepol-images/files/PDF/INFOGRAFICO ANUAL\(2022\).pdf](http://www.sepol.hn/artisistem/images/sepol-images/files/PDF/INFOGRAFICO%20ANUAL(2022).pdf).

² See <https://oacnudh.hn/oacnudh-llama-a-adoptar-respuestas-integrales-de-combate-a-la-violencia-y-criminalidad-organizada-a-partir-de-un-enfoque-de-derechos-humanos/>.

³ Legislative Decrees Nos. 32-2022 and 33-2022.

⁴ See <https://www.ine.gob.hn/V3/imag-doc/2022/07/Boletin-Dia-de-la-poblacion-11-de-julio-1.pdf>.

⁵ Legislative Decree No. 8-2022.

the budget that increased allocations for education and health through Decree No. 30-2022. In June, the Government declared a public health emergency to address drug shortages in the health system.

14. The country's vulnerability to climate change has hindered the right to food, among others, thereby increasing humanitarian needs. In September, flooding led the Government to declare a 90-day national state of emergency. In October, Storm Julia affected more than 144,000 persons and caused damage in 15 of the country's 18 departments.⁶ In addition to a humanitarian response, such as the food emergency declared in April, these adverse weather events call for medium- and long-term measures to mitigate the effects of climate change and enable the persons most affected to adapt and increase their resilience.

15. Guaranteeing the right to food and health of the Indigenous communities of San Francisco de Locomapa remains a challenge, despite the fact that, in July, the Constitutional Chamber ratified the *amparo* ruling of San Pedro Sula Administrative Court of First Instance that required the municipal corporation to set up and equip health centres in these communities and implement a plan to guarantee their right to food. The Office urges the Yoro local authority to proceed without delay to ensure the effective implementation of this ruling.

16. There are concerns surrounding labour discrimination against female domestic workers, both in law and in practice, due to the absence of an adequate regulatory framework that comprehensively protects their labour rights.

B. Access to land and natural resources

17. Social and environmental conflict related to land and territory, together with agrarian conflict, has a strong negative impact on human rights and security, destabilizes the country and contributes directly to violence, displacement and migration. Inequitable access to land, territory and natural resources is one of the main causes of inequality and poverty and is rooted in a range of factors, including insecure land tenure, limited institutional capacity to decide property rights and the existence of overlapping private and ancestral titles. These factors are compounded by an economic development model based on the extractive industry, which has expanded over the last 12 years.

18. The Office has observed that this model was driven by expedited environmental licensing processes over the last decade in which there was no consultation and free, prior and informed consent of Indigenous Peoples and Afro-Honduran communities and, in some cases, no effective assessment and oversight of the activities' environmental impact. All of this has resulted in high levels of socioenvironmental conflict that affect Indigenous Peoples and Afro-Honduran communities particularly severely.

19. OHCHR values the prominence accorded to environmental protection in the Government's policies, the decision to launch a process to review, suspend and cancel environmental licenses, permits and concessions, and, in 2022, the decision not to issue permits for extractive projects that threaten natural resources. The Office welcomes the openness of the Ministry of Natural Resources and the Environment to reviewing the regulatory and administrative framework for environmental licensing with technical assistance from OHCHR. These efforts should be accompanied by policies designed to reduce the adverse effects of development projects on the environment and on the communities and territories of Indigenous Peoples and Afro-Hondurans.

20. In the Garifuna community of San Juan, Tela, OHCHR documented a dispute between community members asserting their ancestral land rights and third parties claiming property rights over the same territories, a result of the State's failure to recognize all of the ancestral lands claimed and the municipal authorities' authorization of the sale of plots of land in the same area. This situation worsened in July when construction work began in the disputed territories, which may have also caused environmental damage to a lake in the protected area.

⁶ See <https://reliefweb.int/report/honduras/honduras-tormenta-tropical-julia-informe-de-situacion-no-01-12-de-octubre-de-2022>.

The Office welcomes the Government's decision to create a special commission to address the causes of this conflict and calls for the prompt implementation of the agreement signed by the authorities and community members represented by the Fraternal Black Organization of Honduras.

21. The Office has observed that evictions are one of the main problems suffered by campesino communities, Indigenous Peoples and Afro-Hondurans. The application of Decree No. 93-2021, which permits preventive and immediate evictions without judicial oversight, has exacerbated conflict related to land and territory. In a significant step, a Public Prosecution Service directive was issued in March which recognizes that judicial oversight is mandatory and recommends that preventive evictions be avoided. OHCHR reiterates its concerns regarding the Decree and urges the State to repeal it without delay.⁷

22. The Office regrets the criminal prosecution of six members of the Garifuna community of Punta Gorda charged with the offence of aggravated unauthorized occupation during a forced eviction that took place in November as the community was asserting its ancestral rights. The Office welcomes the decision of the Roatán Court to dismiss the case definitively, recognizing the particular relationship of the Garifuna People to the land and its territory. OHCHR has also followed up on the case of the Lenca community of Tierras del Padre, where, on 23 November, a new eviction order was issued, which was later suspended. This order followed three eviction orders issued in previous years against the community.

23. The Office stresses the need for the State to adopt measures to give effect to the guarantees of non-repetition required by the judgments of the Inter-American Court of Human Rights concerning the Afro-Honduran communities of Triunfo de la Cruz and Punta Piedra, particularly with regard to these communities' right to communal property and possession, including through the delimitation, demarcation and titling of their lands in accordance with customary law and their values, uses and customs.⁸ These measures must be adopted and implemented with the effective participation of the affected communities and the organizations that represent them.

24. With regard to agrarian conflict, OHCHR welcomes the signing, on 22 February, of agreements between the Government and campesino groups in Bajo Aguán, representing an important first step in addressing the historic conflict. These agreements have led to a fall in forced evictions in the area. The tripartite commission, crucial for addressing the conflict with a human rights-based approach and, in particular, investigating and punishing human rights violations and adopting reparation and non-repetition measures, has yet to be set up.

25. OHCHR recognizes the establishment, by the Ministry of Human Rights, of the National Inter-Agency Round Table for Preventing and Addressing Social Conflict. The Round Table takes a human rights-based approach and addresses, inter alia, conflict related to land and territory, with technical support from the Office. These efforts should be accompanied by policies to reduce the adverse effects of development projects on the environment, communities and territories of Indigenous Peoples and Afro-Hondurans.

26. Regarding the impact of mining projects on the environment and on human rights, the Office has monitored cases in Azacualpa, Guapinol and Locomapa, among others, and draws attention to companies' obligation to respect human rights and ensure that their activities do not have, or contribute to, negative consequences for the communities in which they operate.

27. The Office documented the environmental and social impact of the mining project in Carlos Escaleras National Park, which was authorized in 2014 as part of moves to reduce the core area of the Park, affecting the surrounding communities' right to a healthy environment, including drinking water. During its inspections, the Ministry of Natural Resources and the Environment concluded that the project fails to comply with environmental control measures. Moreover, in 2021 the Honduran Institute of Geology and Mining found that one of the mining operations had been undertaken outside the authorized area and ordered that it be stopped.

⁷ A/HRC/49/21, paras. 8, 35 and 40.

⁸ *Triunfo de la Cruz Garifuna community and its members v. Honduras and Punta Piedra Garifuna community and its members v. Honduras*, judgments of 8 October 2015.

28. OHCHR documented mining activities in the cemetery of the community of Azacualpa, Copán, in contempt of court rulings that had ordered a halt to exhumation in the cemetery. Habeas corpus proceedings are under way against the mining company and the Ministry of Health to force them to disclose the location of the exhumed bodies. Since January, mining activities have expanded to new areas outside the cemetery by virtue of an expedited licence that was granted without inspection or assessments by the Honduran Institute of Geology and Mining, a procedure that is currently under review by the new authorities.

29. The Office has documented a lack of mining permits in the Locomapa community that has enabled operations without State authorization or oversight.⁹ This situation has been aggravated by a failure to investigate reports of threats and intimidation against community members as well as by illegal exploitation of forest and mining resources enabled by acts that might constitute criminal association, money-laundering and illegal possession of weapons.

30. OHCHR has documented the serious consequences for the ecosystem of the pollution of the Motagua River and its negative impact on water availability and food security for communities in Barra del Río Motagua and the Masca Garifuna community. Cooperation between Guatemala and Honduras is required to address this pollution, given that most of the waste is generated in some 55 or more population centres in Guatemala before flowing onwards into Omoa Bay in Honduras.

31. The Office acknowledges the efforts towards setting up a global loss and damage fund made by the State of Honduras at the twenty-seventh session of the Conference of the Parties to the United Nations Framework Convention on Climate Change.

IV. Rule of law and accountability

A. Judicial independence

32. In 2022, progress was made towards strengthening the rule of law and judicial independence through the introduction of a new legal framework for the election of Supreme Court judges. This framework was adopted by the National Congress in July and has been spearheaded by the Ministry for Transparency and the Fight against Corruption, with technical assistance from OHCHR during the drafting and adoption stages. It introduced guarantees relating to transparency, disclosure, gender parity, social auditing and the election based on objective criteria.

33. Responsible for the election process is the Nominations Board, which was formed in September amid strong pressure and interest from various sectors. OHCHR provided technical assistance for the adoption of the Board's rules of procedure, which are based on the principles of objectivity and transparency. The Board received 185 self-nominations, from 132 men and 53 women, and will present a list of at least 45 candidates to the National Congress in January 2023 for the election of 15 new judges.

34. Reports of justice officials, and particularly officials linked to the anti-corruption court circuit, facing attacks and reprisals because of their work, are concerning. The lack of an effective institutional response to protect the personal integrity, judicial independence and autonomy of justice officials hinders their work, exacerbates their vulnerability and has a negative effect on access to justice.

35. OHCHR received reports of possible undue interference in court proceedings against human rights defenders that affected the independence of justice officials at the departmental level. On 9 February, the Trujillo Sentencing Court convicted¹⁰ six of the eight Guapinol River defenders¹¹ in proceedings that did not comply with international standards regarding the right to a fair trial.¹² On 10 February, the Constitutional Chamber granted a petition for

⁹ Information from the Honduran Institute of Geology and Mining, dated 30 November 2022.

¹⁰ Case No. TSTC-20-2021.

¹¹ A/HRC/49/21, para. 19.

¹² See A/HRC/WGAD/2020/85.

amparo,¹³ filed one year earlier, ordering the immediate release of the defenders in view of the irregularities in due process.

B. Access to justice and effective legal protection

36. The system for the administration of justice remains characterized by high rates of impunity, structural barriers and systemic problems affecting access to justice, mainly owing to weakened judicial independence, procedural delays and the limited participation of victims of human rights violations in criminal proceedings.

37. The Office reiterates its concerns about impunity for serious human rights violations that occurred in the 1980s and during the 2009 coup d'état and the 2017 post-election crisis.¹⁴ Most cases remain under investigation, without any tangible progress having been made, and the victims continue to be denied truth, justice and full reparation.

38. Several of the specialized prosecutors' offices within the Public Prosecution Service lack sufficient resources and permanently assigned investigative officers. This limits their capacity to carry out effective investigations and implement an effective criminal prosecution strategy. Consequently, most investigations are carried out without contextual analysis, without establishing charges that reflect the seriousness of the violations and without characterization of the victims or analysis of intellectual authorship or the chain of command in cases involving the security forces and non-State actors.

39. The openness of hearings and the participation of victims in court proceedings remain limited owing to restrictions imposed during the COVID-19 pandemic that limit physical access. The courts, particularly at the local level, did not adopt measures to mitigate the negative impact of these restrictions, particularly in terms of ensuring access to hearings and disclosing information about proceedings.

40. OHCHR has documented harassment and reprisals against victims and witnesses who assist with investigations, as well as challenges to ensuring their effective protection owing to, inter alia, a lack of resources and risks linked to the handling of confidential information.

41. OHCHR believes that the investigation into the unnecessary and excessive use of force against the Miskito Indigenous People by the Armed Forces Joint Task Force in the community of Ibans, Gracias a Dios, in 2021 was not carried out with due diligence. OHCHR also received allegations of a lack of access to information and victim participation in the investigation.¹⁵

42. Ensuring timely access to justice with a gender perspective remains a challenge. Several key petitions for *amparo* and appeals of unconstitutionality relating to sexual and reproductive rights and equal marriage remain pending before the Constitutional Chamber. In the case of Keyla Martínez,¹⁶ shortcomings in the court proceedings included the absence of a gender perspective, as illustrated by the Constitutional Chamber's decision not to grant a petition for *amparo* lodged by the Public Prosecution Service against the change of the offence from femicide to murder.

43. In August, the Inter-American Court of Human Rights ruled that Honduras bore international responsibility for the extrajudicial execution of Herminio Deras in 1983¹⁷ and ordered the Government to adopt a national policy of historical memory. The Government has taken steps to promote the memory and recognition of victims of the human rights violations that occurred in the 1980s and during the 2009 coup d'état.

¹³ Petition for *amparo* No. SCO-0919-2020.

¹⁴ A/HRC/46/75, para. 10, and A/HRC/49/21, para. 20.

¹⁵ A/HRC/49/21, para. 27.

¹⁶ Ibid., para. 26.

¹⁷ *Deras García v. Honduras*, judgment of 25 August 2022, para. 142.

C. Security and human rights

44. Between January and September 2022, the number of violent deaths fell by 13.2 per cent for men and 14.7 per cent for women compared to the same period in 2021.¹⁸ It is concerning that the use of firearms continues to be the main cause of violent deaths (accounting for 77.8 per cent for men and 69.3 per cent for women), owing mainly to the lack of effective weapons control, and that young persons are most affected (accounting for 40 per cent).

45. The Government's stated commitment to demilitarizing citizen security is an important step forward. It has been hindered, however, by the continued participation of the Public Order Unit of the Military Police in citizen security operations.

46. In March, the National Congress repealed the Secrecy Act, helping to enhance accountability and transparency in the governance of security and defence.

47. The Office welcomes the disbanding of the National Inter-Agency Security Force and the transfer of the National Anti-Mara and Anti-Gang Force to the Ministry of Security through the creation of the Anti-Mara and Anti-Gang in Police Directorate to Combat Organized Crime. This transfer has not, however, led to a decrease in the number of cases of unnecessary or disproportionate use of force.

48. Abuse by the National Anti-Mara and Anti-Gang Force continued to be reported. On 25 February, the Office documented an illegal raid in Marcovia, Choluteca, during which officers of the Force made unnecessary use of lethal weapons, firing on the population and leaving one man dead and four wounded. The investigation is ongoing, and no charges have been brought against the alleged perpetrators, jeopardizing the victims' chances of receiving prompt and effective justice.

49. During a foot chase on 31 May, members of the National Anti-Mara and Anti-Gang Force shot a 21-year-old man who was under investigation for allegedly assaulting a police officer at a football match. The Office documented excessive use of force during illegal and arbitrary raids on homes, without warrants, during search operations to find the man. After the Public Prosecution Service filed an application under the Model Protocol for a Legal Investigation of Extra-legal, Arbitrary and Summary Executions (Minnesota Protocol) on 23 October, the Criminal Court of San Pedro Sula formally indicted four members of the National Anti-Mara and Anti-Gang Force for murder, torture, concealment and falsification of public documents.¹⁹

50. The Office recorded the deaths of three men in connection with an incident that occurred on 11 September during a training course for professionals wishing to become auxiliary police officers at the National Police Academy in La Paz. The deaths occurred after around 500 participants were subjected to excessive and disproportionate training exercises. At least 35 other persons suffered serious harm. It is concerning that the ongoing investigation remains under the responsibility of the Police Investigation Directorate, which, given that it forms part of the police service, may lack independence.

D. Prison system and persons deprived of liberty

51. The Government began to demilitarize the prison system in March, when the prison administration was transferred from the armed forces to the police – a change constituting an important step towards strengthening the National Prison Institute. In August, the Government declared a year-long state of emergency in the prison system²⁰ with the aim of demilitarizing and progressively reforming the system. As part of this process, the police

¹⁸ See <https://infosegura.org/honduras/analisis-sobre-violencia-seguridad-ciudadana-honduras-de-enero-septiembre-2022>.

¹⁹ See <https://www.mp.hn/publicaciones/auto-de-formal-procesamiento-para-cuatro-policias-vinculados-a-muerte-de-aficionado-del-real-espana/>.

²⁰ Executive Decree No. PCM-03-2022.

must gradually transfer responsibility for prison administration to the National Prison Institute.

52. In December, the prison system was accommodating an average of 19,842 adults in its 25 prisons despite having capacity for just 14,780 persons, making for an overcrowding rate of 34.2 per cent. At least 51.6 per cent of the prison population had not received a final judgment. The lack of regulations for classifying persons deprived of liberty that would allow prisons to be managed in accordance with international human rights standards and reduce prison violence is concerning.

53. Although OHCHR documented just one prison riot, compared to the six documented in 2021, the number of violent deaths in prisons remained high, with 17 recorded in 2022. The Office's monitoring found that these deaths were the result of a system in which persons deprived of liberty are left to self-govern with the acquiescence of the authorities, leading to a lack of effective control of the prisons, violation of detainees' personal integrity and discrimination against them, including in the form of extortion.

54. The Office welcomes the appointment of three national commissioners to the National Committee for the Prevention of Torture and Cruel, Inhuman or Degrading Treatment or Punishment, although its concerns regarding the Committee's independence, administrative autonomy and budgetary liquidity persist.

E. Corruption and human rights

55. On 14 February, the President requested the Secretary-General of the United Nations to establish an international commission to combat impunity and corruption in Honduras. On 15 December, the Office of the Secretary-General and the Government signed a preliminary memorandum of understanding on the possible establishment of an international anti-corruption mechanism.

56. Honduras is among the 25 most corrupt countries in the world.²¹ The anti-corruption circuit courts registered 306 cases and appeals at their various levels between 2017 and 2022,²² a sharp contrast to the 889 reports of corruption offences received from civil society sources.²³

57. The criminal prosecution of corruption and recognition of its victims depend to a large extent on the preservation of the structures established with the support of the Mission to Support the Fight against Corruption and Impunity in Honduras, particularly the Specialized Prosecution Unit for Combatting Corruption Networks within the Public Prosecution Service and the special court with nationwide competence to hear corruption cases across. By Decree No. 67-2022, the National Congress granted the Specialized Prosecution Unit for Combatting Corruption Networks temporary authorization to bring public criminal proceedings without the prior approval of the Attorney General, among other powers, to that end ordering an increase to the Unit's budget and the stability of its human resources, a reform that was questioned by the Public Prosecution Service. In November, the National Congress commenced its discussion of a bill on effective cooperation that, if adopted, would constitute an important instrument in the prosecution of corruption.

58. The Public Prosecution Service secured convictions in high-profile cases heard before the anti-corruption circuit courts, including the 2020 mobile hospital fraud case and the "Caja Chica de la Dama" ("the lady's petty cash") case, and in one of the investigations into corruption at the Honduran Social Security Institute.

59. The Government created the Ministry for Transparency and the Fight against Corruption to prevent and combat corruption in the public and private sectors. Noteworthy progress includes the repeal of decrees authorizing the creation of deeds of trust.

²¹ See <https://www.transparency.org/en/cpi/2021>.

²² Judicial Branch Statistics Unit.

²³ See <https://estadodepais.asjhonduras.com/corrupcion-y-transparencia-2022/>.

60. There is still a need to repeal the decrees known as the “Pact of Impunity”, including Decree No. 116-2019,²⁴ Decree No. 57-2020 and Decree No. 93-2021, which interpret and amend articles of the Code of Criminal Procedure and the Special Act against Money Laundering.

V. Civic space and citizen participation

61. The Office recognizes the executive and legislative branches’ efforts to make progress in guaranteeing the enjoyment of rights related to citizen participation. There remain, however, structural problems and institutional practices that impede the exercise of the defence of human rights and the rights to participate in the management of public affairs, peaceful assembly, freedom of expression, access to information and freedom of association, and thus weaken civic space.

62. The Directorate General for Information and the Press was created in September by means of Executive Decree No. PCM-023-2022. It is concerning that the Decree’s wording does not clarify the Directorate’s purpose or functions. Clarification is therefore required, in order to prevent excessive State control and avoid any obstacles to the plurality or diversity of the media and the full and safe exercise of freedom of expression.

63. The Office recorded at least 173 attacks against human rights defenders and journalists in 2022, resulting in a total of 242 victims, of whom 191 were human rights defenders and 51 were journalists. Of these victims, 147 (60.7 per cent) were defending land, territory or the environment, 36 (14.9 per cent) were engaged in journalism and 19 (7.9 per cent) were defending or promoting the rights of lesbian, gay, bisexual, transgender and intersex persons. Of the total, 117 victims (48.3 per cent) were cisgender men, 66 (27.3 per cent) were cisgender women, 5 (2.1 per cent) were transgender women and 1 (0.4 per cent) was a transgender man. In 53 cases (21.9 per cent), the attacks targeted organizations, media or other groups. Furthermore, 68 victims (28.1 per cent) were Indigenous persons, and 26 (10.7 per cent) were Afro-Honduran.

64. It is noteworthy that three quarters of the attacks were perpetrated against persons defending land, territory or the environment, demonstrating their extreme vulnerability. Of the human rights defenders who suffered attacks between 2021 and 2022, 24.8 per cent were Afro-Honduran, illustrating the attacks’ disproportionate effect on a community that represents 0.7 per cent of the population.²⁵

65. OHCHR documented the murders of 11 human rights defenders and 3 journalists (12 cisgender men and 2 transgender women), of whom 6 (42.9 per cent) were defending land, territory or the environment and 3 (21.4 per cent), including 2 transgender women, were defending the rights of lesbian, gay, bisexual, transgender and intersex persons. Although attacks against these groups decreased in comparison with the previous year, it is concerning that murders have increased.

66. Alongside murders, the most frequent incidents involving human rights defenders and journalists were intimidation and harassment, with 41 cases; threats, with 39 cases; smear campaigns, with 11 cases; physical attacks, with 10 cases; and attempted murders, with 10 cases. These acts occur particularly frequently in the departments of Francisco Morazán (57 cases, 32.94 per cent), Colón (21 cases, 12.13 per cent), Atlántida (20 cases, 11.56 per cent) and La Paz (18 cases, 10.4 per cent). In addition to Distrito Central, the departments with the highest number of attacks are those with large Indigenous, Afro-Honduran and/or campesino populations.

67. The effective investigation of crimes against human rights defenders remains a challenge. Of the 14 murders documented by the Office in 2022, just two have resulted in convictions. One of these is the murder of Thalía Rodríguez, a transgender woman defender of the rights of lesbian, gay, bisexual, transgender and intersex persons, persons living with

²⁴ A/HRC/49/21, para. 36.

²⁵ National Institute of Statistics, Population and Housing Census 2013. Available at <https://www.ine.gob.hn/V3/censo-de-poblacion-y-vivienda/>.

HIV/AIDS and transgender women sex workers. Ms. Rodríguez was murdered in January, allegedly by three armed individuals. The oral and public proceedings culminated in the conviction of one person for murder, while the other two have yet to be apprehended.

68. It is concerning that criminal law is persistently misused against human rights defenders, particularly persons dedicated to defending land, territory or the environment, as well as persons who publicly oppose business activities and/or large-scale development projects. OHCHR analysis of emblematic cases of misuse of the criminal justice system indicates that: (a) the most frequently misused criminal offences are unauthorized occupation, altering limits and boundaries and damage to private property; (b) the accusations are made mainly by corporate actors and individuals; and (c) the accusations are usually collective, based on a general accusation against a group without any distinction or identification of individuals' conduct or their degree of participation. As well as hindering the work of human rights defenders and the exercise of their freedom of expression, this misuse of criminal law weakens the social fabric of the affected communities.

69. One example is the case involving 29 members of the Lenca Indigenous Council of the community of Nueva Palestina who, in May 2022, as a result of their efforts to defend their territory, were accused by a private individual of aggravated unauthorized occupation and altering limits and boundaries. In the same case, Sonia Pérez, a journalist and the Radio Progreso correspondent covering the events, was charged with the same offences. The case was dismissed definitively in July 2022.

70. The severe delays in judicial proceedings against human rights defenders are concerning. They include delays in the case brought in 2020 against Lenca human rights defenders Víctor Vásquez and José Santos Vigil Girón, of La Paz, for alleged forced displacement, and in the proceedings against the Garifuna community of Cristales and Río Negro, Colón, in which 32 human rights defenders were accused of unauthorized occupation.

71. The Office has completed its assessment of the National System for the Protection of Human Rights Defenders, Journalists, Social Communicators and Justice Operators, in which it used a participatory consultation process to identify the internal and external opportunities and challenges facing the System as at 31 December 2021. The findings informed a plan to strengthen the System which was submitted to the authorities as part of the technical assistance provided by OHCHR.

72. The assessment highlights: (a) the absence of sufficient financial, human and technical resources for the System to fulfil its functions and obligations; (b) the lack of shared responsibility among institutions in dealing with cases and creating an enabling environment for the target population; and (c) the lack of clarity, both on the part of civil society actors and the State, as to the System's purpose, scope, functions and target population.

73. Despite the increase in its budget in 2022, the System faced challenges in providing an effective and timely response to applicants, beneficiaries and their representatives. The National Protection Council has failed to fulfil its legal obligation to meet formally at least once a month. As the body responsible for oversight, governance and decision-making in the System, the Council's inactivity has resulted in a lack of strategic action and timely measures to create a safer environment for defending human rights and freedom of expression.

74. At the end of the year, the National Protection Mechanism was providing protection in a total of 181 cases, of which 33 had been referred to it by the inter-American human rights system. The Office notes that, although the volume of cases has increased by 41 per cent compared with the previous year, the number of technical staff in the System remains the same.

75. The National Protection System faces technical, administrative and financial obstacles that prevent it from taking timely and appropriate measures.

VI. Equality and non-discrimination

76. Direct and indirect discrimination in the public and private spheres, as well as intersectional discrimination against vulnerable groups, continue to pose a challenge.

A. Women's rights

77. Women continue to face barriers in the exercise of their rights in the public and private spheres. Violence against them, limited recognition of their human rights, including their sexual and reproductive rights, and other forms of inequality attest to a pattern of discrimination that has been repeatedly highlighted by international human rights mechanisms.

78. The Office recognizes the efforts made by the executive branch towards the country's accession to the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women and calls for the National Congress to give its approval. The adoption of the Comprehensive Act on Violence against Women, the Act on Shelters for Victims of Gender-Based Violence and the Act on Domestic Labour remains pending.

79. Violence against women continues to be extremely serious. The National Violence Observatory of the National Autonomous University of Honduras reported 252²⁶ femicides and violent deaths of women from January to October 2022, compared to 330 cases registered in 2021 as a whole.

80. The Public Prosecution Service, the Specialist Criminal Investigation Agency and the Police Investigation Directorate lack specialized protocols for adopting a differentiated approach in investigations into violence against women, including femicide and violent deaths. This is compounded by the limited availability of trained staff and necessary facilities, such as morgues, to facilitate the effective investigation of such cases.

81. As at 31 October, the Public Prosecutor's Office had recorded 292 reports of domestic abuse, while the 911 national emergency system had recorded 50,351 reports. It is concerning that the majority of cases reported do not reach the courts, attesting to high levels of impunity and the need for greater inter-agency coordination in order to ensure a timely response for victims.

82. The partial authorization for the exceptional use of the emergency contraceptive pill under the Comprehensive Care Protocol for Victims and Survivors of Sexual Violence, adopted in December, is a positive step. Women's sexual and reproductive rights remain severely restricted, however, including by the criminalization of abortion. OHCHR echoes the recommendations of the Committee on the Elimination of Discrimination against Women on the decriminalization of abortion on all three grounds and the distribution and marketing of emergency contraception.²⁷

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

83. Lesbian, gay, bisexual, transgender and intersex persons continue to suffer widespread stigma and discrimination that perpetuate violence against them because of their sexual orientation or gender identity or expression. The observatory for violent deaths of the non-governmental organization Cattrachas reported an increase in violence against lesbian, gay, transgender, bisexual and intersex persons in 2022, with 43 murders (26 of gay persons, 11 of lesbian persons and 6 of transgender persons) and 2 disappearances. Just eight of these cases remain under criminal investigation.

84. Despite the State's efforts to comply with the judgment of the Inter-American Court of Human Rights in the case of *Vicky Hernández v. Honduras*, for instance by making

²⁶ See <https://iudpas.unah.edu.hn/dmsdocument/14049-boletin-infografico-muerte-violenta-mujeres-enero-octubre-2022-preliminares-ed-12>.

²⁷ CEDAW/C/HND/CO/9, para. 39.

progress in developing a protocol for investigating and administering justice in cases involving lesbian, gay, transgender, bisexual and intersex victims of violence, several steps remain pending, such as the development of a procedure for recognizing gender identity.

85. The Organic Act on the National Registry Office²⁸ and its regulations do not yet allow for the legal recognition of the gender identity of transgender persons, including in the National Registry.

C. Rights of Persons with Disabilities

86. The Ministry of Social Development and Inclusion, together with civil society, developed a proposal for the comprehensive reworking of the Act on Equity and Comprehensive Development for Persons with Disabilities (Decree No. 160-2005), with technical support from OHCHR. The proposal, the purpose of which is to recognize and protect the rights of persons with disabilities in accordance with the Convention on the Rights of Persons with Disabilities, is undergoing review and consultation before its submission to Congress.

D. Rights of Indigenous Peoples and Afro-Hondurans

87. The persistence of the structural barriers that Indigenous Peoples and Afro-Hondurans have historically faced results in discrimination, has serious consequences for their rights and contributes to their exclusion, even in decisions that affect them directly. An adequate regulatory framework that effectively recognizes and guarantees their right to consultation and free, prior and informed consent is lacking.

88. Indigenous Peoples and Afro-Hondurans continue to face obstacles in access to justice and to suffer impunity when they are victims of human rights violations. Most of the complaints received by the Office of the Special Prosecutor for Ethnic Groups and Cultural Heritage concerned violations related to the land and territories of Indigenous and Garifuna Peoples (35 per cent), followed by violations of their lives and integrity (25 per cent).²⁹ Appropriate measures are required to protect their rights in the administrative sphere.

89. With regard to fishing companies' exploitation of the labour of Miskito divers engaged in underwater fishing, the State has begun to implement the judgment handed down on 31 August 2021 by the Inter-American Court of Human Rights in the case of *Lemoth Morris et al. v. Honduras*. Progress is required on other related structural measures, such as strengthening the health system in La Mosquitia.

E. Persons in situations of human mobility

90. OHCHR recorded an increase in mixed migratory movements compared to previous years and a greater number of migrating families and women with children, who take alternative routes in smaller groups.

91. According to the National Institute for Migration, 188,858 migrants entered the country irregularly in 2022,³⁰ mostly from Cuba, Ecuador, Haiti and the Bolivarian Republic of Venezuela. According to the Consular and Migratory Observatory, 88,855 Honduran migrants were returned to the country, the vast majority from Mexico (45,961) and the United States of America (42,090).

92. There are concerns surrounding the overcrowding in shelters caused by the significant increase in transit migration flows that occasionally renders it impossible to find refuge. OHCHR has observed that unaccompanied minors, pregnant women, mothers with children,

²⁸ Decree No. 62-2004, art. 84.

²⁹ Public Prosecution Service, official letter No. DGF-2170-2022 dated 30 November 2022.

³⁰ See <http://inm.gob.hn/estadisticas.html>.

Indigenous persons and lesbian, gay, bisexual, transgender and intersex persons are the migrants most exposed to discrimination and violence.

93. In May, the National Congress approved a 90-day amnesty for migrants who had entered the country irregularly, exempting them from the administrative fine provided for in the Migration and Aliens Act. The amnesty came into force in August and was extended until June 2023, allowing these persons to regularize their temporary stay.

94. OHCHR welcomes the adoption, in December, of the Act for the Prevention of Internal Displacement and the Protection and Care of Internally Displaced Persons as a vital step towards their comprehensive protection and calls on the Government to make progress in its regulation and implementation.

VII. Recommendations

95. OHCHR reiterates its commitment to providing ongoing support for the efforts of Honduras to respect and guarantee human rights for all persons. The Office reiterates the recommendations contained in its previous reports and urges the authorities to implement them.³¹ OHCHR also urges the authorities to:

(a) **Adopt a comprehensive national human rights action plan that guarantees economic, social, cultural and environmental rights, with a differentiated approach for vulnerable groups;**

(b) **Adopt and implement a citizen security policy that takes a human rights-based approach and ensures gradual demilitarization at the operational level and in terms of institutional culture, promoting civilian vision and leadership in the sector;**

(c) **Address comprehensively the problems of insecurity and violence, taking a human rights-based approach to prioritize prevention, investigation and punishment. The declaration of states of emergency and the suspension of fundamental rights must comply strictly with international human rights law. All measures taken in this context must be proportional, temporary and strictly limited to those rendered necessary by the situation;**

(d) **Strengthen the independence of the justice sector by revising the constitutional and legal framework of the judicial branch through the adoption of the organic laws relating to the judiciary, the Council of the Judiciary and the Public Prosecution Service, paying particular attention to the election of the Attorney General;**

(e) **Adopt the necessary measures, including legislative measures, to guarantee truth, justice, memory and reparation for victims of human rights violations, including those that occurred in the 1980s and during the 2009 coup d'état and the 2017 post-election crisis;**

(f) **Strengthen the National System for the Protection of Human Rights Defenders, Journalists, Social Communicators and Justice Operators by implementing the National Plan for Strengthening the Protection of Human Rights Defenders, Journalists, Social Communicators and Justice Operators in Honduras, drawn up by OHCHR;**

(g) **Strengthen the human, financial and technical resources available for investigations by the police and the Public Prosecution Service, including by adopting differentiated protocols for crimes against human rights defenders, women and lesbian, gay, bisexual, transgender and intersex persons, among others, that guarantee due diligence and reduce impunity;**

(h) **Strengthen the Witness and Victim Protection Programme of the Public Prosecution Service and implement protection mechanisms for justice operators and complainants, ensuring their effectiveness;**

³¹ [A/HRC/49/21](#), [A/HRC/46/75](#), [A/HRC/43/3/Add.2](#), [A/HRC/40/3/Add.2](#), [A/HRC/34/3/Add.2](#) and [A/HRC/34/3/Add.2/Corr.1](#).

(i) Create a sustainable economic development model that guarantees equitable access to land, territory and natural resources based on policies that give effect to the rights of Indigenous Peoples, Afro-Hondurans, campesino groups and other historically excluded groups;

(j) Guarantee the right to a healthy environment by reforming the institutional and legal framework that regulates the granting of concessions for mining projects, including by reviewing the environmental licensing process;

(k) Accede to and implement the Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean (Escazú Agreement);

(l) Adopt an adequate legal framework that guarantees the right to consultation and free, prior and informed consent of Indigenous Peoples and Afro-Hondurans, in accordance with international standards;

(m) Implement mechanisms to adopt a structural approach to the conflict in Bajo Aguán that guarantees reparation and non-repetition measures, including by establishing the tripartite commission provided for in the February 2022 agreements;

(n) Review the internal regulations of the National Defence and Security Council to define its mandate and align its regulations with international human rights obligations, respecting the independence of the judiciary and the Public Prosecution Service;

(o) Make progress in establishing and implementing the plan for the gradual transfer of prison administration from the police to the National Prison Institute;

(p) Make progress in preventing and prosecuting corruption by adopting the national transparency and anti-corruption strategy and establishing an international mechanism to combat corruption and impunity;

(q) Adapt the regulatory framework and adopt institutional practices to strengthen, promote and protect civic space, in accordance with the State's international obligations;

(r) Prevent and avoid the improper use of criminal law against human rights defenders, journalists, justice operators and any person exercising freedom of expression;

(s) Strengthen the capacities of the competent institutions and authorities to provide adequate assistance to migrants and forcibly displaced persons and guarantee the protection and exercise of their human rights;

(t) Adopt the necessary policies and legal amendments to guarantee women's human rights, particularly their right to a life free of violence and to sexual and reproductive health;

(u) Adopt comprehensive legislation to combat discrimination against lesbian, gay, bisexual, transgender and intersex persons that encompasses all prohibited grounds of discrimination, while concurrently reviewing current regulations and repealing discriminatory provisions, including the National Registration Act and its regulations;

(v) Adopt a law on domestic labour, ratify the International Labour Organization Domestic Workers Convention, 2011 (No. 189), and create a comprehensive care system to serve as a pillar of welfare and social protection policy;

(w) Adopt comprehensive amendments to Decree No. 160-2005, enacting the Act on Equity and Comprehensive Development for Persons with Disabilities, and harmonize the Act with the Convention on the Rights of Persons with Disabilities.