



Human rights violations in the context of the 2017 elections in Honduras

Report of the United Nations
High Commissioner for Human Rights



I. Executive Summary

The general elections in Honduras took place on 26 November 2017. In the run-up to the polling day, large sectors of the population questioned the credibility of the electoral system and process. The lifting by the Supreme Court of the constitutional clause limiting the number of presidential mandates to one, and the ensuing candidacy of President Hernández to a second term also triggered discontentment.

Prolonged delays and perceived irregularities in the counting of the votes for the presidential election led to claims of fraud and, starting from 29 November 2017, ignited a wave of protests across the country, in which the Military and the National Police performed public security tasks. On 1 December 2017, on the grounds that violence and looting had occurred, the President declared a state of emergency, establishing a curfew for a period of 10 days.

This report presents the findings of the monitoring conducted by the Office of the United Nations High Commissioner for Human Rights (OHCHR) in Honduras in relation to alleged human rights violations which took place in the post electoral context. It provides an overview of the human rights situation in the pre-electoral phase but focuses on human rights violations that took place country-wide between the voting day, on 26 November 2017, and the presidential inauguration, on 27 January 2018.

The analysis conducted by the OHCHR Office in Honduras reveals that the State's response to the post-electoral protests 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. At the time of completing this report, on 27 January, OHCHR had registered that at least 23 people were killed in the context of the post-electoral protests, including 22 civilians and one police officer. Based on its monitoring, OHCHR considered that at least 16 of the victims were shot to death by the security forces, including two women and two children, and that at least 60 people were injured, half of them by live ammunitions.

In addition, OHCHR found that mass arrests took place, and that at least 1,351 people were detained between 1 and 5 December for violating the curfew. OHCHR also received credible and consistent allegations of ill-treatment at the time of arrest and/or during detention. It also received reports of illegal house raids conducted by members of the security forces.

Another concern during the period under review is the surge in threats and intimidation against journalists, media workers, social and political activists.

OHCHR observed that some of the protests degenerated into violence, with individuals perpetrating acts punishable under the penal code. Some individuals have been prosecuted in this regard. However, by 27 January, according to information received no charges had been brought against any member of the security forces in relation to the killings and injuries that



occurred during the dispersion of protests or subsequent operations.¹ Moreover, 13 of the 15 killings of party candidates, municipal counselors and activists that occurred before the elections remained under investigation, with charges brought in only two cases.

The human rights violations described in this report occurred in the context of a political, economic and social crisis, which can be traced back to the 2009 military coup d'état, and the subsequent delay in undertaking critical institutional, political, economic and social reforms.

The report offers recommendations aimed at preventing further violence and human rights violations. OHCHR continues to encourage the cooperation of all State entities to address chronic and recent human rights concerns in Honduras.

¹ The Government informed in its official communication to OHCHR (NV MPHG/SRECI_OACNUDH-38-18) that an inter-institutional team integrated by representatives of the Direction of the Office of the Attorney General, General Directorate of Forensic Medicine, the Office of the Specialized Prosecutor for crimes against life, the Office of the Specialized Prosecutor assigned to the Military Police of the Public Order, the Human Rights Department of the Ministry of Security, the National Police Directorate on Investigation and, more recently, the Human Rights Ministry, has been established to follow up on these cases.



Contents

Human rights violations in the context of the 2017 elections in Honduras

Table of Contents

I.	Executive Summary	2
II.	Introduction	6
III.	Methodology	6
IV.	Cooperation and constraints	7
V.	Context	7
VI.	Human rights concerns before the elections	10
VII.	The security forces in the policing of the protests	11
VIII.	Human rights violations by State authorities	12
	A. The state of emergency	12
	B. Violations of the right to life and physical integrity	14
	1. Excessive use of Force	14
	2. Killings related to the protests	15
	3. Violations of the right to physical integrity during protests	16
	4. Illustrative cases	17
	5. Killings of individuals allegedly linked to their participation in protests	18
	C. Arbitrary detention	19
	D. Ill-treatment during arrest and detention	19
	E. The right to freedom of peaceful assembly	20
	F. The right to freedom of opinion and expression	22
	G. Intimidation and harassment of human rights defenders, political opponents and other civil society actors	24
IX.	Accountability for human rights violations	25
X.	Violence during protests	26
XI.	Concerns related to the prosecution of individuals accused of crimes committed during the protests	27
XII.	Conclusions and recommendations	28
	Annex:Legal framework	33



Acronyms

COBRA	Special Operations Command of the National Police
COFADEH	Committee of the Relatives of the Disappeared
CONADEH	National Commissioner for Human Rights
CONAPREV	National Committee for the Prevention of Torture and other Cruel, Inhuman or Degrading Treatment
CVR	Truth and Reconciliation Commission
DGMF	General Directorate of Forensic Medicine
DPI	Police Investigation Directorate
FUSINA	Inter-Institutional Security Force
LIBRE	Liberty and Refoundation Party
OHCHR	Office of the United Nations High Commissioner for Human Rights
PARLACEN	Central-American Parliament
PMOP	Public Order Military Police
TIGRES	Intelligence Troop and Special Security Response Groups (National Police)



II. Introduction

1. This report is produced within the mandate of the United Nations High Commissioner for Human Rights 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 presents the findings of the monitoring conducted by the Office of the United Nations High Commissioner for Human Rights (OHCHR) in Honduras in the context of the 2017 general elections. It provides an overview of the human rights situation in the pre-electoral phase but focuses on human rights violations that took place in the country between the voting day, on 26 November, and the presidential inauguration, on 27 January. The report also describes a pattern of intimidation and reprisals targeting human rights defenders and members or sympathizers of the opposition parties in the aftermath of the electoral protests.
3. On the basis of the findings of OHCHR, the report makes recommendations to the Government of Honduras and other stakeholders, aimed at preventing further violence and human rights violations, and at ensuring accountability for such acts.

III. Methodology

4. This report is based on information gathered by the office of OHCHR in Tegucigalpa and through missions conducted in other parts of the country. In the post-electoral phase in particular, OHCHR deployed teams to monitor the situation in the departments of Atlántida, Cortés, Yoro, La Paz, Choluteca, Colon and Francisco Morazán. These teams monitored demonstrations, visited locations of reported incidents, health centres and detention facilities.
5. The Office interviewed over 200 people, including victims, witnesses and other sources. It sought information from a wide range of State authorities, including the Ministry of Defence, the Ministry of Security, the Ministry of Health, the Vice-Ministry for Human Rights, and the National Mechanism for the Protection of Human Rights Defenders, Journalists, Media Workers and Justice Operators; the National Police, the Armed Forces; the Office of the Attorney-General; the National Commissioner for Human Rights (CONADEH), the National Committee for the Prevention of Torture and other Cruel, Inhuman or Degrading Treatment (CONAPREV); the General Directorate of Forensic Medicine; journalists; as well as national non-governmental organizations (NGOs).
6. In reconstructing facts and circumstances, and establishing its findings, OHCHR relied on information it gathered and verified first-hand. It examined a large number of documents, such as official information, including medical records, as well as videos, photos, and social media material. OHCHR exercised due diligence to assess the credibility and reliability of sources, triangulated the information it gathered to confirm its validity, including against information provided by State authorities and victims.



7. The data provided in this report does not capture all human rights violations that occurred during the electoral context, but presents the cases documented by OHCHR, in accordance with its methodology.²

IV. Cooperation and constraints

8. OHCHR's monitoring was limited by various factors, including reduced mobility of its personnel after the elections as a result of the roadblocks. OHCHR's work was also hampered by the lack of available official data and the limited cooperation by some State institutions.
9. The "Agreement between the United Nations High Commissioner for Human Rights and the Government of the Republic of Honduras concerning the establishment of an office in Honduras" grants OHCHR access to central and local authorities, civil and military; to official documents and materials, with the exception of privileged information defined by the Constitution of Honduras; and to all prisons, detention centres and places of interrogation. OHCHR was generally able to access police detention facilities and records, although it faced difficulties in some cases. It was denied access to the records of the individuals detained at the premises of the Inter-Institutional Security Force (FUSINA) in the Northwestern region that is located within the 105th Infantry Brigade's base, in San Pedro Sula.
10. Despite various meetings with high-ranking army officials and staff of the Ministries of Defence and Security, as well as formal requests, OHCHR was not provided with concrete information on the orders regulating the operations of the security forces, and on the status of disciplinary proceedings within the forces. OHCHR's communication with the Office of the Attorney-General was also particularly challenging as, by 27 January, when this report was finalized, the latter had not responded to various written requests for information regarding the investigations into deaths and injuries that occurred in the context of post-electoral protests. The Office of the Attorney-General did not respond to requests for meetings at senior level. Some of its offices at local level were consequently not available to engage with OHCHR, not having received instructions to that effect.

V. Context

11. General elections take place every four years in Honduras to elect the president, the 128 members of the national congress, 20 members of the Central American Parliament, 298 mayors and 2,120 local councilors. Ten political parties took part in the 2017 elections, two of which formed the Opposition Alliance - the Liberty and Refoundation Party and the Party for Social Democratic Unity and Innovation (PINU-SD). Altogether 27,188 candidates were registered for the general elections, including nine presidential candidates.
12. In the run-up to the elections, large social sectors questioned the quality and reliability of the electoral system. In particular, they alleged the outdated electoral roll; the issuing of blank credentials to parties and the related buying of votes; the lack of independence of the

² Manual on Human Rights Monitoring and Training Manual on Human Rights Monitoring, available at <http://www.ohchr.org/EN/PublicationsResources/Pages/MethodologicalMaterials.aspx>



Supreme Electoral Tribunal; the lack of transparency and unreliability of the system of electronic transmission and counting of votes; and, further to the adoption, in 2017, of the Law on financing, transparency and accountability of political parties and candidates,³ the non-functioning of the mechanisms established by that law.⁴ Women's groups denounced the failure of several parties to ensure gender parity and alternation in their electoral lists, as well as the failure of the Supreme Electoral Tribunal to adopt the corresponding sanctions. The European Union and the Organization of American States had highlighted similar concerns following their observation of the 2013 general elections.⁵

13. Moreover, the lifting by the Supreme Court, in 2014 and 2015, of the constitutional prohibition of a second presidential mandate,⁶ and the ensuing candidacy of President Hernández to a second term, generated discontent amongst parts of the population.
14. Appeals filed at domestic level against the decision of the Supreme Court and the candidacy of the incumbent President were either rejected or not acted upon. These appeals included four criminal complaints on the grounds of treason filed with the Office of the Attorney-General; four appeals to the Constitutional Chamber of the Supreme Court; and, in October 2017, an appeal to the Supreme Electoral Tribunal.
15. In July 2017, the United Nations Human Rights Committee expressed concern that “despite the Constitutional limit on presidential terms, the current president is standing for re-election”, and invited respect of the eligibility criteria established by the Constitution, particularly the presidential term limit.⁷ On 26 November, in its final report, the Electoral Mission of the Organization of American States considered the derogation of constitutional provisions by a court ruling as a “bad practice”, noting it generated legal insecurity and revived “the polarization created by the 2009 political crisis”.⁸
16. On 26 November 2017, the presidential, legislative and municipal elections were held. The preliminary results of the presidential election were announced on 27 November, at 1h30 a.m., with the candidate of the Opposition Alliance, Salvador Nasralla, leading over President Hernández, of the National Party, by a margin of almost five points (45.17 per cent versus 40.21 per cent). After the announcement of the preliminary results, the online vote publishing system of the Supreme Electoral Tribunal reportedly crashed, and no

³ Decree No. 137-2016. Law on financing, transparency and oversight of political parties and candidates”.

⁴ Non-party electoral observation group “N-26, Progress report, October 2017.

⁵ European Union Electoral Observation Mission, Final report on the general elections 2013, available at http://www.eods.eu/library/EUEOM%20FR%20HONDURAS13.02.2014_es.pdf; and: Organization of the American States electoral observation, Final report on the general elections 2013, available at <http://scm.oas.org/pdfs/2014/CP33952T.pdf>

⁶ Sentences 1342-2014 and 243-2015.

⁷ Human Rights Committee, Concluding observations on the second periodic report of Honduras (CCPR/C/HND/CO/2), paragraph 44 and 45, available at

http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fHND%2fCO%2f2&Lang=en

⁸ Final report of the Electoral Observation Mission of the Organization of American States in Honduras, pp. 10 and 33, available at <https://criterio.hn/wp-content/uploads/2017/12/Informe-final-MOE-OEA-Elecciones-Generales-Honduras-2017.pdf>



further results were published for over 10 hours. When the transmission of the results resumed, it began to show a gradual but consistent reduction of the lead of the opposition candidate over the incumbent President. On 29 November, according to the announcement by the Supreme Electoral Tribunal, both candidates held 42.17 per cent of the votes.⁹

17. This reversal was met with incredulity, and claims of electoral fraud took centre stage, affecting attempts by the Organization of American States to reach an agreement between the two self-declared presidential winners. Calls by the Opposition Alliance for social mobilization brought large sectors of the population onto the streets in mass demonstrations across the country, as of 29 November.
18. On 1 December, on the grounds that looting and vandalism had occurred in the context of some of the protests, the President declared a State of Emergency for 10 days and imposed a night-time curfew. Despite the curfew and massive military and police deployment, protests continued, with widespread social mobilization.
19. On 17 December, after dismissing appeals filed by the Opposition Alliance and other groups, the Supreme Electoral Tribunal announced the final electoral results, declaring President Hernández elected for a second term, with a winning margin of 1.53 per cent. The same evening, the Electoral Observation Mission of the Organization of American States published its second preliminary report,¹⁰ which underscored the “low quality” of the electoral process. It concluded that, in view of the deficiencies identified and the narrow margin of the victory, it was “impossible to determine the winner with the necessary certainty”. The same day, the Secretary-General of the Organization of American States recommended the holding of new elections.¹¹ On 22 January, the Organization of American States recognized the elected authorities of Honduras at the presidential, congress and municipal level.¹² On 27 January, Juan Orlando Hernández was sworn in as President of the Republic of Honduras for a second term.
20. Following his reelection, President Hernández called for an inclusive national dialogue to overcome the crisis and consolidate social peace. Both he and Salvador Nasralla approached the Secretary-General of the United Nations for support in finding a way forward.

⁹ <http://www.elheraldo.hn/eleccioneshonduras2017/1130793-508/salvador-nasralla-y-juan-orlando-hernandez-se-comprometen-ante-la-oea-respetar>;
http://www.laprensa.hn/honduras/elecciones2017/1130771-410/joh-salvador_nasralla-juan_orlando_hernandez-elecciones_honduras

¹⁰ Second Preliminary Report of the Organization of the American States Electoral Observation Mission in Honduras, available at <http://www.oas.org/fpdb/press/segundo-informe-preliminar-moe-honduras-18dic-final.pdf>

¹¹ Organization of the American States, Communiqué, available at http://www.oas.org/es/centro_noticias/comunicado_prensa.asp?sCodigo=C-092/17

¹² Organization of the American States, Communiqué, available at http://www.oas.org/es/centro_noticias/comunicado_prensa.asp?sCodigo=C-001/18



VI. Human rights concerns before the elections

21. OHCHR considers that, to a large extent, the protests that erupted in reaction to the perceived lack of fairness in the presidential elections may find their roots in the political and social polarization that emerged after the 2009 coup d'Etat and the failure to undertake critical institutional, political, economic and social reforms to address long-standing issues and grievances.
22. In 2011, the Truth and Reconciliation Commission established in compliance with the Tegucigalpa/San José Agreement concluded that the causes of the 2009 coup were to be found in the profound inequalities that pervaded the Honduran society and the serious dysfunctionality of the State. To overcome such conditions, the Commission underlined the urgent need for social, economic and political reforms, on the basis of broad consultations with, and endorsement by all social sectors. It formulated 84 recommendations to advance towards national reconciliation.¹³ Many of these recommendations have not been implemented and remain pertinent, particularly those related to the strengthening of democracy, constitutional reform, accountability for human rights violations, and reform of the electoral system.¹⁴ The Follow-Up Unit of the Commission was disbanded after the presentation of its 2013 report..
23. Poverty is entrenched, affecting more than 60 per cent of the population, 38 per cent of whom live in extreme poverty.¹⁵ High levels of inequality and social exclusion persist, on the basis of sex, origin, ethnicity, even political opinion, affecting the enjoyment of economic, social, cultural, political and civil rights. Corruption and impunity remain endemic notwithstanding the establishment, in 2016, of the Mission against Corruption and Impunity in Honduras of the Organizations of the American States. Despite a reduction in the homicide rate,¹⁶ insecurity and violence permeate all levels of society.¹⁷
24. In the course of 2017 and during the pre-electoral period, various sectors of society engaged in social protests, at national and local level, including farmers, indigenous peoples, medical professionals, and students. Some of the issues raised in these protests were access to land, and university governance amongst others.
25. OHCHR continued to document violence, intimidation and threats, both individual and collective, targeting human rights defenders. It also documented infringement of their rights

¹³ Truth and Reconciliation Commission, Report "*Hallazgos y recomendaciones: Para que los hechos no se repitan*", available at <https://www.oas.org/es/sap/docs/DSDME/2011/CVR/Honduras%20-%20Informe%20CVR%20-%20RECOMENDACIONES.pdf>

¹⁴ Report of the Ministry of Human Rights, Justice, Governance and Decentralization, available at <http://observatorio.sdhjgd.gob.hn/biblioteca-virtual/publicaciones/informes/249-informe-sobre-la-situaci%C3%B3n-de-los-derechos-humanos-en-honduras-2016-2017/file>, page 24

¹⁵ National Statistics Institute, house survey, 2016.

¹⁶ Ministry of Security, Statistics, available at https://www.sepol.hn/artisistem/images/sepol-images/images/cierre_2017_preliminar.jpg

¹⁷ See Annual report of the United Nations High Commissioner for Human Rights on the human rights situation in Honduras (A/HRC/34/3 Add. 2) paragraph 4, available at http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/34/3/Add.2



to privacy and property, such as surveillance, photographing, computer theft, in a context of continued stigmatization of their work, including by high-level Government representatives. In 2017, the National Mechanism for the Protection of human rights defenders, journalists, media workers and justice personnel, established under the Human Rights Ministry, issued protection measures in favour of 69 human rights defenders.

26. The electoral campaign was overall peaceful,¹⁸ and candidates from all parties were generally able to conduct their campaign without undue restrictions of the right to freedom of opinion and expression, as well as association and reunion. However, OHCHR followed up on 13 violent deaths (of 11 men and two women) which occurred between 1 January and 25 November 2017 country-wide, which were allegedly related to the electoral context. Six victims were affiliated with the National Party, five with the Liberal Party, and two with the Opposition Alliance. Two individuals were candidates to the National Congress, both for the National Party and the rest were active at local level as activists or elected municipal counsellors. By November 2017, OHCHR was able to verify that suspects had been identified in only two cases while all other cases remained under investigation.¹⁹ While recognizing that organized crime affects all sectors of the Honduran society, OHCHR considers that, in an electoral context, prevalent violence and such killings may have deterred political participation at local level.
27. Moreover, the seven LGTBI candidates to the National Congress conducted their campaign in a context of discrimination, and the gender identity of the two transgender candidates was not recognized.
28. During the year, OHCHR received reports that journalists were the target of intimidation for reasons connected to their work; the National Mechanism for the Protection of human rights defenders, journalists, media workers and justice personnel issued protection measures in favor of 24 journalists.

VII. The security forces in the policing of the protests

29. The National Police, the Military Police of the Public Order, as well as the Armed Forces, were tasked with public security functions during the post electoral protests under the overall coordination of the Inter-Institutional Security Force (FUSINA)²⁰.
30. OHCHR found a lack of clarity regarding the chain of command, tasking and overall responsibilities of the national security and law enforcement agencies in the context of the policing of protests, their dispersal and related public order operations. The authorities did not respond to OHCHR's requests for official information on operations and related

¹⁸ See also the Statement of the Electoral Observation Mission of the European Union, 29/11/2017, available at https://eeas.europa.eu/headquarters/headquarters-homepage/36397/eu-eom-honduras-2017-preliminary-statement-well-organised-elections-follow-campaign-marked_en;

¹⁹ In January 2018, a suspect was on trial for the killing of a candidate of the National Party for Congress and sport journalist, in June 2017, in La Ceiba, department of Cortes. Another person was on trial for the killing of a counselor of the Liberal Party, in January 2017, in the department of Copan.

²⁰ FUSINA is a structure tasked with inter-agency coordination of security and law enforcement operations. It was established in 2014 through a resolution of the National Council for Defence and Security. FUSINA operates through task forces ("Fuerzas de Tarea Interinstitucional Subordinadas").



internal accountability processes, arguing that internal investigations into the events were ongoing, or that access was not permitted under the Law on Official Secrets and Classification of Information.

31. Public order tasks during demonstrations were carried out jointly among National Police, Military Police of the Public Order and Armed Forces. While observing demonstrations jointly policed by the National Police, the Military Police of the Public Order, as well as the Armed Forces, OHCHR was often unable to identify the officer in charge of the operations, and was often referred to one or the other force. It was often suggested to OHCHR that the overall responsibility for the policing of protests rested with the Military Police of the Public Order rather than the National Police. In most cases, OHCHR observed that the commanders of the Military Police of the Public Order and of the Armed Forces were present on site, with their faces covered, and without identification tags. OHCHR's requests for identification of commanders in the course of its monitoring activities were frequently denied.
32. United Nations human rights mechanisms have repeatedly expressed concern about the role of the military in public security functions. In August 2017, the Human Rights Committee warned against the "militarization of law enforcement" and called upon Honduras to "strengthen the national police with a view to enabling it to take over law enforcement functions from the armed forces".²¹ The United Nations Special Rapporteur of the Human Rights Council on extrajudicial, summary or arbitrary executions observed the lack of a clear legal framework in Honduras regarding the role of the military in public security, and emphasized the need for "clearly defined roles and rules of engagement to prevent abuses by an armed body trained for the conduct of war and not for the provision of citizen security".²² The High Commissioner for Human Rights stated that "the deployment of military forces to perform civil security duties should take place only under exceptional circumstances, be limited in time and be under strict civilian control".²³

VIII. Human rights violations by State authorities

A. The state of emergency

33. In the evening of 1 December, the President of the Republic adopted Decree 84/2017 to "guarantee the security of the population, maintain public order and the rule of law", invoking the "magnitude of the violence and vandalism that had taken place in various parts of the country", and citing the occurrence of attacks against peaceful citizens, threats, the

²¹ Human Rights Committee, Concluding observations on the second periodic report of Honduras (CCPR/C/HND/CO/2), para 20, available at http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fHND%2fCO%2f2&Lang=en

²² Report of the Special rapporteur on extrajudicial, summary and arbitrary executions on his mission to Honduras (A/HRC/35/23/Add.1) para. 91, available at http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/35/23/Add.1

²³ Annual report of the United Nations High Commissioner for Human Rights on the human rights situation in Honduras (A/HRC/34/3/Add.2) <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G17/029/29/PDF/G1702929.pdf?OpenElement>



blocking of public roads, tire burning, and interruption of traffic. The Decree became effective on 1 December, at 11h00 p.m.

34. The Decree restricted the right to freedom of movement by establishing a curfew, indicating it “may be applied” from 6:00 pm to 6:00 am, for a period of 10 days, “in all or parts of the territory of the State”. The decree required that a register be kept in each squad, police, and military facility, implying the possibility of referral of detainees to military facilities, implying the possibility of referral of detainees to military facilities²⁴, of all persons found circulating in breach of the curfew, herein also affecting the right to personal liberty. It further ordered the removal of all protesters, including peaceful protesters, from all private or public property, including roads, streets and bridges occupied by demonstrators, thereby affecting the right to freedom of peaceful assembly.
35. On 5 December, the President adopted Decree 85/2017, extending the suspension of guarantees for six days, and reducing the timeframe of the curfew, but stipulating that it “may be applied between 8:00 pm to 5:00 am”. While the geographical coverage of the curfew was also reduced, excluding the department of Islas de Bahía, and the towns of Ruinas de Copan, Trujillo and Tela, the Decree nevertheless maintained the possibility of its application “in all or some parts of the territory of the State”.²⁵
36. On 6 December, the Ministry of Security, through the National Police, issued a press statement announcing another modification of the state of emergency by further reducing the curfew hours and the geographical coverage, within the time limit established by Decree 085/2017.²⁶
37. OHCHR considers that the state of emergency decrees presented a number of shortcomings from the perspective of applicable international human rights norms and standards, as highlighted in a statement it issued jointly with the Inter-American Commission on Human Rights, on 3 December.²⁷
38. Decrees 084/2017 and 085/2017 allowed for the arbitrary application of the curfew by providing that it “may be applied “in all or parts of the national territory”, falling short of the basic principle of legality that requires a norm to be clear, precise and ascertainable. Secondly, the decrees failed to clearly define the rights affected by the state of emergency, as article 1 of both decrees presented the scope of application as limited to restricting freedom of movement, while they affected the exercise of other rights, such as liberty and security of the persons and freedom of assembly.
39. In the light of the requirement that measures taken to derogate from the International Covenant on Civil and Political Rights be “strictly required by the exigencies of the

²⁴ Decree 084/2017, article 3 provides that: “A registry of detainees will be kept at each checkpoint, police or military post”.

²⁵ <http://www.presidencia.gob.hn/index.php/blocks/comunicados/3397-nuevo-horario-de-toque-de-queda>

²⁶ <http://tnh.gob.hn/periodistas-podran-circular-despues-del-toque-de-queda/>

²⁷ Press Release: “IACHR and OHCHR Express Concern over Post-Election Violence in Honduras”, 3 December 2017, available at http://www.oas.org/en/iachr/media_center/PReleases/2017/197.asp



situation”,²⁸ OHCHR is concerned that the decrees imposed disproportionate limitations to several human rights. With respect to the right to personal liberty, the decrees ordered the arrest of all persons found in violation of the curfew or “somehow suspected” of causing damage to goods or persons or committing crimes. The latter are imprecise and broad criteria, and resulted in limiting this right beyond what was strictly required by the situation, as illustrated in subsequent sections of this report. Moreover, by ordering security forces to disband all public installations, roads, bridges and other private or public facilities occupied by demonstrators regardless of their peaceful nature and actual impact on traffic and freedom of movement, the decrees resulted in undue restrictions of the right to peaceful assembly.²⁹ Finally, these orders resulted in mass and indiscriminate arrests, and had the effect of discouraging participation in protests, as described in this report.

40. OHCHR observes that the right to derogation under article 4 of the International Covenant on Civil and Political Rights can only be “invoked in time of public emergency which threatens the life of the nation”. Article 187 of the Honduran constitution allows for the declaration of the state of emergency “in case of invasion of national territory, serious disturbance of peace, epidemic or any other calamity”. Despite incidents of violence, looting and material damage, the country did not seem to face the conditions defined in article 187 of the Constitution. OHCHR is aware that looting and damage to property occurred in the days leading up to Decree 084/2017, as highlighted and condemned in its joint communiqué of 3 December with the Inter-American Commission of Human Rights. OHCHR recalls that the United Nations Human Rights Committee has consistently called on States Parties to respect the principle that “not every disturbance (...) qualifies as a public emergency which threatens the life of the nation”³⁰ and herein to refrain from imposing a state of emergency in situations not covered by article 4.
41. OHCHR recalls that paragraph 3 of article 4 of the International Covenant on Civil and Political Rights foresees a regime of international notification for States that resort to derogation, and notes that the Government of Honduras did not comply with such a procedure as it did not notify the United Nations Secretary-General.

B. Violations of the right to life and physical integrity

1. Excessive use of Force

42. OHCHR considers that the security forces used excessive force to disperse protests, as well as in the context of operations that followed the disbandment of assemblies. It also assessed

²⁸ Human Rights Committee, General Comment N. 29, “Article 4: Derogations during a State of Emergency” paragraph 4, available at http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2f21%2fRev.1%2fAdd.11&Lang=en

²⁹ See Chapter VII, E of the report.

³⁰ Human Rights Committee, General Comment N. 29, “Article 4: Derogations during a State of Emergency” paragraph 3, available at http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2f21%2fRev.1%2fAdd.11&Lang=en



that at least 16 persons were killed as a result of the use of lethal force, in violation of the principles of precaution, necessity and proportionality.

43. OHCHR's analysis, based on the type of victims and injuries, indicates that the security forces, principally the Military Police of the Public Order, did not comply with the principle of precaution in the use of force. In the context of the operations to disband protests and ensuing pursuits, security forces elements used lethal force in highly populated areas without an assessment of risks to third persons, as evidenced by the fact that at least 10 passers-by were killed or injured by stray bullets fired by security forces. OHCHR also documented cases where the Military Police of the Public Order opened indiscriminate fire on protesters for the purpose of dispersing the assembly, causing death and injury.
44. OHCHR observed that, in most of the cases, lethal force was used when tear gas did not achieve dispersion, and that other less-lethal means, such as kinetic impact projectiles (rubber and plastic bullets) were not used. OHCHR considers that this demonstrates the absence of staggered escalation of measures, as required by international standards regulating the use of force.³¹ OHCHR also observed that members of the Armed Forces were armed with sticks of various sizes and materials, which indicate deficiencies in the provision of adequate equipment.
45. All deaths which OHCHR attributed to the security forces resulted from firearms wounds. The analysis of the type of injuries suffered by the victims³² indicate that the security forces made intentional lethal use of firearms, including beyond dissuasive purpose, such as when victims were fleeing. This was illustrated in particular by the case of seven victims who died as a result of the impact of live ammunitions in the head. These cases raise serious concerns about the use of excessive lethal force and may amount to extra-judicial killings.

2. Killings related to the protests

46. The Government has not issued any official information concerning the estimated number of deaths that occurred during the post-electoral protests which started on 29 November. Numbers put forward by State institutions and civil society organizations vary, in part because they cover different timelines³³.
47. At the time of finalizing this report, on the basis of its documentation and analysis, OHCHR was able to verify that at least 23 people were killed in the context of the post-

³¹ Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 1990, available at <http://www.ohchr.org/EN/ProfessionalInterest/Pages/UseOfForceAndFirearms.aspx>

³² This includes official data on the date, location and type on injuries among the Military Police of the Public Order and the National Police.

³³ By 4 January 2018, the General Directorate of Forensic Medicine had registered 24 deaths which it linked to the "post-electoral violence". By 9 January, CONADEH had registered 31 deaths, clarifying it was still in the process of documenting the relation between some of these cases and the protests. By 23 January, the Coalition against Impunity had recorded 33 deaths linked to the post-electoral context, besides the killing of three police officers in the context of the protests. The Committee of the relatives of the Disappeared (COFADEH) registered 30 deaths linked to the protests between 26 November and 31 December 2017. By 6 January, the National Police had opened investigations into the death of 17 civilians and three police officers.



electoral protests, including 22 civilians and one police officer.³⁴ On the basis of the information collected, including interviews with the National Police, the General Directorate of Forensic Medicine and witnesses, OHCHR considers that there are credible elements indicating that at least 16 persons, including two children and two women, were shot and killed by the security forces during the dispersal of protests or subsequent pursuit operations - eight in the department of Cortes, three in Tegucigalpa, two in the department of Atlántida, and one respectively in the departments of Yoro, Colon, and Choluteca. These victims were killed by firearms, which caused injuries to the head (in seven cases), the chest (in five cases), and lower and upper limbs (in four cases).

48. On the basis of information collected in relation to the role of the security forces in the context of the protests, OHCHR considers that 13 of the killings may be reasonably attributed to the Military Police of the Public Order and/or the Army; and that the killing of one boy in El Progreso, on 4 December, appears to be reliably connected to the intervention of the National Police. OHCHR is still verifying the role of the Army and the National Police in the death of two men, one that occurred on 22 January in Arizona, department of Atlántida, and another which took place on 20 January, in Sabá, department of Colon. OHCHR further found that a four-year-old child was killed on 20 December in Cortes as a result of a traffic accident. When finalizing this report, OHCHR was still verifying the responsibility of the death of five men, caused by firearms, in the context of protests.

3. Violations of the right to physical integrity during protests

49. No official estimate has been released in relation to the number of persons injured in the context of the protests.³⁵ The National Police has not reported any investigation opened in relation to injuries suffered by protesters or passers-by.³⁶ Civil society organizations reported that as many as 232 persons were injured between 29 November and 31 December 2017, including 115 in the first week of the state of emergency.³⁷
50. OHCHR analyzed allegations of 104 civilians injured in the context of protests across the country, collected through visits to health centres, individual complaints, information referred by medical personnel, social services, civil society organizations, as well as police data.
51. OHCHR was able to verify at least 60 cases of individuals injured by elements of the national security forces while dispersing protests or during subsequent pursuit operations, between 29 November 2017 and 27 January 2018. Over 55 per cent of these incidents occurred in Tegucigalpa. OHCHR considers that most of the injuries are attributable to the Military Police or the Army, and several to the Police Special Forces (COBRA). OHCHR's analysis indicate that 55 per cent of the victims suffered from injuries caused by firearms

³⁴ See further details on this case in Chapter X of this report

³⁵ The security forces have only shared with OHCHR, and publicly, data on members of the security forces killed and injured, but not on civilians.

³⁶ National Police – Interview with OHCHR, to OHCHR.

³⁷ COFADEH, first and second report on “Violations of human rights in the context of the anti-fraud protests”.



while 45 per cent suffered concussion and trauma, the majority from beatings (including with batons), the impact of security forces vehicles, and the firing of tear gas canisters.

52. OHCHR expects that the actual tally of injured individuals may be higher due to underreporting of cases out of distrust in State institutions or fear of reprisals. This underlines the need to strengthen existing mechanisms for the protection of victims and witnesses.

4. Illustrative cases

53. The following are examples which have been reported to and documented by OHCHR of protesters and passers-by killed and injured by security forces during the dispersion of protests or subsequent operations:
54. On 30 November 2017, at about 7 p.m., in the Colonia Pedregal, Tegucigalpa, the Military Police intervened to disperse a protest from the main road, where a roadblock was in place, and opened fire against the crowd. Fleeing protesters were chased in the residential area, and at least six persons were wounded by gunfire, including a 12-year old boy who was hit in the thorax, and a 20-year old man who was shot in the neck.
55. On 1 December, in Choloma³⁸, department of Cortes, at least five persons, including a 15-year old boy, were killed, and at least four were injured by the Military Police when it opened fire to disperse protesters and disband a road block on highway 5. Around noon, protesters began to throw stones at the security forces and the Military Police responded with live ammunition, killing four persons (two were hit in the head and two in the upper part of the body). After removing the roadblock, the Military Police chased fleeing protesters into the “Colonia López Arrellano”, in an operation that lasted several hours. One man died after being shot at three times in the legs and once in the thorax. A 22-year old woman who was observing the fleeing protesters was shot in the leg by the Military Police, and had her femur broken; a third person was shot in the head and fell in a coma.
56. In the evening of 1 December, in Colonia Centro America, Tegucigalpa, a 19-year old woman left home to inform her brother, who was participating in the protests, of the curfew that had just been announced. She found herself caught in the disbandment of a protest and the ensuing chase of protesters by the Military Police, and sought shelter behind a wall for cover from the bullets that were being fired. Upon emerging from her hiding place, she was hit by a bullet in the head and died instantly. Another person who was hiding in the same place was shot in the stomach³⁹.
57. Also on 1 December, in the Colonia Satelite, San Pedro Sula, during the disbandment of a nearby roadblock by the Military Police, a 43-year old woman was hit in the neck by a bullet as she was exiting a supermarket. She died days later in hospital.

³⁸ The Government informed OHCHR (NV MPHG/SRECI_OACNUDH-38-18) that the Attorney General’s Office is currently investigating this case.

³⁹ Ibid. (NV MPHG/SRECI_OACNUDH-38-18).



58. On 2 December, in the Colonia Santa Eduvigis, Tegucigalpa, a 20-year old man was injured in the eye and a boy was wounded in the neck by bullets fired by the Military Police. The victims had been observing the demonstrations from a terrace⁴⁰.
59. On 3 December, in the Colona Residencial Francisco Morazan, Tegucigalpa, a man was killed by a bullet fired by the Military Police⁴¹.
60. On 4 December, at around 1 p.m., in Agua Blanca, Yoro department, a 16-year old boy was killed, hit in the head by a bullet fired by the National Police. Information collected by OHCHR indicates that the child was going to church at the time a protest was being disbanded at the bridge Santa Rita/Progreso. During this police operation, a moto taxi driver was injured in the foot, hit by a bullet as he was passing by the area. After the disbandment of the roadblock, the National Police caught two men and a 17-year old boy who had participated in the protests, beat them with batons, threw rocks at them, and pushed them into the river⁴².
61. On 4 December, at around 9 p.m., in the Colonia Los Pinos, Tegucigalpa, a man was killed by one shot to the head fired by a high-speed weapon by the Military Police. Information collected indicate that three Military Police patrols had reached the area where the protest was taking place, and that upon approaching the roadblock, they opened fired against the protesters.
62. In the afternoon of 18 December, in San Pedro Sula, a man was shot and injured in the head by the Military Police following the dispersion of a protest. He had found shelter in a nearby building and was hit when he peaked from his hiding place to assess the situation.
63. Also in the afternoon of 18 December, in Sambo Creek, department of Atlántida, the National Police and the Military Police conducted an operation to disband a roadblock. After its removal, they entered the Sambo Creek Garifuna community, using tear gas and firing live ammunition, injuring one boy in the leg with a bullet⁴³.
64. On 20 January at around 9 p.m., COBRA dispersed a protest in Hato de Enmedio, Tegucigalpa. They chased and caught one man, and repeatedly beat him in the face and the body with kicks, fists, batons, and the butt of the firearms, threatening to kill him.
65. Also, on 20 January, at 10 a.m., supporters of the Opposition Alliance set up a roadblock on the Aguan River Bridge, Sabá, department of Colon. The National Police Special Forces (COBRA) and the Army proceeded to remove the roadblock, using tear gas and live ammunition. A 57-year old man was shot in the humeral vein and died shortly afterwards. According to witnesses, two other men were injured, shot by COBRA.
66. On 22 January, at around 10 p.m., in Arizona, department of Atlántida, a man who was participating in a roadblock, was shot in the arm while the Army and National Police intervened with tear gas and firearms. He later died at the local health center.

⁴⁰ Ibid. (NV MPHG/SRECI_OACNUDH-38-18)

⁴¹ Ibid. (NV MPHG/SRECI_OACNUDH-38-18)

⁴² Ibid. (NV MPHG/SRECI_OACNUDH-38-18)

⁴³ Ibid. (NV MPHG/SRECI_OACNUDH-38-18)



5. Killings of individuals allegedly linked to their participation in protests

67. Between 24 December 2017 and 23 January 2018, civil society organizations recorded the violent death of at least six individuals who had been actively involved in organizing and participating in post-electoral protests. All deaths were caused by firearms and occurred in the northern departments of Atlántida and Cortes, where large demonstrations had taken place in the previous days. OHCHR received information indicating that the perpetrators of one of the killings were wearing national police uniforms. Relatives of some of the victims reported they were subjected to surveillance and threats after the killings.
68. Some of the victims were active in environmental and gender equality movements. OHCHR observes that these killings took place in regions where human rights defenders and activists of the Opposition Alliance had reported a wave of threats and harassment after their participation in protests, particularly as of mid-December. Social leaders conveyed to OHCHR that these killings instilled panic among sectors of the population, who feared reprisals for participating in protests.

C. Arbitrary detention

69. Official data indicate that between 1 and 5 December 2017, 1,351 people were arrested for violating the curfew established by Decree 084/2017.⁴⁴ CONADEH registered higher numbers, reporting the arrest of 1,675 individuals during the same period.⁴⁵ The National Police, on the other hand, reported 1,150 cases of detention between 1 and 11 December.⁴⁶ OHCHR reiterates that United Nations human rights mechanisms have consistently considered “that states of emergency are a root cause of arbitrary detentions and cautioned against their promulgation”.⁴⁷
70. The decrees declaring the state of emergency implicitly allowed for the detention of civilians in military detention centres, in addition to police stations⁴⁸. In their joint statement published in the aftermath of the state of emergency, on 3 December, the Inter-American Commission for Human Rights and OHCHR reaffirmed “the principle that civilians should not be detained in military installations”⁴⁹, which the Human Rights Committee had raised with the Government in July 2017.⁵⁰

⁴⁴ Presidential communiqué, 5 December 2017.

⁴⁵ CONADEH, Press Release: “Informe ejecutivo al pueblo hondureño sobre las actuaciones del CONADEH en la defensa de la dignidad humana en el período post elecciones generales 2017”, 15 December 2017, available at <http://conadeh.hn/informe-ejecutivo-al-pueblo-hondureno-sobre-las-actuaciones-del-conadeh-en-la-defensa-de-la-dignidad-humana-en-el-periodo-post-elecciones-generales-2017/>

⁴⁶ Official communication to OHCHR, SEDS 0089/2018.

⁴⁷ Report of the Working Group on Arbitrary Detention (A/HRC/7/4), paragraph 64, available at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G08/100/91/PDF/G0810091.pdf?OpenElement>

⁴⁸ Decree 084/2017, article 3 provides that: “A registry of detainees will be kept at each checkpoint, police or military post”.

⁴⁹ IACHR and OHCHR; Press Release: “IACHR and OHCHR Express Concern over Post-Election Violence in Honduras”, 3 December 2017, available at http://www.oas.org/en/iachr/media_center/PReleases/2017/197.asp

⁵⁰ Human Rights Committee, Concluding observations on the second periodic report of Honduras (CCPR/C/HND/CO/2, paragraph 30 and 31, available at



71. The military authorities denied OHCHR access to their detention records. OHCHR was thus unable to ascertain the exact number of people detained in military detention centres and the grounds for their arrest and detention. Yet, OHCHR could corroborate, on the basis of accounts by victims, that the FUSINA dependencies at the premises of the 105th Army Brigade in San Pedro Sula were used as a detention centre between 1 and 5 December.

D. Ill-treatment during arrest and detention

72. OHCHR received credible information through interviews conducted indicating that members of the military police, as well as of the national police, subjected individuals to ill-treatment during arrest and detention.
73. OHCHR interviewed individuals who were part of a group of 33 men arrested on 1 December on the grounds of their alleged participation in the looting of shops. They were transferred to FUSINA and kept at the premises of the 105th Army Brigade in San Pedro Sula in a meeting room of approximately 50 square metres, from late on 1 December until the early morning of 4 December.
74. OHCHR collected credible and consistent testimonies indicating that several of these men were subjected to beatings and blows to the head and the body, threats and insults, from the moment of arrest and at different times during their detention, reportedly for the purpose of punishing them for their involvement in violence, and/or to force them to confess to their participation in criminal acts. Some of the detainees reported having received pepper spray in the face or being exposed to other irritating chemicals (described as “small ball”). OHCHR observed bruises and other marks on the body of at least 10 of the detainees after their release, mainly on the thorax and the back, as also documented by the General Directorate of Forensic Medicine and the National Torture Prevention Mechanism (CONAPREV).
75. Accounts collected by OHCHR indicate that FUSINA personnel, including some wearing civilian clothes, committed these acts. However, the FUSINA Commander denied to OHCHR that any form of ill treatment had occurred under their custody, suggesting the bruises and marks may have resulted from the use of force required to restrain the men at the time of arrest. OHCHR was able to corroborate that the detainees were not afforded all due process guarantees, including contacts with their relatives or access to legal counsel. They reported having to meet collectively with a lawyer, in groups of at least five persons, and with insufficient time to prepare their defense.
76. OHCHR was only able to access the detention facility after the release of the detainees and observed it was not adequate to detain such a high number of persons, lacked basic sanitary facilities, and access to water and food was restricted. Moreover, according to the information received detainees had to sleep on the floor.
77. OHCHR also gathered credible and consistent allegations of ill-treatment by the Military Police and the National Police during arrest and detention, which included insults and threats, as well as beatings with batons, sticks, firearms, as well as kicking. Victims



reported being beaten during interrogation, for the purpose of forcing them to confess. For example, in Rio Lindo, department of Cortes, a National Police officer set a wire around the neck of a detained protester, threatening he would “end up in the Pozo”, a maximum security detention facility. Other individuals reported being beaten at the time of arrest, with the perpetrators deliberately targeting their face and head.

E. The right to freedom of peaceful assembly

78. OHCHR observed that several factors aimed at preventing and restricting the exercise of the right to freedom of peaceful assembly. The overwhelming presence of security forces in riot or full combat gear, and the use of disproportionate force from the early stages of the protests, created a climate of intimidation and fear. Moreover, the curfew obviously aimed at inhibiting protests as it was imposed during hours at which people would normally be able to participate in demonstrations, namely after working hours. Moreover, some members of the Government and other authorities stigmatized protesters as violent and criminal. There also appears to be limited understanding or willingness among the authorities of the right to assemble.
79. According to Government⁵¹ estimates, around 897 assemblies took place between 29 November 2017 and 28 January 2018 to contest the results of the presidential elections, including about 600 by the end of 2017. Civil society organizations reported higher numbers, indicating that 1,155 assemblies had taken place by the end of December.⁵²
80. The majority of protests were peaceful and took various forms, including gatherings on main traffic routes, at times with roadblocks; gatherings in residential areas; and pot-banging rallies (“cacerolazos”), often conducted from private homes without using the public space, particularly following the imposition of the curfew.
81. Nevertheless, some protests degenerated into violence. OHCHR documented incidents of violence against members of the security forces (see Chapter X on violence by protesters) as well as acts of vandalism perpetrated in the context of protests, including looting and destruction of private and public property.⁵³ The authorities also claimed that organized crime groups were part of the protests and committed acts of violence.⁵⁴
82. While acts of violence by protesters must be investigated and the perpetrators prosecuted, OHCHR recalls that “acts of sporadic violence or offences by some should not be attributed to others whose intentions and behaviour remain peaceful in nature”.⁵⁵ Yet, OHCHR observed that the Government and some media held a discourse discrediting all forms of protests as violent, highlighting their negative impact on the economy, public and private

⁵¹ Data provided by the Ministry for Human Rights.

⁵² COFADEH, second report on “Violations of human rights in the context of the anti-fraud protests”.

⁵³ See Chapter X and XI of this report.

⁵⁴ <http://www.elheraldo.hn/pais/1135390-466/gobierno-denuncia-que-pandilleros-estuvieron-detr%C3%A1s-de-las-tomas-convocadas-por-la>

⁵⁵ Joint report of the Special Rapporteur on the rights to freedoms of peaceful assembly and association and of the Special Rapporteur on extrajudicial, summary or arbitrary executions on the proper management of assemblies (A/HRC/31/66), para 20, available at http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session31/Documents/A.HRC.31.66_E.docx.



property, and free movement of people and goods. OHCHR considers that by depicting all demonstrations as an illegal form of protest, the authorities sought to deter the exercise of the right to freedom of peaceful assembly. In line with the interpretation of United Nations human rights mechanisms, OHCHR recalls that “assemblies are an equally legitimate use of public space as commercial activity or the movement of vehicles and pedestrian traffic”, and that “a certain level of disruption to ordinary life caused by assemblies, including disruption of traffic, annoyance and even harm to commercial activities, must be tolerated if the right is not to be deprived of substance”.⁵⁶

83. OHCHR noted that in most cases, both police and military personnel were deployed to manage assemblies, often in full body-armor, carrying weaponry that included firearms and tear gas. In some cases, armored vehicles and water cannons were also used. OHCHR considers that such widespread militarization and show of weaponry conveyed the message that the authorities expected the protests to be violent, and demonstrated their readiness to respond with force. This militarized crowd control triggered tensions and clashes between protesters and security forces. OHCHR received numerous reports of aggressive policing by the security forces, particularly the Military Police, and acts of intimidation.
84. The order contained in decrees 084/2017 and 085/2017 to disperse all assemblies disrupting traffic, regardless of their peaceful nature, sometimes led to the use of disproportionate force by security forces to disperse crowds and disband roadblocks. OHCHR found that on different occasions, the security forces disbanded peaceful demonstrations without prior dialogue, shortly after the protest had started. United Nations human rights mechanisms have repeatedly stated that dispersal should only be resorted to when strictly unavoidable.⁵⁷ OHCHR however observed some instances of dialogue between protesters and security forces, mainly the National Police, to ensure some balance between the exercise of the right to peaceful assembly and traffic and other regular activities.⁵⁸
85. OHCHR stresses that protests must be peaceful and cannot prevent access to essential service or block traffic for days on major highways. In such cases, dispersal may be justified, provided use of force is avoided or restricted to the minimum extent necessary.⁵⁹
86. In January in particular, OHCHR found that assemblies that took the form of marches were not permitted to reach their intended destination. This included the Opposition’s march to the National Congress, on 25 January, when a security perimeter around the entire centre of Tegucigalpa was set up, making the area of the National Congress inaccessible. On 27 January, the opposition’s march took place during the President’s inauguration, and was disbanded through the use of tear gas in its early stages.

⁵⁶ Joint report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on extrajudicial, summary or arbitrary executions on the proper management of assemblies (A/HRC/31/66) para. 32.

⁵⁷ *Ibidem*, para. 61.

⁵⁸ CONADEH, Urgent Recommendations, 4 December, available at <http://conadeh.hn/decretos-ejecutivos-sobre-toque-de-queda-observaciones-y-recomendaciones-del-conadeh/>

⁵⁹ Joint report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on extrajudicial, summary or arbitrary executions on the proper management of assemblies (A/HRC/31/66) para. 62.



F. The right to freedom of opinion and expression

87. Journalists and media workers faced threats and intimidation and other forms of obstructions in the conduct of their work while covering the protests. There were also cases of interruption of broadcasting as well as of likely sabotage of media installations critical of the Government.
88. Attacks against journalists and other media workers included physical attacks during demonstrations.⁶⁰ For example, on 12 January, two journalists of UNE TV were assaulted by the security forces while transmitting live the dispersal of a demonstration of the Opposition Alliance in the vicinity of the Presidential House. The journalists were menacingly surrounded by members of the Military Police, kicked and pushed around. On the same occasion, a journalist of Univision was hit with a baton on one arm by the Military Police while she was recording the events. On 20 January, a journalist and correspondent of international media who was reporting on the dispersal of a protest in Tegucigalpa was injured in the leg by a gas canister fired by the Military Police. On 27 January, a journalist and correspondent of *Agence France Presse* was hit in the head by a gas canister fired by the Military Police while covering the demonstration called by the Opposition Alliance during the President's inauguration. Deliberate damage to equipment was also reported, as on 5 January, in Choluteca, when the Military Police seized and broke the equipment of a cameraman who was reporting on a protest.
89. OHCHR received information about the arrest and detention of one journalist working for a local TV, on 12 December, in Nacaome, department of Valle. He was arrested by the Military Police while reporting on a protest. He was released without charge after being detained for at least 12 hours in the local police station.
90. In addition, some journalists perceived to be close to the Opposition have been the target of anonymous threats. A UNE TV channel journalist, for example, received multiple threatening calls insulting her for her perceived affiliation with the Opposition Alliance, and warning her that she would face consequences for this.
91. Three journalists sought the protection of the National Mechanism for the protection of human rights defenders, journalism, media workers and justice personnel in relation to attacks by the security forces experienced while covering the protests. The Mechanism granted police escort to all three applicants, but two rejected such type of protection as unsuitable as it was to be provided by the National Police.⁶¹
92. OHCHR documented the alleged sabotage of media installations considered critical of the Government. Between 9 and 10 December 2017, the antenna tower of Radio Progreso, in Tegucigalpa, fell to the ground, leading to interruption of broadcasting in the central region of the country. On that occasion, OHCHR issued a statement calling for respect for freedom of expression as “key element of credible electoral processes”.⁶² The Police and the

⁶⁰ Press Communiqué “Honduras: Expertos condenan medidas contra manifestantes y prensa”, 20 de diciembre 2017, available at https://m.facebook.com/story.php?story_fbid=2058202537753867&id=1828470140727109

⁶¹ For reference, in 2017, the National Mechanism granted protection measures to 24 journalists.

⁶² OHCHR-Honduras: “Para fortalecer la democracia, es fundamental que la libertad de expresión sea plenamente respetada” (12 December 2017) available at <https://www.facebook.com/ONUDDHH/posts/2054024684838319>



National Communications Commission (CONATEL) have launched investigations. On 10 December UNE TV reported sabotage to its optic lines, which resulted in the interruption of the live coverage of the protests.

93. On 27 January, UNE TV had its signal interrupted for two hours between 8h20 and 10h20 a.m. on 27 January, while broadcasting live the dispersal by the security forces of the Opposition Alliance's demonstration that was taking place in Tegucigalpa during the President's inauguration. UNE TV reported to OHCHR that it had not received any notification from the National Communication Commission (CONATEL)⁶³ that the presidential ceremony was to be broadcast on unified channels - as required by the Commission's regulations.⁶⁴

G. Intimidation and harassment of human rights defenders, political opponents and other civil society actors

94. The work of human rights defenders was seriously hampered by the declaration of the state of emergency and the related curfew which prevented them from monitoring the situation and assisting victims of human rights violations. On 4 January, CONADEH recommended that Decree 084/2017 be revised and human rights defenders included among the individuals exempted from the curfew.⁶⁵
95. OHCHR received information of threats and harassment against social and political activists perceived to be close to the Opposition Alliance and considered by the authorities to have played a role in the organization of protests.⁶⁶ In mid-December, an anonymous pamphlet accusing 11 university students of coordinating lootings and vandalism, and including personal details, such as identity card numbers and place of residence, was largely reproduced in social and other media. The students had organized "anti-fraud committees" to observe and report on the elections. Five of the students reported to OHCHR that security forces had been visiting their neighborhood and residences, looking for them. Also in December, a pamphlet was disseminated in the city of El Progreso, department of Yoro, as well as through social media, which provided the names and pictures of nine human rights defenders and social leaders, accusing them of coordinating vandalism and looting, and of links with organized criminal groups. During the same period, another pamphlet was circulated in San Juan Pueblo, department of Atlántida, against 12 individuals for their alleged role in the protests. They were identified in the pamphlet as affiliated to the Opposition Alliance.

⁶³ OHCHR contacted CONATEL and had not received a reply at the time of finalizing the report.

⁶⁴ The Regulations of CONATEL are available at http://www.conatel.gob.hn/doc/Regulacion/reglamentos/REGLAMENTO_DE_CADENA_NACION.pdf

⁶⁵ Urgent Recommendations of the CONADEH, 4 December, available at <http://conadeh.hn/decretos-ejecutivos-sobre-toque-de-queda-observaciones-y-recomendaciones-del-conadeh/>

⁶⁶ Press Communiqué CIDH y OACNUDH expresan preocupación por amenazas y prácticas de hostigamiento contra personas defensoras de derechos humanos, periodistas y medios de comunicación en el contexto post-electoral en Honduras", 19 January 2018, available at https://m.facebook.com/story.php?story_fbid=2074215572819230&id=1828470140727109



96. Between mid-December 2017 and 27 January 2018, the national human rights network “Coalition against Impunity” registered at least 50 complaints related to threats and surveillance targeting individuals who organized and / or participated in protests, members of the opposition parties, social leaders, as well as their family members. Most cases concerned the northern regions, where social mobilization challenging the electoral results was most intense. Serious and credible threats were made through phone calls, and several victims reported surveillance by cars without number plates parked in front of their homes or following them. In some cases, victims were able to identify the author of the threat or surveillance as belonging to the National Police or the Military Police. Victims indicated they were reluctant to file complaints with the National Police or the Office of the Attorney-General for fear of retaliation and due to lack of trust in the institutions.
97. Intimidation and harassment also took the form of illegal searches in private property. Most of the cases reported to OHCHR took place in popular areas of Tegucigalpa, the department of Cortes, and Atlántida. OHCHR documented cases where security forces forcefully entered private homes without a legal warrant and in the absence of evidence of illegal activity, and damaged property. For example, between 29 November and 27 January, in Choloma, the Military Police of the Public Order conducted at least four searches without warrant in the house of a member of the Opposition Alliance and social leader participating in the protests. On 20 January, in San Juan Pueblo, the Military Police entered the property of a human rights defender – for whom the Inter-American Commission on Human Rights had issued precautionary measures⁶⁷ - looking for individuals who had participated in a protest in the morning. OHCHR stresses that, to the extent that the house raids were conducted without a warrant (required by the law), and with no evidence of illegal activity, they are to be considered as illegal and contrary to domestic law and international human rights standards.
98. According to sources, several of the victims of such intimidation and harassment were forced to relocate within Honduras while others had to leave the country. The majority of victims received support from civil society organizations, including through temporary relocation. According to Government data since 26 November 2017 the National Protection Mechanism has received 52 cases, of which 30 are considered as linked to the post-electoral context, 15 of these cases were human rights defenders, 6 media workers and 9 journalists⁶⁸.

IX. Accountability for human rights violations

99. By 27 January, no charges had been brought against any member of the security forces in relation to the killings and injuries that occurred during the dispersion of protests or subsequent operations. Moreover, 13 of the 15 killings of party candidates and activists that occurred before the elections remained under investigation, with charges brought in only two cases.

⁶⁷ Resolution 13/2013 of the Inter-American Commission on Human Rights, December 2013, available at <https://www.oas.org/es/cidh/decisiones/pdf/MC195-13Resolucion13-13-es.pdf>.

⁶⁸ Official communication to OHCHRNV MPHG/SRECI_OACNUDH-38-18



100. On 6 January, the National Police informed OHCHR that it had opened investigations in relation to 20 deaths (including those of three police officers, two of whom were killed in December 2017 in an incident unrelated to the protests). Despite OHCHR's requests, the Office of the Attorney-General has not shared any information about investigations into killings and injuries opened by its Criminal Technical Investigation Agency. The military authorities informed OHCHR that internal disciplinary proceedings were initiated in relation to incidents which occurred in the context of operations involving members of the Military Police and the Army, but, as of 27 January, no details were shared about these, and OHCHR was not aware of any officer being suspended.
101. OHCHR observed that the investigation of killings attributed to elements of the Military Police is conducted by a Specialized Unit within the Office of the Attorney-General.⁶⁹ However, this unit has limited capacity, with only two prosecutors, both based in Tegucigalpa, and no staff at local level.
102. Killings attributed to members of the National Police are handled by the Office of the Specialized Prosecutor for Crimes against Life. At local level in particular, OHCHR observed that cases were often dealt with and transferred to different prosecution units, with no clarity as to which office should take the lead in the investigation. OHCHR considers that this has delayed investigations and the development of a coherent investigation and prosecution strategy that effectively recognizes the nature of such crimes as human rights violations.
103. OHCHR is concerned at the lack of action by the authorities in investigating cases of injuries attributed to the security forces. It is aware that the National Police possesses information on serious injuries caused by security forces in the context of protests, some of which resulted in disability. Yet, the authorities have not taken adequate action to contact victims and / or their families or open an investigation, despite criminal complaints filed by some victims or their families.
104. OHCHR is concerned at the multiple obstacles experienced by victims of human rights violations experience – in generally and in relation to the electoral period - in accessing the justice system, the lack of available information on the status of the cases, and the non-recognition of their status as victims of human rights violations.

X. Violence during protests

105. As previously noted, some protests degenerated into violence, with individuals committing criminal acts punishable under domestic law, including attacks against elements of the security forces.
106. According to official data, 253 members of the security forces were injured in the context of the protests, 150 of which were members of the armed forces and 103 of the National Police. . On 19 December, in the Colonia Berlin, El Progreso, department of Yoro, a 22-year old police officer was hit on the head by a Molotov cocktail filled with shrapnel, and

⁶⁹ Law of the Military Police of the Public Order, Decree 168/2013.



died⁷⁰ two days later.⁷¹ On 20 December, in Pimienta, department of Cortes, four police officers assigned to the Traffic Department were retained for several hours by protesters who took their weapons and uniforms, and beat and insulted them.⁷²

107. In the context of the protests, looting of shops and other private property took place across the country, as well as arson and destruction of public property, including at least seven police stations. The Honduran Council of Private Enterprise evaluated the loss for private companies resulting from the overall crisis at USD 637 million. It reported that at least 500 shops were affected by riots and looting in Choloma, San Pedro Sula, Tegucigalpa, and other smaller cities.
108. In their joint statement issued on 3 December, the Inter-American Commission of Human Rights and OHCHR condemned the looting and damage to property in Tegucigalpa, San Pedro Sula and other cities, clarifying that such conducts were conflicting with the right to peaceful protest.⁷³ On 21 December, OHCHR reiterated its concern at the violence that had occurred during some of the protests, including looting and damage to persons and properties, again emphasizing that such conducts were incompatible with the exercise of human rights, including to peaceful assembly.⁷⁴

XI. Concerns related to the prosecution of individuals accused of crimes committed during the protests

109. OHCHR verified that criminal charges were brought against at least 114 individuals for their alleged involvement in crimes committed during the protests. Offences range from crimes against the security of the State and public order, and against property (including damage, arson, production of explosive material and robbery), as well as unlawful possession of weapons, amongst others. After 18 cases were dismissed in the pre-trial phase, 96 out of 114 individuals remained on trial as of 27 January, with 21 in pre-trial detention or on remand. Twenty of the latter were placed in the maximum security prisons of Ilama and Moroceli. OHCHR could not ascertain the rationale for placing them in such facilities.
110. As at 27 January, two individuals were detained and on trial for the death of a police officer that occurred on 22 December; 11 others were detained and on trial for incidents that occurred on 20 December, in which four police officers were assaulted.
111. At least four men were investigated by the National Police on grounds of “terrorism”; in two cases, the investigation was ongoing as at 27 January. OHCHR observes that the notion

⁷⁰ The Government refers to 3 killed police officers in an official NV to OHCHR (NV MPHG/SRECI_OACNUDH-38-18). However, OHCHR considers that 2 of these deaths that took place in Olancho on 3 December 2017 were not linked to the protests.

⁷¹ See Chapter XI of this report.

⁷² See Chapter XI of this report.

⁷³ IACHR and OHCHR-Honduras communiqué “CIDH y OACNUDH expresan preocupación por violencia en contexto post-electoral de Honduras”, 3 December 2017, available at https://m.facebook.com/story.php?story_fbid=2049225871984867&id=1828470140727109

⁷⁴ OHCHR-Honduras communiqué, “OACNUDH expresa profunda preocupación por la situación de violencia post electoral”, available at https://m.facebook.com/story.php?story_fbid=2058750634365724&id=1828470140727109.



of terrorism contained in article 335 of the Law for the Strengthening and Effectiveness of Public Security,⁷⁵ adopted in February 2017, as well as the one contained in Title XXXI of the new penal code, are unduly broad and diverge from the recommendations of United Nations human rights mechanisms for the characterization of “terrorist” offences. In October 2016, the United Nations Special Rapporteur on protecting human rights while combating terrorism brought to the attention of the Government of Honduras his concerns related to the undue extension of the notion of terrorism envisaged in the context of the reform of the penal code.⁷⁶ In January 2017, OHCHR encouraged the Government to implement the recommendations of the Special Rapporteur.⁷⁷

112. The majority of these cases have been handled by the ordinary criminal system, but OHCHR is aware of two individuals tried by the specialized national jurisdiction, which is competent to deal with high impact crimes committed by organized criminal groups.⁷⁸ OHCHR notes that the charges brought so far against these individuals⁷⁹ do not fall within the competence of that jurisdiction.
113. Furthermore, the Office found out that a newly created “Unit for Specialized Operations” was leading the investigation and prosecution of at least nine individuals for crimes allegedly committed during the protests.⁸⁰ Yet, the mandate of this unit is to provide legal advice and guidance to the Technical Agency for Criminal Investigation of the Office of the Attorney-General⁸¹.
114. Overall, OHCHR considers that lack of clarity concerning the competence of prosecution and judicial organs, combined with overlapping competence and unclear criteria in assigning cases, raises questions of transparency and fairness of the investigations and prosecution.

XII. Conclusions and recommendations

115. The situation of human rights in Honduras remains fragile, characterized by high levels of violence and insecurity, a pervasive social conflict, and impunity for past and ongoing human rights violations and corruption.
116. OHCHR considers that the protests that erupted in reaction to the perceived lack of fairness of the electoral process and the presidential results partly find their roots in the unsolved legacy of the 2009 coup d'état, namely the political and social polarization, and the failure

⁷⁵ Decree 06/2017, Law for the Strengthening and Effectiveness of Public Security.

⁷⁶ Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, OL HND 08/2016, available at

<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=22802>

⁷⁷ OHCHR-Honduras, press release presenting its observations on the reform of the penal code, available at

<https://www.facebook.com/ONUDDHH/photos/pcb.1881070588800397/1881070478800408/?type=3&theater>

⁷⁸ Law on jurisdictional bodies with territorial jurisdiction in criminal matters, Decree 247/2010.

⁷⁹ Damages, arson and production of explosive materials.

⁸⁰ <https://www.mp.hn/index.php/author-login/60-junio-2017?start=100>

⁸¹ “Unit to guide, direct, supervise the activities of the department of strategic support, special operations and communications” of the Technical Agency for Criminal Investigation. Agreement 022/2016, available at [http://portalunico.iaip.gob.hn/Archivos/MinisterioPublico/Regulaciones\(normativa\)/Acuerdos%20Institucional/2016/Acuerdo%20FGR_022_2016%20UF_OPE.pdf](http://portalunico.iaip.gob.hn/Archivos/MinisterioPublico/Regulaciones(normativa)/Acuerdos%20Institucional/2016/Acuerdo%20FGR_022_2016%20UF_OPE.pdf)



to address the State deficiencies. OHCHR considers that the risk of a further deterioration of the human rights situation remains high, unless accountability for human rights violations is promptly pursued, and outstanding reforms in the social, economic, rule of law and security sectors are undertaken and implemented.

117. In the context of the elections, OHCHR found that the security forces had used excessive force, including lethal force, to disperse protests, remove roadblocks, and in pursuit operations. OHCHR observed that most of these violations are attributable in principle to members of the Military Police of the Public Order and the Army.
118. In relation to the mass arrests that took place during the curfew period, particularly between 1 and 5 December 2017, OHCHR considers that there are credible grounds to believe that the liberty of the person was restricted arbitrarily. Some of those arrested were detained in military installations where some were subjected to ill-treatment. Throughout the period under review, OHCHR found evidence of illegal house raids, and observed a surge in threats and intimidation against journalists, media workers, human rights defenders, and other civil society actors perceived to be close to the Opposition Alliance or critical of the authorities.
119. The lack of tangible progress in the investigation and prosecution of members of the security forces in relation to human rights violations, - with no suspension or indictment yet issued - raises doubts about the genuine commitment of the State authorities to accountability. OHCHR emphasizes the importance of due diligence in the investigation of, and achieving accountability for, all human rights violations that occurred during the electoral period, and of reparation for the victims. Such measures will be critical to restore the credibility of the institutions.
120. On the basis of these findings, the High Commissioner formulates the following recommendations, also reiterating those issued in the report of OHCHR published in 2010 on the violations of human rights in Honduras since the coup d'état on 28 June 2009⁸² and in its 2016 annual report to the Human Rights Council on the situation of human rights in Honduras⁸³:

121. To the Government:

- a) Refrain from imposing a state of emergency in situations which do not fall within the criteria established by article 187 of the Constitution and article 4 of the International Covenant on Civil and Political Rights; comply with the regime of international notification.

⁸² Report of the United Nations High Commissioner for Human Rights on the violations of human rights in Honduras since the coup d'état on 28 June 2009* (A/HRC/13/66) <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G10/117/00/PDF/G1011700.pdf?OpenElement>

⁸³ Annual report of the United Nations High Commissioner for Human Rights on the human rights situation in Honduras (A/HRC/34/3/Add.2) <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G17/029/29/PDF/G1702929.pdf?OpenElement>



- b) Implement the recommendations contained in the 2011 report of the Truth and Reconciliation Commission and resume public reporting on its progress; reestablish the Follow-Up Unit to the report of the Commission.
- c) Engage in a participatory national dialogue, with international support, on reforms that promote development, human rights and reconciliation; ensure that the promotion of truth, justice, reparation and guarantees of non-recurrence in relation to human rights violations that occurred in the electoral context take center stage.
- d) Support the independent and effective functioning of the National Commissioner on Human Rights and of the National Committee for the Prevention of Torture and Cruel, Inhuman or Degrading Treatment; allocate the necessary financial resources to the two institutions to be able to effectively carry out their mandate.
- e) Ensure the safe and free exercise of the right to freedom of opinion and expression, including by preventing and punishing threats and intimidation against journalists, media workers, human rights defenders and social and political activists.
- f) Ensure the safe and free exercise of the right to peaceful assembly, including by reforming existing protocols on the management of assemblies and crowd control.
- g) Reform the electoral system and processes to ensure the full enjoyment of political rights by all, including the participation of women, ethnic minorities, persons with disabilities and LGTBI persons as voters and candidates, in accordance with the recommendations of international electoral observations missions.
- h) Ensure compliance by all State entities with the Agreement with the United Nations High Commissioner for Human Rights concerning the establishment of a country office; in particular, promote and ensure access by OHCHR to all places of detention and to official documents and materials; promote awareness of the mandate of OHCHR by all its officials and by State institutions, as well as cooperation with OHCHR.

122. To the Ministry of Security and Defence and FUSINA:

- i) Take concrete steps to restrict the use of the Military Police of the Public Order and the Armed Forces in law enforcement functions.
- j) Review rules of engagement to ensure that law enforcement and security forces only use force, particularly lethal force, as a last resort, in conformity with the principles of necessity, precaution, proportionality and legality, in accordance with international standards; adopt the necessary regulations to control and standardize the use of force; review and update the corresponding manuals and training; review the equipment of law enforcement and security agencies.
- k) Issue clear instructions to all security and law enforcement personnel to recognize the role and work of journalists, media workers, human rights defenders and other civil society organizations; and to prevent attacks and threats against them by such personnel.



- l) Promptly initiate proceedings to ascertain responsibility, at the operational and command levels, about the use of force in relation to protests and ill treatment during arrest and detention.

123. To the Ministry of Human Rights:

- m) Strengthen the National Mechanism for the Protection of Human rights defenders, journalists, media personal and judicial officials, including by the rapid deployment of teams or the establishment of regional offices.

124. To the National Congress:

- n) Urgently 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.
- o) Reform the Law on the Military Police of the Public Order to clarify the role of this law enforcement entity in public security; review and restrict the circumstances of its involvement in civilian policing.
- p) Reform terrorism-related legislation, and repeal articles 335 and 335 B of the Penal Code.
- q) Reform the Law on official secrets and classification of official information to bring it into compliance with international human rights standards.

125. To the Office of the Attorney-General and the Judiciary:

- r) 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; bring to justice all suspected perpetrators.
- s) Revise the internal competencies and responsibilities of the Office of the Attorney-General in relation to the investigation and prosecution of human rights violations attributed to the security forces; ensure the leadership of the Office of the Specialized Prosecutor for Human Rights in the investigation and prosecution of such cases, including by ensuring adequate staffing and resources.
- t) Establish the required mechanisms to support access to justice by victims of human rights violations and their family members, including by making legal aid and psychosocial support available; strengthen and make full use of the mechanisms to guarantee the protection of victims and witnesses.
- u) Ensure respect for due process of law and judicial guarantees in the prosecution of individuals who peacefully participated in protests; carefully evaluate the necessity of pre-trial detention.

126. To the National Human Rights Institution - CONADEH

- v) Investigate the allegations of human rights violations that occurred in the electoral context, and make full use of its authority to access all relevant documentation held by



civil and military authorities, including when classified as secret or reserved; publicly report on its findings.

- w) Establish mechanisms to support access to justice and reparation by victims of human rights violations and their family members.

127. To all political parties and the media:

- x) Consistently call for the peaceful exercise of the right to assembly, and condemn all forms of violence.

128. To the international community:

- y) Engage and support the State in the implementation of these recommendations, and participate in the monitoring of their implementation.



Annex: Legal framework

OHCHR assessed the allegations of human rights violations which occurred in the electoral context within the framework of international human rights law. Honduras is a party to the core United Nations human rights treaties.⁸⁴ According to articles 15 and 18 of the Constitution of Honduras, international treaties are part of the legal framework of the country and take precedence over national legislation.

The State of Emergency

Article 187 of the 1982 Constitution of Honduras regulates the suspension of constitutional guarantees in relation to the exercise of rights such as personal liberty (article 69), freedom of expression (article 72), assembly and reunion (article 78) and freedom of movement (article 81) in the case of “an invasion of the national territory, serious disturbance of the peace, epidemic or general catastrophe”. The power to suspend guarantees rests with the President, in agreement with the Council of Ministers. Article 187 states that the National Congress shall be convened by the same decree establishing the state of emergency so that, within a period of thirty days, it may take cognizance of the decree and ratify, modify, or reject it. In the event Congress is in session, it shall take immediate cognizance of the decree.

The right to freedom of peaceful assembly

Article 79 of the Constitution recognizes the right of every person to peaceful assembly, without a need for permit and authorization. National legislation requires authorities to protect the exercise of the right to peaceful assembly while providing for the disbandment of assemblies which cause “grave alterations of the public order” and affect traffic and movement.⁸⁵

The right to freedom of opinion and expression

Article 72 of the Constitution recognizes the right to freedom of opinion and expression, without censorship. It foresees that abuse of this right and its undue restriction shall be sanctioned by law.

The use of force

Honduras has not yet adopted a comprehensive legislation to regulate the use of force by law enforcement and security personnel. The Law on Police and Social Coexistence states that lethal force can only be used when strictly unavoidable and to protect life, within the terms of the existing domestic framework as well as “United Nations norms”.⁸⁶ The Police law states that the use of force and weapons should be oriented to produce the “minimum harm, physical

⁸⁴ International Covenant on Civil and Political Rights; International Covenant on Economic, Social and Cultural Rights; International Convention on the Elimination of All Forms of Racial Discrimination; Convention on the Elimination of All Forms of Discrimination against Women; Convention on the Rights of the Child; Convention for the Protection of All Persons from Enforced Disappearance; International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; Convention on the Rights of Persons with Disabilities

⁸⁵ Law on Police and Social Coexistence, Decree 226/2001, article 51.

⁸⁶ Law on Police and Social Coexistence Decree 226/2001, Chapter IV.



and mental”.⁸⁷ In the absence of a specific framework, judiciary officials have informally indicated to OHCHR that the Military Police of the Public Order is bound by the same rules as the National Police.

⁸⁷ Decree 67-2008